

Legal Project Management

A Trend at the Tipping Point



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By Pamela H. Woldow and Douglas B. Richardson

A WHOLE BUNCH OF TIPPING GOIN' ON

The problem with trends that hit “the tipping point” is you don’t always know which way they’re going to tip. In coining the term, author Malcolm Gladwell described ideas or developments that percolate below the radar until they suddenly “go viral,” spread until they become common currency and trigger still more tipping points and viral explosions.

In the legal profession, Legal Project Management (LPM) has gone viral, primarily as a result of unprecedented changes that are rapidly reshaping the legal landscape. LPM represents either a fundamental shift in how law will be practiced in the future or a tempest in a teapot, depending on one’s point of view. We’re convinced it’s the former, but appreciate that LPM may tip in a variety of directions.

WHY THIS, WHY NOW?

It’s the economy, stupid. A powerful chain of events -- a series of earlier tipping points -- have led the law first to the wholesale adoption of alternative fee arrangements (AFAs) and subsequently to adoption of LPM as the way to deliver on those AFAs.

Even before the recession, corporate management began demanding that their chief legal officers: a) substantially reduce their total “legal spend,” b) bring greater control and predictability to their legal budgets, and c) demand greater

efficiency in service delivery from outside counsel. The recession dramatically escalated the pressure to control and manage legal costs as never before. Let’s call this Tipping Point A.

The massive recession also begat Tipping Point B, a fundamental shift in the relationship between counsel and client. Cost-conscious clients now drive the lawyer-client relationship and impose new standards of accountability and frugality on outside counsel. Law firms don’t set prices anymore; the clients set limits on what they will pay, and they shop actively for firms that will meet their price point. This shift in power, in turn, is begetting Tipping Point C: major changes in how law firms are engaged and legal services are delivered.

RFPs, AFAs AND CLIENT-DRIVEN PARADIGM SHIFTS

Tipping Point C includes such viral trends as convergence programs (in which the number of outside counsel an organization employs is examined and often sharply reduced, and in which firms compete for preferred provider status) and broader use of Requests for Proposals (RFPs) to structure bidding from law firms for various kinds of work.

Perhaps the most life-altering tipping point of all for law firms, Tipping Point D, is the trend toward value-based billing configured as various forms of AFAs. This tipping point has an important corollary: if they must, in-house

clients will hammer outside counsel for AFAs, but what they really like – what *really* fosters trusting and lasting lawyer-client relationships – is when the law firms proactively propose innovative and substantial AFA approaches.

FALLING BACK

Taken together, all these tipping points represent what many commentators now call “the New Normal” in the practice of law and delivery of legal services. However, we also are seeing considerable *backward* tipping by many lawyers and law firms. They hope fervently that once the recession abates, legal practice will revert to the *status quo ante*, in which firms can once again pass all their expenses and inefficiencies through to the client. Pricing power, they pray, will shift back to the law firm, and in-house counsel will once again prize service quality more highly than service value.

We don't expect this to happen. We see the scope of AFA arrangements expanding exponentially. This, coupled with creative use of off-shoring and increasing use of non-law firm service vendors, will soon reshape the legal landscape, particularly where Big Law firms and major global clients are concerned. The unprecedented arrangements negotiated by Cisco, Levi Strauss, Pfizer and Rio Tinto are bellwethers, and we are convinced that the profession is in mid-tip.

A MAJOR TIPPING POINT: LEGAL PROJECT MANAGEMENT

But wait, we're not done. Now we see all the foregoing tipping points triggering Tipping Point E, the burgeoning popularity of mechanisms to assure that all the splendid-sounding AFAs actually produce the efficiencies they promise. Here law firms face a three-part rub: 1) naturally they want to please the client and continue as preferred providers, but 2) they also need to operate profitably enough to stay in business and attract top talent, and 3) they generally do not know how to structure and deliver cost-effective service. So the time has come for firms to master a new critical life skill.

Enter Legal Project Management (LPM) training. Although project management has been taught as a sophisticated and often specialized discipline in other fields for decades, the legal profession has been slow to incorporate even the

most rudimentary project management principles into lawyers' repertoire of required legal skills. But that is changing, and it will change still faster as firms respond to competitive market pressures. Visionary law firm leaders recognize that project management must become a *way of thinking* even as it evolves into a way of planning and delivering legal service. They also recognize that for the entire firm to function efficiently and profitably, *every partner, associate, paralegal and time-keeper must bring a basic project management sensibility to every task they do.*

RESISTANCE TO CHANGE

Wow. For many, this seems too much to tip and too far to tip. Predictably, we hear the resistant voices of the heel-draggers:

- *Hey, if our results have been okay up until now, the processes must have been okay, right?*
- *We've always done it this way, so we're not going to change now.*
- *Okay, maybe certain practice areas or types of work might benefit from tighter process steps and controls, but we experienced old hands don't need to deconstruct how we do our work.*
- *That routinized project stuff won't fly in our practice, which is built on judgment, intuition and going with the flow. Our tasks are unique and shouldn't be subjected to standardized approaches.*

For those planning to implement LPM training, this resistance must be accorded a respectful ear, because it represents the posture of a lot of lawyers, particularly more senior ones – the ones with a lot of clout in firm politics – who have been practicing law the same way for decades. Paradigm shifts are difficult enough when they compel a change in attitude; they become harder still when they demand that old dogs learn new tricks. In short, various forms of lawyer resistance must be anticipated and addressed as part of any LPM training initiative.

LPM FIRST-ADOPTERS LEAD THE WAY

There is strong evidence, however, that the resisters will be left in the dust, particularly among large firms competing for the favors of major clients with huge legal budgets. The bold initiatives of several first-adopters have sent shock waves through the profession, and now many firms are racing for the bandwagon. The proliferation of large-scope

AFAs and the news of major international firms committing wholeheartedly to project management training have triggered a tsunami of interest in LPM among other firms of all stripes and sizes. Clearly, legal project management is approaching its own tipping point

Recently, an AmLaw 100 firm made big news as a fully-committed LPM first-adopter. This global firm with hundreds of lawyers in the US, Europe and Asia commissioned a sweeping project management workshop designed by outside experts that *every one of its partners is expected to attend*. It also is working to develop a companion PM program for associates, so that they can operate as efficient cogs in the overall legal project management wheel. In a similar vein, a large Chicago-based firm is spending millions of dollars on firmwide implementation of particular form of project management called Lean Six Sigma.

While these initiatives are not without resistance from the old guard, the generally high acceptance of these programs both reflects and reinforces the new legal world order. In LPM training we have heard lawyers tell their colleagues, "In our area, we have been using these workflow management techniques successfully for years. This stuff really works. Go for it."

There also have been "eureka" moments when other lawyers recognized that embracing LPM will not only enhance service efficiency and predictability, but confer a powerful marketing advantage. Accordingly, good LPM training programs go beyond instruction in project management skills to include guidance on how to leverage LPM in business development and client relations.

NOT JUST AN INTERNAL DISCIPLINE

Many lawyers assume that Legal Project Management is simply a task-management process that plans, budgets, manages and measures a related set of purely *internal* activities among firm lawyers. And certainly classic project management steps do include legal work breakdown and process mapping: start-up and initiation; defining project scope and requirements; project activity planning and resource allocation; project tracking, control and review; and after action review and assessment. To be effective, LPM programs must teach and demonstrate practical skills,

such as process mapping, legal work breakdown, and/or Gantt charting, rather than just abstract theory.

But the external component of client communication is also a fundamental benefit of LPM. At all stages of an engagement, *effective project management reaches across to the client*. Risk-sharing requires two-way trust and communication, so constant and intense interaction with the client is inherent in the process of delivering effective and efficient service. Legal Project Management includes developing a set of communication protocols and feedback loops that turn legal service into a win-win collaborative process marked by clear understanding of all players' needs, interests, and capabilities.

IMPLEMENTING LPM

The challenge for firms is *how* to implement LPM programs and how to allocate resources to integrate them into firm operation. Some firms pause when considering firmwide LPM programs, wondering if LPM's benefits translate to all practice areas and all sizes and types of clients. Others consider a gradual phase-in to test the waters of acceptance and effectiveness with pilot programs or abbreviated training sessions.

While we understand the attractiveness of a cautious commitment to LPM, we also see real problems with piecemeal approaches or putting huge numbers of lawyers into auditoriums to sit through large-scale group training sessions (we have found that to allow hands-on interaction and practice, LPM workshops really shouldn't exceed 30 participants). To promote efficiency, support firm profitability and to cement powerful, collaborative working relationships with clients, LPM efforts have to deliver.

LPM is not a buzzword, it is a way of doing business. From the clients' perspective, lip service about "our project management orientation" is not enough; they are looking for significant changes in firms' behaviors, not just their professed attitudes. Project management efforts have to work in reducing actual costs, enhancing actual control, and producing actual across-the-board changes in all aspects of the client relationship. In our view, therefore, any type of "project management lite" is likely to suggest to clients that the firm is merely going through the motions and is not really attuned to their needs for efficiency and control.

Similarly, where a firm employs LPM in some practice areas but not others, major clients engaging the firm to perform a variety of services may doubt the firm's commitment to efficient client service if they see a patchwork approach to service delivery. If LPM is not broadly institutionalized as *the firm's way of doing business*, clients also may wonder if some of the firm's lawyers are not buying-in to a service approach designed to promote client satisfaction.

OFF THE SHELF?

ADOPT OR ADAPT CORPORATE PROGRAMS?

In Legal Project Management, one size does not fit all. In responding to client Requests for Proposal (RFPs) or proposing innovative alternative fee arrangements, firms must work hard to demonstrate that they understand their clients' unique needs and environment. It therefore is counterproductive to utilize generic LPM models that have not been custom-tailored on a client-by-client or even matter-by-matter basis.

In the corporate marketplace, there are scores of vendors and consulting firms with deep and extensive experience with various types of project management, from Six Sigma to jet aircraft development to implementing new government programs. Many of their approaches are designed to drive efficiency in manufacturing operations, better manage high-volume, low-margin repetitive activity, or assure compliance with detailed regulatory requirements. These specialized disciplines may not translate readily to the delivery of professional services, where the value added generally comes from the application of legal judgment to business relationships between parties. For lawyers, highly-technical project management systems may represent either process overkill or insensitivity to the unique nuances of lawyer-client relationships.

GENERIC APPROACHES?

Similarly, for cost reasons, firms may be tempted to contract for off-the-shelf PM offerings from one-size-fits-all-industries training vendors. We feel strongly that the legal services context is unique. Although legal services delivery may have some similarities to generic project management

models, it also has unique characteristics that vary on a matter-by-matter and client-by-client basis. Generic teaching models may therefore not produce significant changes in service delivery – or successful ones. As Yoda once put it, “there is no *try*. There is only *do*.”

A significant differentiator in quality LPM training is the development of case-studies and exercises keyed to each firm's service profile, practice areas and client base – as well as to different kinds of legal matters. The need for specific real-time LPM models and information now is being addressed in the legal technology marketplace, which is rapidly developing internal software systems that support LPM. This software both creates specific process maps for different kinds of legal activities, e.g., various kinds of litigation or transactional matters, and allows project managers to “mine” current firm budgeting and billing information and integrate it effective project management of any given engagement.

IN-HOUSE TRAINERS?

Many law firms have talented in-house professional development staffs that they may be tempted to task with LPM training. While non-lawyer in-house trainers may be able to present the theoretical framework of LPM, the nuts-and-bolts questions of how LPM applies to specific engagements and activities are better handled by program leaders with legal practice experience. Although in-house staff can and should play an important role in implementing LPM and assuring it becomes an integral part of their firm's culture and future, non-lawyers probably are not best positioned to take the lead in instituting new LPM programs or marketing them to clients.

First of all, the care and development of the client relationship – the outward-facing component of LPM – *must* be handled by lawyers. Accountability for LPM implementation and effectiveness therefore has to rest on lawyers' shoulders; it simply cannot be delegated in high-stakes client relationships. Second, on the inward-facing side of LPM, it often takes lawyers to build buy-in and confront resistance from other lawyers. In the course of LPM training programs, we often are confronted with some forceful and very specific push-back from partners who say, in effect, “you don't know what it's like for us, because you're not a practicing lawyer.” While we can report good results with training teams that combine lawyer and non-

lawyer facilitators, it is critical to have lead trainers who have the credibility of on-the-ground experience with other law firms, legal practice and law firm clients, and who therefore are able to field pointed legal questions from program participants.

Professional development staff certainly can be invaluable in helping develop firm-specific case-studies, integrating LPM into their firm's administrative and financial management systems and putting a firm-specific cultural face on what to many lawyers is a sweeping and disturbing change from traditional practices.

FAD OR TREND?

One pundit once was asked, "what's the difference between a fad and a trend?" "Easy," he said. "Trends matter." Escalating market forces make it clear that Alternative Fee

Arrangements and Legal Project Management are not just "flavor-of-the-month" fads and that the legal landscape is unlikely to revert to old practices. AFAs and LPM are part of a significant and lasting trend, reflecting forces that will fundamentally reshape the law firm-client working relationship and the way in which service delivery is configured.

Adapting to the "New Normal" will require firms to stretch, change and expend resources they might prefer not to expend. However, we expect that the first-adopters positioned right at the tipping points will be the biggest winners.

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