

**ACC VALUE CHALLENGE**

**SKILLS PROGRAM – CORE CURRICULUM**

**CHANGE MANAGEMENT**

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## MANAGING CHANGE: MOVING LAW FIRMS FROM VENDORS TO A VALUE BASED RELATIONSHIP

The ACC Value Challenge is about more than just fees and value based billing. The fundamental question the Value Challenge poses is: **Working together, how do inside and outside counsel improve the value of legal services?**

Implementing changes in fee structures should not happen in isolation. Changes to value based billing affect only one factor in the value equation. Implementing value based billing is an opportunity to examine working relationships and processes to drive efficiency. It is a step to a Value Based Relationship.

Certainly law departments can impose changes in billing and other structures by fiat. Law departments that do so lose the chance to access the collective wisdom of the law firms that know the company best; they lose the chance to learn best practices adopted by those law firms' other clients; and they lose the chance for team building among the cadre of primary outside firms.

In designing, implementing and operating a Value Based Relationship, keep in mind the actions suggested by the ACC Value Challenge:

1. Improve the value of legal services.
2. Decrease costs.
3. Keep the client out of trouble.
4. Maintain firm profitability.
5. Develop approaches that can be scaled up and attempted in other areas.
6. Improve training and career satisfaction, on both sides, and reduce attrition.

Value Based Relationships are the product of shared goals and well communicated expectations. Involving outside counsel at every step of the process facilitates both.

### CHANGE MANAGEMENT BASICS

Academics identify four stages and eight steps to change management:<sup>1</sup>

- **Setting the Stage**
  - *Establish a sense of urgency.*
  - *Form a powerful guiding coalition.*
- **Deciding What To Do**
  - *Develop the change vision and strategy.*
- **Making It Happen**
  - *Communicate the vision for understanding and buy-in.*
  - *Empower others to act on the vision.*
  - *Plan for and create short-term wins.*
  - *Consolidate improvements and keep the momentum.*
- **Making It Stick**
  - *Institutionalize the new approach.*

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<sup>1</sup> Adapted from John Kotter, *Leading Change*, Harvard Business School Press (1996) and cited in ACC Webcast *It's More Than Technology: Improve Adoption Through People and Process* – February 25, 2010 available at [www.acc.com](http://www.acc.com).

# Legal Services Management 3.0 Core Curriculum

## Change Management – Supplier Law Firms

**Bill Garcia**  
**Howrey LLP**



# Implementing Change

At least three core constituencies must adopt change:

- Law Firm Suppliers
- Law Department Personnel
- Operational Executives

Discussion Leaders:

- Law Firms – Bill Garcia, Howrey LLP
- Law Department Personnel – Steve Harmon, Cisco Systems

# Newtonian Physics vs. Darwinian Evolution – Law Firm Edition

...a law firm tends to maintain its state of rest or uniform motion unless acted upon by an external force.

It is not the largest of the species that will survive, nor the ones with the highest profits per equity partner, but the ones most responsive to change.

# Change Management Basics

## Setting the Stage

- *Establish a sense of urgency*
- *Form a powerful guiding coalition*

## Deciding What To Do

- *Develop the change vision and strategy*

## Making It Happen

- *Communicate the vision for understanding and buy-in*
- *Empower others to act on the vision*
- *Plan for and create short-term wins*
- *Consolidate improvements and keep the momentum*

## Making It Stick

- *Institutionalize the new approach*

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# Setting the Stage

- Sense of Urgency
  - Economy has created this
  - Consider setting quantitative and temporal goals
- Guiding Coalition
  - Create internal, multi-disciplinary, multi-level teams
  - Include operational executives and outside lawyers

# Deciding What to Do

- Developing the change vision and strategy
  - Written plan
  - Participation of operational executives and outside lawyers
  - Start simple and build out



# Making it Happen

- Communicate the vision for understanding and buy-in
  - Consider bringing senior lawyers from outside firms
- Empower others to act on the vision
  - Encourage law firms to revise their internal practices to match the goals of the vision and to share those revisions with other law firms that represent the company
- Plan for and create short-term wins
- Consolidate improvements and keep the momentum

# Making it Stick

- Institutionalize the new approach.
  - Quarterly and Annual relationship meetings with each firm
  - Post-matter assessments
  - Annual “all firm” meeting
  - Consider a formalized scorecard

## CREATING A VALUE BASED RELATIONSHIP

The last twenty-five years have seen the emergence of uniform task based billing codes, detailed billing guidelines, “partnering,” electronic billing systems, preferred provider programs, and, most recently, movement to so-called “alternative” (*i.e.*, non-hourly rate based) fees. These innovations reflect the best thinking of the legal community at the time directed to the same goal: maximizing value of spending on legal services.

Underlying each of these methodologies, the goals of clients are the same: to have a few substantial relationships that can be efficiently administered; pre-qualified in terms of expertise and personnel; and providing a high level of client service, consistent results, predictable costs and dependable protection of corporate assets. And from the law firms’ perspective, underlying these methodologies is the complementary goal that the client provides a substantial, more predictable level of work; enables a more productive use of firm resources; enables greater ability to predict and control law firm costs; and creates an opportunity to increase firm profitability.

Much of the public attention over the last two years has centered on the structure of the fee calculation. However, the fee structure is only one piece of the puzzle. Efficiency is the product of a holistic view of the way in which the law department and the law firms which support it work together. Companies which are restructuring the ways in which fees are calculated would do well also to look more broadly at how the relationship with law firms is structured.

### BENEFITS OF A VALUE BASED RELATIONSHIP

- Value based relationships can reduce legal costs by consolidating legal spend with fewer law firms resulting in more leverage in negotiating spend while providing law firms with a financial incentive to become more efficient providers of legal services. A value based relationship can provide law firms with financial stability and incentive to invest in technology and staffing to deliver legal services more efficiently.
- Value based relationships can help improve outside counsel performance. Firms working on repeat matters become more intimately involved and knowledgeable of the client’s business and industry, leading to more efficient delivery of legal services to the client. Additionally, we believe a pipeline of work allows our attorneys to develop a more business-centered approach to the client and puts our attorneys in a better position to look for opportunities for and threats to the client.
- Value based relationships allow the client to forge a long-term relationship with the firms. This relationship can support the financial, business and cultural goals of both the client and the firms.

Clients’ goals: to have a few substantial relationships that can be efficiently administered; pre-qualified in terms of expertise and personnel; and providing a high level of client service, consistent results, predictable costs and dependable protection of corporate assets.

## DESIGNING THE STRUCTURE OF VALUE BASED RELATIONSHIPS

The ideal structure of a value based relationship is unique to each attorney-client relationship. What others are doing is instructive as a starting point for discussion, but client and law firms must work together to design a structure that fits each side's culture and business goals. Common tasks include:

- Collect historical information on consistent legal challenges, costs, resources and results. If possible, compare the company's legal activity and legal costs with those of other companies that are in similar industries based on this benchmarking data collected.
- Identify the company's legal needs and set some general goals for the legal department and law firms to meet. Recognize that each company and each situation are unique. Use templates and resources from ACC and law firms but tailor them to the company's needs.
- During this process identify threats to the company's business such as pending legislation, new market entrants, new products, pending lawsuits, etc., and determine what the company's legal need will be to combat these threats.
- Determine how much the company is willing to pay a law firm to provide legal services for its legal needs and anticipate the level of legal activity.
- Assess workflow. In particular, determine the appropriate staffing mix of providers for the tasks required.
- Involve outside counsel who will have to live with the structure in the design process at the outset. Get the input of more than the relationship partners – junior associates, legal assistants & billing clerks may all have useful information
- Involve non-legal executives at the outset. Over-communicate to stakeholders.
- Develop a structure that promotes the creation of a strong relationship between the company and the law firms, rather than focusing on how a particular case is handled.
- Institute a formal periodic evaluation process to determine whether the metrics of the Value Based Relationship are being met by the firms.
- Create an annual service plan to memorialize agreed upon expectations of client service.

## IMPLEMENTING THE STRUCTURE

The format and timing of an implementation depends on many factors, including the capacity of the law department to manage change while still conducting day to day operations. Considerations for an implementation include:

- Start small and build out. Look for quick wins.

- Kick-off Meeting: Once the law firms have been selected, avoid culture clashes and misunderstandings by holding a kick-off meeting for the law department and the law firms. Invest time and money to be over-inclusive of attendees to this meeting. The investment will pay dividends in commitment and efficiency. Create an environment in which team members will get to know each other better, cultivate personal relationships that will be important over time, and to develop mutual understandings about how they will work together. An agenda for the kick-off meeting might include:
  - Initial Orientation to the Structure of the Value Based Relationship
  - Prior Year in Review –The Company and The Law Department (Opportunities and Challenges)
  - Current Year Goals and Objectives - Company and Law Department
  - Operation of the Value Based Relationship -- Expectations and Process; Review of Key Performance Indicators
  - Other Goals/Expectations -- Lawyer Diversity; Supplier Diversity; etc.
  - Mini-Sessions by Particular Area of Law -- Discuss developments and upcoming challenges in particular areas of law
- Improve Understanding of the Company and Law Department: The quality of legal representation is improved by deep and broad understanding of the company's business and the company's business objectives. To that end, companies should provide the opportunity for law firms to learn and understand the company's business. Some best practices to facilitate that understanding include:
  - Train attorneys (and as appropriate non-legal law firm staff) from the selected law firms about the company's history and business at the onset of the kick-off and perhaps annually.
  - Consider whether elements of the company's new employee orientation materials are suitable or could be adapted for this purpose.
  - Provide law firms with 1) training on the company's business conduct policy regarding gifts & entertainment; 2) procedure for reporting potential misconduct; and 3) law department policy for "reporting up/reporting out" questionable financial matters.
  - Require that law firms subscribe to the company's electronic news alerts and distribute those alerts to lawyers and others who work on the company's matters.

- Require that law firms listen and/or watch the company's quarterly calls and/or webcasts with stock analysts.
- Explore ways to make internal webcasts/calls addressed to the company's employee base accessible to law firms.
- As appropriate, invite lawyers who support a brand or division to participate in business meetings such as product launches or sales meetings.
- The working relationship between the law firms and the company's lawyers will be enhanced to the extent that the law firm understands the metrics and key performance indicators to which the law department must respond. Among other things:
  - Share the law department's key performance indicators ("KPI") with the law firms and solicit ideas on ways to ensure the law firms support these KPIs.
  - Include the law firms (via telephone or video-conference) in appropriate law department staff meetings at least quarterly. For example, at least quarterly, the relationship partners should participate concurrently in a law department senior staff meeting. Or, at least quarterly, a matter partner should participate in the relevant law department team meeting, so that, for example, a lead litigation partner would participate in litigation team meetings.
  - Explore the feasibility of sharing with each law firm a periodic (at least monthly) summary of the litigation filed against the company to enable the law firms to issue spot potential conflicts of litigation positions. Ultimately, the company's in-house counsel will need to ensure the company is taking consistent litigation positions.
- Knowledge Management: Take advantage of work product created by any of the law firms in matters handled by any other law firm. This will also help to prevent inadvertent inconsistent positions taken by the law firms. Law firms should have internet based access to secure sites that house work product of the company's lawyers. In addition, innovations developed by any law firm should be evaluated for possible adoption across the company.
  - Explore the feasibility of creating a "brief bank" for commonly faced litigation issues (e.g., piercing the corporate veil) or for standard discovery (e.g., a model response to a standard interrogatory seeking identification of the corporation's particulars like state of incorporation, etc.)

- Evaluate law firms on their internal procedures to ensure effective sharing of information across client teams.
- Explore feasibility of “Company’s Matter Experience Database” accessible to law firms to collect the experience of law firms and lawyers in venues, genres, etc. as a resource for other lawyers facing similar issues.

## EVALUATE PROGRESS

- Gather billing and other relevant data to determine whether the law firms adhered to guidelines for billing, expenses, communication, etc.
- At the end of the evaluation process determine which law firms to keep and determine whether there is a need to find replacements or reassign work, whether the company’s expectations have changed, whether the company wants to include new law firms in the process, etc.
- Use Key Performance Indicators to articulate responsibilities and define success.
- Possible KPIs for the law department in managing the relationship include:
  - Timely and frank assessments of KPIs for the law firms.
  - Identification of points of contact for law firms to engage the law department on issues.
  - Timely information dissemination about developments, changes in priorities, or shifts in strategy.
  - Acting as clearinghouse to ensure positions directed to be taken are consistent across the business.
  - Periodic, no less than annual, law firm relationship partners’ meeting with the company’s law department in which the strengths and weaknesses of the relationship can be discussed.
- Develop a scorecard for law firms to both clearly articulate expectations and ensure consistent evaluation criteria across the roster of law firms.

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For more information on Howrey’s experience with Value Based Relationships, contact:

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