

Law Firm Pricing Insights

Value, Profitability, and What Comes Next



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True Value
Partnering Institute



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Foreword

By the True Value Partnering Institute

Several years into its evolution, the legal pricing function now sits squarely at the intersection of profitable revenue growth, key client management, and legal service innovation. We believe it will become increasingly central to the law firm-client relationship, filling a critical strategic role in creating true partnerships between the buyers and sellers of legal services. Those firms missing this point and taking a wait-and-see approach will struggle to keep up with client demands for greater value, as it can take several years to establish an effective pricing function.

The legal pricing role was conceived in response to the fallout of the Great Recession, with finance-oriented experts developing alternative fee arrangements (AFAs) and profit modeling from the back office. It quickly morphed, however, into what it is today – a client-facing, strategic, and independent function that helps cement client relationships to enhance profit margin and structure innovative service delivery.

By some counts, there are now over **400** *dedicated law firm pricing professionals employed in the Am Law 100 and beyond. Many of them feature the words “Strategy,” “Client Value,” or “Innovation” in their titles.*

We have witnessed the emergence of a new legal-specific discipline positioned at the front line of law firm client revenue and profit strategy. These pricing professionals defend price and profit and also collaborate with clients – working with in-house counsel, operations, and procurement to achieve value harmony. They take the lead in planning and executing complex client negotiations, in many instances becoming the face of the law firm when the road to reaching a price agreement faces twists and turns. They can be the saviors of important, deep relationships by sitting in the middle of difficult conversations around price and service delivery. They have become the modern-day legal value diplomats.

So, what does it take to sit in this critical role where profit is king and success directly impacts the topline? It requires an analytical mind-set to link profit with revenue, the communication skills of a focused negotiator, and political acumen to navigate complex internal stakeholder positions. It is a multifaceted role and one that many place trust in – including law firm management wanting to hold profit, the partner facing his or her largest and most important client competitive retender, and clients who seek to speak with someone who can be a conduit to value alignment.

These industry experts now attend formal courses such as the Legal Pricing Masterclass; have their own annual law firm pricing conferences, such as P3; and are members of a dedicated law firm pricing association called the True Value Partnering Institute, where they can earn the Accredited Legal Pricing Professional (ALPP) designation.

Legal pricing professionals represent a nexus between the law firm and client not represented elsewhere. Nearly all deal face-to-face with clients and many have migrated to the client side and then back to law firms. They are among the few in a law firm with insights to the inner workings of buyer and seller. As such, they increasingly sit at the table of the C-suite of law firm management and are instrumental to firm growth initiatives.

Executive Summary

With permanent pressure on pricing, law firms pursue healthy profit margins for themselves and greater value for customers.

The buyer rules today's legal market, with law firms reporting near-constant pressure on rates and pricing. According to Altman Weil's 2018 "Law Firms in Transition" survey, 95.8% of law firms expect increased price competition to be a permanent trend.

However, only 31% of law firms say they've added a pricing director or placed an existing staff member in charge of pricing. Earlier this year, the Thomson Reuters Legal Executive Institute surveyed the leaders of top 100 global law firms. Even among this elite group, nearly 30% did not employ a pricing officer and, among those who did, several had added the role only within the past year.

Why not dedicate more human capital to this mission-critical challenge? Building a pricing apparatus from scratch in a profession as complex as the law is difficult. The formula for success is still being written.

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To that end, the Legal Executive Institute, in collaboration with the True Value Partnering Institute, endeavored to better understand the current role of pricing professionals and the challenges they face. We interviewed 25 people¹ who lead pricing at midsize and large law firms to learn how they are approaching the job. Here are a few highlights:

- This is not a back-office function. Many pricing teams work directly with clients – and address a lot more than price.
- To secure buy-in for a pricing program, leaders partner with advocates from among the firm's lawyers.
- The head of pricing needs a "sales" mind-set and a focus on internal and external relationships.
- Successful pricing strategy is inextricable from legal project management.
- Effective pricing requires mastery of intel derived from historical matters – but not only time and billing info. Get attorney "anecdota."
- Use of AFAs has stagnated in favor of client-imposed "caps" masquerading as budgets.

At its core, the pricing role exists within a law firm to create value. While perhaps an overused word in today's legal market commentary, it is appropriate here: These professionals focus on giving clients the best quality results in the most efficient manner for the most appropriate price. They are perhaps the strongest advocates for the "voice of the client" within a law firm, a vital role law firms should not overlook as they strive to better serve their clients.

¹This represents nearly half of all pricing professionals who have earned the True Value Partnering Institute's Accredited Legal Pricing Professional designation, the first accredited pricing qualification for the legal industry.

For more information, visit: https://www.tvp-institute.com/Accredited_Legal_Pricing_Professional_ALPP

The View from the Inside

Before a law firm's pricing function can shine with customers, it must establish credibility internally. This requires a special set of skills and a few key strategies.

This is the first generation of legal pricing professionals.

Most of the individuals interviewed originated their role and have been in it for one to eight years. A few have been in their jobs longer, succeeded the originator, or worked in pricing in another industry prior to joining a law firm – but overall this is the first generation.

The most effective way to gain buy-in for a pricing program is to partner with internal champions.

Nearly all respondents said new pricing professionals must create and capitalize on early wins to establish the value of the function within the firm – and that requires teams to convert key attorneys into evangelists.

“We visit different offices. We talk about how pricing can help increase our win rate. We have a monthly newsletter with examples of clients and how we’ve helped specific partners. That has generated a lot of incoming interest. We often hear, ‘Oh, I didn’t know you had done that. Tell me more.’”

Jim Foley, Pricing and Legal Project Management Director at Hunton Andrews Kurth

“At inception, start by working with the partners that are more willing to work with you, and they’ll share their success stories with their colleagues, which will start a positive snowball effect,” said Eddie Raychaudhuri, Chief LPM & Pricing Officer, Berger Singerman.

Jim Foley, Pricing and Legal Project Management Director at Hunton Andrews Kurth, offered this advice: “We visit different offices. We talk about how pricing can help increase our win rate. We have a monthly newsletter with examples of clients and how we’ve helped specific partners. That has generated a lot of incoming interest. We often hear, ‘Oh, I didn’t know you had done that. Tell me more.’”

Interestingly, this is true even in firms where compliance with pricing priorities is an explicit part of the attorneys’ compensation structure. “When you’re talking about highly motivated, intelligent, self-driven people, you want to be tapping into intrinsic motivation, not extrinsic motivation,” said Pier D’Angelo, Chief Pricing & Practice Officer at Allens. “Compensation is a form of extrinsic motivation. If a lawyer thinks that a thing is not necessary or not the thing to be done, it doesn’t matter what you do in the compensation model. ... They’ve got to ultimately understand and believe that what they’re doing is for the benefit of their client and for their practice. Otherwise, they won’t do it.”

The head of the pricing function needs to have a “sales” mind-set both internally and externally.

Another success factor hinges on the person in the pricing director role. He or she will, by necessity, be in a constant “sales” motion. They bear responsibility for selling their team within their firm to drive demand among the attorneys. Externally, they must sell the firm and the value of its services to clients. Many respondents described how they build relationships with their firms’ lawyers and how those relationships help engender trust. Anecdotally, each of the people we spoke with was engaging and personable, perhaps indicating a necessary set of personality traits for pricing leaders.

Striking a balance between tactical execution and strategic planning is a challenge.

Pricing directors struggle to manage the day-to-day and implement a vision for the future, which is a blessing and a curse: It means they are in high demand, but that limits their ability to create utilities to help future service delivery.

To overcome this dynamic, they attempt to create replicable processes for low stakes, repetitive matter types that often require pricing guidance. These include self-help budget and pricing tools that enable attorneys to input the relevant details of a matter and arrive at an acceptable range of prices for the work, often modeling several different fee arrangements.

In the law firm hierarchy, pricing teams tend to stand apart, independent of other functions.

Most pricing directors report either to the firm's managing partner/executive director or to the chief operating officer. They function in parallel to the chief marketing officer and chief financial officer (or whatever equivalent title a firm uses).

They view this independence in reporting as key to their efficacy. It allows them to serve as the "voice of the client" free from the influence of intra-firm politics. They closely collaborate with marketing and finance, but their independence allows them to strike a balance between the message the client needs to hear and the metrics the firm needs to understand.

"Our desire for the role is for it to be a completely objective function. You must have both skill sets. You have to understand both the qualitative and the quantitative; the objective and the subjective," said Brad Antici, Director of Strategic Pricing and Analysis, Butler Snow LLP.

Client Value

Effective law firm pricing teams serve as a voice for the client – and strike a delicate balance between the client's desires and the firm's interests.

Law firm pricing teams work directly with clients – and address more than the up-front price.

Most pricing leaders engage with clients regularly and have seen this personal interaction grow rapidly in the past few years. They address the initial examination of matters and scoping, rate setting, re-evaluation of scope, and sometimes even collections. This is an important way to ensure there is common understanding of underlying assumptions and the client's priorities in terms of service delivery and pricing. Many of these interactions occur with corporate clients' procurement specialists, legal operations teams, and sometimes with the attorneys or the general counsel.

Do not overlook the rules the client has given you.

A critical source of information comes from the client in the form of their outside counsel guidelines. As many of the respondents pointed out, when clients issue such guidelines they must be the basis of any pricing or matter management strategy – because any offering that violates the guidelines will be rejected.

It is incumbent upon the firm to ensure the pricing team has access to all relevant guidelines, and on the pricing team to ensure they are complied with.

Use of AFAs has stagnated in favor of client-imposed "caps" masquerading as budgets.

Respondents who have worked in the industry for more than a few years saw relatively rapid growth in the adoption of AFAs in the early part of the decade. Much of this was driven, they say, by the thrill of a new idea.

That initial enthusiasm, however, has been tempered and growth has stagnated over the past two years.

Fewer corporate legal departments and other clients are asking for true AFAs. More common are requests for law firms to produce “budgets” for new matters. However, these budgets do not work the way budgets did in the early part of the century – when they were created and then largely disregarded.

Today, budgets serve as de facto “caps” even as work is done on an hourly fee basis. As a result, law firms bear nearly all the risk of pricing and scope changes. If the matter comes in under the stated budget, it benefits the client because they pay only the portion of the budget expended. Conversely, if the matter exceeds the budget, the client will often point to the budget and force the law firm to absorb the overrun.

Obstacles to true change in the pricing of legal work exist on both sides, but the client maintains the pricing power.

Pricing professionals within law firms point to a few obstacles to continued growth in the use of AFAs. First is a lack of familiarity with AFAs even among lawyers at firms with robust pricing functions because of the dominance of hourly based matters – even if those matters are not truly based on hourly fees due to the existence of caps. A close second is a lack of comfort on the part of buyers of legal services. Despite often saying they want to change how matters are priced, many general counsel still operate with the same hourly billing mind-set as their outside counsel.

Several of the pricing directors expressed a strong desire to help both the “buy side” and the “sell side” become more confident crafting alternative pricing models, but also felt stymied by resistance from both sides due to comfort with the status quo and the complexity and risk inherent in new models.

You can’t effectively price a matter if you can’t scope it accurately.

Respondents described many variations in the paths they take to arrive at pricing for a new matter, but there was general agreement on several components. First and foremost is the need to establish reasonable scope of work in consultation with the client and the attorneys handling the matter. Scope must then be continuously monitored and managed, with changes immediately communicated to the client. This ensures customers sign off on what they are buying and what they are paying – avoiding unpleasant surprises and acrimony.

The Future

Pricing professionals within law firms have seen striking growth in just the past few years. As more firms and clients come to understand their value, the role will continue to evolve.

Historical matters matter. But not just the time and billing info. Get attorney “anecdotal.”

All of the interviewees addressed the need to examine historical data to determine the cost of precedent matters and indicate where a new matter should fall in the pricing spectrum. Essential data points include the type of fee structure used for the matter, total cost to work the matter, total price to client, profitability and realization data, and contextual data about matter types.

“You have to be able to access your billing rates. And not just your standard rates, all your different client-specific rates, all the history of those rates,” said Brian Fanning, Director of Practice Economics, Davis Wright Tremaine LLP. “You need to be able to understand

that piece, because a lot of what you do is just figuring out, 'What do we charge this client under their special arrangement for this type of work?' "

Hushmand Jonathan Cott, Chief Strategic Pricing Officer at Covington & Burling LLP, added: "I think it's absolutely crucial that the pricing team have access to billing data. Just unfettered access that we can analyze so that we can see historical trends in terms of staffing mix and profitability. Because that is essential for building our economic models or our forward-looking models."

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However, it is not enough to look only at the quantitative data of the matter, such as task codes and matter types. It is also important to examine the qualitative aspects. "Of those litigation matters that I'm looking at, how many went all the way through to trial? At what point in the litigation process did they stop?" asks Barry Mehew, Global Director of Pricing Strategy & Legal Project Management, Mayer Brown LLP. "Did the matter come to resolution or settle? How many depositions were taken during discovery? Were experts used? How much discovery motion practice was there? How many and what motions were filed? The more contextual data I can get, the better it helps me understand those matters in sufficient detail to be able to make use of them in pricing of future matters."

Close collaboration with the attorneys running the matter is essential for obtaining this data. In most firms, it resides only in the minds of the attorneys who handled the historical matters. This type of data also must be shared with the client and their procurement team so the two sides have the same basis for assumptions made in scoping the matter.

As more effective Legal Project Management (LPM) efforts are introduced at law firms, LPM teams become another source for detailed, contextual data that is more reliable and accessible than the memory of individual attorneys.

There is an appetite for better ready-to-buy solutions to streamline daily work.

There was strong agreement that law firm pricing teams need better technology to automate the historical analysis process and process mapping. Most feel the market lacks good, ready-to-buy solutions. Some have undertaken the job of building their own solutions, and others expressed this as part of a long-term strategic direction they have been unable to pursue due to their teams' limited capacity. As an unfortunate side effect, the delay in executing on these objectives slows their tactical execution.

Pricing is the core focus of the role, but the focus is expanding.

Most pricing directors report having small teams – typically a top-level professional and a few pricing analysts.

A growing number of teams also include LPM professionals. Nearly all respondents described an inextricable link between LPM and pricing and the need for LPM teams to help plan staffing and resources for matters and to monitor work as it's conducted to ensure it stays within the agreed scope for the engagement. This ensures the work is adequately profitable for the firm and meeting client expectations.

"The way I think about it in a very simple form is pricing is what you do at the beginning of a matter or an engagement with a client, and legal project management is everything that happens afterwards – in other words, the execution," said Hushmand Jonathan Cott, Chief Strategic Pricing Officer, Covington & Burling LLP.

A growing minority of pricing teams also manage additional functions such as new business intake. Those with responsibility for new business intake believe it ensures that matter type, agreed rate, fee agreement type, and other contextual data are captured to better inform their overall historical matter analytics.

Even among respondents who do not have these various responsibilities within the pricing function, there is strong cross-functionality and intersection.

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“It’s really controlling the client experience from A to Z within this one department,” said Kevin Bielawski, Director of Legal Project Management & Strategic Pricing, Husch Blackwell. “A key part of it is making sure that price arrangement gets set up on the system accurately and is being communicated to the client monthly the way it’s intended to be. And then ultimately wrapping legal project management around the delivery of the legal service is just core to the client experience.”

Pricing leaders want to see the function continue to evolve.

Most respondents said they are happy with their team and organizational structure – likely because they are the first generation and have built the function the way they envision it. Several expressed support for bringing LPM under the purview of pricing to create a broader “customer excellence” center.

Many want the resources to assign a pricing analyst and an LPM specialist to each major practice unit, or one set for every couple of practices. This would enable them to develop expertise and familiarity with those types of matters and the preferences of particular clients. Overall, this kind of focus increases quality of service.

“Pricing isn’t just sort of an independent group, it’s part of an ecosystem of support for lawyers that includes pricing, project management, and knowledge management,” said Brian Fanning, Director of Practice Economics, Davis Wright Tremaine LLP.

There is another argument for creating and growing an effective pricing function. According to the 2018 “Dynamic Law Firm” study,² among firms that led the industry in growth in revenue per lawyer, overall profit, and profit margin, 50% employed a pricing professional. In contrast, among firms that struggled to find growth in these metrics, only 35% had a pricing professional. While not a causal finding, this suggests a correlation between the existence of a formalized, professional pricing structure and improvements to a firm’s financial performance.

² Available for download at <http://www.legalexecutiveinstitute.com/dynamic-law-firms-study-2018/>.

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True Value Partnering Institute

The True Value Partnering Institute (TVPI) is the definitive legal pricing and legal project management community. In its fifth year, TVPI features concurrently running cohorts of Pricing and Client Value Leaders, Legal Project Management Leaders, and In-House Legal Business Professionals. Its core values of member education, networking, and professional development separate it from more traditional legal associations. Nearly 90% of the world's law firm chief pricing officers and directors are members, many having achieved the ALPP designation, a first-of-its-kind recognition of legal pricing expertise.

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