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This blog is devoted to exploring issues that continue to challenge law firms and their clients and to sharing ideas and tips about how the profession can or is innovating to adapt to the changing world of the "New Normal".

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## Legal innovation

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## 5 Firms Take Bold Approaches

Posted by Susan Saltonstall Duncan on Tuesday, 13 November 2012 in Legal innovation

This is one in a series of four related articles that appeared in the ABA Law Practice Magazine – Volume 38 Number 6 – November/December 2012. It is reprinted with permission.

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### VALOREM LAW GROUP, 11 lawyers -- Interview with Pat Lamb

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**"What drives me nuts is when lawyers aren't buying into my business objectives and adjusting our approach accordingly. Many have their risk meter set at zero. I have to monetize all my risks and then take some. Either the lawyer gets that or doesn't. Valorem definitely gets this."** --David Graham, senior counsel, DSW Inc.

In 2008, when Patrick Lamb and three partners thought about starting a new kind of law firm focused on clients and value, they knew that a critical framework would be in pricing their services in a radically different way than their predecessor BigLaw firms (and most law firms) did. When they started setting fixed prices for their trial and litigation services, they realized that they needed to focus on the cost of providing those services—or they would never be profitable. Things would now have to be done faster, more efficiently and better than before. These are the cornerstones of Valorem's business model:

#### Project Management and Process Improvement Are Essential

From the outset, lawyers took typical cases and produced process maps to delineate each step in the process. For example, before lawyers start to do any discovery on a case, they talk to the client first to establish an approach that is consistent with the client's desired outcome. The focus is on a full case assessment first, which dictates the fee, but more importantly, the value proposition and the winning strategy. The Valorem Toolbox provides tools for trial, budgeting, fee estimating and decision trees.

Client David Graham of DSW explains the process: "First we sit down and discuss the business case and objective. At every turn, we determine whether and how an approach would deliver value to the business. Throughout the three years up to trial on a recent case, at each juncture we wrote down all the tasks and pieces that would be involved in the next chunk of work, evaluated the objectives, then priced it accordingly."

#### Collaboration Leads to Better Strategy and Better Learning

Internally, the firm operates in a family-like setting. Ideas and new approaches are welcomed and expected through biweekly "collab-o-storms" with all lawyers and staff. Because profitability through leverage is not an issue, several experienced

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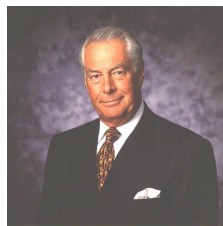
lawyers strategize on every client matter. "Our best work comes when we are together, from the impromptu brainstorming," says Lamb. As confirmed by firm client Karen Klein, GC of Kayak, "Valorem understands that going to trial is not always the best solution. They are very practical and work with us to align their legal strategy with our goals. I want the lawyers I hire to get to know my business and become a part of our business team."

### Client Interaction and Feedback at Every Turn

After every matter, the Valorem team does a self-assessment. Then the team sits down with the client to provide its assessment, seeks feedback and also discusses approaches that will improve the process the next time around. Lamb makes bimonthly calls to clients to see how things are going and to identify any small issues or questions client have; this facilitates continuous feedback and improvement. He also spends a lot of time on planes to have face time with clients. The Valorem Advisory Board serves as a critical sounding board.

### Pricing, Staffing and Results Based on Value

Eighty to 85 percent of Valorem's revenues are generated using alternative fees (primarily flat fees with a hold back, plus premium based on milestones). Their Value Adjustment Line allows clients to pay them more or less than the invoice. To date, only two clients have paid them less (only due to a billing error), two have paid a little more, and one client paid a significant markup based on the result. Doing this lets clients know that there always is an option to pay less than the invoice if they don't feel they received the expected value. It also guarantees that the firm has every incentive to make clients exceedingly happy. Given its lean lawyer team, Valorem has teamed with Novus Law for document review and other post-e-discovery services.



**BARTLIT BECK, 70 lawyers -- Interview with Fred Bartlit**

***"Quality is not scalable in law; to the contrary, size and the consequent hourly model inherently dilute quality."*** --Fred Bartlit

**In the late 1980s**, Fred Bartlit and a few partners formerly at Kirkland & Ellis puzzled over the disconnected assumption in big firms: The more hours a project took, the more lawyers involved, the more depositions, the more stones turned, the better the quality of the work product. This resulted in a devaluation of experience because associate leverage and metrics on utilization and profits took priority. Bartlit and his colleagues knew that wasn't right and formed their new firm where the mission of the firm is quality. Even though Bartlit Beck only does bet-the-company cases and deals, the focus is on using the best lawyers for the best results, finding that using the best approaches often results in reaching favorable outcomes much more quickly. "We didn't do this for the money," says Bartlit. "When we left Kirkland & Ellis, we left everything behind (including our financial security) and started from scratch. We assumed we wouldn't make as much money but we'd be happier." The cornerstones of their model were established to consistently bring quality and value to clients:

### Hiring and Training

The firm hires only one or two star associates a year. But "star" doesn't just mean intelligent, according to Bartlit. The firm is loaded with Supreme Court clerks and graduates who were top-ranked in their classes. But for every lawyer the firm hires, there are hundreds of similarly credentialed applicants who never receive offers of employment.

The firm only hires people who, in addition to being smart, have other critical qualities, such as an interest in activities outside of work, the ability to listen and empathize, and the desire to be the best they can be. They want to get to the top and they are willing to work hard, take some risks and learn in order to get there. In addition to wanting to work in this collaborative environment, Bartlit says, "We tell them, 'You must be the person you would want to hire.'" They must read everything about the client in the press, understand the client's issues and perspective, and get to know their counterparts at the client's place of business.

The firm trains constantly, formally through Bartlit Beck University, but more continuously through shadowing and mentoring. The firm looks for opportunities to provide good jury trial experience for young associates by doing trial work for smaller companies or public entities on a pro bono basis. The firm also creates opportunities for associates to act as lead attorneys in jury trials, with the partners mentoring them step by step.

The feedback from clients has been positive. Jennifer Sherman, senior vice president, CAO, GC and secretary at Federal Signal, says, "Bartlit Beck has done an outstanding job developing the next generation on both the litigation and transactional side. They have introduced me to their younger lawyers, all of whom have been outstanding. So now I tell them, 'I don't care who you put on the case!'"

### **Pricing**

The firm does no hourly billing but rather enters into fee agreements that reward results and efficiency. The partner meets with clients, and together they estimate what it would cost to proceed with litigation. For example, if a case is going to cost a client about \$300,000 per month for a three-year period, Bartlit Beck proposes to bill them \$200,000 per month, and the additional \$100,000 goes into a reserve fund, which at the end of three years, would equal \$3.6 million. At that point, they say to their client, "Based on the result, you can pay us the full reserve or a multiplier of two, three, or five times the reserve." They leave it up to the client to decide.

It is not uncommon for the firm to get multipliers of three to five times the reserve. Sometimes the more traditional GCs don't understand this model and aren't comfortable with it. They offer to pay the firm ridiculous hourly rates, but because the firm doesn't do work on an hourly basis, "if the client isn't comfortable with our flat-fee structure, we don't take the case." Tom Sager, senior vice president and GC of DuPont, says he is comfortable with it and lauds the firm's pricing approach. The firm, which takes on very complex, high-risk cases for DuPont, has earned a high multiple of the hold-back amount on many occasions. In a series of extremely challenging class-action suits, Bartlit Beck got highly favorable results—the class actions were dismissed quickly and completely. Sager says, "We were thrilled, and consequently felt it appropriate to pay a premium. If we had lost just one of the 24 cases, we could have been in big trouble."

### **Culture, Camaraderie and Trust**

The firm's office in Chicago is housed in an old courthouse. The offices have exposed brick, and the former central courtroom is now the mock trial and training room for Bartlit Beck University. There is nothing pretentious about the space, and it embodies the essence of history and character. (It also happens to be a bargain at \$23 per square foot, hence low overhead costs.) There is a gym several floors above, where many of the lawyers can be found at different times during the day. The firm believes that being the best you can be includes attention to health, fitness and balance with outside activities and interests. Lawyers aren't in the office at night or on weekends; they are with their families or spending time outdoors. It doesn't mean they don't work hard; they must for the type of work they do. But they have control over their own schedules.

In the Denver office, there is a climbing wall in the reception area. This is to be used, but also symbolizes the belief that there are many paths to the top—there isn't just one way to do things. The firm strives to hire only people who have their own opinions and will try different approaches to solve problems. A lengthy quote from Teddy Roosevelt about persistence and effort and the willingness to fail is prominently etched on a wall outside the training room for all to remember. In essence, the message Bartlit Beck imparts is that its lawyers must take risks and make mistakes to learn on their climb to the top.

At 70 lawyers, the firm is intentionally relatively small. The core leaders know everyone in the firm—their skills, backgrounds, families and interests. The firm is managed by one partner who makes all decisions on expenses, revenues and compensation. There are no committees. Instead, if someone has an idea for doing something differently or better, he or she becomes a committee of one to pursue the idea. And while the firm does not employ a formal approach to project management, its focus on quality, process and achieving the best result as expeditiously as possible often brings better results for clients than the approach most law firms take, which focuses on hours and productivity.

### **Can Traditional Firms Follow the Bartlit Beck Lead?**

Firms can adopt these practices if they are willing to turn much of the traditional model upside down:

- Focus on high-quality results and on being the best you can be.
- Get rid of the billable hour altogether to focus on best outcomes and efficiency.
- Use small teams with experienced partners.
- Hire only a few associates and only those who have clear potential to become a partner. Then mentor them constantly to get there.

- Collaborate and look for new approaches.
- Deliver value, and ask and allow clients to pay accordingly.
- Stay small, nimble and like a family, and encourage everyone to be healthy and fulfilled.
- Build trust, camaraderie and an environment of continuous pursuit of quality.
- A tall order, to be sure, but one to aspire to.

### **CLEARSPIRE, 30 lawyers -- Interview with Mark Cohen and Bryce Arrowood**

***The firm operates in a virtual "community of practice," where lawyers and clients connect online for ongoing formal and informal communication and collaboration.***

**In October 2011**, a radically new law firm model was launched after nearly three years of market analysis, building a proprietary web-enabled IT platform, and assembling its law firm and service company teams. Holding on to many of the traditional values of client-firm relationships, practice groups and quality counsel delivered by experienced, partner-level lawyers, Clearspire operates in a virtual "community of practice." Lawyers and clients connect online using a sophisticated, proprietary technology platform with features that allow for ongoing formal and informal communication and collaboration. The lawyers do not have to spend time on firm management, developing new business and other big-time commitment activities found in traditional firms—although Clearspire seeks attorneys with an entrepreneurial spirit and incentivizes them to work with the sales and marketing team to pursue business opportunities. Most of this is handled by nonlawyers at Clearspire. Cutting out partner profit and unproductive overhead expenses enables Clearspire to cut the cost of services to clients in half right out of the box. Eliminating marketing, management and bureaucracy allows the lawyers to focus on what they do best.

#### **Project Management**

Prescient is the technology system that allows clients access to detailed, transparent scope of work at all times. Clients have access to project plans, budget and documents in real time through dashboards and more-detailed data. The tool also provides performance indicators and milestones for active matters:

- Action tasks
- Matter communication
- Team input
- Matter status
- Work product
- Research storage

#### **Connectivity, Communication and Collaboration**

Clearspire puts a premium on communication and connectivity. Although the team works on a largely remote basis, it remains integrated both internally and with clients. The firm's headquarters are a block from the White House, and it has regional offices in the major markets in which it operates to allow lawyers and clients to get together as often as desired.

Its differentiator, however, is its patent-pending technology platform that was developed as an alternative to operating in traditional brick-and-mortar offices because that is a substantial cost escalator that drives little value to clients. Communication is accomplished through this high-end technology that hosts video conferences, online chat rooms, document sharing, face-to-face meetings, tweets, blogs and wikis. Through Coral, Clearspire's community of practice platform, conversations occur around the virtual water cooler, library and hallways. Clients can fully engage in the strategy and considerations, immersing themselves as a partner in the process/case. They also have access to work product, relevant research, news and matter management lessons in the online Knowledge Library.

#### **Feedback and Continuous Improvement**

Clearspire's use of advanced technology promotes quality control by providing firm management and clients the opportunity to track progress in real time. The firm also

builds in end-of-matter reviews online by both attorney and client, and more-detailed debriefing discussions about improvements and future approaches for process improvements. These are often engaged in with practice group leaders jointly with client relationship managers, nonlawyers who monitor client satisfaction and the relationship. Lawyers are rewarded for efficiency and client satisfaction.

## EVERSHEDS, 1,200 lawyers -- Interview with Graham Richardson and Martin Hopkins



***From project management and process improvement to pricing and budget predictability, the firm continually innovates to improve its services and value to clients.***

**Eversheds, a global firm with UK roots**, has been pioneering new and better approaches to delivering legal services for the past decade. As evidenced by its open-floor plan in which no lawyer or executive has an office in any of the firm's UK offices, the firm also places a premium on collaboration and ongoing communication.



### Project Management

Used as the framework for its six-year-old groundbreaking relationship with Tyco, and most recently a similar arrangement with Eni, Eversheds has applied a data-rich metric approach to delivering and managing services for these two companies in multiple global jurisdictions on a fixed-fee basis. For all clients, lawyers apply process-mapping approaches that align the clients' objectives with strategy and cost. Two core components of their project management framework in which all lawyers in the firm are trained to use are:

**RAPID Resolution:** Built on the Early Case Assessment approach for disputes, this project management tool stands for Review, Analyze, Plan, Implement and Deliver. It facilitates determination of desired goals and outcomes, and better control over costs and dispute strategy.

**DealTrack:** This is a project management tool for noncontentious transactions. Again, the concept focuses on clear scope definition, a set of assumptions and an associated budget.

The data developed over time in both systems is what is used to help design processes and predictive budgeting. The firm also has developed Unity, a matter and client management collaborative platform that stores documents and email, manages contracts, automates processes, shares knowledge and communicates with third parties, allowing clients and Eversheds lawyers to manage projects and communication in real time.

### Consultancies and Alternative Service Models

Eversheds has designed a number of in-house consultancies and alternative methods of responding to clients' needs for services to both help them streamline procedures and control costs. At present, there are three consultancies and a couple of additional staffing models the firm has initiated.

**Eversheds Consulting:** This was designed to help in-house legal teams address the challenges of running their departments efficiently, use new technologies to facilitate process improvement and help the legal department provide better value to their businesses. The various offerings provided by consultants who often, but not always, work in tandem with lawyers in the firm include these:

- Pursuing claims/recovery services
- Compliance
- Dealing with legal suppliers
- International records management

- IT solutions and contract management

HR Consultancy: This team of nonlawyer HR consultants provides services to companies to help them manage employee investigations, provide interim HR support, train employees in-house and online with e-learning courses and lead change management.

Eversheds Agile: This unit of the firm provides highly qualified lawyers for temporary assignments with in-house teams across the globe, helping clients to fill temporary resource gaps.

Most recently, the firm established a low-cost legal process center in Leeds, England, for routine real estate services. Staffed by paralegals and administrative personnel, the group will handle case reviews, research and post-closing matters.



### SEYFARTH SHAW, 800 lawyers -- Interview with Lisa Damon

***SeyfarthLean combines the core business improvement principles of Lean Six Sigma with robust technology, knowledge management, process management techniques, alternative fee structures and practical tools.***

Even before the ACC launched its Value Challenge, Seyfarth Shaw was exploring ways to address clients' needs for better efficiencies, transparency, predictability and lower costs—all with an eye toward enhanced quality and value. The firm took a bold step in 2005, and for the past seven years has invested significantly in the development and execution of a robust client service model called SeyfarthLean. According to Lisa Damon, a partner and catalyst for the initiative, the goal is to "drive better business outcomes for clients by providing legal services in a fundamentally different way." The broad, systemic use of such a model across multiple practice areas is unique to the legal profession and reflects a fundamentally different approach to the business of law.

This framework now permeates the firm's culture and has affected everything the firm does and the way lawyers and staff approach client service. Highlights of the approach are outlined below.

#### **Process Improvement**

Process improvement begins with listening. Seyfarth's approach incorporates "voice of the client" techniques throughout the process to help establish clear goals, desired business outcomes and benchmarks for measuring success.

Seyfarth makes extensive use of process mapping, in which legal processes are mapped from beginning to end to identify steps that deliver the best results or those that need to be reengineered. It encompasses data collection, engagement planning, work assignment and resource management. This is also done jointly with clients to help ensure that the legal strategy and desired outcomes support the client's objectives.

Another key aspect of Seyfarth's effective project management approach is the deployment of technology. This includes a suite of diagnostic tools to measure processes, cycle time and monitor risk. Reporting tools help clients and teams track matters, tasks and budgets in real time.

To help oversee project management, the firm has developed a team of more than a dozen professionals certified in project management who oversee the communications, quality and service aspects of large client engagements. In addition, every lawyer and staff member has now been trained in basic Lean, and the firm is rolling out Yellow Belt training for various departments on specific competencies. Senior leaders have all received advanced training.

#### **Feedback and Continuous Improvement**

Continuous improvement is central to the Lean tenet. Seyfarth regularly seeks feedback from clients throughout the duration of an engagement to make any adjustments to strategy, approach or service delivery. Input is collected in various ways:

- Quarterly phone or in-person assessments
- Monthly updates
- Post-matter debriefs and lessons learned
- Ongoing internal team process assessments

Client service scorecards are used to gauge and improve performance at the individual level; the firm also uses this data at an aggregate level to identify opportunities for improvement. Using this data, a team of senior leaders convenes monthly for innovation brainstorming sessions.

**Value Pricing**

Approximately 20 percent of Seyfarth’s matters are billed on a nonhourly basis. Damon wishes more clients were receptive to alternative fee arrangements: “Alternative pricing is transformative to client relationships. It sharpens our focus and allows us to align our strategy to the client’s objectives. It motivates us to find the best, most-efficient solution, and the kind of discussions that ensue between us and the client deepen our knowledge of and success with each engagement.”

**What Do Clients Have to Say About Seyfarth’s Bold Approach to Value Creation and Delivery?**

Based on feedback the firm has collected, clients have been impressed that Seyfarth:

- Truly listens to what client needs are, and has been willing to take the risk and try a systemically different approach to delivering legal services.
- Has successfully adapted the use of Lean Six Sigma techniques and development of a data-driven approach to legal services.
- Knows its own strengths and those of other legal service providers, so that they are willing to work with other providers to create the optimal client solution.
- Has provided its clients with measurable results in terms of cost-efficiency, improved legal quality and better business outcomes.

**Tips for Law Firms Trying to Deliver Better Value to Clients**

Damon offers the following suggestions:

- Be willing to invest and commit to changing for the long haul.
- Ensure you have commitment from the top.
- Find client advocates who will help champion your cause.
- Accept small successes at first. Change comes slowly for many lawyers, and organizational change doesn’t happen rapidly.

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**The Progressive Model for Law Firm/Client Partnering**

Posted by [Susan Saltonstall Duncan](#) on Sunday, 11 November 2012 in [Legal innovation](#)

**The Pfizer Legal Alliance:**

“Nineteen law firms, working together to advance the value of legal counseling to benefit all Alliance partners, their clients and the legal profession.”

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