

# LEGAL MANAGEMENT

FEBRUARY 2017  
VOLUME 36 • ISSUE 2

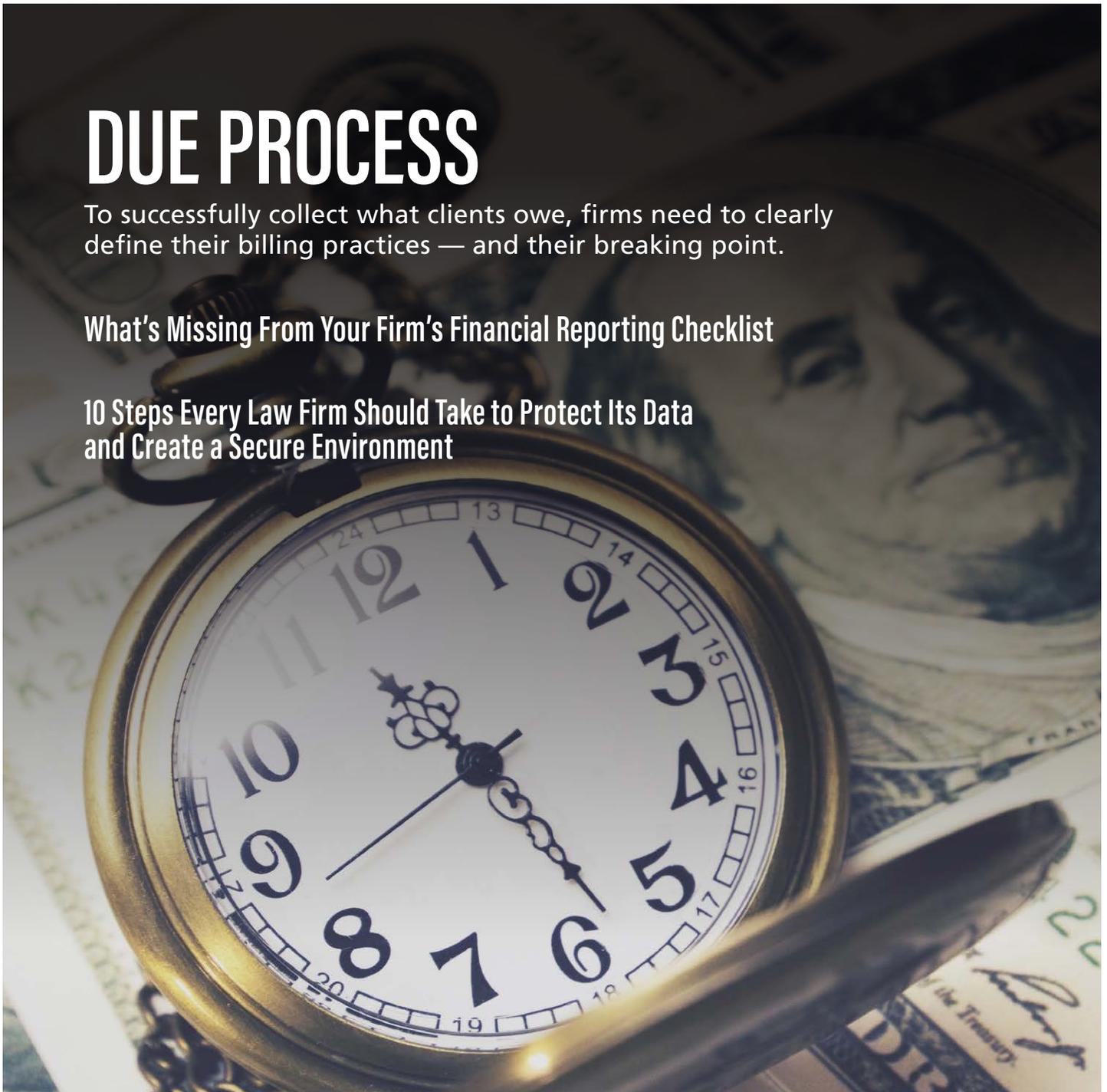
THE MAGAZINE OF THE ASSOCIATION OF LEGAL ADMINISTRATORS

## DUE PROCESS

To successfully collect what clients owe, firms need to clearly define their billing practices — and their breaking point.

**What's Missing From Your Firm's Financial Reporting Checklist**

**10 Steps Every Law Firm Should Take to Protect Its Data and Create a Secure Environment**



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**Laura J. Broomell, CLM**  
2016–2017 ALA President  
Chief Operating Officer  
Greene Espel PLLP  
Minneapolis, Minnesota

## Elevate Your Position: Grab That Seat at the Table

Over the past year, our primary ALA goal has been to Elevate ALA. We have added more value for our members, and we continue to strive to have ALA be known as the thought leader in the business of law — the place for legal management professionals to go to elevate their positions.

“

Don't just get involved. Fight for your seat at the table. Better yet, fight for a seat at the head of the table.”

– Barack Obama

For each of us, our journey is different, and our professional paths lead us to myriad intersections. **One road may be straight and long, one might include multiple turns along the way, and one may include a steep climb.** What we want to avoid is getting stuck in a roundabout with few options to maneuver our way out.

I am grateful that my professional path has taken me on a wonderful adventure through multiple intersections, and that adventure would have stalled early if not for ALA. I earned a seat at the table through my involvement in ALA. I share below how you can grab that seat for yourself, if you don't already have it.

**Be a lifelong learner.** Your firm or organization hired you with the confidence that you had the knowledge, skills and abilities to effectively perform your job. It is your responsibility to maintain and even enhance your knowledge and skills, and the best way to do that is to actively participate in ALA. The more we personally invest, the more we gain.

**Share what you learn.** At every opportunity, share with your firm what you have learned, especially through ALA. I hear members say that their firm does not support ALA. In order to change that, we need to do a better job of educating our partners or managers about how our participation in ALA elevates our firms.

**Share what you do.** I have also heard members say, “My partners don't know what I do.”



If your partners don't know what you do, tell them. When I send out the agenda for our monthly attorney meeting, I include my "Broomell Brief." This is a two-to-three-page summary of what I worked on over the past month.

**Always look to add value.** At every opportunity, offer to take on a task or project that would normally be done by your Managing Partner or other manager, even if it is outside your comfort zone. A few weeks before my 2006 year-end attorney retreat, it was decided that we would use one of the days to discuss our attorney compensation policy and procedure. We were frantically trying to find a consultant to work with us to plan and facilitate that part of the retreat, when somehow I found the courage to ask if I could do it. I made sure that I was not going to fail. I read every article and book I could find on attorney compensation, and I met with a professional meeting facilitator who helped me understand the role of the facilitator, the use of ground rules and what to do when I got stuck. After that retreat, it was decided that I would facilitate all monthly attorney meetings. Raise your hand and then be prepared. The more prepared you are, the more confidence you will have.

**Get a coach and be a coach.** If you played any sport growing up, you know how important a good coach can be. My fast-pitch softball coach inspired passion, and he taught us to take risks, to push ahead when tired, to dream, to understand our full potential, to learn from mistakes, to trust our teammates, and to always focus on the "we." A professional coach does the same thing. But we don't always need to pay someone to be a coach. I have many coaches in my life — sponsors, advisers and friends.

**Act like a partner.** Partners and shareholders are owners in their firm. Unfortunately, most of us cannot be owners in our firms, but that does not mean we can't act like one. Here's what I suggest:

- Get rid of the 9 to 5 mentality.
- Don't think of yourself as "staff."
- Always look for ways to move the firm forward.
- Invest in yourself.
- Build trusting relationships with everyone at the firm.
- Know everything about your firm — the business side and the practice side.
- Make every decision with an owner mentality.
- Be accountable and act with integrity.
- Be a servant leader.
- Display courage.
- Take care of yourself — physically, emotionally and spiritually.

During the Association lunch last year, I told a story about my youngest daughter. She was writing a paper while in middle school, and she asked me if I was successful because I worked hard or because I was lucky. I responded, "Yes!" She was a bit puzzled. I told her that I was successful because I work really hard and because I am lucky. But, I also told her that I had more luck because I work hard. If you work hard and you have a little luck, you will get that seat at the table. ■

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**BRYAN GREGORY**  
Senior Vice President  
& General Manager, Aldridge

## 10 Steps Every Law Firm Should Take to Protect its Data and Create a Secure Environment

**As technology develops, so do the methods used by hackers to infiltrate networks and obtain valuable information. Law firms, especially, have become prime targets for hackers attempting to access and profit from sensitive information.**

Law firms can face severe penalties if they fail to follow compliance standards specific to their organization. More to the point, however, a data breach can cost a firm on average \$6.4 to \$7.5 million. This cost includes the expenditures accrued from the investigation, notification expenses, credit monitoring and crisis management — but does not cover the resulting damages to the firm’s reputation and client relationships.

Here are 10 vital precautions every firm should take to safeguard its data:

### 1. Encryption

Encryption is a means of protecting sensitive information by converting readable data to unreadable data. All confidential data should be encrypted at rest and in transit, including the transfer of information via email, file-sharing systems and even mobile devices. If an employee’s laptop is stolen or a hacker breaks into a firm’s network, data encryption will ensure the unauthorized user will be unable to make sense of the information at risk.

### 2. Routine Security Tests and Proactive Planning

Law firms can institute fake security tests to identify potential security threats within the organization. If a data breach or loss does occur, a written disaster recovery policy should be in place to ensure the necessary steps are taken to prevent further damages.

### 3. BYOD Policies

A firm should have an official BYOD — bring your own device — policy in place to specify how devices will be used and handled. The technology should be encrypted, and passwords

“

A data breach can cost a firm on average \$6.4 to \$7.5 million. This cost does not cover the resulting damages to the firm’s reputation and client relationships.”



should be in place at all times. In addition, a firm should have the means to remotely “wipe” an employee’s device if the individual leaves the company, or if the device is lost or stolen.

#### 4. Employee Education

End-users pose the highest risk for data security. Every law firm should hold routine employee education sessions to establish guidelines and uphold personal accountability, making sure every member of a firm’s staff is aware of the ethical responsibility and liability that data security entails. These courses should use real-world examples of jeopardized data incidents and phishing scams to emphasize how data can be put at risk.

#### 5. Data Continuity and Redundancy

The ability to access important data in the event of a natural disaster or network compromise can make or break a law firm. Firms are advised to store copies of vital information both on premise and off-site. Off-site storage should be located in another region, preferably out of state, to ensure the data is protected even in wake of a hurricane or tornado that could affect the firm and its surrounding areas.

#### 6. Private and Secure Wi-Fi

Because attorneys are subject to frequent travel and likely work while in transit, law firms should instruct their staff to avoid public networks and offer alternative solutions, such as virtual private networks and mobile Wi-Fi hotspots, to be used when necessary.

#### 7. Intrusion Detection Software

The use of intrusion detection software is vital to a law firm’s data security. Firms should install antivirus, antispam, malware and intrusion detection software and perform regular updates. Law firms should also check to be sure all software is active and has not been turned off by the end-user.

#### 8. Written Password Policy

The Georgia Institute of Technology determined that a password with eight characters can be hacked in less than two hours, but it can take up to 17,000 years to guess a well-formulated 12-character password. By putting a written password policy in place, employees will be educated and responsible for taking the time to create a highly secure password.

#### 9. Access Controls

Not every employee needs access to all data. Firms should have controls in place to limit employee access to sensitive information unrelated to their ability to do their job.

#### 10. Cloud Safety

If a law firm is using a cloud solution provider (CSP), specific questions should be asked when evaluating the CSP’s security, including: How will data be encrypted in transit and at rest? Who holds the encryption keys? Do clients approve the storage of data in the cloud? Does the CSP implement litigation holds to prevent the deletion of data?

Taking the necessary steps to protect your firm’s reputation and client information in and out of the office, from clerk to partner, are easier than one might think and provide an invaluable service to you, your firm, and your clients. ■

#### ABOUT THE AUTHOR

**Bryan Gregory** is the President of Aldridge, the IT services professionals and outsourcing company in Dallas, Texas. Gregory is responsible for the general management of Aldridge’s Houston office, including marketing and sales, new business development, human resources, and oversight of day-to-day operations.

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**KEITH LIPMAN**  
President and Co-Founder  
Prospereware

## WHAT IS THE UPBMS?

Learn more about the Uniform Process Based Management System (UPBMS). These codes will provide a standard framework for legal operations to develop, implement and maintain successful management and operational strategies, and encourage the use of a common language and approach to legal support operations across the industry.

# What the Doctor Ordered: Procedure-Based Pricing for Law

**Do law firms need to change their business model from the billable hour? Yes.**

Clients, in the words of GlaxoSmithKline (GSK) Associate General Counsel Bob Harchut, want to “make sure we aren’t over or underpaying for value.” And the billable hour is a weak measure for value.

This is why over seven years ago, GSK permanently changed the market for services. They began their outside counsel negotiations by setting scope at center stage, i.e., putting to market the total possible scope of their matters and reengineering the pricing process through reverse auction. Within the parameters of the total possible scope, firms were then invited to compete for the business.

From the client side, this has generated a wave of simulators, the rise of procurement departments, and a market neck-deep in enormous downward pressure on fees. From the firm side, this has caused the rise of pricing groups to answer the call for better and increasingly complex pricing models.

Where this leaves us now is with some firms breaking away in terms of financial success. According to the *Peer Monitor Q3 Report*, these firms answer clients’ demands by focusing on adopting software to transform their operations to pitch, price, budget, leverage experience and monitor their matters.

The lesson of GSK is that scoping is integral to the requirements of client-centric financials. “Procedure pricing” is the full maturation of scoping — and acts as a significant market advantage for firms able to deliver it.

## THE PATH TO PROCEDURES

The good news is, we are already on the path to procedures. When a partner says, “I need to price a matter,” the response from the pricing or legal project management (LPM) professional is, “Well, what’s it going to be made of?”

This is scope. Properly defining the scope of any matter is already entrenched and vital to pricing, and key to setting up the firm to deliver client-centric, value pricing such as the procedures method. Partners are already creating budgets, pricing, and specifying the effort to do a deposition; procedures simply matures this to building the associated list of services and pricing it.

Procedure pricing translates the building blocks of all the components that can comprise a matter to be scaled to different sizes in any combination for matters of all composition. By example, the medical industry is the king of procedures — this is because they have already developed a set of standards.

The legal industry is highly analogous. Litigation is a clear example of how these building blocks could work: one set of blocks would include depositions, which are then broken down into plaintiff, fact witness, expert witness, etc. The concept extends from there: Define the various components that make up what that matter is, what the scope’s going to be, and what each scope’s going to do. Then combine the blocks into the matter’s ultimate engagement structure.

## THE HOLY GRAIL OF PRICING

Most importantly, this approach to pricing is what clients want. Procedures make sense to them, and it is the most transparent path to ensure no one is “over or underpaying for value.” This is because the benefits of procedure-based pricing flow in both directions: changes in scope and quality assurance are substantially simplified and streamlined.

Need one more expert witness added to this matter? This conversation can now be handled in completely transparent terms by reference to the associated list of services: i.e., “expert witness building block costs X.”

As well, by removing elements of the billable hour, the firm can look at other aspects of service delivery such as technology efficiency and try to understand if those embedded costs are also elements of the cost of service or not. In some ways, the client is neutral on this if you’ve extracted them from the billable hour. The value is a fixed fee — but because it’s unitized, you’re taking less of a gamble on both sides.

## HOW DO WE GET THERE?

This is the hard part. Better scoping is setting us on the right path, but most firms price with spreadsheets and create budgets from whichever software they happen to own. No one, when they built the data they’re exporting to Excel, focused on standardized coding.

Moreover, our billing systems — including the leading billing systems in the legal industry — were designed for the billable hour model. As a result, there are distinct technology gaps we need to solve to move toward procedure-based pricing that will require new software that not only makes procedures a possibility, but as a repeatable methodology to win and deliver new business.

The best place to start — as reflected in the *Peer Monitor* report — is through adoption of software that is built for client-centric financials and can help firms pitch, price, budget and monitor their matters for better scoping, and the capability to mature to procedure pricing.

It is also good to know that the issue of standardization is being tackled currently through the Matter Standards Committee. This is a good place for your junior partners to collaborate and contribute to a vital conversation that is happening now. The Matter Standards Committee is a cross-functional committee sponsored by several key organizations, from the ABA to ALA, ILTA, LMA and Ark, working toward the coding essential to procedure pricing.

It’s an exciting and immeasurably important dialogue taking place — and I would argue, for firms who get to mature procedures early or first, there’s huge, long-term competitive differentiation. ■

### ABOUT THE AUTHOR

**Keith Lipman** is the President and Co-Founder of Prosperoware. He has served in a number of professional capacities, including paralegal, lawyer, IT director and technology consultant to law firms. He is a frequent speaker across many key industry events, and a contributing author of the books *Corporate Governance Best Practices: Strategies for Public, Private, and Not-for-Profit Organizations* and *Law Firm KM: Driving Practice Innovation and Redefining Service Delivery*.



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# Facts and Stats



## OVERHEARD

More than half of law firms feel they're spending too much time on the billing process — which takes up to 16 hours a month for a quarter of small firms, according to LexisNexis.

Read more in this month's cover story, "Due Process."

## HIRING STARS

The new Acritas Stars Database and Report contains results of an 18-month survey of nearly 4,000 general counsel and other senior leaders at legal departments around the world.

Participants were asked to name any exemplary outside counsel with whom they had worked, and to describe the particular characteristics that qualified these individuals to be outstanding, or "Star Lawyers." The following traits were the most frequently cited by in-house counsel as being integral to having a successful partnership with an outside lawyer:

- **Expertise:** Star Lawyers are clients' go-to advisors on legal matters — their knowledge and quality of work are unparalleled.
- **Commercially minded:** Star Lawyers can translate legal advice into practical and pragmatic solutions; they have a complete picture of their client's business and industry and it shows in their approach.
- **Speed:** Star Lawyers can turn on a dime, respond to requests quickly and deliver on deadlines.
- **Integrated:** Star Lawyers are approachable, and build strong, long-lasting relationships with their clients on the legal team and in the broader business.



QUICK STAT

# \$6 trillion

The predicted cost estimate to the world in cybercrime damages annually by 2021.

Source: Cybersecurity Ventures



## GET INSIGHTS INTO THE LEGAL INDUSTRY

The ALA 2016 Compensation & Benefits Survey includes billable hour data for attorneys and paralegals. The consolidated results encompass data for 6,397 professionals, with additional hourly wage data for 6,079 legal assistants/paralegals and 12,506 legal secretaries/administrative assistants. In total, the report includes more than 1,000 offices' questionnaires in its final results.

For an executive summary and pricing information, visit [alanet.org](http://alanet.org).



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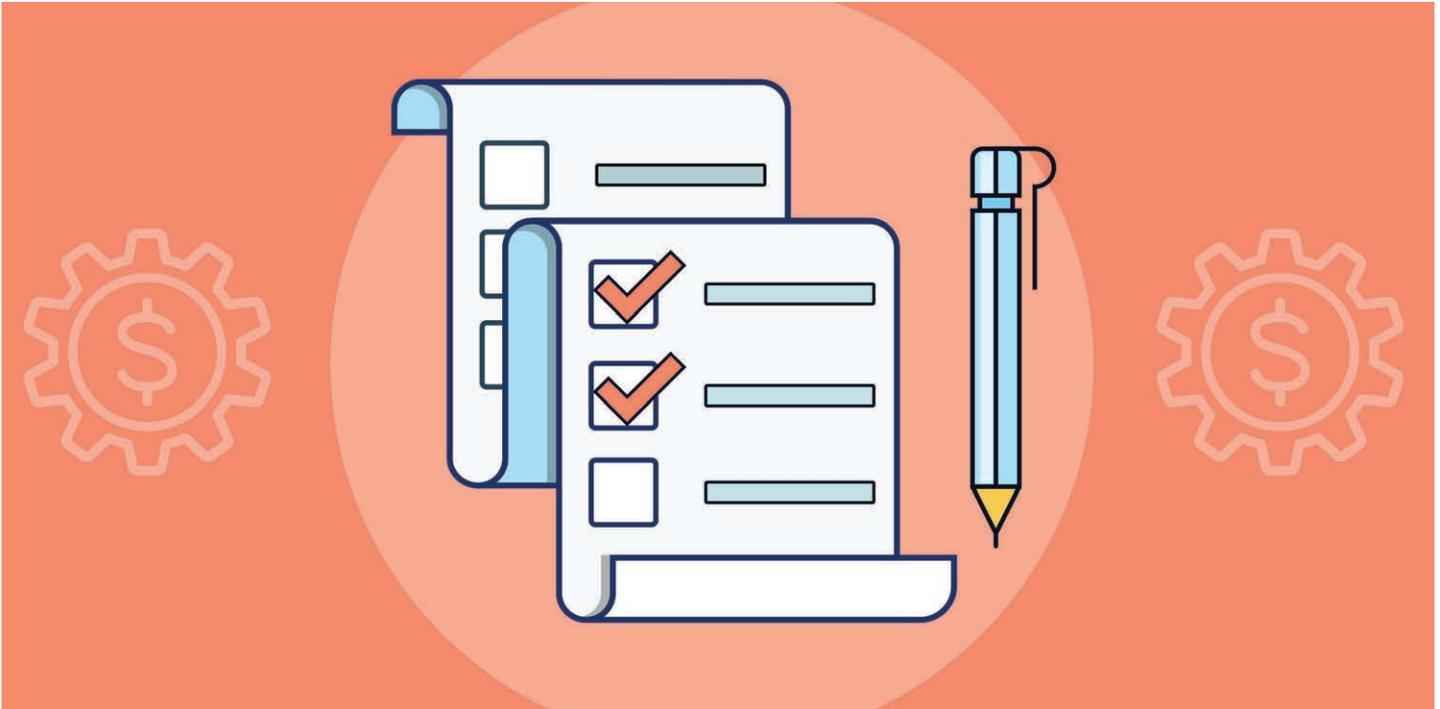
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# What's Missing From Your Firm's Financial Reporting Checklist

These items can help you identify errors while they are still relevant.



**KYLIE ORA LOBELL**  
Freelance Writer

**Financial reports are crucial to the longevity of your law firm. When you invest the time and energy into completing them, you can identify your strengths and weaknesses, and come up with ways to increase productivity and profits.**

"Solo and small firms are law practices, but they are also businesses," says Annette Fadness, President of Juris Bookkeeping. "A law firm is a business, first and foremost. If the financial health of the business isn't monitored, the firm can fail."

To come up with your financial reports, you first need to detail what should be inside of them. What do you need to cover on a daily, weekly, monthly or yearly basis? That's where a checklist comes in handy.

The following are some of the items that should be on your financial report checklists, suggestions for how often to generate your reports, and the benefits of consistently producing them from accountants and consultants themselves.

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You should look at your balance sheet in a way that shows a year-over-year comparison to see if your firm is doing better or worse.

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### COMPLIANCE DUE DATES

At the end of every month, you should do an accounting process and compliance due date checklist, according to Maggie Kennedy, CPA and Consulting Senior Manager at EKS&H.

This checklist will monitor that specific tasks are being completed by their due dates. It'll also guarantee that, "any compliance items like sales tax, 1099s, and personal property tax returns are completed on time to avoid any late filing or late payment penalties," says Kennedy.

### PROFIT AND LOSS STATEMENT

Your firm should be compiling a checklist and completing a profit and loss statement, also known as an income statement, on a monthly basis.

According to Fadness, this report should highlight the actual income you received and the expenses you paid. "It's best to look at this not just for the current month, but in a year-to-date format and also a prior period comparison," she says. "This will give you a sense of how your income and expenses are trending. If you're faring worse than in prior periods, you'll want to dig into the reasons why."

---

Small firms must have an office policy for following up with clients that are slow to pay. They should be getting contacted on a weekly basis.

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### BALANCE SHEET

Another monthly report you should keep track of with your checklist is your balance sheet. This is a list of your assets and liabilities and your equity position, which is your assets minus liabilities, says Fadness.

You should look at your balance sheet in a way that shows a year-over-year comparison to see if your firm is doing better or worse. "If your assets have increased and your liabilities decreased, your firm is healthier," says Fadness. "On the other hand, if things have gone in the opposite direction, you're less healthy."

### CASH FLOW PROJECTION REPORT

On a weekly or daily basis, it's important to generate a cash flow projection report, says John Schweisberger, Executive Director, Consulting at Armanino LLP. Within the checklist for this report, you should include expenses you know you'll have to pay like rent and health insurance.

"Projecting cash flow is really helpful when it comes to anticipating and managing the distribution [of money]," says Schweisberger. "I had a day-by-day projection of an entire year, and it was maintained on a daily basis with whatever changes there might have been. I looked at where our crunch points were. I know as I approached them what steps I'd have to take so there weren't any surprises."

### UTILIZATION, REALIZATION AND COLLECTION RATE REPORTS

A recent study by Clio found that on average, lawyers log 2.2 out of 8 hours of billable time every day (the utilization rate). The realization rate, which is how much they bill, is 1.8 hours per day, and the collection rate is 1.5 hours per day.

Fadness recommends producing your own utilization, realization and collection rate report every month. Then, you'll be able to pinpoint whether your firm is billing for enough time.

"You can identify people who lag behind getting their time entered into the system," says Schweisberger. "The longer you wait, the more likely you are to miss time you should have billed."

### ACCOUNTS RECEIVABLE DETAIL REPORT

You also need to ensure that your weekly checklist includes an accounts receivable detail report. According to Fadness, you can go into QuickBooks or your billing and time software and look up all of the unpaid client bills, as well as how overdue they are.

Fadness also notes that small firms must have an office policy for following up with clients that are slow to pay. They should be getting contacted on a weekly basis. "This will increase cash flow and reduce the likelihood of your firm getting stiffed," she says.

When you know how your firm is doing financially, and you dedicate the time to filling out your financial reports, you will only reap the benefits.

### LEARNING TO COLLABORATE WITH YOUR ACCOUNTING DEPARTMENT

Your accounting department should not only be coming up with checklists and reports for your firm. They also have to analyze what's going on and come back at you with insightful commentary.

"[The accounting department] needs to draw leadership attention to the issues that matter," says Schweisberger. "They can't just produce the reports and let management figure out what they have to do. It's not helpful to the managing partner or executive committee, which needs to be focused on taking action and making decisions — not being business analysts. They were trained to be really good attorneys."

### THE BENEFITS OF FINANCIAL REPORTING CHECKLISTS

When you know how your firm is doing financially, and you dedicate the time to filling out your financial reports, you will only reap the benefits.

"Following a financial reporting checklist helps to identify and correct errors or inconsistencies while they are still relevant, improves timeliness of collections, ensures vendor relationships are protected by reviewing and paying outstanding bills, adds a level of control to your financial processes, and ultimately leads to more accurate and timely financial reporting," says Rebecca Kelley, CPA and Partner at EKS&H.

Your firm will also be more confident in your decision-making by having thorough and accurate information

about your finances, says Schweisberger. "If the owners aren't confident about the future of the firm, that will come through to employees loud and clear. It can start to splinter a firm really quickly."

You won't only be more secure in your decisions, but you can make better decisions in general. "No one likes to wing it when dealing with their own money or other people's money," says Schweisberger. "No one likes to deliver bad news when a decision didn't work out either. But you need to have good control over the [financial] information."

When you figure out your firm's finances and come up with a strategy to tackle any issues, Schweisberger says you'll have a sense of order in your firm. "The practice of law is chaotic enough. The accounting department doesn't need to make it worse." ■

### ABOUT THE AUTHOR

**Kylie Ora Lobell** is a freelance writer living in Los Angeles. She covers legal issues, blogs about content marketing, and reports on Jewish topics. She's been published in *Tablet Magazine*, *NewsCred*, *The Jewish Journal of Los Angeles* and *CMO.com*.



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## ELEVATE YOUR DISCUSSION ON FINANCE

Rebecca Kelley, CPA and Partner at EKS&H, will present on this topic at this year's Annual Conference & Expo in Denver. She'll help you build the checklist of critical tasks that are essential for well-managed financial reporting. Learn more on ALA's website.



# Sample PBC (Prepared by Client) List

The following is a simple list that captures a common checklist of items that a CPA firm needs to be able to efficiently prepare a law firm's tax returns.

## General

- Any amendments to the partnership or shareholder agreement made in the current year, if any.
- Current year-end trial balance in Excel format.

## Bank Reconciliations

*(Please provide the following in a separate file for each bank account, including trust accounts.)*

- A bank reconciliation (reconciling the bank statement balance to the general ledger balance), if applicable.
  - ✓ Ensure that all bank reconciliations agree to the G/L and the bank balances agree to the bank statements.
  - ✓ Are there any issues with checks that were written 180 days or more before year-end?
  - ✓ Are there any old deposits in transit?

## Trust Accounts

- Listing of funds held in trust by client and, if available, by matter.
  - ✓ Identify any client funds or matters that have been held by the firm for greater than a year from the year-end date.
  - ✓ If the matter or client is not active, please indicate why the funds are still being held.

## Fixed Assets

- Additions
- Disposals
  - ✓ Please provide the amount of any proceeds that were received, if any.

## Equipment Leases Entered into During the Tax Year

- Please provide any leases entered during the year.
  - ✓ If a dollar buyout exists, please provide the G/L detail of all payments made on this lease.

## Other Assets

- Schedule of client costs advanced receivable.
- Schedule of security deposits that ties to the G/L.
- Please provide a reconciliation detail for all other asset accounts greater than \$5,000.
  - ✓ Please provide an explanation of any variances between the reconciliation and the G/L.

## Line of Credit/Notes Payable

- Year-end statement that ties to the G/L.
- For any new loans, provide the signed loan documents and amortization schedules.

## Other Liabilities

- Pension schedule showing both staff and partner contributions, if any.
- For all other liability accounts, please provide any information available to support the balance in the accounts.

## Partner/Shareholder Information

- Name, address and Social Security number for any new partners/shareholders, if any.
- New address for partners/shareholders who have changed their addresses.

## Partner/Shareholder Expenses

- Please provide the amount of monthly parking paid on behalf of partners.
  - ✓ Please indicate in which G/L account these expenses are recorded.
- Please provide the amount and type of insurance premiums paid on behalf of each partner.

## Income/Loss

- Provide payroll summary report from payroll company.
- Reconciliation of payroll expense and payroll tax from the payroll summary report to the G/L.

## Tax Adjustments

- Please confirm the G/L account numbers that should be limited to 50% deductible meals and entertainment.
- Amount of political contributions included in the G/L.
- Amount of club dues included in the G/L.
- Please indicate any other accounts that contain expenses that may be partially or totally nondeductible.

## State Apportionment

- List of states in which business either started or ceased to be conducted in the current year, if any.



# Due Process

To successfully collect what clients owe, firms need to clearly define their billing practices — and their breaking point.



**ERIN BRERETON**  
Owner, Chicago Journalist Media

**Since the Great Recession, to increase revenue, many law firms have focused on landing new business.**

In the process, some may have missed out on another major opportunity to improve the bottom line, says James “Beau” Hays, a Partner at Georgia-based Hays Potter & Martin, LLP.

“People noticed new matters would dry up, but they didn’t look at how they could get better at getting money in the door,” Hays says. “Very little attention has been paid to how to turn your receivables into money.”

## **THE WAITING GAME**

In a perfect world, every client would pay legal bills upon receipt. In reality, some delay, contribute an insufficient amount, or permanently default.

Partially as a result, realization rates have declined in recent years, according to a 2016 Georgetown University Law Center report. The percentage of actually collected standard rate fees is at an all-time low of approximately 83 percent.

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The percentage of actually collected standard rate fees is at an all-time low of approximately 83 percent.

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Today, most firms have at least some outstanding invoices, according to Frederick J. Esposito Jr., CLM, Executive Director at 160-attorney firm Rivkin Radler, who previously managed several law firms.

“Very few I know of have zero receivables that are over 30 days,” Esposito says. “Law firms are finding they’re running into situations where clients are not paying.”

Clients may not have the money. Some dispute the amount they’ve been charged and are withholding payment until a new total is agreed upon. Others — the smallest group, Hays stresses — never had any intention of paying.

“There are hundreds of excuses,” he says, “but only three real reasons people don’t pay bills.”

Pinpointing which clients will or won’t eventually compensate you can be challenging; conducting research before you agree to work together can help.

“If you do your due diligence — put the word on the street and find out four to five firms have done work for the client — and something comes up that’s a red flag, then the firm has to decide what level of risk it’s comfortable taking,” Esposito says. He notes that some firms are also using public records to determine clients’ financial stability.”

### PRE-EMPTIVE PAYMENT MEASURES

To further protect the firm from past-due payment issues, law practice management consultant Ann Guinn, Owner of G&P Associates, which works with solo and small firms, recommends including specific verbiage in the agreement.

“The collection process starts in the initial consultation,” Guinn says. “You have to have a good written fee agreement that explains how you bill and when and what will happen if clients don’t pay. You’re educating them about their obligation.”

Ensuring all parties are on the same page can prevent inadvertent issues, such as confusion about billing due dates.

Additionally, law firms can also take several other steps to increase the likelihood they’ll get paid. The following are some suggestions.

**Safeguard matter revenue.** “In an ideal scenario, you’d get a retainer up front that would be replenished every time it falls to a certain amount, or an evergreen retainer that you don’t apply until the end of the matter,” Esposito says. “You create a cushion; when all else fails, the firm has money and can apply it, so you’re at least covered to that extent.”

The retainer should reimburse the firm for the time and other expenses it anticipates incurring, in case clients later contest the costs, according to Jon Robertson, Partner at the four-attorney Southern California law firm Robertson & Culver, LLP.

“You want to get a sufficient amount — what you estimate the first amount of fees and costs will be, so you don’t have to be \$50 million in on a case when you get that pushback,” Robertson says.

**Stay on top of invoicing.** More than half of law firms feel they’re spending too much time on the billing process — which takes up to 16 hours a month for a quarter of small firms, according to LexisNexis.

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Pinpointing which clients will or won’t eventually compensate you can be challenging; conducting research before you agree to work together can help.

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“A lot of small firms don’t seem to be able to get their bills out on a monthly basis; they bill two to three months at a time,” Guinn says. “Some clients can’t handle a bill for several months of fees and expenses.”

She recommends billing twice a month, if possible, which provides clients with smaller, more manageable amounts. It also can help firms maintain a steady cash flow and may prevent clients from assuming they can postpone payment.

If a client's payments have stopped without explanation, the firm needs to decide if it feels it's time to take action.

"I've heard from many attorneys that their clients say, 'You didn't get around to sending me a bill for six months, so I'm not in any hurry; I'll take six months to pay you,'" Guinn says.

**Stay in touch.** "If you send clients regular communication — call, send holiday cards — it's much harder for them to stiff you on fees because they have a relationship with you," Guinn says.

Even if matters have inactive periods, keeping clients in the loop will show them you're prioritizing the work.

"The best thing you can do is to keep clients constantly updated," Hays says. "They can get really aggravated about a lack of progress."

**Monitor your mail.** Guinn recommends firm members produce reports using a program like QuickBooks to check payment status and calculate other helpful measurements, such as the firm's realization rate.

"You have to look at your aged accounts and cash flow report every single week, if not daily, and see who is still



outstanding," she says. "The longer it goes, the less chance you have of recovery."

Esposito produces two reports a month for his firm and sends notices to attorneys highlighting accounts that are more than \$1,000 and 45 days overdue.

"That prompts a lot of people to [follow up with clients]," he says. "I also CC the collections manager to see what needs to be done to follow up with attorneys. If they're not going to do it, he makes the calls."

The majority of U.S. law firms' past due accounts are the result of clients' financial hardship, according to a LexisNexis survey. Suggesting a revised payment plan may remedy the situation.

"If they say, 'We had a crisis in our business, we can pay you X amount for this month and get caught up in the last month,' you [can potentially] recover what you're owed, as long as meaningful payments are made in a fairly short time frame," Roberston says.

#### WHEN ALL ELSE FAILS

If a client's payments have stopped without explanation, the firm needs to decide if it feels it's time to take action.

In some instances, firms may give clients they've worked with before a little leeway.

"If a large bank in California owes me \$4,000 to \$5,000 but tends to pay in the 75-day column, I'll do the work and send a bill next month," Hays says. "If it's a small company, or I don't see it as more than a one-off case, instead of regular business, I probably would not let it go as deep."

When clients consistently fail to make fair payments, exiting the engagement may be a better option.

"If someone has a \$50,000 balance, \$100 a month is not going to cut it," Esposito says. "You want to be able to continue doing work and serving the client, but if it gets to a point where the payments can't be of any substance, you can be stuck with a hard decision."

Although some firms leave the responsibility solely to attorneys, having firm management involved in the payment monitoring process can help prevent potentially costly time gaps.

Firms may choose to file a suit. Several attorneys, however, have told Hays they've been hesitant to because the client could file a counterclaim for malpractice.

"I occasionally hear people say, 'Then your premiums will go up,'" Hays says. "You're assuming a client is going to bring a counterclaim; [even] if it does and it's a wholly frivolous claim, there probably won't be a lot of cost involved. If you're owed enough money to go after it, why would you let the fact you might have to spend some of it deter you?"

Some firms try to recoup at least a portion of the outstanding sum by reducing what the client owes them. It may encourage clients to make a payment. However, the practice can also significantly diminish the matter's profitability — particularly if the firm is one of the 71 percent that provides a discount or writes off legal work before it invoices clients, according to LexisNexis.

"Some lawyers say, 'At year-end, I'm going to cut receivables by 20 to 30 percent just to get a payment,'" Esposito says. "If you're writing off 20 percent of the time, the client doesn't pay and you cut another percent of the bill, your realization can be 50 to 60 percent. If you add that cumulatively over all clients, that's a lot of money they're leaving on the table."

### A PROACTIVE APPROACH

More than half of small law firms say up to 39 percent of their total client base is typically past due, according to LexisNexis.

Given the pace law firms operate at — particularly ones with fewer attorneys — it's not surprising following up on delinquent bills isn't first on every lawyer's to-do list.

"A solo practitioner or small firm may not have a COO [chief operating officer] or in-house collections person whose entire role is to make sure the firm is getting paid," Roberston says. "You are so enveloped by the urgency of the cases you're working on that you can take your eye off that ball, in terms of collecting."

However, to maximize profitability, receiving money that's owed, before you've invested massive amounts of time trying to collect it, is crucial.

Set clear agreement terms at the start of each matter. Then closely monitor which payments are coming in, and contact clients immediately if there's a delay — and know when it best for your firm to get out.

"You need to decide upfront when negotiating with clients at what point you are going to say, 'I can't help you,'" Roberston says. "Because now, what should have been a successful venture for both sides has turned into a loss leader. You haven't been paid and are investing more money in the hopes of getting a declining payment."

Although some firms leave the responsibility solely to attorneys, having firm management involved in the payment monitoring process can help prevent potentially costly time gaps.

The longer bills linger, the less likely you are to receive the full amount from clients in financial distress. Even if you do, after the dispute ends up in court, you'll likely lose that piece of business.

"The client relationship is over at that point," Esposito says. "Some lawyers don't want to confront clients about money, so it just grows and grows. If someone in the firm's management doesn't step up, it can get out of control." ■

### ABOUT THE AUTHOR

**Erin Brereton** is a legal industry marketing consultant and freelance journalist who has written about the legal industry, finance, business and other topics for more than 50 legal associations, magazines, websites and other publications.



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# The Billable Hour's Grip on Legal

Changing times have made the gold standard in legal billing less viable — but it's not entirely obsolete.



**JOBST ELSTER**  
Head of Content & Legal Market  
Strategy, InsideLegal

**The 2008 economic downturn accelerated corporations' decisions to put a cap on legal spending — not only in terms of spending volume but also how many outside counsel they would ultimately engage. This forced general counsel as well as their law firms to take pricing seriously beyond just raising billable hour rates.**

Firms began to adopt strategies and processes focused on legal spend management and legal fee pricing. As an additional consequence, legal fee price adjustments led firms to reduce cost of services, which forced the adoption of centralized and standardized project and practice management methods and tools.

In the new normal, rates growth has drastically declined, productivity is down and demand for legal services has flattened. As a result of these trends, the old school billable hour model has once again come under increased scrutiny. Is the billable hour finally dead, as many industry observers have long predicted? How has the hype of alternative fee arrangements (AFAs) measured up to AFA reality? And what is the ideal or hybrid solution?

## IMPROVED PRICING OPTIONS

According to Toby Brown, renowned law firm pricing specialist and Chief Practice Management

Officer at Perkins Coie LLP, the better law firms are at pricing, the better it is for the market. Brown has observed client side trends ranging from e-billing, corporate procurement in pricing, to the rise of legal department outsourcing, outside counsel guidelines, and legal spend management.

The de facto poster child for rocking the boat on traditional law firm pricing is pharmaceutical heavyweight GlaxoSmithKline PLC (GSK). About six years ago, GSK's legal procurement team launched a web-based system for lawyers to bid on specific GSK legal matters, rather than rely on nondescript big firm panel request for proposals (RFPs).

According to Justin Ergler, Director of Alternative Fee Intelligence and Analytics in GSK's legal department, one of the central goals of the auction system was to drive down legal fees. They wanted to get rid of hourly billing and AFAs that are based on hourly calculations, such as capped and discounted fees.

"Clients have been telling firms forever to be more efficient, but if you're billing based on the amount of time you spent doing something, that does not encourage efficiency," says Ergler. "If firms are efficient under a flat-fee structure, they're able to reap the benefit. GSK is able to get that benefit as well from a work product value standpoint."

Ergler is also a firm believer in leveraging data when it comes to law firm fee pricing and determining value. As he stated during an ILTACON big data-themed panel session back in 2013: "In order to survive the new marketplace, law firms must differentiate themselves with something other than the excellent lawyering mantra. Leveraging big data is a way to do that."

In order to rate the efficacy and adoption of AFAs by law firm clients and ultimately their outside counsel, the 2016 BTI Consulting "State of Alternative Fee Arrangements" report provides insight. The results show that AFAs accounted for \$21.3 billion of outside counsel spending in 2015, up from \$13.1 billion in 2013. AFAs are the biggest growth market around, registering a 19.8 percent compound annual growth rate and savings of 13.9 percent. In summary, top legal decision makers credit their new love of AFAs to improved client focus, predictability in budgets, a more streamlined approach to the work, and the savings.

### THE BILLABLE HOUR IS STILL RELEVANT

But not all believe the billable hour isn't viable. Peter Zver, President North America for Tikit Ltd, has been involved



with law firm technology for the past 25 years — specifically in the knowledge management and timekeeping arenas. As a trained accountant and CPA, he also understands the detailed financial aspects of running a law firm.

"The billable hour is not dead. An alternative transaction model has emerged as part of the legal industry's transformation, utilizing the billable hour as an input rather than an output, a cost metric as opposed to a revenue metric," says Zver. "If anything, the term billable hour should take second stage to the trackable hour that is either billed independently or packaged within a billable project/matter. Ultimately, hours worked that are billable are part of the cost equation in matter pricing," he says.

Zver's sentiment mirrors that of others, including Brown who link law firm profitability to leverage and the ability to push work and hours to the lowest level as cost per hour. Doing so will lower revenue, but also increase profits and free partners to pursue new business.

So, assuming the billable hour is not dead, what can firms do to not only protect but maximize their billables?

**Leverage technology:** According to the 2016 ILTA Technology Survey, 49 percent of all surveyed law firms do not use any mobile timekeeping software. This is a staggering statistic considering mobility is a major driver in the adoption of cloud-based applications and technologies that will maximize remote workers' productivity. Modern timekeeping solutions offer a wide variety of time capture methods based on where firm professionals are working and needing to capture billed time. This includes mobile time entry and automated time capture technology that accounts for "lost" time users may have not accounted for throughout the day.

While 52 percent of firms surveyed by ILTA use the native time capture functionality of their existing accounting system, 100

percent of firms with more than 350 attorneys use third-party “best of breed” timekeeping applications. This reflects the focus of larger firms’ need for the most robust technology in place to empower timekeepers and — more importantly — provide accurate time recording for clients.

**Rely on data and metrics:** Data analytics are being leveraged in all aspects of legal technology and law firm operations. Timekeeping is no exception. More firms are relying on metrics provided by their timekeeping vendors to continually monitor and improve practices and productivity. For example, Zver and the Tikit team provide firm customers with a velocity of time capture metric. This allows firm accounting, administration, timekeepers and even firm clients to know how long the lag is between billable work being performed and when it’s captured in the system. The smaller the lag number, the faster recorded time entries will be billed to clients and, in turn, paid. This provides the transparency and accountability more firm clients are looking for from their outside counsel.

### MOVING FORWARD

While the billable hour is not what it used to be (the 2008 recession changed that forever), a complete abolition is not in the cards either. Certain law firms will continue to only offer time-based pricing options, while other complex legal works warrant hourly arrangements.

Alternately, less emphasis on billable hour targets at firms will ease the transition to AFAs. The growth in firm clients that favor outcome or value-based metrics and rely less on quantitative metrics, like hourly billing rates, will as well. Lastly, an evolution in timekeeping technologies will facilitate more accurate and transparent extemporaneous timekeeping. ■

## INTERESTED IN A DEEPER DIVE ON THIS TOPIC?

Ron Baker, the Founder of VeraSage Institute, will present “Burying the Billable Hour: Implementing Value Pricing in Your Firm” at this year’s Annual Conference & Expo in Denver. Learn more on [alanet.org](http://alanet.org).



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**Jobst Elster** is InsideLegal’s Head of Content and Legal Market Strategy. He has served as a legal market strategist for the last 17 years, advising companies entering the legal market, involved in mergers and acquisitions, and expanding strategic operations overseas. Elster regularly writes and speaks on legal technology, market research and leveraging market data, technology innovations and futures, legal marketing and big data.

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**URI GUTFREUND**  
National Law Firm Practice Leader  
Risk Strategies Company

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In the past 10 years, excess insurance policies premiums have come down considerably. What made sense financially even a few years ago, no longer is a prudent financial decision.”

## Professional Liability Limits: Avoid the Nightmare Scenario

Of all of the insurance policies that you manage, there is only one mistake that should make you wake up in the middle of the night terrified about a potential impending catastrophe — professional liability coverage, aka malpractice coverage. It's the one coverage that must be adequate at all costs.

In most states, a professional's financial liability is not protected by typical business protections (i.e., the corporate veil), so firm assets and/or existing insurance policies are the only tools protecting your lawyers from personal financial ruin.

In our insurance brokerage firm, we spend many days and hours negotiating with insurance companies over the fine print points of every professional liability policy. And yes, they are important: Are you financially exposed to defense costs? What definitions and fine print are the best fits for your firm? Is that the best premium? All of these points consume our behind-the-scenes work to obtain the best insurance options for our clients.

But if the amount of insurance — the limit — is insufficient, the fine print won't matter and having a good insurance policy (even a great one) will not adequately protect you. While there is no scientific method for selecting your limits, below are the various methods on how to calculate your limit. For most firms, one or two of the methods together make sound sense.

**Average client:** Purchase the amount of insurance that represents an amount near your average client exposure. Especially for a firm that is primarily litigation, this method can be used by taking your average case value. We assume that you will not commit malpractice on your largest cases, as you will be committing your best resources to that client matter. Some practice areas — such as SEC work, high-end trust and estates, and IP work — values need specific attention with this method of analysis. If you represent high-net-worth individuals,

they tend to be litigious. But beware — not surprisingly, they are also litigious against their lawyers.

**Per lawyer:** The roughest calculation is \$500,000 to \$750,000 per lawyer. This means that a 20-lawyer firm should consider \$10 to \$15 million in coverage. This rule of thumb varies greatly by state and locality, but it is a good rough estimate.

**Cynical approach:** The firm should purchase the minimum amount of insurance so as not to be the defendant firm (in a multi-defendant professional situation) of having the “deepest pockets.” On the other hand, they shouldn’t purchase too little that plaintiff attorneys pursue personal assets. There is anecdotal and logical evidence for this approach, but it is especially important to constantly review these goals with your broker for specific advice to keep you abreast of the industry norms when it comes to insurance limits.

**Purely financial:** Unrelated to your practice areas of risk and your average client size, the firm conducts a purely financial analysis of the value of current revenues compared to the cost of the insurance. Regardless of the risk profile of your firm, the quotes are obtained for various limits and selected purely on the economics of the situation. For example, a highly profitable \$25 million dollar firm might purchase \$30 million to \$50 million in limits as the cost of the insurance might only be \$200,000 (a small amount for a highly profitable firm). A similarly sized law firm — but one that is less profitable with fee revenue of \$10 million — might only purchase \$10 million.

### SOME WORDS OF CAUTION

The best approach of all is to use a blended and educated approach to your limit selection. The discussion with your broker should be annual and should consider changes in your firm and changes in the insurance market. If your firm has grown or changed in practice mix, past limits might not be enough. In the past 10 years, excess insurance policies premiums have come down considerably. What made sense financially even a few years ago, no longer is a prudent financial decision.

Avoid rationalizing your decision making about limits to drive down the costs. There is a lot at stake with your professional liability. As with all important firm decisions, the analytical approach is the way to go when you decide your professional liability limits. ■

## BRUSH UP ON YOUR INSURANCE KNOWLEDGE

Join Uri Gutfreund at this year’s Annual Conference & Expo in Denver as he tackles several areas of insurance. Learn more at [alanet.org](http://alanet.org).



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**Uri Gutfreund** is the National Law Firm Practice Leader for Risk Strategies Company, a national top 25 insurance broker. He and his multidisciplinary team advise law firms on all types of insurance and benefits. Gutfreund is a frequent speaker at legal conferences, and a writer and blogger on insurance and risk management.



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# Opportunities for Paralegals and Consumers: The Limited License Legal Technician

By Paula Littlewood & Steve Crossland



**In June 2012, the Washington Supreme Court adopted Admission and Practice Rule (APR) 28, which created the first independent legal paraprofessional in the country that is licensed to give legal advice. APR 28 and the Limited License Legal Technician (LLLT) legal professional were long in the making and well overdue for the consuming public's needs.**

The unmet civil legal need in the United States is staggering. Studies commissioned by the Washington Supreme Court in both 2003 and 2015 quantified this unmet need at between 80 to 85 percent for low- and moderate-income people. For the moderate-income population, that is a family of four making \$97,200 per year — not your working poor family, yet fully 80 percent of these families go without the representation they need in basic civil legal needs cases.

## HOW IT BEGAN

The journey to the LLLT began in 2001 when the Supreme Court's Practice of Law Board was charged with, among other

duties, recommending to the court a practitioner who could be trained and regulated in a narrower scope than that of a lawyer. The program was developed with two goals in mind: access to justice and consumer protection.

The Practice of Law Board developed the concept of the LLLT based somewhat on that of the nurse practitioner in medicine. That is, the practitioner could be licensed independently but in a scope limited to certain practice areas and within a defined range of duties. Under APR 28, when the LLLT comes to the edge of his or her scope of authority, the rule requires that the LLLT refer the client onto a lawyer for that portion of the representation.

The first practice area recommended by the Practice of Law Board was family law. In the order adopting APR 28, the court signaled heavily that it, too, thought that family law should be the first area. APR 28 also created the LLLT Board, which is charged with developing and overseeing the new license. This oversight of the licensees is done in conjunction with the Washington State Bar Association (WSBA), which is the regulatory agency operating under delegated authority from the Washington Supreme Court to regulate legal professionals in Washington state.

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*It is an exciting time in Washington, particularly for consumers seeking legal advice at a more affordable rate from someone who is licensed and regulated.*

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The LLLT Board had many formidable tasks in front of it when it first set out. In essence, it was charged with creating a new profession out of whole cloth. The first order of business was to recommend the first practice area to the court; the board recommended family law and the court approved the practice area in March 2013.

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From there, the scope of practice had to be defined along with the educational training required. Exams for licensing were also developed along with a practicum requirement prior to licensure, continuing education requirements, and finding a malpractice insurance carrier since LLLTs are required to carry insurance.

**TEAM EFFORT**

The collaborations that developed during the building of the program are some of the most exciting, and unexpected, aspects of the journey. Family law practitioners worked with the board to define the scope of authority for LLLTs. The state's community colleges and law schools worked together to develop a three-year curriculum of study.

The first two years of education occur at the community college level, with 45 of the 90 credits required for an associate level degree in Washington being defined in regulation for the LLLT license. After completion of this core education, candidates then spend a year in law school taking 15 credits in family law that are designed to the LLLT's scope of authority.

Prior to licensure, the LLLT candidate must take three different exams: 1) the Paralegal Core Competency (PCC) Exam at the end of his or her core education; 2) an exam in ethics; and 3) another exam focused on the family law practice area. Once passed, the first two exams do not have to be repeated. However, the LLLT must take the practice area exam in each area they would like to be licensed in. Currently the only practice area is family law, but the LLLT Board is working on defining the second practice area within which they hope to license LLLTs. If a current LLLT wanted to be licensed in the new practice area, they would be required to take the law school classes for the practice area and then take the requisite practice-area exam.

Finally, the LLLT must also complete 3,000 hours of legal work under the supervision of a licensed attorney. As mentioned above, LLLTs must carry malpractice insurance (currently offered by ALPS) and complete continuing education requirements that are reported every three years to the WSBA.

Currently there are 20 LLLTs licensed and working — about half are working in law firms and half are working independently. One is also working for the local legal services provider in her community, which helps limited dollars go further in serving the low-income population in that area of the state. There are many more students completing their education both at the community college level and the law school level.

While the path to the LLLT license was not always smooth or welcomed by lawyers, this past September the WSBA Board of Governors voted to make LLLTs and Limited Practice Officers (LPOs) members of the bar and also designated a seat for a LLLT or LPO on the Board of Governors.

It is an exciting time in Washington, particularly for consumers seeking legal advice at a more affordable rate from someone who is licensed and regulated. ■

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**Steve Crossland** is the Chair of the Washington Supreme Court LLLT Board.

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# Understanding Credit Card Processing Can Help Maximize Your Firm's Profitability

By Steve Beene & Patrick O'Boyle



**Credit card use has now penetrated almost every industry and almost every country; the legal industry is no exception. An estimated 30-plus million businesses accept credit cards worldwide, and law firms have increasingly been integrating credit card processing into their systems as a way to improve collections and streamline payment acceptance.**

Unfortunately, costs for accepting credit cards are increasing as well. Law firms understand there is a cost for accepting credit cards, but few really understand exactly what they are paying and why. Therefore, firms can underestimate the true impact that accepting credit cards has on their business's profitability.

The good news is that a basic understanding of the credit card processing business —how it works, the types of fees and who is making money on your credit card sales — can go a long way in curbing the effect on your bottom line. In fact, informed law firms can reduce fees by up to 40 percent.

## CREDIT CARD FEES 101

One reason many firms overpay is that accurate information regarding the procedures — account setup options and real operating costs — is not readily available. A few of the common pitfalls law firms must navigate include confusing and costly rates, incorrect account setups, unnecessary elective fees, overpriced equipment, and punitive contracts that lock businesses into long-term agreements.

Many law firms never receive the processing rate they believe they negotiated. Rather than having the true cost structures dictated by the card associations (called interchange), many businesses have seemingly low "tiered" or "qualified" rate plans. However, only select credit card transactions will meet the requirements for these low sales rates. Transactions that do not meet these requirements will be classified as "nonqualified" and excessively penalized. The result is processing costs go up, possibly exceeding what a business expected to pay by 40 percent or more.

Even when a law firm is fortunate enough to have true interchange rates with their merchant program, typically the merchant account is not optimized, and they still end up paying 25 to 40 percent more than they should.

Elective fees — annual fees, PCI surcharges, excessive authorization fees, lease and rental fees, reporting fees, etc. — further increase costs for the business. For those who lease their equipment, it is not unusual to end up paying as much as five to ten times more than the equipment is worth.

Simply rebidding credit card acceptance services usually does not result in the savings most firms are seeking. Merchant sales groups are too good at this shell game of hiding fees, and often a law firm will end up in an even more punitive program.

Knowledge is power, especially in the credit card acceptance world.

### COST-SAVING STRATEGIES

The best defense for a law firm is evaluating the merchant account at least annually to identify ways to reduce costs and risks. Here are seven tips that should help you protect your bottom line:

- **Adopt an Interchange Pass Through versus a bundled-rate (e.g. “qualified”) program.** Interchange Pass Through programs separate interchange fees from other fees, like processing and sales channel fees. With a cost-plus-pricing approach, the fees are more clearly delineated, making it easier to see and monitor what you are being charged.
- **Make sure the merchant account is optimized for the firm.** Even an Interchange Pass Through program may not maximize the efficiency of the merchant account. Be sure the account is set up correctly for your type of business, with tools tailored to your industry. Correct account setup that is optimized for your firm can be the single greatest area of cost savings.
- **Understand all fees.** Many fees are elective and can often be reduced or eliminated completely. If it is not an interchange fee or industry-dictated fee, it should be questioned.
- **Remove punitive contract termination penalties.** Review merchant account contracts and understand the terms for terminating the account. Work with vendors who do not penalize your firm for canceling a merchant account.
- **Do not lease equipment.** Leasing credit card and check processing equipment is expensive. In many cases, businesses pay five times more for equipment when they lease. Seek to purchase outright.

### BUYERS BEWARE

When selecting a credit card processing solution, or when evaluating your law firm’s current solution, remember that knowledge is power. With an optimized solution, your firm can obtain all the benefits of accepting credit cards while avoiding the excessive costs and penalties.

If you are uncertain whether your firm has the most optimized solution, seek assistance from a knowledgeable advocate. Risk and the potential for higher fees varies broadly from industry to industry, particularly for those outside of the retail and restaurant spaces. ■

### ABOUT THE AUTHORS



**Steve Beene** is a Founding Partner of MSP Consulting. He has more than 25 years of experience guiding clients and bank partners in the area of payment solutions and associated technologies. Previously, Beene was a Partner with Accenture.



**Patrick O’Boyle** is a Founding Member of MSP Consulting. He has more than 20 years of experience advising businesses in the areas of payment services technologies, customer service and support, as well as experience working across several industries, from startups to Fortune 500 businesses. Previously, O’Boyle was a Partner with Accenture.

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**BILL & PHIL**  
Partner, Neal & Harwell,  
Phil Hampton, Consulting President,  
LogicForce

“

Eye tracking software, along with vastly improved voice recognition systems, promises to expand computing options to users with disabilities.”

## Tech for the Year Ahead

Every year, just after we pack our New Year’s party hats, we print our boarding passes for Las Vegas to attend the Consumer Electronics Show (CES). This year marked the 50th anniversary of the annual geek fest, and the show did not disappoint, with more than 2.5 million (yes, *million*) square miles of exhibit space.

We attend every year to get a sense of trends in the tech world that ultimately will impact the way we will work, play and live in the near future. So here is what we observed from CES 2017.

### DOMO ARIGATO, MR. ROBOTO

Not surprisingly, we saw many robots at CES 2017, as we are poised to plunge headlong into the intelligent machine age. There were robots that can interact with you, clean your house, take your order, assist you in a retail environment, mow your lawn, fold your laundry — the list goes on.

Last year we introduced many of our readers and presentation attendees to Amazon’s incredibly popular and engaging Echo (Alexa). Alexa is just the tip of the iceberg in the emerging procession of digital assistant devices. We saw robots that could move throughout your home and respond to voice commands just as Alexa does, but could actually perform manual tasks at your command as well.

### LET’S GET PHYSICAL

Business leaders have learned that a healthy and motivated workforce is a productive workforce. So there were many exhibitors at CES with technology to help consumers stay active, track health metrics, and work in a more ergonomically friendly environment.

Fitness trackers have become very popular, so gadget makers are seeking even more clever ways to get these sensors on our bodies. One of the newest wearables that caught our attention was a fitness ring called Motiv. We also saw a demo of Intel’s new sensory feedback sunglasses that can track your vital stats while exercising and provide personalized



coaching feedback at the same time. There were even smart bike helmets, smart scooters and smart chairs. A new movable chair concept from Honda was one of our favorites.

At a more mundane level, sit-stand desks seem to be the default option for new office furniture, and, of course, you can supplement these units with treadmill bases or even stationary bikes, along with monitor arms that can levitate multiple computer monitors without taking up more desk space.

Eye tracking software has been around for a while, but has improved considerably since we first saw demos a few years ago. This software, along with vastly improved voice recognition systems, promises to expand computing options to users with disabilities.

### A WHOLE NEW WORLD?

We went to this year's show expecting to see a raft of new virtual reality (VR) applications, but after touring the incredibly crowded VR section of the exhibit hall, we were a little disappointed.

Everyone has probably seen the television ads for VR goggles from companies such as Samsung and Google, and many, like us, have purchased one or two (or more) of these VR contraptions to try out. Yes, we enjoy/endure the virtual ride on a roller coaster or watching a movie in VR, and many gamers (not us) really are into the many VR gaming applications. But outside these niche applications, we did not see a lot of new uses for virtual or augmented reality, much to our disappointment.

This technology is still new, and we do expect to see applications of this technology in the workplace, but it still may be a few years out.

### ON THE ROAD AGAIN

The automotive industry is investing heavily in exciting new technologies that promise to fundamentally change the way we think about travel. Yes, self-driving cars are coming, but we could not find any exhibit where we could actually get a test ride. We saw plenty of concept cars: electric-powered, self-driving and even interactive. And we saw plenty of video demos of how these new automobiles will work. But we do believe the appearance of these new-age vehicles en masse on our city streets is probably being delayed by considerations of security, safety and liability.

Nonetheless, we really can't wait for the day when our car notices that we are beginning to get tired behind the wheel on a long trip (as we saw in the Toyota demo) and proactively tells us that it's taking over driving for us. Prius, take the wheel.

Finally, one of our favorite "gadgets" this year was the EHANG184, an Autonomous Aerial Vehicle (AAV). This vehicle is essentially a drone capable of carrying a person, sort of like an aerial taxi.

The vision for this device is to taxi people over short distances through the air without a pilot. So when you need to be in federal court in 30 minutes and the downtown corridor is gridlocked, you would simply call for the EHANG drone to pick you up and fly you through the air, land and then deliver you to the courthouse.

Oh man, we can't wait for this one to become mainstream. Bring on the future. Bring on the tech. ■

### ABOUT THE AUTHOR

**William Ramsey**, Partner at Neal & Harwell, and LogicForce Consulting President **Phil Hampton** are best known for The Bill and Phil Show. The duo tours often and provides technology news and reviews on their website, [www.thebillandphilshow.com](http://www.thebillandphilshow.com).



[www.thebillandphilshow.com](http://www.thebillandphilshow.com)



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# Anniversaries, Awards and Appointments

## MEMBERS ON THE MOVE >>>>



**David S. Chi**, member of the Golden Gate Chapter, is now Chief Operations Officer at Dannis Woliver Kelley in San Francisco, California.



**Beki Pamias-Sellers**, of the Las Vegas Chapter, is now Nevada Director of Administration Snell & Wilmer LLP in Las Vegas, Nevada.

## CONGRATULATIONS TO OUR NEW CLMS!

Please join us in congratulating our new CLMs on their outstanding achievement! Obtaining CLM certification shows great initiative and dedication to the profession, and demonstrates the mastery of a highly proficient legal management professional.

- **Andrea Christina Bloom**; Williams Mullen; Richmond, Virginia
- **Thomas DeFelice**; Dilworth IP; Trumbull, Connecticut
- **Suzanne Florez**; Donohue Brown Mathewson & Smyth, LLC; Chicago, Illinois
- **Matthew Gentz**; DeWitt Ross & Stevens, SC; Madison, Wisconsin
- **Susan Hunter**; Petruccielli, Martin & Haddow, LLP; Portland, Maine
- **Laurali M. Kobal**; Callahan & Blaine; Santa Ana, California
- **Kenneth Koehn**; Gould & Ratner; Chicago, Illinois
- **Dennis Mehigan**; Pietragallo Gordon Alfano Bosick & Raspanti LLP; Philadelphia, Pennsylvania
- **Debra Nichols**; O'Connor Redd LLP; Chester, New York
- **Teresa Reiner**; Anderson Helgen Davis & Cefalu, PA; Minneapolis, Minnesota
- **Kelly Thaemert**; Hellmuth & Johnson, PLLC; Edina, Minnesota
- **Clare Thibeau**; Fisher Rainey Hudson; Boise, Idaho
- **Terry Vickrey**; Aleshire & Wynder, LLP; Irvine, California
- **Anna Volkova**; Anna Volkova; Akerman LLP, Miami, Florida



# What's Happening at Headquarters?



## KEEPING UP WITH LEGAL PROJECT MANAGEMENT

One of the things we're most excited to debut at this year's Annual Conference & Expo, April 2–5, is the new Legal Project Management education track. The track includes the following sessions:

- **OM21: Operational Excellence:** Legal Process Improvement Applied to Business and Administrative Functions
- **FM22: Client Profitability:** Analysis to Action
- **OM24: Practical Legal Project Management:** Kick-starting an LPM Initiative

Learn more and register at [alanet.org](http://alanet.org).

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## SHOW YOUR CHAPTER PRIDE

ALA will be conducting its 60 Seconds of Fame Video Contest again in 2017! Get creative. Use your personality and unique ideas to produce a video testimonial telling us why you value ALA. Entries are due no later than March 15, 2017.

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## COMBATTING ATTORNEY SUBSTANCE ABUSE

Annual Conference speaker Link Christin joined ALA's podcast to discuss the topic of attorney substance abuse and the various ethical and liability concerns that accompany this crisis. Christin founded Heightened Performance LLC, a behavioral health consulting firm. Prior to creating Heightened Performance, he founded and directed the Hazelden Legal Professionals Program, the first track of its kind at a major treatment center. Listen to the interview online or subscribe via iTunes on your mobile device.





## CALENDAR

**FEBRUARY 14**

**HAPPY VALENTINE'S DAY!**

**2 P.M. CENTRAL**

### **ACCESS TO RELEVANT PRIOR ART**

During this session, USPTO will discuss the Access to Relevant Prior Art project, providing an overview of the project; an update on application case studies; an update on internal and external stakeholder feedback to date; and next steps for the project.

Questions about this event? Contact Peggy Siems at [psiems@alanet.org](mailto:psiems@alanet.org).



**FEBRUARY 15**

**2 P.M. CENTRAL**

### **EMPLOYEE MORALE AND ENGAGEMENT: UNLOCKING YOUR FIRM'S FULL POTENTIAL BY FOCUSING ON STRENGTHS**

Creating a positive work environment is not difficult, but it does require effort and intentional planning. Understanding the unique abilities of your employees is the first step in this process. The results of the Clifton StrengthsFinder assessment — a feedback tool used by more than 14 million individuals — helps people clearly recognize what they do best. Once managers and employees understand the talents of their team, the hidden potential of the team can be uncovered and ignited. Learn how your firm can build morale and engagement using this proven process of strengths feedback and coaching.

Questions about this event? Contact Peggy Siems at [psiems@alanet.org](mailto:psiems@alanet.org).



**FEBRUARY 17**

### **ASSOCIATION LEADERSHIP INSTITUTE**

Rosemont, Illinois

Questions about this event? Contact Nicole Larson at [nlarson@alanet.org](mailto:nlarson@alanet.org).



**MARCH 2**

**2 P.M. CENTRAL**

### **THE POWER OF ACKNOWLEDGEMENT: EMPLOYEE APPRECIATION THAT INSPIRES AND EMPOWERS**

This will be a workshop style webinar where we look at the importance of employee appreciation and positive feedback, how to do it most powerfully and authentically — without feeling or sounding fake.

Questions about this event? Contact Peggy Siems at [psiems@alanet.org](mailto:psiems@alanet.org).