



cost recovery a team effort

Legal administrators can work with law librarians to target two vital areas for cost recovery in their firms: billable hours for librarians' research time and firm-wide costs for online legal research services.

This guide to initiating and benchmarking cost recovery systems in law firms targets two critical areas: cost recovery of billable hours for librarians' research time and firm-wide cost recovery for online legal research services such as LexisNexis, Westlaw, and PACER. It outlines steps for law firm administrators to consider before embarking on a cost recovery program and presents tips for administrators in a variety of situations:

- Where the law firm administrator's firm has not hired its first librarian, this article can serve as a primer on how to inculcate sound cost recovery practices within a growing firm.
- Where the law firm administrator is fortunate enough to have a librarian (or librarians) on staff, this article encourages firms to take *full* advantage of librarians' research knowledge, financial and budgeting know-how, business management skills, and educational backgrounds to recover justifiable costs.



Savvy administrators take every advantage of the financial, management, and research skills that law librarians bring to their firms.

Also, although this article is written principally for professionals in firms that lack cost recovery programs, administrators in firms with such policies already in place may benefit from the suggestions described below to improve, energize, or augment an ongoing program.

LIBRARIANS AS STRATEGIC ASSETS

Savvy administrators take every advantage of the financial, management, and research skills that law librarians bring to their firms. The law firms that do not currently recover costs for librarians' research time and for online services – 23 percent of law firms surveyed in 2007, according to the American Bar Association's (ABA) *Legal Technology Survey Report* – are missing opportunities to recognize the ways that law librarians at other firms contribute to bolstering their firms' bottom lines.

Law librarians are among the most educated and credentialed staff members in law firms. According to the American Association of Law Libraries, 60.7 percent of law firm librarians hold at least a Master's Degree in Library and Information Science, and another 12.8 percent hold a law degree. In fact, among all of the law firm administrative positions described by the ABA in its *Essential Formbook*, only the law librarian's position lists a Master's Degree as a requirement. Yet some administrators may be surprised to learn that law librarians have any instruction beyond high school.

Administrators and lawyers don't hesitate to bill clients for paralegals' time. Yet some firms are still reluctant to include librarians among billable timekeepers, even though those same librarians are among the firms' most competent and skilled researchers. Law librarians often run circles around practitioners and paralegals in conducting legal research, whether that research is conducted in the books or online, because librarians' produce research results that are more timely, cost-effective, and efficient for a firm's clients. Why would a firm

not capture those lower costs and pass the savings along to clients?

THE RIGHT TIME, AND THE RIGHT APPROACH

The current economic downturn may actually favor firms whose attorneys approach clients proactively with plans that describe how clients will benefit from downward shifts in billable rates – that is, from attorneys' hourly billing rates to librarians' hourly billing rates. But note this caveat: Creating a cost recovery program and educating researchers are steps that require careful thought, preparation, and execution. The most successful cost recovery programs are those that achieve the stakeholders' buy-in and investment before going live.

Librarians most frequently cite preparation and education as two critical elements in their assessments and surveys of successful cost recovery systems. Without proper planning and thorough briefings for attorneys, cost recovery discussions can elicit overwhelming resistance from those attorneys unschooled in how to make such changes acceptable to clients.

Library literature reveals several reasons for the reluctance in some firms to initiate cost recovery practices. Chief among those concerns is attorneys' understandable fears of clients' objections to new charges on their bills. This is where librarians with expertise in cost recovery come to the aid of practitioners and administrators interested in developing or refining cost recovery programs.

Crafting time entries palatable to attorneys and their clients may be as simple as updating word choices on time entries to reflect modern-day realities in research efficiencies. If a client has an issue with billing for "librarian" time, sometimes a simple change of title on a client's bill can make a difference in how the work is perceived. The use of "researcher," for example, in place of "librarian" on time entries and bills is an easy fix and the logical place to start.

A CLOSER ANALYSIS

The authors of this article – Lyn Warmath, Director of Information Resources at Hirschler Fleischer in Richmond, Virginia; and Monice Kaczorowski, Director of Library Services at Neal, Gerber & Eisenberg LLP in Chicago, Illinois, and an expert on law firm cost recovery programs – took some time to discuss cost recovery in law libraries, including success strategies and best practices.

Lyn Warmath: Monice, in your last two positions with law firms you enthusiastically undertook projects to boost your firms' bottom lines while providing the best research results at the best prices for your firms' clients. What were the cultures you encountered in these law firms? Had these firms previously tried cost recovery in any form or to any extent?

Monice Kaczorowski: Both firms had cost recovery programs in place. I took them to the next level. I find it helpful to meet with the firm's CFO to discuss firm expectations of cost recovery for online

sources and library time. If there is a system in place, I find out what is working and what is not. What exactly is the firm thinking in terms of reasonable cost recovery?

One thing I found is that something as simple as putting in place client matter validation software can improve cost recovery significantly. Attorneys seldom remember a client matter number when they sign on to do research. Rather than enter the number incorrectly, they usually use a non-billable number with the intent of reconciling the charges at a later date. This seldom happens for a number of reasons – memory lapses or reconciliation notices are lost in a paper shuffle resulting in lost revenue.

Using client matter validation allows your users a way to do client matter look-up at the time the research is being performed. The number is validated before the user can go online. I have established a number for new clients awaiting client matter numbers and numbers for pro bono research and general non-billable research such as articles and speeches. Once implemented, cost recovery increases and the time it takes to process Lexis

CRITICAL QUESTIONS TO ASK

Another fan of cost recovery – LaJean Humphries, Library Manager at Schwabe Williamson & Wyatt in Portland, Oregon – wrote that, "Law firms frequently lack a centralized focus, policy, or approach to billing for online research. The partnership may be unaware of billing 'strategies.'"

In early stages of developing a firm's cost recovery plans, an administrator and a firm's top management will want to answer the following specific questions to nail down those necessary billing strategies:

- What is the firm's targeted recovery percentage? The firm's actual costs, or costs plus a markup? Be sure to review the ABA's Formal Opinion 93-379 on cost recovery.
- Will certain categories such as case law retrieval be exempted? Will exemptions be made for situations where online retrieval replaced paper (books)?
- What percentage will be absorbed by the firm as administrative costs?
- Will all clients be billed? Will all clients be billed equally? Will the firm allow exceptions for individual clients?
- Who has the authority to write off charges?
- If a client disputes a bill, what happens?
- What will be the policy toward researchers who bill excessively to administrative numbers?
- What level of online training will be required for attorneys, paralegals, and librarians?

and Westlaw bills are cut in half, if not more. Once cost recovery starts to improve, I have found the finance department is more than happy to assist in further recovery efforts.

LW: What preparations did you undertake before making the case for cost recovery?

MK: In terms of client matter validation, I worked with my firm's finance and MIS departments to make sure we were putting a client matter validation tool in place that was compatible with our time and billing system and could be updated or refreshed by MIS so that new client matter numbers appeared as they were assigned.

Cost recovery is not a library-only issue. Administrators need to work within a firm's philosophy on cost recovery while abiding by the ABA rules for ethical cost recovery. Librarians are gatekeepers of online resources and library billables, but the attorney and firm management make the final decisions on how to bill their clients and for what services.

I think educating the billing attorney is also an essential part of cost recovery. These senior partners are not using Lexis and Westlaw and performing the research. All they hear from clients is that online research is expensive. Librarians can explain to attorneys what those online costs really mean and what the firm is getting for its money. If librarians and management have negotiated contracts that allow passing on savings to clients, then billing attorneys should know the discounts inside and out and be comfortable explaining the savings to clients.

I monitor write downs on a monthly basis, and I often stop by a billing partner's office with the bill in hand. I show actual charges vs. contract charges and the significant savings we are providing the clients. Many times this is all it takes for the attorney to start passing on the charges. An attorney may ask for billing back up so that they too can show the client exactly the discounts in place.

LW: What was your experience in the early phases of planning for cost recovery systems?

MK: I think it is very important to get buy-in for cost recovery from the firm's management team. Otherwise, the administrator and librarian are trying

to recover costs without the necessary support. When the management committee talks online cost recovery, the partnership listens. As a librarian, it makes it easier to do my job on a monthly basis when we close at month end.

Also when I prepare my library's budget, I have an expense line for every online database and a reciprocal line with projected cost recovery. It puts the library budget into perspective for management and lets them know the librarian is thinking ahead with profit projections for the upcoming year. I do this with library billables. I have each of my librarians prepare annual goals and objectives, and this includes billables, so that I can project revenue against my salary line.

LW: From everything I have read on cost recovery, several factors are crucial to a successful cost recovery program. First are the buy-in, commitment, and promotion by top management, followed by clear communications to attorneys about how to explain cost recovery to clients, followed then by sustained training programs to keep clients' costs down. Any other thoughts?

LEARN MORE

ALA Resources

These titles are available through the ALA Bookstore at www.alanet.org/bookstore:

- *Collecting Your Fee: Getting Paid from Intake to Invoice*, by Edward Poll
- *Secrets of the Business of Law: Successful Practices for Increasing Your Profits*, by Edward Poll
- *The Essentials of Finance and Accounting for Nonfinancial Managers*, by Edward Fields

The following article is available in the ALA Management EncyclopediaSM (ALAME), www.alaencyclopedia.org:

- "A Cost Accounting Tool"

The following article is available in the Publications section of ALA's Web site at www.alanet.org/publications/legalmgmt.aspx:

- "Balance Paid: Avoid Common Mistakes in Managing Accounts Receivable," September/October 2007 issue of *Legal Management*

On the Web

- American Bar Association, "Cost Recovery: What's Fair Game?" – www.abanet.org/tech/ltrc/publications/costrecovery1.html

MK: Administrators and librarians need to be proactive and work with a firm's finance professionals to make sure everyone is clear on the organization's cost recovery goals and where the library fits into the process. Cost recovery is an evolving process, and I really feel it is up to the librarian to communicate why cost effective legal research is important and to work with management to get the word out that cost recovery is necessary, especially for librarians who intend to run a library like a business.

THE BOTTOM LINE

Most law firms and libraries issue mission statements, which may vaguely resemble the substance, vocabulary and tone of this library's mission statement: "The mission of the Library at Hirschler Fleischer is to be the indispensable provider of legal information, business information and customized

solutions to inspire, enable, promote and enhance our clients' best business decisions."

Librarians are uniquely qualified to promote their firms' missions while at the same time enhancing their firms' profitability. They can align their skills and their libraries' services with a firm's business strategy and mission and support overall strategic success. ✱

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