

Business & Careers

Getting time tracking down to a science

New software better captures billable hours



Luigi Benetton
Hi-Tech

The financial crisis of 2008 permanently changed the legal services industry. That's when businesses began to exercise greater diligence in managing their legal spending, according to Peter Zver, who claims greater scrutiny of law firm invoices have led to more challenges of said invoices.

Zver, president of legal services software developer Tikit Inc. (North America) which offers the Carpe Diem Next Generation timekeeping system, quotes the *Peer Monitor Index Q3 2015 Executive Report*, issued Oct. 26, 2015, by Thomson Reuters, when he states that U.S. law firm realization rates (the ability to collect what they bill) have slumped to a trough of 82.9 per cent.

Zver ties this "new normal" to every lawyer's favourite activity: capturing time worked.

Tongue-in-cheek commentary aside, lawyers track time with varying degrees of diligence. Application developers like legal technology entrepreneur and former lawyer Bryan Friedman dwell on this mindset. "How do we capture and allocate time in a way that doesn't burden the lawyer?" That burden grows heavier as lawyers allow work hours to expand, which they can easily do using mobile devices.

Speaking of mobile devices, here's another problem: it's difficult to capture the time lawyers use smartphones and tablets to perform billable work. Without these data, "lawyers can't generate the value they're entitled to" in terms of billable hours and information, Friedman says. "You need to know where you're spending your time so you can manage workflow more efficiently."

"A stopwatch app on a mobile device won't cut it," Friedman adds. "You need to embed timekeeping that runs automatically within the mobile ecosystem," but "you can't, as a third-party application, just tap into all those apps to collect and allocate time. Finding a way to penetrate a lawyer's workflow in a seamless and elegant way is a technical challenge." Successful penetration of legal workflows can yield data that feed into more than just billing systems. For instance, the legal industry often discusses alternative fee arrangements. Certain firms offer fixed fees on "commodity" types of legal work, yet they don't feel capable of doing so for more sophisticated matters for lack of data they can use to set ranges of fixed prices.

Dominic Jaar thinks they have the data "sleeping in their time entry systems." He adds, "They've been logging what lawyers do for years."

Jaar, a former lawyer and current information services partner at KPMG Can-



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ada, figures many firms have all the data they need, like: type of client (e.g. industry, size, annual revenues, number of matters per year); matter type (e.g. transaction, litigation); types of opponents in litigation; and so forth.

He envisions the analytics that could result if, for instance, firms merged data from their timekeeping and customer relationship management systems. "You can derive and model a standard case," he argues.

Jaar offers this example: "Once you have all this metadata and you merge your databases, you can see, for instance, that you've done 20 similar cases in the past where the same types of parties were involved. Much of the time it would take between 10 and 25 hours for discovery, but in 5 per cent of the cases it took 200 hours for discovery."

From such bell curves, Jaar claims firms can determine fixed fees, including built-in margins of error, that remain true for as long as the underlying assumptions remain the same. If anybody exceeds a margin of error while quoting, systems can catch the mistake before a firm underbids or overbids work.

The need to track time doesn't go away in fixed-fee situations. Indeed, Zver argues it's even more important in such situations. "If you make widgets and you don't know what they cost you to make, how do you know what price to sell them for?" he asks.

"Once the industry standardizes on uniform task activity codes, the data they represent can be analyzed," Zver notes. "The firm that understands its costs and transforms it into competitive data is ahead of the game. They can fix-fee matters other firms can't." They can also be more competitive in bidding for work, he adds.

Competition-enhancing data like this can only result from a commitment to effective timekeeping. For this commitment to materialize, lawyers must break habits like time finding, or passive timekeeping.

Zver speaks of the "velocity" of time capture. "If I enter Monday's time on a Friday, my velocity lag is four days," he explains. "That's not good."

The hassle of capturing "crumbs" of time

could be reframed using the right technology, backed up by the right policies. As firms strive for zero lag, they can both capture velocity metrics and distribute those metrics, whether to the firm, a department, or an individual lawyer. "We're seeing law firms introduce this metric into their compensation formulas," Zver says.

However, time finding could be used for client retention. When he ran his own firm, Jaar used Outlook journals to capture activities during his day. "It would pick up everything from e-mails sent to calendar events to incoming or outgoing phone calls," he says. He could use that log to bill clients, since he assigned an Outlook category to each client engagement.

He did more than ask for money, though. From periodic reports he generated on each file, he dictated letters relating his activities to his clients. "It read more like a story and a status report for the client," he says.

Modern time capture tools make time finding easier, but the practice could lead to trouble thanks to e-billing platforms like ViewABill.com that bring the concept of law firm transparency to the verge of voyeurism. Using such systems, law firms can give clients access to their recorded hours between invoices, in real time. Clients can analyze other metrics too. Do time entries meet agreed-upon criteria? Is the right level of lawyer doing given tasks? Are firms charging the right prices for different tasks?

Zver figures this puts pressure on firms. "You have a third party entering your home. Is it in order?" he asks.

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