

Does Being Efficient Mean Your Work Becomes a Commodity?

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For several months, I have addressed some of the reasons why Legal Process Improvement (LPI) has been slow to take hold even while many firms are embracing Legal Project Management (LPM). Recently, I suggested the following:

- Firms are too overwhelmed to know where to start
- Lawyer personality
- Fear of commoditization

Earlier this month, I pointed to a potential link with the testing results on lawyer personalities that Dr. Larry Richard, Principal Consultant, LawyerBrain LLC, found. It might just be the “characteristics” or personality of lawyers that inhibit implementing LPI initiatives.

Friday, the American Lawyer published an [article](#) suggesting it might be time for the AmLaw 200 to embrace testing for talent. Dr. Richard’s findings are an argument for that testing. This article brought me back to thinking about the third reason LPI has yet to really be embraced in the law firm arena – fear of commoditization.

Let’s revisit a key concept behind LPI – efficiency. It’s true that historically lawyers have not been paid to be efficient. They were paid primarily for their legal expertise, but the primary measurement tool, billable hours, encouraged inefficiency. To be fair, over time firms differentiated themselves on a number of other factors – e.g., price, geography, industry expertise, responsiveness, relationships, etc. Unfortunately, in today’s market, those differentiators are no longer enough. Law firm clients expect their lawyers to be efficient and deliver high quality at the same time...and maintain all those other qualities.

Does that mean a lawyer’s work is commoditized in the process of creating efficiencies? The answer to that is “sort of.” Part, but not all, of a lawyer’s work is recognized to be commodity work through an LPI initiative. This is where LPI skills and techniques are helpful. If LPI is employed, then one is able to identify the repeatable and more routine aspects of legal services. Those services are streamlined, outsourced, replaced with supporting technology, sourced back to the client, or eliminated completely. These are the aspects that become evident with experience and they comprise the “decades of experience” a firm has in handling these types of matters, when they’re pitching their services to clients. The unique aspects of a matter, or even of similar matters, are what remain and those require significant legal expertise. Clients are willing (and perhaps even reluctantly happy) to pay for that expertise and those unique legal skills.

Now, if employing LPI skills and techniques offers firms an opportunity to showcase their unique expertise, and perhaps charge a premium for those, does implementing an LPI initiative necessarily mean commoditizing services? I’m suggesting not. Law firm clients have already decided they will not pay for what they view as commodity or routine work. Routine work is just that – it’s routine and it’s what a firm has already told the client they know how to do based on having done “a lot” of this type of work. If LPI helps a firm identify those pieces of a matter that are routine and reduce the cost of delivering those pieces, then profits are no longer squeezed on those routine pieces, or not as much. What comes to the surface with all that experience is how to handle the unique aspects of similar matters. These are the aspects of the

matter where premium rates can be charged.

Thinking more broadly on the topic – is it possible to nurture a culture of efficiency in an effort to highlight unique expertise? This is where Dr. Richard’s research once again brings me to an answer. Yes, it is possible. Lawyers can be “tested” to determine if they will succeed in meeting your firm’s strategic objectives or if they will fit in your firm culture, even a culture of efficiency. There are likely two approaches here:

- Shifting behavior of existing lawyers, and
- Recruiting, developing and retaining new or incoming lawyers

Shifting behavior of existing lawyers in a culture of efficiency requires a talent strategy approach that (1) identifies individual strengths and weaknesses, and (2) realigns personal goals with overall firm objectives. As Dr. Richard states, weaknesses are just that; matters to be improved, managed, or ignored. Testing, coaching, and training are integral components of shifting behavior. Firms can also accelerate a shift in behavior by incorporating efficiency goals into professional development and performance management objectives.

Recruiting, developing and retaining new or incoming lawyers who will excel in a culture of efficiency requires an unconventional approach. Redefining what it means to be “the best and the brightest” is only a first step. For example, some firms are increasing use of analytics to identify and test incoming lawyers. We know a few innovative firms that are already doing this and we will explore the possibilities in future blogs.