



PROGRAM MATERIALS

Program #2905

January 9, 2019

Improving the Law Firm-Client Relationship with Technology to Create Transparency & Set Clear Expectations

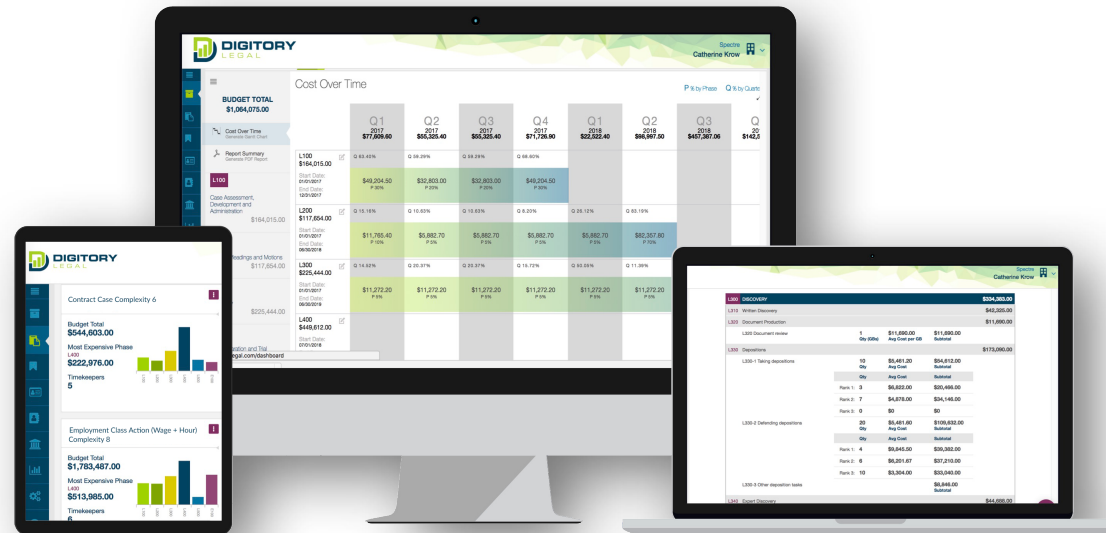
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DIGITORY
LEGAL



**Improving Law Firm-Client Relationships
with Technology to Create Transparency
& Set Clear Clear Expectations**

CLE Presentation | January 9, 2019

The background is a solid dark teal color. In the top-left and bottom-left corners, there are abstract network-like graphics consisting of thin white lines connecting various sized circles. Some circles are solid white, while others are hollow white outlines. These graphics are partially cut off by the edges of the frame. The text "THE MARKET" is centered horizontally and vertically in a white, bold, sans-serif font.

THE MARKET



"I might as well be throwing darts at a big board of numbers."

"We always overestimate the change that will occur in the next two years and underestimate the change that will occur in the next ten."

— **BILL GATES, JUNE 23, 2008**



Here Winter Is ~~Coming~~



Alternative Fee Arrangements



RFPs (Request for Proposal)



Data-Driven Purchasing



HERE WINTER IS ~~COMING~~

Analysis

Microsoft's Embrace Of Alternative Fees Shows Wider Trend

By Sam Reisman



Microsoft

Alternative Fee Arrangements' Challenge to the Billable Hour

Robert D. Lang and Lenore E. Benessere, *New York Law Journal*
August 23, 2017 | 1 Comments

The New York Times

Microsoft is aiming to move 90 percent of the company's legal work to such arrangements within two years, he said in a phone interview this week.

20% savings

90% AFAs

"[AFAs] are where the market is going, we have to adapt..."
- Mitch Zuklie, Orrick Chairman



THE 3 RED FLAGS OF MORE LAW FIRM RFPS

Posted by: Frank Strong February 18, 2016 in Large Law Leave a comment

IN-HOUSE LAWYERS

GSK moves away from hourly billing as alternative fees account for 84% of 2015 work

New York Law Journal

work to 40% within two years. The giant multinational technology company's decision sent shockwaves through the legal community because it is yet another example of a large company rejecting the billable hour model for non-traditional pricing of legal fees.³ *Consequently, on the same day the Microsoft decision*



#1

Actual vs Plan
is the **#1 Key
Performance
Indicator** for LDOs.

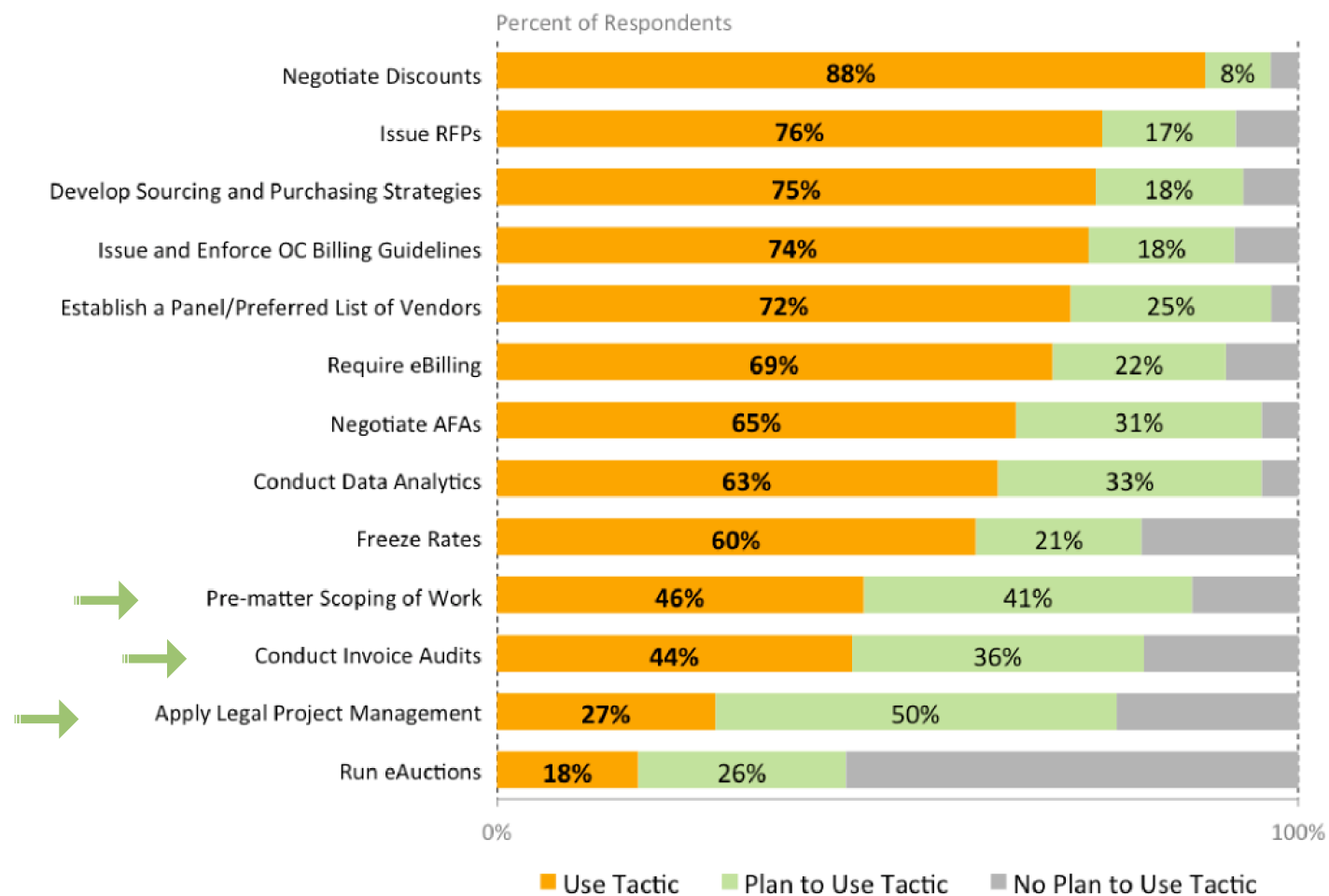
Source: Blickstein Group 2017 LDO Survey



In 2017, 45% of Chief Legal Officers shifted a portfolio of work **worth \$50K+** to another firm **based on cost.**

45%

Source: Altman Weil CLO Survey at p.vi



Source: 2018 Buying Legal Council Legal Procurement Survey



UNDERSTAND: costs at task level.



MANAGE: align resources.



COMMUNICATE: expectations.

CHALLENGES



“It depends . . .”



Buyers' Relative Factor Importance

1. Subject area expertise
2. Industry experience
- 3. Cost management**
4. Team quality
5. Understands objectives
6. Pricing structures
7. Proactive, responsive
- 8. Prior relationship**
9. Provides free services

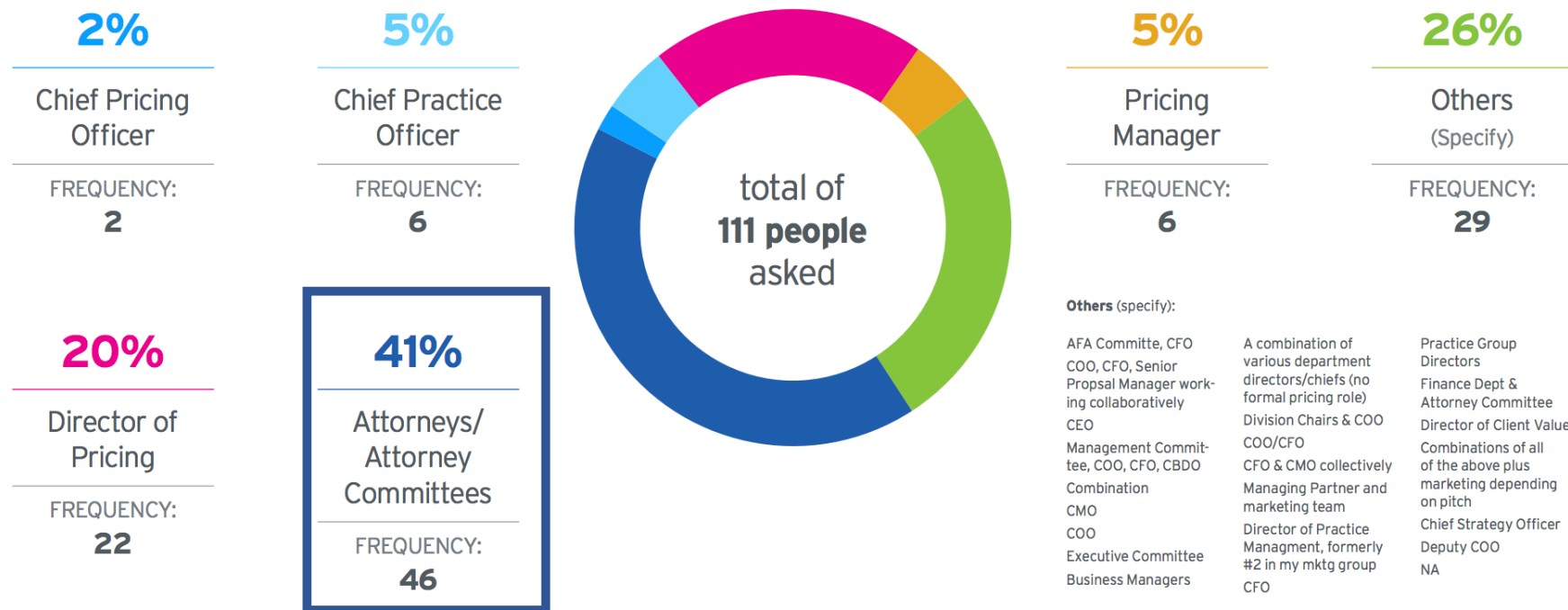
What Lawyers Think

1. Subject area expertise
2. Proactive, responsive
3. Industry experience
- 4. Prior relationship**
5. Understands objectives
6. Pricing structures
7. Team quality
- 8. Cost management**
9. Provides free services



Q7

WITHIN YOUR FIRM, WHO IS PRIMARILY RESPONSIBLE FOR OVERSEEING AND EXECUTING FIRM PRICING AND PRACTICE MANAGEMENT? (Select one response)





Q8

HOW IS PRICING DETERMINED? (Select one response)

The Marketing/Business Development and pricing professionals:

frequently collaborate on client development pitches and proposals

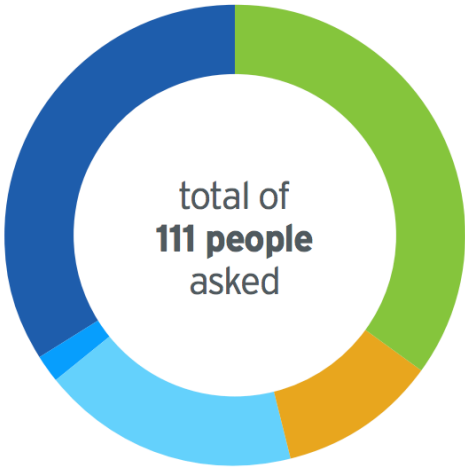
34%
FREQUENCY:
38

operate independent of each other on pitches and proposals

2%
FREQUENCY:
2

work directly with the lawyers on pitches and proposals

18%
FREQUENCY:
20



35%

FREQUENCY:
39

The lawyers set pricing

11%

FREQUENCY:
12

Other (Specify):

Others (specify):

Combination of CEO, Business Development Team & Lawyers
NA
COO
Varies by pitch/Client; could be any of the above
Marketing works with

COO/CFO
Lawyers set pricing, division heads review it and Director of Practice Management reviews it
BD/Marketing and pricing and attorneys work together

Pricing function is inside marketing/BD, done collaboratively with lawyers
It varies depending on attorney. At times all of the above have been done
All work collaboratively



“Measure what is
measurable and
make measureable
what is not so.”

- Galileo



profitability



relationship

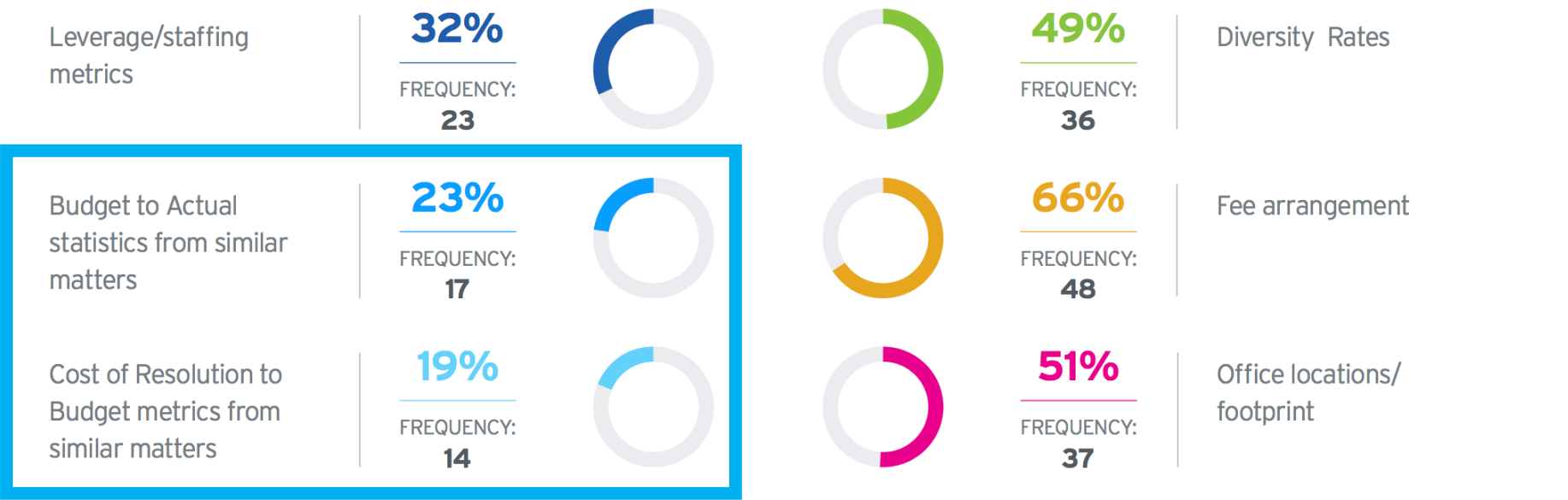


proof



Q29-A

WHICH METRICS/STRATEGIES DOES YOUR FIRM USE AS A COMPETITIVE ADVANTAGE IN BUSINESS DEVELOPMENT? (Select all that apply)



total of 73 people asked

An abstract graphic featuring a network of interconnected circles and lines, resembling a molecular or digital structure, set against a dark teal background. The circles vary in size and are connected by thin lines, creating a complex web-like pattern. The text "GETTING IT RIGHT" is centered in the middle of the image in a white, bold, sans-serif font.

GETTING IT RIGHT

Detailed budgets set expectations.

A black and white photograph of a modern kitchen. It features dark wood cabinetry, a stainless steel range hood, a gas cooktop, and a large island with a countertop. A window with curtains is visible in the background.

When are they responsible for change?
When am I responsible?

Phases & Tasks		Description	Professionals and Level of Experience						Total
			15+	8-14	4-7	0-3	Para	Other	
L100		Number of Professionals	1	1	1	1	1		
		Average Hourly Rate	\$600.00	\$500.00	\$400.00	\$300.00	\$200.00		
		Case Assessment, Dev. & Admin							
	L110	Fact Investigation / Development	10	25	20		10		\$ 28,500.00
	L120	Analysis / Strategy	50	100	100	65	30		\$ 145,500.00
	L130	Experts / Consultants	5	20					\$ 13,000.00
	L140	Document / File Management					50		\$ 10,000.00
	L150	Budgeting							\$ -
	L160	Settlement / Non-Binding ADR	15	5	30				\$ 23,500.00
	L190	Other Case Assessment, Dev. & Admin.							
Total Hours - Phase L100			80	150	150	65	90	0	535
Total Cost - Phase L100			\$ 48,000.00	\$ 75,000.00	\$ 60,000.00	\$19,500.00	\$ 18,000.00	\$ -	\$ 220,500.00
Phases & Tasks		Description	Professionals and Level of Experience						Total
			15+	8-14	4-7	0-3	Para	Other	
L200		Number of Professionals	1	1	1	1	1		
		Average Hourly Rate	\$600.00	\$500.00	\$400.00	\$300.00	\$200.00		
		Pre-Trial Pleadings and Motions							
	L210	Pleadings	15	50		15	10		\$ 40,500.00
	L220	Preliminary / Provisional Remedies							\$ -
	L230	Court-Mandated Conferences	5	20			5		\$ 14,000.00
	L240	Dispositive Motions							\$ -
	L250	Other Written Motions and Submissions							\$ -
Total Hours - Phase L200			20	70	0	15	15	0	120
Total Cost - Phase L200			\$ 12,000.00	\$ 35,000.00	\$ -	\$ 4,500.00	\$ 3,000.00	\$ -	\$ 54,500.00

“Outside counsel
was more
aggressive than
expected.”





SCOPE : define the variables.



STAFFING : at task level.



SUPERVISION : manage to budget.



L100

L200

L300

L310

L320

L330

L340

L350

L390

L400

L500

E100

L340 Expert Discovery

Same as (L330), but for expert witnesses.^{ABA} Does not include developing expert reports (L130).

L340-1 Taking Expert Depositions

Include all work associated with taking expert depositions, including: planning for and preparing to take depositions, preparing deposition notices/subpoenas, attending depositions, and drafting the deposition summaries.

+ Add Expert

Expert name

Issue

Liability expert

Save

Industry standards

Timekeeper	Activity Code	Task Description	Hours	Total	Percentage	Due Date	Notes	▼ Add Timekeeper
Lead Attorney Title: Partner Experience: 21-30 years Rate: 530.00/hours		Take deposition [10 - 12 hours]; two day prep, including: communications with team, experts and client... show more	35	\$18,550.00	58.33%			🗑️ 📄 📧
Midlevel Associate Title: Associate Experience: 4-5 years Rate: 325.00/hours		Review damages-related documents, discovery responses, reports and reliance materials; draft initial... show more	20	\$6,500.00	33.33%			🗑️ 📄 📧
Paralegal 1 Title: Paralegal Experience: Paralegals & Law Clerks Rate: 154.00/hours		Deposition notice; assemble prep materials and exhibits	5	\$770.00	8.33%			🗑️ 📄 📧

Expert name

Issue

IT forensics

Save

Forensic IT

Timekeeper	Activity Code	Task Description	Hours	Total	Percentage	Due Date	Notes	▼ Add Timekeeper
Second Chair Title: Of Counsel Experience: 11-15 years Rate: 455.00/hours		Take deposition [10 - 12 hours]; two day prep, including: communications with team, experts and client... show more	35	\$15,925.00	87.50%			🗑️ 📄 📧
Paralegal 1 Title: Paralegal Experience: Paralegals & Law Clerks Rate: 154.00/hours		Deposition notice; assemble prep materials and exhibits	5	\$770.00	12.50%			🗑️ 📄 📧

L340 Total: \$ 97,589.00

L340-1 Subtotal: \$ 64,890.00

Number of Experts: 3

Average Cost: \$ 21,630.00



TASK-LEVEL BENCHMARKS



L300	DISCOVERY			\$256,120.00
L310	Written Discovery			\$20,580.00
L320	Document Production			\$17,854.00
	L320 Document review	1 Qty (GBs)	\$17,854.00 Avg Cost per GB	\$17,854.00 Subtotal
L330	Depositions			\$116,943.00
	L330-1 Taking depositions	7 Qty	\$11,184.86 Avg Cost	\$78,294.00 Subtotal
		Qty	Avg Cost	Subtotal
	Rank 1:	5	\$13,654.00	\$68,270.00
	Rank 2:	2	\$5,012.00	\$10,024.00
	Rank 3:	0	\$0	\$0
	L330-2 Defending depositions	3 Qty	\$12,729.00 Avg Cost	\$38,187.00 Subtotal
		Qty	Avg Cost	Subtotal
	Rank 1:	3	\$12,729.00	\$38,187.00
	Rank 2:	0	\$0	\$0
	Rank 3:	0	\$0	\$0
	L330-3 Other deposition tasks			\$462.00 Subtotal
L340	Expert Discovery			\$73,545.00
	L340-1 Taking: expert depositions	4 Qty	\$13,392.75 Avg Cost	\$53,571.00 Subtotal
	L340-2 Defending: expert depositions	4 Qty	\$4,839.50 Avg Cost	\$19,358.00 Subtotal
	L340-3 Other expert discovery tasks			\$616.00 Subtotal
L350	Discovery Motions			\$27,198.00
		2 Qty	\$13,599.00 Avg Cost per motion	

STEP 2: MEASURE



Invoice_10002.Sky_Bros.Hobbs_Complaint.09-03-2014.dat

LEDES1998B[]

INVOICE_DATE	INVOICE_NUMBER	CLIENT_ID	LAW_FIRM_MATTER_ID	INVOICE_TOTAL	BILLING_START_DATE	BILLING_END_DATE	INVOICE_DESCRIPTION	LINE_ITEM_NUMBER	EXP/FEE/INV_ADJ_TYPE	LINE_ITEM_NUMBER_OF_UNITS	LINE_ITEM_ADJUSTMENT_AMOUNT	LINE_ITEM_TOTAL	LINE_ITEM_DATE	LINE_ITEM_TASK_CODE	LINE_ITEM_EXPENSE_CODE	LINE_ITEM_ACTIVITY_CODE	TIMEKEEPER_ID	LINE_ITEM_DESCRIPTION	LAW_FIRM_ID	LINE_ITEM_UNIT_COST	TIMEKEEPER_NAME	TIMEKEEPER_CLASSIFICATION	CLIENT_MATTER_ID
20140903	10002	Sky Bros	Hobbs Complaint	470.00	20140804	20140903	Hobbs Complaint	143	F .1	0	10.00	20140903	SAJ	Phone call with John.	34349u320843	100	Sally Ann Jones	Partner					
20140903	10002	Sky Bros	Hobbs Complaint	470.00	20140804	20140903	Hobbs Complaint	117	F	1.5	0	150.00	20140903	SAJ	Breakfast meeting with Hobbs re Depo. prep	34349u320843	100	Sally Ann Jones	Partner				
20140903	10002	Sky Bros	Hobbs Complaint	470.00	20140804	20140903	Hobbs Complaint	118	F 1	0	200.00	20140903	CMB	Call to discuss new evidence	34349u320843	200	Craig Max Bierko	Partner					
20140903	10002	Sky Bros	Hobbs Complaint	470.00	20140804	20140903	Hobbs Complaint	144	F .1	0	10.00	20140903	SAJ	Walk in meeting	34349u320843	100	Sally Ann Jones	Partner					
20140903	10002	Sky Bros	Hobbs Complaint	470.00	20140804	20140903	Hobbs Complaint	118	F 1	0	100.00	20140903	SAJ	Call to discuss new evidence	34349u320843	100	Sally Ann Jones	Partner					



L300

L310

L320

L330

L340

L350

L390

L400

L500

E100

L330-1 Taking Depositions

Include all work associated with taking depositions, including: planning for and preparing to take depositions, preparing deposition notices/subpoenas, attending depositions, and drafting the deposition summaries.

+ Add Deposition Group

Average Cost In Group: \$11,746.00

Plaintiff + 2 - Save

Average Cost In Group: \$5,012.00

Percipient & Damages Witnesses + 2 - Save

Average Cost In Group: \$14,926.00

Treating doctors + 3 - Save

L330-2 Defending Depositions

Include all work associated with defending depositions, including: planning for and preparing deposition, witness preparation, objecting to deposition notices/subpoenas, attending depositions, and drafting the deposition summaries.

+ Add Deposition Group

Average Cost In Group: \$12,729.00

Company Representatives + 3 - Save

Deposition name

30(b)(6) Warnings

Save

Deposition rank

1

What is this?

	Timekeeper	Activity Code	Task Description	Hours	Total	Percentage	Due Date	Notes	+ Add Timekeeper
	Partner 1 Title: Partner Experience: 21-30 years Rate: \$530/hours			23	\$12,190.00	86.79%			
	Partner 1	A109	Appear for/defend deposition of witness.	9	\$4,770.00	33.96%	08/23/2018		
	Partner 1	A106	Meet with witness to prepare for deposition and educate on deposition topics.	8	\$4,240.00	30.19%	08/22/2018		
	Partner 1	A104	Review/analyze documents relating to deposition topics and witness	5	\$2,650.00	18.87%	08/20/2018		
	Partner 1	A105	Communications with team regarding deposition	1	\$530.00	3.77%	08/20/2017		

L330-1 Subtotal: \$ 78,294.00
Quantity (Depositions): 7
Average Cost: \$ 11,184.86
Avg. cost rank 1: \$ 13,654.00
Avg. cost rank 2: \$ 5,012.00

L330-2 Subtotal: \$ 38,187.00
Quantity (Depositions): 3
Average Cost: \$ 12,729.00
Avg. cost rank 1: \$ 12,729.00





Budget to Invoiced Comparision

Reference No. Y7WBU3PMJJ		
CIA Law - Spectre Trade Secret Theft - Universal Exports		
L100	Case Assessment, Development and ...	\$220500.0
L200	Pre-Trial Pleadings and Motions	\$54500.0
L300	Discovery	\$445000.0
L400	Trial Preparation and Trial	\$0.0
L500	Appeal	\$0.0
E100	Expenses	\$0.0
 View details ☒ Compare		

Reference No. Y7WBU3PMJJ		
CIA Law - Spectre Trade Secret Case - Universal Exports		
L100	Case Assessment, Development and ...	\$120909.0
L200	Pre-Trial Pleadings and Motions	\$209726.0
L300	Discovery	\$267182.0
L400	Trial Preparation and Trial	\$396070.0
L500	Appeal	\$0.0
E100	Expenses	\$261000.0
 View details ☒ Compare		

Approved   

Description	Parties	Staffing	Budget	Accruals
-------------	---------	----------	--------	----------

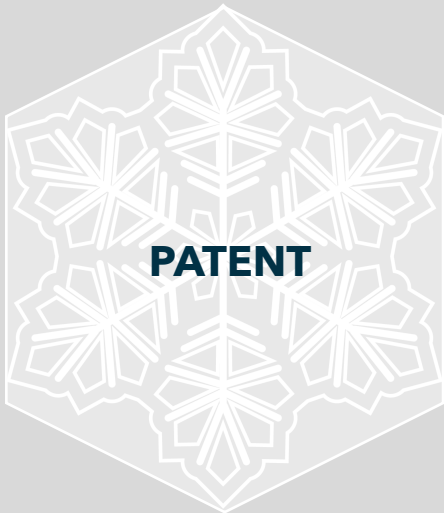
P % by Phase Q % by Quarter

Appeal

	Q1 2017 \$353,884.40	Q2 2017 \$44,830.97	Q3 2017 \$44,830.97	Q4 2017 \$76,260.82	Q1 2018 \$331,601.92	Q2 2018 \$739,723.52	Q3 2018 \$130,658.40
L100 \$335,028.00	Q 75.74%	Q 29.89%	Q 29.89%	Q 17.57%	Q 4.04%	Q 1.81%	
Start Date: 01/01/2017 End Date: 06/30/2018	\$268,022.40 P 80%	\$13,401.12 P 4%	\$13,401.12 P 4%	\$13,401.12 P 4%	\$13,401.12 P 4%	\$13,401.12 P 4%	
L200 \$152,624.00	Q 21.56%	Q 0.00%	Q 0.00%	Q 0.00%	Q 23.01%	Q 0.00%	
Start Date: 02/01/2017 End Date: 04/30/2018	\$76,312.00 P 50%	\$0.00 P 0%	\$0.00 P 0%	\$0.00 P 0%	\$76,312.00 P 50%	\$0.00 P 0%	
L300 \$533,097.00		Q 59.46%	Q 59.46%	Q 69.90%	Q 64.31%	Q 28.83%	
Start Date: 05/01/2017 End Date: 06/01/2018		\$26,654.85 P 5%	\$26,654.85 P 5%	\$53,309.70 P 10%	\$213,238.80 P 40%	\$213,238.80 P 40%	
L400 \$605,542.00						Q 65.49%	Q 92.69%
Start Date: 06/01/2018 End Date: 09/30/2018						\$484,433.60 P 80%	\$121,108.40 P 20%
L500 \$0.00							Q 0.00%
Start Date: 09/01/2018							\$0.00



SNOWFLAKES HAVE PATTERNS



[illegible]



- **2018 Buying Legal Council Survey.**
Available at <http://www.buyinglegal.com/?p=13341>
- **2018 Altman Weil Chief Legal Officer Survey.**
Available at <http://www.altmanweil.com/AW111218/>
- **2018 Report on the State of the Legal Market.**
Available at <http://www.legalexecutiveinstitute.com/wp-content/uploads/2018/01/2018-Report-on-the-State-of-the-Legal-Market.pdf>
- **2017 Blickstein Group Legal Department Operations Survey.**
Available at <http://blicksteingroup.com/ldo-survey/>



- Krow, Catherine. **“It’s Not a Legal Snowflake: AI and Legal Costs Prediction.”** Artificial Lawyer (Sept. 26, 2018). Available at <https://www.artificiallawyer.com/2018/09/26/its-not-a-legal-snowflake-ai-legal-costs-prediction/>
- Krow, Catherine. **“How to Succeed in the Modern Legal Market.”** Law Technology Today (Feb. 23, 2018). Available at <https://www.lawtechnologytoday.org/2018/02/succeed-modern-legal-market/>
- Rozen, Miriam. **“Jittery Firms Put on Brave Face as Microsoft Targets Billable Hour.”** Law.com (Aug. 8, 2017). Available at <https://www.law.com/sites/almstaff/2017/08/08/jittery-firms-put-on-brave-face-as-microsoft-targets-billable-hour/>
- Gartner and Hodges-Silverstein. **“GlaxoSmithKline: Sourcing Complex Professional Services.”** Harvard Business Review (2013). Available at <https://hbr.org/product/glaxosmithkline-sourcing-complex-professional-services/414003-PDF-ENG>



MANAGING LITIGATION BUDGETS

A Practical Guide to Scoping Litigation Budgets

Litigation is inherently unpredictable. At some point during the case, something unexpected will happen: a judge may make an adverse ruling; opposing counsel may act irrationally; bad facts may come to light that change the course or risk profile of the matter. These “surprises” cause scope changes, such as more motions (in U.S. Law, a motion is a procedural device for decision. It is a request to the judge to make a decision about the case), more depositions (in U.S. Law, a deposition is a witness’ sworn out-of-court testimony. It is used to gather information as part of the discovery process), more interviews, more documents, greater need for partner involvement in tasks, etc. If the anticipated scope of the matter was not clear at the beginning, bills can quickly spiral out of control.

As tension over costs mounts, the relationship between firm and client deteriorates. Having a well-scoped budget solves these problems by setting clear expectations for clients and firms and providing costs-per-task that can anchor the budget when circumstances change. Instead of fighting about why bills exceeded expectations, a well-scoped budget transforms the conversation between lawyers and clients into a simple math problem: e.g., three additional corporate representative depositions @ \$25,000 per deposition = \$75,000 budget increase.

In this practical Guide, experienced litigator Catherine Krow of Digitory Legal explains how to carefully scope matters to obtain realistic litigation budgets.

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Breaking Down Litigation or UTBMS “Plus”.....	2
L100 Case Assessment, Development and Administration	3
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L400 Trial.....	7
Litigation Scoping Checklist	9

Tasked with sourcing legal services? Dial into the BUYING LEGAL COUNCIL conference calls.
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Scoping Litigation Digitory Legal 2017 Buying Legal Council North America ...



COMPARING APPLES TO APPLES: A PRACTICAL GUIDE TO SCOPING LITIGATION

BUYING LEGAL COUNSEL
LEGAL MARKET INTELLIGENCE CONFERENCE
SEPT. 6, 2017 - NEW YORK CITY

MORE VIDEOS

0:01 / 3:18



BUYING LEGAL COUNCIL



YouTube



Additional at www.digitorylegal.com.



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WWW.DIGITORYLEGAL.COM



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RESOURCES

Market Reports

“Legal Procurement Survey.” Buying Legal Council (2018). Available at <http://www.buyinglegal.com/?p=13341>

“Chief Legal Officer Survey.” Altman Weil (2019). Available at <http://www.altmanweil.com/AW111218/>

“Report on the State of the Legal Market.” Thomson Reuters and Georgetown University Law Center (2018). Available at <http://www.lexexecutiveinstitute.com/wp-content/uploads/2018/01/2018-Report-on-the-State-of-the-Legal-Market.pdf>

“Legal Department Operations Survey.” Blickstein Group (2017). Available at <http://blicksteingroup.com/ldo-survey/>

Articles

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Rozen, Miriam. “Jittery Firms Put on Brave Face as Microsoft Targets Billable Hour.” Law.com (Aug. 8, 2017) Available at <https://www.law.com/sites/almstaff/2017/08/08/jittery-firms-put-on-brave-face-as-microsoft-targets-billable-hour/>

Gartner, H, and Hodges-Silverstein, S. “GlaxoSmithKline: Sourcing Complex Professional Services.” Harvard Business Review (2013). Available at <https://hbr.org/product/glaxosmithkline-sourcing-complex-professional-services/414003-PDF-ENG>

Primers

Krow, Catherine. “Managing Litigation Costs: A Practical Guide to Scoping Litigation.” (Dec. 2017). Available at <http://www.digitorylegal.com/resources/reports-and-presentations/list-items/item-09/index.html>

Krow, Catherine. “Comparing Apples to Apples: A Guide to Scoping Litigation Costs.” Buying Legal Council Presentation (Sept. 2017). Available at <http://www.digitorylegal.com/resources/reports-and-presentations/list-items/item-07/index.html>