

How Legal Project Management Is Changing the Practice of Law

Black's Law Dictionary makes no mention of the phrase "legal project management." The phrase is conspicuously absent between the definitions of "legal proceedings" and "legal rate of interest." Yet, today the phrase "legal project management" is seen often in legal journals and trade magazines. What does legal project management mean, and why is it important? Most importantly, why are lawyers' clients asking, and even requiring, legal project management from their legal counsel?



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Legal project management refers to the application of project management principles to the legal field, including strategy decisions, budgeting, and the allocation and utilization of other valuable resources. Project management is typically used in the construction and engineering disciplines, and it tracks the progress of a job from start to finish. The breadth and depth of the tracking (or management) of the job (i.e., the project) varies from job to job. Because this term encompasses as much art as science, no hard and fast rule determines what constitutes project management. Suffice it to say, a simple task performed in utter chaos involves little project management, whereas the construction of a complex building wherein all elements of budgeting, materials, labor, scheduling, approval, testing and delivery are estimated, tracked, planned and updated would include significant project management.

Lawyers engage in project management all the time. For example, when a lawyer meets a potential client for the first time and the lawyer is assessing whether to take the case, the lawyer

necessarily assesses the likelihood of prevailing, the recovery possible, and the effort required to achieve a satisfactory result or task completion; he or she is undertaking legal project management.

So, is legal project management newsworthy? It appears to be a fundamental element of case analysis that has always been present, even without a formal name.

The newfound emphasis on legal project management sheds light on the openness and frankness required of attorneys today in budgeting and staffing. The downturn in the economy over the past several years has altered the landscape for many businesses, and the practice of law has not been immune to such changes. In a time of tightening budgets, a push to do more with less and a demand from businesses for certainty in uncertain situations, clients require more information at the outset of litigation — or other legal projects — to fully assess the potential liability and cost of prosecuting or defending a case.

A business entity might be faced with the difficult decision of whether it should settle a case in which it would likely prevail because the cost of defense is larger than the settlement value. To make such an assessment, the client must have an understanding of the various paths the litigation might take and a full and accurate tally of the costs associated with the various paths. In short, clients are relying upon legal project management to bring measures of control and predictability to litigation and corporate law.

However, unlike constructing a home or office building, planning for litigation is not a linear process. While contractors may take different approaches to staffing, budgeting or work process, certain steps must occur sequentially in order to build a home. For instance, the ground must be broken before the house is framed in, carpeting would only be put down after the sub-flooring is installed and paint-

ing would only occur after the drywall is finished. Additionally, there is only one satisfactory conclusion of the project: a completed home.

Legal project management is much different because of the many variables and outcomes possible in any case. As any litigator will tell you, there is no such thing as a "typical" case, and it is not a certainty that it will play out in a linear fashion. Still, litigation involves certain key milestones, like filing of the initial pleadings, discovery, motions practice, and ultimately, a trial, which can be used as benchmarks or touchstones for planning.

One of the trickiest parts of legal project management is determining the definition of "victory" for a particular case, or in other words, the optimal result. A victory could mean many different things: 1) a complete victory on a motion to dismiss, 2) defeating or winning summary judgment (which generally occurs after discovery is completed) on some, or all, of the claims or 3) success at trial. The resources needed to win at various points of litigation change dramatically, and this determination does not begin to account for other case variables that impact budgeting and resource allocation, such as another party joining the litigation, the scope or duration of discovery getting unexpectedly expanded by the court or an unusual or novel legal issue arising in the case which requires clarification from a higher court.

All of these variables and factors must be built into legal project management in order for it to be successful, and it must account for various paths forward. In other words, the decision of the court or the actions of a litigant can steer litigation in many different directions. Nonetheless, all realistic scenarios should be accounted for with proper legal project management. For example, if a case with multiple claims is subject to a dispositive motion, typically one of three outcomes may result. First, the motion may be granted as to all claims,

and the case is over. Second, if the motion is granted as to some, but not all the claims, the case will proceed, but on a potentially reduced scale. The third possibility is the motion is denied as to all claims, and the case proceeds toward trial. In any of these scenarios, a litigant may decide to actively pursue settlement negotiations. Clearly, each scenario results in a far different allocation of resources.

Legal project management differs from its construction and engineering counterparts because of this necessity to not only change directions but also reassess the optimal result during the course of the legal project. Given this difference, the ability to use traditional project management software is limited because it does not have the fluidity and flexibility needed for most legal project management. As the field of legal project management continues to grow and expand, it is anticipated that more resources will become available to assist lawyers who employ legal project management principles.

The application of business principles, planning, and resource allocation to the legal field must be fluid, but at the same time provide clarity to clients who need real numbers and information to make difficult decisions. This combination of art and science, embodied in legal project management, allows both lawyers and their clients to make educated and calculated decisions about litigation. Though it may have existed for as long as law has been practiced, the development of legal project management into its own field is a notable step in the continuing evolution of the legal profession.

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