The Optics of Law Firm Rate Increases

By *John Gilbert, Senior Vice President* of nQueue Billback*

As the year winds down, most law firms will be thinking about one thing in addition to turkey, football and holiday parties: how to approach clients for rate increases. Many clients froze rates as the recession took hold, and many law firms are hopeful that this is the year that those reins finally loosen. The downturn also caused law firms to limit their own cost and expense recovery, and not bill clients back for some costs, especially those related to print and scan. In theory, forgoing recovery of those expenses builds goodwill by not "nickel and diming clients" and makes it easier to potentially achieve a rate increase. In practice, however, this only works if the clients understand the amounts involved.

THE RISE OF THE CFO

As the Great Recession took hold, corporations made efforts to reduce costs and conserve cash wherever possible, and unlike in previous downturns, the legal department was not exempt. No longer able to convince finance that "legal is different" and that relationships with law firms are too valuable to be changed, general counsel put pressure on their firms to reduce rates, work more efficiently and bill alternatively. While some firms went further than others, most firms at least held rates firm.

Additionally, the downturn has prevented law firms from recovering new costs, especially printing and scanning. As technology has evolved, firms are finding themselves making fewer copies (which most firms do recover for), but scanning and printing more. Prints, however, cost firms the same as copies and scans are costly as well, due to technology costs, storage and personnel.

It was likely wise for firms to not bill back their clients for these "new" costs, as they would likely be perceived as a price increase at a time of financial crisis. But some firms, unfortunately, decided that since they wouldn't recover, the traditional cost recovery model was "broken," so they needn't carefully track expenses either. As a result, they were making a financial concession to their client, but not effectively communicating it.

ATTAIN – AND COMMUNICATE – FINANCIAL CLARITY

The first step in effectively communicating expense information to clients is to effectively track that information. It is surprising how poorly some firms do this. For example, a large office of an AmLaw 200 law firm we work with recently starting tracking all expenses and they immediately realized that they were not recovering almost $100,000 per month in copy, print, scan, overnight, research and travel bills. A further analysis showed that 30-40% of these expenses would not be billable under any circumstances: they were related to the firm marketing or other, non-client related activity. But the remaining 60-70% was directly related to clients and was potentially recoverable. In many cases, these costs could easily have been billed back -- they simply weren't effectively captured and got stuck in the cost recovery system. But even cases where costs were written off as a matter of client service -- typically a partner decides he or she doesn't want to bill the client for a particular expense -- the cost was not even captured, and the firm lost any goodwill from the client, who never even knew about the write-off. Its not that cost recovery is broken, it's the model that firms employ. By allowing a "9999 non-billable" code on any transaction leaves it forever stuck in the cost recovery system, never giving it a chance to be properly accounted for, reported on, recovered or written off for the client to see.

So, how can your firm make sure it gets takes full advantages of all potentially recoverable expenses, even those it chooses to write off?

1. Develop a "cost capture" policy. Make it firm policy that all client-related costs are tracked. This refers to "soft costs," as copies and scans, as well as "hard costs" such as overnight fees and travel. If possible, add a carrot-and-stick approach, rewarding those who comply and penalizing those who don't.

2. Simplify the process. A certain segment at every law firm is not likely to follow administrative policy just because it's there. For these attorneys (in fact, for all), the best approach is a simple one. Make it easy to capture expenses. For example, a rainmaking partner might be willing to select from a drop down list of common matters and clients, but may not be willing to look up a matter number. And when they do enter incomplete or incorrect information, make it easy to correct these "exceptions" right at their desktop.

3. Automate as much as possible. Basically, any client/matter information that can be collected on an electronic invoice should be. Any information that can be collected without any data entry from legal professionals is more likely to be collected accurately and on time.

Once all expense data is captured, decisions can be made about write-offs, with the write-off information delivered to the client. This way, even costs that are not recovered provide some value to the firm in the form of goodwill.

In a famous bit from Seinfeld, George puts money in the tip jar at Pisano's, just as the counterman bends over so he doesn't see George's tip. While George, of course, takes this to the extreme and gets kicked out, the concept still applies. There's no point in writing off expenses if the client doesn't even know you have done so. And that goodwill may make all the difference to your year-end rate increase negotiations.

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