

# Adaption to Company Trends

*2017 Dean Robert J. D' Agostino Symposium –  
Business Law in the 21<sup>st</sup> Century*

**By Jake Evans**



ATLANTA | CINCINNATI | CLEVELAND | COLUMBUS | DAYTON | NEW YORK | WASHINGTON, D.C.

**THOMPSON  
HINE**

# Law Practice, From a Business Perspective, is Rapidly Changing

[quotesmallry.com](http://quotesmallry.com)

Change is **INEVITABLE**.  
Progress is **OPTIONAL**.

~ Tony Robbins

# What Has Changed?

- Heightened Fee Sensitivity – Companies and In-House Counsel are more sensitive to legal fees. Seeking more value.
- The Dying Billable Hour – Companies and In-House Counsel seek to align their outside counsel's incentives with their incentives to promote efficiency; birth of Alternative Fee Arrangements.
- Decreasing Outside Work – Trying to reduce legal costs, some companies are growing in-house legal teams resulting in less work for private law firms.
- Accountability, Transparency & Predictability – More competitive legal environment heightens need for fee transparency and predictability for clients.

# 1. Increased Fee Sensitivity



# Causative Factors

- The Great Recession – Things Just Haven't Been the Same.
  - Major law firms laid off more than 12,100 people.
  - Nation's largest 100 law firms reported 3.4% decline in gross revenue.
- Companies and law firms were forced to be more efficient.
- Once saw these savings, why go back?

# Technology Has Increased Efficiencies

- Can now file electronically, do not need to drive to the courthouse; ESI, predictive coding, etc.
- Technology has leveled the playing field, allowing smaller firms to more easily compete with large firms.



## 2. The Stubborn Billable Hour



- Despite the requests of many companies and rational arguments for its inefficiency, the billable hour won't seem to go away.
- The billable hour can incentivize overbilling, and not promptly and efficiently resolving cases.
- This has led to increasing use of alternative fee arrangements, which arguably are the pricing structure of the future.
- But, in matters with considerable fee uncertainty (such as large litigation or corporate matters), the billable hour is arguably the most fair cost measure.

# Alternative Fee Arrangements

- Companies increasingly requiring law firms to offer alternative fee structures.
  - Flat Fees;
  - Success Fees;
  - Contingency Fees;
  - Blended Fees;
  - Fixed Fees.
- Probably a not a bad thing, more accountability, predictability, efficiency, etc.

# 3. Decreasing Outside Work



# Realities

- For many large companies, more cost-efficient to keep legal work in-house versus outsourcing it.
- This practice, in combination with growing number of lawyers, makes for very competitive legal marketplace
- Large companies are also consolidating the law firms they use, which is one of the reasons law firms are correspondingly seeking to consolidate.
  - In 1968, largest law firm had 169 lawyers.
  - By 1988, largest firm had 1179, and 152 firms had more than 169 lawyers.
  - By 2008, 23 firms have over 1,000 lawyers.

# 4. Need for Accountability, Transparency & Predictability

- Companies now demand accountability, transparency & predictability.
- The days of unexpected large invoices are over.
- Emergence of online budget tools and effective budgeting has grown; Thompson Hine LLP's SmathPaTH®.



THOMPSON  
HINE

SmartPaTH®  
A Smarter Way to Work – predictable,  
efficient and aligned with client goals

# Takeaways

- 1) Relationships Still Matter – Companies and In-House Counsel seek trusted outside legal advisors that they can rely on.
- 2) Proper Budgeting is Critical – Accurately budgeting and executing a budget is imperative for sustained business.
- 3) Do Not Lose Sight of Results – Efficiency is undoubtedly important, but efficiency does not justify poor results. Providing exceptional legal services is the baseline.

# Takeaways

- 4) Do Not Take Your Clients For Granted – Complacency and underperformance are death nails for sustained business development.
- 5) “The arrogance of success is to think that what you did yesterday will be sufficient for tomorrow”.
  - William Pollard

# Thank you for your time.

- Please do not hesitate to call or email me for any additional questions.
  - [Jake.Evans@ThompsonHine.com](mailto:Jake.Evans@ThompsonHine.com) or 404.407.3617