

# Practical Innovations in Legal Pricing



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# Executive summary

The pricing of legal services is no longer simply about setting rates. Properly optimizing a firm's pricing strategy is a critical source of competitive advantage and increased profitability, which now more than ever is crucial to staying relevant in the legal sector.

Firms must start looking to demonstrate their ability to provide clients with greater value through alternative fee arrangements, effectively controlled budgeting methods, and the integration of innovative firm management practices – whilst continuing to operate as a profitable business. Standard business principles have become the norm for firms – as clients become increasingly proficient in negotiating costs and defining the scope of an engagement, service delivery must now be framed by value, expertise, and profitability rather than hours billed alone.

With contributions from pricing directors and expert consultants, *Practical Innovations in Legal Pricing* offers insight into the newest effective approaches to pricing that top firms are undertaking. Taking an in-depth look at the role of shadow-billing and client collaboration in AFAs, integrating a firm's legal project management and pricing functions for greater client benefits, and effectively executing a newly formed pricing strategy, this title will provide a comprehensive overview of the best practices in innovative pricing.

In Chapter 1 Toby Brown, chief practice management officer at Akin Gump, and Vincent Cordo, global sourcing officer at Shell Oil, look at the roles and responsibilities of the pricing director title. Pricing directors are becoming commonplace among large firms and learning their roles and benefits, from budget building to profit modeling, will help push firms towards an innovative stance on their pricing strategy.

Moving into Chapter 2, Danny Ertel, founding partner of Vantage Partners, explains why simply setting a new pricing policy will not bring about results. As the most innovative takes on pricing matters will not have a positive impact on the firm if they are not put into action effectively, Ertel proposes that firms must take a more holistic approach to

improving the organization's capabilities to realize better pricing functions – based on lessons learned from a range of professional services struggling to tackle this issue.

In Chapter 3, Richard Burcher, managing director of Validatum, explores the notion that, like Pavlov's famous conditioning experiments, rewarding workers for desirable behaviors and outcomes (or at least refraining from punishing them for them) is the best way to encourage it throughout the firm. However, Burcher argues that most firms' meritocracy structures not only tolerate but reward partners for poor and sub-optimal pricing behavior.

Chapter 4 sees Michael Roster, co-chair of the Association of Corporate Counsel's Value Challenge Steering Committee, looking at re-engineering a firm's pricing strategy to focus on charging for expertise and projected outcomes, rather than charging solely for hours billed. Roster leads into the benefits of taking such an approach in areas such as litigation, regulatory compliance, and corporate housekeeping.

Next, Steven A. Lauer, principal of Lauer & Associates, runs through designing an objective-oriented fee arrangement in Chapter 5 – detailing the crucial guidelines on factors to consider when planning and developing an appropriate fee arrangement that is suitable for the client's perception of "value".

Chapter 6 features Andreea Axani, manager of pricing strategy at Gowling WLG, who examines the concept and utility of fully integrating the pricing and legal project management functions in a law firm. Covering the objectives of the roles and identifying the areas of synergy and conflict in the two functions, Axani highlights the continuous feedback loop between pricing and legal project management – and how to use it as an essential learning tool for future matters.

Next, Timothy B. Corcoran, principal of Corcoran Consulting Group LLC, explores the concept of shadow billing in Chapter 7 – focusing on how a client can inadvertently complicate the efforts of a firm through this method. However, Corcoran takes the perspective of both the law firm and the client – addressing what both parties seek, and how this clash of interests will ultimately end up being unproductive for both.

Staying on the topic of shadow billing, Vincent Cordo, global sourcing officer at Shell, offers an in-house perspective on the issue in Chapter 8. Cordo addresses the fact that shadow billing is often used by clients not to calculate savings made, but in fact as an important measurement of a range of metrics – including business cycle times and determining best practices.

Chapter 9 features Chris Howe exploring the reasons why law firms fail to meet client expectations, and how this can negatively impact the firm's performance and profitability. Drawing from inside experience from both in-house counsel and law firm departments, Howe looks at how clients are beginning to force the pace on innovation, and what it will take for firms to be a winner rather than a loser.

In Chapter 10 Peter Lane Secor, director of strategic pricing and project management at Pepper Hamilton, gives an overview of the avenues for obtaining critical information for a cost benefit analysis, and how to implement that information properly as a communication tool between a firm and their clients. As clients start to scrutinize their legal spend more, Secor stresses the importance of having a living document detailing the exact cost and value of each activity and resource – from the number of experts to areas of diligence focus.

To round off the book, Alicia Fortinberry and Bob Murray, founders and principals of Fortinberry Murray, delve into the neurogenetics of legal pricing – exploring how cutting fees for discount will negatively impact your client loyalty. Many law firms operate under the assumption that giving preferred customers discounts will help retain their loyalty, but Fortinberry and Murray look at both the psychology and biology (tied to dopamine release) of value – discounts that occur too often can instill a feeling of insecurity and a reduction in the “attachment” the client feels to a firm, leading to lowered loyalty in the long run.





## About the authors

**Andreea Axani** is manager of pricing strategy at Gowling WLG. In this role she works closely with lawyers to plan, price, and manage legal work based on legal project management (LPM) best practices. She provides training to lawyers on alternative fee arrangements (AFAs) and Practical LPM by Gowling WLG™.

Prior to joining Gowling WLG, Andreea was part of the business analytics team at another large Canadian law firm, where she was primarily responsible for profitability analytics, budgets and forecasts, and partner and associate compensation process metrics. Andreea is a certified PMP (project management professional). She has also earned an MBA and holds a CPA, CGA (chartered professional accountant) designation.

**Toby Brown** is chief practice management officer at Perkins Coie. In this role Toby leads the firm's revenue management and efficiency programs, legal project management, pricing, process improvement, practice innovation, alternative staffing, and new partner integration. Toby has more than a decade of experience in practice management and pricing with Am Law firms and is the former director of the Utah State Bar.

Toby presents nationally on legal pricing, marketing, technology, and law firm management for associations, law firms, legal departments, law schools, and paralegal programs. He has published numerous articles on these topics, as well as a book on *Law Firm Pricing: Strategies, Roles, and Responsibilities* (ARK Group, 2013). He has served on a number of legal services boards, bar association task forces, and legal market organizations. He received the Peer Excellence Award, the President's Award, and the Anne Charles Award from the National Association of Bar Executives. Toby maintains the ABA award winning *3 Geeks and a Law Blog* with two colleagues at: [www.geeklawblog.com](http://www.geeklawblog.com).

**Richard Burcher** is a former New Zealand practicing lawyer and managing partner with over 35 years' experience. Following

post-graduate study in pricing-related disciplines, Richard has been based in London since 2012 as the managing director of Validatum (UK) Limited. Legal commentators regularly describe him as the leading law firm pricing consultant in the world. His pricing consultancy services and speaking engagements take him throughout the UK, Asia, India, Europe, Australasia, and North America.

A regular speaker at national and international conferences his legal services pricing research and commentary have been widely published or cited in *Commonwealth Law Journal*, *Global Legal Post*, *Managing Partner*, *Harvard Business Review*, and the *Pricing Journal* amongst others.

Richard is a member of the Brussels-based European Pricing Platform and a member of the Professional Pricing Society (USA). He is also an Advisory Panel member of the United States True Value Partnership Institute and a consultant in India's foremost legal profession consultancy, Legal League Consulting.

He has worked with a broad cross-section of law firms in 13 countries with turnovers of £10 million (\$US15m) to £1.3 billion (\$US1.5b).

**Vincent Cordo** is the legal team's global sourcing officer at Shell Oil, based in the Houston office. He directs and oversees the Legal Groups pricing and project delivery function, focusing on industry-leading client value pricing and inventory pipeline management proficiencies.

Vincent is also a member of the Corporate Legal Operations Consortium and has particular experience in high-value, complex, and multi-jurisdictional commercial projects. He is responsible for organizing efficient and capable teams of professionals to align project management and process improvement with business drivers, and assigning resources, tools, and tactics to help satisfy Shell's commercial needs.

He is author of the book *Law Firm Pricing: Strategies, Roles, and Responsibilities* and in 2017 led a legal project that resulted in Shell being the first IOC to win the ACC Value Champion Award.

Prior to joining Shell, Vincent was the global director for client value at Reed Smith LLP – a leading international law firm. His responsibilities included global strategy relating to the evaluation and implementation of commercial projects, value pricing, alternative fee arrangements (AFAs), client service level agreements, communications and project management (LPM). He has also worked with venture capital firms, assisting with multiple public offerings.

Vincent is a trained Six Sigma Black Belt, AGILE Project Management Certified from Rutgers Business School, holds a Bachelor's Degree in Computer Science, an MBA from The University of Liverpool, and a Master's from Columbia University.

**Danny Ertel** is a founding partner of Vantage Partners LLC, a spin-off of the Harvard Negotiation Project, where his practice focuses on helping organizations negotiate, manage, and (when necessary) remediate their most important commercial relationships. In professional services, Danny helps both law departments and law firms improve how they collaborate to: eliminate unnecessary costs; structure, staff, and manage work appropriately; and improve the value received by the client from economically attractive work performed by the firm. Danny has written four books, the latest of which is *The Point of the Deal: How to Negotiate when Implementation Matters*. Danny was previously a partner at Conflict Management, Inc., a senior researcher at the Harvard Negotiation Project, an attorney with Debevoise & Plimpton, and a clerk to the Hon. Justice Harry A. Blackmun of the US Supreme Court.

**Alicia Fortinberry**, PhD (Organizational Psychology) has gained international recognition over two decades for her powerful, lasting impact on organizations and leaders globally. Alicia enables organizations to build the leadership, performance, and culture that will achieve their vision and strategy. In addition to her work as a consultant, facilitator, and high-level executive coach, Alicia is a best-selling author and keynote speaker. She combines a clear, engaging, and practical communication style with a proven evidence-based approach and strategic acumen.

With her highly experienced and credentialed Fortinberry Murray team, Alicia works with organizations and governments globally to help leaders shape and implement winning strategies using research-based understanding of human motivation and change.

With her colleague Dr Bob Murray, Alicia won the American Science Achievement Award (2012) and has been appointed to head the US government's comprehensive national work stress initiative. Alicia's pioneering work is backed by the latest research in neuroscience, genetics, and management. Together with Bob, she has presented her work at leading universities such as Duke, Tufts, California State, and Sydney University.

With Bob she authored the international best-selling books *Creating Optimism* and *Raising an Optimistic Child* (both McGraw-Hill), which

have become standards in the fields of optimism and resilience. Most recently Alica and Bob published *Leading the Future: The Human Science of Law Firm Strategy and Leadership* (ARK Group, 2016).

Alicia received her Masters in Psychology and Journalism from Columbia University and her PhD in Organizational Psychology from the University of Phoenix. She is a member of the American Psychological Association, the American Association for the Advancement of Science, and the American Society of Journalists and Authors.

**Chris Howe** is a director of Raedbora Consulting and a lead advisor at DealScoper.com which delivers innovative scoping and pricing applications to the legal market.

In his consulting role he advises legal clients on pricing and practice management (including restructuring and day to day performance improvement). He also advises buyers of legal services on legal procurement reviews. Chris's clients include top 20 international law firms as well as FTSE 100 businesses. For 10 years he was a director of a UK top 20 law firm where he was head of pricing and conducted innovative research into pricing with Cranfield School of Management. He also has 10 years' consulting experience with PwC, Ernst & Young, and Deloitte. Chris is an international speaker and author on pricing and professional services.

**Steven A. Lauer**, a principal of Lauer & Associates, consults with law departments and law firms on the value of legal service. He assists them to align and to recalibrate more clearly the cost and value of legal service delivered to corporations and other business entities.

Steve spent over 15 years as an in-house attorney, most recently as corporate counsel for Global Compliance Services in Charlotte, North Carolina, where he specialized in data protection and privacy for that hotline and compliance services company. Before that, he served for over two years as director of Integrity Research for Integrity Interactive Corporation. Those two positions culminated Steve's almost 10 years in the compliance industry. Previously, he consulted with corporate law departments and law firms on issues relative to how in-house and outside counsel work together after spending over 13 years as an in-house attorney in the real estate industry, in law departments ranging in size from two to over 300 attorneys, and as the sole in-house attorney for an organization, serving as its general counsel for over a year.

He has authored *Conditional, Contingent and other Alternative Fee Arrangements* (Monitor Press Ltd., 1999), *Managing your Relationship with*

*External Counsel* (ARK Group, 2009), *The Value-Able Law Department* (ARK Group, 2010), and *Value-Related Fee Arrangements* (ARK Group 2012). He has also spoken at and organized numerous conferences in respect of those subjects (including online seminars).

**Bob Murray**, MBA, PhD (Clinical Psychology), is an internationally recognized expert in strategy, leadership, human personality, and behavioral change. Distinguished for his ability to uncover the core of issues, Bob has developed ground-breaking methods for measuring, benchmarking, and improving an organization's capacity for change and adaptation.

Bob's insights are based on his wide experience and also on his deep knowledge of research in the areas of management, psychology, genetics, and neurobiology. Clients include premier law firms such as Allens Linklaters, Ashurst, and Herbert Smith Freehills; and other top tier companies such as KPMG, Macquarie Bank, PwC, Ford, Caterpillar, McDonald's, PepsiCo, BHP, Wesfarmers, and Stockland.

Bob is an acclaimed keynote speaker and is widely published. With Dr Alicia Fortinberry, Bob received the American Science Achievement Award (2012) and advises the US government on workplace stress and other workplace issues. He specializes in ensuring executive teams develop and drive strategies that will be embraced and actioned.

Bob's previous experience includes working for Hill Samuel Merchant Bank, where he helped to turn around distressed companies, as well as working as a BBC producer. With Alicia, he authored the best-selling books *Creating Optimism* and *Raising an Optimistic Child* (McGraw-Hill). These international best-sellers have become standards in the fields of optimism and resilience.

Bob has lectured at Sydney, Duke, Tufts, South Florida, and California State universities. He received his MBA from Sydney University (where he also earned his MA in Psychology) and his PhD from New York University.

Bob is a member of the American Psychological Association, the American Association for the Advancement of Science, and the American Society of Journalists and Authors.

**Michael Roster** has been the voluntary co-chair of the Association of Corporate Counsel's Value Challenge since its inception eight years ago. He is former managing partner of Morrison & Foerster's Los Angeles office, co-chair of the firm's financial institutions practice group

worldwide and a member of the firm's policy committee. He subsequently was general counsel of Stanford University and Stanford Medical Center and then of Golden West Financial Corporation. Among other things, he is a past chair of the ACC and past outside director and vice chair of Silicon Valley Bank.

**Peter Lane Secor** is the director of strategic pricing and project management with Pepper Hamilton LLP. He concentrates on legal project management with a focus on improving efficiencies through shared management responsibilities, strengthening communication, and making value transparent. Peter's expertise includes client/matter profit analysis and providing partners with performance evaluations from a financial perspective.