Rate Management
6 Steps to Success

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Introduction

Enterprise legal management (ELM) systems contain a wealth of data that legal departments can mine for answers to important business questions. But uncovering the most valuable insights requires a disciplined approach. This white paper explores 6 key steps to follow when managing and analyzing data in general, and specifically when looking at rates corporate legal departments pay outside counsel.

Part 1 will provide an overview of the six proven steps for maximizing insights from ELM data. Part 2 will provide a step-by-step rate management analysis applying these steps.

Surveying The Data Landscape

So you have an enterprise legal management system in place. You know that it's collecting tons of data on matters and billing. And you're determined to get your hands on the most meaningful nuggets of information; the ones that can help you optimize the performance and cost-efficiency of your legal department operations. But where do you begin the data mining process? And how do you interpret the information you unearth?

The Three Types of Questions

Legal department operations business questions can range from the simple to the predictive. Addressing the three types of questions requires progressively deeper analysis.

What? 1
What have we spent this year?
Who are our biggest vendors?
What rates do we pay?
What activities are lawyers performing?
How much am I saving due to CounselLink?

2 Why?
Why are we spending more in employment matters?
Are the AFAs I am using effective in reducing costs?
Which vendors are best and worst at adding value to our organization?
Which types of matters tend to show similar patterns of expense growth?
Which matters are irregular in terms of activities, intensity of effort, etc.?

What's next? 3
Where might we try AFAs?
How much outside legal expense will we incur next quarter?
What can we learn from that huge litigation case where expenses were through the roof?
Where do we have the opportunity to negotiate better rates?

The Data Mining Workflow

Step 1: Define the Question

The first step for deriving the most valuable insights from the data your enterprise legal management system collects is to define the business questions you want answered before you start digging. As obvious as this may seem, it's not uncommon for ELM stakeholders to dive blindly into their data, hoping that important information will somehow materialize. The reality couldn't be farther from the truth. Without a clear idea of the question or questions you want the data to answer, you'll find yourself drowning in a sea of details that don't provide any actionable intelligence.

Most typical legal department business questions fall into three basic categories. "What?" questions are those that can be answered with a single report. These questions don't require analysis. The second category consists of "Why?" questions. These types of questions require more than a single report to get at the answers. Finally, there are "What's Next?" questions. Unlike the other two categories of questions, these are proactive questions and typically require several analytic stages.

Answering "What's Next?" questions goes beyond just taking a look back to understand what happened. Applying the knowledge gained from answering these types of questions helps you make decisions about the future and how the legal department is going to manage and leverage information going forward.

The more relevant your questions, the more the data will reward you. For example, when it comes to negotiating rates with your law firms, data is power. Consider how much credibility you would bring to a rate discussion with a law firm if you could say something like "Your partner rates are at the 80th percentile of rates I pay other firms, and those firms get me the same outcomes." That's a powerful statement that adds credibility to your rate negotiation talks and can help bolster your negotiating position.

Step 2: Filter, Filter, Filter

To answer your legal department's business questions you have to first consider the various metrics you might look at and then determine which ones will be best suited to pursuing your inquiry. Next, you have to exclude any data that might put noise in your analysis. Are there particular areas of your operation where the business question is most relevant? If so, narrow your analysis to exclude non-relevant areas. Fail to adequately filter your data before you start running reports and you'll end up with an overabundance of data that will likely be ignored – while the real value of the information contained in the system goes unrealized.

Step 3: Analyze

To answer your legal department's business questions you have to first consider the various metrics you might look at and then determine which ones will be best suited to pursuing your inquiry. Next, you have to exclude any data that might put noise in your analysis. Are there particular areas of your operation where the business question is most relevant? If so, narrow your analysis to exclude non-relevant areas. Fail to adequately filter your data before you start running reports and you'll end up with an overabundance of data that will likely be ignored – while the real value of the information contained in the system goes unrealized.

Analysis is not a report. It's a process for making better use of the data captured by your ELM system. Analysis should only be performed because you are trying to answer a business question, not because you hope that somehow, the data will speak for itself. And remember, although you're using historical data to understand where you've been, the point is to use the data to establish where you'd like to go as a legal department. It's about using data proactively to help you achieve your goals.

Once you start pulling the data, you'll probably generate multiple reports, or views. Choose the views into the data that are most relevant and filter out the ones that won't help answer your question.

Step 4: Interpret

It's important to categorize matters in meaningful ways. Setting up an enterprise legal management system without thinking ahead to the sorts of analysis that you might want to perform makes it difficult to answer questions. If you haven't already classified your matters properly, it's not too late to begin the process. Once you do, you can start accessing meaningful data that you can use to improve your legal department operations.

When you have selected the most relevant views of the data you're interested in, it's time to figure out what it's telling you. In all likelihood, that interpretation is going to be a lot like peeling back an onion. You'll have to go deeper into the data, layer by layer, until you're able to fully answer your question. Analysis is an iterative process, so don't be discouraged when the answer to your business question doesn't jump out at you with your initial, top-level review of the data. It's there. Just keep peeling away.

Step 5: Benchmark

External benchmarks are great supplemental data points, but they shouldn't be the first step when you undertake an analysis. Understand what your own data is telling you and establish your own benchmarks first. You'll have plenty of opportunity to explore external benchmarking sources when you've wrapped your arms around your own data.

When the time comes, the first source for pursuing outside data is your own law firms. Although this is not a common practice in legal departments, it should be. All law firms have access to the data in their time and billing systems, and the larger law firms also have access to analytic tools that easily give them the sort of data that would let them share information such as the average matter-blended rates for the types of matters you're exploring.
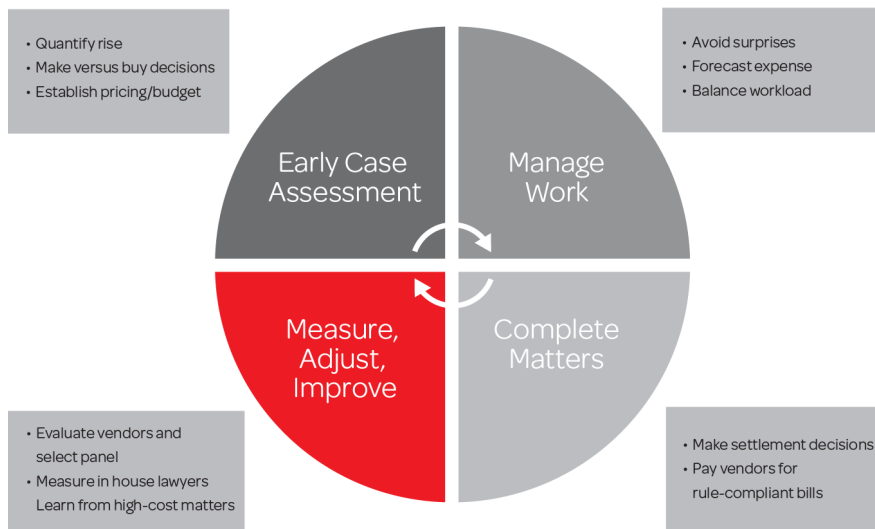
When you're dealing with a firm you trust, information sharing should occur in both directions – with the legal department sharing data with the law firms, as well. Having both parties share information (while keeping any confidential details out of the exchange, of course) helps to strengthen relationships as you build a strategy for pricing and staffing.

You can also turn to benchmarking providers, such as LexisNexis®. The LexisNexis CounselLink® Insight platform anonymizes and aggregates billions of dollars of legal invoice charges for benchmarking purposes. With data representing nearly $18 billion in legal spending, more than 4 million invoices, and well over one million matters, the CounselLink Insight data is an invaluable benchmarking resource. Whichever external source you eventually turn to, don't forget – you have to get your arms around your own data first.

Step 6: Leverage

There are many ways to make use of the information you glean from an analysis of your enterprise legal management data. If you pose the right business questions, you'll walk away from the exercise with answers you can use to improve your legal department operations by negotiating lower rates, consolidating your outside counsel panel, discovering where you could implement alternative fee arrangements, better predict legal costs and outcomes – and more.

Where Analysis Can Help Improve Legal Department Processes

- Quantify rise
- Make versus buy decisions
- Establish pricing/budget

- Avoid surprises
- Forecast expense
- Balance workload

Early Case Assessment

Manage Work

Measure, Adjust, Improve

Complete Matters

- Evaluate vendors and select panel
- Measure in house lawyers Learn from high-cost matters

- Make settlement decisions
- Pay vendors for rule-compliant bills

Analysis can help you make more informed decisions throughout the legal department workflow lifecycle, from assessing risk and managing matters, to evaluating pricing and setting objectives.

Peeling the Onion – Analyzing Data to Negotiate Better Rates: An Example Rate Analysis

The following rate analysis example illustrates steps 1 through 4 and looks at billing rates from 47 partners and 32 patent litigation matters.

Step 1: Define the Question.

"What is the normal range of rates today or within the past two years? Where do we have the opportunity to negotiate better rates?"

Step 2: Filter, Filter, Filter

A. Data used: Charge level information representing the actual rates paid for timekeepers.

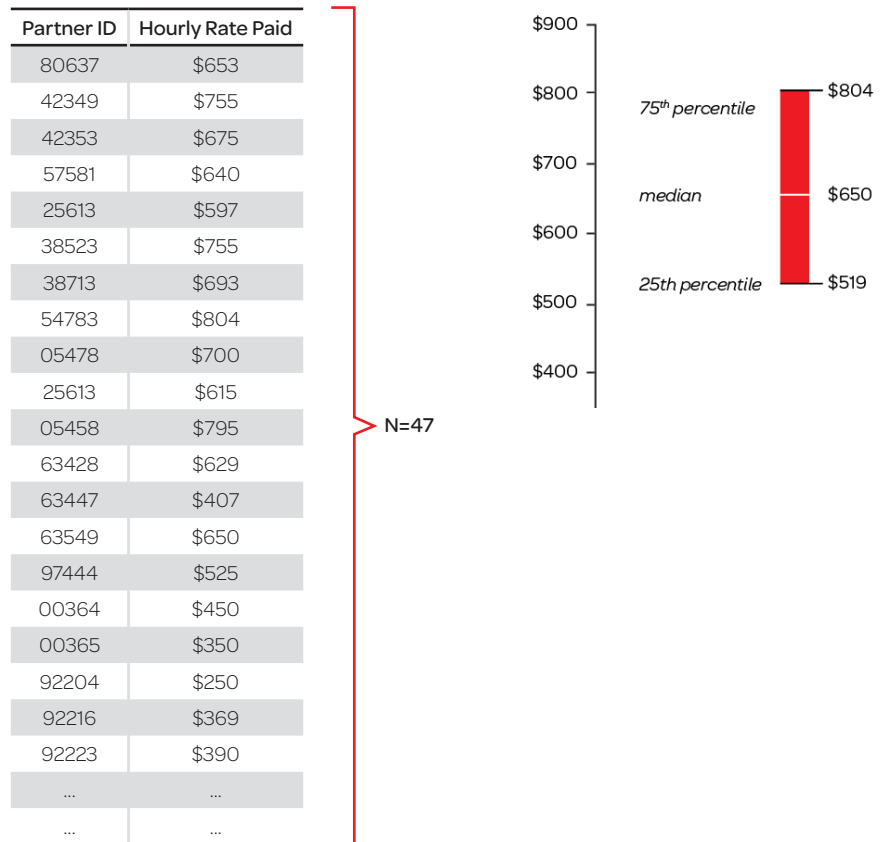B. Relevant time period: The last two years.

C. Non-relevant data: Charges not billed hourly (because that could skew the data and lead to misinterpretation).

Step 3: Analyze

Analyze: Break out the relevant data and organize it into views.

Figure 1 shows timekeeper rates paid to the 47 partners performing reasonably similar work. Based on the rates paid to the 47 partners, calculate the range of rates paid, that is the 75th percentile, which is the top the normal range of matter rates, and the 25th percentile, representing the bottom of the normal range of rates. Figure 1 on the right shows the range of rates they've been paid, with the 75th percentile being $804, which is the top of the normal range of rates, and the 25th percentile being $519, representing the bottom of that normal range of rates. Organizing it into this view reveals the normal range of rates currently being paid and provides insight for answering a key sub-question to the broader question, "Where do we have the opportunity to negotiate better rates?"
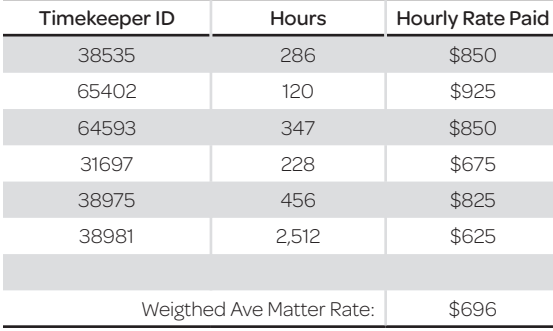
Figure 1: Patent Litigation Matters Partner Rates 2013 & 2014

Partner ID	Hourly Rate Paid
80637	$653
42349	$755
42353	$675
57581	$640
25613	$597
38523	$755
38713	$693
54783	$804
05478	$700
25613	$615
05458	$795
63428	$629
63447	$407
63549	$650
97444	$525
00364	$450
00365	$350
92204	$250
92216	$369
92223	$390
...	...
...	...

N=47

75th percentile — $804

median — $650

25th percentile — $519

Analyze: Break out the relevant data and organize it into views.

Figure 2 shows matter level rates and hours billed for the partners that worked on a single matter. In this case, there are six partners billing against the matter. Although there would have been other timekeepers associated with the matter, this example is focused strictly on a partner rate analysis. Individual timekeeper level rates are in the right-hand column, ranging at the top from $850 and $925 down to the lowest rate of $625.

Figure 2: Matter: XYZ

Timekeeper ID	Hours	Hourly Rate Paid
38535	286	$850
65402	120	$925
64593	347	$850
31697	228	$675
38975	456	$825
38981	2,512	$625
Weigthed Ave Matter Rate:		$696

6 Partners

Calculating a weighted average rate based on the hours of all of these partners billed, results in a rate of $696 per hour (Figure 2). The weighted average is skewed toward the last partner on the list because that partner billed by far the most hours on this matter. This metric provides a better view into the overall effective partner rate on this matter.

Calculate the matter level rates for each matter included in the analysis. In this case we have 32 matter level rates. Applying the same methodology used in Figure 1, determine the range of rates paid per matter, and then calculate the 75th percentile, which is the top of the normal range of matter rates, and the 25th percentile, representing the bottom of the normal range of rates (See Figure 3).

Figure 3: Range of Matter Rates

75th percentile — $713

median — $620

25th percentile — $463
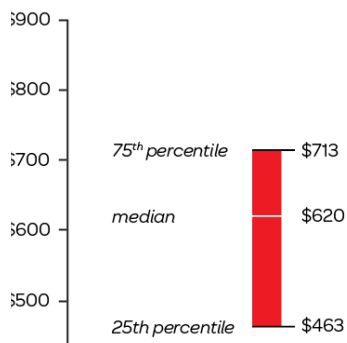
Analyze: Compare matter rates to timekeeper rates

Figure 4 compares matter rates to timekeeper rates. This is as important -- if not more important -- than looking at timekeeper level rates. On the left in Figure 4 is the range of timekeeper rates. On the right is the range of matter level rates (the weighted average rates at the matter level). Note that the timekeeper rate range is a bit higher than the range of matter level rates.

Figure 4: Patent Litigation Matters Partner Rates 2013 & 2014

Range of Timekeeper Rates

$900	
$800	
75th percentile	$804
$700	
median	$650
$600	
25th percentile	$519
$500	

Range of Matter Rates

$900	
$800	
75th percentile	$713
$700	
median	$620
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25th percentile	$463

Matter: XYZ

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Now you can look at each specific matter in comparison to your range of matter rates and range of timekeeper rates. Four partners billed above the 75th percentile timekeeper rate of $804 -- one at $850, one at $925, one at $850 and one at $825. If only timekeeper rates were considered, it would appear that partner rates on this particular matter are very high. However, because a relatively junior partner, at $625 an hour, does the lion's share of the work, the overall partner rate actually falls within the normal range of matter rates.

Account for the outliers. Now you can identify the exceptions, e.g., which firms have higher rates, which are consistently higher, etc., and interpret what the exceptions mean. Is an exceptionally high costing matter the result of more senior partner involvement? Significantly more hours billed compared to other matters? Or is it something entirely different?

Connect the dots. What does this analysis tell us about this firm and the rates they're charging? It well may be that you turn to this firm because of their expertise, and they're managing this matter by using their most senior partners when their expertise is needed -- but using a more junior level partner to handle the bulk of the communications and some of the other heavy lifting. So it could be that it's a very well staffed and carefully managed matter.

This concept of matter level rates vs. timekeeper rates is a very important part of the rate management process. Looking solely at individual partner rates won't give you a comprehensive view of the overall rate picture.

Go for consistency. If matters are reasonably comparable, the goal should be to have a fairly consistent matter level rate, regardless of the individual timekeepers' titles or levels. In some cases, that may require a discussion aimed at bringing a law firm's rates into the normal range. Armed with the data from your analysis, you can easily document the range of rates you pay other firms.

The final steps to completing your rate analysis would be to compare the data against an outside benchmark, and to leverage the findings to inform future business decisions.

Ultimately, all of the information pulled into an analysis has to be synthesized into an interpretation that provides meaningful conclusions that can be used for decision-making.

The Big 3: Technology, Data and Process.

The previous rate analysis example illustrates that you have to balance three things to optimize the performance of the legal department. First, you have to employ technology. That's where an enterprise legal management system comes in. Second, you have to have data and analytics. Your ELM will capture data throughout the course of its normal operation. It will be up to you and your legal department operations team to analyze that data. And third, you have to establish a process for managing the technology and the data. That entails establishing and following formal procedures to guide analysis.

When all three of these are in place, you'll be able to make the most of the information your ELM captures, optimize the performance of your legal department operations and begin using data to make decisions that increase the department's value to your corporation.
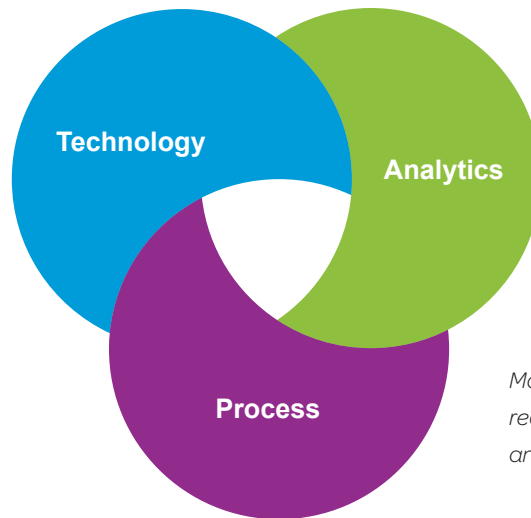
Making the most of your ELM's data requires not only technology, but analytics and a process, as well.

A Final Word about Process

Although your first data analysis exercise may seem daunting, each successive analysis will become easier, because it can build on the one(s) that preceded it. Document what you do and perform an analysis at least once a year to make sure you're tracking successfully against the goals you set and, if necessary, to reset your goals.

Incorporate any decisions you make into your process for approving new timekeepers. Establish guidelines for rates and create an exception process. Continue to monitor the matter level rates on a monthly, or at least a quarterly, basis. This will allow you to see how the staffing decisions your firms make are affecting your overall rates, and whether you're tracking toward the goal you set at the matter level.

And in Conclusion...

Rate management clearly addresses an important legal department need, but it's just one of a long list of data-driven decisions that are empowered by your enterprise legal management system. The more relevant information you uncover and leverage to drive business decisions, the more your legal department will enrich its value to the corporation.

As important and as revealing as data and analytics are, there's a final caveat to keep in mind when implementing any data-driven analysis: Think of data and analytics as supplementing, rather than replacing, the subjective and anecdotal information you have about the firms you work with. The latter type of information could provide a reason for wanting to spend more for a particular firm in a given case. Remember, no matter where the information comes from, it's all relevant to the bigger story.

About the Author

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Kris leads the CounselLink team in advising corporate legal department managers on improving operations with data-driven decisions. As an expert in managing the business of law and in data mining, Kris has specific expertise in multiple areas, including matter pricing and staffing, practice area metrics and scorecards.

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