2020 Vision:
The Future of Legal Services

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Chapter 2:

Beyond Pricing – Legal Services Must Learn to Talk Value

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[W]ithout sufficient demand for their products, overcapacity led only to cutthroat competition and rampant price cutting, especially in the midst of the era's periodic business depressions. Few…could make profits under such circumstances.[i]

At the dawn of the 20th Century, the United States faced economic pressures quite similar to the legal industry's challenge at the dawn of the 21st Century. The Great Recession of 2008 contracted demand for legal services, which led to overcapacity, consolidation, and, in several surprising circumstances, extinction. (The U.S. legal market has witnessed more than a few remarkable collapses in the last decade.)

Although marketing campaigns and business development initiatives improved the industry's sagging performance, law firm leaders realized they were ill-equipped to handle the post-Recession economic dynamics that created a "buyers' market." Pricing became the solution, and law firms (mostly in the U.S.) began hiring full-time, dedicated pricing professionals in 2008. Today the number of professionals exceeds 100.[ii]

In the near future, the legal industry will witness continued expansion of law firms' pricing functions – especially the financial aspects – which help improve firms' win rates and revenue. By 2020, however, the industry will have evolved beyond pricing to the true core of the profession: value. With innovative firms leading the way, the future of legal services will be a value-focused industry, where law firms define their value at the nexus of benefits, branding, client relationships, communication, competitive intelligence, differentiation, fairness, and services, and willingness-to-pay.

The Importance of Pricing

For most firms, the daily pricing goal is to find the fee number(s) that will win work. That's a great business development goal, but it cheapens the mission of Pricing to say its goal is a number. Our nascent profession has been so focused on the detail and the tasks of pricing — driven by our attorneys' rightful need to get a number to the prospect/client — that we have missed the bigger picture of Pricing.

Pricing is the process of determining what a firm will receive in exchange for its services. Its goal is not to win clients or increase revenue (even though it does both), but to maximize profitability. In this quest, pricing professionals purse Price in three independent–but interrelated–objectives, each beginning with a P: Positioning, Purchasing, Profitability.

- **Positioning**: Price is the ultimate positioning tool. Price helps convey value (consumers often equate price with quality) and allows for easy comparison among competitors. Do you have a different opinion of an attorney whose hourly billing rate is $100 v. $1,000? Yes, you do (even without knowing the firm's brand). That is why billing rates are a substitute for price tags and why pricing professionals need to play a role in both Finance (setting attorneys' annual billing rates) and Marketing (helping create the brand).
- **Purchasing**: Price is designed to induce customer purchase. Ultimately, every exchange is determined by value, which consumers measure against price. The lower the price is from the buyer's perception of value, the greater the likelihood for the sale. If the price of gasoline goes up on the day you want to fill your tank, do you wait for a price drop? If you can, yes, because the value of the gasoline didn't rise with the price. That is why clients often push back against the annual fee increase. Did your attorney's value increase whilst celebrating New Year's Eve?
- **Profitability**: Price is a major driver of profitability. In fact, of the four profitability 'levers' studied by economists (fixed costs,

> variable costs, price, volume), price is the clear frontrunner, yielding the highest profit gains.[iii] Therefore, any firm serious about profits must be concerned about profitability. That is why ***The American Lawyer*** uses profits to rank law firms.

Law firm pricers spend nearly 100% of their time on Purchasing, calculating the right inducement, completely ignoring Positioning and not spending enough time on Profitability. The result, often, is a one-sided approach focused on making the sale. The next five years should bring about a radical shift in these priorities.

The 3Ps highlight the centrality--but not singularity--of numbers. Underneath the numbers lies a fundamental truth: clients buy value. More than a decade ago, Ron Baker coined the phrase, "Customers are not price-sensitive; they are value-conscious."[iv] That is why Price has been a part of the "marketing mix" (aka 4Ps of Marketing) for more than 50 years. Unfortunately, the pricing function most often falls under a law firm's Finance Department, where firm activity is measured in numbers. Clients measure value in relationships and work product (as well in numbers), which is why the legal industry needs to move away from cost-based services to value-based services.

The Importance of Value

During Game 4 of the 1997 World Series, American baseball fans were the first television viewers to see a new commercial: a father and son enjoying a game at the ballpark. The narrator documented the pair's experience:

Two tickets: $28.
Two hot dogs, two popcorns, two sodas: $18.
One autographed baseball: $45.

Then the narrator delivered the punch line:

Real conversation with 11 year-old son: *Priceless*.

There are some things money can't buy.
For everything else, there's MasterCard.

Figure 1: MasterCard's Priceless ad campaign

The powerful advertisement struck an emotional chord with the American public. Not only was the commercial an immediate home run, the *Priceless* campaigned turned out to be a grand slam for MasterCard, lasting more than 10 years and appearing in 100 countries (with 160+ unique commercials).

The success wasn't rooted in price: MasterCard's competitors had the same costs. The success wasn't rooted in convenience: MasterCard was accepted in more locations. MasterCard's success was rooted in price-less: they were selling the intangible; they were selling value.

Value Defined

In the iconic MasterCard commercial, the value of owning the card was to be able to create and celebrate a special moment: father and son at the ballpark. No one asked if the game was worth $91 for tickets, food and souvenirs; the experience of father and son bonding is, well, priceless. The message reinforced the concept: value is greater than price.

In general, there are three traits to value.

1. **Value is not the same as price.** Too often value as a quantitative measurement is confused with price. This is a "fair" mistake, because buyers most often enter into an exchange only when they believe it is fair. In their work, ***Pricing and Profitability Management***, Meehan and co-authors explain the value-price confusion this way: "value refers to the importance or usefulness of a product or service to a specific customer or group of customers; and price is the way to capture the value of a product or service offering in the market through the mechanism of exchange."[v] Anderson and his colleagues offer a useful guidepost for price: "…raising or lowering the price of an offering does not change the value that offering provides…. Rather, it changes the customer's incentive to purchase that offering."[vi]
2. **Value takes on many forms.** The field of pricing theory offers a number of definitions for value, going all the way back to ancient civilization, when value was determined in the process of bartering. Aristotle distinguished between the 'old' world barter systems—what he labeled 'value-in-exchange'—and the 'true worth' of a good, which he labeled 'value-in-use.' This could be called the first attempt to describe value as both quantitative (exchange) and qualitative (worth). Both definitions are still used 2,300 years later.
3. **Value is tied to buyers.** In his 1973 classic, ***Management***, NYU management professor Peter Drucker defined 'value' with the following observation:

    > The final question needed in order to come to grips with business purpose and business mission is: 'What is value to the customer?' It may be the most important question. Yet it is the one least often asked. One reason is that managers are quite sure that they know the answer. Value is what they, in their business, define as quality. But this is almost always the wrong definition. The customer never buys a product. By definition the customer buys the satisfaction of a want. He buys ***value***.[vii]

In the 1980s, Harvard Business School professor Michael Porter took the work of management gurus like Drucker and launched the field of modern strategy. In his 1984 management classic, ***Competitive Strategy***, Porter presents Drucker's principles as the foundation of a new, powerful concept: competitive advantage. According to Porter: "Competitive advantage grows fundamentally out of value a firm is able to create for its buyers that exceeds the firm's cost of creating it. Value is what buyers are willing to pay."[viii] By replacing Drucker's satisfaction with willingness-to-pay, Porter gave companies a pre-purchase concept that could be measured. (How could you measure "satisfaction of a want" prior to purchase?) Porter's understanding, as a mathematical expression, looks something like this:

Value = Willingness-To-Pay – Price OR Value = Benefits - Costs (V=B-C)

Figure 2: The Value Equation

Willingness-to-Pay

A key concept underlying pricing strategy and value is willingness-to-pay (WTP). Recall Porter's definition: "Value is what buyers are willing to pay." At the heart of a value strategy is a firm's understanding of a client's motivation to buy.

Willingness-to-pay drives a buyer's trade-off. Willingness-to-pay comprises the qualitative concept of a buyer's motivation to purchase (i.e., how much do I want this purchase?) and the quantitative concept of a buyer's maximum purchase price (i.e., how much am I willing to pay for this purchase?). If either element is missing, the sale won't happen. "Everyone wants value. The reality, however, is that not everyone is willing to pay for it."[ix]

Consider the popular PBS series, ***Antiques Roadshow***. Guests are invited to bring old and/or unique items for a free appraisal by one of the show's professionals. The professionals often surprise the owners with their appraisals. For example, a 2008 episode featured a 1963 Beatles program, signed three times by each member of the Beatles. The appraisal? "A very conservative estimate at auction would be $15,000." A second example, aired in 2012, is a 1983 comic strip autographed by Charles Schulz, which was valued at $12,000-15,000. A third example, from 1999, is Walt Disney's autograph on an early Disneyland ticket, which today is valued at $2,000-3,000. Is Snoopy as popular as the Beatles? Are the pair five times as popular as Walt Disney? Would you want one of these autographs, and, if so, how much would you be willing to spend? Each reader has his/her own answers, and each answer reflects the individual's willingness-to-pay.

The subjective nature of antiques – some see treasures, others see trivialities – mirrors buyers' willingness-to-pay. Some will find great value in a product or service, and some will not. The greater the value, the higher a buyer's WTP (qualitative); the higher the WTP, the higher price a firm can charge (quantitative), thus increasing profit. The Value Appropriation Continuum provides a helpful visualization for understanding WTP.

Buyer's Share of Value (WTP minus P)

WTP------------ ▲ ------------PRICE------------ ▼ ------------COST

Seller's Share of Value (P minus C)

Figure 3: The Value Appropriation Continuum[x]

Willingness-to-pay is as important to law firms as *voir dire* is in a jury trial. Just as a skilled litigator must use the jury selection process to build the most favorable jury and to gather intelligence for trial strategy, a law firm must invest in understanding the motivation its clients and prospects have for engaging the firm (qualitative), as well as the thresholds it has on purchasing legal services (quantitative). Firms do not want to guess: "When you make assumptions about what people will or won't pay, you'll inevitably underestimate the value of your offerings."[xi] By underestimating value, firms leave money on the table, which is the number one threat to profit maximization.

Law firms will never know how much General Counsel are truly willing to pay. That is the nature of the relationship: buyers want to buy at the lowest price; sellers want to sell at the highest price. The pricing revolution has taught law firms to *listen* to their clients; the value revolution will teach law firms to *talk* to their clients.

Value Propositions

In the 1980s McKinsey & Company consultant Michael Lanning developed the concept of a value proposition, a new way for businesses to have a conversation with their customers. Lanning believed customers do not buy products or services: they buy the benefits of those products or services. Benefits, as we know, are the foundation of the value formula. Therefore, if buyers seek value, firms should offer value propositions.

According to Lanning, a value proposition is "a clear, simple statement of the benefits, both tangible and intangible, that the company will provide."[xii] It is a promise that a buyer will find value in a purchase. If a firm is successful in delivering its value proposition(s), the customer's resulting experiences will match the promise of the proposition. Assuming the customer believed the benefits were greater than the cost—why else would the exchange be agreed to?—delivery of the promised benefits would outweigh the costs and create value (V=B-C).

A strong value proposition is built on six interrelated elements; three are research-based and three are communication-based:

Research

- Understanding your benefits and how they add value to your target clients;
- Understanding the benefits offered by your competitors; and
- Understanding your target clients' preferences**.**

Communication

- Creating propositions that substantiate your value promises;
- Creating propositions that differentiate your unique benefits; and
- Creating propositions that resonate with your potential client.

	Research	**Communication**
Your Firm	**Understand your benefits**	**Substantiate your value**
Your Competitors	**Understand their benefits**	**Differentiate your benefits**
Your Buyers	**Understand their preferences**	**Resonate with their needs**

Table 1: The Value Proposition Matrix

As shown in Table 1, the first pair of elements focuses on the firm; the second pair focuses on the competition; and the third pair focuses on the buyers. Each plays an important role in the overall goal: to increase buyers' willingness to purchase your services. As Dyson says, "In order to secure an engagement…a law firm first needs to impress its value proposition upon the client."[xiii]

- ***Your Firm.*** The Ancient Greeks first used the aphorism, "Know Thyself," which has been handed down through the centuries. This wisdom challenges law firms to focus their energy inward, to take advantage of the wealth of information available within the organization—also known as "business intelligence"—paying special attention to the firm's strengths. To build strong value propositions, firms must understand all aspects of their benefits—practices, industries, specialties, geographies, attorneys, technologies, processes—and use those features to create statements that will justify their value. Many firms use knowledge management (KM) tools to catalogue their firms' benefits and supporting data.

- ***Your Competition*.** Whether it comes from Machiavelli, Sun Tzu or Don Corleone, the phrase "keep your friends close and your enemies closer" should be heeded by law firms. Your competition, also known as your buyers' next-best alternatives, directly impact your attractiveness. "Companies market their products or services fervently believing that what they offer is of great value. When customers don't respond quite as enthusiastically, it's time to look at the competitors to determine whether they are offering something more or better."[xiv] Fortunately, for the last decade, law firms have benefited from the introduction of competitive intelligence (CI), thanks to professionals such as Dr. Ann Lee Gibson, the first SCIP-certified law firm professional. CI is not the only research to conduct, however, as Edward de Bono warns: "Companies that solely focus on the competition will ultimately die. Those that focus on value creation with thrive."
- ***Your Buyers*.** The 1989 hit movie, *Field of Dreams*, introduced the phrase, "if you build it, they will come," which seems to epitomize law firm strategy. Each year law firms make educated guesses about the number of first-year associates they can keep busy, as if to say, "if we hire them, the work will come." The mistake is in not engaging clients in a dialogue. Direct dialogue with your buyers is critical to your success. According to Holden, "To have confidence in pricing, it is critical to understand some fundamental aspects about customers, their businesses, and what it is they value."[xv] Without "client intelligence," firms do not know what clients value, nor can they create effective propositions or make wise hiring decisions. According to Anderson, "The goal of this research is to generate new knowledge of how the offering adds value or reduces costs for customers relative to the next-best alternative."[xvi] Successful law firms need to hear the voice of the client.

The last two pairs—your competition and your buyers—address Peter Drucker's decades-old dilemma: "Ninety percent of the information used in companies is internally focused and only ten percent is about the outside world. This is exactly backwards." That is why successful value propositions follow this framework:

RESEARCH > CREATE > VALIDATE > CONVERSE

Research

Research is the first step in creating successful value propositions. Law firms need solid, verifiable information on which to base their communications. For firm research, sources of knowledge include time/billing systems, practice group descriptions, case summaries, client alerts, attorney biographies, attorney presentations. For competitor research, law firm websites are fertile resources, as are legal media and vendor software (e.g., WestlawNext, Lexis Advance, Manzama). For buyer research, firms can use buyers' websites, government sources (e.g., PACER, SEC filings), and vendor software (e.g., Peer Monitor, OneSource), as well as first-hand knowledge gained through relationship building. This short overview illustrates that law firms can find—with a little effort—resources appropriate for each value proposition to aid/support the communication process.

Create

Effective research provides material to answer three questions, each related to a different concept:

- ***Substantiate***. The first goal of a value proposition is to tell the benefits the firm provides to clients. This statement must demonstrate to others that it has the experience to support the claimed benefit(s). For example, "Based upon the firm's experience, we can help you __________."
- ***Differentiate***. The next goal is to show how the firm is different from other law firms. With the CI gathered about your

competitors, the firm can prove how it is unique or better than its competitors. For example, "Unlike other firms that stake a claim to __________, we have an advantage because __________."

- ***Resonate***. Finally, a value proposition must be something buyers want to purchase. The firm uses the information obtained during direct engagement. For example, "Based upon what you've told us, we can meet your expectation to __________."

The VP Matrix visualizes the three concepts, adding a 'gut check' of buyer responses. If a firm is not able to ***substantiate*** your claims, buyers will be skeptical of its services, even if it can differentiate and resonate. If a firm cannot ***differentiate*** its services, it will lose its ability to seek value pricing and must price its services similar to the competition just to stay in the game. If a firm cannot get its services to ***resonate*** with prospect, no amount of substantiating, differentiating or even discounting will be enough to convert prospects into clients.

Substantiate	Differentiate	Resonate	Buyer Replies
Not Able	Easy	Strong	How is this a problem?
Able	Difficult	Strong	What's your best price?
Able	Easy	Weak	Why should I buy?

Table 2: The Value Proposition Matrix[xvii]

Validate

After creating successful value propositions, the next step is validating those claims. Once the research is completed, once the communication is drafted, and once the propositions are checked against the VP matrix, the firm's value propositions must pass one more step, perhaps the most important. The last step is to ensure the propositions are focused externally. "A real understanding of the customer and her needs and issues is the foundation of any VP and, subsequently, the sale."[xviii] Recall the point of the VP is to entice the buyer to commit to the exchange:

"A VP statement needs to use understandable and unambiguous language that is meaningful to the customer and the individuals who make up the customer's buying decision-making team (i.e., economic buyers). It must be provable in the sense that it is based on some visible and demonstrable element of uniqueness your company possesses (and, of course, ideally that your competitor does not possess or at least not to the degree that your company does)."[xix]

Lanning, founder of the value proposition, co-created the following checklist to help firms ensure their propositions are on target with buyers:

VP Checklist[xx]

Are the benefits explicit, specific, and clearly stated?

Is the value proposition clear and simple?

Is it clear that the value proposition is superior for the target segment(s)?

Is the value proposition supported by evidence of adequate demand?

Is the value proposition supported by evidence of acceptable returns?

Is the value proposition viable in light of competitors' value propositions?

Is the value proposition achievable?

By following the Lanning/Michaels checklist, law firms will have created the messaging necessary for attorneys to influence buyers' willingness to hire the firm.

Converse

Once the writing and the testing are complete, the third-and-final step in the communication process is to put your propositions into practice. Value propositions, in essence, are created by firms to communicate with buyers, with the goal to influence. While they are helpful in a "one-to-many" campaign, such as advertisements or marketing brochures, their real power lies in the "one-to-one" approach: attorneys using value propositions to engage buyers in a dialogue about benefits.

Armed with well-researched and well-written value propositions, attorneys should feel highly confident in promoting themselves, their colleagues and their law firms. According to Baker, "Any firm that value prices will agree that the conversation with the customer is the most important step in the process. The better your firm *comprehends* the customer's value drivers, the more likely you will be able to *create* maximum value, *convince* the customer they must pay for that value, and *capture* that value with an effective strategy custom tailored to the customer."[xxi]

Strong value propositions give attorneys a high level of self-awareness, which is critical for securing both the engagement and an appropriate fee: "If you don't know your value, why should you expect your prospect to?"[xxii]

Value propositions also provide great leverage when pitching companies with existing counsel: "A superior understanding and expression of value can edge out a formidable opponent with a long-standing client relationship."[xxiii]

The Value Conversation

Value propositions work only if the attorney has the proper training and practice for a value conversation. Several steps will help your preparation:

First, what is the context? Are you talking with a prospect or client? Are you responding to the company's request for services or making a proactive approach to a contact? Each scenario is valid, but each carries a very different psychology and game plan; prospect value propositions are not presented the same as client value propositions. Therefore, don't expect a one-size-fits-all approach to be successful.

Second, what is the buyer's issue? Value propositions are designed to match the firm's strengths with the buyers' needs. Ideally, a firm goes into a value conversation armed with the knowledge of the buyer's problem ("pain points"). For prospects, value propositions work only after gathering and analyzing information about the prospect, which can be enhanced through relationship-building. For clients, a relationship already exists, so the firm will be at a disadvantage if it doesn't know the business or the potential issues. "If your customers will not talk to you, in-depth, about their issues and the things that are important to them, then your ability to create and deliver a differentiated value is severely limited."[xxiv]

Third, what is the buyer's goal? Knowing a client's issue helps the firm understand the problem. The other side of the coin is the preferred solution. As any attorney with a few years of experience knows, different buyers can approach the same problem with very different objectives. For example, when Starbucks sued a Chicago dog salon (Starbarks) and a Houston bar (Star Bocks), the company was not worried about lost revenue or business impact; its goal was to preserve its good name and trademark. A true value conversation isn't designed around the attorney's best practice. Rather, this dialogue centers on the client and what fits his/her needs. "Since value is always subjective, you have to get close to the customer to understand exactly what she values."[xxv]

With these three steps, attorneys should have productive, more successful conversations. Attorneys, however, do not change behavior easily. Firms need to be very concerned if their attorneys don't buy into value conversations. Absent training, there is danger in communicating poorly or, worse, failing to communicate: "Failing to communicate…effectively means that the customer has to determine what she thinks your VP is for herself. This is clearly fraught with danger and runs the risk of a customer either failing to appreciate fully just how valuably differentiated your solution might be or making assumptions that turn out to be incorrect. Either way, you lose out."[xxvi]

Value Pricing

Would you pay $1,500 per hour to have a dead animal removed from your yard? Would you pay $1,600 per hour to have the keys rescued from your locked car? Instinctively, we would never agree to such extreme prices. After all, how many excellent attorneys do you know that don't even bill $1,000 per hour? Yet, when faced with a significant problem, the solution often is more important than the price.

In September 2012 ***Fast Company*** article, "What a Dead Squirrel Taught Me About Value Pricing," Neil Baron recounted the tale of a strange odor under his screened-in porch that, left unidentified, became an unbearable smell days later. Worse than the smell was Baron's mother-in-law's pronouncement: the porch needed to be torn down and rebuilt. Faced with such a drastic option, Baron phoned a local pest control company. Within five minutes of arriving, the animal expert found a dead squirrel and removed it. The smell vanished, and Baron's porch was saved.

What was the value of this solution to the homeowners? Probably a lot more than the $125 NW Pest Control charged the Barons. Neil confirmed: "We were overjoyed. I told my wife it was the best $125 we ever spent." The customers were quite satisfied; perhaps they even got a bargain. In fact, as Neil deduced days later, he paid the equivalent of a $1,500 hourly rate. Although the 'absolute price' – the dollar amount of a product or service – was quite high, the value of the exchange was the exact opposite: a bargain.

I faced a similar "value" moment in 2013. It was March 31st – Easter Sunday – and my family had travelled from Indiana to the northwest suburbs of Chicago to celebrate the holiday with family. As we sat around the dinner table, I reached in my pocket to share my new keychain. Not in that pocket, nor in that one, or in this one. After searching multiple pockets—slacks, dress shirt, sport coat—I had a moment of realization: I left the keys in the car. Sure enough, a trip outside confirmed the keys were in the center console. My younger brother and I tried to unlock the car ourselves. We came close, but our best efforts with homemade tools were useless.

The solution, of course, was to call a locksmith…on Easter Sunday. The price? $135, for five minutes of work. That's $27 per minute, or $1,620 per hour. Do you know what my reaction was? Similar to Baron, I felt only happiness and relief. The family holiday was saved, and I could go on with my day as planned. Like the MasterCard commercial, the moment was priceless (although I confess I paid with a Visa).

It wasn't until weeks later, when I read Baron's article, that I realized I had a 'dead squirrel' moment. Trying to rationalize my 'ridiculous' expense, I added the locksmith's travel time (apx. 20 minutes), paperwork (apx. 10 minutes), mileage and dispatcher fee. The additional time and expenses reflecting a fuller investment the locksmith put into my service call effectively dropped his hourly rates under $250. That felt better, even though my exercise proved Baker's maxim: "people buy emotionally and justify intellectually."

As a pricing professional, I found the value of this purchase directly connected to my willingness-to-pay. Would I have paid $150? Yes. $175? Probably. $200? My WTP would have been tested had the price gone above $200, but what was the alternative? By charging $135 instead of $200, the locksmith lost 50% of my WTP price, all of which would have been pure profit. That is why Mohammed's *The 1% Windfall* is so compelling: the higher you can price your product or service above the break-even point, the more you add to your profit at a faster rate.[xxvii]

What, then, is value pricing? According to Kotler, it is "offering just the right combination of quality and good service at a fair price." Baker suggests the offering also should be something for which "a customer is willing to pay" and should be agreed to "before the work begins."[xxviii]

Both definitions, it should be noted, exclude the concept of cost. In fact, no definition of value pricing theory exists that includes cost; in essence, value is the antithesis of cost.

In the groundbreaking work, ***The Strategy and Tactics of Pricing***, the authors illustrated the stark contrast between a cost-based pricing model and a value-based pricing model:

Cost-based Pricing

Product → Cost → Price → Value → Client

Value-based Pricing

Client → Value → Price → Cost → Product

Figure 4: Alternative Approaches to Value Capture[xxix]

For firms employing the cost-based model (as most do), they start with the product they will offer, calculate the cost to provide the service, then add a margin mark-up to determine the price. Once the price is determined, the firm tries to determine its value and create ways to package it for prospective clients.

For value-based firms, the starting point is the client and its 'pain points.' These law firms know they exist only because companies have needs beyond their in-house capabilities (whether quality or quantity). As a result, value-based firms take time to assess their clients' needs and assess ways to add value. Then firms calculate the price clients would be willing to pay for that value. "A company's price is the only opportunity it has to capture the value it creates for the customers it serves."[xxx]

The typical law firm clearly falls into the cost-based camp. Firms start their financial calculations with fixed costs (e.g., payroll, rent, insurance), add in overhead (e.g., marketing, supplies, maintenance) and top it off with anticipated earnings (e.g., partner pay-outs, profit). This pre-Recession model of law firm management is no longer able to sustain profitability, nor to secure long-term growth.

By contrast, a value-based law firm puts its focus on its clients, discerning what they (as the buyers) want from their suppliers. From there, both sides define value and WTP, then the firm determines how to package the services to meet the value standard, which includes setting and minimizing the costs of delivery.

Value pricing begins with three key components, all of which have been presented previously: a strong understanding of your benefits and how they add value to your target clients, a strong understanding of the benefits offered by your competitors, and, most importantly, a detailed understanding of your target buyers. In other words, at its core value pricing is based on value propositions. In addition, value pricing is driven largely by willingness-to-pay. WTP means the client perceives the price to be fair, which matches the firm's attitude. As pricing consultant Colin Jasper say, "fair to the client, fair to the firm."

Back to The Future of Law Firm Value

"The concept of value-based billing has strong roots in the [legal] profession," according to Arthur Greene, author of *Increasing Revenue.*[xxxi] In fact, until World War II, it was common practice for U.S. lawyers to bill "for services rendered."

Post-World War II, the ABA appointed a special committee to study the profession's slow decline in public stature. The Special Committee on Economics of Law Practice concluded clients did not appreciate the value lawyers added to society; they were viewed more as technicians than solution providers. The Committee believed lawyers needed to prove their value, so the ABA adopted and encouraged the use of the billable hour. Although the billable hour may not have been a lawyer's best friend over the years, it has been a lucrative practice.

Since the Great Recession, the legal industry finds itself in a more-supply-than-demand market. Law firm clients are challenging law firms' value and valuation (pricing). With increased competition, decreased demand, and a highly leveraged model, law firms facing the 'new normal' find themselves focusing their attention on the mechanics of pricing. They miss the forest for the trees: value-based pricing needs to be the focus. As Baker notes, value pricing is critical for professional service firms: "Since hours spent on an engagement do not relate to the value created, if the objective of the firm is to maximize—or even optimize—profits, then value pricing needs to become a core competency so firms are better able to align price commensurate with the value they create."[xxxii]

Innovative firms are adopting pricing strategies and project management techniques and considering how best to provide clients with value. The Associate of Corporate Counsel (ACC) attempted to improve the 'value' dialogue in 2008, when it launched its Value Challenge: a nationwide initiative focused on reconnecting value to the cost of legal services and on improving value in the firm-client relationship. The International Legal Technology Association (ILTA) recognizes the law firms and legal professionals that are improving the industry through value and innovation with its annual Distinguished Peer Awards.

In addition, the legal industry has two visual aids that help legal professionals understand the concept of value.

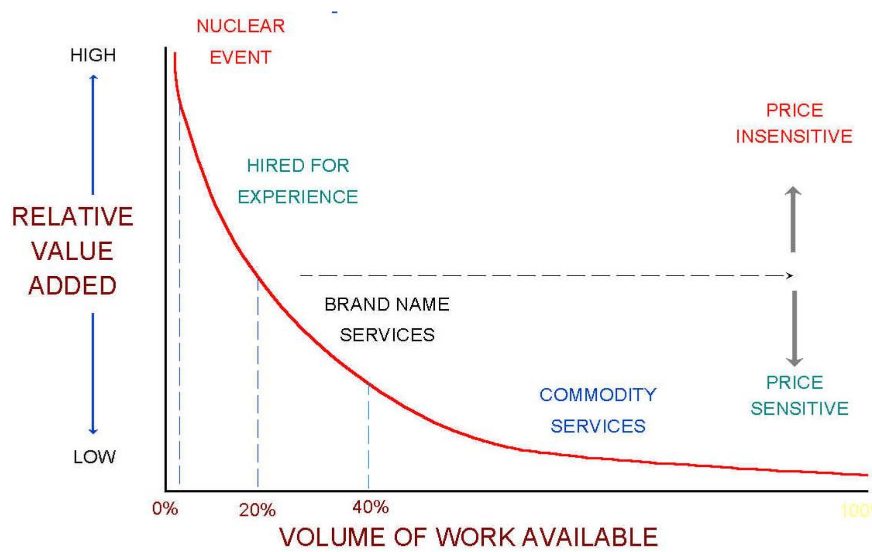

Figure 5: The Cobb Value Curve: The Competitive Position Profile

The Cobb Value Curve (see Figure 5) illustrates the worth of four types of legal matters: unique services, experiential services, brand name services, and commodity services. Like a demand curve, Cobb's curve moves left to right on the volume scale, and top to bottom on the value/price scale. As value drops, volume increases, moving the curve downward and to the right, until legal services reaches the commodity point, where value is very low and volume is very high. Movement along the curve indicates a shrinking relative value as more work is available.

The Value Bike™ (see Figure 6) is a typogram illustrating the vital elements a lawyer needs to deliver value, specifically work product and relationship. From the wheels, the bicycle is connected to its value core through a number of components which help a lawyer deliver services to, and maintain a relationship with, a client, including communication, expectations, branding and differentiation.

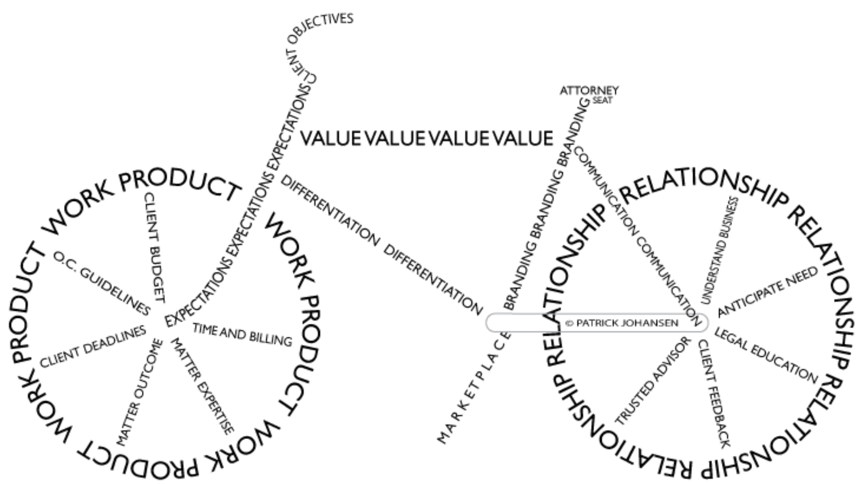

Figure 6: The Value Bike™

Conclusion

To be successful, law firms must embrace the concept of value. Buyers will not purchase a service that is worth less that the asking price. More importantly, without value, services are reduced to a commodity.

In the near future, law firms will continue to build and grow their pricing functions. Pricing is a necessary skill in hypercompetitive market, just not the sole skill. By 2020, legal services will have exhausted the short-term fix provided by a numbers-driven approach to pricing and evolved to the industry's core offering: value.

The intervening years will witness a greater understanding of Price, Value, Willingness-to-Pay, Value Propositions, Differentiation and the Value Conversation. Each contributes to the success of sellers in a buyers' market. Each helps lawyers talk about value.

In the end, value is priceless.

About The Author

Patrick Johansen, CLM, CPP is an elected Fellow of the College of Law Practice Management. He has spent more than a decade in the legal industry, leading business development and marketing departments. In recent years, he has been focused on pricing, process improvement, strategy, and practice management. He is the first and only law firm professional to be certified in both law firm administration (CLM) and pricing (CPP).

As the first Certified Pricing Professional working in a US law firm, Patrick is recognized as a thought leader in the field of law firm pricing. He launched and authors the first law firm pricing blog (***Patrick on Pricing***) and the first Twitter account dedicated to law firm pricing news (***#PatrickPricing***).

An award-winning writer and speaker, Patrick has contributed articles to ALA's ***Legal Management***, LMA's ***Strategies***, and ILTA's ***Peer-to-Peer***, winning ILTA's 2013 Outstanding Article award for "Law Firm, Meet CEO." His chapter on The Value Bike appears in the ABA's ***Pricing on the Front Line*** (2015).

Patrick is past board member of the LMA Midwest Chapter and ALA Greater Chicago Chapter. He is a member of the Association of Legal Administrators (ALA), the International Legal Technology Association (ILTA), the Legal Marketing Association (LMA), the Legal Sales & Service Organization (LSSO), and the Professional Pricing Society (PPS). He earned his BA at DePauw University and his MA at Purdue University. Visit *www.patrickonpricing.com* for more information.

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