2020 Annual Conference
March 18-20, 2020
Dallas, TX

Leveraging Data and Analytics to Drive Business Value

Introduction:

Data analytics and technology continue to have an immense impact on the legal industry. More law firms now than ever are turning their attention to metrics and analytics to help meet the escalating demand from clients for more effective and efficient legal services.

Data is now one of the greatest assets that any business can own. Businesses, including law firms, now know that their data can be used for a competitive edge. It is critical for law firms who want to thrive in the future to understand the business value of data utilization and to know how to strategically collect, store, and leverage data to make better informed decisions, optimize strategies and elevate their relationships with clients. Law firms that are actively leveraging data to make better informed business decisions are realizing the benefits of market differentiation, longer term sustainability, and future profitability.

These law firms recognize that simply having data isn't enough. Therefore, this narrative will explore how law firms can develop, capture and effectively utilize data to make better informed business decisions for their practice and for their clients. Further, this narrative will explore why law firms need data, the importance of analyzing that data, and how firms can transition from a matter management to a data driven mindset.

1. Understanding Why Law Firms Need Data and What Data You Need

At the outset, it's important to note that in the most industries, particularly those that are data driven like the insurance industry, information drives insight, which enables action. Today, law firms that have data but don't act upon it risk falling behind industry norms. In order to begin the transition from an information management to a data driven mindset, law firms first need to identify what questions they are trying to answer and what action they would take if they had sufficient data available to inform their examination of those questions. For example, analytics can help law firms identify how much specific types of cases will cost, how long those cases will take, and predict chances of success and potential outcomes. Law firms can also use analytics to derive successful outcomes by uncovering patterns in how certain judges or courts have ruled in the past in similar cases, to garner intelligence on opposing counsel, to attract clients by using data to quantify a firm's experience and distinguish it from its competitors, and to better understand its own operations. (*See How Data Analysis is Disrupting the Legal Industry, Ryan Conley, March 20, 2019*, *www.biggerlawfirm.com*). To succeed with data analytics, however, laws firm must first identify what business problems or legal issues it is trying to solve.

Data analytics can be used to address a number of common business questions or legal issues faced by law firms. Examples include:

- Understanding pricing structures and the cost of legal services
- Doing more with less, but not sacrificing quality for efficiency
- Trends in verdicts and changes in the law that could impact global resolution strategies for clients
- Becoming a better strategic business partner and establishing long term relationships with clients
- Achieving more effective total cost case outcomes
- Attaining competitive intelligence as a differentiator in the legal market place
- Comprehensive complex case assessments to devise the most effective strategies early

In addition to the above, it's no secret that data analytics can boost a law firm's profitability. Take the case of DLA Piper's client retention data analytics program. The firm identified a large-scale problem with retaining and growing revenue and worked with a consultant to build a model that was able to predict with 75-80% accuracy clients that would shrink or go dormant in the next year. The model identified 1200 "at risk" clients. The firm then created a prescriptive model to identify necessary corrective actions, resulting in an estimated increase of approximately $38 million in revenue for the firm. (*See Inside DLA Pipers Client Retention Data Analytics Program*, *Zach Warran, Aug. 17, 2017, Law.com).*

The movement toward actively utilizing data to inform business decisions and elevate the quality and consistency in the delivery of legal services has continued to gain momentum. In a 2017 survey of more than 300 litigators, trial attorneys and libraries conducted by ALM Legal Intelligence and LexisNexis, 90% of respondents who had used analytics in the previous three years, reporting seeing value to their operations , with nearly one third of those reporting that analytics were "invaluable to their firm". (*See 4 Ways Law Firms Benefit from Legal Analytics, Josh Becker, LexisNexis).* Similarly, in a 2018 survey conducted by Bloomberg Law and Above the Law, 70% of 1,117 respondents agreed that "the use of analytics has given my firm a competitive advantage" and 64.7% agreed that "the use of analytics has provided significant insight beyond what I obtain from other types of tools." Further, 66% of the respondents indicated that they were using analytics tools "to inform litigation strategy", 62% of respondents indicated that they were using analytics tools "to better advise clients", and 29% indicated that they were using analytics "to forecast profitability of cases/matter." (*See Analytics Give Law Firms the Competitive Edge, Darby Green – Bloomberg Law*, Aug. 5, 2018).

The evolution of analytics is rapidly shaping today's more advanced law firms. Such firms have embraced data, analytics and technology as a market differentiator and recognize that making better decisions for their firms and their clients enhances their relationships and longevity. In 2019, as of September, annual investments in legal technology companies, totaled at least $1.2 billion dollars, up from $1 billion the prior year. (*See Bob Ambrogi, LawSites*, Sept. 16, 2019). Some commentators believe that this figure is much higher.

Types of Data Analytics

There are four types of data analytics: Descriptive Analytics; Diagnostic Analytics; Predictive Analytics; and Prescriptive Analytics.

Descriptive Analytics

Descriptive Analytics asks what happened? Descriptive analytics focuses on the basic information of the who, what, when, where, and how many. Descriptive analytics are enhanced when the information is given in context, such as benchmarking against a prior year or trending views. Further, defining a result as normal or abnormal enhances the utility of descriptive analytics.

Examples of where descriptive analytics are utilized include:

- A corporate law department might want to know how much it spent on Outside Counsel in 2019.

- A law firm might want to know, the average days an employment case in its office is open.

Diagnostic Analytics

Diagnostic Analytics asks why did something happen? Diagnostic analytics are used to discover the cause of a problem or identify what went wrong.

Examples of where diagnostic analytics are utilized include:

- A corporate law department might want to know why its outside counsel spend increased in 2019.

- A law firm may want to know why profits from its Alternative Fee Arrangement program with a particular client decreased in 2019.

Predictive Analytics

Predictive Analytics asks what will happen? Predictive analytics relies upon historical patterns to predict future probabilities / outcomes.

Examples of where predictive analytics are utilized include:

- A corporate law department can use predictive analytics to determine how much it expects outside counsel spend to be in 2020.

- A law firm can use predictive analytics to determine how a certain judge can be expected to rule on a motion for summary judgment in a particular venue.

Prescriptive Analytics

Prescriptive analytics asks what should be done to make something happen?

Examples of where prescriptive analytics are utilized include:

- A corporate law department can use prescriptive analytics to determine which attorneys should be hired for specific case types.

- A law firm can use prescriptive analytics to determine whether a motion for summary judgment should be filed in a certain case.

Some organizations may be using only some of the above types of data analytics. Best practices, however, dictate that the most effective organizations use all four forms of analytics to make better business decisions, inform strategies and better align with customer and client performance expectations.

2. Using Data Is More Important Than Having Data

It is essential that in order to leverage data to answer questions and inform key business decisions, law firms must not only collect relevant data and store that data in a format and location that works for its users, it must actively analyze and take action based upon that data. Simply having the data is not enough; law firms must engage in data analytics to strategically elevate their business decision making capabilities and capacity to enhance the future health of their operations.

Historically, the legal field has relied heavily on attorney expertise and experience to make case decisions and engage in predictions related to many aspects of case management including best strategies, likely outcomes and estimated costs. Today, however, lawyers can add to their expertise and experience, data analytics as "a dynamic asset they can use to root out previously unseen relationships and conclusions." (*See The Rise of the Data-Driven Lawyer, David Curle, Director, Technology and Innovation Platform, Thompson Reuters Legal Executive Institute*, Aug. 16, 2018).

Data can be used to analyze information on a micro level or a macro level. Micro data is typically described as individual level data. In the law firm content, on the micro level, such information can help to inform the decisions being made on a single case. For example, a law firm could use data analytics to assess the likely outcome of one specific case. On the macro level, however, data can be analyzed on a global organizational level to assess operating strategies or key performance trends. For example, a law firm could use data analytics to assess year over year trends as it relates to legal fees for a particular type of case, such as automobile accidents, construction, products liability, etc.

Organizations also must resolve to establish a discipline for assessing business results to operate proactively versus reactively. Regular meetings need to be held and standards need to be established to define what is normal in terms of results and operational continuity. Most importantly law firms also need to avoid getting caught up in the exception aspect of data analytics. Traditionally, many attorneys have been educated and trained to seek a near 100% certainty in making decisions or potentially face dire consequences resulting from unfavorable results. Data analysts, however, often employ the 80/20 rule. If information is accurate 80% of the time and inaccurate 20% of the time, such information is deemed sufficient to make a correct decision. In the course of moving from a matter management mindset to a data driven mindset, attorneys are cautioned to recognize that information that is less than 100% accurate can still add immense value to solving key business issues and developing impactful organizational strategies for the future.

3. Establishing a Data Driven Mindset

What does it mean to be data-driven? To be data-driven "means that progress in an activity is compelled by data, rather than by intuition or personal experience." (*See* Wikipedia).

While creating a data-driven law firm is not going to happen overnight, working towards a data driven mindset is essential for law firms of the future. Many attorneys have historically viewed each case as a unique set of issues, challenges and circumstances. Attorneys who want to thrive in the future, however, need to recognize that data provides additional insight that enhances operational intuition, informs case handling strategies and elevates conversations with clients above the norm.

Making the shift to developing a data driven mindset requires law firms to invest in the right technologies, tools and resources. A Harvard Business Review study identified a number of important traits for organizations that are at the forefront of analytics and helping firms make the transition. These traits include the following: top executives mandate the use of analytics and a well-defined decision-making process; analytics leaders use the right metrics; promoting decision making transparency; an emphasis on training to get the most out of analytics; and spreading analytics professionals throughout the entire organization and not just the leadership. (*See Harvard Business Review – The Evolution of Decision Making: How Leading Organizations Are Adopting a Data Driven Culture – April 20, 2016).*

"Creating a data-driven law practice is a matter of competitive survival. And it's much more than simply the adoption of a new tool or product. It requires a shift in mindset for individuals, and a significant cultural change for their organizations." (*See The Rise of the Data-Driven Lawyer, David Curle, Director, Technology and Innovation Platform, Thompson Reuters Legal Executive Institute*, Aug. 16, 2018). Establishing this mindset is revolutionizing the practice of law and allowing lawyers to do their best work and practice at the upper tiers of their licenses, resulting in better and more informed decisions for their clients, alignment across their organizations and operational excellence in key areas.

Conclusion:

The quest for greater predictability in legal cost management and litigation outcomes is at the forefront of our industry. Law firms that are leading the way in this area have embraced the need to understand and apply metrics, data and analytics and the role they play in matter management and all levels of their day to day operations. They recognize the connection between data analytics to the success of their firms and their client’s overall satisfaction. Knowing what data is key to a law firm involves first understanding what is essential to its business priorities and client needs. What data law firms capture, measure and act upon must inform and add value in a meaningful and impactful way. For the corporate / insurance client who use data to assess the performance of their legal service providers it is critical that the firm know what is being measured and how the results are being used. For the law firm it is critical that its operations at all levels be aligned with a focus on creating a culture within the firm that will result in productive and meaningful client relationships. Law firms that have fully embraced and integrated data and analytics into their operations effectively and efficiently offer actionable solutions to critical business issues, matter management and day to day operational challenges and thereby realize the benefits of market differentiation, long term sustainability and future profitability.