

CHALLENGING THE STATUS QUO IN LAW FIRMS

A LEGAL BUSINESS REPORT BY ADERANT



An enquiry into how firms
can drive greater operational
efficiency and prepare for the
future of law

Aderant

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EXECUTIVE SUMMARY

Most law firms recognise that the legal market is changing. Most also believe that the business of law must evolve too, to meet changing client demands and grow the business. To do so, all of the many business processes and procedures involved in running a law firm merit evaluation for improvement, in order to be more profitable. With so many variables that can affect the firm business, it's hard to decide where to begin.

This is where the status quo creeps into the subconscious as well as the conscious mind. "It's always been done this way" is an attractive solution because it feels safe. Maintaining the status quo is a form of risk aversion, and it serves a purpose in a static environment. This "status quo bias" can oftentimes blind law firm leadership from considering alternative courses of action to improve efficiency and profitability.

There are recent examples of companies in other industries that failed to see the business risk of status quo thinking, such as Blockbuster missing a huge opportunity with Netflix. There is also the cautionary tale of Eastman Kodak's costly digital camera mistake of simply doing something different as opposed to doing the right things differently.

Law firms are no longer able to be technological laggards that are resistant to change. The business challenges, pace of change, as well as new opportunities that didn't exist years ago, make it a necessity. Modern law firms are demonstrating exemplary creativity in legal problem-solving today. The majority of this problem-solving stems from simply looking beyond status quos and refusing to accept that this is as good as it gets.

In our discussions with hundreds of law firms from around the world, we see examples of status quo thinking in various forms, stemming from finance, culture, and legal technology. These do not all apply to every firm, but for those firms looking to build a sufficiently attractive case for change, these 12 alleged status quos represent practical starting points.

Aderant proposes a well-reasoned approach is to challenge status quo thinking in law firms. This means examining why law firms execute business processes as an exercise in identifying areas for driving operational efficiency and preparing the firm for the future of law.



THE ALLURE OF THE “STATUS QUO”

“It’s always been done this way.”

Sometimes things are done a certain way because it’s the best practice. Other times we do things without a thought to process improvement. After all, humans are creatures of habit, and we gravitate toward the familiar. The familiar is known, and believed to be safer than what is new or different. **This is known as status quo bias.**

There is a cognitive bias that explains our preference for familiarity. Many of us tend to resist change and prefer the current state of affairs. The publication *Psychology Today* cites several studies that offer explanations as to why we do this and concludes:

“Even when we understand our current path is no longer beneficial or no longer makes us happy, we must still overcome the natural urge to stay on the path unless the alternative is sufficiently attractive.”

When things are sufficiently attractive to make a change, it’s probably already too late. Discomfort is a leading indicator. The current legal climate, which is squeezing law firms between market pressures and growing costs, is at the very least uncomfortable.



STATUS QUO AS A BUSINESS RISK

Maintaining the status quo is a form of risk aversion, and it serves a purpose in a static environment. Business, on the contrary, is dynamic and fueled by innovation and change. This is where the two intersect and how status quo thinking introduces business risk.

Blockbuster, for example, was the dominant movie rental store of its day. It resisted the innovation of streaming media, in preference for its brick and mortar locations. In 2000, [Blockbuster](#) reportedly had an opportunity to buy Netflix for a mere \$50 million. That same year it also earned [16% of its revenue](#) – \$800 million – from late fees.

The incentive to change was not sufficiently attractive compared to the existing benefits of maintaining the status quo. Slowly but surely, the market evolved over the course of a decade. By the end of 2010, the rental movie store giant filed for bankruptcy. Meanwhile, Netflix revenue is set to top \$10 billion in revenue by the end of 2017.

DOING DIFFERENT VS.

DOING THE RIGHT

THINGS DIFFERENTLY

It's easy to be lulled into the idea that status quo is simply a refusal to accept and respond to change. It's deeply rooted in the culture of an organisation. There is the wide difference between doing something differently, and doing the right things differently.

The Eastman Kodak case study is instructive here. The company invented the digital camera in 1975 but filed Chapter 11 bankruptcy almost 40 years later. Many observers say the bankruptcy was a consequence of the digital evolution in photography, but real wisdom is buried in the nuance of the company's fall.

Contrary to popular belief, Kodak, in fact, did invest in digital photography. It even went as far as to acquire an online digital photo site in 2001, according to a piece in the [Harvard Business Review](#), which also noted:

“The right lessons from Kodak are subtle. Companies often see the disruptive forces affecting their industry. They frequently divert sufficient resources to participate in emerging markets. Their failure is usually an inability to truly embrace the new business models the disruptive change opens up. Kodak created a digital camera, invested in the technology,

and even understood that photos would be shared online. Where they failed was in realising that online photo sharing was the new business, not just a way to expand the printing business.”

Kodak did eventually emerge from bankruptcy, albeit as a much smaller company. So, surviving the status quo is possible, if emerging in a weakened state is an acceptable business outcome.

The parallels to the legal market are stunning. The legal community is ripe with technological innovation. Corporate clients are demanding greater transparency, efficiency in work, and predictability in costs. Law firms face pricing pressure and competition from new sources – even as the market grows more competitive and demand remains flat.

If the 2008 recession is widely considered the catalyst for transformation in the legal community, we are now entering the ten-year mark. The next decade has the potential to distinguish between those law firms that adapt and evolve, and those that maintain the status quo and emerge in a weakened state.



STATUS QUO THINKING IN LAW FIRMS

Law firms tend to get labeled as technological laggards that are resistant to change. That might have been true ten years ago, but that generalisation does not reflect our recent experience. Modern law firms are demonstrating exemplary creativity in legal problem-solving today.

We saw this as a common denominator in [The 2017 Aderant Business of Law and Legal Technology Survey](#). For example, almost half (47%) of respondents said who they collaborate with inside a law firm is different today than it was five years ago. This illustrates how the front office and back office are becoming more tightly integrated into the pursuit of identifying creative legal solutions.

The problem that remains is some firms still stick to the familiar even in the effort to think creatively. For example, when asked on the same survey which technologies are most effective, law firms instinctively selected document management (66%).

Document management is undoubtedly a productivity-enhancing tool. It's also very tactical, rather than transformative.

In our discussions with hundreds of law firms from around the world, we see examples of status quo thinking in various forms stemming from finance, culture, and legal technology. These do not all apply to every firm, but for those firms looking to build a sufficiently attractive case for change, these represent reasonable starting points.



1. The year-end collections push is necessary to accelerate revenue.

Aderant research indicates on average, about one-third of the law firm revenue comes in the final month of the year. This is because law firms tend to make a massive push at the end of the year to draw in collections.

This creates several problems. First, it introduces cash flow challenges for the first few months of the year, as cash gained in December often goes to annual expenses and payouts. Law firms can see this in their metrics like work-in-progress (WIP) and the average age of accounts receivable (A/R).

Second, such pushes often come with a hit to profitability. As firms strive to collect on overdue accounts, they are more inclined to make discounts. Sometimes these year-end discounts are over and above work that has already been discounted.

Finally, when an entire law firm is focused on the year-end push, it's not doing other important strategic activities such as planning, business development, cross-selling or even software and system updates (which is important to contemporary cybersecurity measures).

Breaking this status quo begins with a focus on building efficient processes to identify and prioritise accounts outstanding, and develop a systematic approach to collection. This should include aspects such as the automation of collection letters and billing partner escalation.

Firms that do this well are proven to bring the average time-to-collection down and flatten out revenue earned month-to-month. In turn, this provides better predictability into law firm finances, improves cash flow and profitability.



2. Increasing revenue automatically increases profits.

Running a successful law firm takes business savvy, because you must strike the right balance between revenue per client and costs. This margin is the key to maximising your firm's take-home dollars.

Managing that equation can seem straightforward: If you want to boost your revenue, you simply bring in more clients. But simple isn't the same as easy. In fact, every client comes with cost. And some of those costs are invisible to many partners and directors. That's because most firms are managing a complex infrastructure behind the scenes.

For example, say you're a partner who's prepping for a client meeting, you need to present the latest information, so you send out enquiries to your team. They pull billing information from the financial system. They check the timekeeping system to validate hours spent and remaining. They look at case documents and calendars to understand the next steps. It takes input from a lot of people to build a complete picture. Once they report back via emails and Excel spreadsheets, an assistant or paralegal pulls together client-facing reports to bring with you.

After the meeting, you return to the office with new information and to-do items. So, you send more emails to update each system and assign new tasks. This process is far more sophisticated than the paper records of the past, and that's thanks to all your efforts in digitising your timekeeping and document storage and billing.

But while this model has served you well for years, the legal landscape is changing. And many firms find that their infrastructure is starting to strain under the pressure. The natural reaction to these pressures is to drop rates so you can keep your clients, but that makes it harder to maintain or grow your revenue.



In response, many firms push to make up the difference by bringing in more clients. To support them, you need more infrastructure—more labor and servers and tools. All these additions look like growth, but they actually create more complexity and cost. And worst of all, this entire environment can be insecure to the growing risk of cyberattacks and data loss.

The bottom line - when you combine rising costs and risks with this shrinking revenue, you're going to have to work twice as hard tomorrow for the same or even less take-home pay than today.

When your practice information is spread across multiple systems and locations, the only way to support growth is to add cost and complexity. So, you'll never get ahead by focusing on revenue alone. Instead, the deeper issue is secure efficiency. You need to create an infrastructure that's both efficient and secure, which means:

- You must streamline and consolidate access to your critical business and practice information.
- You need to ensure that work is done only once instead of multiple times, in different ways, by various people.
- And you need to systematically standardise best practices across the firm—not just for legal work, but also for billing and information security.

As a result, you can take on more clients and cases without bloating your infrastructure. That means you'll better serve your clients while increasing the firm's take-home pay.

3. We need to generate a monthly pre-bill even if we are not invoicing the client.

Law firms tend to generate pre-bills monthly. Large law firms can generate several thousand pre-bills even if they have no intention of actually invoicing the client. Those firms may have quarterly, annual or even contingency fee arrangements in place.

In 2015, Aderant analysed billing metrics from 50 law firms and found this practice is surprisingly common. Some firms said this happens with half of all their client accounts and a few said it was true 80% of the time. Essentially, these law firms are using the monthly pre-bill process to get a status check on work-in-progress (WIP).

This comes at an incredible expense considering the time, resources and effort that goes into the pre-bill process. More importantly, it's completely unnecessary because a [modern law firm billing system](#) puts this information at a partner's fingertips. There's no need to even send an email requesting a report because these can be generated with a click of the mouse or the touch of a screen.

4. AFAs just means the client wants a discount.

In the business of law survey, many respondents said most clients preferred hourly billing to alternative fee arrangements (AFAs). They suggested that many in corporate counsel were first trained in law firms under a billable hour structure.

The status quo is that has emerged is to simply offer a discount. For instance, when a client asks about AFAs, the law firm offers a 15% discount.

What clients are really after with AFAs is predictably in legal budgets. Firms that buck this status quo and make an effort, have an unprecedented opportunity to build stronger clients relationships.

It starts by understanding costs such as having one expert witness versus three or getting a good sense for what the average deposition requires regarding time.



5. AFAs are not as profitable as billable hours.

Research suggests that while a lot of firms have experimented with creative pricing – a median of 14% of client accounts are structured under AFAs – they haven't exactly dived in with enthusiasm.

Some law firms resist AFAs because they perceive these as unprofitable. That probably has more to do with the fact that alternative pricing strategies are still emerging as a discipline. AFAs that are unprofitable imply an insufficient understanding of the costs to deliver the service – or an inability to manage the costs effectively.

Whether or not clients truly want AFAs, they are still inviting the conversation. Law firms that focus on data collection can develop the capability to accurately price AFAs. Imagine the competitive advantage of the law firm that responds to such a request with a confident prediction of costs for client and profitability for the firm.

6. Late time entry is just a fact of life in law firms.

It's not unusual for an attorney to complete a legal task for a client on the second day of the month, but delay making a time entry until 20 days later. It's challenging to remember what one did yesterday, let alone what we did two or three weeks ago. It's possible to reconstruct the time by looking through emails and notes, but studies suggest, this leads to under billing for fear of overcharging a client.

This simple status quo creates a compounding problem:

- Partners can't describe for clients the status of WIP until the end of the month
- Pre-bills are delayed or inaccurate with slows invoices
- Invoice delays have an adverse impact on cash flow and profit

No other industry in business operates this way – it just unacceptable anywhere else. A law firm that wants to improve margins can do so by improving the ability to capture time, real-time, which requires easier ways for the fee-earners to take action.



7. It will always take the firm three weeks to get an invoice out the door.

An invoice dated the first of the month, may not actually be sent to a client until three weeks later. In the business of law and technology survey, more than 90% said their firm spends too much time during the billing and invoicing process.

Reducing the time to get bills out the door is entirely possible. Twenty-five percent of firms surveyed say their firm completes invoices in a week or less – and 11% do it in just 72 hours or less.

These firms have implemented automation that automatically routes pre-bills through review and approval and supports paperless initiatives. They have found ways to remove the expense of excessive clicks and touches from the pre-bill processes. An Aderant firm recently reported that with the automation, the amount of time their fee earners spent reconciling their billables dropped from between seven and eight hours to between 30 minutes and one hour.

8. Timekeepers have no business in technology procurement.

One reason some partners scribble down time entries on sticky notes and pass them off for someone else to enter is that they have little involvement in technology decisions. Whether that's by choice or not, the rest of the staff hesitate to disturb lawyers to ask for input.

Their involvement throughout the process is crucial if we want them actually to use the technology and realise the full potential. In fact, major system purchases should actively seek stakeholders from across the firm including attorneys, the IT shop, and the department championing the acquisition.

This fosters a sense of shared risk and forms stronger internal collaboration. Firms that develop a collective responsibility for technology are more prone to remain current on updates that support productivity and security.



9. Project management is a dirty word.

Law firms have inherent need to collaborate because having just one expert working on a project doesn't scale. To nurture more productive collaboration, firms have begun turning to project management.

Initially, project management was associated with bureaucracy and over-administration, but it has evolved significantly in recent years. For example, many software development methodologies, such as Lean, Agile and Six Sigma have been adopted for casework and project management.

Improving operational efficiency was second only to pricing among top law firm challenges identified by respondents in the business of law and legal technology survey. This is in part what is driving project management to be a light and flexible process aimed at improving efficiency.

10. Compensation is the most important law firm incentive.

When law firms change compensation models to incentivise profitability over billing hours, it is worthwhile also to consider the role it plays with the millennial generation. [Research shows millennials](#) place a greater emphasis on work-life balance, ethics, and civic activities, than previous generations. Firmwide policies on [telecommuting](#) and volunteerism are non-monetary factors law firms should consider when modeling incentives.



11. Replacing a billing system is only about back office efficiency.

The replacement or upgrade of a law firm billing system only happens once every 10 or 20 years. The project is significant enough that it has become something bigger than itself: it's not merely about replacing a billing system, but a once in a lifetime opportunity invest in the future success of the firm.

This is a chance to drive significant improvement across essential law firm processes. When law firm processes – client intake, case workflow, [WIP-to-cash](#) – are augmented by technology it removes inefficiencies that drive up costs.

Upgrading a billing system is not just about back-office efficiency – it's about improving the efficiency for the entire firm.

12. Cybersecurity is an IT problem, not a law firm business problem.

Cybersecurity used to be less complicated: you needed a firewall, some anti-virus software and a little education to be cognizant of suspicious links in phishing emails. The rest was left to the IT department which performed nothing short of miracles in protecting firms from cyber attacks.

Cybersecurity specialists speak regarding broader surface areas of attack and vectors of attack. This means every device, in every hand at a law firm with access to the web, is a potential entry point into law firms system.

A phone accidentally forgotten in the back of a cab has the potential to be a vector of attack to access confidential law firm data. This makes cybersecurity a business of law rather than merely a technology problem.



CHALLENGING THE STATUS QUO STARTS AT THE TOP

They say it takes 10 or 20 years to become an “overnight success” but it takes far less time to fail. By the time sufficient incentives to evolve and change are recognisable, the opportunity may have already passed.

The conjures up an important question: where should the case for change originate in a law firm?

A savvy professional in the finance department might have a chance to use data to illustrate the need to challenge the status quo. It’s daunting to stand up to the prevailing wisdom when your role is largely supportive.

Certainly, the C-Suite has an opportunity to influence the direction of a law firm. These positions in strategy, operations, technology, and finance – have all grown out of a recognised need for professional business strategists.

However, the task of challenging the status quo is ultimately a leadership responsibility. It requires vision, change management planning, and the courage to see things through. Change must start at the top.

A simple way for law firm leaders to get started is to get in the habit of asking one simple question. When someone says, “It’s always been done this way,” ask them “Why?”

ABOUT ADERANT

Aderant, headquartered in Atlanta, Georgia is a global industry leader in providing comprehensive business management software for law firms and professional services organisations. Aderant is a market leader in technology solutions for practice and financial management, knowledge management, business intelligence, matter planning, calendaring and docketing. Aderant is an established and trusted partner due to its versatile and innovative technology solutions, superior customer support, and reliable implementation process. Aderant operates as a unit of Roper Technologies, a constituent of the S&P 500®, Fortune 1000® and the Russell 1000® indices.

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