Panelists

- General Counsel
  - Tony Bangs, The Neiman Marcus Group, Inc.
  - Bob Robinson, BancTec, Inc.

- Haynes and Boone, LLP
  - Terry Conner, Managing Partner
  - Steve Jenkins, Partner, Chair Client Value Task Force
Overview

• The dynamics of the economy and market are rapidly accelerating a paradigm shift in the pricing and cost management of legal services . . . a transformational change from the traditional billable hour model to client value-based models. The industry discussion is shifting from whether the change will happen to how soon and to what extent the change will occur.

• In this session, we will assume that the transformational change to client value-based models will occur and discuss how law firms and in-house legal departments can navigate the changing world.
Questions

• What will the future client value-based models of pricing and cost management of legal services look like in three to five years?

• What are the real barriers to transformational change in law firms and how can they be overcome?

• What can in-house legal departments do to facilitate and accelerate transformational change?

• How can in-house legal departments and law firms work together to achieve a “win-win” result?
Changing Models

Recent

Future

BTC

Hourly Rates

Budgets with Implications

Fixed Fees

BTC

Hourly Rates/Efficiency Expectations

Budgets with Implications

Fixed Fees
Transformational Change in Law Firms

- **Non-Transformational**
  - Discounts
  - Blended Rates
  - Freezing Rates
  - Budgets w/o Implications

- **Transformational**
  - Fixed Fees
  - Budgets with Implications
  - Risk Sharing
  - Efficiency Expectations
Barriers to Transformational Change in Law Firms

• Traditional barriers

  – Difficulty in predicting/forecasting costs and defining scope and variables

  – Every deal/matter is different

  – Complexity

  – Difficulty in controlling the “other side” (and, occasionally, the business side of the client)

  – Risk aversion
Barriers to Transformational Change in Law Firms

• Tougher barriers
  – Law firm structure and compensation systems
  – Cost data to facilitate budgeting (including phases and variables)
  – Cost management tools/systems to monitor and manage costs beyond regular monthly billing cycle
  – Project (cost) management training
Overcoming Barriers in Law Firms

- **Prepare** for transformational change
  - Develop cost management tools/systems to monitor and manage costs in real time
  - Build database of cost information to facilitate budgeting (including phases and variables)
  - Require daily time entry by phases and code variables
  - Develop and implement project (cost) management training
  - Identify and reward successful project cost management
Overcoming Barriers in Law Firms

- **Experiment** now with client value-based alternative fee arrangements to facilitate development of data, tools, systems and processes . . . and to get ahead of the curve

  - **Internally:** apply budgeting and project cost management techniques to client projects internally even when not required by client

  - **Externally:** proactively seek opportunities with clients to work where appropriate to client on client value-based alternative fee arrangements to benefit from real-life lessons learned
Client Value-Based Alternative Fee Arrangements

- Fixed fees
- Budgets with implications, including risk-sharing
- Hourly rate with “efficiency expectations”
- Other variations
Client Value-Based Example: Risk Sharing

**Change Orders**

*Yes*
- Material Fact Changes

*No*
- “Other Side”
Efficiency Expectations Example:
Hourly Rates with “Efficiency Focus”

• When hourly rate approach is best alternative with “efficiency expectations”
  – Cost range
  – Staffing and handling
  – Improved use of technology
  – Cost transparency thru real time cost updates
  – Surprise avoidance alerts
In-House Legal Departments: Facilitating Transformational Change

• Identify segments of work that are appropriate for client value-based alternative fee arrangements

• Proactively communicate desire to work with law firms on client value-based alternative fee arrangements

• Experiment with client value-based alternative fee arrangements

• Consider developing “efficiency expectations” guidelines

• Encourage two-way sharing of cost information

• Debrief with law firms for lessons learned
Working Together for a “Win-Win” Result

• Clients:
  – Greater predictability
  – Improved efficiency
  – Less cost

• Law Firms:
  – Become more skilled at budgeting and project cost management
  – More work because of greater predictability, improved efficiency, less cost
  – Ahead of curve