



A LEGALTECH COMPANY



Reduce Spend with Legal Bill Review & Process Improvement

A deep dive into how insurance firms can reduce their legal operations spend with enterprise legal management, legal bill review and an established outside counsel utilization strategy.

Why do we use outside counsel legal services? What do we get them to do? What is our relationship with the in-house legal department and outside counsel law firms on our panel? Who is the go-to person in the in-house legal department that we speak to when a “legal” issue arises? What do the internal audit reports say about our files? Does this drive our behaviour?

There are many questions insurance companies could and should be asking themselves about the use of and interaction with lawyers, both in-house and outside counsel. In this article we’ll be taking a look at some of these questions with the goal of providing a pathway towards achieving cost savings within insurers’ legal operations.

Enforce billing compliance from legal panel firms with legal bill review

The relationship between an insurance firm client and law firm should be a partnership. The insurer needs to be able to clearly articulate their business strategy and how the legal panel firms firstly fit into that strategy, and secondly what is expected of the firms to ensure successful outcomes. For example, if insurer A has a financial goal to reduce expenses by 10% and implements a lean legal spend management strategy, this means that law firms servicing insurer A must understand the requirements of the goal, ensuring they stay compliant as per the billing guidelines set out in the strategy and associated service level agreements.

If the law firms don’t adapt and comply, they could risk losing the insurance firm as a client or could see large reductions in profitability due to billing guideline non-compliance and the associated invoice and line items being rejected through the insurance firm’s legal bill review and audit process.

Each legal panel firm needs to look into the type of work they are conducting for the client and all associated billing to ensure absolute compliance. We suggest to all our insurance firm clients that they should implement our best practices for the legal bill review and audit process, explicitly denying line items including legal costs and attorney fees associated with, for example, higher-billed lawyers doing paralegal-level work.

To show how this could have an effect, let’s say a legal panel firm is handling low level work for the insurer (say reviewing of standard lease agreements), but they only have senior associates or partners on their staff. This means that the hourly rate being charged to the insurance firm client is not commensurate with the level of work conducted, and as a consequence the line items billed under this rate will be rejected during the bill audit process.

The options for that law firm could be to consider hiring a junior lawyer, or suggesting to the client that this type of work is moved to a firm with the right skills and junior lawyers, or

to agree a fixed fee with the insurance firm that is more fair. If the law firm can't adapt to the requirements outlined in the billing guidelines, they could as mentioned risk losing the insurance firm client's business, or they could at the very least lose significant revenues, even up to 11% per invoice as we've achieved previously for our bill review clients.

Ensure that in-house and outside counsel is utilized properly

Analysis that is conducted on legal work sent both to in-house and outside counsel can be illuminating. Take non-disclosure agreements which are part of everyday procurement, as an example. These could be standardized and automated under the right conditions and would free up internal legal resources to do higher value work.

By really looking into why and when legal services are required, patterns and trends will show up that can usually be traced back to behaviour - "we have always done it this way, so why change?", "I need to ensure that I am compliant and can pass any internal audit test", "I don't feel confident in making a decision in this matter so I'll get a legal opinion", "lawyer X understands our business and I respect her opinion", "our claims process states that for all claims over a certain value, we need to have a legal opinion on the file".

By ensuring that your in-house legal department is as efficient as possible, empowered with reporting and analytics as well as a robust enterprise legal management software, you can drive cost savings strategies within your organization that don't require the involvement of third-parties to implement.

Another aspect that enterprises should look at is what value-add services their outside counsel or legal panel firms can offer the company, examples including training, temporary workers and library services. Insurance firms should take advantage of these services offered by their outside counsel, having their staff attend training that is being offered, and working with their HR departments to get the firms to come in and train in-house staff on hot topics, changes in legislation, and other relevant information.

Since the services are available, insurers should take advantage of them, further improving in-house knowledge and competence with a longer-term vision of saving future cost or legal spend as a consequence.

Optimize the outside counsel utilization strategy

Claim or matter strategy is crucial for insurance firms. Once the firm knows what outcome is desired from the matter, this can be used to determine next steps. If the matter at hand

is complex or complicated, potentially large in value, and litigated with the plaintiff firm known as an aggressive litigator, and the insurance firm's liability is marginal or a grey area, then by all means they should look at what a law firm or outside counsel alternative could offer their business.

Too often, however, we see matters handed over to outside counsel that are minor, relatively straightforward or with plentiful precedence that makes it likely that the firm can be held liable. Just because a matter is litigated doesn't mean insurers have to lawyer-up. Optimize your outside counsel strategy and only engage third-parties when needed, in effect reducing legal spend across the board.

As an example of how this can work in an insurance firm's favour, in 2015, an insurer settled a long running claim in favour of the plaintiff. This was settled by way of an informal settlement conference - a pretty normal everyday occurrence for the insurer. It was a great settlement outcome for the insurer, however, there is a bit more to this claim that illustrates how a formulaic process can ramp up legal spend. The claim had been litigated and Lawyer A was initially engaged to handle the matter.

After a number of years, circumstances arose that meant that Lawyer A could no longer be involved and an alternate Lawyer B was instructed to negotiate a settlement. Lawyer A had provided legal opinions and quantum advice, but the insurer wanted new legal opinions and quantum advice from Lawyer B just in case the matter did not settle at the upcoming settlement conference. Probably sound methodology for thoroughness, but not really appropriate before the settlement conference as it would have been a waste of money if the matter settled, which it did. This would have been justifiable spending if the matter had not settled and proceeded to trial, however prior to the conference it was not the right course of action and added unnecessary legal spend.

Set guidelines for law firms and staff to act in best practice manners

Additional responsibility rests on the law firms. Are they over-servicing the insurance firm client? How can they get this right? Analysis of legal spend will allow an insurance firm to make decisions on both quality servicing and adherence to service level agreements. Holding quarterly business review meetings with the legal panel firms to talk about results, SLAs and outcomes will ensure better servicing and a clarity around expectations - the partnership approach.

Insurance firms should restrict legal instructions so that lawyers only do the work that the insurer cannot legally do. Use internal resources within your business to gather facts, workplace manuals and practices, identify potential witnesses, take photographs and provide paperwork. It is very expensive to have external lawyers do this. Their hourly rates are far in excess of what it will cost an insurance firm's in-house team.

Say for instance that the strategy is to settle the matter as quickly as possible. In such an event, the instructions to the law firm should be expressed in a way that makes this possible. This means the insurance firm may have to expressly exclude or forbid certain work to be done (such as researching case law, detailed legal opinions and expert reports), resisting likely attempts by lawyers to expand the scope of the instructions unless given sound reasons or given an unexpected change to the required outcome.

Set levels of legal spend, over which management or senior technical sign off is required. Claims staff in particular tend to work in isolation and resent oversight by a more experienced manager or technical manager. This will ensure that several eyes have seen the matter, discussed the merits and reviewed the legal instructions. With higher anticipated legal spend, obtain a detailed legal cost estimate from outside counsel. This is commonly called events based costing and should detail expected spend at each stage of the matter. Measuring progress against an estimate will put the insurance firm in control of their legal spend with a flag to inform when spend is likely to be exceeded.

The need for law firms to innovate their billing practices

Law firms have a need to innovate in order to ensure the retention of large global insurers as future clients. Insurance firms and other enterprises are constantly changing and improving their processes, looking for ways to save money within their claims strategy, corporate legal departments and on their legal invoices. Claims management and enterprise legal management solutions are often used for in-house process improvement, with services such as bill auditing and legal bill review commonly used to reign in outside counsel legal spend by keeping law firms on their toes, requiring complete billing guideline compliance as per the service level agreement and rules that have been agreed beforehand.

Some law firms are realizing that there are several things they can do better for their clients, and most technologically progressive firms are approaching clients to get their recognition and buy-in for change and innovation with a partnership model. Examples of this include law firms integrating modern legal billing software solutions that scans invoices for billing guideline non-compliance with machine learning before flagging errors and ultimately cleaning invoices pre-submission to the insurance firm client. This reduces the need for legal bill audit and in-house legal invoice review staff for the insurer, and reduces invoice and line item rejection for the law firm. The outcome is a win-win for both parties, with bottom-line profit improvements for all involved.

Embracing common sense as it relates to compliance

In these times when compliance is being ramped up even further, most staff want to comply and do the right thing. This can be interpreted as lawyering-up, or checking the box by using legal service providers to prove they are acting responsibly and complying with the insurance firm's compliance standards. Sometimes the fear of a customer complaint when a customer becomes aggressive or demanding can lead staff to over rely on a lawyer's advice.

Internal audits are normally constructed to test staff's understanding and adherence to policy and procedures, and not designed to scare them into defensive behaviour or be used as a big stick to discipline. These audit results should be used to provide feedback and for training. One myth that needs to be busted is the need for separate legal advice or opinion on each matter, regardless of previous precedent. If there is precedent in the firm and this can be relied on to form an educated strategy and outcome on a matter, then the file notes should reflect this. It is rare that policies and guidelines are so definitive and prescriptive. Common sense normally prevails in most situations, and embracing this can lead to significant cost savings within both direct outside counsel legal spend and general legal operations.

LSG can assist in collecting and analyzing data to provide insights into how and why insurance firms use legal services, all baked into our enterprise legal management software. In addition, we provide legal bill review and audit services that enable you to significantly reduce outside counsel legal spend through enforcing billing guidelines.



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16192 Coastal Highway, Lewes,
Delaware, 19958, United States.

Phone. 1 877 566 9574

Email. info@lsg.com