

# Return of the Deal Makers

Lawyers used to be great deal makers, but the deal makers seem to have joined the witness relocation program. Where have they all gone?

Here is the latest deal:

“As lawyers we will work hard for you, it will be very expensive- but you will get high quality legal work.”

“How much will it cost?”

“I’m sorry, we can’t answer that.”

“Why not? What if I can’t afford it? How can I budget for this?”

“We are sorry, we are lawyers- and that is the deal. We will send you a bill at the end of the month.”

These are LAWYERS we are talking about. This is a group that knows how to negotiate great deals – they’ve done it tens of thousands of times, just ask them. This is the same group that created the United States Constitution. So why are their clients on the losing end of the deal? Why does the billable hour have to survive? Customers are demanding a better model, but come on – as lawyers we should be able to deliver.

If we want to WIN the business, it is our job to come up with a better model.

With the right model your firm can win big business. Just look at the law firm of Orrick, Herrington & Sutcliffe that made a compelling presentation to Levi Strauss.

Here was the deal:

“Levi Strauss, if you give us ALL of your global legal business (except for IP), we will charge you a flat fee- and guarantee that we will stay in the budget every year.”

“Deal!” replied Levi Strauss, “[Here is our global legal work worth over \\$34 Million Dollars.](#)” (actual details of the deal were not publicly disclosed)

How did Orrick win the business? They were deal makers.

Now any good deal has to be value enhancing. Both sides have to win, so how did Orrick pull that off? Or are they just taking a chance? How can they guarantee they won’t come out on the losing end here?

The answer is alternative fee arrangement (flat fees) and better project management. “Alternative billing and legal project management go hand in hand,” [Pam Woldow](#) law firm consultant from Altman Weil explained. She went on to say that for alternative billing to be more profitable for firms- they need to streamline the process by which they deliver legal services. Legal project management is the key to making that work.

So does this mean the billable hour is on the way out? Not quite. “The billable hour is not dead, it remains the fairest and best model for risk allocation,” explained consultant David Barnard last week at the ALM Business Development Forum. David is correct on two points (1) the billable hour is fair- for the lawyers.

(2) It is also a good model for risk allocation, again favoring the lawyers. But as deal makers, can't we create a better offer for our clients?

Alternative fee arrangements have the potential to be very disruptive. If you don't believe me, just ask the dozens of firms that suddenly lost \$34 Million dollars of work to Orrick. I'm not talking about the end of Big Law by any means- but I am predicting a shake-up. With any economic disruption there are winners and there are losers. Which end will your firm be on? This last 15 months have been brutal for the legal industry, but those firms that keep growing have been able to do so based on a strategy of innovation- not business as usual.

My message to the top 20 firms in America: Keep doing exactly what your doing. It has worked for almost 100 years- so just relax, sit back and keep watching the money roll in.

My message to the rest of you: "Take dead aim on the rich boys. Get them in your cross-hairs and take them down." To riff on a quote from Bill Murray's character in Rushmore. It is time for your lawyers to let out their inner deal makers, and start winning business by presenting companies with an offer they can't refuse. Volatile markets, increasing global competition and the emergence of alternative fee arrangements are the perfect storm to usher in the return of the deal makers.

*Adrian Dayton is a New York Lawyer and consultant to large firms on innovation and social media. This Friday he will be hosting a FREE conference call with Pam Woldow entitled "How to Win Big Clients with Alt Fees and LPM." [CLICK HERE to sign up for this call, spaces are limited.](#)*