

The Results Don't Lie: Mattern & Associates Cost Recovery Survey 2016

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2017 has arrived with a bang: expenses are back on the rise and demand growth is trending negative. Last year in the March issue of this publication, we hypothesized what the results of the 2016 Mattern & Associates Cost Recovery Survey would reveal (see, "Cost Recovery in 2016.")

What areas of recovery remain strong and successful? What areas are dying out? In a highly cost-sensitive environment, would firms be trending to let go of the recovery of expenses altogether?

With the results tabulated, let's see how accurate our predictions were as well as analyze the results.

Black & White Copies: Some Right, Some Wrong

Overall, 92% of firms are still recovering black & white copies with an average rate of \$.18. We predicted the percentage of firms still charging would remain constant to 2014 at 98%; however, we did not anticipate the increase in the average rate to \$.18 from the 2014 rate of \$.16. The effect, whether direct or not, was a 6% decrease in the billable percentage to 61% and a 14% decrease in the average percent of billable actually billed resulting in a net realization of 36% — the lowest it has ever been since the we started the survey in 2004.

Prints: 100% Correct

In reviewing the past trends, we were certain the percentage of firms recovering and charging for prints would in fact rise. With 61% of the firms reporting that they charge for prints, an increase of 7% from 2014 (and 13% from 2012), we hit the nail on the head. Interestingly, the rate for black & white remained consistent at \$.17 and did not see any degradation in billable percentage; however, the average percent of billable actually billed decreased 14%.



Scans: Firms Missed The Boat

We calculated that the percentage of firms charging for scans was going to explode; unfortunately for firms, there was only a minor 2% increase in recovery from 35% to 37%.

There is still reluctance for firms to capture this item and pass it along to the clients for recovery; the most common reason cited for this reluctance is that scans do not "cost" anything. Firms seem to be having a hard time wrapping their head around a cost that does not produce physical "output" — think facsimiles without pages coming out of a machine. Interestingly, when the argument is put forth that scanning is replacing facsimile (average cost recovery rate of \$1.00) or overnight delivery services such as federal express or UPS, the argument seems to gather traction. We do not necessarily agree with this premise because firms which implement scan recovery perform rather well with the same net realization as black & white copies.

Legal Research: The Impact of 'Internal' Pushback and Write-offs

We did not think that legal research would go much lower than the net realization rate of 36% in 2014; however, legal research hit the record low net realization of 25% in 2016. To

put this in other words, for every dollar of legal spend, a firm is only recovering \$.25. Why the dramatic drop-off? Firms are charging fewer searches to billable matters by 18% and the searches that are being charged to billable matters are being written off at a rate of 14% in addition.

The interesting question is why this area seems to be under such attack as compared with any other?

Adding to this interest and based on the survey results, it is more internally driven than externally since the level of “billed actually paid” for legal research has remained amazingly consistent since we started to track this area in 2008.

A few points for consideration:

Pricing. In 2008, 36% of firms used the listed rate from the legal research vendors as the unit price to recover this cost from their clients. As most are aware, firms receive a discount from their legal research vendor; however, as the survey results showed, 36% of firms were not passing this discount along to their clients. Consequently, clients, many of whom have their own legal research contracts, noticed and started to push back. Note: this rate has since decreased to 6% in 2016.

Legal Research Double Dipping. Do you charge for the time on the matter or the legal research costs or both? Firms have consistently charged for both.

Pre-emptive Actions/Difficulty in Defending (in other words, avoiding the legal research “talk”). Attorneys want to avoid discussing soft cost recovery with clients, but there seems to be more of a reluctance to discuss legal research, due to rate methodology in this area; thus, it is ripe for writing-off in the pre-bill process. This is supported by the 9% decrease in 2016 in the amount of charges making it onto the client invoice.

Legal research is targeted mainly due to firms’ “aggressiveness” in rate formulation, the purpose of its usage and how it conflicts with the billable hour, and finally, the difficulty in defending. Putting all these factors together, we anticipate legal research to meet its demise by 2020.

Hard Cost vs. Soft Cost: The Battle Continues

Hard costs continued their dominance in 2016 on every front that we measured.

The scores between hard and soft costs in the table above remind me of the 2016 Villanova Wildcats NCAA March Madness run last year. When comparing hard versus soft cost recovery, hard costs are clearly the winner. It is interesting to note that in the final game/category (what is paid by the client), soft costs and hard costs are virtually identical.

Focusing on “billable actually paid by the client” category, this data point shows again that clients will pay both hard and soft costs.

The argument is made and accepted that by the time soft costs reach the client, they are thoroughly vetted — either not charged to a billable matter or written off internally (84% of

firms). However, if they can be recovered, they are paid if they are reasonable and defensible.

e-Discovery/Litigation Support

We see that 24% of firms currently outsource their on-site litigation support services, with 7% considering it in the future. However, only 61% of firms currently recover the costs of their on-site operation, meaning nearly 40% of firms are not capturing this recovery stream.

This area is one of the largest opportunities for firms to reduce overheads expenses. Litigation support and e-discovery historically have been in-house operations with the costs being absorbed into the overhead. With the growth, complexity, and risks of these areas, firms are migrating to the managed services model, allowing them to mostly pass through these costs as hard costs and dramatically reduce their overhead.

Alternative Cost Recovery Methodologies

Just as with the billable hour, the traditional soft cost recovery model is not going away. In fact, 68% of firms still utilize this methodology, with 24% having explored and decided not to move forward. However, 8% of firms, the highest percentage since we began tracking this data point, have implemented an alternative model, such as building it into their rates, utilizing a hard cost pass through (Mattern Plan B) or dropping recovery altogether.

Conclusion

Overall, in reviewing the 2016 survey results there at least two main lessons to be learned.

As in the case of legal research recovery, reasonable and defensible recovery rates are critical for recovery, more so from an internal than the external/client viewpoint. Attorneys do not want to be in the position to have to defend rates to their clients.

The second lesson is that hard cost recovery is the way of the future if a firm wishes to stay in the cost recovery business. Hard costs are defensible, attorneys do not write them off, and clients pay them — key hallmarks of a successful cost recovery strategy.

The results don’t lie. Firms are increasingly paying attention and or implementing traditional and non-traditional cost recovery method to help meet new marketplace challenges.

To learn about more valuable insights and to receive an overview of the 2016 Cost Recovery Survey, please send an email to info@matternassoc.com.

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