

Cost Recovery in 2018: Predicting Winners and Losers

By Rob Mattern

Back in March of this year, we predicted changes and trends the results of the 2018 Mattern Cost Recovery Survey would reveal. At that time, we got our crystal ball out and made the following predictions that the Survey would show:

- An increase in the “billable actually billed” percentage which indicates less client pushback and decreasing attorney write-offs.
- A “softening” in traditional areas such as black & white and color copies.
- A renewed aggressiveness for modern areas of recovery such as prints and scans, lit support and e-discovery.

Before we delve into the details on whether our predictions were correct, let’s lay the groundwork for the analysis with a few definitions:

Billable percentage: The percentage of an item charged to a billable client matter versus a non-billable (overhead) number.

Billable actually billed: The percentage of a billable item actually billed to a client.

Actual billed that is paid: The percentage of a billable item that is actually billed to a client and paid by the client.

Net realization: The net of the above numbers.

Black & White and Color Copies: Dramatic Drop in Average Rate

While 93% of firms are still recovering black & white and color copies — which is consistent with the 2016 results — there was a dramatic drop (28%) in the average rate charged to clients from (\$.18 to \$.13) on black & white copies. We believe there are three likely explanations for this decrease:

1. Just as firms are feeling the pressure on hourly labor rates from clients, this has now trickled down to the rates for soft costs.
2. Firms are adopting the blended pricing scenario on

black & white prints, scans and b&w copies. This is where firms are recovering prints and scans and charging one uniform reduced

3. The cost of these services has decreased, and firms are adjusting their rates accordingly.

As to whether this area stayed true with our prediction of a decrease in client and attorney write-offs, the data shows that we were correct with the percentage of b&w copies being billed increasing 9% (decreasing write-offs) and color copies following suit.

As to whether this traditional area showed a “softening” which we define as a decrease in in the billable percentage, we did see a decrease on both b&w and color by 4% and 6% respectively.

Mattern’s score: We were correct on both predictions as it relates to copies. In keeping with the summer tradition of baseball, I will award Mattern with 2 runs scored.

Black & White and Color Prints: Renewed Aggressiveness

In 2016, 61% of firms were recovering b&w prints and color prints. In 2018, the percentage of firms recovering b&w prints decreased to 53% and the percentage remained the same for color. We predicted in our earlier article, that both these numbers would increase.

Both b&w and color prints showed an increase in net realization of 10% which is huge with the majority of the increase coming from the “Billable actually billed” category. This increase puts both types of prints (b&w and color) in the low 40% net realization range which is higher than b&w and color copies.

What does this mean: Consistent with our prediction of the renewed aggressiveness for the modern areas of prints and scans, coupled with the healthy “Billable actually Paid” percentage of 88%, along with the “softening” of the copies, means that prints are the new keystone of your cost recovery strategy.

While 53% of firms are recovering prints, what does that mean to the other 47% that don't? As we have stated over the last three surveys, firms must get on the print and scan bandwagon or consider abandoning cost recovery since the recovery will not cover the costs of management and maintenance of the system and the eventual forfeiture of this recovery stream.

Mattern's score: We missed the mark on these which puts the score at 2-2.

A Sidebar on Rates

Interesting to note, in the five basic

categories (b&w and color copies, b&w and color prints and scans) on which we base some of our metrics, the average decrease in rates was 12% with b&w copy and print leading the way. As stated above, we feel this due to the overall pressure on rates, decreasing cost of back office services and the blending of copies, prints and scans into one standard rate.

Scanning

The average number of firms recovering for scans increased to 40% from 37%, slightly less than a 10% increase which corresponds to our pre-survey predictions. Billable percentage remains steady at 54% however we see downward pressure on the percentage of “Billable actually billed” and “Billable actually paid.” We believe this is due to the relative newness of scan recovery and the reluctance of Attorneys to recover and clients to pay.

Mattern's score: We will take this as a base run, leaving our score at 3 runs, 2 misses.

Legal Research: Some Comeback

There are misses and there are misses. This is was a miss. We predicted that the net realization of legal research will continue to decrease in 2018 on its way to sub-20%. Remarkably, net realization increased to 37% from 25% in 2018 — a remarkable 12% increase. Coupled with 83% of firms still recovering, it just shows that legal research is still a viable recovery vehicle if the recovery rate is justifiable.

Hard Costs: Still the Way to Go?

Yes, and yes again. Seventy-five percent of firms recover, with a net realization of 85%, which hit our prediction right on the nose. As Mattern has stated previously, the hard cost recovery model is an excellent way to recover both onsite and offsite third party and internal costs due to the fact they meet little resistance both internally and externally.

Mattern's score: 4 runs, 3 misses. Looking favorable as we head into Litigation support/eDiscovery.

Litigation Support/e-Discovery: Firms Stepping Up

As we discussed back in March, the practice of not recovering these costs is becoming untenable for many firms due to the rising volume and associated expense. In addition, the use of the billable hour recovery model — where firms try to recover data storage and transaction costs through the hourly rate for litigation support personnel — is increasingly inadequate.

The data from the 2018 survey shows that firms are stepping up to the plate and recovering these costs, especially data storage with a surprisingly increase in the per gigabyte recovery rate.

Mattern's final score: 5 runs, 3 misses. Close but a comfortable win.

The Real Winners

The real winners in this process are the firms that leverage data to formulate a cost recovery strategy

that works in the firm's best interest, or to make a justifiable reason to forego the recovery of costs. It is a particularly positive sign to see the results in billable billed as it signals stronger management level decisions are being pushed through attorney behavior and client interactions. We look forward to seeing this strong leadership trend continue.

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