Today, those managing litigation from any perspective (in-house counsel, defense counsel and plaintiff counsel) all confront the same nagging question: “How can we best manage both the cost and the risk of litigation?” This question, and the search for answers, led to a rapidly emerging need for expertise in litigation management. But what does this specialized skill in litigation management entail?

While the details may vary or be tailored to a specific type of litigation docket, the fundamental framework of litigation management applies broadly to all litigation. Understanding the foundational components of litigation management and customizing them to a specific case or litigation docket provides a sound approach to controlling cost and managing risk.

Baylor Law has created this toolkit for litigation management in the first ever Executive LL.M. in the field. The R6 framework, comprised of the Right Way, the Right Plan, the Right Team, the Right Cost, the Right Tools and the Right Result, systematically approaches litigation management, providing all the necessary components for effective and efficient case and docket management.

**PROMOTING INNOVATION AND EFFICIENCY**

“The LL.M. in Litigation Management is a world-class program that enables lawyers manage a team, and lead their company or firm’s efforts to manage a high-volume, high-stakes docket.”

**AARON MUTNICK**
Risk Manager
Amazon

**ALUMNI INSIGHT**
The R6 framework starts with the **Right Way**—an approach that provides the litigation team with a shared understanding to drive litigation effectively and best serve the client (and ultimately the firm). The Right Way emphasizes crucial pragmatic components that must be part of any litigation management system:

**Credibility**
Credibility creates power, both internally with clients and externally with opponents, jurors, and the court. A litigation management system cannot sacrifice credibility but can and should capitalize on the power of a credible approach to litigation.

**Communication**
Successful litigation management systems must emphasize timely, quality communication practices internally with the client and the team, and externally with opposing counsel and the court.

**Pace**
The litigation team that intentionally sets the right pace for progressing toward trial usually gains a significant advantage.

**Systematic**
Efficient and effective litigation cannot be conducted haphazardly or ad hoc. It must employ a system specifically designed for the particular kind of litigation docket in question and it must implement that strategy consistently.

**Strategy**
Failing to plan is planning to fail. Every case is unique, meaning that – as part of a systematic approach – each case’s specific strategy needs to be evaluated and adjusted as indicated.

**Professionalism**
To be sustainable over the long haul, each of these pragmatic aspects of the Right Way must be grounded in an ethical and professional approach to litigation. Sound ethical and professional behavior grounds credible, effective litigation strategy.
Excellent litigation management emphasizes proactive rather than merely reactive behavior. The Right Plan focuses on identifying realistic client goals from the outset of the case which then drive the litigation toward a client-maximizing outcome. Rather than allowing circumstances or the opponent to dictate the terms of engagement, the Right Plan proactively moves the litigation toward a defined result. That plan will vary according to the needs of a given litigation docket but usually includes some or all of the following:

**Early Case Assessment (ECA)**, customized for a given litigation portfolio.

**Decision Tree Analysis (DTA)**, to guide client and team discussions of the pivotal risk points in the case and to aid in case valuation and budgeting.

**Litigation Project Management (LPM) Plan**, a vital tool for managing a team and keeping the litigation on time, on budget, and on target.

Jury testing either in-person or virtually, using cost-effective focus groups and surveys early in the litigation for planning purposes as well as close to trial to test the effectiveness of the trial planning.

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**ALUMNI INSIGHT**

“There were things we were doing within our organization that spoke to the right plan perspective, but the thing the program did for me is broaden my horizion in terms of other things that go into implementing processes into my own litigation management. These were critical in terms of really understanding that there’s a way to bridge what I learned on the business side with what I currently do in litigation management.”

**STEPHANIE SPIVEY**

Lead Counsel

WALMART INC.
Managing litigation effectively requires assembling and managing the **Right Team** of people, and the Baylor R6 Framework helps you identify who you need for specific kinds of litigation, where to find them and how to keep them focused and coordinated.

The litigation team must share leadership’s vision for handling the litigation efficiently and effectively. The Right Team understands what constitutes a “win” for the client and how to execute the strategy for achieving that win.

Whether working with an experienced team within the firm, coordinating and sharing responsibility with in-house counsel or outside vendors, or managing a virtual team drawn from multiple sources, the right people working together drive effective litigation management.

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**ALLISON EVANS**
Freelance Attorney
AJE Legal

**ALUMNI INSIGHT**

“Making sure you that you can find the best people for the job, at the best price, and who can meet the client's needs has been eye-opening and something that I've been able to implement the most in my career.”
Litigation cost impacts everyone involved in the process. The **Right Cost** addresses the way legal services should be priced, purchased, and delivered. Given the current emphasis on reducing legal costs and making access to justice more affordable, litigation management must intentionally focus on delivering value to clients. Value requires a definition of litigation “success” that is mutually beneficial to the client and its attorneys, and that value requires:

- litigation planning
- reducing litigation process inefficiencies and increasing productivity
- providing litigation cost predictability
- changing the way litigation is resourced and priced
- delivering the expected litigation results and outcomes

These objectives can be achieved in a variety of billing formats, ranging from traditional hourly fees to flat fees to value-based billing and variations on contingent fees. In short, the Right Cost is about achieving expectations of success at an acceptable cost to the client and at a fair price for the law firm.
Outstanding litigation management depends on full access to the Right Tools, with a focus both on proven processes (often borrowed from business, engineering, and other disciplines) and on innovative technologies for litigation, implemented to improve excellence, effectiveness, and efficiency in the management of litigation.

Litigation project management encompasses the correct scoping, planning, pricing and costing, and then executing, monitoring and evaluating the litigation as a project. Process improvement focuses on continuing improvement of systems serving the litigation docket and involves identifying and defining any problem issues, identifying potential causes, developing practical solutions, and both implementing and evaluating the solutions. Process improvement is evolutionary and can be used for every aspect of litigation management.

The Right Tools category also applies innovative technologies to various aspects of litigation, including the use of data analytics, artificial intelligence and machine learning, automation for specific litigation tasks, cybersecurity, and data and graphics management, for:

- assessment and selection of counsel and assessment of opposing counsel
- venue selection and assessment of the forum and court
- case assessment
- case management and development
- discovery management
- trial presentation

EMILY KNOTT
Senior Counsel
Deere & Co.

ALUMNI INSIGHT

“As a function of being in-house, the right plan allows us to have more direction in evaluating the case, setting objectives, and helping the teams stay focused on what we consider a successful resolution.”
The Right Result requires fully identifying and understanding the client’s perspective and litigation goals and tailoring those to a realistic outcome. The “right” result may be influenced by larger business goals, the need to avoid negative publicity, and cost pressures on individuals and companies. Understanding what would constitute a “win” for this particular client drives the Right Plan. To achieve the Right Result for the client, the litigation team should be equipped to consider:

1. A realistic negotiating plan early in the litigation process before positions polarize.

2. Alternative approaches to negotiation based upon identifiable negotiating styles of an opponent.

3. Alternative dispute resolution options outside of the mainstream (such as using the non-binding summary jury trial available in many jurisdictions – virtually or in person – as a tool for subsequent mediation), as well as more common tools (such as potentially negotiating a high-low agreement to contain the trial risk).

4. A standardized plan for final trial preparations recognizing that since only a small percentage of cases go to trial, a systematic approach for final trial preparations will reduce mistakes under pressure and improve late negotiation and trial outcomes.

5. An “after-action assessment” following the closure of each case to continuously improve achievement of client objectives.
Baylor Law offers a simple, personalized process to apply for admission to the Executive LL.M. in Litigation Management. For preliminary admission, simply send your CV (or LinkedIn Profile) together with a one-page statement of interest that addresses one or more of the following questions:

- Why are you interested in the program?
- How does this program fit your career path and what goals do you want to accomplish?
- What perspective would you bring to the program?

The Admissions Committee will then schedule a 30-minute phone/Zoom interview with you and will make a conditional admissions decision within two weeks of your interview. If offered conditional admission, you will then complete a full LSAC eApplication. For questions, call 254-271-0454 or email info@llm.baylor.edu

The Baylor R6 Framework for Litigation Management™ provides the blueprint for designing a specialized system customized to maximize results for a specific type of litigation docket. No other program offers comprehensive litigation management techniques with immediate application to practice and tangible return on investment.

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BRIAN JONES
Partner
Harrison & Held, LLP

ALUMNI INSIGHT

“For two consecutive years, my litigation expense has decreased while my client’s business has grown fairly significantly. The reduction is primarily because my average case resolution cost has dropped ~40%/case. I did that by gathering data, imposing structure and discipline on our case intake process, and coordinating with our project management and IT teams to improve communication and data management. We now know facts almost immediately, and ‘prove it up’ to plaintiff’s counsel even before we file an answer—which promotes early, and more reasonable settlement discussions.”