

The Skinny on Flat Fees

Although hourly billing is standard practice, firms that charge flat fees may be able to make more while asking for less — to the benefit of both client and attorney.

All law firms are not created equal. Among the myriad differences between today's legal practices is the method they employ for billing their clients. Although many firms still employ the billable-hour standard, the move to a flat-fee billing structure is a growing trend.

More and more attorneys are experimenting with "alternative billing," according to "Managing Litigation Expenses," a national survey of corporate counsel sponsored by law firm Butler Rubin Saltarelli and Boyd LLP. It reported that 85% of U.S. in-house counsel say they are experimenting with alternatives to the hourly fee as a tool for controlling litigation costs, while an additional 60% of those surveyed reported successfully using alternative fee arrangements. According to Butler Rubin Saltarelli and Boyd LLP, corporate counsels know that if they can control the costs of litigation, they can affect their bottom line.

Many alternative billing advocates, such as Venice, Calif.-based attorney Ed Poll, author of *Law Firm Fees & Compensation: Value & Growth Dynamics*, charge a fixed fee for all portions of their business. The key to doing so successfully, he says, is knowing what works best for you, your business and your clients.

The "alternative" advantage

Divorce lawyer Belinda Rachman of Carlsbad, Calif., figured out a long time ago what works best for her practice. She moved from hourly to flat-fee billing four years ago and says that both she and her clients have benefited.

"I became a lawyer because I wanted to help people," Rachman says, "not because I wanted to work hard keeping track of every minute I spend with people. I run my practice the way I want to, and my clients have always loved me because they can talk to me without getting a bill."

The average divorce mediation takes Rachman between four and seven hours to complete, for which her clients pay \$2,500. Because the average contested divorce in California costs \$40,000 — which equals approximately 80 hours of her time — Rachman's clients appreciate her flat fees. And she still makes a healthy profit.

For that reason, the model works well, Poll suggests. After all, he points out, all clients want to spend as little as possible, and many want to know up front what legal services are going to cost so they can budget accordingly. "When you charge by the hour, and no cap is set on the number of hours worked, it's like asking your clients to give you a blank check," he says.

It's no surprise, then, that clients tend to favor flat-fee billing. Attorneys also have plenty of

reasons to like it as flat fees can:

- **Save time:** One of the biggest headaches for attorneys who bill by the hour is keeping track of time. Charging a flat rate eliminates the need for detailed timekeeping and complicated billing. What's more, Poll says, it gives attorneys permission to embrace timesaving technology and automation, which they have often resisted in defense of their bottom line.
- **Save money:** According to Poll, flat fees enable attorneys to delegate administrative work once reserved for high-priced lawyers to lower-priced legal talent, which is both time-efficient and cost-effective.
- **Make money:** Because clients like them so much, flat fees can give attorneys an advantage over their competitors, according to Rachman, resulting in more referrals and more business. In a survey of her clients, for instance, she asked them why they purchased her services. According to Rachman, the number one answer they gave her was her affordable and transparent fee structure.

Making the leap

In addition to divorce attorneys, flat-fee billing is especially applicable for attorneys who practice family law, immigration law, personal injury law, debt collection, estate planning and other legal disciplines that rely heavily on standardized practices and procedures. That said, it's still equally workable and purposeful for attorneys who practice less predictable disciplines, such as criminal law or mergers and acquisitions.

To implement a flat-fee structure in your firm, consider the following tips:

- **Do your homework.** Poll recommends studying your field to see what and how your competitors are billing so you can price your services accordingly; flat fees may offer significant opportunities for your firm to provide competitors' customers with better services at lower prices.
- **Watch the clock.** Because flat-fee attorneys must know how long it typically takes them to do their work, Poll suggests tracking the time it takes you to complete common tasks. By doing so, you can use your hourly rate to price your flat-fee services more accurately.
- **Focus on efficiency.** Be aware not only of your time, but also of your expenses, Poll says. Once you've exchanged billable hours for flat fees, he recommends implementing time-saving technologies and processes in order to streamline your workflow and minimize your costs.
- **Take a test drive.** Before moving your firm entirely to a flat-fee billing structure, Poll suggests getting feedback from existing clients and then trying a flat-fee structure on an experimental basis with new ones in order to see how and whether it works.

No matter what or how they charge, Poll concludes, attorneys should take a cue from other small businesses and focus less on clocks and more on customers. "You don't charge by time; you charge by value," he says. "You should ask yourself, 'What value do I provide to the client?' And based on that value, that's how to accurately and fairly determine pricing."

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