Going Timeless Workshop

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Going Timeless

Innovate Your Practice: Innovate Your Pricing

Disclaimer

Nothing I say should in any way be construed as legal or financial advice.

My views do not necessarily represent the views of ALA, BigLaw, BeigeLaw, Oldlaw, dinosaurs, nor my wife.
This Workshop

Why Change? Why billing by time is sub optimal

A better practice model – from cost plus pricing to pricing on purpose

Some Different Timeless Pricing Models

The pros & cons in moving away from time based billing to value based pricing

Making the transition to timeless pricing

Implementing Value Pricing
A Radical Business Model for Professional Firms

Ron Baker co founder
Why Change? Why billing by time is sub optimal
**Billing** takes place *after* the work has been performed.

**Pricing** takes place *before* the work is performed.

### The Pros and Cons of Hourly Rates

- It is easy and efficient
- All practice management systems are built around time
- It documents effort
- Most of our competitors are doing it
- Its acceptable to most clients
- Its profitable for firms
- Transfers all risk to client
- Other?

- Focuses solely on input
- Fosters a production mentality
- Misaligns the interests of the firm and the client
- Promotes inefficiencies
- Its inaccurate
- Its non-transparent
- Its retrospective
- Captures & transmits no useful information
- Places risk on client
- Most professionals hate timesheets
- Ethical?
- Other?
Model Rule 1.5

- Time, labor, novelty, difficulty, skill involved
- Precludes other employment
- Fee customarily charged locality
- Amount involved, results obtained
- Time limitations client/circumstances
- Nature/length of professional relationship
- Experience, reputation, ability of lawyers
- Whether fee is fixed or contingent
A better practice model – from cost plus pricing to pricing on purpose

“A professional is someone who is responsible for achieving a result rather than performing a task.”

Michael Hammer
BETTER BUSINESS MODEL

Our clients buy outcomes

Profit

Intellectual Capital

Effectiveness

Value Price

Value Based Pricing requires

- Strong internal leadership
- Mindset & business model change
- Client selection
- A value conversation, scoping & agreeing price upfront
- Understanding that the value is in client’s eyes, not yours
- Focus on outcomes & results, not inputs & hours spent
- Agreeing terms of payment up front
- Providing some guarantee
- Different measurements & rewards
5 Key Takeouts

- value is subjective
- pricing is contextual
- value is created outside your firm
- the only time your clients really care about is turnaround time
- there should never be any surprises in pricing
Value = Benefits

Benefit

How will the client be better off by what you are proposing to do? (economic and otherwise)
What is your direct contribution to that outcome?
What is the client’s cost of not solving this problem in dollars?
## Some Different Timeless Pricing Models

### The More Common Timeless Pricing Options

- Agreed Fees – by matter, stage, portfolio
- Performance Based Fees
- Retainers
- Retrospective Value based Fees/Success Fees
- Hybrid Fees
- Contingency Fees
The pros & cons in moving away from time based billing to value based pricing

Pros

- More profit/higher revenue
- Clients pay quicker
- Less price disputes
- Fewer/better clients
- Attract/retain talent
- Better client relationships-client not worrying about the clock
Pros

• less admin costs
• better focus on value
• match value with expectations at start of relationship
• competitive differentiation
• better team relations-less hoarding, flatter structure
• focus on more innovative solutions with client

Cons

• Difficult paradigm change
• Determining value is difficult
• No Confidence in pricing skills
• Existing measurements and rewards redundant
• Clients hard to change (could lose them)
• Short term profits may fall
• More time required up front
• May lose people
• New processes
• Lots of education required
Cons

- Those not good at it will fail (and leave)
- Project profitability not visible
- Need to quit doing some work
- Variations slow down project
- Hard to price commodity services
- No accountability
- RFT’s - hard to express value
- Clients won’t be able to compare our rates
- Our practice management system can’t cope

Value Pricing will

- Force you to assess what your expertise is
- Compel you to get better at project management
- Drive you to improve your knowledge management
- Encourage you to better select your clients
- Focus your attention on the value you can create for clients
What can you expect?

1. Expect your debtors to come down
2. Expect your WIP to come down
3. Expect client complaints to come down
4. Expect team morale to improve. Most lawyers don’t like time recording
5. Expect collaboration within and between teams to improve
   (This has to happen in order to deliver projects on time and on budget)

6. As collaboration increases, expect cross referrals to increase
7. Expect the team to deselect any passengers
8. Expect progressive people with drive and initiative to ask you for a job
9. Expect relationships with the right clients to be strengthened
10. Expect to be doing a lot less work for clients who don’t appreciate value
11. Expect to have fewer but better clients
What can you expect?

12. Expect your team members to challenge you with new ideas
13. Expect to measure less, report on less and fret about less
14. Expect to turn your back on benchmarking
15. Expect to be doing better quality work
16. Expect to be optimistic rather than pessimistic about the future of your practice

Making the transition to timeless pricing
Eight Steps at a Glance

1. Conversation with your client
2. Pricing your client, not the services (CVO/Value Council)
3. Developing and pricing options
4. Effectively present options to client
5. Option selected documented into an Agreement
6. Proper Project Management
7. Scope creep, utilize Change/Variation Request
8. Conduct Pricing After Action Review
Agree clients/work criteria and vetting process

Traffic management - Develop workflows for expectations scoping, pricing, negotiations, retainer provision, scope/milestone recording

Establish method of project management
• Scope
• Milestones

Cost agreement and disclosure material review

Develop standard scope clauses – risks and assumptions

Develop workflows for different work types – tied to project management

Identify system for tracking work progress to milestones and train

Establish means of tracking price/WIP/pricing success

Develop performance KPIs

Develop knowledge bank systems
• Capture
• Dissemination

Marketing to client
• Value pricing and what it means
• How we can work together

Pricing discussion training

Project management training
How Could You Implement?

• Have a Client Value checklist
• Identify benefits & downsides of moving away from charging by time
• Examine & identify your clients, their needs & benefits to them
• Know your cost base
• Scope properly and manage
• Do not price your own work
• Create a Pricing Committee
• Follow 8 Steps to Pricing on Purpose
• Cost Agreement-fix payment terms as well
• Look at your internal rewards & compensation culture
• Practice & experiment-you are now anyway

Firms that Price for Value

Have a clear purpose, strategy, and position
Have made pricing a core competency
Have excellent project management skills
Understand they sell intellectual capital, not time
Only work with clients who value them
Routinely fire low-value clients
Maintain minimum prices
Don’t treat all customers equally
Have appointed a value council and/or a CVO/don’t price their own work
Have replaced timesheets with Key Predictive Indicators, PM, AARs
What are your barriers?

- Yes Work
- Maybe Work
- Likely Work
- WHK Work
Pricing is an art requiring

- Wisdom
- Judgment
- Patience
- Unlearning
“There is great nobility in being paid what you are worth”
some reference sources

- Innovim  www.innovim.com.au
- John Chisholm Consulting  www.chisconsult.com
- The Soul Of Enterprise  www.thesoulofenterprise.com
- VeraSage  www.verasage.com
- Ignition Consulting  www.ignitiongroup.com
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- Patrick On Pricing  www.patrickonpricing.com
- Art of Value  www.artofvalue.com
- Ditching Hourly  www.ditchinghourly.com

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Your opinion matters!

Please take a moment now to complete the evaluation.

Thank You!
Transitioning to Timeless to become a Law Firm of the Future—Now.
Challenges & Opportunities

Attorneys today have some enormous opportunities not open to attorneys 20, 10 or even 5 years ago. Equally those in private practice also face a variety of challenges that we have not seen before some of which include:

• uncertain economic times,
• intensified competition and cannibalisation (and not just from other law firms),
• the increasing rapidity of change,
• the commoditisation of many attorneys’ traditional sources of income,
• the rise of online and virtual legal providers,
• the use of technology to reduce the time it takes to perform many tasks and to increase an attorney’s efficiency and effectiveness of service and product delivery
• the reduction in margins and profit levels for many firms,
• succession issues,
• the difficulties of securing and retaining the right people
• clients seeking to pay less for more
to list just a few.

For many there will be no return to ‘the good old days’; the ‘new normal’ is here to stay and the challenges will only increase.

To the credit of the legal profession, given that most firms can no longer increase their profitability simply by upping their charge-out rates annually, firms have taken some steps to find solutions to these challenges. In addition to placing a greater emphasis on their service offerings, adopting technology, and even diversifying their practices, most firms have focused on improvements to the financial aspects of their practice,

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usually utilizing the traditional profit levers we were all brought up on, such as:
• improving time recording and WIP management;
• better rate realisation;
• reducing lock up;
• slashing expenses where they can;
• offering fixed fees;
• putting pressure on everyone in the firm to ‘perform’ and
• generally “tweaking” their business model.

This is all well and good, but I think most of these solutions are short term in focus and are, at best, only dealing with some of the symptoms rather than addressing the root cause of what ails our once great profession.

Move away from the “Oldlaw” business model
I firmly believe as professionals we need to do more than simply tweak our existing business model. I believe that if we, as a profession, are going to continue to be sustainably successful and relevant to businesses, our communities and to society generally, we have to accept and embrace a total mindset and business model change.

The traditional law firm business model, at least since the latter half of the 20th century largely operates by leveraging people x time x hourly rate. I call it the “Oldlaw” business model. For most attorneys and firms this model has worked, and still works, but it is, I believe, a sub-optimal way to run a legal practice. It is increasingly unacceptable to many in the profession and their clients, and is ultimately destined to have the same fate as dinosaurs, BETA and the USSR. These practices are Firms of the Past.

This business model that has served the legal profession well for many decades is deteriorating as many of our organisational and management structures – modelled on the industrial age command and control paradigm – are no longer appropriate, nor acceptable, well into the 2nd decade of the 21st century.

There is a better model increasingly being used by thousands of lawyers and other professionals all over the world, which offers innovative, proven strategies for restoring vitality and dynamism to law firms.

A legal practice can be run more effectively when it becomes a knowledge firm rather than merely a product or service firm.

These practices are Firms of the Future.

Law Firms Of The Future
Creating a Firm of the Future is not for everyone, as it requires leaders of firms to think about why, how and what they do very differently than they have in the past. The guiding principles for this model are largely set out in two books: one jointly authored by Ron Baker and Paul Dunn titled “The Firm of the Future: A Guide for Accountants, Lawyers, and Other Professional Services” (Wiley 2003), and more

Since 1995, Ron Baker, founder of The VeraSage Institute (of which I am a senior fellow), economist, author, speaker, pricing expert, and a thought leader for professional firms, has been speaking to leaders of the professions around the world on why and how to become Firms of the Future, in particular on the need to stop billing our services by time and start pricing according to the value we provide to our clients. Many of you would have read articles by Ron Baker or heard him speak.

The foremost principles upon which the Firm of the Future model is based looks at the value a firm creates for their clients (output) rather than the time spent on a file (input). To do this, firms must rid themselves of pricing their services by time and recognise that all professionals are knowledge workers, not machines, and they should not be treated like ‘widgets’ on a production line. Firms of the Future recognise that value is created outside the firm, not inside it, and that clients do not buy time, they never have and never will, so they have stopped trying to sell something that no one buys.

Agree your prices up front with your clients
So, if your clients do not buy your time, what do they buy?

They buy access to your intellectual capital – the value of which cannot be measured by time.

I advocate that we should, as a profession, agree our fees up front with our clients before we undertake any work. This is how the vast majority of the rest of the business world price their services. This is how you personally purchase nearly everything. Why should we expect our clients to buy something they do not, and we do not, know the price of upfront?

Believe me, I have heard every reason imaginable why law firms are different to all other businesses, and why it is impossible to price our services upfront (most common of course is “we don’t know how long this will take”). I don’t accept any of the reasons proffered – they are simply excuses. You know, as well as I do, that you price some of your services upfront when a client or market forces insist. Every law firm in the world could price their services up front-they just choose not to. Too many law firms are now pricing all their services upfront for anyone to say it cannot be done.

Time recording is the real cancer in our profession
Unsurprisingly, I also strongly believe that no law firm should slavishly record time. Recording time, especially in six-minute units, serves no valid purpose whatsoever in any professional firm. Time-based billing is but a symptom of the time recording ‘illness’ that many in our profession have become addicted to, and it is time recording that is the real cancer in our profession.

I know I sound like a reformed smoker, but ever since I began advocating our profession move away from time-based billing it has been constantly asserted to me that you need to record your time both to properly manage your lawyers (i.e. to know what they do all day) and to know your ‘cost of production’. I used to believe that too.

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With all due respect, even leaving aside the fact that no human being can possibly accurately record the time they spend on a client’s matter, both these assertions for retaining the mind-numbing and expensive time-recording systems in place in most firms are manifestly wrong and unjustified.

People in organisations all over the world are creative, well-managed and highly productive without management needing to see their timesheets.

If you really want to know what your lawyer did all day why not just ask them? If we truly believed we needed timesheets to properly manage our people and to see how effective and efficient they are at doing things, why don’t we have our finance and administration teams, our receptionists, our assistants, our managing partners and CEOs and other non-fee-earners fill out timesheets?

Why? Because they do not charge their services by time and to make them fill out timesheets would make them less effective and much less motivated.

As far as timesheets being necessary to record a firm’s cost of production, there is absolutely no economic or accounting justification whatsoever to support this. Time is not an actual cost in the same sense as rent, wages, printing etc. Every lawyer in every firm, indeed every living person, has more or less the same time available to them every day. Time is merely a constant a restraint. It is what someone does with their time that makes them valuable. Nearly all of the costs in a firm are fixed and can be predicted. Costs do not vary depending on the amount of time you or your employed lawyer spends on a client.

All you are simply doing is making a record of time and then arbitrarily allocating a dollar value to each six-minute unit.

**Some of the deleterious effects of time based billing**

Time-based billing is not only detrimental to clients and our relationships with them, but in my view has led to a whole range of negative consequences for our profession that are too numerous to mention, but include:

- Demotivating highly-intelligent ‘knowledge workers’ by making them slavishly account and record every six minutes of their working day.
- Lawyers being treated merely as ‘fee earners’ and primarily assessed more on their hours recorded than anything else.
- Too many smart people leaving our profession, often citing the time-based billing model as a primary cause of their dissatisfaction.
- The fostering of a production mentality in firms (“slowest horse wins the race”) with little or no incentive to improve turnaround time.
- Stifling of creativity or any incentive within firms to innovate.
- Somewhere between seven and 15 per cent of a firm’s turnover is spent purely on administering a time-based billing model, which adds no value to clients.
- Cost and communication disputes with our clients.
- Significant lock up being considered the norm and just another cost of the business of running a law firm.

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Why become a Firm Of The Future?
I cannot implore you to become a Firm of the Future because all your competitors have ditched timesheets and hourly-based billing and if you do not you are going to be left behind – that is far from the case. In the majority of law firms in the western world, especially at the mid to large firm level, the primary basis of pricing legal services, measuring and compensating partners and employees, is still based solely on time.

But that does not make it right.

Slowly but surely the legal world is changing. Ten years ago I and others were explaining to firms why they should move away from time-based billing; now we are assisting them in how to make that move.

You can choose to adopt the ostrich pose and ignore this trend or you can look at ways you can adopt fixed-fee or value-based pricing.

I know some of you will convince yourselves that your clients are happy with being billed by time, but I have the opportunity to meet with many clients of law firms and invariably the majority tell me the same thing – they would much prefer the certainty of agreeing their fees in advance to the uncertainty of hourly rates, ranges or estimates that invariably change.

As stated previously, pricing your services upfront, according to the value you are providing to your client, not on the time spent on a matter nor how many emails you send or phone calls you make, is a much better way to practice law.

And, as all value is subjective, it is your client’s perception of value that is paramount. If your client perceives they have received value, then they have. Equally, the reverse is true. If your client does not understand the value you have provided to them, whose fault is that?

“The future is already here-it is just unevenly distributed” William Gibson
If you won’t take my word for it, take the word of the increasing number of firms that have made or are making the transition to becoming a Firm of the Future. Many of them are now very public about their move and are reaping the rewards and competitive advantages that come to any early adopters. They say the advantages to their clients include greater price certainty and piece of mind, improved relationships and communication, and sharing of risk. The firms themselves all say their culture, especially in terms of supporting teamwork and collaboration, has improved, there is less hoarding of work by individuals, and they have happier, more creative and productive teams of knowledge workers released from the shackles of timesheets. Increased profitability is also cited as a benefit, as is the fact that clients who agree their fees upfront pay quicker.

The choice is yours and all I ask is that you use your enquiring legal minds and look at what moving to a timesheet-less practice can do for you, your practice and your clients, rather than coming up with all the reasons why the status quo should be

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preserved. There is plenty of information out there in the form of books, articles, online publications and forums for anyone seriously interested in making the change to a better way of practising.

Being a Firm of the Future is not just about moving away from time-based billing. Discovering your firm’s purpose; fostering a culture of innovation; better and more focused client selection; better project management; using leading indicators predictive of performance (instead of lagging retrospective metrics like KPIs); and eradication of annual performance appraisals, all go hand in hand with a timeless environment. All of this will be more attractive to our attorneys of the future.

Clients too now have an increasing array of choices, so next time a client comes to you and asks you, “How much is this going to cost me?” and you cannot answer them, do not be surprised if they go to an attorney who can.

John Chisholm B.Juris LLB.

**Want to learn more about timeless pricing in your law firm?**
Register for my GOING TIMELESS WORKSHOP FM13 at ALA Annual Conference & Expo on Thursday May 3rd 1:45-3:15pm.