Profit Patterns: Using Matter Budgeting and Alternative Fees to Increase Profits

ALA Annual Conference & Expo
April 15, 2019

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Our focus today

Value Migration
Alternative Billing Examples
Matter Cost Budgeting
Key Performance Indicators
Value Migration

Value migrates from outmoded business models to those better able to satisfy customers' priorities.

- Travel Agencies
- Water and Coffee
- Disruptive Technologies
- The "Kodak" Trap
Disruptive Technology

Legal Zoom, Rocket Lawyer, Axiom

Reinvent Law Conference

Client Service and Efficient Technologies

Clients demanding changes

The fundamental client objection to lawyers’ billing by the hour has been the uncertainty of total cost.

Current economic pressures are requiring clients to rethink the way they buy legal services.

They want predictable costs, not surprises.

They want to pay for results, not time.

They want alternatives to billing by the hour.
Current Trends

In a survey by Altman Weil, less than 20% of smaller law firms (less than 100 lawyers) have initiated alternative billing arrangements with clients.

If required by client, only 40% do a cost analysis before agreeing to alternative fee structure.

When they do implement, only 18% track profitability by matter or client.

A Growth Opportunity

Alternative Fee arrangements can be a business development opportunity.

From your client's point of view, billing by the hour is not meeting their needs.

This creates an opportunity to be pro-active and innovative in solving this problem for them.

Also an opportunity to cultivate stronger relationships with existing clients, gain new clients from more rigid competitors and increase profits.
The death of the billable hour?

Common Practice Areas

- Estate Planning
- Collections Work
- Employment
- Litigation
- Large Institutions
**Alternative Billing Examples**

- Fixed or flat fees
- Contingency fees
- Combinations of hourly, fixed and contingent
- Risk collars
- Retainers

**The Fixed Fee**

Under a fixed fee arrangement, the lawyer agrees to perform certain work for a stated fee.

In complex or risky matters, the fixed fee can be split into segments. For example, one fixed fee for a litigation evaluation period, and then a second fixed fee upon completion of the matter.

A fixed fee can be adjusted based on the joint expectations of the likely outcomes of each step in the process (early settlement; reasonable discovery and settlement; full discovery and trial).
The Contingency Fee

The fee is a percentage of the amount recovered.

Traditionally offered to clients in personal injury cases, but can be used in many cases that involve the recovery of money or a benefit that can be translated to money.

A percentage fee is a similar concept and is based on a schedule of fees tied to the result.

Risk Collars

The lawyer and client agree on a fixed fee for a matter and, over the course of the representation, compare the actual hourly time expended to the fixed fee.

If the hourly time is less than the fixed fee, the firm may offer a discount, but still be compensated more than the actual hourly expenditure.

If the hourly time is more than the fixed fee, the client gets the value of the discount from the fixed fee.

The client’s “risk” is capped at the fixed fee.
Retainers

The lawyer and the client agree on a fee to ensure the lawyer's availability to the client during a specified period or on a specified matter.

The retainer shall be reasonable in amount and communicated in writing to the client.

A retainer may be for availability only and actual legal services may be charged separately.

Scenario 1

A single project involving expertise and judgment but not much risk.

Writing or updating an employee handbook.
Creating form contracts.
Developing a compliance training program.
Monitoring developments in evolving areas of law.
Scenario 2

A repeating, routine book of business, which involves expertise and judgment but not much risk.

Filing certain types of patent or trademark applications. Monitoring compliance with environmental permits.

Handling routine labor matters in arbitration or negotiation (as opposed to mediation or litigation).

Scenario 3

A repeating, but more complex book of business that involves judgment, expertise and risk.

Annual securities reporting.
A series of product liability cases.
A series of venture capital financings.
Complex multiparty contracts for capital equipment sales.
Other Scenarios

A one-off, highly complex, high-risk matter.

A bet-the-company litigation for a global client.

A company-wide bribery scandal being pursued by enforcers in multiple jurisdictions.

A patent-defense action in China.

The acquisition of a company in a completely different line of business.

Implementation Matrix

Compatibility
Firm Objectives
Firm Competencies
Firm Operations
Practice Area/Type

Acceptable Risk

Opportunities
Revenue Potential
New Clients
Team cross-selling
Prestige/Publicity
Implementation Issues

Alternative fee strategies require lawyers to predict and analyze the resources required, to lay out the plan to be followed, and to factor in the likely outcome.

Alternative fee implementation favors law firms who have good management skills and lawyers with a high level of expertise in the substantive area involved.

Fee Agreements

Compensation Impact

Implementation Issues

Adopting alternative fees requires the necessary internal systems and business culture.

Alternative fee strategies don’t allow write offs by lawyers who made clients promises they couldn’t keep.

Lawyers and law firms implementing alternative fees must have a clear understanding of what it cost them to deliver their services.
Matter Budgeting: All about the Costs

Tracking Costs is Essential

Law firms need detailed information on the true cost of different kinds of matters.

Law firm accounting systems all permit coding to be added to any matter to track the costs.

A matter coding system presents a ready made template or "chart of accounts" from which to build a matter budget, whether hourly or on an alternative model, for both simple and complex transactions and litigation.
Identifying cost centers

Investigation and Due Diligence
Document and Pleading preparation
Discovery, Negotiations and strategic options
Closing, Settlement, Litigation

Matter budget + variance = Total projected matter cost
Time estimates + changes = Total actual matter time

Client communication is critical at each step/change

Identifying cost items

Attorney prep time and actual time
Staff time, cost of experts and support services
Salaries plus benefit costs
Overhead (Rent, Staff, Utilities, etc:)
Materials (Paper, Supplies, Furniture)
Technology (Hardware, Software ,Tech Support)
Key Performance Indicators

Financial KPIs:
- WIP days outstanding
- A/R Uncollected days outstanding
- Revenue per timekeeper
- Revenue per matter

Operational KPIs:
- Billable hours per full-time equivalent timekeeper (FTE)
- Average bill rate
- Ratio of billed-to-work rate
- Staffing ratio

Marketing and Business Development
- Client Retention
- Growth in Top Clients
- Practice Areas per Client
A dashboard is a snapshot of important indicators from your financial statements and related reports, which can help you see how the various elements relate and form patterns.

Many law firm accounting applications offer a module that can produce dashboard reports, providing a focal point that makes information from a variety of sources readily accessible to management.
Revenue by Client

Who's Driving our Business?

Team Selling Opportunities

Clients

New Matter Potential

Matching our available resources with client needs. What can we do better for them?

Clients for whom we are doing some work but not everything they need.

Profitability

Capabilities

Work can be billed at usual rates with minimal adjustments.

Clients

8% 7% 5% 20% 30%
Top 25
Next 75
Next 100
Next 130
Next 300
Next 250
Last 250

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The Leader’s contribution

 Opportunity
 Analysis
 Execution

Profit Patterns

Your Challenges and Opportunities?

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Please take a moment now to evaluate this session.

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