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ABA
AMERICAN BAR ASSOCIATION
**General Practice,
Solo & Small Firm
Division**

Fees, Finance & Frugality

**Saturday, October 17, 2009
2:30 p.m. - 3:30 p.m.**

**2009 Fall Meeting and
National Solo and Small Firm Conference
October 16 - 17, 2009
Millennium Biltmore Hotel
Los Angeles, CA**

American Bar Association
General Practice, Solo Small Firm Division

Billing 101: Fees, Finance and Frugality

Effective billing strategies for solos and small firms

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Friday October 16, 2009
2009 GP |Solo Fall Meeting & National Solo Small Firm Conference
General Practice, Solo Small Firm Division

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“Fees, Finance & Frugality”

Effective Billing Strategies for Solo's and Small Firms

- **Allison Shields, Esq., Founder, Legal Ease Consulting, Inc.**
- **Kevin Chern, Esq., President, Total Attorneys, Inc.**

The lawyer-client relationship is one of trust, and that trust needs to extend to your billing and your fee structure. Good billing practices start with good communication with your clients. This session will discuss the basics of billing and how to talk to your clients about your fees. Topics will include:

- I. Ascertaining and managing the client's expectations
 - a. Client Perception
 - b. Fee structures and that satisfy clients and still get you paid.
 - c. Don't get stuck giving your work away for free.
- II. Defining the scope of the engagement
 - a. Variables that can change the scope and fees to be charges.
 - b. Establish value
- III. Identifying the desired result
 - a. Define the Client's Expectations
- IV. Establishing value
- V. Dispelling objections and misconceptions
 - a. Managing the clients expectations for realistic goals
- VI. Creating a client-friendly fee structure
 - a. Alternatives to the billable hour
- VII. Explaining the fee in ways the client can understand
- VIII. Tips for good billing practices and systems
- IX. Your Fees should be a reflection of who you want to represent
 - a. How to quote fees over the phone
 - b. Clients who argue about fees...
 - c. Responding to Fee objections
 - d. Using fees to get things from your clients
- X. The Right Time to send a bill
 - a. Tax returns, back to school
- XI. Client Friendly Payment Options
 - a. Payment Processing solutions
 - b. ACH
 - c. Accepting Credit Cards
 - d. Payment Envelopes
- XII. Effective Billing from Start to Finish
 - a. Eliminating Obstacles for your clients
 - b. Eliminating Obstacles Exercise
 - c. Be aggressive in your follow up
- XIII. Articles
 - a. Collaboration to save money – by Allison Shields
 - b. Re-Examining Your Online Expectations – by Adrian Dayton

Biographies

Kevin Chern



Kevin Chern is President of Total Attorneys, Inc., a Chicago, Illinois company providing marketing, practice management and support services to small law firms and solo practitioners across the United States. Previously, he served as managing partner of one of the country's largest consumer law firms, which he steered from a two-attorney partnership to 19-state firm with more than 180 employees serving hundreds of new clients each week.

Mr. Chern has lectured and written extensively in the law practice management and legal marketing arena, including presentations at Get a Life 2009 and Max Gardner's Bankruptcy Boot Camp and articles in the *American Bankruptcy Institute Journal* and the American Bar Association's GPSolo *Technology eReport*. He is a member of the American Bar Association, the Illinois State Bar Association, the Chicago Bar Association, the Legal Marketing Association, the American Bankruptcy Institute and the National Association of Consumer Bankruptcy Attorneys.

Mr. Chern graduated from the University of Illinois College of Law at Urbana/Champaign and was admitted to the Illinois bar in 1993.

Allison C. Shields



Allison C. Shields, Esq., President of Legal Ease Consulting, Inc., provides leadership, practice management and business development coaching and consulting services for lawyers and law firms. She helps her clients create efficient, effective systems and operations to maximize productivity and enhance client experience. Her proven processes and systems help law firms and individual lawyers reach their goals and implement the plans they create. Ms. Shields' clients learn how to identify and attract their ideal clients, improve their client intake and selection process, and develop client-friendly fee structures to enhance the lawyer-client relationship. Ms. Shields has been a practicing lawyer for 15 years, focusing on defense litigation. Prior to starting

Legal Ease Consulting, Ms. Shields was the Administrative partner at one of Long Island's premier law firms.

Ms. Shields has presented workshops in both private and public settings on various topics, including: law firm billing, legal fees and alternatives to the billable hour, productivity, time management, marketing and management of a law practice, client service, and eliminating obstacles to law firm effectiveness. She has authored numerous articles on those topics and is currently working on a book on alternative billing practices for lawyers.

An active member of the American, New York State, Nassau and Suffolk County Bar Associations, Ms. Shields has served on the Education Board of the American Bar Association's Law Practice Management Section, and is an Associate Dean of the Suffolk Academy of Law, the educational arm of the Suffolk County Bar Association.

Ms. Shields is a 1993 graduate of Fordham University School of Law, and received her B.A., *cum laude*, from Dickinson College in Pennsylvania in 1990. She is admitted to the bar of the State of New York and the Federal Courts of the Eastern and Southern Districts of New York.

Billing 101: Fees, Finance and Frugality Effective billing strategies for solos and small firms

“People do business with people they know, like and trust.”

Establish trust by effectively communicating with clients about:

- Fees
- Fee structure (how fees are calculated)
- Billing processes and procedures

And by ***following through with your own stated billing practices and procedures.***

Put clients first

Hourly billing focuses on costs and features – both of which put the emphasis on the lawyer and the lawyer’s work, rather than on the client and the benefits they receive from working with you.

Clients are focused on “what’s in it for me.”

- Benefits
- Results
- Outcome
- Service

The **client’s perception** is crucial:

- Quality of the services provided
- Value of those services

Create a fee structure that satisfies clients and still gets you paid

- Set the tone and establish billing practices and procedures
- Define the scope of the engagement;
- Identify the results the client wants to accomplish;
- Establish the value of the engagement *and of your services based on the client's goals and objectives*;
- Delineate fees up front;
- Document the scope of work, method of calculating the fee and the payment terms in writing;
- Use 'change orders' or supplemental service agreements when the scope changes

Set the tone

Initial consultation - first impressions are everything

If you're hesitant, unsure or unclear about your fees, the method or timing of payment or other terms, clients will not take your fees seriously.

Frequent complaints:

- Client wants me to work but doesn't want to pay
- Client doesn't respect my opinion, is arguing with me
- Client is in a rush and is up against deadlines, so I start working before I receive retainer agreement and check
- Client is complicating things and increasing expenses but complaining about the fee
- Client always pays late and is getting further and further behind on payments

Many of these problems are the fault of the lawyer, NOT the client: it is the lawyer's job to communicate value and demonstrate benefits and to work with clients who understand the value and benefits provided. Some of these problems are not problems with billing structure, but the lawyer's approach to client selection and communication.

Don't get stuck doing involuntary pro bono work!

- Don't give clients an automatic 'pass' on complying with your fees or billing policies.
- Be flexible, but don't be a doormat.
- Determine up front whether the client is serious about their matter, respects you and is willing to pay.

Define the scope of the engagement

Defining the scope of the engagement is *crucial*

Scott Turow: “A solid economic relationship ought to start out with both sides understanding the scope of the engagement.”

- Be clear about what services are and are not included in the quoted fee.
- Disclose the types of obstacles or variables that might arise that would require additional services (and an additional fee).

Clients may not know what questions to ask.

Lawyers assume that clients know more than they do about the legal process and about what steps must be taken to reach the client’s goals.

Discuss variables that change the scope and the fees to be charged

- What will make an engagement more complicated?
- What will make it more stressful for you and for the client?
- Which engagements (or clients) require specific skills or expertise?
- Which variables are important to which types of clients?

These variables may differ from client to client. For example:

- Does the client want something in a rush?
- Does the client expect ‘additional’ services?
- Is this a needy client?
- Will you be dealing with one person within the organization or more than one?
- Will working for this client mean that you have to forego other business or put other clients off in order to get the business?

You do not need to anticipate every possible scenario, but you should articulate the kinds of problems or contingencies that may arise, such as failure of opposing counsel to provide documents, addition of new parties to the action, etc.

Establish value

Consider what you're selling – or rather, what your clients are BUYING – are your clients buying time, or are they buying your services or a result? (i.e. a written contract, a settlement agreement, an end to litigation?)

Factors that can influence the fee:

- Experience
- Results
- Training
- Practice area
- Geographic area
- Knowledge and understanding of the client's situation
- Ability to solve the client's problems

The only reason that any of these factors affects the ability to charge a particular fee is because the *client* believes that they add *value* to the engagement.

Don't set the fee based solely on the number of hours you may or may not need to expend to reach the client's objectives.

In order to obtain the client's agreement to perform your services, the client must understand why those services are important to *them*– from their perspective, not yours.

Clients who don't pay don't value your services or understand what you're trying to accomplish for them.

Two possible reasons for this:

1. They're not the right client for you; or
2. You haven't done your job of establishing value with the client.

Clients don't really care how much time you spend on a task.

Clients care about:

- The result that's obtained;
- The way they're treated (service); and
- The total fee for legal services.

At the heart of value is client's current pain or challenge. To establish value, ask questions like:

- What does the client want *most* and *least* from the outcome?
- What is it costing the client to do nothing?
- What will it cost the client if the client delays taking action?
- What opportunities might the client miss?
- What would it mean to the client to reach their objective?
- How will the result achieved affect the client's business or personal life?

Each client's circumstances, background, goals and perspective is different, so you can't assume that every client that appears to be in the same situation or appears to require the same services is actually 'the same.'

What do you bring to the table – what is your part of the value equation? Each lawyer and law firm is unique – your experience, knowledge and services are different than other lawyers, even those who practice in your geographic and/or practice area.

Distinguish yourself from other lawyers:¹

- What do you do that nobody else does?
- What benefits do your clients receive?
- How important are those benefits to the client?
- How are your services different?
- What advantages do those services provide for your clients?

In order to price effectively, you must be able to articulate the value your firm brings to its clients – what benefits will the client receive, and how important those benefits are to the client and to reaching the client's goals.

Identify results and goals

- What is the client's most and least desired outcome?
- Can the client quantify the result they wish to achieve (even if that result is not monetary)?

Some examples of non-dollar value might include:

- A sense of fairness or justice;
- A wish to 'be heard' or for 'their day in court';
- A desire to put the adversary through a trial, regardless of cost or time;
- The need to protect the client's reputation or make a point in the industry; or

¹ If you need help determining what differentiates you from other lawyers, see my free report, "Are You Missing A Crucial Element in Your Marketing?" You can get a copy at: <http://www.LawyerMeltdown.com/newsletter.html>

- The desire to take advantage of an opportunity.

Two clients with different objectives or goals may require different legal services, a different approach, and a different fee structure *even if the clients appear to have the same problem or issue to be resolved.*

Define the client's expectations

What other expectations and misconceptions does the client have about:

- You
- your services
- lawyers
- the law
- the engagement in general

Ask questions during an initial consultation that are designed to elicit information about what the client expects. For example:

- What problems do you need us to solve?
- Do you have any ideas about how you'd like to see them solved?
- How will communications be managed?
 - Frequency
 - Amount and depth of information
 - Format
- What are your expectations about availability/accessibility?
- If you had a magic wand and cost was not a factor, what would you want us to do for you?
- Do you have any prior experience with the legal system? Was it positive or negative? (Describe)
- Have you been involved in this type of transaction in the past? Was it positive or negative? (Describe)
- What is your quantified objective?
- Do you have a budget for this matter?

All of these factors will impact on value, on the manner in which you provide your services, and on the fee.

Financial expectations - what can the client afford?

Ascertain the client's level of financial stability and commitment to the matter before you take on the engagement. If the client indicates an inability to pay for your services in any manner, think carefully about whether you're willing to begin an engagement which the client may not be able to afford.

Discuss all of the costs associated with the matter up front (not just fees, but costs, including costs from outside vendors, emotional costs, time costs, etc.).

Manage expectations and determine whether their goals are realistic

Temper the client's expectations, goals and desired outcome with your own expertise and experience.

As the lawyer, you must play a role in defining and re-shaping what some of those needs, wants and expectations are and should be.

- What are the potential pitfalls of the client's desired course of action;
- What are the risks in taking or failing to take a particular course of action;
- What is the likelihood that the client's objectives and expectations can realistically be met;
- What options are available; and
- What variables might affect both the outcome and the fee.

Select a fee structure

There are many fee options available to lawyers, including:

Value pricing

A method of pricing legal services based upon the total *value of the services provided to the client*, rather than the number of hours it takes to complete the engagement.

Assumes the lawyer is selling skill, expertise, innovation, and the service they provide to their clients, rather than *time expended* on a particular matter.

Contingency Fees

- The lawyer gets paid a percentage of the client's recovery at the end of the case. The fee can be a fixed percentage or a sliding scale.
- Usually expenses come from the client's portion of the recovery, after the lawyer's fee is calculated (or are paid directly by the client as they are incurred).

Task-based billing

- Fixed fee for a particular task
- Can be set at the outset of a matter or as the task arises.
- Advise clients of the types of tasks up front
- Communicate with the client about tasks that must be performed
- Build in a timeline for clients to respond

Success fees or bonuses

- Awarded for meeting particular criteria outlined and agreed to in advance.
- Can be awarded for reaching certain benchmarks or obtaining a specific result, or
- Can be based strictly upon the level of service the client receives.
- The lawyer shares risk with the client.

Blended or hybrid fees

- Any fee structure that combines different billing methods.
- Ex: fixed fee for litigation up to the time of trial, with hourly billing for the trial itself; or
- Fixed fee with a performance bonus based upon achieving the client's stated goals

Retainers

- **Minimum retainers:** The lawyer collects a retainer up front and specifies a minimum amount below which the retainer cannot fall. Some lawyers go one step further and create a minimum fee retainer—the retainer is paid and considered 'earned' at the outset, and no monies are refunded to the client, even if the matter is resolved immediately.
- **Evergreen or replenishing retainers:** The client pays a retainer up front, but is billed for the full amount of services every month, keeping the retainer at the same level throughout the engagement.
- **Strategic retainers:** A retainer is taken up front and the client is advised that additional, specified retainers will be required at strategic times during the engagement, such as 30 days prior to trial, or at the time of depositions.
- **Monthly retainers:** Used for ongoing services, such as legal advice or document review on a continuing basis.

Flat fees

- One fee for the entire engagement.
- Most common in predictable or repetitive matters.
- Fee is the same for every engagement, regardless of the client, the circumstances, etc.

Staged billing

- Provide an *estimate* of the total fee. Bill the client at the beginning of each stage, revising your estimate as needed, based upon the level of difficulty or complexity as the case evolves; or
- Ascertain the fee for the entire engagement at the outset, and then bill the client a specific percentage of the fee as the matter reaches each subsequent phase.
- Define the work to be performed at each stage and any exclusions or assumptions

Fixed fees

Determined on a case by case basis, depending on factors including:

- the client
- the anticipated outcome,
- the anticipated difficulty of the matter,
- the client's values and priorities, etc.

Should not be based upon anticipated hours

Options

- Options allow clients to participate in setting the fee
- Client some control over the services provided and the fee to be charged

Examples of options include:

- Packaging or bundling some services together at a different fee than the services would be priced separately; or
- Providing additional services to the client at a premium fee.

Change orders and supplemental services agreements:

- Used with fixed fee agreements when unforeseen circumstances arise
- Describes the additional scope of services and additional fee

Articulate the changes in your fees by demonstrating how the additional services are tied to the services requested or outcome desired by the client – not by the additional time that will be expended.

Success will depend on how well you've defined the scope of the engagement and the variables that might affect the fee.

Up front/fixed fee pricing pros:

- Allows the client to make an informed decision about whether legal services are affordable *before* those services are rendered.
- Client can budget for legal fees in advance (and is less likely to question a bill they've agreed to in advance)
- Cash flow is improved
- Fewer resources are expended to follow up on outstanding bills and accounts receivable.
- Clients are more likely to cooperate and provide necessary information

Communicate with clients about your fees: Overcoming fee resistance and objections and reaching agreement

As the service provider, you must quote the client a fee.

Expect fee resistance: If you never encounter any fee resistance at all, it is likely that your fees are too low.

Clients don't always know what they're going to need or what services will be necessary.

As the lawyer, you are the expert, and it's your job to:

- Educate your clients about the essential features of your service and
- How your services benefit the client

To overcome the client's resistance to your fees and bridge the gap between the client's initial (or assumed) perception of value and the actual value of your services:

- Demonstrate the importance of those services *to the client* and the client's stated goals;
- Discuss how failing to do the work will prevent the client from meeting their goal;
- Return to the client's pain or problem;

- Set forth the consequences of not moving forward;
- Highlight the opportunities that your services will make possible.

Don't 'low-ball' the estimate.

Trust your gut! If you've educated the client and you don't believe they value your service or are willing to pay, reconsider taking on the engagement.

Clients are willing to pay a premium if they perceive that they are receiving value in exchange for their money, and are often willing to pay up front if you:

- Pinpoint what the client values
- Articulate your services in terms of those values
- Deliver on the promises that you make

Put it in writing: the engagement letter

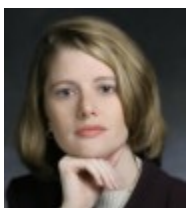
- Budget, timeline and expected events: when should the client expect bills? When are retainers and other fees due?
- Value/benefits the client will receive
- Costs: who is responsible for them and when
- Staffing
- Consequences of nonpayment or late payment
- Right to withdraw
- Frequency and method of communication
- Arbitration/dispute resolution
- Resolution of conflicts of interest
- File retention policies
- Who is the client and who is responsible for paying the bill
- Exclusions to services
- Client' responsibilities
- When fees are considered 'earned?'

Tips for successful billing

- Provide clients with a process outline, timeline or flow chart
- Communicate regularly throughout the engagement – *even when nothing is happening*
- Client communication is an opportunity to strengthen the relationship and keep the client engaged - NOT an opportunity to bill
- Go over engagement agreement in detail; have client initial substantive portions re: fees
- Follow through - If you don't respect your own procedures, clients won't respect them either
- Bill more frequently to keep receivables low and encourage payment

- Use a reliable billing software program
- Reconcile trust and general accounts on a monthly basis using software and/or your accountant to ensure compliance with ethical rules
- Develop a consistent collections procedure with a timeline for communication with the client about outstanding fees
- Accept credit cards if possible
- Obtain client's signature/authorization for use of card for legal fees and parameters
- Agreement about 'charge-backs'
- Use bills to reinforce value
- Bill while services are fresh in the client's mind, particularly at the end of an engagement;
- Even if you receive payment up front, document your services and the status of the retainer fee for the client; don't wait until retainer is exhausted
- If unanticipated services arise, discuss them with the client *before* you send them an additional bill
- Get up front deposits and progress payments
- Take additional retainers at strategic points in the process (i.e 30 days prior to trial)
- Use replenishing retainers or 'last payment' deposits/retainers
- Offer discount/bonus or additional services for early or on time payment
- Cut off clients who don't pay – STOP work/withdraw
- Follow through
- Know your clients business and their concerns
- Provide information and services without looking for payment
- Prepare clients well and help them to understand their roles and responsibilities in the engagement
- Seek feedback
- Don't be a doormat – value your services and your fees; if you don't, your clients won't
- Quote your fee and then BE QUIET – don't negotiate with yourself
- Put billing practices and policies (including rates, where possible) in writing – clients find it more difficult to argue with written policies
- If you're giving a discount, be sure to tell the client what the 'regular' fee is.
- **Know the ethical rules of your jurisdiction!!**

Best billing practice = Deliver an exceptional client experience



Allison C. Shields, Esq., President of Legal Ease Consulting, Inc. is a former practicing attorney and law firm manager who provides practice management and business development coaching and consulting to help lawyers create more productive, profitable and enjoyable law practices, improve client relationships and get paid.

Contact Allison at: Allison@LegalEaseConsulting.com or 631-642-0221
 Blog: www.LegalEaseConsulting.com * Website: www.LawyerMeltdown.com.

Side by Side Comparison: Hourly Billing vs. Value Pricing

Hourly Billing	Value Pricing
The fee is based solely on the time spent, rather than on the value delivered to the client	Fee is based on the value of the services to the client
Puts financial incentives for lawyers in the wrong place – the focus is on time rather than result	Financial incentive is to reach the client’s stated outcome and provide excellent service
Encourages over staffing of matters	Encourages efficient staffing
Encourages inefficiency and ineffectiveness	Encourages effectiveness
Encourages bill padding and useless (or of limited use) activities	Encourages collaboration with clients in determining what actions to take on the client’s behalf
Encourages lawyers to draw out cases for billing purposes	Encourages lawyers to take actions necessary to reach the client’s outcome, in line with the client’s expectations
Puts lawyers at odds with clients	Helps build loyalty and trust between lawyers and clients by reaching agreement about the scope of work and the fee before work is performed
Is based on the cost of production rather than on the needs of the buyer	Is based on the client’s expectations and the services necessary to provide the client with the best possible representation
Is inherently limited (there are only so many hours in the day and only so much you can charge per hour)	Is limited only by the value of the services rendered
Makes all hours ‘equal’ – photocopying, telephone calls, strategy, brief writing, trial work	Rewards excellent service, innovation, and quality representation
Is one reason legal outsourcing is becoming more popular – hourly rates are cheaper overseas	Places focus on lawyer’s skills and expertise, which are not commodities and cannot be reproduced.
Penalizes technological advances and innovation	Rewards efficiency, effective use of technology to communicate with clients and complete work to the satisfaction of clients.
Encourages aggressive auditing by clients and tells clients time is what is most valuable; encourages clients to argue about how much time it ‘should have’ taken	Encourages lawyers and clients to discuss the specific services to be provided and the value of those services to the client; isn’t dependent upon time. Focus is on service and outcome, rather than time spent.
Principal source of dissatisfaction for attorneys and clients; lawyers are tied to the clock, timesheets and billable hours; clients can’t predict costs and fees and feel that they’re giving lawyers a ‘blank check’	Selling point for lawyers and universally appreciated by clients; eliminates ‘surprise’ fees to clients and reduces or eliminates fee disputes and collections issues
Creates need for more administrative work and time in creating and reviewing timesheets and bills	Reduces or eliminates administrative work by setting fixed fees and obtaining payment in advance of performance of work.
Is a major reason for associate defections/dissatisfaction	Reduces associate dissatisfaction as outcome and service, not hours, become the measure of performance and compensation
Discourages pro bono work	Allows more room for “non-billable” work, such as pro bono and business development activities
Promotes poor planning skills and failure to evaluate costs of legal services during the engagement	Requires good planning and collaboration with the client about the scope of the engagement and the fee

Your fees should be a reflection of who you want to represent.

When deciding on fees for your services, it is hard to deny that different types of fees and pricing structures attract different types of clients. Agreement among yourself and partners on the “type” of client you want to represent is critical to any firm.

Here are some things to remember when deciding your fees:

- Don't sell yourself short.
- Clients who argue the most about fees are generally the most difficult to service and will likely be your worst sources of referrals.
- People who pay you more need to feel good about the amount they pay you.
- Consider handling half the work at twice the fee or, even better, the same amount of work at twice the fee.
- Consider whether your fees are realistic in light of your location, what your competitors are charging, the demographic of your prospective client, and the messaging in your advertising.

How to quote fees over the phone:

- Don't price yourself out of the market.
- Don't commit to a fee that's too low.
- Quote ranges of fees, not specifics.
- Don't go all the way on the first date.
- Require prospective clients to bring money to the first appointment, but not too much.
- Don't give other lawyers a competitive advantage.
- Ask *How much can you afford?*

- Use the fee discussion to get a commitment: *If I agree to get started with just \$X, can you commit to coming in tomorrow?*

How to respond to fee objections:

- Help your prospective client to put your fees in perspective relative to their present dilemma. Turn *How am I supposed to afford it?* into *How can you afford not to proceed?*
- Remember that each client's situation is unique and be prepared to work with them, but not to your own detriment. Ask *How can I work with you?*

Using fees to get things from your client:

Your relationship with your client needs to be strong, mutually rewarding and honest. Leveling with your client about the work you are doing for them in real terms rather than dancing around the conversation will save you both time and heartache. Explaining to the client that there are ways to lower their fee, but only if it will benefit you as well, puts you in a good position to negotiate for your benefit.

- Pay promptly and you can save money.
- Be cooperative and you can get a discount.
- Refer people to me and I will cut your fee.
- Don't call me very often and I'll charge you less.

Even your collection efforts, when handled effectively, can strengthen your relationship with your client and the likelihood that the client will use your services again and/or refer others to you.

- Show concern for your client's circumstances.
- Approach the past-due balance as a problem you have to solve together.
- Use compromise to secure commitments: *If I agree to split this into three payments, I have to know that you're definitely going to make those payments on schedule.*

The Right Time to Send a Bill

It's easy to overlook the importance of timing and to simply send out bills on pre-determined schedule or, worse, when time allows. But when those bills go out may determine how quickly, and even whether, you get paid.

- Bill quickly after a good result, while the client is happy and clear on the value of your services.
- Bill after a client update or other contact: don't let your bill be the only recent contact.
- Bill frequently; a smaller bill is less daunting and more likely to be paid promptly.
- Keep your eye on the calendar - take advantage of opportunities like tax refund time.
- Avoid sending out bills immediately before Christmas or the start of a new school year, because your clients have other financial priorities.

You may even take advantage of opportune times to make a special offer to encourage clients to pay within a short period of time. For instance:

- At tax time, offer clients with past-due balances a 10% discount if they use their tax refunds to bring accounts up to date.

Client-Friendly Payment Options

Many attorneys struggle with the question as to whether to accept credit cards and other payment options.

Ask this question instead: ***Do you want your clients to be more willing and able to make immediate payment?***

Yes, there's a cost associated with accepting credit cards (usually 2-4% of the transaction), but consider the offsets to that cost:

- Fewer unpaid bills.
- Present value of payments received now, rather than over time.

- Improved cash flow due to faster payment and more payments in full.
- Less staff time devoted to collection efforts.
- Increased business – knowing credit card payment is an option will help some clients choose you.

Accepting credit cards isn't the only way you can make it easier for your clients to pay you. Think about your billing process from a client perspective:

- Make sure your bill sets forth a clear due date.
- Include a payment envelope to make it easy for your client to just pop a check in the mail.
- Include a calendar with circled dates.
- For less sophisticated clients, write the payment amount in their checkbook ledger.
- If you accept credit cards, make sure your bill reminds your clients of that fact.
- If you accept credit cards, consider offering a secure online payment option.

ACH

- Contact your local bank and see if they offer it.
- Possible vendors with a legal focus (Chart Below).
- Considerations in selecting a payment processing provider:
 - Trust account issues
 - Hidden fees

- Customer service
- Set an expectation that ACH/auto credit card processing is “the way we get paid”.
- Don’t suggest a pre-determined payment schedule as an option; it is mandatory.
- Create a sense of mutual responsibility – “you expect me to zealously represent your interests, and I expect you to pay me for my work” – setting early understandings and expectations paves the road for a healthier relationship

The smallest obstacle to payment can lead to delay and deprioritization; make it as simple as possible for your clients to pay your bill *when it arrives*, so that it never gets set aside or becomes part of the backlog to be prioritized.

Vendor	Credit	Debit	E-Checks / ACH	Specialty	URL
AmeriNet			Yes	Specializes in ACH	www.debit-it.com
Cambridgedommerce, Inc.	Yes	Yes	Yes	Great Customer Service at a Value Price	www.cambridgecommerce.com
Capital Payments, LLC.	Yes	Yes	Yes	Dedication to customer service, and tailoring programs to suit each firm's needs.	http://www.capitalpayments.com/
Law Firm Merchant Account	Yes	Yes	Yes	Law Firm Merchant Account is professional payment solution for attorneys and their clients.	http://www.affiniscapemercantsolutions.com/associations/7037/files/LFM/index.html
Paymentech	Yes		Yes	Chase's merchant processing arm.	http://www.paymentech.com/
Transfirst ePayment Services	Yes	Yes	Yes	ACH processing; recurring billing	http://epay.transfirst.com
Merchant Warehouse	Yes	Yes		"100% Lowest price guaranteed." No setup costs. "We will beat any competitor rates and fees, or you get a \$100 Amazon gift card." Vendors of all major gateway software.	www.merchantwarehouse.com

Full Perspective Services, Inc.	Yes		Yes	ACH Processing	www.fpservicesinc.com
PacNetServices, Ltd.	Yes		Yes	International transactions	http://www.pacnetservices.com/index.php
Creative Cash Flow Solutions, Inc.	Yes		Yes	Promotes ACH transactions over credit cards.	www.ilovechecks.com
FDIS Great Neck NY	Yes	Yes	No	Merchant card processing (Credit cards and PIN secured & signature debit cards.	www.fdisgreatneckny.com

Effective Billing from Start to Finish

The process of getting paid begins when you first meet or speak with your client, and continues until the case is closed and final payment is in hand. The early foundation for getting paid includes:

- Setting clear expectations regarding billing and payment.
 - Explaining to the client that Credit Cards and ACH payment are how you conduct business
- Establishing the value of your services.
- Developing a solid relationship with the client.
- Delivering a positive client experience.

In the actual billing process, it's important to:

- Bill according to the expectations you set.
- Time your bills strategically.
- Make payment as easy as possible for your clients.

- Create a client extranet for them to login and submit payments.

Following these strategies will increase timely client payments, but there will always be some clients who have difficulty making payment or are reluctant to do so. It's important to take control of those situations right away.

- Make contact early; the further removed from the services you are, the harder it is to get paid.
- Assume that your client wants to pay, and treat the situation as a problem to be solved together.
- Ask questions—finding out why you haven't received payment is the first step toward a solution.
- Offer solutions if your client cites financial obstacles.
 - A client who feels like you're trying to work with him will be more motivated to pay
 - Clients may be overwhelmed, and simple solutions may not have occurred to them
 - It's more difficult to make excuses when multiple options are offered
- If your client has complaints about your services or the amount of the bill, listen and discuss.
 - A client who feels you're dismissing his concerns will be more frustrated, less likely to pay
 - Many complaints are based on misunderstandings or miscommunication—take the opportunity to clear that up

Eliminate Obstacles & Excuses

- Try to eliminate all obstacles for the consumer. Make things as easy as possible.
- Eliminate the obstacles that they may have or create. *I can't pay it all right now* invites *What can you pay right now?* Get the show on the road.
- Create short-term payment plans. Give them up to 90 days, over 6 payments. You can even have them write out the checks and post date them.

- Ask questions to reveal the obstacles to be overcome.
- Keep it simple tell them to bring their bare minimum.
- Getting just \$100 dollars upfront to start the process ensures that the consumer is VESTED in you as their attorney and they are nearly guaranteed to fully retain you.
- The first payment is only the first step. Create a plan of action. Paying the fees in full is a process.
- Relate the payment of fees to achieving a goal that the client provides.

Exercise:

What excuses have you heard that prevent potential new business from entering the office? List 5 of the common excuses you hear from your clients, then your response to the client breaking down the barrier. We have included 2 examples to get you started:

Examples:

Client Excuse: I can't come in now; I don't have money for the full fee amount.

Attorney response: Just bring a check for \$100.00 to the consultation and we'll work from there.

Client Excuse: I don't think I'll be able to pay you for your services right away.

Attorney response: We can work on setting up a payment plan for you; let's talk about it when you come in.

1. _____

Your answer: _____

2. _____

Your answer: _____

3. _____

Your answer: _____

4. _____

Your answer: _____

5. _____

Your answer: _____

Aggressive Follow-up:

- About 50% of people you talk with show up. 85% of people who show up should hire you.
- Automate follow up in the office.
- Set auto-reminders to send out follow-up emails, calls or letters (or all) to consumers.
- Ensure that every consumer who didn't initially retain still understands that you are their attorney and your door is open when they are ready to move forward with their case.
- A good timeline to keep:
 - ✓ Call every consumer 2 days prior to appointment to remind
 - ✓ If you don't reach them, leave a message and call them the day before the appointment
 - ✓ If you don't reach them, leave a message and call them the morning of the appointment
 - ✓ If they ditch the appointment, call them that day. Empathize, whether you're talking to them or leaving a message: *We understand these things happen, let's get you in right now. (or today, soon, etc)*
 - ✓ If they don't come back a 2nd time, call them and tell them to schedule something that week that works best
 - ✓ If they never make it in, send an email
 - ✓ Send a letter 30 days later with your card/info, etc.
- It's a good idea to get 8-10 touches total touches out before giving up on a potential client.

The Bottom Line in Billing

Like most aspects of your business, effective billing and collections are a function of good client relationships and your ability and willingness to meet your clients' needs. Billing shouldn't be an afterthought, but a carefully planned part of the process that makes it simple and stress-free for your clients to keep their bills up to date and keep your revenues flowing smoothly.

Online Resources, Blogs & Helpful Tools:

37 Signals - Base Camp: Seamless and easy client interaction.	http://basecampHQ.com/
Google Docs: Easily share & edit files and spreadsheets with your clients.	http://docs.google.com
Lawyer Meltdown - Allison Shields	http://legalease.blogs.com/legal_ease_blog/
Total Practice Management Association - Kevin Chern	http://www.totalpma.org/blog/
The Non Billable Hour - Matt Homann	www.nonbillablehour.com
The Client Revolution - Jay Shepard	http://www.clientrevolution.com/2009/01/one-blawgs-primer-on-alternative-billing.html
Legal Practice Pro - Jay Fleischman	http://www.legalpracticepro.com/
Legal Sanity - Arnie Herz	http://www.legalsanity.com
Legal Marketing Blog - Tom Kane	http://www.legalmarketingblog.com/
Law Practice Tips Blog - Jim Calloway	http://jimcalloway.typepad.com/lawpracticetips/2008/08/andy-adkins-on.html
Law Practice Strategies - Alan Klevan	http://www.lawpracticestrategies.com/
Leal Electronic Billing Blog - Rora Tanaka	http://roratanaka.wordpress.com/
The Mac Lawyer - J. Benjamin Stevens	http://www.themaclawyer.com/
Death and Taxes Blog	

- Joel Schoenmeyer	http://www.deathandtaxesblog.com/attorney_fees/
What Price Justice?	
- NOLO	http://www.whatpricejusticeblog.com/attorney-billing/



Collaboration Tools: Serve Clients and Save Money

Allison C. Shields

Recently, I had the privilege of attending the keynote speech at the ABA Techshow delivered by Richard Susskind, author of *The End of Lawyers? Rethinking the Nature of Legal Service*. Susskind predicts that the practice of law will change drastically over the next several years, and that lawyers will have to adapt to the changing marketplace by altering the way they deliver legal services. Susskind predicts that one result will be more collaboration among lawyers, allowing them to provide valuable legal services in a cost effective manner. But to do so, lawyers will need to begin looking outside of the legal world for tools that will help them to act more like project managers. Lawyers who begin using these tools now will be ahead of the curve; they'll be able to provide clients with better service at reduced cost.

New technologies and collaboration tools can help lawyers increase productivity, work more efficiently and manage resources, including both time and expenses, for both the firm and the firm's clients. These tools provide opportunities for internal communication within firms as well as external communication with clients, strategic alliances, experts and more. Using collaboration tools can help lawyers get clients more involved in the legal process, seeking client feedback in real time, providing clients with access to files and information at their convenience.

Collaboration tools can help lawyers in different offices, different cities, working from remote locations or working virtually to work together on a particular file or document, all in real time. The result is reduced overhead costs, more efficient use of time and cost savings, eliminating the necessity for travel or in-person meetings between lawyers in remote locations.

While some 'virtual meeting' technology was available in the past, it was often expensive or inconvenient, requiring lawyers to travel to yet another location to conduct the conference through a remote video location. But today, technology is readily available which allows lawyers to conduct meetings directly from their desk, using inexpensive video equipment or built-in computer webcams which enable the participants to see one another, at little or no cost.

Web tools such as GoToMeeting.com, WebEx.com or Adobe Connect Now (acrobat.com) allow meeting participants to participate by video or hear audio while at the same time sharing computer screens; the

meeting facilitator can share his or her screen with the group, allowing each participant to see what the facilitator sees. These tools are not only helpful for reviewing evidence or photographs with witnesses or clients, but may also aid law firms internally with things like ongoing employee training. Rather than requiring trainer and trainee to be in the same room, or even the same office, the trainer and trainee could conduct a training session by telephone, with the trainer sharing his or her screen with the trainee, who watches a demonstration in real time.

Although email is a great communication tool, it is often not the most effective tool for collaboration. Attempting to schedule meetings by email with several individuals is often a long and frustrating task. Using online scheduling tools such as whenisgood.net or timebridge.com allow all meeting participants to enter the times they would be available. The meeting organizer can see all available times for all participants at a glance, making choosing a mutually agreeable time much easier.

Some of the most frequently used collaboration tools, both within firms and between lawyers and clients, are document sharing programs, such as Google Docs or drop.io (www.drop.io), which allow individuals to upload a document to an online location and invite others to participate in making revisions, comments, etc. In this manner, rather than circulating several different versions of the same document, all participants' comments and changes are integrated into one document. Drop.io also has a feature in which multiple participants can work on a document simultaneously and see all changes in real time, without refreshing the page. These tools can also be used in situations in which attorneys for different parties need to share or collaborate on discovery schedules or joint discovery orders. The final document should then be removed from the online environment and downloaded back onto the firm's secure server.

Communicating with clients through extranets or services such as Basecamp (www.basecamp.com) can give clients access to their file documents and current status updates at their convenience. Clients log on to the system using their secure password and they can see at a glance what is happening with their matter. Lawyers post status updates to the site at regular intervals (for example, every two weeks), and encourage clients to use the web interface for status questions first, thus eliminating the necessity for so many status calls to the lawyer, thus helping keep legal costs low, while also keeping clients informed and allowing lawyers to focus on substantive legal work.

Lawyers frequently have large files to transmit to clients, experts or other offices. Sending documents by regular mail may be slow, overnight mail may be expensive, and email isn't efficient for transmitting large files. But documents, photographs, transcripts, contracts or any other large files that can be scanned or are already in digital format can be shared by using the web. Sites like YouSendIt.com or drop.io allow individuals to upload large files to a website and then email clients a code to download the file directly from the web.

Calendar sharing tools such as CalendarHub.com allow users to create calendars and share them with a group of people working on a project. Many of these calendar tools will allow you to import or export events from an existing calendar program, such as Outlook, avoiding duplicate entry of events. These

tools are helpful for project management, but may also allow lawyers to publish a calendar of events on their website to inform clients of upcoming seminars, or to share calendars and upcoming dates with clients.

Tom Mighell and Dennis Kennedy, authors of *The Lawyer's Guide to Collaboration Tools and Technologies: Smart Ways to Work Together* offer some considerations when choosing and using online collaboration tools:

- Always check the security measures in place with any online collaboration tool, and ensure that you are following the ethical guidelines in your jurisdiction regarding protecting client confidences;
- Consider the context when choosing the collaboration tool – a tool that works for collaboration internally within the firm may not be the right tool to use to collaborate with clients or opposing counsel;
- Before choosing a particular collaboration tool, determine the specific purpose for using that tool, and identify the goal that you want to accomplish;
- "The perfect is the enemy of the good" [if a tool works well and accomplishes the purpose, don't change tools or keep searching for new ones simply because there 'might' be something 'better' available];
- When you select collaboration tools, make sure the tools either: improve an existing system or implement a new system that is measurably better than the system it replaces;
- Re-evaluate: Internal (within the firm) and external (with clients, etc.) collaboration require different tools and approaches; when the context changes, the tool may need to be changed, too;
- Provide staff with tools they need to do their jobs; otherwise, they might use 'unapproved' tools instead, just to get the job done;
- Change is difficult and staff will always prefer to do what they are used to; use inexpensive incentives or small penalties to get people to use collaboration tools;
- Don't leave your collaborative documents in an online space such as GoogleDocs - download to your computer or server and delete from the online system;
- Tell clients up front about risks and special concerns using collaboration tools.

There are many collaboration tools available to lawyers in every aspect of their practice, from communicating with clients to training employees, working with other lawyers on presentations, getting feedback on written documents, and conducting meetings. For maximum productivity, lawyers can use a mix of different tools for different purposes, including tools incorporated into software the firm already uses, such as the track changes feature in Word. Using these tools can help increase productivity and reduce costs – a win-win for both lawyers and clients.

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Re-examining Your Online Expectations

Do you have a website? Why? What is the point of your website? More specifically let me ask- what is the strategy behind your website? Did you pay a lot for your site? What type of return on investment (ROI) are you getting from you site? If you haven't asked these questions, you are just like most business owners. The problem is that they think like business owners instead of thinking like clients. Here is a list of the three most common website mistakes, and what to do about them:

1. The website is boring.
2. The website is rarely updated.
3. The website's only practical use is to provide the firm's address and telephone to random visitors.

Any of these sound familiar?

The online world is changing at a rapid pace, and with the rise of social media many people are no longer going to CNN and ESPN for information and commentary. They are now going to blogs, Twitter, and Facebook . There is a big movement towards user-generated content. Who better to create unique content than attorneys and other professionals? If you really want to explode your website traffic and convert the traffic into qualified leads and clients, you need to remember the five pillars of a powerful social media strategy.

Build

Care

Create

Share

Repeat

Pillar I- Build: You need to build a better bio. Lawyer bio's are famously uninteresting, so let's see if we can improve them by thinking like a client. You need to create a bio with a hook. To make this exercise simple, take a look at a Twitter.com profile. On Twitter you only have 150 characters for your bio, so you better make it interesting. Here is an example of how I helped one client improve their bio:

Bio before:

Attorney with the International Law Firm of Dorsey & Whitney specializing in complex litigation and computer fraud.

What do you think? Did that bio make you want to hear more, or to take a nap?

Bio after:

Partner in the AmLaw 100 law firm of Dorsey and Whitney, former Watergate prosecutor and litigator for Fortune 100 companies.

You see the difference? The first bio was a snooze fest, and the second one left you wanting more. Did it make you want to meet this attorney? Think of your bio as your elevator pitch- you have 3.4 seconds to convince this person to keep reading before they click away. So you better make it good. Your end goal is to convince these people to hire you, but the more immediately goal is to convince them to click through to your website to learn more about what makes you remarkable. When they click through to your website, what is their first impression going to be? You need another hook, some sort of irresistible offer. You need to build a website that will walk them down a path that leads to your office's front door.

Pillar II- Care: You need to care about what other people are saying online and interact with potential clients. The day of one-way communication is over. Remember the TV and Radio? Those provided advertisers with one-way communication to consumers, but they aren't working anymore. Now consumers will simply fast forward through the commercials or change the station. To drive traffic to your site, you need to jump into social media platforms and engage with those around you. As you care about what others are saying, and respond directly to their questions, your online brand will begin to grow.

Pillar III- Create: You need to create original content. What should I write about? This is a question I hear almost every day, and the answer is simple. First, write what people want to hear. There is an old saying from an IBM advertising campaign: "Stop selling what you have, start selling what they need." Think about it, what is it that your clients want most? What is the #1 question they ask you? Answer that question and you will have a hint of what you should write about. If you can answer their burning questions, then you have got their attention. This may take some time, and some trial and error, but it is not that hard, and there are loads of free tools to help you along the way.

Pillar IV- Share: When it comes to social media it is important to have a reputation as someone that gives more than they receive. You can best give by sharing quality articles and information with your friends and followers. Applications like LinkedIn, Facebook, and Twitter make it so simple to pass on relevant information. The more quality information you pass on, the more your brand grows. If you gain a reputation as the type of person that passes along quality, when it comes time to promote your own articles, potential customers will be much more likely to listen.

Pillar V- Repeat: As you go through those steps over and over your brand and your influence will grow.

If you could bring in one extra client per week with social media, how much would that be worth to you? \$500 or \$5,000? How much would that be worth if you could do it consistently for an entire year? Over \$250,000. Designing your bios and writing quality articles take time, but there isn't anything worthwhile in life that doesn't require some sacrifice. Set aside some time right now to build your bio, and design your social media profiles to hook potential customers and bring them along that path that leads to your office door.

Author Information: Adrian Dayton Esq. is the Founder of Comrad Esq. He has been featured in the Wall Street Journal, Abovethelaw.com, and the ABA Journal. He will be co-chairing Social Media for Law Firms with Incisive Media in February of 2010. To get a free copy of his Rainmaker Alert: 5 Proven Strategies to Supercharge Your Book of Business, go to <http://adriandayton.com> and click on "Rainmaker Alert"