

National Association of Freelance Legal Professionals

NAFLP is a nationwide community of freelance attorneys, paralegals, court reporters, interpreters & other freelance legal professionals. NAFLP was created to assist freelancers in optimizing the financial and personal success of their businesses, as well as to raise the profile of freelancing as a career choice that can optimize work-life balance. We are eager to share our experiences and hear what you have to say.
Melody Kramer & Amanda Mineer Co-Founders, NAFLP

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WEDNESDAY, JANUARY 28, 2009

Quality vs. Quantity - the billable hour mousetrap

Billable hours have become a vicious task master hanging over lawyers' heads, encouraging them to abandon all life outside of the office in quest of squeezing the most hours, and thus the most money, out of the day. It discourages efficiency of work by definition (why finish a project in 8 hours if you can stretch it out to a 20-hour billable project?) and has no correlation to the "quality" of the work product. "Quality" is defined here as something of value or use to a client. Is the 20-hour brief a "higher quality" than the 8-hour brief? At best, the client will never know. At worst, it is blatant fee gouging.

These facts seem self-evident to many, including veteran attorney Evan R. Chesler in the Forbes article ["Kill the Billable Hour"](#):

The billable hour makes no sense, not even for lawyers. If you are successful and win a case early on, you put yourself out of work. If you get bogged down in a land war in Asia, you make more money. That is frankly nuts.

Of course it is nuts, but these self-evident facts are still lost on far too many involved in the legal profession. In the January 2009 issue of the California Bar Journal, the article ["Will a bad economy force more changes in the profession?"](#), cites Richard Gary of Gary Advisors, a former chair of Thelen, Reid and Priest, as thinking the billable hour isn't going to disappear.

"We've been thinking about going to a different model for 20

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years and it's never happened. Maybe young people will come up with a different mousetrap." However, [Mr. Gary] added, "I still think it's the best way to measure value because it is a mechanism of measuring the amount of work that a lawyer did for a client on a particular matter."

With all due respect, hogwash! The amount of time spent on a project is not an accurate reflection of the end product's value. Lawyers have forgotten that basic truth.

Early in my career I found myself as plaintiff's counsel in a small civil matter against a defendant who was a part-time lawyer who seemed to revel in the opportunity to "practice" law. I vividly recall receiving a 25-page, single-spaced motion to dismiss the case. I can only describe reading the verbose brief as exceedingly painful on the eyes and brain. My opposition brief was one page, double-spaced, setting forth the statute supporting my position. I won the motion. Which brief was more "valuable"? The one that took at least 25 hours to write or the one that successfully convinced the judge?

In a more recent example of overkill, a federal judge in New York City found a \$100,000-a-day fee application from law firm Dewey & LeBeouf for receivership work to be excessive. U.S. District Judge Denny Chin said that the fee request was "excessive in the context of a securities receivership where hundreds of victims of fraud have suffered substantial losses" and he questioned the firm's billing rates which were as high as \$950/hr for some partners, \$605/hr for some associates, and \$285/hr for summer associates.

Billing rates that high deserve far more than "questioning" and partial and temporary reduction in fee allowances (Judge Chin said they could reapply for the fees later in the case). Billing \$285/hr for work done by law students (remember, summer associates have not even completed law school) is unconscionable by any standard.

Clients who pay such excessive fees, however, especially large corporate clients, need to acknowledge their own role in encouraging outrageous billing by lawyers. Law firm prestige, and thus the law firms that tend to attract higher net-value clients, has for too long been measured on the same scale as Fortune 500 companies - by annual revenue. Not cost efficiency. Not creative thinking. Not being able to demonstrate insightful legal opinions. Not being successful in any other arena than extracting the most money out of their clients.

Every year the American Lawyer magazine publishes AmLaw 100 and AmLaw 200 lists of supposed top law firms in the country. These lists have become the Fortune 500 equivalent for law firms. I verified AmLaw's criteria for choosing the top law firms on their website; it was disturbing. AmLaw describes "revenue per lawyer" as being "the key measure of law firm financial success, and profits per partner [as] the metric that has turned law firm managers into contortionists." They go on to credit increases in these metrics by "surging demand

Upcoming NAFLP and Affiliate Events

Business Competency for Lawyers

Tele-webinar

Tuesday, October 21, 2008

9:00 a.m. Pacific/12:00 noon

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What is a freelance legal professional?


A freelance legal professional is an attorney, paralegal, interpreter,

continuing slowdown in naming equity partners (the top echelon of law firms) and increase in the number of non-equity associates. (see the referenced article at "[Lessons of the Am Law 100 2008](#)").

Corporate clients - the "surging demand for high-end legal services" is you, accepting the definition of "high-end" as being on the AmLaw 100 list. The "unrelenting annual rate hikes" is the price you are paying for accepting this criteria and rate hikes will keep increasing at these firms until you, the client, say "no." You are choosing "pedigree" and "prestige" over "quality" in legal services and have only yourself to blame for the outrageous legal bills on your desk.

In this time of economic downturn, with companies failing right and left, only the strong and flexible companies will survive. Finally, a substantial incentive to reinvent the antiquated mousetrap of billable hours has emerged. Corporate clients, stop paying outrageous hourly rates and look for quality legal counsel that will provide cost-efficient and useful services. Your company's survival may depend on it. Lawyers, law firms, and freelance legal professionals, take the lead in offering cost-effective, solution-based services to your clients at a price that is a good value for the money.

Here's to building a better mousetrap in 2009!

Posted by Melody Kramer at [6:35 AM](#) 

Labels: [American Lawyer](#), [AmLaw 100](#), [billable hours](#), [economic downturn](#), [Evan R. Chesler](#), [Judge Denny Chin](#), [pedigree vs. quality](#), [quality vs. quantity](#)

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professional that provides services to attorneys or law firms on a non-employee/ independent contractor basis. Other terms commonly used are contract attorneys, appearance attorneys, contract paralegals, etc.

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