



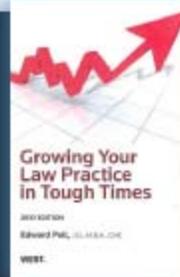
Week of **February 16, 2010**

"I Guarantee It"

One of my bedrock beliefs is that lawyers should charge for the value of the services they provide, and not at an hourly rate like a day laborer. My billing for consulting and coaching is totally flat fee and project based. I started billing this way when I founded LawBiz® Management Company in 1990. I wanted to bill, not for the amount of time I worked, but for the value I provided to my clients. Part of my approach is that, once I negotiate the fee for a client engagement, I give up the power of the pen. In other words, once I send my bill to a client, any dissatisfaction on the client's part is reason enough for them to write down the amount that I bill to what they think it's worth. The opportunity for them to exercise the power of the pen is always there.

Apply this principle to the current enthusiasm for alternative billing. Alternative fee arrangements when tied to a specific result are really a form of guarantee. Contingency, flat or fixed fees all do this; so too does premium pricing which confers the right to an additional amount beyond a stated fee if the result exceeds client expectations as defined in the agreement. Such billing alternatives again require the kind of solid knowledge on a firm's cost structure that supports taking a direct financial stake in achieving the desired results.

It's only a short step from this level to the "satisfaction guaranteed" approach some firms have taken. Chicago's Ungaretti & Harris has for well over a decade assured clients: "We cannot guarantee outcomes; we do guarantee your satisfaction with our service. If we do not perform to your satisfaction, inform us promptly. We will resolve the issue to your satisfaction, even if it means reducing your legal fees." The Summit Law Group, based in Seattle, offers a variation by providing clients with its "value adjustment line" on invoices: "We empower each of our customers with the right to adjust our billing, upward or downward, based on our customer's



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perception of the value received, not ours."

Rule of Professional Conduct 7.1 prohibits false or misleading communication that could "lead a reasonable person to form an unjustified expectation" about results. However, lawyers and law firms can guarantee a certain degree of effort - which does not violate the code, because it deals with factors within the lawyer's own control. In this way, a firm can give the kind of assurance on the value and quality of their services that clients want and expect.

Personal Commentary

One of the best results of working with a coach is that you become accountable to someone for your agreed and accepted assignments. I have believed so much in the value of this process that I have had a mentor/coach for a number of years. Recently, I've taken to noting my accomplishments and setbacks on a daily basis and then send them to my coach at the end of the week. And he'll respond with his reaction and observation to provide additional feedback.

I've found that the mere fact of noting these events in writing, sort of as a personal journal, or journey on my career path, has the beneficial impact of highlighting and reinforcing the good things that have been happening to me. We tend to forget the good and fuss over the bad. This process allows me to relish in the good and put the bad into its proper perspective.

Let your coach know how you're doing. The salutary impact for you will be magnified.

Best wishes,

Ed Poll

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