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Even in Law, AFA's are Nothing New

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*What has been will be again,
what has been done will be done again;
there is nothing new under the sun...Ecclesiastes*

[Alternative Fee Agreements](#) have been getting a lot of attention in the legal profession as of late. The Zeitgeist, at least in corporate counsel circles, is that the billable hour is finally being challenged in a meaningful way. What is implied in all these discussions is that AFA's are a wholly new way of doing business.

In truth, lawyers in certain practice areas (particularly those serving consumers) have always operated at least in part using fixed fees (e.g. for drafting a will, for conducting a real estate closing, for filing an immigration application). What is allegedly new is the notion of business clients paying their lawyers on a fixed fee basis to handle more complex transactions or litigation matters.

But today, I was speaking with a member of my squash club who has been doing private equity deals for over two decades. He informed me that he has been compensating large law firms by the deal since the early 1990s. And these are deals which can generate several hundred thousand dollars in legal fees.

So maybe it is more accurate to say that widespread use of non-hourly billing for lawyers who represent business clients and institutions is still limited, but it is a growing trend. While this may seem like semantics, isn't it really more than that? The objections that lawyers make when fixed fee arrangements are suggested have not only been addressed, but these arrangements have already worked successfully for a long time.

- Categories: [alternative billing](#), [trends in the legal profession](#)