

LawBiz® TIPS

YOUR PRACTICAL GUIDE TO PROFIT™



Week of **February 17, 2009**

Don't Be Suspected of "The Perfect Crime"

I recently cited on the LawBiz® Blog a commentator who called bill padding "the perfect crime." Certainly the degree of "perfection" in being able to pull off this unethical action depends in part on how inattentive the client is to the lawyer's bill, and how lacking in detail that bill is. As has been stated in press reports about the Madoff investment adviser scam, client statements received from Madoff had very little detail - but because the bottom line on their investments looked so good, few clients cared to peek "under the hood."

It's ironic, of course, that the much-maligned billable hour came to be the invoicing standard in the 1960s because corporate clients saw it as a way to better document what lawyers were charging for. Billable hours in theory will provide the necessary details, but not with entries like "work on motion for summary judgment, 20 hours." Brevity is not a benefit in billing. Break any such charge into its basic elements, with the amount of time needed for each: review key documents and deposition testimony, draft statement of uncontested facts as required by court procedure, research precedents in four similar cases, and so on. Such itemization does not try clients' patience - it helps them understand just how much you did on their behalf

While I endorse the concept of value billing, I will agree that that any lawyer is safer, despite whatever billing methodology is employed, when keeping track of time expended. Where your billings may come into question, either by a judge needing to approve the fee, or because of a fee dispute needing to go before an arbitration panel, the tried and true method of demonstrating what you've done usually comes back to hourly metrics.

One might ask, if a client agrees to value billing, why should it matter whether we keep track of time? The most important reason is the ethical requirement under the ABA Rules of Professional Conduct and all state bar regulations, that fees charged must be "reasonable." If a client wants to dispute whether a value charge for a service was reasonable, a time record can provide useful backup documentation.



Collecting Your Fee:
Getting Paid from Intake to Invoice

By Edward Poll

(6x9", 143 pages + with CD of forms soft cover, ISBN: 1-59031-153-1, Published by American Bar Association, 2003)

The CD contains forms for intake, engagement letters, status report, budget, sample bills and collection letters, accounts receivable aging reports and more.

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Ultimately the viability of a billable charge is a matter of trust and agreement between lawyer and client. I was recently asked what I thought of a vacationing lawyer who filed a Notice of Unavailability with the court, yet still charged clients for work done while on vacation. My response was that an attorney should be able to charge wherever and whenever legal work is done so long as it is in compliance with the engagement agreement. There is normally no exception for work done while on vacation or after "normal" business hours, unless there is a suspicion that the attorney is working at a slower pace at such times. Adequate billing detail can defuse such suspicions. A bill that only says, "For legal services rendered," or that is inaccurate or confusing, potentially opens the door to concerns, or actual allegations, that the bill is padded.

Personal Commentary

I'm excited to have started something new. We have started a new video series, v-casts, which are vignettes of law practice management tips. Check out our [press release](#) or go to [YouTube](#) to listen now.

For several years, I've been doing podcasting. You can hear the podcasts at www.lawbiz.com. These are an extension of our former *Law Practice Management Review* audio magazine series. You can even purchase the *Best of LPMR* series [in our store](#). And now we have the video series, coming directly to you. I look forward to your comments and suggestions about topics to discuss in future editions.

Best wishes,

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www.lawbiz.com/nlimages/lip-2-17-09.html

What Readers Are Saying...

"Ed Poll has done it again. He's created a down-to-earth guide for lawyer to collect his or her unpaid bills. The book is full of practical advice such as, 'if you don't create a collection policy, your clients will create one for you.'

"The book offers lots of good advice on engagement letters, detailed bills, fee agreements and intake forms. Plus it's loaded with useful forms.

"If you read this book, you'll have a lot less trouble getting paid for your work."

-Larry Bodine, *Web and Marketing Consultant*