



Week of **May 5, 2009**

Can Something "Free" Have Value?

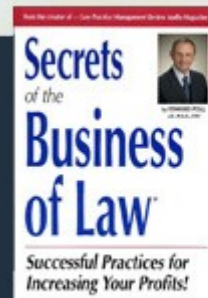
Believe it or not, some lawyers are getting new business from new clients. One such lawyer recently asked me a question about something that, if not handled properly, could stop new business before it starts. The issue: whether to charge a prospective client a fee for an initial consultation, the meeting before being engaged.

The wisdom of charging in this situation has long been debated, and in most practices, it comes down to three fundamental choices:

- Free initial consultation.
- Paid initial consultation at the lawyer's regular rate or possibly a discounted rate, exclusive of any subsequent engagement.
- Paid initial consultation at the lawyer's regular rate, with the payment applied to the total bill if the consultation results in an engagement.

There is no one right answer. Obviously, a potential client would find it attractive to get something (the consultation) for nothing. The lawyer would counter about the value of a free consultation, "You get what you pay for," and clients may well be inclined to agree. Too many persons have gone to "free" consultations on timeshares or investment products, only to find out that they ended up "paying" far more in the long run... their time to listen to a sales pitch.

The issue is not that much different from the ongoing debate about ancillary charges. Some lawyers charge their clients for "opening" a file on each matter; others charge for photocopying the file before giving it to the client when requested. On balance, these are legitimate charges to clients if specified in the retainer agreement. The fact that the client owns his own file does not prohibit the lawyer from contracting to copy it at the client's expense. Of course, if



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your competitors do not make such charges, or if your client resents being "nickel and dimed" for them, it's your call to charge or not.

Whether you can charge for the initial consultation ultimately becomes a question of the client's trust in you, their confidence in you... and how long it takes to generate those feelings in the client toward you. Given the need to attract clients in today's economic conditions, alternative three (a charge that can be applied toward the total fee) might be the most practical approach.

Ultimately the issues involved are trust and value. Lawyers help people improve their lives. Our objective should be to provide and account for our services in such a way that clients understand and accept the value as well as the cost of what we do. When that happens, fees are not an issue and lawyers do not have to apologize for what they charge.

Caveat: One factor not considered in this discussion is the client who may be "shopping" for the purpose of disqualifying the attorney from representing the other side, as in family law matters.

Personal Commentary

This is a reminder that next Thursday, May 14, 2009, I'll be speaking at the American Bar Association's LPM/YLD Joint Spring Conference in New Orleans, Louisiana from 9 a.m. to 10 a.m. ET. I'll be giving a talk entitled "Mind Your Own Business! Tips for Understanding What Your Law Firm Needs." Hope to see you there!

Best wishes,

Ed Poll

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Ed's Tweeting! 

What Readers Are Saying...

Secrets of The Business of Law® is the most insightful book I've read on this topic. It is written in an engaging, easy-to-digest style, and there was never a dull moment. I recommend it to anyone who runs a law firm and needs to turn a profit.

-CM, Massachusetts