



How to Get Clients Beyond “Sticker Shock” – And How Value Pricing Can Help

By: Allison C. Shields

As a lawyer, ethics require that your fees be ‘reasonable.’ But what, exactly, is a ‘reasonable’ fee? How do you get your clients past the “sticker shock” when they see your fees (even if they are ‘reasonable’)? How do you create a fee structure that works for both you *and* your clients?

What is a reasonable fee?

Alternative billing is on the rise, but many lawyers still don’t think it will work for them. One of the problems lawyers encounter when considering value pricing or alternative fee arrangements is the understandable fear of grievances, magnified by disciplinary rules that base the reasonableness of fees on factors including time and labor involved in a particular matter, rather than on the value of the services received and the outcome achieved.

Although many lawyers think that the time and labor involved are the two most important factors in determining the reasonableness of the fee, there are other factors to consider. The ABA Model Rules of Professional Responsibility, Rule 1.5 (fees), lists the following factors to be considered when determining whether a fee is reasonable:

- The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly.
- The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- The fee customarily charged in the locality for similar legal services.
- The amount involved and the result obtained.
- The time limitations imposed by the client or by the circumstances.
- The nature and the length of the professional relationship with the client.

- The experience, reputation, and ability of the lawyer or lawyers performing the services; and
- Whether the fee is fixed or contingent.

Value Pricing and “Reasonableness”

You’ve probably heard stories about fees being held ‘unreasonable,’ or novel fee arrangements that backfired on the lawyer. You may be afraid that increasing your fees or changing your fee structure will backfire on you. But a careful examination of those situations reveals that often, the problem isn’t that the fee itself was unreasonable, but that the lawyer failed to manage the attorney-client relationship properly – specifically managing the client’s expectations, establishing the value of the lawyer’s services and agreeing on the fee up front.¹

When the client understands the scope of the work, the significance of your services, and expressly agrees to the work and the fee *before the work is performed*, ‘reasonableness’ takes care of itself – when the client agrees, there is no dispute. In most cases, the court only has the power to review the fee if the client is unhappy.²

But what if you can’t come to an agreement with the client? When that happens, the client isn’t the right client for you. And isn’t it better to find out before you take on the engagement than *after* the work has been performed and the client refuses to pay?

Value Pricing Helps Overcome “Sticker Shock”

Lawyers that use value based and fixed pricing models assert that ultimately, the fixed price lawyer gets better clients, more loyal clients, *and* more profits than the hourly billing lawyer.

You may think you can’t move away from hourly billing and still compete with hourly lawyers. But clients who hire an attorney solely based on price are probably clients you don’t want. They probably don’t understand or appreciate the value of your services, skill and expertise because they aren’t focused on quality. If the client’s highest priority is price, there will always be another lawyer that can do the work for less.

Although clients that don’t value your services are always the most demanding, the least appreciative, and the least likely to pay, some clients initially ask about price because they don’t know how else to compare lawyers. As the expert, it’s your job to educate the client and to communicate the value of your services. For those clients you *do* want, communicating value is necessary overcome sticker shock. On the flip side, if you never experience *any* sticker shock or resistance to your fees, your prices are probably too low.

Steps to Overcoming Sticker Shock and Creating a Fee Structure that Works for You *and* Your Clients

Most clients will experience *some* 'sticker shock' when they first learn of your fees. That's only natural. The key is to get the client to recognize the sticker shock and be willing to talk with you about your services anyway, especially if the client has the option to do nothing or to wait to make a decision to retain a lawyer.

Your job is to help the client realize how important the matter or their desired outcome is, and how significant your representation is in reaching that goal. If you can work with the client to articulate that value, the sticker shock should be only temporary.

To overcome sticker shock and communicate value:

- Determine the client's most and least desired outcome;
- Discuss the likelihood of achieving the client's desired outcome;
- Find out what features or services are most important to the client;
- Ascertain and manage the client's expectations from the outset;
- Relate your services back to the client's desired outcome and the benefits to the client;
- Define the scope of work up-front;
- Provide the client with options, where appropriate;
- Establish a fee structure and a fee based on the scope of work and the value *before the work is performed*;
- Explain the circumstances or variables that could change the scope of the work and the fee;
- Agree to price up-front;
- Document the scope of work, method of calculating the fee and the payment terms in writing;
- Use 'change orders' or supplemental service agreements when the scope changes.

Although it does take time and effort to ascertain and communicate value to a client, it builds business, profits and loyalty - unlike many of the activities that are involved in hourly or post-engagement billing (such as creating and timesheets, reviewing and editing bills, chasing clients for payment, dealing with clients who don't pay or who constantly argue about bills, etc.). Ultimately, the work that goes into learning about, establishing and creating value from and for your clients brings you more and better business.

Please join us on February 13 for a Lunch N Learn at the Bar Association if you're interested in learning how alternative billing might work for your practice.



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¹ Fees can also be established in phases, using supplemental services agreements where a fee for the entire engagement can't be set up front, such as in litigation.

² There are exceptions to this, such as where fee-shifting applies, where the court determines the fee in a particular case, or where a fee dispute arises with another lawyer.