94.5% Offer Alternative Fees.
Patrick Lamb's New Book Tells How and Why.

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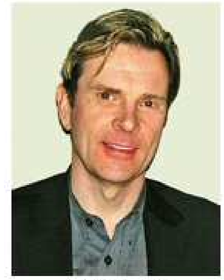

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It was in 1958 that billing by the hour was widely adopted by the legal profession, when the American Bar Association's Special Committee on Economics of Law Practice recommended the approach.

At that time, the private lawyer's payroll expenses had jumped 52% over the prior seven years, and rent and other expenses had increased 65% over the same period. A lawyer's income had increased only 45% compared to income growth of 83% for dentists and 157% for doctors. Over the prior quarter century, the performance of the profession was even worse. It was considered to be a crisis.

The right book at the right time by the right guy

Patrick Lamb

Flash forward to 2010 when unrelenting abuse is heaped on the billable hour. Some 94.5% of law firms now offer some alternative fee arrangements, and all firms with 150 lawyer or more do so, according to a new Altman Weil study. Lawyer, entrepreneur and visionary Patrick Lamb of Chicago explains what, how and why this happened in his new book *Alternative Fee Arrangements: Value Fees and the Changing Legal Market.*

The book is clearly written and easily understood, removes the cloud of mystery around alternate fees, offers many how-to techniques, and is peppered with case histories. If your law firm wants to give clients the "value fees" that they want, Lamb's book is an excellent starting point.

"The global financial crisis has acted as a catalyst to change, though. With businesses under huge pressures to cut costs, do more with less and gain greater certainty of costs, clients are necessarily becoming more assertive in their fee discussions with their law firms and demanding alternative fee arrangements. Firms must face up to the fact that some clients will simply not work on the basis of billable hours anymore," Lamb writes.

The 99-page "report," published by UK-based *Managing Partner* magazine, sells for $450 at http://bit.ly/9W4K1z. It features case studies, expert insight and opinion and practical examples for the likes of FMC Technologies, Valorem (Lamb's law firm), Seyfarth Shaw, Bartlit Beck, United Technologies, Cisco, General Electric, Exemplar Law Group and Shepherd Law Group.

What's an AFA?

HOURLY RATE BEHAVIOURS	FIXED FEE BEHAVIOURS
Larger teams	Smaller teams
More work, not less	Less work, not more
Settle late, not early	Settle as early as possible
Keep work in the firm	Use cheapest resource

There are endless variations, according to Lamb, but only three broad categories. They are:

1. Fixed fees – fees where a specified sum is paid for a specified amount of work. These are referred to frequently as flat fees, fixed fees, portfolio fees or something akin to these.

2. Contingency fees – fees where the amount paid to the lawyer is tied directly to the outcome, whether as a contingency or reverse contingency.

3. Modified hourly fees – modified hourly arrangement that adds features that create the economic alignment and interest in reducing cost of production.

There are numerous variations to this concept, including fixed fees with performance bonuses and holdbacks, retainers and "risk collars." Clients overwhelmingly agree that volume discounts and blended rates don't work to achieve efficiency. Corporations would prefer that the outside legal spend be $0. "The comparison of legal fees and being forced to eat dead frogs may well be the most candid statement ever about how inside lawyers feel about spending money on outside counsel," Lamb writes.

So Lamb invented the Valorem law firm in 2008, based on "customizing the fee to reward favorable outcomes as the client defines them, and our willingness to bet on our ability to achieve those outcomes," he writes. "We have quoted fixed fees for the entirety of a lawsuit, and we have quoted flat monthly fees for handling a replenishing portfolio of lawsuits. Our holdbacks have ranged from ten per cent to approximately 90 per cent." He also lets clients write down the final bill if they want to. It works for him.

The starting point is for law firms to know their costs to provide their services. Then a firm can determine its price and profit. As an example, he offers the analysis of Jay Shepherd, the CEO of Shepherd Law Group, based in Boston, which represents employers in labor matters. The firm does not use hourly billing and its lawyers do not keep time sheets. How does Jay Shepherd price a case? According to Jay:

1. I analyze the client;
2. I assess the importance of the situation;
3. I assess the urgency of the situation;
4. I pay attention to what my competitors charge;
5. I consider the relative values of the different possible outcomes;
6. I figure out how hard it would be for the client to get better service elsewhere;
7. I determine how important my firm's expertise is to the likelihood of a successful outcome (in other words, is this going to be easier because of our particular skills, or could any trained monkey use the internet to find the answers?);
8. I consider what we've charged other clients in the past for similar work;
9. I consider whether those charges were heavy or light in retrospect;

10. I consider the likelihood of getting more work from this client;

11. I assess how much work we've done for this client already;

12. I wonder how important getting this particular job is to our firm (if it isn't, I might raise the price);

13. I decide whether to do a single price for the whole gig, or whether (and how) to break up the job into mini-gigs with separate prices.

Then I say: "This is our price."

The offer value billing, law firms need to change their DNA, starting with associates, according to Lamb. "The three most important steps to achieve a DNA makeover are to identify the end result desired, determine a time frame to make the economic and structural changes needed, and overcome inertia."

Lamb recommends law firms adopt the project management approach that contracts do when they are constructing a building. He saw it when his firm moved into new space:

- When operating on a tight budget, budget certainty is critical.
- Pricing out change orders before committing to them is important.
- The schedule outline that showed the sequence of things to be done is an excellent tool to track progress and identify delays early.
- The weekly meetings with the contractor in which we discussed progress, problems, forthcoming issues and generally made sure that we were on schedule for our anticipated completion date were essential to maintaining progress and provided a large measure of accountability.

He also thinks Six Sigma and Value Tree models are options, especially when combined with early case assessment and mediation. The report is richly illustrated with charts and graphs, and concludes with a buying guide for value fees.

For any firm planning on quitting hourly fees, this report is essential reading.

For more on this topic, call:

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