



Law Firm Fees & Compensation

Alternatives to hourly billing are under review in this small, but effective analysis.

Reviewed by **DONNA BADER**

For those of you who found our book review of *Winning Alternatives to the Billable Hour: Strategies that Work*, 3d ed., by James A. Calloway and Mark A. Robertson (ABA, 2008) helpful, you might want to pick up a copy of *Law Firm Fees & Compensation: Value & Growth Dynamics*, by Edward Poll, (LawBiz Management Company, 2008). Poll is a nationally-recognized coach, management consultant, author and speaker, who specializes in law practice management topics. In a former life, he practiced law for 25 years in the areas of civil litigation and corporate and business law.

Edward Poll has written a number of books on the business of law and encourages attorneys to conduct their practices as a business. In his new book, the author is critical of straight hourly billing, which often results in dissatisfaction because it fails to address value and benefits. While attorneys who still rely on hourly billing believe they are selling "units of time," Poll writes, "from the viewpoint of clients, they are buying favorable solutions, results, and benefits – not time."

Hourly billing can produce dissatisfaction for a number of reasons. Clients may feel that hourly billing provides an incentive for the lawyer to take more time on a project, leading to overbilling, less emphasis on efficiency, and lack of predictability or control over the final product.

Poll emphasizes another factor in effective billing: client communication. If clients are concerned about value and quality of services, he stresses the importance of communication. Poll believes we are selling a service and he warns that by failing to communicate, attorneys miss the opportunity to build client confidence. That, of course, impacts the attorney's ability to get paid because unhappy clients usually let attorneys know of their displeasure by withholding their checks. Or worse yet, suing for malpractice.

Poll also provides suggestions for increasing a client's perception of value. First and foremost, he suggests having a return phone call policy. This, of course, goes hand in hand with the common knowledge that the number one complaint by clients about their attorneys is the failure to return phone calls. Without paying attention to letting the clients know they are receiving value, attorneys may inadvertently foster the belief that they are not working on the clients' cases.

Not only does Poll emphasize the need to operate our law practices as a business, but he places a great deal of stress on the importance of a solid engagement letter, which, if carefully done, spells out the terms of a two-way relationship between client and attorney. He also discusses the need to prepare a budget to reflect what will happen during the lawsuit or legal matter. The budget helps educate the client as to the process.

While many plaintiffs' attorneys rely on contingency fees, Poll's book can offer good information on client communication, budgeting, and the engagement letter. Other attorneys who are charging a combination hourly and contingency, or even a flat fee, will benefit from his solid management advice. This slim book also provides references for further information.

Interestingly enough, the questioning of hourly billing by the legal profession also coincides with a growing discontent among law students and young attorneys who are expected to meet annual quotas, which seemingly deprive these new attorneys of any life outside the law. Perhaps we have relied too long on hourly fee billing. In the future, clients and attorneys will fashion billing arrangements that more appropriately fit their needs. And, as noted by Poll, a happy client is the best insurance against malpractice claims.



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