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Billing Best Practices Strengthen Client Relationships

Do collection problems reflect client discontent? To answer this question, Carol Schiro Greenwald asked attorneys about their perceptions of the linkages between client satisfaction and law firm approaches to billing.

By **Carol Schiro Greenwald** | July 15, 2021



The business side of lawyering is about revenue generation, getting paid for work done. It’s also about finding and keeping loyal clients. According to Clio Legal Trends Report 2020 there are many problems related to law firm billing systems. The report cites average billing system leaks in many areas including “time billed but unpaid” (14%), and “uncollected time” (12%). Almost 30% of billed work is unpaid. Do these collection problems reflect client discontent? To answer this question, I asked my attorney panel about their perceptions of the linkages between client satisfaction and law firm approaches to billing.

The Link Between Billing and Client Satisfaction

Thinking that perhaps the leakage was related to client unhappiness, I asked my panelists if they see billing practices as an important component of client satisfaction. They do. They all tied pricing and billing to client expectations and stressed the importance of managing them from the get-go. Joel Weiss, managing partner of Weiss & Arons (<http://www.weissarons.com/>), an IP boutique, sums it up: “One, if not the single most, important theme in client satisfaction is that the attorney meets client expectations. The job of the attorney

is to match client satisfaction with the work provided and the fees billed.” Elissa Hecker, intellectual property lawyer and principal, The Law Office of Elissa D. Hecker ([/www.eheckeresq.com/](http://www.eheckeresq.com/)), agrees: “Absolutely. Up-front communication about billing and rates is so important so that expectations are set at the start of the relationship.”

Mark Berman, partner, Ganfer Shore Leeds & Zauderer (<https://ganfershore.com/>), says, “Clients like to receive bills at around the same time each month. It shows you are on the ball and timely and creates a rhythm between client and lawyer that helps to ensure client satisfaction and timely payment.” Andrew Peskoe, chairman, Golenbock Eiseman Assor Bello & Peskoe (<https://www.golenbock.com/>), acknowledges the essential price/satisfaction relationship, saying: “Funny question: if you don’t think billing practices are an important component of client satisfaction, then you can be sure you have unsatisfied clients.”

Some attorneys ask the client how they want to pay for the services. Doug Singer, member, Singer Law PLLC (<https://singerlawpllc.com/>), explains, “As part of our initial conversation, we talk about how we will charge for our services. Sometimes, we will present a couple of alternatives, and together we decide on the method which we both think will be the best fit. As for payment options, we give the client a choice of check or Zelle.” Joel Weiss says: “I have been an attorney for nearly 25 years. I have recently started to discuss more with the client, pre-engagement, what it anticipates to spend in terms of fees for the engagement. When we agree on a fee structure and estimated monthly cost of legal services, I make sure not to invoice the client for anything unexpected without having an interaction in writing first. This approach requires experience because you have to have some knowledge as to the expected cost of legal services.”

The panelists also agree on key characteristics of a good billing and collection system.

- ♦ Peter Brown, BROWNTechLegal (<https://browntechlegal.com/>): “Prompt billing with complete details on work completed.”
- ♦ Elissa Hecker: “Consistency.”
- ♦ Donna Drumm, Principal, Drumm Advocacy (<http://drummadvocacy.com/>): “Ease and security.”
- ♦ Mark Seitelman, managing partner, Mark E. Seitelman Law Offices, P.C. (<https://www.seitelman.com/>): “Transparency and regular billing.”

Mark Berman says, “Clients want to see detail. Detail helps client and lawyer understand and appreciate each other’s expectations, and minimize disputes.”

Billing Alternatives to Hourly

These firms offer a variety of billing alternatives in addition to the billable hour. Alla Roytberg, Founder-Principal Attorney and Mediator, Good Law Firm (<https://www.goodlawfirm.com/>), offers “hourly/retainer billing and flat fee options either for the entire case or by stages.” Tara Fappiano, partner, Haworth Barber & Gerstman (<http://hbandglaw.com/>), says, “It completely depends on the matter. I will consult with a client first and then propose a fee agreement that I think reasonably reflects the anticipated work. I offer hourly rates in some cases because that is what the work calls for. In others, I offer different types of flat fee arrangements, usually based on the “phase” of work to be done.”

Doug Singer says, “Wherever possible we prefer a flat fee, as do our clients.” Joel Weiss notes the downside of a fixed fee: “One issue that arises is that the fixed fee gets hard, and one has to be creative, to get raises from clients who get used to a fixed fee arrangement that fits into their budget. This can be remedied by building in yearly ‘lifts’ in rates.” Donna Drumm says she prefers a flat fee because “My work style is such that I invariably take longer than I project to complete work. I am confident my thoroughness is in the best interest of the client, and a flat fee gives me the freedom to produce a good result at a fair price”

Adjustments for Clients Who Have Trouble Paying

The pandemic left some clients with financial problems. Subscription pricing and staggered payment plans have been suggested as payment alternatives that meet such clients half-way.

Joel Greenwald, managing partner, Greenwald Doherty LLP (<https://greenwaldllp.com/>), says: “We offer a variety of options for our clients depending on their personal preferences which is perfect for them in their current business stream. We offer hourly, discounted hour blocks, flat fee projects and a monthly retainer program called the In-House Counsel Subscription Plan (IHC). Clients who work with us under the IHC love having all of their compliance handled by us. They also receive complimentary training for the professionals who handle the HR function, plus off-the-clock advice.”

Andrew Peskoe says, “We have a few clients that prefer monthly retainer arrangements to avoid the resistance that hourly charging attaches to each question and assignment. I also think that—with the exception of a few clients who need to have their management able to call for attorney input without the burden of knowing a clock has been started—our clients get better value for their legal dollar with either alternative arrangements or an hourly set up.”

These attorneys offer two approaches to sending invoices: monthly or task-based billing.

- “I have a task in LEAP to issue bills every 30 days,” says Alla Roytberg.
- “I bill on the last day of each month, which keeps it consistent,” says Elissa Hecker.
- “Our flat fee retainer letters provide for billing and payment at defined times, which typically coincide with the delivery of documents or an event. We simply include the invoice as part of our workflow process,” says Douglas Singer.
- “My engagement letter states when percentages of the flat fee are due based on delivery phases of the final work product,” says Donna Drumm.

None of these attorneys charge late fees even if the option is part of their retainer letter. Almost all of them offer electronic payment options using credit cards or ACH payments from client bank accounts. Some show this option on the contact page of their website, but none of them discuss payment approaches or options on their websites. This seems a lost opportunity to connect with prospects who, as part of their selection process, specifically want to know the attorney’s payment process and costs for their kind of legal problem.

Is Your Invoice a Marketing Opportunity?

Marketing professionals consider the invoice a marketing piece, a way to make their value proposition concrete by showing progress toward the original set of goals. Tara Fappiano agrees: “Good billing practices are the story you tell to your client not just about the work that you provide to them, but your approach to a case, your commitment to providing them with value for their money, the timeliness of your work, and your work ethic. It is a very important client communication.” Douglas Singer says, “We try to express value in the content of the description of what we’ve done. We sometimes reinforce that with a statement in a cover note.”

Most of the other attorneys don’t see the need to market through their invoices since they are in constant communication with their clients. But all of them end their invoices with “thank you” and a few also ask for online reviews. None of them use the opportunity to request referrals. Alla Roytberg explains the thinking on this: “I end all invoices with a “Thank you” and also advise clients that if they want to discuss their bill they should contact me, and that we never charge for the time spent discussing bills with them. At the end of the case I may ask clients to write an online review, but I never ask for referrals. Because my approach is more of a soft sell. If people are happy with my work they will refer anyway.”

Elissa Hecker says, “Thank you, but never with a request. Each relationship is a personal one and the referrals flow through that, not through invoices. I don’t want my clients to feel like they’re marketing cogs.” Donna Drumm says, “My invoices do end with thank you. My email signature asks for referrals.”

Concluding Thoughts

Data regarding billing process leakage indicate a problem, but these answers suggest that it is not related to client communication issues. Nor does it reflect an unwillingness to supplement hourly billing with a range of alternative fees when it is appropriate within the client relationship. These firms also try to accommodate clients who have trouble paying monthly bills on time.

Attorneys on my panel see discussions about billing options as a key part of client communication and a way to create shared expectations. Mark Seitelman explains, “The two most important aspects of a billing and collection system are

- **Transparency.** Tell the client up front how the case will be billed and how the client is to pay. I believe that a written agreement is not enough. The agreement has to be discussed orally with the client.
- **Regular billing.** Bill the client regularly so that the client can digest and pay smaller amounts rather than one big bill.

Tara Fappiano says the billing system should enable an attorney to send “Timely, easy to understand bills which provide detail regarding the legal services provided and tell an easy-to-follow story.”

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