



## BEST PRACTICES FOR CLIENT BILLING

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Most attorneys understand that their bills have the power to convey or confirm an image of the firm to its clients. However, many fail to understand just how that occurs. As a consequence, opportunities to maximize the advantage of an important client communication are often missed. Many firms also overlook many other essential elements which are part and parcel of the best billing practices. What follows is not a fully comprehensive accounting of all of the best billing practices; you may want to review *Drafting Bills Clients Rush to Pay* by Jay Foonberg for a more comprehensive look at this topic.

### RECORDING YOUR TIME

Ask any consultant, and he or she will confirm that failure to record time contemporaneously can cost you upwards of 40% in shrinkage. The simple fact is that when you try to recollect what you worked on, and for how long, even if only a day later, your accuracy will suffer.

Small increments of time are easily lost, and they can add up to big dollars and a huge gap between hours worked and hours recorded, by the end of the year. Along with loss of time come the inaccuracies which are inevitable – some clients will be charged for more than the time worked, and some occasionally charged for time worked for an entirely different client. Of course, the ethical implications are obvious when the time recorded and charged may be -- is likely to be -- inaccurate.

I'm almost embarrassed to acknowledge how many attorneys I come in contact with who still routinely create their timesheets using a "hindsight method" at the end of the month, despite readily available tools to make contemporaneous and accurate recordings. Why their firms still tolerate a practice which is clearly flawed and inaccurate is beyond me.

Every attorney, even a solo, needs to account for his or her time. Even if matters are billed on a contingent or flat fee basis, the time investment in each matter needs to be accurately recorded. That is the only way to determine what practice areas, matters, and clients are truly profitable. Without this very basic

information the firm cannot develop a meaningful strategy for growth, deployment of resources, and marketing. This basic financial management fact applies no matter how large or small the firm. In other words, in the absence of good data, one cannot ultimately make good business decisions. It's that simple.

### **TIMING IS EVERYTHING**

It's a trite saying which has no greater applicability than to the timing of client billing. First, you need to consider something called the bell curve of gratitude. In many matters there are points in time when the client is extremely aware of the importance of your contribution to the success of the matter. It may be at the conclusion of a trial with a favorable outcome. It may be when a dicey deal is saved by your brilliant maneuvering. At those moments in time when the client is at the top of that bell curve of gratitude, you have the best possible time to present your bill. Bills which are presented at this point in time are paid virtually upon receipt.

Not all matters conveniently provide a curve of gratitude. In that case, look next to your client's payment cycle for optimum timing. Every organization, from Fortune 500 down to a "mom and pop" operation, has an accounting routine. That means that there are times when checks are routinely cut; whether it be the 1<sup>st</sup> and 15<sup>th</sup>, or 1<sup>st</sup>, 10<sup>th</sup> and 30<sup>th</sup> of the month. The point is to find out what payment cycles your client has and to time the arrival of your bill for just before a cutoff date.

When a bill arrives just prior to a cutoff, the client usually experiences a psychological imperative to process it in a timely fashion. The best case scenario is to provide the client with sufficient time to glance it over, respond with a gut reaction that it "looks reasonable," and send it off to bookkeeping for payment.

However, if your bill arrives right after a cutoff, the client has all the time in the world to look it over. In some cases your bill then gets set aside in favor of more time-sensitive matters. Ok, look at your own desk. How much of that paper is still visible 24 to 48 hours later? You certainly don't want that happening to your bill at the client's office.

Or perhaps the client may decide to take the extra time to look over your bill with a magnifying glass. Let me assure you that no matter how reasonable and accurate, there is rarely a bill which can hold up to an untrained eye under that scrutiny. Questions will likely arise, whether asked or not, which may indirectly mar the firm's image.



For some firms it just isn't possible to bill at the height of the curve of gratitude or according to individual client payment cycles. In that instance, you want to gear up your systems in order to have your bill arrive in the client's hands no later than the 10<sup>th</sup> of the month. And unless the unbilled balance is de minimus, a bill should go out without fail each and every month.

Think of your own office and home. Almost all "critical" bills arrive by the 10<sup>th</sup> of the month. You want your bill to arrive with all those other important bills. It communicates that your bill is important, and that billing is an important business function which is carefully tended to at your firm.

As someone who has managed troubled corporations in the past, I can also tell you that it is easier to pay smaller bills, even when there are more of them, than it is to pay one large bill which adds up to the same amount. Clients will appreciate smaller and more frequent billing more than receiving infrequent but larger bills.

Remember that most bills are itemized, showing individual time entries. The first thing a client notices are how seemingly old the first entries are. If you bill for September time with an invoice which goes out on October 2<sup>nd</sup>, your client will open a bill a few days later showing work performed over a month before. But if, like many attorneys, you don't get around to billing that September time until the end of October, your client will open your invoice in the beginning of November and see you are just billing for work performed 60 days before in September. That communicates to the client that getting paid isn't important to you, and confirms for many clients the misperception that most attorneys have so much money they just don't care if the client pays or not.

Prompt billing communicates to the client that getting paid is of high importance to you. And you want to consistently communicate that fact from the initial meeting until the last invoice is paid in full, and even beyond. Remember that there will hopefully be referrals from former clients to others. After all, most attorneys claim that most work comes to them from word of mouth. Wouldn't it be wonderful if that word of mouth included not just the fact that you're a great attorney, but also that you will require prompt payment to continue representation?

### COMMUNICATE VALUE

What you communicate on your bill isn't about hours times price. At least not from the client's perspective. It's about value. It's always been about value. And communicating the value of what got done, not just the cost of your activity, is



more difficult than it sounds. It is particularly difficult for the young attorney who has likely had no guidance in this area. For this reason it's vitally important for each relationship partner to coach the attorneys who work their client files. Just as you would edit their legal work and guide them to help them understand more and improve their skills, you should similarly guide the development of their timekeeping and communication skills.

If you're a solo or small firm partner, take no comfort in the fact that you have no associates to train. Take a look at the bills you're sending out from a client perspective to make sure you're communicating the value provided for the client's fees. Not sure how you're doing in that sense? Smart attorneys ask their clients.

### **APPEARANCE, APPEARANCE, APPEARANCE**

This is an area which is often misunderstood by attorneys. Some attorneys believe that good appearance means printing bills on letterhead masthead, or an exact replica. Some firms spend inordinate amounts of money using 100% rag content paper, sometimes engraved, to churn out bills. I've even seen billing delayed when the special billing letterhead runs out.

Some attorneys believe that a cover letter is essential to maintain the professional appearance of the bill. Cash flow can be significantly impaired while the bills sit and wait for correspondence to be generated, reviewed, and signed. Most of the time, unless there is something significant to convey about the bill, the letter is unnecessary, and normally just disregarded and discarded.

What good appearance means is that the invoice is clearly organized in a way that makes information readily apparent, provides convenient summaries, and essential detail. As someone who did accounting work for many years, I can tell you that most firms have fairly unattractive bills, and it has nothing to do with the paper or engraving.

### **UNSEEN DISCOUNTS GET YOU NOTHING**

It definitely makes sense to build as much efficiency as possible into the delivery of client services. But doing so by providing unseen write-downs and write-offs of time isn't the way to do it.

There is sometimes a rare occasion when time is correctly judged mis-recorded, such as when unclear or misunderstood instructions cause an attorney to



waste time going down a dead end path. In that instance it is appropriate to write off time without the client knowing.

More often, though, there is a gut fear that the time is just “too high” or that “the client won’t pay that.” I affectionately refer to this as the “I’m-not-worthy” discount! These are adjustments that should always provide some “bang-for-the-buck” return to the firm. Show it as a professional courtesy reduction, a good client discount, heck, call it anything reasonable, just be sure to show the client that they got some special consideration after your personal review of the account. They will appreciate your gesture.

I once gave a client a “hug discount” on a bill; a cute way to have her always remember that I thanked her for providing me with a big hug on my way out. I know if you ask her, even though it was a few years ago, she will say she remembers the gesture. A discount which is favorably memorable is always better than one given unseen.

#### **REWARD EARLY PAY AND PENALIZE LATE PAY**

This is really simple. Offer a discount for those who pay in *less* time than normal. Penalize with interest those who pay in *more* time than normal. Stick to your terms, and let your computer do the rest consistently. How much? Firms offer anywhere from 2% to 10% for payment within 10 days of billing for those whose terms are Net 30. Firms charge interest at a variety of levels. I find it interesting that they sometimes charge a nominal amount, rather than the legal limit, which is still low. Currently in PA one can charge 1.5% per month, up to 18% per year interest on accounts in excess of terms. Check with your accountant and make sure you include it in your engagement agreement before you follow either or both strategies.

#### **FOLLOW-UP, FOLLOW-UP, FOLLOW-UP**

This is where most firms really blow it, where best practices are concerned. Let’s assume that you get a credit card bill, and don’t pay it. You might have misplaced it, you might have an issue with one of the charges and just haven’t had time to call. One thing you know is that you will get at least a written statement within 30 days of the due date, which will include interest and financial late payment penalty. Likely you will receive a telephone call, too. Maybe several. The same happens with a missed telephone bill, utility, cable TV bill and so forth.



Now let's suppose that months have passed, and you're cleaning up your desk. To your horror you find a misplaced bill from one of the afore-mentioned vendors. Curiously, though, you realize you've received no letter, no call, not even a statement or duplicate bill. Whoa, you've heard folklore that once in a while those big operations "lose" track of something and this may finally be your return. Good karma for your faithful use of the credit system. So instead of whipping out the checkbook, you decide to take a "wait and see" approach. And if they never contact you? Well, you do the math.

For lawyers, the lack of follow-up is business as usual. And as a consequence, lots of clients hold off payment unnecessarily. Each cycle which passes with no penalty or *meaningful* contact only reinforces the misperception that lawyers don't need to be paid — after all, you all already have too much money anyway. Don't you?

Maybe you're afraid of offending the client. Maybe you're afraid of appearing greedy or needy. But what you're really appearing as is an attorney who does not need to or care about getting paid for services performed. That's a misperception you can't afford in today's economy.

### PROVIDE A FEEDBACK MECHANISM

Ok, I've written and preached on this topic. I'm weary of the soapbox at this point. I'm disheartened that so few firms take me up on my offer to help them figure out how to effectively survey their clients to detect satisfaction and areas for improvement. It *can* be a pricey undertaking. But it doesn't *have* to be. Solos and smalls, even mid-size firms, can easily and inexpensively develop mechanisms which keep the lines of communication open to clients. Resolve irritants quickly and decisively, and develop practice improvements to protect other clients from experiencing the same types of irritants. A proactive stance is essential today in order to hold onto clients under such competitive pressure.

As I always say, progress is a process, not an event. Pick some area of your billing practices for improvement. Implement your change. It may take a while for changes to "stick" and there may occasionally be backsliding. That's natural. Don't give up, and keep your sense of humor. When you've achieved success, build on it with another improvement. Each small step will yield positive results. And it will help encourage the next.



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