

# Getting Creative with Client Billing Arrangements

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The phrase “May you live in interesting (read uncertain) times” is believed to be Chinese of origin and may have originally been used as a curse. While not everyone agrees with this interpretation, most of us would agree that the last couple of years in the legal industry have been filled with uncertainty. As a developer of legal specific Practice Management technology, our company has seen dramatic changes in the manner in which our clients conduct business and have found ourselves implementing solutions to better assist our user base in offering creative billing arrangements and other efficiencies to their clients.

We have been fortunate in that our core technology solution was designed to allow for relatively simple deployment of custom billing arrangements. This has allowed our clients to offer a variety of creative billing solutions to the people and organizations that they represent.

When designing a unique billing arrangement or process, I encourage implementation consultants and clients to follow a few simple rules:

- Clearly define the requirement
- Map the automated technology solution as closely as possible to the reality in which you are designing the billing arrangement (more on this important point later)

- Make sure that the outcome of the arrangement will result in financial reporting that is consistent with the firm’s core values and accounting requirements.

Standard billing practices within the legal community typically fall into three major categories that include: Time and Material, Contingency and Flat Fee. Time and material billing is often very generic and requires little creativity on the part of the firm or its technology vendor, although the time and material model is sometimes made more complex through requirements to utilize Uniform Task-Based Management System (UTBMS) codes for billable transactions.

Contingent fee billing focuses more on cost advance tracking and calculation of settlement data. Many firms that practice in contingent fee litigation require professionals to key time against the matter. These firms typically practice in a mixed environment where not all of the cases are contingent fee, or they practice in an area of law where they may need to petition the court for attorney fees and require backup justification.

On the surface, flat rate billing sounds pretty simple. The firm will accomplish a specific task for a specific fee. The obvious question lies in understanding whether the flat rate matters represent good

business. One fundamental measurement of quality might be in understanding the effective hourly billing rate being achieved on the matter. This is easy to calculate (assuming that time is being tracked) on simple transactional matters by dividing the fee by the number of hours worked. It works even better when there is a single timekeeper involved.

The challenge in managing these billing relationships should not be about getting a well formatted invoice to the client. The real problem is ensuring that as time is written up or down, that each of the billing professionals receive the proper fee credit for the work performed. In many cases, we find that the professionals who do work early in the process are more likely to receive credit for their effort, while those doing work late in the process often find their time written down.

To compensate for this problem, many firms keep separate spreadsheets that are manually updated in an attempt to allocate proper credit. A good billing solution will allow the firm to properly allocate the revenue to the firm's general ledger, while allocating fee credits appropriately over the life of the case. Remember, the posting and fee credit methodology should closely match what is actually occurring in the client billing relationship.

Another billing practice that has seen significant increase in recent years is multi-payer billing. This occurs when multiple parties assume responsibility for paying the legal fees incurred on a matter. Many firms resort to manually producing multiple invoices with specific payment amounts manually calculated for each paying party. The problem with this methodology lies in the fact that there will only be one unique accounts receivable item, and it is often difficult to know which party paid the invoice. In these situations,

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the firm must have the ability to transfer predetermined percentages of each transaction to multiple payers prior to invoicing.

Finally, I would like to discuss a hybrid approach to billing arrangements that is becoming more prevalent. This approach involves a mix of traditional time and material and contingent fee billing. Under this scenario the firm agrees to invoice the client for a percentage of its fees each month and hold the remainder of the billing until the case resolves at a reduced contingent fee percentage. In order to facilitate this billing arrangement, the firm could utilize the same methodology discussed above for multi-payer billing, whereby it transfers a portion of the billings to a contingent fee matter.

I have actually worked with firms who would write down or delete transactions prior to billing each month and then had no transactions to relieve against the contingent fee. These firms have no way of completely understanding the true benefit of the arrangement as they are unable to correlate income with the value of the deleted time.

The concepts and scenarios discussed above are intended to share some best practices in a challenging business environment. In short, your firm's technology should never get in the way of

providing a creative billing relationship to your clients as your ability to do so may mean the difference in providing financial stability and maintaining quality staff as we all weather these interesting times.

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### About the Author

Ira D. Smith, Vice President, Practice Management Solutions at Client Profiles, a leading provider of case, financial, and CRM applications for the legal profession, plays an integral role in product strategy related to Client Profiles' integrated law firm financial systems.

Mr. Smith has over 20 Years of experience in the legal marketplace, and has also served on the leadership team of a publicly-held global ERP vendor. Beyond his experience within the legal technology market, Mr. Smith is very active within the legal community through his work as a Florida Supreme Court Certified Mediator and Mediation Trainer.

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