

Technology and Legal Fees

by STEVE FELLMAN, TAUC General Counsel

YEARS AGO EVERY good-sized law firm had a large library. It was a necessity. It included state and federal statutes and regulations, decisions by state and federal courts, treaties on various subjects such as labor law and contract law, sets of municipal regulations and general legal encyclopedias describing various issues and listing leading cases. Most sets of books included quarterly or annual updates that reported on new developments.

Every lawyer had to be proficient in legal research. If you were asked to research an issue, you might begin with one of the encyclopedias and find the subject most closely aligned with your issue. Then you would go track down the books from the library, take the citation of the leading case and refer to a cross-index that listed all of the cases that referred to your leading case. Then you went *back* to the library shelves to find all of those cases – say, another 20 books – and finally, after all of that, you were able to start reading.

If you were lucky, by the end of the day, you would have a good grip on the law regarding your issue. If the issue was unusual, it might take several days of library research to find what you needed. The process was very time-consuming for the lawyer. For the client, it was very expensive.



Turn the clock to today's law firm.

More and more firms are substantially reducing the size of their libraries and some firms are eliminating them altogether. Why are they doing this? The answer is simple. The information that previously existed only in printed format is now available on the Internet. Modern technology not only provides more information, but it provides it more quickly and cheaply than the old model.

What does this mean for lawyers? It means they can operate more efficiently.


What does this mean for clients such as contractors? It means that the national or regional contractor can find small- or medium-sized law firms that, thanks to modern technology, now have access to the same information base that previously had been limited to much larger organizations. These boutique-type law firms with specific areas of expertise are usually more competitive than larger firms. In addition, smaller firms are more likely to offer alternative fee structures that contractors will find of interest.

When I first started practicing law, I was asked whether the legal profession's system of pricing was modeled after another profession. After thinking about the question, I responded that the legal profession models its pricing on the practice of house cleaners. At that time, you paid your housecleaner an agreed-upon amount per hour, plus carfare. You basically paid your attorney the same way. The attorney was paid an agreed-upon amount per hour plus expenses.

Today the business model for the housecleaning industry has evolved. No longer do you have an individual cleaning person coming to your house and getting paid an hourly rate plus carfare. Today, a cleaning service inspects your house and quotes you a flat fee for the services you checked off on the company's menu of services. You pay \$X every time they come to clean your home.

Many firms in the legal community have followed their mentors in the cleaning service industry and now offer flat-rate pricing or, at the very least, a pricing range. You and your counsel discuss a project and are then quoted either a flat fee or a range. Even in the case of litigation, a budget is established and your counsel is expected to bill within those parameters.

Technology has made law firms more efficient and enabled them to provide clients with necessary services at better prices. Contractors should review the pricing methodology offered by their law firms. Unlimited hourly pricing doesn't make sense. Establishing budgets, project fee ranges and flat-rate pricing should be considered.

So make plans to sit down with your law firm and discuss alternative fee arrangements. The money you save will be your own! 



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