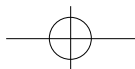
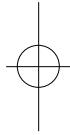
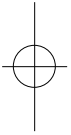
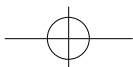
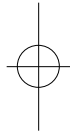
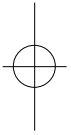


Legal Fees





Legal Fees

Law and Management

John W. Toothman

William G. Ross

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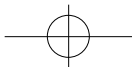
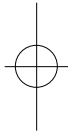
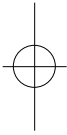
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Dedication

This book is dedicated by John Toothman to Elizabeth McGee and William Toothman and by William Ross to Vernon and Mardelle Ross,

and dedicated as well

To those lawyers who put professional duty before financial rewards, who uphold the highest traditions of the profession even as others tarnish it with their greed, and who recognize that representing a client is an opportunity to do good, not just an opportunity to do well.



Contents

Preface	xv
About the Authors	xvii
Chapter 1. The Business of Law	3
§ 1.01 The Paradox of Legal Fees	3
§ 1.02 Fees: Achilles Heel of the Legal Profession	5
§ 1.03 Legal Fees in Context	7
Chapter 2. Fees Billed to Clients	11
§ 2.01 Financing the Legal Profession	11
[A] The Attorney-Client Relationship	11
[1] The Basis of the Relationship	11
[2] Written Fee Agreements or Billing Policies	16
[3] In the Absence of an Express Fee Agreement: Quantum Meruit	22
[B] Fees on Termination of the Lawyer-Client Relationship	29
§ 2.02 Reimbursement of Expenses	31
[A] Generally	31
[1] Out-of-Pocket Expenses	32
[2] Internal Expenses	32
[B] The Lawyer's Duty to Pass Expenses Through at Cost	35
[C] The Lawyer's Duty to Manage Expenses	36
§ 2.03 Fee Sharing & Splitting	37
Chapter 3. Improper Billing Practices	39
§ 3.01 Billing Beyond the Pale	39
§ 3.02 Improper Fee Charges	41
[A] General Billing Infractions	41
[1] Overhead or Administrative Charges	41

VIII · CONTENTS

[2] Forbidden or Illegal Financial Arrangements with Clients	41
[3] Fees in Excess of Contract	42
[4] Fees in Excess of Estimates	43
[B] Hourly Fee Infractions	43
[1] Billing Discretion or Judgment	43
[2] Administrative & Non-Professional Time	44
[3] Clerical Services & Other Overhead	45
[4] Documentation of Hours & Services Rendered	48
[5] Adequacy of Time Entry Detail & Cryptic Entries	49
[6] Prompt, Accurate Time Entry & Bill Padding	52
[7] Internal Conferences & Other Communications	53
[8] Mixed, Lumped, or Blocked Time Entries	55
[9] Rounding Time Entries & Minimum Time Increments	57
[10] Excessive or Inefficient Time	58
[11] Delegable Tasks	59
[12] Double Charges	60
[13] Long Days	60
[14] Hourly Rates & Rate Changes	61
[15] Training Time	62
[16] Duplication of Effort	63
[17] Over-Staffing & Staff Turnover	65
[18] Travel Time	66
[C] Contingent Fee Infractions	67
[1] Domestic Relations & Criminal Matters	67
[2] Contingent Fees in Non-Contingent Circumstances	68
[3] Excessive Contingent Fees	68
[4] Unwritten or Ambiguous Contingent Fee Agreements	68
[D] Alternative Fee Infractions	69
[1] Quoting an Unrealistic Fee Cap	69
§ 3.03 Improper Expense Charges	70
§ 3.04 Fee Forfeiture	72
§ 3.05 Other Bases for Disallowing or Avoiding Fees	76
[A] Malpractice Claims	77
[B] Breach of Agency & Fiduciary Duties	78
[C] Fraud or Misrepresentation	79
[D] Breach of Contract	80

Chapter 4. Fee Collection & Fee Disputes	83
§ 4.01 Reasonable Fees, Reasonably Collected	83
[A] Divorcing Professional Responsibilities from Fee Disputes	84
[B] Terminating the Lawyer-Client Relationship for Non-Payment	85
§ 4.02 Advance Fee Payments	87
[A] Practical Fee Advance Considerations and Evergreen Advances	88
[B] Ethical Restrictions on Fee Advances and Retainers	89
§ 4.03 Formalities of Billing	93
[A] Bill Timing	93
[B] Confidentiality of the Legal Bill	94
[C] Fee Disputes Arising Despite Payment in the Normal Course	98
[1] Silence May Not Be Acceptance	98
[2] Oiling the Billing Machine	99
§ 4.04 Fee Collection	101
[A] Lawyers' Liens	104
[B] Promissory Notes	107
§ 4.05 Fee Disputes and Their Resolution	107
[A] Informal Resolution of Fee Disputes	107
[B] Time Limits on Collecting or Recovering Legal Fees	108
[1] Statutes of Limitations	108
[2] Limitations in Ethical Forums and ADR	111
[3] Limitations on Restitution	112
[C] Fee Dispute Litigation	113
[1] The Lawyer's Perspective: Supporting the Claim for Fees and Expenses	115
[2] The Client's Perspective: Opposing a Fee Claim or Recovering Fees Paid	116
Chapter 5. Fees Paid on a Client's Behalf	121
§ 5.01 Legal Fees Triangle	121
§ 5.02 Managing Fees in the Payment Triangle	127
Chapter 6. Fee Shifting	137
§ 6.01 The American Rule	137
§ 6.02 The Statutory Framework	139

x · CONTENTS

§ 6.03 Determining Whether a Party has Prevailed	141
§ 6.04 Determining the Reasonableness of a Fee	143
§ 6.05 Odd Ducks: Common Funds & Bankruptcy	150
[A] Common Fund Doctrine	151
[B] Bankruptcy	153
Chapter 7. Contingent Fees	159
§ 7.01 The Terms of the Controversy	159
§ 7.02 Prohibitions on Contingent Fees	163
[A] Criminal Cases	163
[B] Domestic Relations Cases	164
§ 7.03 Prerequisites for Contingent Fee Agreements	166
[A] There Must be a Contingency	166
[B] The Agreement Must be in Writing	168
[C] The Client Must Give Informed Consent	171
[D] Reasonableness of Contingent Fees	176
§ 7.04 Judicial Construction of Contingent Fee Agreements	180
§ 7.05 Reverse Contingent Fees	183
§ 7.06 Withdrawal or Discharge of Attorney	185
Chapter 8. Integrated Fee & Matter Management	187
§ 8.01 Manage the Forest, Not Just the Trees	187
[A] Fees In Context	189
[B] Optimizing Results	190
§ 8.02 Integrated Matter Management	191
[A] The “Three Waves” of Legal Management	192
[B] The Integrated Management Toolbox	195
§ 8.03 Fee Dispute Resolution	197
Chapter 9. Evaluation & Performance Monitoring	201
§ 9.01 Matter Evaluation	201
[A] Evaluation in an Imperfect World	203
[B] Benchmarking Against Similar Matters	205
[1] Internal Benchmarks	205
[2] External Benchmarks	207
§ 9.02 Performance Monitoring: Streamlining	208
[A] Streamlining Strategy & Tactics	208
[B] Controlling Staff	211
§ 9.03 Performance Monitoring: Warning Signs	212

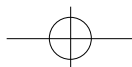
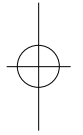
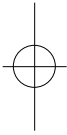
[A] Warning Signs at the Selection Threshold	213
[B] Warning Signs as the Relationship Progresses	213
§ 9.04 Performance Monitoring: Second Opinions & Post-Mortems	215
§ 9.05 Performance Monitoring: Auditing	217
[A] Legal Bill Reviews	217
[1] Bill Review Procedures	218
[2] Bill Review Standards	220
[3] The Future of Bill Reviewing	221
[B] Performance Audits	222
Chapter 10. Selecting Lawyers	225
§ 10.01 Act in Haste, Repent in Leisure	225
[A] Selection Confidentiality	226
[B] Confirming the Decision Not to Represent the Client	227
[C] Ethics & Lawyer Selection	228
[1] Competence	228
[2] Conflicts of Interest	228
[3] Declining Representation	231
[4] Truthfulness Toward Prospective Clients	231
[D] Selection Strategy	233
§ 10.02 Selection Procedures	235
[A] Establishing a List of Candidates	236
[B] Conducting an Audition	237
[1] Selection/Audition Preliminaries	237
[2] Preliminary Information to Obtain from the Firms	238
[3] The Audition Meeting	239
[4] Suggested Selection Criteria	242
[5] Post-audition	245
Chapter 11. Hourly Fees & Alternatives	247
§ 11.01 Fees, Glorious Fees	247
§ 11.02 Hourly Fees	249
[A] Drawbacks of Hourly Fees	249
[B] Hourly Fee Niches	250
[C] Setting a Reasonable Hourly Rate	252
[1] The Lawyer's Approach, in Theory & in Practice	252
[2] The Client's Approach	254

XII · CONTENTS

[3] Reasonable Rate Factors	256
§ 11.03 Alternatives to Hourly Fees	258
[A] Implementing Alternatives	259
[1] Experiment First	259
[B] Alternative Fee Design	260
[1] Design Considerations	261
[2] Specific Alternatives to Consider	262
[3] Alternatives to Avoid	267
Chapter 12. Retention Agreements	271
§ 12.01 Get It In Writing	271
[A] Ethics and Retention Agreements	272
[B] The Peculiar Nature of Client-Lawyer Agreements	272
[C] Preference for Written Retention Agreements	274
[D] Onerous Retention Agreements	275
[E] Client-Friendly Retention Agreements	277
[F] Other Issues to Address in Writing	278
[G] Prohibited Terms	280
[H] Designing a Reasonable Retention Agreement	281
[I] Consequences of Breaching Retention Terms	285
§ 12.02 Standard Retention Agreement Terms	285
§ 12.03 Alternative Retention Agreement Terms	298
[A] Contingent Fee Agreements	298
[1] Practical Considerations in Drafting Contingent Terms	299
[2] Sample Contingent Terms	303
[B] Flat, Lump Sum, or Fixed Fee Agreements	306
[C] Hybrid Alternative Fee Agreements	307
§ 12.04 Changing Retention Agreement Terms & Termination	308
Chapter 13. Budgeting Legal Fees	311
§ 13.01 Practicing Law by the Numbers	311
[A] The Case for Budgeting	313
[B] Phantom Budgeting: Subverting the System	316
[C] Life in the Budgeted Environment	318
§ 13.02 Preparing & Using Budgets	319
§ 13.03 Techniques for Creating a Budget	325
[A] Budgeting by Compiling Component Tasks	325
[B] Budgeting by Staff & Time	330

CONTENTS · XIII

[C] Budgeting by Benchmark or Comparable Matters	331
[D] Phased or Horizon Budgeting	332
§ 13.04 Qualifications & Caveats Attached to the Budget	333
§ 13.05 The Budgeting Threshold	334
§ 13.06 Budget Forms & Creation	335
Chapter 14. Billing & Bill Formats	337
§ 14.01 Grist for the Fee Management Mill	337
§ 14.02 Billing for Alternative Fees	338
§ 14.03 Billing for Hourly Fees	339
[A] Hourly Billing Formats	340
[B] Task- or Project-Based Coding of Time Entries	343
§ 14.04 Billing for Expenses	345
Conclusion	349
Appendix	351
Federal Fee Shifting Statutes	351
Index	409



Preface

Upon arriving at the pearly gates, a lawyer checked in with Saint Peter. Glancing at his records, Saint Peter exclaimed: “You are in *remarkable* condition for a man of 107.”

Hoping for a reprieve, the lawyer corrected Saint Peter: “I’m only 58, not 107. There must be some mistake. What gave you the idea I was 107?”

Saint Peter replied: “We pulled your billing records.”

— A common joke.

“Eben Moglen, now a Columbia law professor, actually did bill 27 hours for Cravath, Swaine [in one day, by claiming he worked around the clock while traveling from the East Coast to California].”

— Mary Ann Glendon, *A NATION UNDER LAWYERS* at 30 (1994).

Even as the public complains about lawyers and their outrageous fees, a few lawyers are finding new ways to expand, or cross, the boundaries of reasonable or legitimate billing. Like the law of legal fees, the public’s perception of lawyers and their fees is shaped by the excesses of a few.

While one lawyer is trying to justify his \$500 hourly rates, or his even more embarrassing rate of \$200 per hour for a freshly minted lawyer, his partner may be billing the same client \$25 for his lunch or \$1 a page for faxes. There are law firms billing for the time of people as “lawyers” who are not licensed to practice law—that, they claim, is just a technicality. Other firms expect lawyers, either explicitly or by implication, to bill 2,000 or more hours a year, whether that time is valuable or not. Part of the problem is that lawyers have a hard time showing why their services should be

XVI · PREFACE

so expensive. Finding the value in legal services is often difficult, especially if the lawyer's reaction to such questions is defensive.

This book has two distinct parts. In the first part, Chapters 2 through 7, the law of legal fees is summarized and explained. This includes both fees paid by clients and fees paid by others, through fee-shifting, for example. We have not attempted to cite every existing authority. Instead, we attempt to distill and harmonize this subject. Every lawyer and client should find this part of the book useful.

The second part of the book, Chapters 8 through 14, cover the subject of legal fee management. This part of the book explains some of the tools that can be used to manage legal fees, including fee agreements and alternatives to hourly fees. This portion of the book is designed for clients, including in-house counsel, but should also be helpful for lawyers and law firms.

Although we attempt to deal with fees for all types of legal services, many of our examples and most of the cases grow out of litigation and the legal fees charged therein.

We owe special thanks to our publisher and colleagues for their assistance, direct and indirect, in writing this book. We especially wish to thank Keith Sipe of Carolina Academic Press and Max Weintraub, Jane Morrison, David White, and Susan Burroughs of The Devil's Advocate, and Joseph D. Wilkinson II of the Cumberland School of Law for their assistance.

Visit www.DevilsAdvocate.com for additional information.

John Toothman and William G. Ross

About the Authors

John W. Toothman is the president of The Devil's Advocate, a legal fee management and litigation consulting firm, and LitWatch, a litigation news service. He received a B.S. and M.S. in chemical engineering from the University of Virginia, where he was a National Science Foundation Fellow. He received his law degree from Harvard Law School (with honors) and has been a trial lawyer with the U.S. Department of Justice and in private law firms. He is the co-author of TRIAL PRACTICE CHECKLISTS (West 2001) and the author of numerous articles about legal fees, trial practice, and litigation management. Mr. Toothman received the 1995 Ross Essay Award from the American Bar Association. Email: JToothman@DevilsAdvocate.com. Visit LitWatch.com and DevilsAdvocate.com for more information.

William G. Ross is a professor of law at the Cumberland School of Law at Samford University in Birmingham, Alabama, where he teaches ethics, civil procedure, constitutional law, and legal history. A graduate of Stanford and Harvard Law School, he practiced law in New York City for nine years before joining the Cumberland faculty in 1988. Professor Ross's writings about legal fees include numerous articles and a book, THE HONEST HOUR: THE ETHICS OF TIME-BASED BILLING BY ATTORNEYS (Carolina Academic Press, 1996). He is also the author of articles on a wide range of other legal subjects and has published two books about American constitutional history. Email: WGRoss@samford.edu.

