

Law firm pulls plug on billing by the hour

Small Boston practice bucks longtime system

BOSTON GLOBE

It has been called the cockroach of the legal world. A justice of the U.S. Supreme Court has labeled it a villain. The American Bar Association has described its impact as corrosive.

The target of this vitriol: the billable hour, which most law firms use to calculate how much they charge clients, and which detractors say encourages bill-padding, promotes quantity over quality, and forces lawyers — who typically are required to bill 2,000 hours a year in six-minute intervals — onto a speeding treadmill that drives many of them out of the profession.

Now a small Boston law firm has banned the billable hour, refusing to take clients who insist on paying by the hour. Both the firm and its clients say the alternative works in their favor.

Shepherd Law Group, a five-lawyer firm that specializes in employment law, charges a flat annual fee or flat price per task. Clients can call the firm as often as they want to discuss legal issues, although some services, such as litigation, cost extra.

"Hourly billing is wrong and it's anti-client," said Jay Shepherd, the firm's founder. "There's a disincentive to be efficient since you get paid more if you take longer to finish a matter — even though the client wants it to be finished as fast and efficiently as possible."

The American Bar Association concluded in a 2002 report that hourly billing is at the root of much that is wrong with legal practice: brutal hours, lack of collegiality (time spent chatting with colleagues is time not spent billing), fraudulent billing, lawyers who intentionally stretch the time it should take to finish a matter, unpredictable costs for clients, little time for friends and family, little time for community service, and a system that rewards lawyers for quantity over quality.

Surveys consistently show that lawyer dissatisfaction is most often caused by pressure to bill hours. And Yale Law School estimates that for every two hours billed, lawyers must spend about three hours in the office, because they usually can't charge clients for food breaks, coffee runs, bathroom trips,

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their pro bono work and mentoring activities.

For most of their history, lawyers considered the difficulty of a matter and the results obtained when charging clients, and often sent bills for an unitemized dollar amount marked "for services rendered."

In the 1950s and 1960s, time-keeping became routine as consultants promoted hourly billing as a way to increase profits.

Mr. Shepherd said his fees for unlimited legal advice range from \$1,000 to \$30,000 a year, depending on a client's legal needs.

He charges separate flat fees for training, such as sexual harassment workshops, and for advocacy work such as collective bargaining, mediations, arbitrations, and trials.

personal phone calls, and professional development.

That means billing 2,000 hours requires about 3,000 hours a year in the office, or the equivalent of 60 hours every week.

"Nobody is happy with it," said Robert Hirshon, the former American Bar Association president who commissioned the 2002 report.

The bar association, which estimates that more than 90 percent of all law firms use hourly billing, issued a resolution last year encouraging firms to find alternatives. It also urged firms to pay lawyers based not only on how much they bill, but also on