

Cost Accounting for Law Firms: Fixed Cost vs. Hourly Rates and Their Effects on Ethical Behavior and Fraudulent Billing

Svetlana Vlady, PhD

Introduction

Lawyers play a critical and sensitive role in the functioning of any society governed by the rule of law. As there is a belief that the legal system is dedicated to solving problems and ensuring basic fairness, the way in which lawyers conduct themselves directly impacts public confidence both in the profession and in the administration of justice (The ABA, 2023). Furthermore, lawyers have fiduciary responsibilities to their clients, including an obligation not to exploit their resources for personal gain (Legal Information Institute, 2023). Unfortunately, the growing focus on profit, a clash between profit and ethics, and ethics and greed give the public reason to doubt the integrity, ability, and professionalism of lawyers.

Legal ethics refer broadly to the unique responsibilities of lawyers and the legal system. Due to their role and their close involvement with the administration of law, lawyers are subject to special standards, regulations, and liabilities (Legal Information Institute, 2023). Nevertheless, payment fraud, which is a common form of unethical behavior, can be committed by law firms.

The number of fraud cases continues to rise, prompting the following question: What exactly is fraud? Organizations have different views as to what constitutes fraud, and these differences create unique challenges when applying the definition of fraud to specific circumstances (Akers and Bellovary, 2006). As noted by Albrecht (2003):

No definite and invariable rule can be laid down as a general proposition in defining fraud, as it includes surprise, trickery, cunning, and unfair ways by which another is cheated. The only boundaries defining it are those which limit human knavery. (p. 6)

In general, fraud is an intentionally deceptive action designed to provide the perpetrator with an unlawful gain.

Wells (2005) stated:

Under common law, there are four general elements that must be present for a fraud to exist: 1) a materially false statement, 2) knowledge that the statement was false when it was uttered, 3) reliance on that false statement by victim, 4) damage resulting from the victim's reliance on the false statements. (p. 8)

Based on its definition and requirements, overbilling is a fraud and a common form of unethical behavior. In fact, billing and expense fraud may be the number one ethical problem in the legal profession (Lerman, 1998).

Costs and overbilling are among the more common reasons for client dissatisfaction with law firms. For a client inexperienced in reviewing legal bills and the complexity of legal subject matter, overbilling may not be immediately apparent. Evaluating whether a bill is inflated requires extensive experience in a wide range of subjects. A bill may be inflated due to bill padding, in which the time a task worked is overstated. Overbilling also may result from task padding, where a lawyer bills for unnecessary tasks. Both issues are often difficult for clients to uncover on their own (Klein & Wilson, 2022).

Billing fraud is far more difficult to detect than expense fraud unless the lawyer is foolish enough to bill more than 24 hours per day. Moreover, the regulation of this type of conduct is difficult because no one except the lawyer actually knows how much time was spent and how much was billed.

Many have heard the joke about the young lawyer standing at the pearly gates: The lawyer tells St. Peter that there must be a mistake, as he is too young to die. "But St. Peter, I am only 40," says the lawyer. "That's odd," says St. Peter, "our records show you are 92." The lawyer turns pale and says, "Oh, you must be looking at my billable hours" (Mahany, 2017). According to Lerman (1998), there are many stories about lawyers who padded their bills. Unfortunately, most jokes relating to lawyers are about mistrust and fear of theft (Lerman, 1998).

Many corporate clients and government agencies have started auditing legal bills, especially since large corporations often have legal and accounting departments. However, private clients who need a lawyer to acquire/inherit property or

who are in the process of divorce often cannot afford to conduct an audit of their legal bills. Moreover, private clients can also experience time overstatement and bill padding, which are difficult for them to detect.

Fraud has a wide meaning, and previous research mostly investigated how corporate governance, ethical behavior, accounting manipulation, detection techniques, and forensic accounting are related to fraud. Previous research also focused on managers' behavior and motivation in accounting fraud (Knisley and Lin, 2022; Losi et al., 2021; Fernandes and Guedes, 2010; Hermanson, 2021; Micewski and Troy, 2007). Corporate governance—a set of rules, regulations, and policies with which firms must comply to avoid fraud and misconduct—is a core topic inside fraud analysis. The literature on corporate governance has focused on the role of CEOs and managers in accounting fraud and how firms could be influenced to prevent fraudulent behavior (Burnaby et al., 2011; Troy et al., 2011; Armstrong et al., 2009; Rezaee, Z. 2002).

Literature reviews on law firms found that most previous studies conducted surveys on billing practices and analyzed the responses of lawyers working in government offices, in-house legal departments, and private and corporate law firms (Fortney, 2015; Parker and Ruschena, 2011). Also, some researchers interviewed junior and senior lawyers at small law firms, whereas others questioned private practitioners and lawyers at large law firms (Parker, et al., 2008).

Although most previous studies interviewed lawyers and analyzed their responses on billing practices, the question of how overbilling can affect ordinary private clients of law firms remains open. Unknown also is to what extent flexible hourly rates and “6-minutes unit” rule affect the ethical behavior of lawyers. This research intends to fill this gap by investigating this vital issue.

The purpose of this research is to investigate the billing practices of law firms and to compare the effects of flexible hourly payments and fixed fees on lawyers' ethical behaviors and, potentially, fraudulent billing. The research highlights the factors that facilitated the spread of fraud, the identification of which could increase our understanding of what should be done to prevent these events in the future.

This research contributes uniquely to the area of fraudulent billing research by inspecting and analyzing the real-life tax invoices of private clients who have dealt with law firms in Australia. Moreover, it conducts comparative analyses of the tax invoices of three Australian law firms with flexible hourly rates payments and fixed fees. Furthermore, this research investigates the extent to which hourly rates and the “six-minute unit” rule affect the cost of service and ethical behaviors of lawyers. Finally, it contributes to the area of fraudulent billing research by analyzing the effects of implementing information technology on the costs of service of the law firms, and thus on the amount of tax invoices issued to clients. There is a need for the legal industry to move away from traditional practices and accept new pricing models, technologies, and a client-centered approach.

Background

In addition to unethical behavior, other reasons for clients' dissatisfaction include insufficient management systems and inadequate solicitor–client communication regarding costs. Costs are the most common reason for disappointed consumers to complain about legal services.

Lawyers charge all different sorts of rates, starting from the low hundreds per hour for a junior lawyer to \$11,000 per day in Court for an experienced barrister (Olling, 2024). In 2023, the top 100 U.S. law firms charged clients an average of \$961 an hour. Partners in New York are leaders with the attorneys charging an average of \$1,562 an hour. The next highest hourly rates are charged by partners in the Los Angeles area, with the lawyers billing \$1,192 an hour on average. The partners in the Kansas City area charge \$764 an hour on average (Moran, 2023). Moreover, the hourly rates of large legal firms increased 3%–10% annually (Maloney, 2022). We all presume that lawyers charging higher rates should provide better legal services, but it is not always the case.

In the U.S., complaints about bill overcharging have increased. Last year, estimates of fraudulent billing rose from 21% to over 33%, depending on the research methodology (Beaver, 2024). For many lawyers, the “billable hour” is an invitation to theft (Beaver, 2024). According to the AM Law Daily, the overcharging cost clients' tens of thousands of dollars per lawyer each year (2015).

In Australia, most lawyers charge their time at \$300–\$880 an hourly rate (Singh, 2024). During the year 2023, the Victorian Office of the Legal Services Board and Commissioner received 5,237 enquiries from clients which involved potential complaints about a lawyer. Most enquiries (65%) raised issues relating to the quality of service and a further 30% involved concerns about legal costs.

In year 2023, according to the NSW Office of the Legal Services Commissioner (OLSC), the number of complaints with a total of 2,842 remained high (OLSC, 2023). Each year, the OLSC in New South Wales, Australia, receives

approximately 3,000 complaints relating to the conduct of barristers and lawyers (Mark, 2007). The OLSC found that about 80% of complaints include allegations of unfair overcharging, with lawyers sometimes deliberately and unethically overcharging clients. Moreover, legal costs are high: the hourly rate for lawyers is often the same as many private clients earn in a day or week.

According to statistics, in the year 2023, the Queensland Office of the Legal Services Commission received 1,048 complaints which is 25% higher compared to the previous reporting year (OLS, 2023). Each year, the Legal Service Commission (LSC) receives approximately over 30% of consumer complaints primarily concerning cost issues (Qld Law Society, 2023).

According to the Queensland Law Society and LSC, poor cost management is the fastest way for lawyers to damage their relationships with clients, and it is a common reason for clients' dissatisfaction and complaints to the OLSC. In addition, insufficient client communication and disorganized office administration can undermine a law firm's image and lead clients to doubt the integrity, ability, and professionalism of lawyers.

According to the Qld Law Society (QLS, 2009; 2021), there are various reasons for dissatisfaction:

- Alleged overcharging;
- Bills significantly exceeding estimates;
- No estimates being given;
- Poor cost communication or updating;
- Unreasonable charging of disbursements;
- Work (and therefore bills) exceeding the scope of retainers;
- Unethical charges (e.g., charging for entertainment);
- Unnecessarily aggressive billing and debt-recovery practices; and
- Various combinations of the above.

Additionally, weak supervision, an inadequate management system, and poor risk management arrangements can lead to inefficiencies, subsequent cost increases, and, hence, significant client dissatisfaction and suspicion of overcharging.

For example, inefficiency resulting in inaccurate explanations, mistakes, or slow, unsatisfactory, or unfocused work can lead to extra time costs, additional costs due to a lack of appropriate precedents, and so-called reinventing-the-wheel costs. In addition, such inefficiencies raise ethical, client service, and profitability concerns. Charging or overcharging for unnecessary e-mails or correcting avoidable errors may be considered unethical, and even if not unethical, may affect client satisfaction.

The unwillingness to invest in so-called quick-win efficiency gains comes from the belief that they will reduce the number of working hours recorded and thus reduce profitability. This limiting short-term approach can have dramatic negative consequences for any practice in the long term.

Time recording is a fundamental factor in management accounting as a record of professional work. Fee earners must understand the importance of time recording and be encouraged to record time fully. Moreover, they must recognize the need for accuracy and be discouraged from "padding" time (i.e., bill padding means overstating the amount of time spent on work performed). Law firms' overbilling could be described euphemistically as bill padding or explicitly as billing fraud, but it is a serious problem that is rarely discussed or resolved, despite most legal bills including at least some padding (HG Experts, 2021).

Problematic Billing Practices and Bill Padding

Since employee retention and promotion in law firms are affected by hours billed, the pressure to submit time sheets with inflated hours is high. Such bill padding may constitute a breach of contract, a breach of fiduciary duty, and even fraud. Ross (1996) claimed that "bill-padding is the perfect crime." (p. 3). According to The National Association of Legal Fee Analysis (NALFA, 2024), lawyers "seriously inflated" bills, charged "exceptionally high hourly rates for tasks that were unnecessarily performed by far more lawyers than were needed" and engaged in "bill padding and duplicative billing." (p. 1) Moreover, the California State Bar stated that most bills are inflated by at least 10–30% (HG Experts, 2021). According to the Attorney Billing Ethics Survey 2006–2007, two-thirds of lawyers admitted bill padding at their firms, one-third of lawyers freely double-billed clients, and more than half of all lawyers performed unnecessary work simply because they needed to bill more hours. The most common billing practices leading to billable-hours inflation are discussed in the following subsections.

Block Billing

A complex method of bill padding is block billing, which is an accounting technique whereby lawyers aggregate multiple smaller tasks into a single block entry and assign a single time value (Richmond, 2008): the total time charged equals the sum of the duration of each distinct task. According to the NALFA Releases 2024, lawyers billed more than 14,000 hours over the two-year dispute is more than 20 times greater than comparable cases (NALFA, 2024).

An aggregation of multiple smaller tasks into a single block entry makes it difficult for clients to determine how a lawyer's time is spent. For example, after spending three minutes on a phone call, 30 minutes writing a letter, and three minutes reading a short e-mail from a client, a lawyer should bill the client for 0.6 of an hour, but the final (rounded up) block-billed entry for these tasks may be 1.0 hour. This billable-hours inflation is not necessarily deliberate fraud but may simply be due to poor time recording, leading to overestimation of the amount of time spent on specific tasks (MacEwen and Stanton, 2012).

According to the California State Bar, most lawyers' daily time submissions contain between 30 minutes and three hours of time not actually worked, which are then billed to clients (Committee on Mandatory Fee Arbitration, 2016). For the average senior lawyer, this translates to more than \$250,000 per year in fees for work that was not completed. Adding the smallest unit of billable time (0.1 hours) onto a lawyer's daily timesheet could result in an extra \$10,000–25,000 in unearned fees per year (HG Experts, 2021).

CEB Inc. and Wolters Kluwer ELM Solutions (2017) found that 40% of lawyers had submitted block bills for multiple types of work, making it difficult for legal departments to budget for legal work. Moreover, many courts believe that block billing and hours inflation are major problems and will often slash lawyers' block-billed time by more than half.

Hoarding or Pyramiding

Another problem is billable-hours hoarding or pyramiding, which means inappropriately assigning work to associates. Instead of allowing a paralegal assistant or secretary to perform a simple task for \$100 per hour, some law firms will use an associate attorney to do the work and bill at \$350–500 per hour. This results in partners doing associates' work, associates doing paralegal assistants' work, and paralegal assistants doing secretarial work. This problem arises when law firms do not discount hourly rates to reflect senior lawyers doing lower-level work (*Urisic v. Bethlehem Mines*, 1983; see also *Metro Data Systems, Inc. v. Duranao Systems, Inc.*, 1984). Consequently, clients suffer and must consider not only the amount of time spent on particular tasks, but also whether those tasks are billed at the appropriate level.

Minimum Incremental Billing

Lawyers can bill by the hour but should never use increments greater than one-tenth of an hour. However, lawyers often bill clients for excessively large chunks of time—usually in quarter-hour, half-hour, or even one-hour increments. For example, if a lawyer bills in increments of 0.25 hours for four short telephone calls that lasted only a few minutes each, the lawyer could convert 12 minutes of actual work totaling \$100–350 into one hour of billable time totaling \$500–750. This is unreasonable and unethical, and it constitutes billing fraud (NALFA, 2024; HG Experts, 2021).

As another example, the press targeted a large law firm when the firm's billing policy was leaked (Mahany, 2017). The leaked document stated, "Any short break ... of up to six minutes should still be recorded to the matter you are working on, on the basis that you would still be thinking about it" (Mahany, 2017, p. 5).

Rounding Up or Needlessly Breaking Up Work

Lawyers' most common bill-padding practice is to round up charges and bill a client for a full hour when they work for only 40 minutes. Most law firms with hourly rates bill clients in six-minute increments, meaning that a five-minute call should be billed as 0.1 hours. However, they often round up a six-minute call to the nearest half hour and bill it as 0.5 hours. Thus, billing in six-minute increments allows firms to bill for over a quarter of an hour for a couple of short phone calls taking only a minute each. Wolters Kluwer's ELM Solutions, in partnership with Gartner (formerly CEB) (2017) reported that 21% of lawyers overbilled their time in 2015 by rounding up their hours worked to the next hour or half hour. According to an analysis of about 100 companies' legal invoices, 51% of timekeepers billed in six-minute time intervals, indicating that they billed for extremely minor tasks (Wolters Kluwer ELM Solutions, 2017).

Churning or Performing Unnecessary Work

Another variation of bill padding is churning. A lawyer churns a file when they perform unnecessary legal work (NALFA, 2024). However, unless clients have highly complex cases, there is no reason for three or four lawyers to attend a meeting, participate in a phone conference, or travel to meet a client and for the law firm to bill for all their working hours.

Double Billing

Double billing occurs when a lawyer bills two or more clients for the same work, which typically happens with legal research projects because the same research may benefit multiple clients. According to the American Bar Association (ABA, 2023), double billing is inherently unethical, but it can be challenging to detect and control. The dishonest lawyers will bill each of multiple clients for the full amount of research time. The most famous case of double billing occurred when a Long Island lawyer claimed to work 1,200 days per year as a full-time attorney at each of five different schools (Sullivan, 2005), thus claiming more days than there were in a year. To minimize billable-hours inflation, every client should refer to outside counsel guidelines that prohibit block billing, billable-hours hoarding, and excessive incremental billing.

Therefore, mentioned practices are the main practices that lead to overbilling and should cause clients to scrutinize their monthly statements. Bill padding is stealing, and when a lawyer does it, it is unethical and could cause the lawyer to lose his license.

Costs Agreements and Alternative Billing Methods: The Australian Experience

Clients' fee arrangements (contracts) with lawyers significantly impact how much they will pay for lawyers' services. Legal fees depend on several factors, including the amount of time spent on a case; the lawyer's ability, experience, and reputation; the uniqueness and complexity of the case; the results achieved; and the costs involved (FindLaw, 2022). Several different methods can be used as alternatives to hourly billing, including fixed- or flat-fee billing, capped fees, contingency fees or percentages, blended hourly rates, retrospective fees based on value or relative value, task-based billing, and discounted billing. Each of these alternatives, which are discussed in the following subsections, is based on the concept of value rather than profit (Jamison, 2007).

Hourly Rate

For hourly-rate cases, lawyers charge clients for each hour (or portion of an hour) that they work on a case. In Australia, hourly rates for lawyers are \$200–250 for a junior lawyer, \$250–400 for a senior lawyer, \$400–850 for a practice leader or partner, and \$100–200 for a paralegal assistant (Singh, 2024). Time is tracked in tenths of an hour, in six-minute increments. How much a client will be charged depends on several factors, including the seniority of the lawyer and the size of the firm, and clients cannot anticipate the final cost of legal services. Costs will be stated in a cost agreement, but the way in which legal fees are traditionally structured can be tricky for clients to understand. Even when clients win their trials, they may still be out of pocket. Taking a matter to court can easily cost tens or even hundreds of thousands of dollars (Douglas, 2018).

Fixed/Flat Fees or Capped Fees

In Australia, the shift to alternative forms of billing has been slow, and law firms have strongly resisted any changes in their established billing practices. Fixed or flat fees and capped fees are the most common methods of alternative billing employed by Australian law firms (Jamison, 2007).

A fixed fee, also known as a flat fee, refers to a lawyer charging a specific total fee. A fixed-fee agreement is an agreement under which the client pays a fixed fee for legal representation regardless of the time the lawyers and staff contribute to the case. Fixed-fee agreements can help avoid unnecessary charges and can benefit both lawyers and clients (Douglas, 2018). For lawyers, fixed fees provide greater freedom in case management; for clients, fixed-fee arrangements allow them to know exactly how much their cases will cost.

A flat fee can be used alone or combined with other billing practices, such as hourly fees or contingent fees. Fixed-fee arrangements are typically used for highly competitive services and high-volume work, such as wills and real estate matters.

The capped fee arrangement establishes a ceiling for all fees for a particular case, meaning that the client pays fees up to but not beyond the specified maximum. Under such billing arrangements, law firms may charge agreed hourly rates for the time required to complete cases but may not exceed the total compensation ceiling for services rendered. Law firms in the United Kingdom (UK) and the United States (U.S.) use fixed or capped fees as the primary alternative to hourly billing. Moreover, fixed or flat fees are the most common alternative fee arrangements for individual cases across the U.S. (Jamison, 2007).

Contingency Fees

A contingency fee arrangement is based on a percentage of the amount of money awarded in a case. If a lawsuit is successful, the lawyer is entitled to a set percentage of the settlement, but if the case is lost, the lawyer receives no fee; however, the client may still have to pay some expenses. This type of fee arrangement is most common for personal

injury cases, property damage cases, and other cases involving financial losses, but it cannot be used for divorce and criminal cases anywhere in the world (Sullivan, 2022).

Retainers

A retainer is a lump sum deposit paid to an attorney from which the attorney deducts hourly fees. A retainer is a down payment against which future costs are billed. A law firm will typically place a retainer in a special account and deduct the costs of services from the account as they accrue. Many retainers are nonrefundable unless a court deems the fee unreasonable. Since this type of fee arrangement can have several meanings, a lawyer must explain the retainer arrangement in detail to a client (Sullivan, 2022).

Previous Research

Fraud

A literature review revealed that studies on fraud have primarily investigated how organizations can be managed to prevent fraudulent behaviors (Tutino and Merlo, 2019). Hence, extensive fraud research has considered fraud in relation to corporate governance, ethical behavior, accounting manipulation, detection techniques, and forensic accounting.

Corporate governance is a key area of corporate law and a core topic in fraud analysis. Research on corporate governance and human-focused fraud (Hermanson, 2021) has recently focused on the role of CEOs and managers in fraud and how firms can be influenced to prevent fraudulent behavior (Amstrong et al., 2010; Burnaby et al., 2011; Jones, 2011; Troy et al., 2011; Tutino and Merlo, 2019). The literature review showed that CEOs and managers are often at the center of financial scandals.

The literature review also showed that fraud frequently results from the unethical behavior of a person or group of people, but the focus of fraud research has recently shifted to the ethical climate surrounding companies (Lindberg and Seifert, 2016; Lynch et al., 2011; Micewski and Troy, 2007; Soltani, 2014). Increased ethical education and awareness among employees may help prevent fraud and misconduct (Miller, 2019).

Establishing and developing a culture of integrity and transparency is dominant for effective fraud prevention (Newman et al., 2017; Nink and Robison, 2020). A culture of integrity and transparency entails instilling core values that prioritize ethical conduct, honesty, and accountability throughout the organization. (Cucciniello et al., 2017). Legal ethics should ensure fairness, integrity, and accountability in legal practice.

Previous researchers also have investigated the role of forensic accountants (Bhasin, 2016; Digabriele, 2009; Hegazy, 2017) and their contributions to inside investigations (Kolar, 2013; Quirin, 2014). They have also considered managers' behavior in and motivation for accounting fraud (Fernandes and Guedes, 2010; Micewski and Troy, 2007; Shah et al., 2011). Based on the fraud triangle and motivation literature, Knisley and Lin (2022) claimed that the main motivations for fraud are incentive and pressure. Their results revealed that incentive and pressure influence fraudulent intentions differently: "Incentive appears to be stronger in influencing fraud intention than pressure" (2022, p. 1). Also, research investigated insights on the ability of auditors to recognize high/low pressure/motivation situations within the context of a case study (Losi, et al 2022).

Many studies also have investigated the detection of fraud via statistical methods applied to data (Altman, 1968; Beneish, 1999; Benford, 1938) and nonanalytical methods, such as whistleblowing and the fraud triangle. An examination of prior literature revealed that the likelihood of committing fraud has typically been predicted using financial and/or governance variables (e.g., Agrawal and Chadha, 2005; Erickson et al., 2006; Farber, 2005; Kinney et al., 2004).

Extensive literature has considered the importance, scale, prevalence, and most common schemes of fraud in different industries (Pan et al., 2023). For example, previous research found that the most common health-care fraud schemes were fraudulent billing and billing for services that were not medically necessary (Flasher and Lamboy-Ruiz, 2018; GAO, 2016; Gee et al., 2010; Pan et al., 2023), such as billing for physical therapy not performed or billing for a 30-minute consultation when only a 15-minute consultation was provided (known as "upcoding"; Pan et al., 2023). Notably, "these types of fraud are not necessarily committed by an accounting or financial professional. Rather, they are often committed by a manager or employee" (Pan et al., 2023, p. 67). Patients must consider this lack of transparency and bear in mind that payment risks are "more complex and difficult to oversee" in managed care (Kuriyan, 2022).

Other research contributes to the fraud literature by documenting differences in the likelihood of reporting fraud when the reporting outlet is the Office of Inspector General (OIG) and False Claims Act (FCA) lawsuit (conditioned on receiving a reward) and the likelihood of hiring a lawyer by professional role in the healthcare industry (Melvin et al., 2021).

Unethical Behavior of Law Firms and Fraudulent Billing

A significant amount of research has examined the illegal and unethical behavior of large law firms and individual lawyers. While some researchers have considered the billing systems, office cultures, and ethics policies of law firms, others have investigated factors such as the extent of competition and greed within a law firm and lawyers' ignorance of appropriate ethical practices. The ethical implications of time-based and/or fraudulent billing have been widely debated by academics and professionals.

Most previous research has sought to explain the reasons for lawyers' unethical behavior. Some researchers have claimed that law firms impose billing targets that encourage overcharging and have defined the outcomes of such target-related pressures. For instance, Fortney (2015) surveyed 1,138 managing attorneys and 4,649 supervised attorneys on issues involving billing practices in the US. The survey revealed that annual bonuses and promotions were directly linked to the extent to which attorneys exceeded minimum billing targets. Moreover, a response from a supervised firm attorney indicated that an "efficient and productive associate" could be "penalized," while an associate who padded hours could "[get] a significant raise/bonus" (Fortney, 2015, p. 178).

Corbin (2005) interviewed Australian junior and senior lawyers in Queensland law firms. Her analysis showed that lawyers felt pressured by their firms' cultures, particularly their budgetary policies, which restricted their ability to provide quality services to clients. Parker and Ruschena (2011) examined these issues using data from the Queensland Billing Practices Survey conducted by the Legal Services Commission in Queensland, Australia. Lawyers from 25 private law firms answered questions about their firms' billing systems, office cultures, and ethics policies. The researchers examined whether the lawyers' experiences with time-based billing and billable hours budgets subjected them to pressures that encouraged unethical practices, which gave them a greater understanding of lawyers' perceptions of their firms, how those perceptions influenced their views on acceptable practices, and what could be done to change those perceptions.

Parker et al. (2008) examined the detrimental impacts of large law firms' cultures and organizational structures on individual lawyers' ethics and ethical behavior. The authors recommended that large law firms in Australia consciously design and implement ethical infrastructures to reduce pressures for misbehavior and positively promote ethical behavior and discussion.

Lawyers' unethical billing practices first surfaced as a serious professional responsibility issue in the early 1990s due to two influential law review articles—the first by Professor William G. Ross and the second by Professor Lisa G. Lerman.

Ross (1991) published the results of a survey of 272 private practitioners and 80 corporate counsels regarding environmental pressure for lawyers to conform to the unethical billing practices of their colleagues. The results indicated that 7.2% of private practitioners and 7% of corporate counsel respondents indicated their belief that time-based billing substantially or very substantially encouraged fraud, while another 27.4% of private practitioners and 37.5% of corporate counsel respondents indicated that time-based billing had a moderate effect on fraud. Although Ross concluded that overbilling is widespread, he contended that most attorneys try to bill their clients ethically and that overbilling results from excessive zeal rather than fraud. He also explained that the clarification and reform of billing practices could help improve the public image of lawyers and encourage lawyers to provide better public services.

Lerman (1998) focused on billing misconduct by lawyers who established contracts with their clients to bill by the hour. She described the problem in a jingle published in the *Wall Street Journal*:

These newfound legal terms today,
You know they've got me reeling.
What lawyers now call overbilling
I thought was simply stealing.

Lerman (1998) also examined 37 cases of lawyers who had gone to jail, been disbarred, or been investigated since 1989 for committing billing and expense fraud. However, she found no such cases prior to 1989. From the 37 cases, she selected 16 in which the alleged billing fraud exceeded \$100,000 and led to prosecution or discipline. Of the 16 lawyers, seven were managing partners and three were heads of departments. Many had annual incomes of over \$500,000, not including the amount they stole. Most held law degrees from prestigious schools. Their collective total proven or admitted theft was about \$16 million, and many lawyers billed over 3,000 hours per year.

According to Lerman (1998), lawyers constantly padded hours and fabricated time sheets, billing for hundreds of thousands of dollars of time not worked and charging clients for personal expenses. For example, of the lawyers who were reimbursed by their firms or their clients for personal expenses, one bought an \$89,000 diamond ring from Cartier, two were reimbursed for purchases from Victoria's Secret, and one charged the firm for thousands of dollars of flowers

for his children's weddings. Many of them were reimbursed for plane tickets and other vacation expenses, tickets to sports events, club memberships, orthodontists' bills, home repairs, and plumbing. Leman (1998) emphasized that firms' cultures greatly influence bill padding. Many of the lawyers seemed to have been affected by competitive pressures and by adopting lifestyles that required more income than they could generate honestly.

Many law firms evaluate and compensate lawyers based on their number of billed hours. Some firms set billable-hours requirements so high that they virtually require billing fraud. Leman agreed that prosecution and disciplinary action are vital, but she asserted that the problem cannot be solved without regulatory changes and dramatic changes in billing policies of law firms. She claimed that a way to discourage billing fraud might be to prohibit law firms from setting specific billable hours targets or unspoken annual targets for lawyers and prohibiting the use of billed hours as a factor in retention, promotion, compensation, and bonus decisions. Another way to discourage billing and expense fraud is to enforce reporting rules against lawyers who are aware of but fail to report such behavior by other lawyers.

Many corporate clients and government agencies have begun auditing legal bills, but many clients cannot afford to hire auditors. Moreover, external auditors may uncover only a small part of the misconduct that occurred. Leman (1998) concluded that most lawyers value professionalism and client service, but unfortunately, some lawyers do not share these values.

Why does conduct that is so obviously improper occur? The reasons are complex. According to Richmond (2008), hourly billing or billable-hours goals for lawyers are rarely considered, despite scholars and practicing lawyers criticizing such goals. In Richmond's view, lawyers' willingness to cheat clients and their firms is rooted in characteristics such as competitiveness, greed, and envy; common fears regarding employment insecurity; mental health issues or personality disorders; unfortunate environmental perceptions, such as viewing clients as adversaries; and organizational cultures.

Shechet (2016) also discussed "the ugly, wasteful, financially client-abusing, dishonest side of law practice," explaining how "lawyers financially harm the system, running up needless bills for services that generate little, and keep it going just as long as the money to pay hourly bills keeps flowing in" (Beaver, 2021, para 12).

According to previous research, greed clearly affects lawyers' billing practices, and numerous lawyers appear to have been driven by greed to commit billing and expense fraud. Greedy people are incapable of gaining satisfaction—the more assets or money they have, the more they want; hence, changes in billing methods alone may not necessarily reduce competition and overcharging (Parker and Ruschena, 2012). According to Leman (1998), "the legal profession attracts some people who are very competitive and quite aggressive, and then firm trains them to be more so" (p. 889).

In addition, most researchers emphasize that although obvious billing fraud by lawyers seems to be relatively rare, reported cases on the subject have an extremely negative effect on the legal profession. Fraudulent billing creates a negative public image for lawyers, and unethical billing practices are harmful (Parker and Ruschena, 2012).

A surfeit of research over the last few years has explored cases of lawyers' illegal and unethical behavior toward their clients. The ethical impact of time-based billing has been extensively discussed by academics and professionals, and although the focus has usually been on U.S. and UK lawyers, there also have been some well-publicized examples of such behavior by Australian lawyers and law firms that authors have considered unethical. The purpose of this study was to analyze and compare fixed fees versus flexible hourly rates and their effects on lawyers' ethical behavior and potential fraudulent billing.

Design and Methodology

Multiple-Case Design

According to Yin (2003), a research design is a plan that guides research from the questions to the conclusions and includes steps for collecting, analysing, and interpreting evidence according to research questions and units of analyses.

This research applies a multiple cases design which allows a wider exploration of the research questions. A unit of analyses is the law firm with flexible or fixed cost system for which information analysed. The units of observation are documents (cost agreements, tax-invoices, correspondence, letters, e-mails) that collected, measured, and annualized during research.

A multiple-case design is using a qualitative research paradigm and aims to understand the phenomena in context-specific settings, such as a "real world setting, where the researcher does not attempt to manipulate the phenomenon of interest" (Panton, 2002, p. 39). Also, a multiple cases design allows to understand the differences and the similarities between the cases (Baxter and Jack, 2008; Stake, 1995) and analyse the data both within each situation and across

situations (Yin, 2003). Moreover, a case study is an analyse of systems studied with a wide-ranging view where either one or several methods are used (Thomas, 2011).

Procedures

The following procedures were applied to identify the effects of different cost systems:

1. Examine and analyze the cost agreement (contract) and disclosure notes of each law firm to identify methods of charging client for professional service.
2. Analyse the tax invoices issued to client to identify overcharging.
3. Detect the significant overcharging.
4. Compare the effects of hourly rate (based on 6 minutes-rule) and fixed fees on amount of the tax invoices of law firms for professional services to the client.
5. Provide conclusion and recommendation.

Data and Cases

The author examined and compared the tax invoices and cost agreements of three Australian law firms that applied fixed fees or hourly rates, aiming to identify the effects of each type of charging on lawyers' ethical behavior. Since the real names of the firms cannot be disclosed without written permission, the law firms are referred to as "Firm A," "Firm B," and "Firm C." The author had access to real tax invoices and client's e-mails from the beginning to the end of the cases (from November 2019 to January 2021).

Law Firm A

For over 60 years, Firm A has covered many areas of law, including business and corporate, family, litigation, property, inheritance, estate, and migration law. According to its cost agreement and disclosure notice, the firm has various ways of charging for professional services rendered, including itemized fee scales, statutory scales, task-based fees, fixed fees, and conditional fee arrangements. These different methods of charging may result in different fees being payable. Unless otherwise agreed, the firm charges for time based on six-minute units, with each unit charged at one-tenth of the hourly applicable rate. Table 1 provides sample information on the firm's billing increments (6 minutes rule).

Table 1: Billing Increments

Minutes	1–6	7–12	13–18	19–24	25–30	31–36	37–42	43–48	49–54	55–60
Time Increment	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0

According to Firm A's cost agreement and disclosure notice, "internal office costs for photocopying, telephone, facsimile, postage and other sundry expenses will be charged at a flat rate of 5% of professional fees and will be incorporated into invoices as a part of professional fees." Firm A issued to client seven tax invoices.

Law Firm B

Firm B is one of the largest family law firms specializing in divorce, parenting matters, property matters, and mediation. According to its cost agreement, the firm charges on a case-by-case, fixed-fee basis, and the fixed fees are calculated based on similar cases that the firm has handled in the past and upon information received from the client regarding the matter and their unique circumstances.

The cost agreement states the following:

1. The client agrees to pay a fixed fee for Firm B's services (together with any additional fixed fee for any additional services).
2. The client acknowledges that the fixed fee will be applied for any time spent on work requiring the skills of a lawyer. Within the agreed-upon fixed fee, units of time are billed in multiples of one-tenth of an hour (up to six minutes), and the client agrees that a minimum of one-tenth of an hour will be recorded for each action carried out.

Firm B also provides a fee and disbursement schedule with fixed prices in its cost agreement (contract), and it applies and follows the schedule designed by the Australian Family Court Register (in Queensland, Australia). The firm communicates with clients, provides instructions, sends, and receives documents, and reviews all materials

electronically through Basecamp platform. Clients meet in person with lawyers only when necessary. In this case, the client received five tax invoices from Firm B that complied with the agreed-upon total amount stated in its contract.

Law Firm C

Firm C was established in 2004 and specializes in commercial office leasing, retail leasing, business sale transactions, conveyancing, family trusts, wills, testamentary trusts, and enduring powers of attorney. The firm applies fixed costs and professional fees, with the time spent on cases recorded in six-minute units, although it provides clients with estimated costs when no face-to-face meetings are required. Bank account details should be provided to the firm electronically via the Securexchange platform; all documents are issued and sent out electronically, and all instructions and documents must be provided within 24 hours of being requested. In this study, the firm provided the client with a cost agreement with a predetermined fixed price and issued one tax invoice.

Remeasured Method

Inflated time and billing fraud are very difficult to detect because no one, except for the lawyer, knows for certain how much time has been spent on specific tasks versus how much has been billed. The author employed the work-measurement method, “which is a thorough and detailed method of estimating costs” (Horngren et al., 2018, p. 378), that is usually applied in cost accounting. Although this approach is time-consuming and costly, it is useful for analyzing the time required to perform various tasks and operations” (Horngren et al., 2018). Many organizations use this method to estimate direct manufacturing costs, but it also can be applied in service industries.

With the purpose of detecting a significant overbilling, all e-mails and short written letters (except for letters that required the professional skills of a lawyer) were rewritten by the author, and the actual time taken on them was measured. These remeasured periods were translated into six-minute units, and the new costs were computed. The author used the remeasured time and the fixed amounts allowed by the Australian Family Court Register to estimate new amounts for each transaction in the itemized tax invoices for law firms that applied hourly rates. The remeasured times and costs were compared with the times and costs stated in the law firms’ invoices.

Result

Hourly Rate

Firm A

Firm A provides straightforward and repetitive services to clients. An analysis of the first five tax invoices indicated that the client paid costs of \$10,944, which included both essential work and nonessential e-mails. Table 2 indicates that the essential services amounted to approximately \$5,594, but too many unnecessary e-mails and services were included in the invoices, amounting to \$5,350—roughly the same as the essential services and nearly doubling the cost.

Table 2: Essential Services and Unnecessary E-mails, Firm A

Three meetings	\$1640
Initial letter	\$400
Probate	\$3354
<u>Letter to external lawyers</u>	<u>\$200</u>
Total for essential work	\$5594
Total for nonessential e-mails (\$10,944 - \$5834)	\$5350

An analysis of the information provided in Table 3 (column 1) indicates that a paralegal assistant (secretary), on April 22, 2020, invoiced \$200 for 8–10 minutes spent reading and writing three brief e-mails.

In the tax invoice, the amount of time spent on this work was listed as one hour (30 minutes + 30 minutes) instead of 8–10 minutes. The real time of 8–10 minutes (column 2) would have cost \$32.00, which is approximately the same amount as the \$35.90 (column 4) estimated in accordance with the schedule provided by the Australian Family Court Register.

Therefore, the cost was overstated by \$168–164. However, according to the cost agreement and the existing rules, the firm could charge 1 unit (six minutes), which would mean that a paralegal might charge 18 minutes for work lasting 8–10 minutes and earn \$60, which would be an overstatement of \$140.

Nevertheless, the \$200 charge was 3.33 times higher than the cost permitted by the agreement, 5.6 times higher than accorded with the schedule of the Family Court Register, and 6.25 times higher than the actual time taken on the task. In addition, a paralegal assistant charged \$40 for asking for a date of birth and \$40 for reading the reply, and a senior

lawyer charged \$200 for reviewing a brief letter. Another example of overbilling was making photocopies of documents (4 pages in total) for \$200. According to the cost agreement, Firm A should have charged internal office costs at a flat rate of 5% for professional fees.

Table 3: Comparative Analysis of Firm A's Flexible Rate Versus a Fixed Fee: Extracts from a Tax Invoice (For a Paralegal Assistant with an Hourly Rate of \$200)

1.	2.	3.	4.
Account details of Firm A. Bill no. xxxxxx	Tasks and e-mails remeasured as the actual time	Actual time from column 2 restated as 1 unit = 6 minutes	Amount allowed by the Family Court Register
04/22/2020 E-mail to client	Short, simple e-mail (80 words) that took 4–5 minutes to write.	80 words to write. 1 unit = 6 minutes.	Drafting and producing letters (including e-mails):
5.00 0.50 \$100.00	0.08 h = \$16	0.1 h = \$20	\$18.90 per 100 words
04/22/2020 E-mails	Short e-mails: (45 words, 1–2 minutes to read)	45 words to read. 1 unit = 6 minutes	Reading documents: \$7.70 per 100 words
	0.03 hours = \$6	0.05 hours = \$20	45 words = \$4
	Short e-mail: (60 words, 3 minutes to write).	60 words to write. 1 unit = 6 minutes	Drafting and producing e-mails: \$18.90 per 100 words
		0.1 h = \$20	60 words = \$13
0 0.50 \$100.00	0.05 h = \$10	Total: \$40	Total: \$17
Hourly rate \$200	Total: \$16		
<i>Column 1 shows the amount of time and amount of payment stated by Firm A for its services. \$200 is the hourly payment for a paralegal. 0.50 number of units (5 × 6 minutes = 30 minutes 30 min/60 min = 0.5 \$200 × 0.5 = \$100)</i>	<i>Column 2 shows that simple e-mails (82 words) were written and took less than 4–5 minutes. 0.08 h = 5min/60 min 0.08 h × \$200 = \$16 0.03 h × \$200 = \$6 0.05 h × \$200 = \$10 0.066 h × \$200 = \$13</i>	<i>Column 3 shows that, in accordance with the cost agreement, the minimum amount to be paid was 1 unit = 6 minutes. If a lawyer spent 1 or 4 minutes on a task, they would charge for 6 minutes. 6 minutes = 0.1 h 0.1 h = 6min/60min 0.1 h × \$200 = \$20</i>	<i>Column 4 shows that, in accordance with the schedule provided by the Australian Family Court Register, a law firm should charge approximately \$18.90 to draft a 100-word letter and \$7.70 to read a letter of the same length.</i>

A review of the other tax invoices revealed that Firm A charged legal fees amounting to \$460, simply for arranging four appointments (\$160 + \$120 + \$120 + \$60) via phone or short e-mails. There were many examples of a paralegal assistant at Firm A spending 1–5 minutes sending short e-mails and charging \$60–120.

Table 4: Comparative Analysis of Firm A's Flexible Rate Versus a Fixed Fee: Extracts from a Tax Invoice (For a Senior Associate Lawyer with an Hourly Rate of \$400)

1.	2.	3.	4.
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Data and time in units and hours. Amount charged stated in the bill of Firm A	Tasks and time remeasured as the actual time	Actual time from column 2 restated as 1 unit = 6 minutes	Amount allowed by the Family Court Register
04/24/2020 Review receipts for funeral expenses (two short invoices).	Review two short tax invoices 10 minutes	2 units = 12 minutes	Time reasonably spent by lawyer on other work: \$125 per hour
5.00 units = 0.5 h = \$200	0.17 h = \$68	0.2 h = \$80	\$37
05/07/2020 Read a short e-mail.	Read 15-words e-mail (1–2 minutes).	1 unit = 6 minutes	Reading documents: \$7.70 per 100 words
2.00 units = 0.20 h = \$80	0.03 h = \$7	0.1 h = \$40	\$7 or \$2
05/11/2020 Read a short e-mail to confirm executives' payment.	Read 50-words e-mail (2–3 minutes).	1 unit = 6 minutes	Reading documents: \$7.70 per 100 words
3.00 units = 0.30 h = \$120	0.05 h = \$20	0.1 h = \$40	\$7
11/05/2020 Read e-mail to confirm response.	Read 20-word e-mail (1–2 minutes).	1 unit = 6 minutes	Reading documents \$7.70 per 100 words
2.00 units = 0.2 h = \$80	0.02 h = \$7	0.1 h = \$40	\$7 or \$2
05/11/2020 Sent attachment.	A few words accompanying an attachment (2–3 minutes).	1 unit = 6 minutes	\$18.90 per 100 words
2.00 units = 0.2 h = \$80	0.03 h = \$13	0.1 h = \$40	\$5
<i>Column 1 shows the amount of time and the invoice cost stated by Firm A for the services. \$400 is the hourly rate for a senior associate lawyer.</i>	<i>Column 2 shows that simple e-mails were rewritten by the author and measured.</i>	<i>Column 3 shows, in accordance with the cost agreement, the minimum amount to be paid for 1 unit = 6 minutes.</i>	<i>Column 4 shows the approximate charges in accordance with schedule provided by Australian Family Court Register.</i>
<i>0 number of units (2 × 6 minutes = 12 minutes)</i>	<i>10 min/60 min = 0.17</i>	<i>6 minutes = 0.1 h</i>	<i>\$18.90 to draft a 100-word letter and \$7.70 to read a 100-word letter.</i>
<i>12min/60 min = 0.2 h</i>	<i>0.17 × \$400 = \$68</i>	<i>0.1 h × \$400 = \$40</i>	
<i>\$400 × 0.2 = \$80</i>	<i>1 min/60 min = 0.017</i>	<i>0.2 h = 12 min/60 min</i>	
<i>0 × 6 min = 30min</i>	<i>0.017 × \$400 = \$6.7 or \$7</i>	<i>0.2 h × \$400 = \$80</i>	
	<i>2min/60 min = 0.033</i>		
	<i>0.03 × \$400 = \$13</i>		
	<i>3min/60 min = 0.05</i>		
	<i>0.05 × \$400 = \$20</i>		

$$30 \text{ min}/60 \text{ min} = 0.5$$

$$\$400 \times 0.5 = \$200$$

An analysis of the information provided in Table 4 (column 1) indicated that a senior associate solicitor (lawyer) reviewed two short tax invoices for expenses (\$4,290, and \$2,595); the review allegedly took 30 minutes and was invoiced for \$200. It should have only taken a maximum of 10 minutes to read the few lines in these invoices. To read a short e-mail costs \$80 (to confirm a payment), whereas the real time taken to read such a short e-mail might be less than one minute, with an actual maximum cost of \$7. According to the schedule provided by the Australian Family Court Register, reading a document or letter should cost \$7.70 per 100 words, so 15 words should have cost around \$1 or \$2.

However, based on the cost agreement and existing rules, the firm could charge 1 unit = 6 minutes, implying that an associate lawyer could charge for six minutes to read 15 words, including “Hello” and “Kind regards,” and earn \$40. Nevertheless, the \$80 charged was two times higher than allowed by the cost agreement, more than 10 times higher than the amount for actual time, and 80–40 times higher than allowed by the schedule provided by the Australian Family Court Register.

Table 5: Extracts from the Bill: Payment for Providing Itemized Bills

Date, description of transactions, time in units and hours	Amount
05/05/2020 Reviewing time details for preparing itemized bill 12.00 units (1.2 h)	\$480
05/08/2020 Attendance arranging fully itemized account, as requested. 3.00 units (0.3 h)	\$120
E-mails confirming fully itemized account (a few words). 0 units (0.20 h)	\$80
Total 17.00 units (1.70 h)	\$680

One task performed by a senior associate lawyer at an hourly rate of \$400.

Tables 3 and 4 show a few examples from one of the tax invoices, and Table 5 includes extracts from the bill and shows that the client was billed \$680 for asking to provide itemized bills (\$480 + \$120 + \$80). Unfortunately, most clients do not know that lawyers should not charge them to ask questions about invoices. Itemized bills were prepared by a senior associate lawyer at an hourly rate of \$400.

Table 6 shows the amount charged by a lawyer simply to find information on how to pay a standard commission to an executor who organized a funeral for four people (due to COVID-19) and signed some documents. An experienced senior associate lawyer spent 7.1 hours finding this information. Thus, the lawyer could earn around \$3,000 per day simply by overstating time and sending unnecessary e-mails. The information provided in Tables 2–6 indicates that the firm overserved, conducted unnecessary work, and sent nonessential e-mails, thus significantly overstating the time spent on tasks.

Table 6: Extracts From the Bill: Overpayment

Time in number of units (U) and hours (h)	Amount
5.00 U (0.50 h)	\$200
5.00 U (0.50 h)	\$200
12.00 U (1.20 h)	\$480

6.00 U (0.60 h)	\$240
15.00 U (1.50 h)	\$600
5.00 U (0.50 h)	\$200
23.00 U (2.30 h)	\$920
Total 71 U (7.10 h)	\$2842
<i>One task performed by a senior associate lawyer at an hourly rate of \$400.</i>	

Table 7 presents a comparative analysis of the total monthly amount for one of seven bills. The first column shows the information stated in Firm A's bill in six-minute units. The second column includes information on all tasks (not requiring professional skills) and e-mails that were reread, rewritten, and remeasured to estimate the actual time. The third column shows the amount in Australian dollars for the remeasured amounts of time translated into six-minute units. Column 4 provides the costs for the remeasured times translated into a fixed rate in accordance with the Australian Family Court Register.

The comparative analysis in Table 6 reveals that the billed amount (\$7,334) was 36.4% higher than the remeasured amount (\$4,673) and 32% higher than the remeasured amount in six-minute units. Moreover, the total billed amount was three times higher than the amount estimated by applying the fixed prices and rates of the Family Court Register. Thus, the client paid \$4,800 more for time-based billing.

Table 7: Comparative Analysis of Total Monthly Amount with Flexible Rate vs Fixed Rates

1. Account details. Bill no. xxxxxx (May 2020)	2. Remeasured amount	3. 1 unit = 6 minute	4. Fixed prices allowed by the Family Court Register
Total			
\$6985	\$4451	\$4760	\$2413
Professional fees (5%)			
\$349.25	\$223	\$238	\$121
Total plus professional fees \$7334	\$4673	\$4998	\$2534
Difference	36.4% (\$2661) less (\$7334 - \$4673 = \$2661)	32% (\$2336) less (\$7334 - \$4998 = \$2336)	65.5% (\$4800) less (\$7334 - \$2534 = \$4800)

Most of the e-mails and tasks included in this bill were unnecessary. The comparative analysis indicated that time-based billing gave the client little or no ability to predict costs. Without further information, clients (especially unsophisticated clients) would be unable to check whether the services for which they were charged were necessary and efficiently performed. Nevertheless, this bill, amounting to \$7,334, was reduced by Firm A to \$4,000 (by 55%) after client's request to provide revision of itemized bill.

Fixed Fees and Rates

Firm B

Firm B provided straightforward, repetitive services to the client. An analysis of its tax invoices revealed no overstated amounts. The number of monthly payments finally reached the total agreed amount stated in the cost agreement (contract). No additional work or payments were required or conducted. A random investigation of e-mails confirmed that the firm used fixed rates and prices according to the schedule designed by the Australian Family Court Register. For example, producing letters or e-mails costs approximately \$18.90 per 100 words, and reading documents and e-

mails costs \$7.70 per 100 words. The time spent by lawyers on work requiring professional knowledge and skills was charged at \$192.90 per hour (see Table 8).

Table 8: Fee and Disbursement Schedule: Extracts

Drafting documents: \$16.50 per 100 words	Producing documents in printed form: \$5.65 per 100 words
Drafting and producing letters (including fax or e-mail transmissions): \$18.90 per 100 words	Reading documents: \$7.70 per 100 words
Scanning documents: \$3.05 per 100 words	Time spent on work requiring a skilled lawyer: \$192.90 per hour

The firm communicated with the client electronically through Basecamp, and instructions, documents, letters, and e-mails were sent, received, and stored on the Basecamp platform. Basecamp facilitates collaboration across an entire law company so that lawyers and the client can see all relevant documents and obtain a full picture of a case. Furthermore, Basecamp can help eliminate inefficiencies and unnecessary work.

Firm C

Firm C provided straightforward, repetitive services to the client. An analysis of one of its tax invoices indicated that the firm charged a fixed price to perform a specific task after the task had been completed. No additional fees or work were billed. Table 9 shows that Firm C provided the client with a detailed pre-estimated cost.

Table 9: Estimate of Costs

Professional fee	\$1700.00
GST	\$170.00
Title office search fee	\$36.50
Title office registration fee	\$195.00
Lodging agent fee	\$33.00
WebVOI	\$19.90
Sundry outlays and express post	\$66.00
TOTAL	\$2,220

Furthermore, a detailed estimate was provided based on the following:

1. No meetings would be required.
2. The client would verify their identity online using the WebVOI platform, which the firm would explain to the client.
3. The client would provide bank account details using the Securexchange platform, for which the firm would forward a link to the client.
4. All funds would be electronically deposited to and distributed from the firm's trust account.
5. No additional legal advice would be requested or provided.
6. Documents would be issued to the client electronically, and the client would arrange for their execution and return to the firm.
7. Instructions and documentation would be provided within 24 hours of a request.

The WebVOI and Securexchange platforms were used to complete tasks efficiently. WebVOI is an easy-to-use online identity verification platform that provides a consistent and secure way to verify a person's identity and reduce face-to-face meetings, hence reducing costs for the client. The Securexchange platform is an online platform that provides a cyber-safe environment to complete and protect property transactions. This platform also helps firms complete tasks effectively and efficiently, hence reducing costs for the client.

Table 10 provides information related to expenses and disbursements. However, this firm did not count or bill for e-mails.

Table 10: Expenses and Disbursements: Extracts

Photocopying/printing/scanning: \$0.30 per page	Search/enquiry fees: Court and other filing fees
Electronic signature fee: \$6.80 per document	Postage/courier fees: Barrister fees
Credit card payment surcharge: 2.5% of total account	Medical and other expert reports: External consultants

Discussion

Hourly Billing

For law firms, hourly billing can be profitable, particularly for long or complex cases. The most obvious problem with hourly billing is that it can be seen as encouraging lawyers to work inefficiently. After all, the longer a case goes on, the more money the law firm makes through the hourly billing model.

In addition, hourly billing creates an element of uncertainty for the client and encourages the measurement of performance against financial targets rather than the value provided to the client. Lawyers' success then becomes determined by their billable hours rather than by their skills, experience, or innovation. In addition, hourly billing can quickly become unaffordable, whereas fixed fees make the billing process transparent.

According to the analysis of Firm A, hourly (six-minute unit) billing led to the following reasons for client dissatisfaction:

1. Unnecessarily aggressive billing and suspected overcharging for services.
2. Bills significantly exceeding estimates.
3. Fees potentially exceed those charged by other firms for similar services.
4. Excessive legal fees for answering questions regarding invoices and payments.
5. Excessive legal fees for countless short and unnecessary e-mails.
6. Different combinations of the above.

Based on a review and comparison of the fees charged by Firm A, the fees were much higher than those charged by other firms for similar (straightforward and repetitive) services. The threefold higher total billing amount exceeded the amount estimated by applying the fixed prices and the Family Court Register's rates. Furthermore, an analysis of the bills identified bill padding, block billing, hoarding, unnecessary breaking up of work, unnecessary work, double billing, and a combination of these strategies.

Hourly rates incentivize inefficiencies and are among the primary driving forces for what seems to be ever-increasing legal costs. Under the hourly billing model, clients have a financial disincentive to communicate with lawyers during a case to avoid rising costs for each question. This factor could result in important information not being exchanged.

Under a time-based billing regime, the only way a law firm can increase its profits is by increasing the number of billable hours. There is also little incentive for law firms to embrace developments in technology and utilize them to the client's advantage. In addition, time-based billing promotes an unhealthy lifestyle for legal practitioners by rewarding increased working hours.

This research supports a previous investigation stating that lawyers do work that provides little benefit to clients, do not record their time appropriately, and bill dishonestly (Woolley, 2007).

Unlike 100 years ago, law firms today are experiencing a new type of consumer who considers all the options and information before agreeing to engage the services of a firm. According to Calloway and Robertson (2004):

Many clients were [in the past] uneducated and unaccustomed to dealing with documents and legal matters. The 21st century consumer of legal services is usually better educated and more independent. ... Today's consumer wants explanations, information, and options (pp. 11–12).

Additionally, hourly billing penalizes efficient and productive lawyers who complete tasks in less time than their slower colleagues. As Chief Justice of the High Court Murray Gleeson stated that it is difficult to justify a system in which inefficiency is rewarded with higher remuneration (Woolley, 2007).

In this research, Firm A has performed straightforward and repetitive services. However, the legal services can be very complex and uncertain, and lawyers' work would require more preparatory analysis, meetings, and/or discussion. Thus, flexible hourly billing would be more appropriate.

Fixed-Fee Billing

Traditionally, hourly billing has been the standard form of billing for law firms, but new pricing models are beginning to emerge. In recent years, fixed-fee billing has become a more common and increasingly popular option among law firms. With a fixed-fee pricing model, both the lawyer and the client agree up front to a total cost for legal services, giving clients peace of mind and transparency throughout the legal process. Fixed fees are often used for straightforward and repetitive services.

Offering a fixed fee benefits both the client and the law firm. For the law firm, it eliminates the time spent explaining billing amounts, processes, and charges. Lawyers are free to focus their resources on delivering legal services instead of reviewing bills and recording billable hours. Moreover, with legal software, law firms can easily increase their profitability while meeting their clients' needs.

A fixed-fee model can offer clients the following benefits:

1. Cost certainty: The client knows exactly what they will pay and will not be hit by a surprise invoice at the end of a case.
2. Incentivized efficiency: Lawyers have no incentive to prolong cases simply to maintain billable hours.
3. More effective communication: With fixed-fee schedules, the client does not need to worry about being charged for each e-mail or call if they have an important question to ask.
4. Paying for the value of the work: The client is charged only for the work itself rather than the amount of time it takes to complete the work.
5. Fee disputes are less likely because fees are agreed in advance.

Moreover, by using legal software, law firms can easily increase their profitability while meeting their clients' needs. Technology can offer significant cost savings.

However, the fixed pricing has a few limitations such as:

1. Long or complex cases are not always well-suited to fixed fee pricing.
2. Lawyers may overestimate or underestimate the amount of work involved in a case.
3. Fixed fees could lead to quality diminishment. A fixed price agreement could limit the time lawyers should spend and increase the risk of a low-quality performance.
4. Complex legal matters often require multidisciplinary expertise or specialized knowledge beyond the capabilities of a single legal provider.

Conclusion

Previous research has revealed that complaints relating to overcharging are not new phenomena. Concerns about overcharging, which are evident worldwide, have been around for years and remain prevalent. Most people can tell stories about lawyers who have charged them ridiculous fees, and everyone knows a joke about a greedy lawyer. Even lawyers make jokes about their billing practices.

The present multiple-case research reveals and supports previous studies' findings that hourly billing can make legal services too expensive. Moreover, hourly billing can provide an incentive for lawyers to bill too many hours for clients' cases and open opportunities for billing fraud. Overbilling, overstated time, and overservicing are reasons for clients to doubt the integrity, ability, and professionalism of their lawyers. In addition, hourly billing can reward inefficiency, have an adverse effect on lawyers' productivity, and damage lawyer–client communication and trust. However, for the complex and uncertain legal case the flexible hourly rate would be more appropriate.

Instead, when the tasks are repetitive and have low uncertainty, lawyers can provide a reasonable estimate (fixed fee) for their legal services. Fixed fees and flat-rate pricing have benefits for both clients and law firms. Fixed or flat-rate billing can reduce costs and ethical risks by reducing lawyers' incentives to overbill. Fixed-fee pricing also provides clients with cost certainty and incentivizes efficiency, effective communication, and the quality and value of services, thus reducing opportunities for clients to dispute fees. An additional advantage of flat-rate pricing is that flat fees are transparent and easier for clients to understand. Moreover, fixed- or flat-rate pricing means that firms can reward productivity and efficiency. When a law firm applies a fixed rate for completing a service, it can make more money by performing more services in a shorter period.

Nevertheless, fixed pricing has some limitations such as: overestimate or underestimate the amount of work; possible quality diminishment; dependency on a single provider.

Furthermore, it is important to acknowledge that both per hour billing and fixed fee practices can result in overbilling. Moreover, it is important to consider the effectiveness of law firm controls on overbilling regardless of which approach is used. Also, the integrity and character of professional lawyers involved in billing could be an essential concern. Moreover, the ethical organizational culture that reinforces the expectation of that integrity could be a moderator of overbilling.

The ethical climate surrounding companies and ethical culture are critical to the guidance for and control of employees' malfeasance such as overbilling. A culture of integrity and transparency entails instilling core values that prioritize ethical conduct, honesty, and accountability. In the legal profession, maintaining ethical standards is not only crucial for building trust with clients but also for preserving the integrity of the legal system as a whole.

There is a clear need for the legal industry to move away from traditional practices by accepting new pricing models and technology and by taking a more transparent and client-centered approach. Moreover, the implementation of anti-fraud policies and procedures, and the maintenance of ethical workplaces, could protect law firms and their clients from economic loss and reputational damage.

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