

P E R S U I T TM



Session 3: Top Alternatives to Hourly Rates

PERSUITTM

Today's Agenda

- Main AFA Models
- Pricing Options on PERSUIT
- Top Alternatives to Hourly Rates

The Billable Hour is a
poor currency to
manage law firm
relationships

Why?

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The Billable Hour drives the wrong behaviours

(eg. incentivizes low/no-value work)

The Billable Hour provides no cost predictability

(eg. project budget/scope creep)

The Billable Hour perpetuates an unhealthy working environment

ALM
Intelligence
2022 Mental
Health and
Substance
Abuse Survey

35%
depression

66%
anxiety

75%
negative impact
on mental health

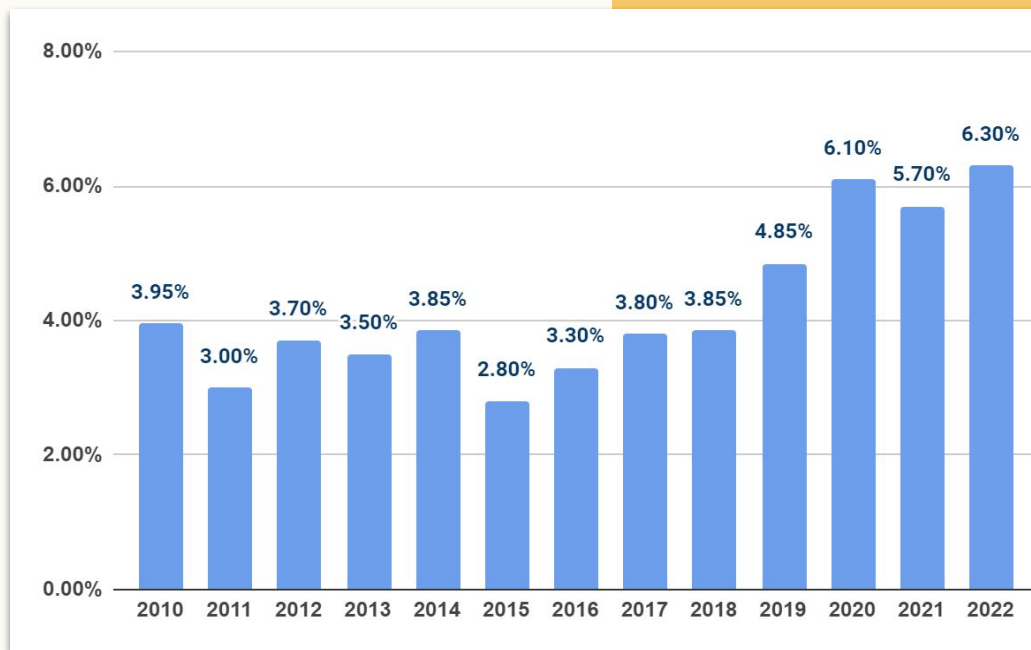
64%
personal
relationships suffer

19%
contemplated
suicide

59%
Billable hour
pressure

“We have not **since 1980** seen rate increases as aggressive as we are currently seeing – typically in the region of **9% to 14%.**”

— *Validatum,*
“*Turbulent Times: What's Everyone Else Doing?*” Sep. 2022



What are main AFA models?

Scale of Not very Innovative to VERY INNOVATIVE

AFA Families

Efficiency Controlled Hourly Billing

- Capped Fees
- Collared Fees

Value Based Billing

- Value Adjusted Billing
- Success Fee
- Contingency Fee
- Hybrid Model

Fixed Fee Billing

- Portfolio Fixed Fee
- Matter-Level Fixed Fee
- Phase-Level Fixed Fee
- Task Based / Line Item Fixed Fee
- Activity Collared Fixed Fee

Pricing Option on PERSUIT

Fee Types

Rate Card/Hourly Rate	hourly rates of the proposed law firm timekeepers
Budgeting Estimate	represents total budget amounts (e.g. \$100,000) but which have no 'teeth' behind them as firms can bill beyond the amount without any penalty
Capped Fee	sets a capped budget such that the law firm bills hourly up until a cap upon which they can no longer bill the Client
Fixed Fee	flat fee that will be paid to the firm to represent the Client for the duration of the matter: <ul style="list-style-type: none">● Portfolio Fixed Fee: annual fee for a portfolio of work;● Fixed Fee by Phase: fixed amount for each phase of a matter;● Fixed Fee by Task/Line Item: fixed amount per task or deliverable;
Contingency Fee	law firm charges a set % of the amount recovered in the case
Success Fee	law firm charges Client a fee that is only paid upon the achievement of a predefined outcome

What are top alternatives to Hourly Rates?

Alternative 1: Capped Fee

Definition: sets a capped budget such that the law firm bills hourly up until a pre-established cap upon which they can no longer bill the client.

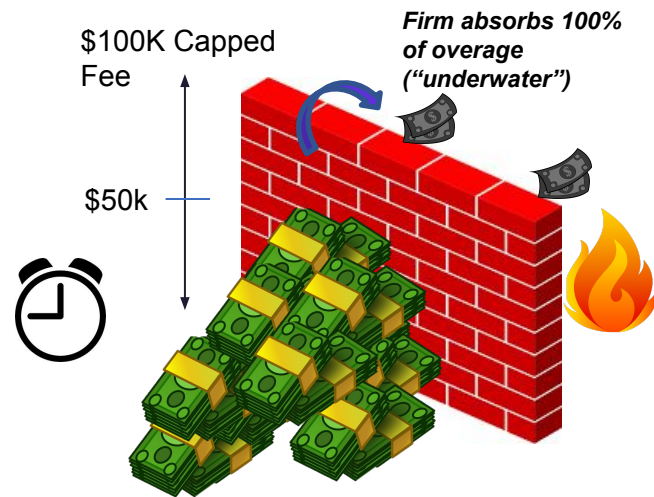
Example: a capped fee of EUR 100,000 for the whole matter.

Pros

- Some containment on hourly billing
- Can be an effective way for firms to provide some predictability
- Effective if obtained competitively via an RFP

Cons

- Firm assumes the risk
- Firms tend to set a high cap and hit it
- Dependent on hourly billing and review of invoices
- Poor incentives are created when the cap is hit



Alternative 2: Collared Fee

Definition: Provides a “fixed fee” and sets a “collar” around that fee such that if the hourly billings exceed the collar, additional work is provided at a discounted rate. If billings finish under of the collar, savings are shared.

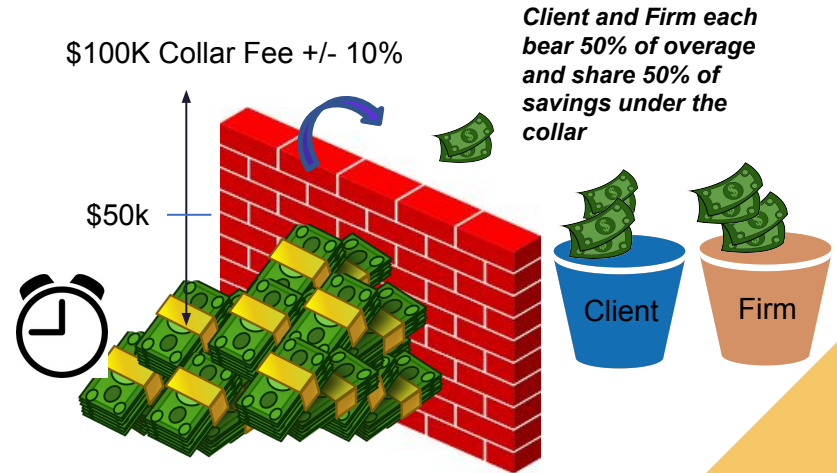
Example: \$100K fixed fee +/- 10K. If billings finish at \$70K, firm gets paid \$80K and the Client gets \$10K back. If billings finish at \$120K, firm gets paid \$118K (20% discount on billings past \$110K).

Pros

- Incentivises the firm to come in under the collared fee
- the firm will continue to be paid something if the fee is exceeded

Cons

- Dependent on hourly billing and review of invoices
- Firms may not care about the added discount if their rates are already above market



PERSUIT Recommends

When to use Capped Fee

Consider using capped fees for matters with less predictable scope of work, such as potential investment in a fund, or a big acquisition deal with a complex due diligence phase.

You might be willing to ask the firms to additionally offer discounted blended hourly rates that shall be used to calculate the cap. This way you get more visibility and predictability as to how quickly the firms can hit the cap.

When to use Collared Fee

Collared Fee might be a good compromise for an ongoing legal advice when your annual portfolio of work is subject to change.

For example, you are seeking an ongoing non-contentious competition law advice and your annual portfolio includes between 25 and 33 matters of different nature and complexity. Risk-sharing in this particular case is beneficial for both clients and firms.