



2012 Law Firm Financial Management Conference

Palmer House, a Hilton Hotel • Chicago, Illinois
August 9–11, 2012

The ABCs of AFAs

Presented by

Patrick Lamb

FM07

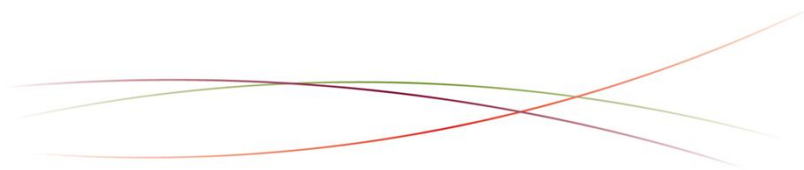
Friday, 8/10/2012

1:15 PM - 2:30 PM

Your connection
to knowledge, resources and networking

The ABCs of AFAs

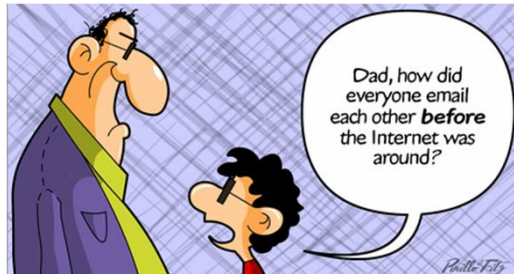
What Value Fees Mean For Today's
New Normal Law Firms



Your connection
to knowledge, resources and networking



context

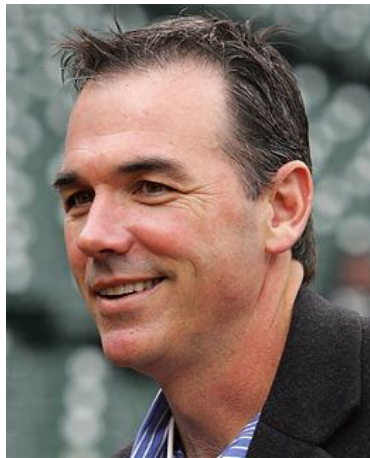
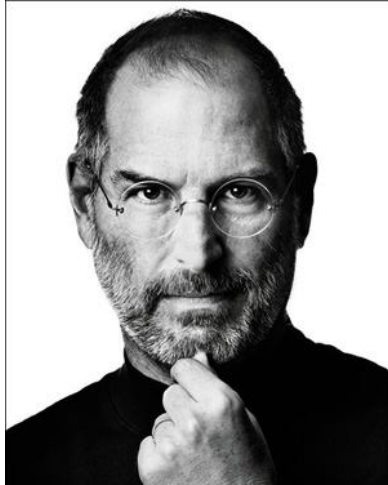


Revenue = rate x hours



Imagine....no rates and no hours







Richard Susskind
Author
The End of Lawyers?

30%



What if he's wrong?

Isn't there plenty of other stuff to worry about?

- Euro crisis
- Lackluster US economy
- Credit remains tight
- Etc. Etc. (not hard to create a long list)

But what if Susskind is right?

If you thought today that
your firm's revenue would
decline by 30% in the next
few years, what would you
do today?



Alternative fees

Virtual lawyers

Budgeting and pricing models

Project Management

Insane client service

Exploit Technologies

Increased use of LPOs

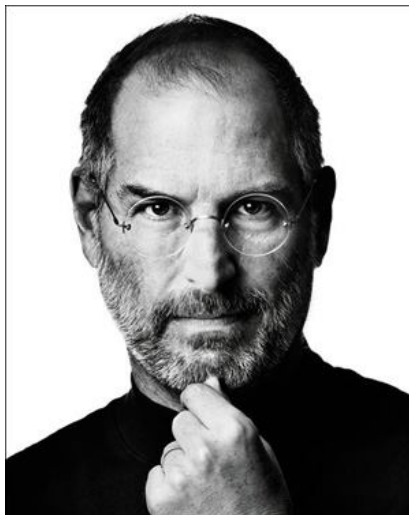
Once upon a time...

...Apple was a computer company.

Since that time, **Apple** has transformed the
**laptop, smartphone, digital
music, MP3 player, app,
tablet and retail** worlds.

Today, Apple

- is the largest company in the world, by market capitalization
- stock is trading at \$580/share
- stock is owned by 26% of all hedge funds in positions that are larger than 1% of their portfolio



But think about
Steve Jobs circa
1997.



Every aspect of a customer's interaction with Apple is:

- studied
- engineered
- evaluated
- improved

Over and over again.

Pricing Legal Work



Urban Myths (lawyer version)

1. Hourly timekeeping is precise.
2. All six minute increments are of equal value.
3. Every hour is required to generate the same amount of profit.
4. Outcomes are irrelevant.
5. Cost cannot be determined in advance.

Top 5 Value Fees

(in no particular order)

1. Fixed
 - entire matter or by phase
 - with or without results bonus
 - with or without holdback
 - for one case or portfolio
 - can include a risk collar
2. Fee Caps
 - still relies on hourly billing
 - can create incentive by sharing savings
 - AOL example
 - ACES example

3. Ad Agency Model

- buy a person (or more) for a certain period
- negotiated price

4. Contingency

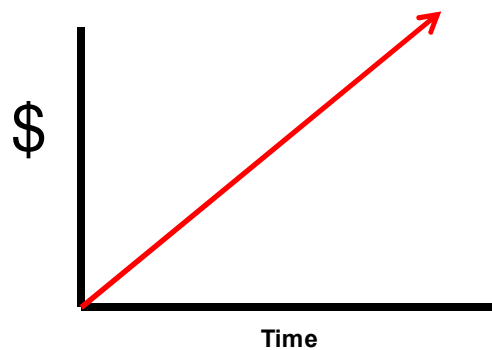
- full or partial (majority of fee paid out of outcome)
- can be reverse or defense contingency

5. True Value Fee

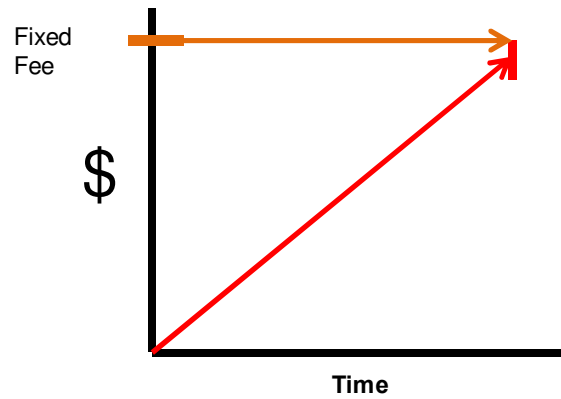
“Any fee that is not
based on hours begins
with a target number.”
(except the dart board approach)

How to determine the price

Value Fee Compared To Hourly
Fee



Q. Is this a value fee?



$$TF = EH \times R$$

~~=~~

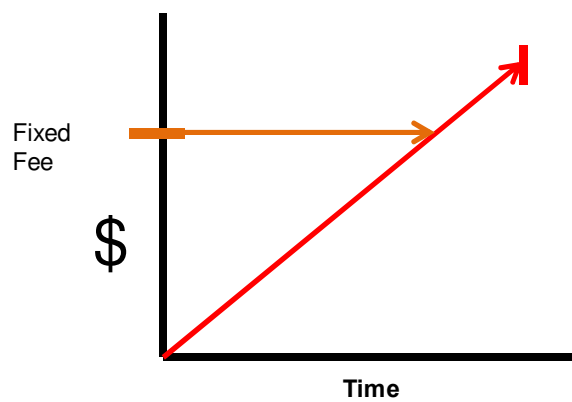
Value Fee



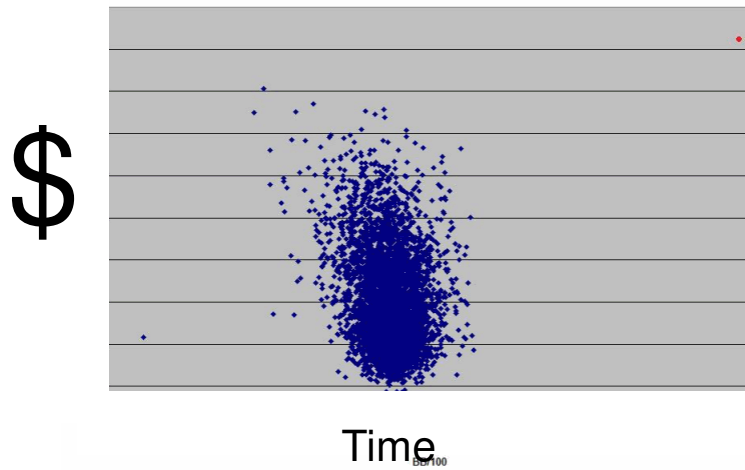
Nor does

$$TF = (EH \times R) + X$$

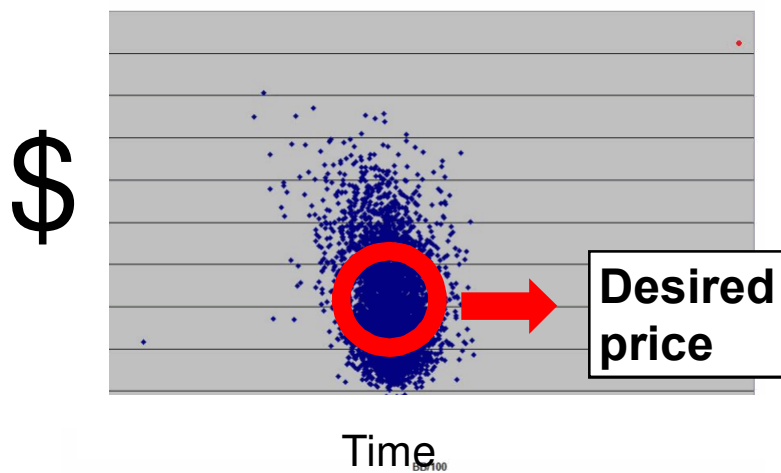
Q. Or is this?



Data can tell a compelling story



Data can tell a compelling story



**Pricing with data is
relatively easy.**

**How do you price in the
absence of data?**

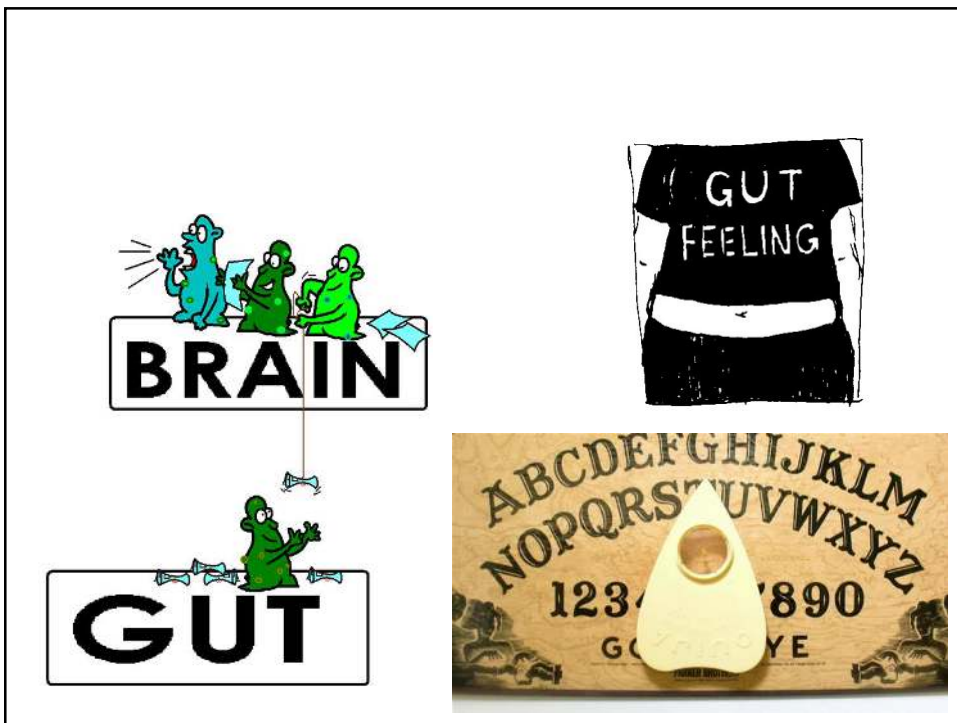
Ground up budgeting

Gut feel pricing

Manpower allocation
pricing

Ground Up Budgeting

| A | B | C | D | E | F | G | H | I | J | K | L | M |
|--|----------------|----------------|----------------|-----------------|-----------------|-----------|---|---|---|---|---|---|
| LITIGATION TASKS | Phase | 1 | 2 | 3 | 4 | 5 | | | | | | |
| | ALL | 1 to 90 days | 91 to 180 days | 181 to 270 days | 271 to 365 days | 365+ days | | | | | | |
| L100 Case Assessment/Development and | | | | | | | | | | | | |
| L110 Fact Investigation/Development | 42,690.00 100% | 42,690.00 100% | | | | | | | | | | |
| L120 Analysis/Strategy | 14,120.00 100% | 14,120.00 100% | | | | | | | | | | |
| L130 Experts/Consultants | - 100% | - 100% | | | | | | | | | | |
| L140 Document/File Management | - 100% | - 100% | | | | | | | | | | |
| L150 Budgeting | - 100% | - 100% | | | | | | | | | | |
| L160 Settlement/Non-Binding ADR | - 100% | - 100% | | | | | | | | | | |
| L190 Other Case Assessment, Development | - 100% | - 100% | | | | | | | | | | |
| Subtotal | 56,810.00 100% | 56,810.00 100% | | | | | | | | | | |
| L200 Pre-Trial Pleadings and Motions | | | | | | | | | | | | |
| L210 Pleadings | 1,290.00 100% | 1,290.00 100% | | | | | | | | | | |
| L220 Preliminary Injunctions/Provisional | - 100% | - 100% | | | | | | | | | | |
| L230 Court Mandated Conferences | - 100% | - 100% | | | | | | | | | | |
| L240 Dispositive Motions | - 100% | - 100% | | | | | | | | | | |
| L250 Other Written Motions/Submissions | - 100% | - 100% | | | | | | | | | | |
| L260 Class Action Certification and Notice | - 100% | - 100% | | | | | | | | | | |
| Subtotal | 1,290.00 100% | 1,290.00 100% | | | | | | | | | | |
| L300 Discovery | | | | | | | | | | | | |
| L310 Written Discovery | - 100% | - 100% | | | | | | | | | | |
| L320 Document Production | - 100% | - 100% | | | | | | | | | | |
| L330 Depositions | - 100% | - 100% | | | | | | | | | | |
| L340 Expert Discovery | - 100% | - 100% | | | | | | | | | | |
| L350 Discovery Motions | - 100% | - 100% | | | | | | | | | | |
| L390 Other Discovery | - 100% | - 100% | | | | | | | | | | |
| Subtotal | - 100% | - 100% | | | | | | | | | | |
| L400 Trial Preparation and Trial | | | | | | | | | | | | |
| L410 Fact Witnesses | - 100% | - 100% | | | | | | | | | | |
| L420 Expert Witnesses | - 100% | - 100% | | | | | | | | | | |
| L430 Written Motions/Submissions | - 100% | - 100% | | | | | | | | | | |
| L440 Other Trial Preparation and Support | - 100% | - 100% | | | | | | | | | | |
| L450 Trial and Hearings Attendance | - 100% | - 100% | | | | | | | | | | |



Getting to a “gut feeling”

1. Past experience with a case of this type?
2. “Industry buzz” about cases of this type?
3. How would different types of firms price this matter? Elite firm/average firm/boutique
4. What is the risk of a “runaway” fee?
5. Experience—30 years of litigating, 20 years of at-risk budgeting, 4 plus years pricing

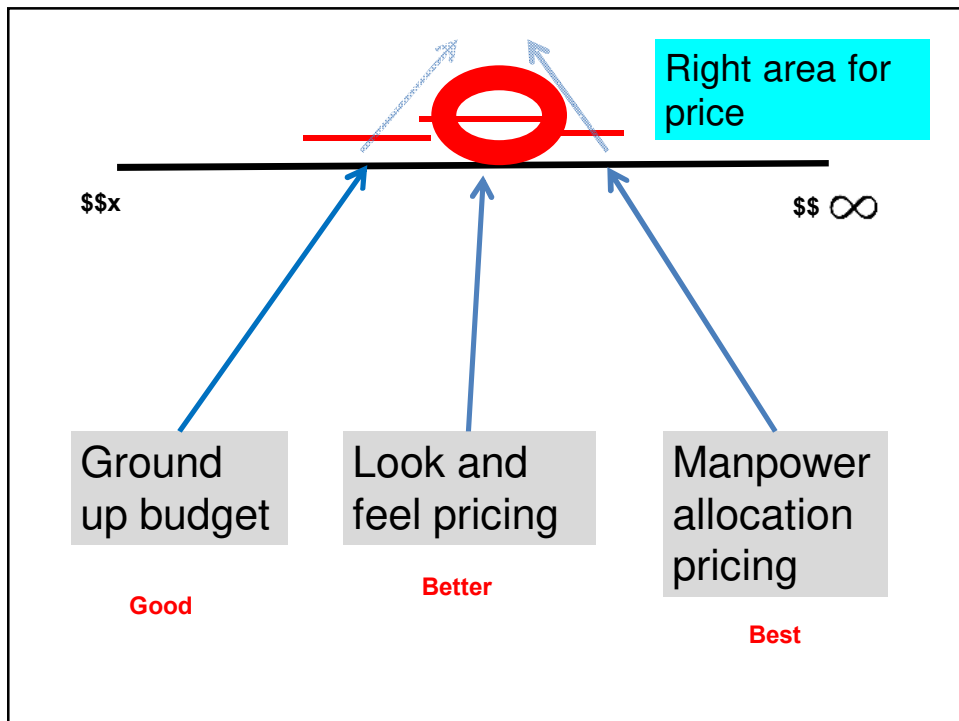
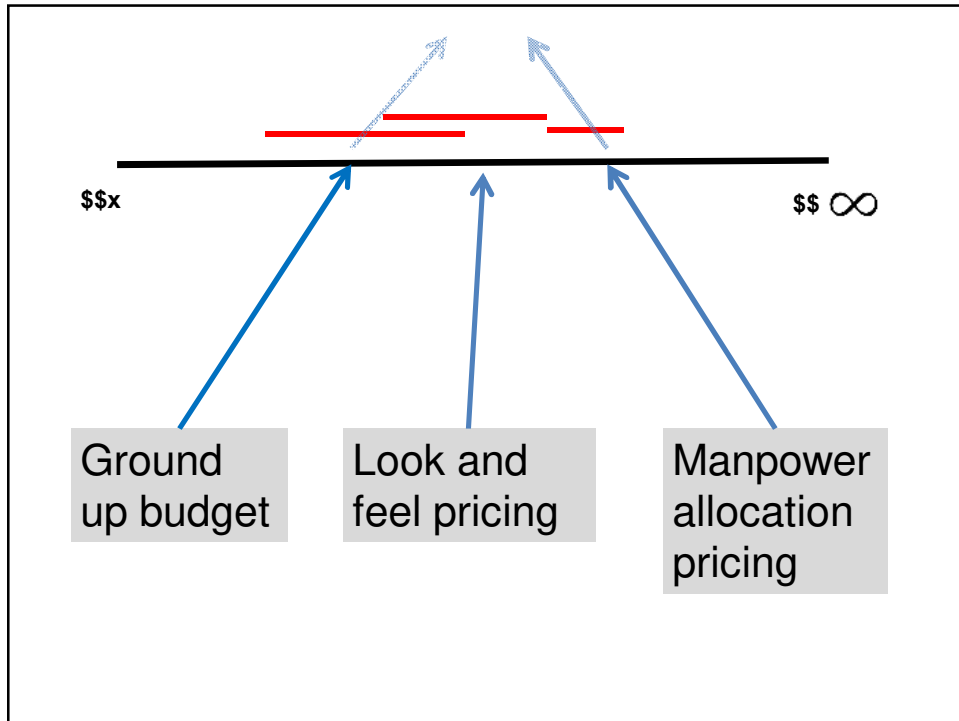
My Key Factors In Setting Price

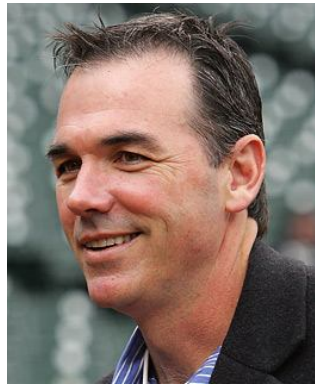
1. How long until trial? (Very Important)
2. How firm is the trial date? (Very important)
3. How many parties are there? (More parties equal more lawyers making more work)
4. How complicated is the transaction/fact pattern. (Greater complexity tends to increase the number of arguments and issues)
5. Who has personal involvement and how much? How dispassionate are the decision makers on this matter?

5. Is the client a strategic ally or an inordinate consumer of attention?
6. How many documents are involved?
(Parsing to get to the core takes attention)
7. What are the possibilities of early settlement and how hard will it be to get the parties to focus on the opportunity?
9. Are the client's outcome expectations known?
10. Are the client's outcome expectations reasonable?



Converging vectors
approach to pricing





Billy Beane.
Hint No. 1



Sabermetrics is the specialized analysis of baseball through objective evidence, especially baseball statistics that measure in-game activity. The term is derived from the acronym SABR, which stands for the Society for American Baseball Research.



Just think, 10 years ago—

- Facebook didn't exist.
- Neither did the iPad.
- Or the iPhone.
- And the iPod had just been released
- LPOs were not a factor in legal market
- Virtual law firms were unheard of
- So were alternative fees
- And project management



The pace of change is
accelerating.

How fast?

Speed of Change



patrick.lamb@valoremllaw.com