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For Law Firms, It's from Alternative Fees to Alternative Business Models

Evolve Law panelists discussed how technology plays a part in changing the billable hour and the law firm partner structure.

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While the legal industry is beginning to appreciate the need to embrace technology, the business models that [big law firms](#) and [legal departments](#) rely on have stayed stubbornly unchanged by broader market forces.

Evolve Law hosted a panel discussion, titled “Alternative Legal Business Models,” on April 5 to discuss some of the ways that legal practitioners could and already are reshaping their business structures and [billing frameworks](#) to adapt to modern needs. Mary Juetten, Traklight and Evolve Law founder; Dan Lear, director of industry relations at Avvo; and Monica Zent, founder of Foxwordy and ZentLaw, each spoke to a room in Dentons’ Palo Alto office about their experiences navigating new terrain around these alternatives.

Finding a New Way for Fees

Flat fee billing is often posed as a replacement for the billable hour, but Juetten explained early on that there seems to be a lot of confusion around the role of time tracking in a flat fee law firm structure.

“There seems to be this huge misconception that you wouldn’t then be recording your hours,” Juetten said. But just as other industries keep records on how much time and resources get expended on any given project, lawyers too can use timekeeping to track the relative value their services.

Juetten noted that even within billable hour structures, attorneys tend to underreport their hours. Keeping track of time with a flat fee billing structure could create better incentives for productivity. “Alignment between how people are rewarded and how they’re recording their time is important,” she said.

Zent, an early adopter of flat fees in her law practice, said she uses time tracking to set her pricing and plans.

Flat fees are by no means the only kind of alternative billing structure. Zent suggested that “really looking at law as a service industry” could help drive new billing structures. As an example of determining that structure and fees associated, she said she used methods like surveys to gain client feedback.

Juetten said Traklight, the law practice she founded, used a “discounted billable hour rate.” But when the practice was scooped up by a larger firm, they used a fixed monthly rate for “all you can eat” legal services. While Juetten found that this dramatically improved her productivity and happiness in working, the billing structure was later halted by the firm.

Another model Juetten has seen is the “equity model,” wherein the firm set a flat fee and took a stake in company equity after completing all necessary legal work.

Overall, panelists noted that clients still generally expect law firms to use a billable hour model. “People are still not as familiar with alternative fee arrangements,” Zent said, though she added that familiarity with new fee structures beginning to grow.

Juetten noted that some of the bigger technology companies like Uber and Snapchat are beginning to use flat fee billing in their litigation, prompting other large companies in the space to take alternative fee agreements a little more seriously.

Yet what if clients demand time tracking information, a process known as “shadow billing”? The panelists noted that while clients may ask for this kind of information, using an alternative fee structure shouldn't mean that attorneys have to jump through every hoop presented to them.

Lear said that such a prompt is more a matter of attorneys failing to communicate the fiscal value of their work than a problem with transparency.

“You don't care how much time Microsoft's coders spent on building Word. You know that it works and you feel good about the value you've received,” he said. “I don't think we're very effectively selling and marketing the services we provide, the value we provide, and so therefore people are always questioning it.”

The Partner Problem

Beyond just the matter of assigning fee is the partner structure of law firms altogether. Markovich prompted panelists to consider what law firm ownership by non-lawyers could add to the profession.

While Juetten and Zent were both in favor of considering new forms of law firm ownership, Zent said the industry may not be ready to embrace non-attorney ownership quite yet. “It seems like there's some cultural shift that needs to happen right now,” she said.

[The key ethical conundrum](#), panelists noted, is whether attorney work could be compromised if law

firms were actually owned by clients. Lear countered, however, that attorneys can and should be entrusted to tow those ethical lines on their own.

“When [attorneys] are dealing with conflicting interests, dealing with conflicting dynamics in legal systems, to think that that’s not another piece that they could deal with and hold in tandem seems kind of ridiculous,” he said.

A LegalZoom staffer in attendance agreed. “I think it’s insulting to say that [attorneys] can’t draw the line between what’s ethical or not,” she said.

Lear found this apprehension from the legal community fairly frustrating, especially given that it may be the wrong question to begin with. “Non-lawyer partners seem so uncontroversial that I don’t even know why we’re arguing about it,” he said.

It’s non-lawyer access to capital, not simple non-lawyer ownership, that Lear believes can force law firms to adopt technology that firm partners, who may want to consolidate the profits before cashing out their equity holdings, may otherwise prevent.

“It’s access to capital that made the big difference, not non-lawyer partners,” he added.

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