

APPENDIX A
ATTORNEY SURVEY

1. When did you graduate from law school? _____
Range: 1936 to 1990

2. What is your principal area of practice?
a. corporate b. litigation
c. tax d. other (specify) _____

Results: a. 151 c. 8
 b. 44 d. 34

(Results are raw numbers. Areas of practice listed under "other" included real estate, bankruptcy, estate planning, environmental, employment, and intellectual property.)

3. What is your present position in your firm?
a. partner b. associate
c. other (specify) _____

Results: a. 46% c. 2%
 b. 52%

4. Approximately how many attorneys are employed by your firm?

a. fewer than 10 b. 11-25 c. 26-49
d. 50-99 e. 100-149 f. 150-199 g. 200 or more
Results: a. 11% d. 19% g. 14%
 b. 21% e. 8%
 c. 20% f. 7%

5. Is hourly billing the principal form of billing in your firm?
a. Yes
b. No

Results: a. 97.6%
 b. 2.4%

6. Approximately how many hours did you record for billing in:
a. 1990 _____ b. 1989 _____
c. 1988 _____ d. 1987 _____

Range: 825 to 3600 hours/year

7. To what extent do you believe that the prospect of billing additional hours influences attorneys' decisions to proceed with work that they otherwise might not perform?

- a. never influences it b. rarely influences it
c. occasionally influences it d. frequently influences it

Results: a. 12.2% c. 45.1%
 b. 29.0% d. 13.7%

8. Have you ever billed two clients for work performed at the same time (e.g., billed one client for drafting a document while traveling for another client)?

- a. never b. rarely c. occasionally d. frequently

Results: a. 49.8% c. 17.4%
 b. 31.6% d. 1.2%

9. In your opinion, is the sort of double billing described in the preceding paragraph an ethical practice?

- a. no
b. yes, if the client is informed of the practice
c. yes, even if the client is not informed of it

Results: a. 40.8% c. 37.9%
 b. 21.3%

10. To what extent, if any, do you believe that the practice of time-based billing diminishes incentives for expeditious work?

- a. not at all b. not much c. moderately
d. substantially e. very substantially

Results: a. 20.0% d. 5.0%
 b. 45.6% e. 2.0%
 c. 27.4%

11. To what extent, if any, do you believe that the practice of time-based billing encourages fraudulent billing of clients?

- a. not at all b. not much c. moderately
d. substantially e. very substantially

Results: a. 19.0% d. 5.6%
 b. 46.4% e. 1.6%
 c. 27.4%

12. To what extent do you believe that lawyers deliberately "pad" their hours to bill clients for work that they do not actually perform?

- a. never b. rarely c. occasionally d. frequently

Results: a. 7.3% c. 38.0%
 b. 42.4% d. 12.3%

13. Do you have specific knowledge of instances of the type of conduct to which the previous question refers?

- a. know none b. know some c. know many

Results: a. 35.5% c. 5.6%
 b. 58.9%

14. Do you believe that it is ethical for an attorney to bill a client for work (e.g., research or drafting) that originally was undertaken for another client and has been "re-cycled" for the second client?

- a. never
 b. yes, if a measure other than time is used in billing the second client
 c. yes, even if the second client is billed on the basis of time, of time, if the second client is informed that the work is "re-cycled"
 d. yes, even if the second client is billed on the basis of time and is not informed that the work was "re-cycled"

Results: a. 12.4% c. 8.4%
 b. 59.2% d. 20.0%

15. Which of the following, if any, have you ever consulted as a guide to help determine the propriety of specific billing practices?

- a. ABA Model Rules of Professional Conduct
 b. other rules or codes (specify) _____
 c. published decisions
 d. treatises on ethics
 e. other attorneys

Results: a. 43% d. 12%
 b. 22% e. 84%
 c. 16%

16. To what extent, if any, does the attorney in your firm who is responsible for billing customarily consult a client before undertaking any project that is likely to generate more than ten hours of billable time?

- a. regularly b. occasionally c. seldom
d. never e. do not know

Results: a. 53% d. 2%
 b. 20% e. 14%
 c. 11%

17. In your opinion, what effect would the replacement of hourly billing with alternative forms of billing have upon client bills?

- a. would generally increase bills
b. would have virtually no impact
c. would slightly decrease bills
d. would moderately decrease bills
e. would substantially decrease bills

Results: a. 27.5% d. 9.3%
 b. 42.0% e. 3.1%
 c. 18.1%

18. To what extent do you believe that work that presently is performed by attorneys could adequately be performed by secretaries or paralegals?

- a. none b. a small amount
c. a moderate amount d. a substantial amount

Results: a. 5.4% c. 27.0%
 b. 65.6% d. 2.0%

19. What effect, if any, do you believe that widespread replacement of hourly billing with other forms of billing would have upon *pro bono* work and other community service activities by attorneys?

- a. it would tend to decrease community service
b. it would have no substantial effect
c. it would tend to increase community service

Results: a. 6.4% c. 19.1%
 b. 74.5%

20. To what extent, if any, do you believe that attorneys who bill by the hour spend an excessive amount of time on the following activities? For purposes of this question, assume that "excessive amount" refers to work that is likely only to provide, at best, a marginal benefit to the client. Rank the degree of excess on a scale of zero to five, with zero representing no excess and five representing a very significant amount of excessive work.

	Results in percent-	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
	ages:						
a.	research	22.4	32.3	18.0	14.3	10.6	2.4
b.	drafting briefs	26.9	27.8	22.9	15.4	4.8	2.2
c.	attending depositions	33.9	27.3	14.7	14.3	7.6	2.2
d.	travel	36.5	28.4	11.7	13.9	8.5	1.0
e.	drafting corporate documents	35.1	26.2	24.8	10.9	1.5	1.5
f.	drafting and responding to discovery requests	28.3	21.5	22.3	17.6	7.3	3.0
g.	internal conferences	32.8	24.7	17.0	16.2	5.1	4.2
h.	preparing deposition digests	31.3	23.8	17.8	14.0	8.0	5.1
i.	preparing internal memoranda	29.6	30.0	18.5	14.2	5.6	2.1

21. Please feel free to add additional comments.