



TECHSHOW2018

Alternative Fees For The Process Oriented Law Firm

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STEP ONE – UNDERSTAND ALTERNATIVE FEES

**WHAT IS AN
ALTERNATIVE
FEE?**

**A way to provide
compensation to law firm
based on a structure other
than strictly traditional
hourly rate billing.**

WHY
CONSIDER
USING
ALTERNATIVE
FEES

Clients want to know cost

Achieve benefit from achieving
efficiencies

Affordable access to the legal system



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FACTORS
IN
MOVEMENT
TOWARD
ALTERNATIVE
FEES

American Bar Association
push to improve access

Technology

Various forms of
competition

Labor costs



FACTORS
IN
MOVEMENT
TOWARD
ALTERNATIVE
FEES
CONTINUED

Clients looking for
alternatives

Focus on **quality work and
manageability**

Smaller firms must **compete**

Perception of **value**



TYPES OF ALTERNATIVE FEES

- Flat/Fixed Fee
- Percentage Fee
- Fee Range
- Fee Caps
- Task Based Fee
- Availability Retainer
- Pure Contingency Fee
- Partial Contingency/Success Fees



TYPES OF ALTERNATIVE FEES CON'T


- Risk Collars
- Sliding Scale/Income Based Rates
- Blended Hourly Rate
- Combination Fee
- Structured Settlement Fees





UNBUNDLING FEES

In unbundling fees, as an alternative to full representation, which allows an attorney to perform a discrete task for a client, while allowing the client to be recognized as pro se for all other tasks in their matter.



STEP TWO: UNDERSTAND WHAT CLIENTS VALUE

Possible Client Perceptions of Value:

- Avoiding risk
- Specialized knowledge or expertise
- Confidence routine needs are handled automatically
- Timely turnaround



UNDERSTAND WHAT CLIENTS VALUE

- Communication about the process and timeframe
- Communication about options and costs
- Community reputation, integrity, reliability
- Brand Name



SEEK WAYS TO INCREASE YOUR VALUE

- Exceed expectations
- Be proactive
- Take the time to know your client and your client's business
- Develop and communicate legal service plans
- Be clear about the responsibilities of the client and the lawyer
- Develop excellent communication skills

SEEK WAYS TO INCREASE YOUR VALUE CONTINUED

- Be proactive about client needs
- Reward employees who provide excellent client service
- Be efficient
- Be accountable
- Educate your clients



STEP THREE KNOW YOUR INDUSTRY

- ❖ What does legal business currently look like?
- ❖ What forces impact legal business?
- ❖ How are consumers currently making buying decisions?
- ❖ Are generational issues impacting the industry? If so, how?
- ❖ What aspect of the industry will you compete in?



STEP FOUR: BE CLEAR ABOUT YOUR BUSINESS

Know and understand categories of services

What type of alternative fees are likely to work?

Clarify where & how you add value to clients

Be clear about what clients are looking for



MAKE DATA DRIVEN BUSINESS DECISIONS

Salary Decisions

Hiring New Staff

Subscribing to Services

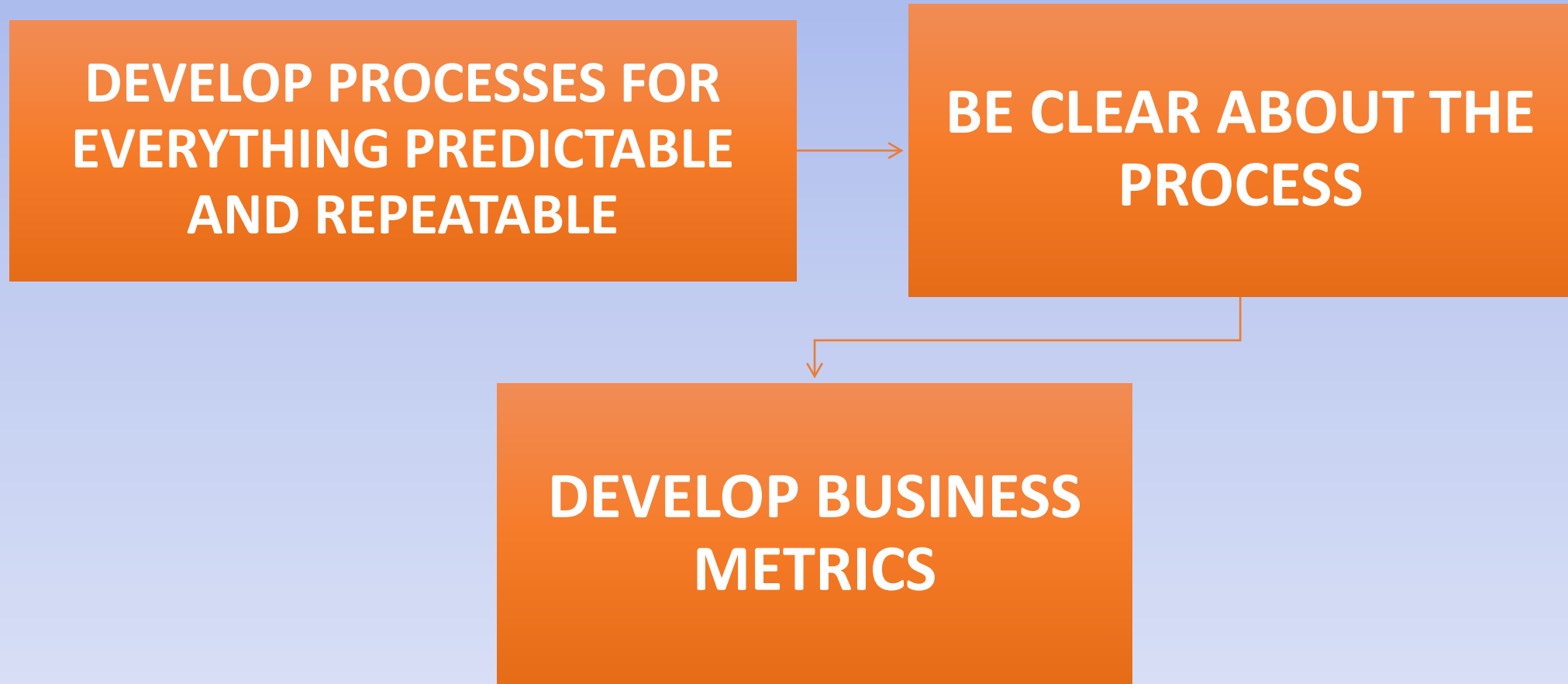
Grants/Loan Applications

Marketing Strategy



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STEP FIVE: DEVELOP A PROCESS ORIENTED BUSINESS STRATEGY



STEP SIX -
ENGAGE IN
KNOWLEDGE
MANAGEMENT

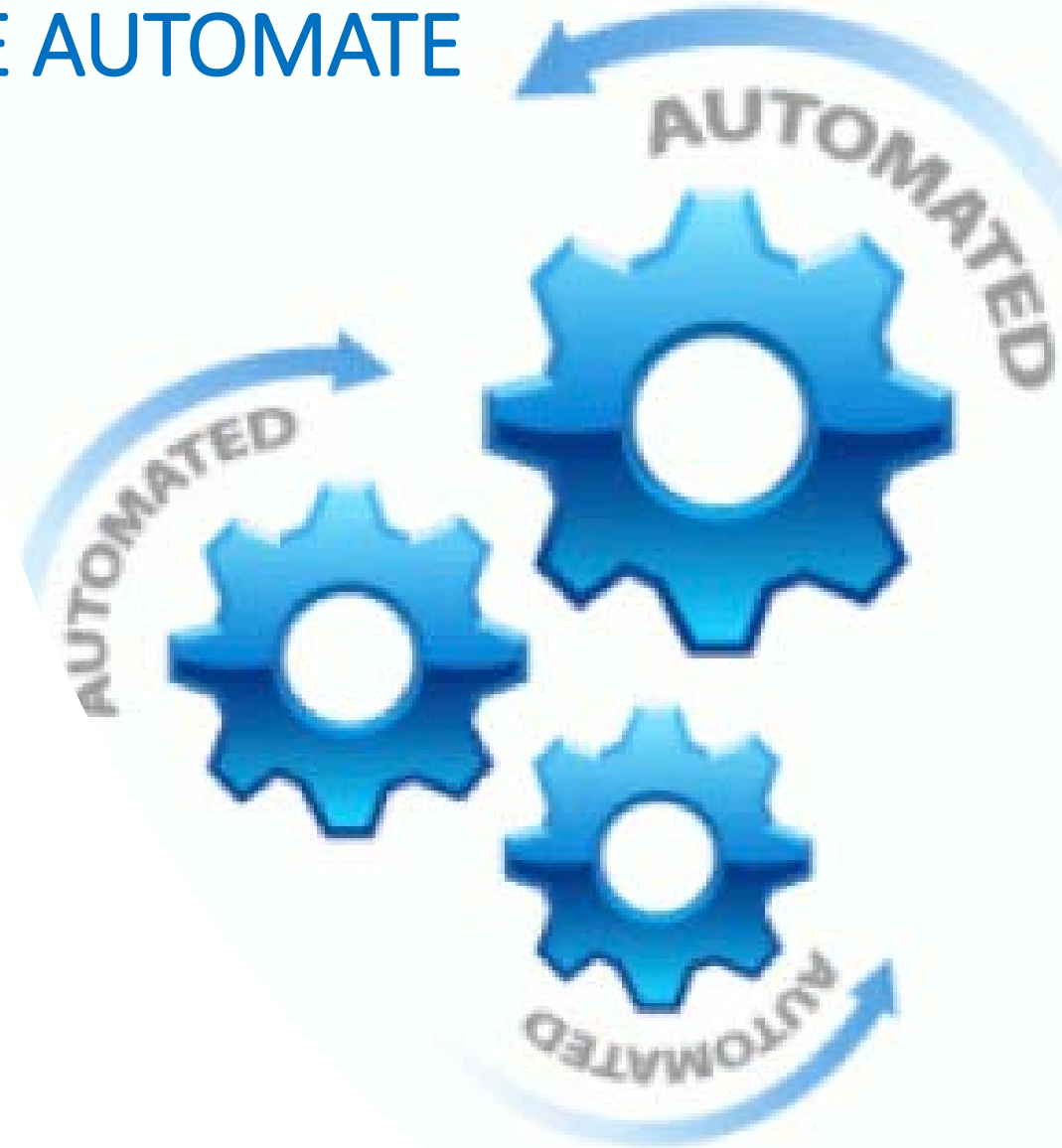


**CAPTURE
KNOWLEDGE
THAT FACILITATES
PROCESS
DOCUMENTATION**



STEP SEVEN: AUTOMATE AUTOMATE AUTOMATE

- Actively look for opportunities to automate
- Consider how to get mail transitioned to electronic mail
- Are you still convinced that you absolutely need paper files for something?



CREATE SYSTEMS AND CHECKLISTS

- Checklists help break down projects into tasks
- Checklists also facilitate training a new person in the office
- Checklists help avoid malpractice
- There are checklists someone else has created for almost every legal task



CREATE FORMS



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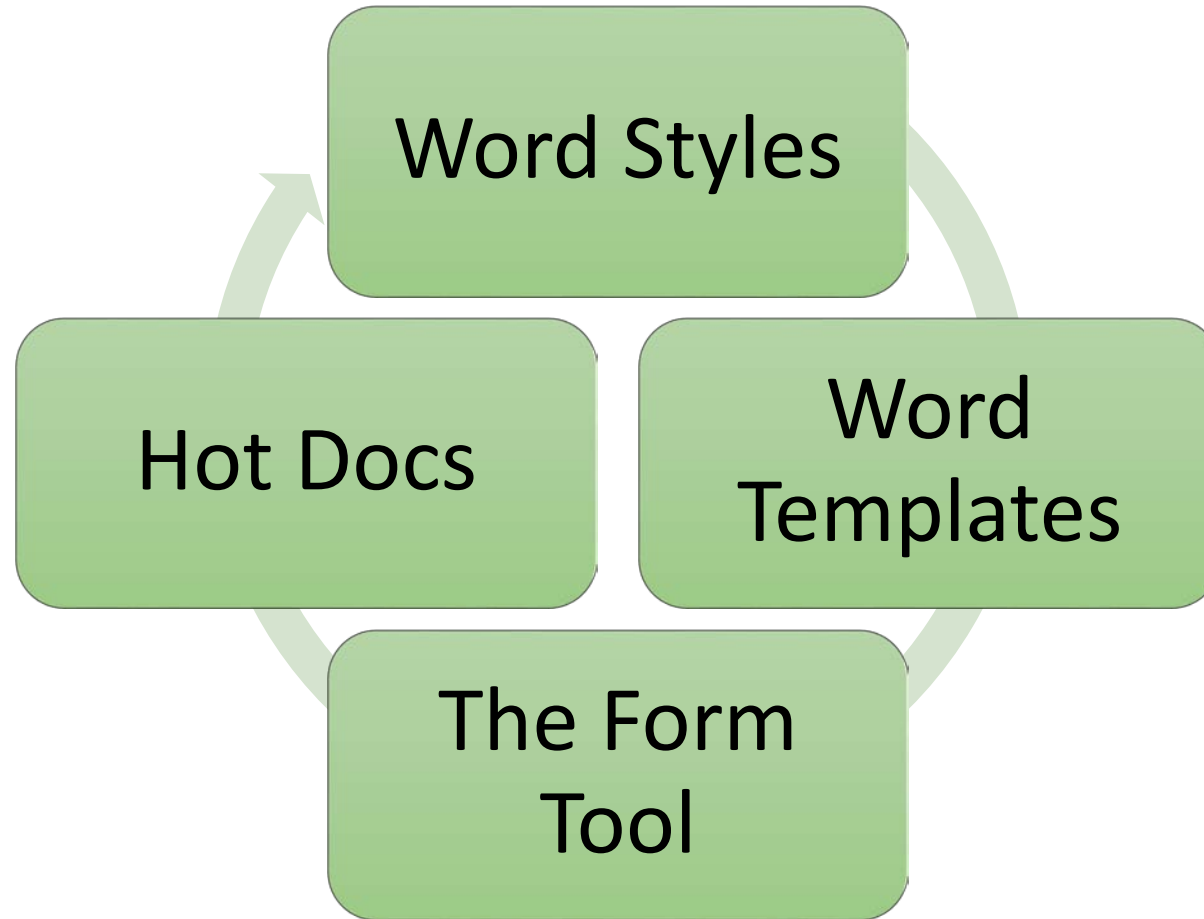
If you are still pulling up a document you created for someone else, **JUST STOP IT!!**

If you don't have a form, then pull up an old document and make it into a form. Then use that form to create the client document.



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FORM AUTOMATION



**INVEST IN A PRACTICE
MANAGEMENT SYSTEM
AND CONSULTANT TO
MAKE IT WORK FOR
YOUR PRACTICE**



- The best practice management system for your law firm is one that you will actually use
- Spend the time to find the right system for your practice. Hire a consultant who isn't tied to one system
- Once you buy, make the investment in a good consultant to help make the system work for you



STEP EIGHT: KNOW YOUR TRUE COSTS:

- Attorney Time
 - Realization
 - Paralegal/Staff Time
 - Direct Costs
 - General Overhead Factor
 - Supplies
 - Snail mail vs electronic



STEP NINE

USE YOUR BILLING SYSTEM TO ORGANIZE DATA

Almost all computer billing systems provide the ability to categorize and subcategorize billing entries

Develop a consistent coding system. Have attorneys diligently use the categories

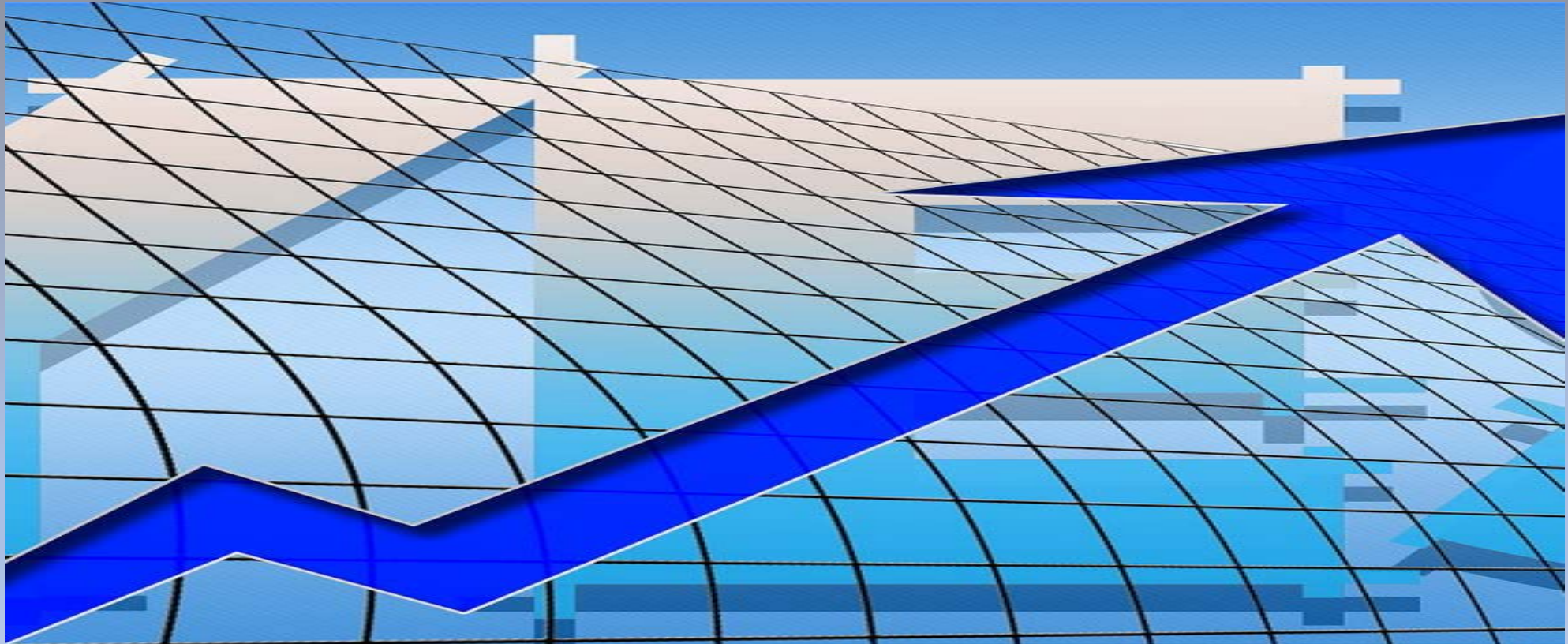


USE YOUR BILLING SYSTEM TO ORGANIZE DATA CONTINUED

- Useful Data to Have to Assist With Determining How to Price:
 - How many LLC's have you formed in the last five years? How much time and cost has gone into the formation of each? What did you recover? Were there variances between LLC formations? What were they?
 - When setting up a new entity, create an "Entity Formation" matter to track all times and costs of formation. Create a separate matter(s) for work unrelated to the formation.
 - For those doing estate planning, consider categorizing estate plans into categories such as: Single person with no children and no estate tax issues; Single person with children and no estate tax issues; Married Couple with No children; etc. You can then develop data for each type of estate plan that you do.
 - For real estate transactions, consider categorizing various types of purchase agreements and leases.
 - Track time and costs for different aspects of the litigation process.

STEP TEN: KNOW THE PROFITABILITY FORMULA IT IS SIMPLE MATH

Price Less Cost = Profit



In establishing an alternative fee, break out the components. Do this in writing for the client.

Value the intake process

Value initial conference

Value analysis & preliminary recommendations

Value Drafting of Documents

Value Follow Up Work

Quote costs for any follow up maintenance



Assume a client approaches you about drafting 15 Section 105 plans for its 15 subsidiaries

The primary value of your time will be in clarifying the employer objectives, evaluating the demographics of the employer's employees, and developing the structure for the proposed plan that will make the most sense given the employer objectives and employee demographics

Do Structure a Proposal as Follows:

- Analysis of Client Objectives and Employer Demographics to Determine Cost Effective Benefit Plan Design that will attract and retain employees \$7,500.
- Drafting of each plan \$250
- Provide client detailed operational procedures for compliance \$2,500.

Don't Structure a Proposal as Follows:

- Don't Quote \$950 per plan. (The client will have you do one and copy the other 14.)
- Seek to engage the client before providing the total fee plan



ADDITIONAL STRATEGIES FOR MAKING ALTERNATIVE FEES PROFITABLE

- ✓ Seek a higher realization rate.
- ✓ Develop a firm brand relative to the practice areas and service types at which you excel.
- ✓ Engage in activities that result in client loyalty. Develop relationships rather than seeking client fees.
- ✓ Improve your expertise. Be ahead of the pack in terms of your knowledge and skill.

ADDITIONAL STRATEGIES FOR MAKING ALTERNATIVE FEES PROFITABLE CON'T

- ✓ Publish. Blog
- ✓ Develop niche practice areas
- ✓ Improve Quality
- ✓ Reduce the Cost Per Unit of Service – training, practice management controls
- ✓ Make technology your friend



ETHICAL ISSUES INVOLVING ALTERNATIVE FEES

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- Basic Rules of Fees
 - Communicating About Fees
 - Attorney should avoid taking stakes in the outcome of a matter such as literary or media rights
 - Lawyers Must Disclose Self Interest
 - Alternative Fees
 - Alternative Financing





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- YOU play the most important part in keeping TECHSHOW exciting. *Please complete the Speaker evaluation before you leave.*
- Reserve the dates!

TECHSHOW 2019: February 27 – March 2, 2019