

# BUSINESS of LAW

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## LAW FIRM MANAGEMENT

### THE SKINNY ON FLAT FEES

'Value pricing' requires managing a new way

By David Gialanella

**T**HE TERM *ALTERNATIVE BILLING* MIGHT SEEM INNOCENT ENOUGH, BUT those two words make Jay Shepherd's skin crawl. As CEO of Shepherd Law Group in Boston, the enterprising attorney thinks his firm's flat-fee business model is not simply an alternative to the billable-hour standard: It eventually will become the commonplace way to run a law practice.

Shepherd claims it really is possible to make more money while charging less. The secret lies in vastly improved work efficiency that helps siphon business away from other firms.

Still, most lawyers just don't get it, Shepherd says. "They think this is some kind of marketing gimmick or some alternative form of billing. It isn't at all."

His four-lawyer labor and employment firm switched to fixed rates on Jan. 1, 2007. Revenue for 2007 increased two and a half times over the previous year. And first quarter 2008 improved over 2007. He has added two lawyers to his staff, and aims to hire another.

"It keeps getting better," Shepherd says.

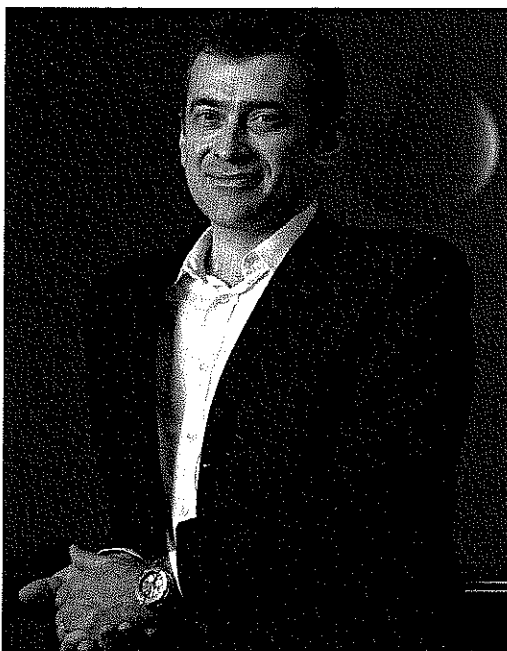
Firm size is no factor, depending on the practice. In immigration law, for instance, flat-fee billing is the industry standard from boutique to multinational giant, according to Scott FitzGerald, managing partner of Fragomen, Del Rey, Bernsen & Loewy's Boston office. The firm employs about 180 lawyers at 33 offices in 12 countries.

#### FIVE STEPS

SWITCHING DOES REQUIRE AN ACROSS-THE-BOARD TRANSITION. SOME IMPORTANT steps to take include:

- Do your homework. A switch in billing method is not a shoot-from-the-hip exercise.

"We went back and looked at eight years of bills," Shepherd says of the 10-year-old law firm. Shepherd's firm grouped similar cases and compared price tags, asking: What made case A twice as expensive as case B? And FitzGerald says that his attorneys can now anticipate time-consuming, costly issues before they arise.



**JAY SHEPHERD:** Making more by charging less.

- Find a new measure for performance. At Fragomen Del Rey first-year associates' transactions are scrutinized, but not the hours; supervisors review the number, the revenue received and client feedback. Sure, year one is still hard work for rookies, but it's also a breath of fresh air.

- Stick to your guns. It's one thing to tell a client your help will cost \$500 per hour; it's quite another to say, at the outset, that a case will cost \$80,000. "It's a bit of a leap of faith," Shepherd says.

Being steadfast has its price—one being the dream client demanding to be charged by the hour. "The answer," Shepherd says, "would have to be no."

- Be a business geek. "In law school, we don't learn about business. It's just not taught," Shepherd says. But law is a business more than anything, he says.

- Don't secretly keep track of time. The temptation, even if only for reference, must be overcome, Shepherd says. The move from billables to flat fees is not just a practical change; it's a different way of thinking. ■

On [ABAJournal.com](http://ABAJournal.com)  
Link to  
Jay Shepherd's blog

## SOLOS AND SMALL FIRMS

### LUNCH BUNCH

Monthly D.C. gathering reaches milestone

By Arin Greenwood

**O**N THE LAST FRIDAY OF EVERY month, Terry Berger holds court over a random group of Washington, D.C., solo practitioners who regularly meet for lunch.

The group has grown exponentially from when it first started, but its purpose has not. It's simply a chance to gab, socialize and network

with other solos about anything and everything.

But this lunch on the last Friday of April would be a bit different. Not only was it the group's ninth anniversary, Berger announced with pride, but they also were having their first-ever speaker—Maryland Attorney General Douglas Gansler.

"Did you get us anything?" calls out a lone voice.

"The table full of freebies," says Berger, pointing to some Lexis-branded pens and cups before pointing to a photographer snapping pictures. "Oh, and Kevin Kennedy, the photographer."



**DOUGLAS GANSLER:** Maryland attorney general was group's first-ever speaker.

The lawyers introduce themselves and are urged by Berger to be brief so that their guest speaker can talk. Around the room, there are lawyers who do civil litigation, employee benefits, Freedom of Information Act, antitrust law, family law, trusts and estates, and security clearance law.

One lawyer, who has just gotten out of the hospital, stands up and says he wants to know whether anyone knows "what happens to your practice when you're dragged into the ICU for 12 days and you're put in a room with no phone and no cell reception, and you have hearings coming up?"

Another lawyer says she's helping to run a conference on just that topic in the fall. The two exchange contact information; Berger asks them to speed it up so he can introduce

Gansler, their guest speaker, as a man who needs no introduction.

"Which is good," quips Berger, "since I didn't prepare one."

When it is finally Gansler's turn he tells the lawyers how much he admires their group. "The practice of law is a wonderful thing, especially if you have the ability to control your calendar," he says.

Gansler then speaks about his office's goals and accomplishments—its gang unit, voting rights enforcement, efforts to curb predatory-lending practices and, most strikingly, its attempts to find a power plant that can convert chicken manure into power.

"Chicken manure is the biggest source of pollution in the Chesapeake," says Gansler. More than a billion pounds of manure a year goes into the bay, he says, and his office is determined to reduce that amount. "I used to talk about murder, rape. Now I talk about chicken manure."

And with that the attorney general sits down and lunch is served—fried green tomatoes, pumpkin ravioli, shrimp salad, steak—with the lawyers talking at their tables and the photographer snapping photos. More business cards and more stories are exchanged.

#### **DIVERSE ARRAY OF PRACTICES**

"THIS IS SUCH A CONGENIAL GROUP," SAYS DESIREE WOODARD OF FORT Washington, Md., who recently started coming to the lunches. Woodard is building a solo practice on the side while working as an examiner at the U.S. Copyright Office. "Nothing federal," she says. "Family law, state law."

Lawrence Thrower, a litigator who lives in Kensington, Md., started coming to the meetings in 2002. He left for a while when he joined Johnnie Cochran's firm but rejoined the group a few years later, when he returned to solo practice after Cochran's death in 2005. He comes about every other month now.

"A little marketing, a little networking, and the people are just generally

nice here," he says.

An hour or so later lunch is done, leaving Berger looking exhausted and happy.

"I had a splitting headache yesterday," he says. "I was really close to not showing up today and Deb would have stepped in."

Deb is Deborah Matthews, an Alexandria, Va.-based trusts and estates solo who inadvertently started the group nine years ago by sending an e-mail to the ABA's Solosez e-mail discussion list asking if anyone in the D.C. area wanted to get together for lunch. Six people showed up for that first lunch, and they had such a good time that they began meeting monthly.

Since that time the group's mailing list has swelled to close to 160 lawyers, with about 35 lawyers attending the monthly lunches. The huge range of practices means there's always a fellow attendee who can take on a client referral and there's always someone interesting to talk to.

"Our group is different from other groups. We have a huge variety of different people and a variety of perspectives," says Berger. "It's a very informal group. We never even picked a name. This is the first time I've worn a suit in eight years." ■

#### **TECHNOLOGY**

## **BECOME A GOOGLE MASTER**

Learn to use the power of the search with six simple tips

*By Dennis Kennedy*

**G**OOGLE IS A PHENOMENON, AN essential tool, a noun turned into a verb. Lawyers and judges, like most of the rest of Internet users, have grown to rely on Google search results, and good Google skills are now a required part of the legal research toolbox.

That's welcome news to lawyers who infinitely prefer Google's ease of use to the world of queries and Boolean searches they grew up with in Lexis and Westlaw.

Unfortunately, today's Google re-