

Law Firm Alternative Fees: Revolution or Slog

By [LawVision](#) on December 13, 2012

This week, I came across this lead-in to an article in the New York Times on the alternative fee revolution in law firms.

*...**the ground is shifting** in response to increased competition among law firms and to diminished revenue among law firms and clients alike. And that shift, particularly in corporate law, has begun to bury the hourly rate. Cost-cutting **alternative billing schemes are on the rise**, and in some cases firms are even being forced to bid for corporate business.*

The tremors of this change, first felt a few years ago, are now rippling through law firms from coast to coast. Fixed, Capped or Contingent.

After the media barrage we've witnessed over the last few years on the topic of alternative fees the claim that the "ground is shifting" and that "alternative billing schemes are on the rise" didn't look too newsworthy or all that interesting until I read the date of publication – **October 22, 1993, nearly 20 years ago!** Just for some context, in 1993 Bill Clinton was still in the first year of his first term and there was no such thing as amazon.com, eBay, craigslist or Fox News.

The article, titled [Revolution in Lawyers' Fees](#) is a great lesson in history repeating itself. Consider this familiar sounding excerpt.

It was not always that way. Law firms long dictated the quantity, the quality and the price of legal service, and the price that many of them set was high...

...The price had to be high, in order to cover the overhead generated by expansionist policies of the 1970's and 80's. To meet a swelling demand for their services, firms had gone on spending sprees, bringing in so-called "rainmakers" (partners with a knack for luring clients), hiring new associates, investing in technology and expanding not only into larger offices but also into other cities.

As their cost of doing business rose, firms compensated by increasing their billing rates and their hours, often by throwing hordes of young associates at a project and charging for the time of each. The legal industry called this "leveraging"; clients frequently called it

overstaffing...

...But law firm control of the legal services market was doomed, and, as a consequence, so was the unchallenged pre-eminence of the billable hour.

(I love the part where the author had to define “rainmakers.”)

Not to discount the healthy discussions we are seeing today in the way firms and clients work out billing structures, but the “Revolution” seems to be more of a slog than a revolt – think Fidel Castro still padding around the house in his battle fatigues blathering on about the revolution.

Make no mistake, there is a shift to be sure and 2012 is not 1993 but judging from the similarity in the dialogue of nearly 20 years ago, if it’s a revolution it’s an evolving one.

I invite your thoughts and comments.