

You May Want to Charge a Consultation Fee...

A May 2011 discussion on SoloSez, the email listserv for general practice, solo and small firm lawyers

At the beginning of this year, I started charging a consultation fee of a little less than my hourly rate. If the potential client retains me, I apply the consultation fee to their first invoice.

I've had a surprising number of people opt for the consultation, even with the fee. But in the last week, two callers have told me they can't afford the fee. Which tells me there's no way in h-e-double-hockey-sticks they could afford any of my other services.

Turns out this is not only a good way of recapturing otherwise lost income, but the litmus test makes life easier for both of us.

Just a thought.

Carry on.

Gina Bongiovi, Nevada

A lot of great responses. My approach to the problem is one of structure. What are the components of the meeting. Some variables include the area of law, the local practice, the prospective client expectation and the individual attorney. On the latter point I observe that it does take a bit of sales ability to profit from a free consult.

My approach has been to control what a prospect learns about me before they call and before they come to the consultation. I find being certified in my area of practice, which happens to be elder law, is a huge benefit. I also use education as part of my marketing strategy. When the clients come to my office they are there for an expert's advice and they pay for it. Once again, this is possible in my area of practice.

So I suggest one component you have control over is what the prospect hears of you before they contact your office. If you are a sales person they will know the consultation is FREE. If you are not, they will know they are seeing the best lawyer they can find.

Jim Schuster, Michigan

I am interested in what people here do to ensure they collect the initial consultation fee. Personally, I give someone 5-10 mins on the phone for free. If I truly don't understand their case, or think I cannot help them, I tell them so right away. If I think they have a case, and it is an area I am knowledgeable in, I book an initial consultation at a reduced rate for the first hour. I don't always get to collect that fee whoever. As part of the consult, the must turn over my "client intake form" that explains my fee for the initial consult.

Ryan C. Young, Virginia

I'd agree with prior posts -- PC must provide the funds at the beginning of the initial consultation, not after. Can you go to the market and ask the vendor to spot you groceries? Only with a credit card...

Very truly yours,

Richard Kuslan, Connecticut

I am interested in what people here do to ensure they collect the initial consultation fee.

I don't know, maybe it's your clients. Honestly. I'm not trying to be flip, but I can count one one hand, probably a couple of fingers, the number of times clients have refused to pay me the initial consult fee. The couple of times it was "I don't have my checkbook". When I do charge a consult fee, I keep it quite modest and they pay quite willingly. In fact, I've had a LOT of what started out as free initial consultations, where I quickly determined that they didn't need probate or whatever, but I spent some additional time where they asked questions and I educated them; the client frequently says, "thanks, what do I owe you?" If I've spent more than a few minutes with them I'll tell them "\$XX; I think you got \$XX worth of legal advice" and they say "Yeah, I did". And they pay, cash or check. They see the value in it.

Maybe it's just me but I'm not seeing this as all that much of problem. If the client is REALLY that dissatisfied with the consult or simply doesn't think I'm worth what I charge, fine, good riddance and don't let the door hit you on your way out.

The other thing is, guys, remember, word of mouth referrals count. If I spend 10 minutes with someone and don't charge them a fee for a probate consult, or even if I do charge them

a modest fee for reviewing a contract, they walk away happy. They talked to a lawyer who was a straight shooter, explained what they needed to know, who clearly put the clients interest ahead of the lawyers (usual script for me "look, I could charge you to bring a probate, but you don't need one; take the death certificate up to the courthouse, record it, that'll change the title over to you, take it to the bank/department of motor vehicles/insurance company, they'll change the title on the car and accounts and give you the money. You don't need to hire me".) Who didn't spend all the time talking about himself (very common complaint,

"oh, I went to see so and so, he charged me \$XXX for a consult, he spent ALL the time talking about what a great lawyer he was and I was more confused when I left than when I came in. You told me more in 20 minutes than he did in an hour" Really. I hear that ALL the time). If they got another legal problem or if they know someone with a problem they're going to send them to you. It's all about the marketing.

Look I understand not wanting to deal with timewasters, people who are going to eat up your time and not hire you ever. But, you also need to know that people send other people to lawyers that they know. Ten minutes of your time, even if you don't make the sale, may bring the client back when they got a case; they may also send people to you. Say what you want about advertising, the internet, marketing, ultimately it comes down to relationships. And how you get relationships is by meeting people; you don't meet them, you don't get relationship.

Ronald Jones, Florida

Spot on, Ron. As a relatively new solo in a very "closed" market (i.e., people don't trust 'newcomers' much, since so many come-and-go), I consider it some of my best marketing. (My free consultations, that is.)

I give out free information. gasp. And I get the same response you do: "Thank you SO much! You have been SO helpful! No one else would even talk to us." I often get the same, "What do I owe you?" Usually I say nothing, if the consult has been less than 45 minutes. THAT they will not forget. Occasionally I tell someone (if all they have is a question, which looks like it won't lead to any lengthy representation or services), "well, I don't know the answer for sure, I would have to do some research - for \$XXX (usually 1-2 hours work), I will do the research and get back to you with a clear answer." They love that, and gladly pay for it. [I have a "limited scope" engagement letter for such situations, so everyone's clear on what I am, and am not, agreeing to do. Frankly, I think the likelihood of being sued or getting into other trouble from this is miniscule (unless I give a wrong answer or perhaps miss something critical like a SOL coming up, but that's what PL insurance is for). I'm not afraid that someone will mistakenly believe that I have signed on as their lawyer for all time, because I'm very clear about the scope of the engagement, both orally and in writing.]

I get some people calling whom I can't really help - people who live here, but the trust/estate/issues are elsewhere, governed by the law of another state in which I'm not licensed. I know attorneys (some I've "met" through solosez) in CA and some other states, and will make a referral or at least explain why they should get counsel in the other state. Like you, I clear up a lot of the same probate-related myths, and send people on their way to transfer a vehicle or do a 'small estate proceeding' through the clerk's office, on their own. Sometimes I give options - people LOVE options - "you can do it yourself, here's what's involved, or you can pay me \$XXX to help you do it". Amazingly, sometimes they pay me to do the simplest things, and they are happy to do it. Some people just don't want to deal with this stuff, or want a "mommy" to look over their shoulder and check their work. I'll take your \$\$ for that, sure. I am clear, though, that they COULD do it themselves, and I've never had anyone come back and complain.

So far, I have been repaid hundred-fold. Some of these folks retain me. Like you, Ron, if they need a probate, they almost always sign up on the spot. Some retain me later (this surprises me, but especially with estate planning, I think they just need more time to think about it; maybe they're shopping around and end up picking me, I dunno). Some send their friends (if I couldn't help them personally). I know, in the future, if these people (or someone they know) need services I can provide, they will remember me (several have said as much, after we concluded that I couldn't help them for whatever reason). Word-of-mouth is everything here. I have gained a lot of clients (that other attorneys lost) by simply explaining, in plain terms, what was going on, what the issues were, what the procedure would be.

C.

Cynthia Hannah-White, Hawaii

I decided this about 18 months ago, for about the same reasons.

I find that a lot of people will make the appointment, agreeing to pay the fee, and then either call back and cancel or else no-show. I don't like the no-shows, but I like them better than people who show up and try to get free advice, and who have no intention of hiring me.

In a recent case, I asked for and got a consultation fee because the client "just wanted to know what to do" so he could prepare an Answer himself. I showed him what to do, we went into detail the best way to handle it, and he left. Two hours later he called me back and said he was going to retain me after all, because "all this legal stuff is just too hard!"

It's a major red flag if somebody says they can't pay a consultation fee but they want to see me anyway. Do they really think they can afford an attorney if they can't afford \$100? I'll

still meet with them (sometimes, if I'm in a good mood), but I only give them 15 minutes without some \$\$\$.

Russ Gray, Utah

I think that one benefit that you capture by charging for a consultation is that you capture people who may want to talk but are embarrassed to ask for free advice. They would rather pay and just pick your brain for an hour or whatever the cost is.

Years ago, when I was fired by my law firm, I wanted to speak with a lawyer just to see what my rights would be (though I knew I had no case - I just wanted to vent and get closure, I think). I was willing to pay something but not \$400/hr. But the first few firms I called pretty much hung up on me - since my case was really not worth anything. However, one guy - a new solo agreed to speak to me for \$100 - it was purportedly for the hour but I wound up spending an hour and a half. I got my answers and he got paid. I have to believe that there are many other people in this category - non-tire kickers who just want an assurance or minimal advice and are in fact willing to pay if there is a mechanism to do so.

Carolyn Elefant, District of Columbia

I agree with your premise and your result. I charge full freight for a consult, because it's an hour of an attorney's time, education, study-up on Important Stuff, and analytical skills. If you can't afford that, you can't afford me at all. I graciously refer them to Montana Legal Services for representation or to be financially qualified for the Western Montana Bar Assoc Pro Bono Program, or to the Montana Bar Lawyer Referral & Information program.

The last caller in that position got an additional piece of advice, "Tell the WMBA PBP that I have offered to take your case." I usually have one pro bono client all the time, I don't now, and his voice had some quality that I found utterly sincere. Plus I'm a sucker for a hard working dad who wants to be a full-time dad. We'll see how it goes.

cj

Carolyn J. Stevens, Montana

That is very true, Carolyn. I do employment law and that dos capture a significant portion of my initial consults - people who just want to know their rights - without making a house payment.....

Tom Crane, Texas

Just replying to bring attention back to this thread, which could be worth a lot of money to the list! If 50 sezzers started charging for consultations, for every 100\$ they charge, the list has returned \$5000 in value. (demo-ing my firm grasp of the obvious again) Then there are the no-shows avoided, Looky Lou's prevented, wasted time recaptured, etc. Read it! Charge the fee.

With zero facts, I'm also wondering if your intention around "the ask" is stronger when you put a price on your consult, so that you are more likely to land a client from a paid v. free consult. Doing a lot around lead qualification and conversion these days.

And to the people I offer free advice to here, well, I shouldn't. I do, though, and I hope you'll take me up on it now and then, because it's fun.

Barbara Nelson, New Jersey Notta Lawyer

For what it's worth, I am finding a much higher close rate now that I'm charging for the consult.

After offering free consults for over two years, I realized that I am incapable of NOT giving legal advice during a consult. I can't bring myself to say something along the lines of, "well, to answer that question you'll have to pay me." So if I charge for the consult, I'm at least getting paid SOMETHING for my time.

It seems that people who are willing to invest in the initial meeting are more willing to sign on for a service.

Plus, it makes me ill to see how much time and advice I had been giving away for free. I'd be into at least three pairs of Christian Louboutin shoes. Ugh.

Gina Bongiovi

And that may be a good reason to charge for consults; it will definitely weed out the those who have no intention or ability to pay you.

It will also, unfortunately, weed out those "on the fence" as it were; who may hire you with the application of some salesmanship by you but who aren't willing to pay to attend a sales meeting. Problem is, distinguishing between the "can't pay/won't pay" and the "able to pay if they see the value of your services" types.

And, remember, you don't have to have the same rigid policy for all types of law; I charge for most real estate consults, at least where I'm reviewing documents. Frequently that's the only money I make off them.

But I don't charge for meetings where I am reasonably sure I can sell them my services if they need them; i.e., probate.

But a lot of it depends on the type of law you do.

Ronald Jones

I do not charge for consults for bankruptcy cases (mainly because no one else does). I do not charge for consults in most other consumer cases because I do not yet know if I want the case or if there is one before I sit down with the PC.

I may have to rethink my position. From another attorney, I got the idea of doing strategy sessions (for which I would charge) or consults (nothing more than a meet and greet to see if there is something I can do, but no legal advice).

I imagine that this question will come up again and again.

Mitchell Goldstein, Virginia

We often get inquiries where we'll have to do extensive document review just to figure out if the client has a case. We offer to do a review and recommendation for a flat fee and then credit the client as appropriate.

Michael Alex Wasylik

I'll just repeat one of the cornerstones of any successful business.

Track and test people. Track and test.

Kenneth Alan Forman, Florida

I say not only charge, but collect the fee upfront, before you start, lest they agree then get alligator arms when the time comes to ante up (I've had more than one "I forgot my checkbook" - too bad, but I do take credit cards...)

I will happily beat a dead horse (I won in court today, so I'm in a good mood), and say that if they can't afford ONE hour, they can't afford nine more.

And remember - your advice is worth the value you put on it. If you put no value on it, then why should they?

Greg Zbylut, California

Does whether you charge for consults depend on the area you practice? Do you charge for an entire hour or do you essentially give a portion for free by charging for one hour at less than your full rate?

Mitchell Goldstein

I have a different wrinkle on this question. If I charge for an initial consult (it's one hour for less than half my hourly rate) and then wind not accepting the work (for a variety of reasons), have I created some animosity? FWIW, I've never had this happen, but it certainly could.

William B. Richards

Greg

Got to disagree with you on both points

*"....and say that if they cant afford ONE hour, they can't afford nine more. *"

I can't say I tracked on that particular narrow issue but my gut feeling about my own particular experience is that whether some one can afford nine hours of my time had little or nothing to do with whether they were willing to pay for an initial consultation. I had near indigent people who could never afford my services agree to the fee, and very wealthy people who were sincerely looking for help and who got all huffy and refused to even consider paying the fee. The clients ability to pay for my time seemed to have nothing to do with it.

....your advice is worth the value you put on it

No it's not. My advice is worth the value that the market puts on it. If you ask me the value of an hour of my time discussing an Immigration removal case I would say over a thousand dollars. Doesn't mean that anyone is willing to pay for it. My value for discussing tax matters is probably less than zero since I would probably do more harm than good. But if I (a delusional old lawyer) feel the value of my tax advice is \$150 I'll probably find more than a few people who would pay that amount.

Again, I won't get into the details of my post from a few months ago but the essence was that this is a topic that people rely on more by gut instinct and anecdotal evidence, rather than careful tracking and analysis of the numbers.

I did carefully track and the results were awful. Again that was just me. Everybody and every practice is different.

So I repeat

Test and track. Test and track.

Kent Forman

Y'all,

I have to say that I did my own basic metrics on this one and for some cases, I think it is appropriate and should be done.

I have found myself in a new niche area and I have spent over 40 hours in two weeks speaking with individuals, setting appointments, keeping myself updated on the cases, etc. What I found? I was essentially giving the same speech to 20+ people. Sure there were plenty of disclaimers, and everyone understood it, but I had not been able to monetize the work I had done.

So what I decided to do, especially now that I have invested the time in being able to guide people through the process, is charge for it. Will a few balk at it? Sure. Some people are giving the information away for free, fine. But I also know that some attorneys are charging a BOATLOAD of money for the same thing. Sure I reduced my rate a bit. While it is "attorney time" I consider that portion of the forgone fee as both marketing AND karma, as the people I am trying to help are generally the good guys. But even if I take a reduced rate for the work, a single paying customer beats the last 20 of non-paying. Maybe some people feel better paying - like Greg suggested there is value placed on it, so it must be worth something. I can't speak to that with authority. I do know that most always the case is that no matter how well versed someone can be by searching on the internet, they feel more in charge after talking with an attorney, even if a majority of the advice replicates what the client found on-line.

Drew Winghart, California

Ooo, great point in there! For new clients, setting a fee or changing a fee doesn't have to be a "perfect, perfectly researched, fully thought-out, permanent" decision. Frankly, you can try it out and see what happens. If it doesn't work, and reactions seem to indicate it's causing you business you want, first change the script, but then, if it persists, try a lower price. I do recommend coming up with some scripts, not because you'll use them or SHOULD use them verbatim, but just so you're ready. If you do have wording that seems to work better, great. Use that more.

You can try a price and change it from one call to the next; it's market research. You aren't going to choose a price point that's out of integrity with what you deem 'fair'. I don't think anyone on this list is in danger of overcharging. The objective is a win/win. Client gets good representation, you make a decent living so you can continue practicing!

Barbara Nelson Notta Lawyer

At least in my experience, there's two different scenarios. One is, someone who truly can't afford the consult fee. Typical clients are, people who are being evicted, people who are being sued for credit card debt and such; if you don't have the money to pay the rent, you are unlikely to be able to pay a lawyer.

Second one is, people who are unwilling to pay for initial consult; because they don't see the "value" in the consult. Now, the thing is, if you charging for a consult, you are separating the wheat from the chaff; those that see the value in paying for a consult from those that don't. The only problems with that are, 1) not everyone who is willing to pay for a consult will NECESSARILY see the value in hiring you to handle the case; and 2) not everyone who doesn't see the value in paying for a consult will necessarily NOT see the value in hiring you to handle the case. It depends on the reason for their not seeing the value in paying for a consult. If your practice area is of the type where a lot of attorneys offer free consults (i.e. personal injury or bankruptcy) the potential client, not unreasonably, asks why they should pay to see you when they can see Jane Lawyer down the street who offers free consults on PI work? And, frankly, that's probably a good reason to offer free consults in some areas; particularly on contingency type work; if competitive pressures are such that most other lawyers offer free consults, then you probably should too, else you won't get clients.

Now, there is another category; people who are unwilling to pay for an initial consult but can be convinced to hire you. Frankly, this is where sales comes in; you need to convince the client that they should hire you to handle the case. They are typically quite clueless as to the law, and need to be educated. In my case, probate is that area. There's a LOT of misinformation out there- not to recite a litany, but "if you die without a will the state gets everything" "I'm common law wife, we've lived together for 5 years [Sorry, honey, Florida did away with common law marriage in 1968; you ain't common law anything, you're just common shacked up]" "dead person didn't write out a will but told people how he wanted property divided, that's good enough" "The bank won't talk to me, but I'm executor. The will says I'm executor but the bank says I need a letter, can you write that letter" [sorry, you're not executor until a judge says your executor and signs letters of administration]". Get the client in the office, educate them [technically, am I giving "legal advice" by doing so? Probably. So what? If I can make the sale I'll give a few minutes of my time away]. If I can educate them, I can make the sale.

And, then there's third category; people who just aren't willing to pay a lawyer for a consult and aren't willing to pay a lawyer to handle the case.

And, by charging for a consult, you are lumping category two and three together; people who are unwilling to pay for a consult but some of whom may be willing to pay for you to handle the case, and others who aren't. This is where your practice area and experience come into play. In my case, if someone needs a probate, I've got, literally, a 98 or 99 percent conversion rate; very nearly every person who comes to me and needs a probate will hire me. I'd be foolish not to consult with them, paid or free. Some areas of law, family law comes to mind, a lot of people are going to try to handle it themselves; they are just looking for free legal advice. Offering free consults may wind up with few paying clients. By charging a consult fee, you are separating those who see the value in paying for a lawyer from those that don't. But it DEFINITELY varies by practice area and also varies with your own experience; you need to evaluate your own conversion rate (percentage of consults that result in you being hired) and not just 'gross' (all potential client) but break it down by practice area.

Ronald Jones

I had one very funny PC come in to my office with his "wife's" checkbook and wouldn't even fill in my intake sheet with his name, address, phone, etc. When I told him that he had to choose between showing me his driver license, filling in my form, paying me cash OR the door, he chose the door (of course) and I'm very pleased he did!

Very truly yours,

Richard Kuslan