



The State Bar of California

BEYOND THE BILLABLE HOUR: RETHINKING LEGAL BILLING PRACTICES IN THE AGE OF AI SPEAKER BIOGRAPHIES

Erin M. Joyce, Moderator

Pasadena, CA

Erin Joyce has extensive experience in the State Bar of California's investigations and disciplinary proceedings, plus over 30 years of civil litigation practice. Joyce was admitted in 1990 and practiced for nearly 8 years in an intellectual property boutique before joining the Office of Chief Trial Counsel as a prosecutor for the State Bar from 1997 through 2016. She has over 25 years of experience handling all aspects of discipline cases against attorneys in State Bar Court, from the filing of the complaint through trial and review. She has personally tried dozens of State Bar trials and several appeals. Joyce has a comprehensive understanding of how State Bar investigations and proceedings unfold. Before going into private practice, she served as chief special investigator for the Los Angeles Fire Department, as a prosecutor for the State Bar of California, and as a lawyer for multiple private practices.

Emil J. Ali

Cerritos, CA

Emil J. Ali is a partner at McCabe & Ali LLP, where he focuses his practice on helping lawyers understand their obligations under state and federal law. He is a registered patent attorney, and a significant focus of his practice involves advising lawyers and law firms on all aspects of the intersection of IP and ethics matters. His work includes counseling clients on lateral transitions, malpractice avoidance, expert opinion and testimony, and respondent's defense work before various bars and courts.

Amanda M. Moghaddam

Burbank, CA

Amanda Moghaddam is a California-barred attorney specializing in legal malpractice and professional liability law. She is a claims attorney with Lawyers' Mutual Insurance Company in Burbank, California. In her current role, she oversees the defense of lawsuits filed against California attorneys, which includes managing outside counsel and making strategic litigation and settlement decisions. She also provides ethics guidance to California attorneys through the Lawyers' Mutual Insurance Company's attorney-to-attorney hotline.

Moghaddam previously litigated attorney malpractice claims at Nemecek & Cole APC. During her tenure there, she handled an array of matters involving professional responsibility, including litigation of legal malpractice, breach of fiduciary duty, and attorney-client fee dispute matters.

Moghaddam is heavily involved in the San Fernando Valley's legal community. She is the immediate past-president of the San Fernando Valley Bar Association (SFVBA). Moghaddam

is also on the board of the Valley Community Legal Foundation, the charitable arm of the SFVBA, which provides local law-related scholarships and education events.



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Beyond The Billable Hour

Erin Joyce, Esq.
Emil Ali, Esq.
Amanda Moghaddam, Esq.

29th Annual Statewide Ethics Symposium, April 17, 2026

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Meet the Speaker



Attorney Erin Joyce has extensive experience in State Bar investigations and disciplinary proceedings, plus over twenty-five years of civil litigation practice. Erin was admitted in 1990 and practiced for nearly eight years in an intellectual property boutique before joining the Office of Chief Trial Counsel as a prosecutor for the State Bar, from 1997 through 2016. Erin has over twenty years of experience handling all aspects of discipline cases against attorneys in State Bar Court, from the filing of the complaint through trial and review. She has personally tried dozens of State Bar trials and several appeals. Erin has a comprehensive understanding of how State Bar investigations and proceedings unfold. Before going into private practice, Erin served as Chief Special Investigator for the Los Angeles Fire Department, as a prosecutor for the State Bar of California, and as a lawyer for multiple private practices.



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Meet the Speaker



Attorney Emil J. Ali has focused his career on defending and advising legal and financial professionals in regulatory, ethics, and disciplinary matters. He has handled hundreds of professional conduct investigations and represents attorneys and law firms across the country on conflicts, privilege, risk management, employment transitions, and complex ethical issues. As a registered patent attorney, Emil combines his extensive knowledge of Intellectual Property practice with experience serving as ethics counsel, expert witness, and adjunct professor of law teaching legal ethics. His practice includes representing investment advisors. His unique experience affords him a well-rounded understanding of the regulation of the legal profession.



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Meet the Speaker



Amanda Moghaddam is a California-barred attorney specializing in legal malpractice and professional liability law. She is a Claims Attorney with Lawyers' Mutual Insurance Company in Burbank, CA. In her current role, she oversees the defense of lawsuits filed against California attorneys, which includes managing outside counsel and making strategic litigation and settlement decisions. She also provides ethics guidance to California attorneys through Lawyers' Mutual's attorney-to-attorney hotline.

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Alternative Billing Practices in The Age of AI

- **With the increased efficiency of AI, firms are starting to implement alternative billing practices**
- **In order to remain compliant with State bar guidelines, attorneys must ensure fees are reasonable**
- **The State Bar of California guidelines on AI use in legal practice prohibit attorneys from charging hourly fees for time saved by using Generative AI**

State Bar of California Standing Committee on Professional Responsibility and Conduct, *Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law* (Nov. 16, 2023).



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What Are Fee Agreements?

Fee agreements are contracts between a client and an attorney. The legally binding agreement establishes how much an attorney will receive for their services and how much a client will pay

The State Bar of California, *What to Expect Regarding Fees and Billing*



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Types of Fee Agreements



- Hourly Fee
- Fixed Fee or Standard Fee



- Retainer Fee
- Statutory Fee



- Contingency Fee
- Success Fee



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Business and Professions Code § 6147 and 6148



CA Bus & Prof Code § 6147- Contingency Fees



CA Bus & Prof Code § 6148- Non-Contingency Fees



- Any contingency fee contract must be in writing with a copy provided to the client
- Must include the fee rate, how recovery will affect any costs, and a statement that client may be responsible for fees to the attorney in related matters not covered by their contingency fee



- A written contract is required if the expenses are expected to exceed \$1,000
- Must include the fee rate, nature of services to be provided, and what each party will be responsible for



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Hourly Fees

Lawyers charge a set rate per hour of work
Note: Hourly rate can vary amongst lawyers

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Asserting a Charging Lien

A charging lien gives an attorney a security interest in the client's recovery to secure payment of fees

- Must be created by contract
- Creates an adverse interest to the client and must comply with CRPC Rule 1.8.1
- Requires clear intent that fees will be paid from recovery

Fletcher v. Davis, 14 Cal. Rptr. 3d 58 (June 10, 2004).



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Quantum Meruit

Quantum Meruit is the attorneys right to recover the reasonable value of legal services if the fee agreement is unenforceable

Applies in Hourly Cases when:

- **The fee agreement is not valid**
- **The lawyer is discharged before the case is completed**
- **The client refuses to pay and the contract is in dispute**
- **The lawyer withdraws from representation**

*Fee Arbitration Issues Involving Contingency Fees, Arbitration Advisory
1997-03*



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Evaluating Quantum Meruit Claims

Under California Rules of Professional Conduct Rule 1.5, these factors are considered when evaluating whether a fee is unconscionable:

1. **Whether the lawyer engaged in fraud or overreaching in negotiating or settling the fee**
2. **Whether the lawyer has failed to disclose material facts**
3. **The amount of the fee in proportion to the value of the services performed**
4. **The relative sophistication of the lawyer and the client**
5. **The novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly**
6. **The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer**
7. **The amount involved and the results obtained**
8. **The time limitations imposed by the client or by other circumstances**
9. **The nature and length of the professional relationship with the client**
10. **The experience, reputation, and ability of the lawyer or lawyers performing the services**
11. **Whether the fee is fixed or contingent**
12. **The time and labor required**
13. **Whether the client gave informed consent to the fee**

California Rules of Professional Conduct Rule 1.5



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A background image of a pair of scales of justice, rendered in a dark teal color, positioned on the left side of the slide.

Hourly Rate v. Alternative Fee Arrangements

Alternative fee arrangements (AFAs) are any billing arrangement other than a standard hourly rate

Alternative Fee Arrangements Overview, Thomson Reuters



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A background image of a pair of scales of justice, rendered in a dark teal color, positioned on the left side of the slide.

Fixed Fees or Standard Fees

Commonly used for routine legal matters, such as preparing a simple will.

Note: Before agreeing to a fixed fee, clients should confirm what it does and does not include, and see if any other charges may be added to the bill

The State Bar of California, What to Expect Regarding Fees and Billing



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Retainer Fees or Deposits

A retainer can mean different things to different people.

- Can be used to guarantee that the lawyer will be available to take a particular case
- Can mean that the lawyer is “on call” to handle the client’s legal problems over a period of time
- Can be considered a downpayment on legal services the client will need

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True Retainers

A true retainer is a fee that a client pays to a lawyer to ensure the lawyer’s availability to the client during a specified period or on a specified matter, but not to any extent as compensation for legal services performed or to be performed

Note: These are rare and often disfavored

Cal. State Bar, *Rule 1.5: Fees for Legal Services*



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Statutory Fees

The cost of certain probate and other legal work is set by statute or law. For these proceedings, a court either dictates or must approve the fee

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Contingency Fees

A client will pay the lawyer a certain percentage of the money they receive if the case is won or a settlement is reached

Note: Commonly used in accident, personal injury, or other types of legal cases in which someone is being sued

- Attorneys cannot collect a contingent fee for representing a defendant in a criminal case (rule 1.5)

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Costs in Contingency Contracts

Fee percentage given to lawyers

- Between 20-50% of the recovery amount

No recovery = no fee

- If the case is lost, lawyer does not receive any payment

With either outcome, client must pay some or all court costs and other expenses

Contingency Fee, Wex, Legal Information Institute, Cornell Law School

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Success Fees

A success fee is a bonus paid only if the lawyer achieves a specific outcome agreed upon in advance

An attorney may charge their hourly rate and receive a success fee if certain pre-agreed terms are met

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Success Fees in Litigation

In litigation, success fees are contingency based

- If the matter is not won, no fee is received

This is strictly regulated by written agreement and contingency fee regulations

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Success Fees Transactional Matters

In transactional matters, success fees can appear in the form of a bonus for completing a specific task

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Why Move Beyond Hourly Billing

Outcome-based pricing reverses the traditional model by charging for results rather than time. Firms bill based on outcomes like winning a case or closing a deal

Alan Gutterman, *From Billable Hours to Value-Driven Legal Services*, Thomson Reuters



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Appeal of Outcome-Based Pricing

- **Predictability:** Clients know upfront what they'll pay, making budgeting easier and reducing billing disputes
- **Value adjustment:** Fees are tied to outcomes, encouraging firms to focus on strategic, high-impact work
- **Client satisfaction:** Clients feel they're paying for results not inefficiencies or administrative overhead

Alan Gutterman, *From Billable Hours to Value-Driven Legal Services*, Thomson Reuters



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WSJ-Top Lawyers' Fees Have Skyrocketed. Be Prepared to Pay \$3,400 an Hour

- Senior partners at some of the top U.S. law firms are charging a historic high of up to \$3,400 per hour for legal services
- This increase in rates is driven:
 - Competitive market
 - High stakes of litigation and corporate dealmaking
 - Ego
- Companies are starting to do more routine legal work in-house with the help of AI tools as a way to combat the increased billing rates
- Clients seem to be willing to pay premium rates for specialized expertise, but significant increases with the sophisticated AI tools available seem illogical

Erin Mulvaney, *Top Lawyers' Fees Have Skyrocketed. Be Prepared to Pay \$3,400 an Hour*. Wall St. J. (Feb. 18, 2026).



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9th Circuit Rules – When It Comes to Attorney Fees, Law firm Size Doesn't Matter

An appeals court ruling determined that a federal judge was wrong in ruling to deny “BigLaw rates” to a small, boutique firm

- The case involves Gaw Poe, a California firm employing former BigLaw attorneys
- The firm sought \$7.7 million in attorney's fees after prevailing in an antitrust case
- U.S. District Judge Michael Fitzgerald rejected the fee request
- The appeals court held that prevailing attorneys are entitled to fees reflecting their skill, experience, and reputation, regardless of the firm's size

Roy Storm, *When It Comes to Attorney Fees, Law Firm Size Doesn't Matter*, Appeals Court Rules, ABA J. (Feb. 24, 2026).



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Thank You for Joining Us !



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