

## Is the Billable Hour Impacting Our Mental Health?

By: Stephen Embry<sup>1</sup>

Much has been written about the problems associated with the billable hour business model. Numerous pundits have slammed it, deified it and blamed it for the profession's ills. None of this criticism has had much effect. The billable hour is still the primary way many clients pay their lawyers—and how lawyers make their money.

But sometimes lost in the discussion is the impact the billable hour model has on our collective psyche. However, more and more people in our profession are realizing that dependence on the billable hour is killing our mental health. For example, Jana Cohen Barbe, a senior partner in the global law firm Dentons, recently took the unusual step of publishing a frank and insightful [open letter to the profession](#). Her focus was just this point: the toll the billable hour model has on our mental health and our profession. Barbe was Dentons' first global vice chair appointed from the United States. She represents some of the world's leading financial institutions and insurance companies.

According to Barbe "... billable hours and revenue generation are the two key metrics in how law firms compensate attorneys.... Partners, including the most senior associates, ...have billable-hour targets and their compensation may rise or fall with the achievement or missing of those targets....The pressure then—to work seven days a week, to miss family events, to forgo vacations, to miss needed doctor's appointments—cannot be overstated. If you are like me, you feel guilty taking a Saturday or Sunday off, and it takes several days to let go of the guilt and begin to feel the relaxing effects of a vacation."

Others have noted the same thing. A [2015 study](#) titled *What Makes Lawyers Happy?* found that psychological predictors of well-being decreased as lawyers were required to bill more hours. Those lawyers with higher billable requirements cited less internal motivation, satisfaction and increased levels of alcohol abuse. A [2013 article](#) in the journal *Psychiatry, Psychology and Law* found that 37 percent of Australian lawyers surveyed displayed moderate to severe depression-related symptoms, and 35 percent screened positive for hazardous drinking. Among the survey respondents, lawyers who billed the highest number of hours experienced the worst psychological problems.

Without question, the pace of work and the desperate search by law firms for more profit has led to increased pressures on all firm lawyers to bill more hours. (A 1958 American Bar Association pamphlet [credited](#) for introducing the billable hour suggested a laughable—by today's standards—target of 1,300 hours a year). Today's billable hour targets are more likely to be upwards of 1,800 hours for partners and 2,200 hours for associates.

The American Bar Association sounded the official alarm as far back as 2002. "The profession's obsession with billable hours is like drinking water from a fire hose," wrote Justice

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Stephen Breyer in the forward to an ABA report. “The result is that many lawyers are starting to drown.”

### **Is This Any Way to Live? To Have a Meaningful Life?**

I’ve thought for a long time that our profession’s emphasis on billable hours is horrendous to personal and even professional relationships and opportunities. It forces us to make too many time-value judgments that too often are based purely on whether an activity is billable. It forces people away from real life and into a world where everything is billable (important), or not (not important). If it’s not billable, it better be very important. How many real-life (non-billable) conversations start without little apparent importance but rapidly turn into or lead to the very important?

And how many professional and personal opportunities do we miss by making value judgments from the start based on a billable v. non-billable analysis? How often do we fail to take advantage of business development or personal enrichment opportunities because to do so requires the investment of time that’s not billable?

Beyond this, while lawyers like to think of themselves as engaging in a “profession,” a noble calling, most have and exercise only a vague notion of any obligation to the profession or society. Because we focus exclusively on the billable hour, our system ultimately deprives the public of needed services, many of which we can’t bill for and those who need the services can’t afford. We lose any notion of the personal value of service to the broader community.

We also lose touch with what’s important. We lose the ability to relate in a meaningful way to our colleagues. We lose the ability to listen to things that aren’t immediately apparent to be billable. It’s no wonder we rank the highest of any profession in substance abuse and suicide. It’s no wonder we have the highest rate of dissatisfaction of any profession.

And as Jana Barbe correctly notes, “I am tired of seeing good partners, talented associates, and top-notch staff fight each other and fight their own worst impulses—because that is, most fundamentally, what our industry is motivating them to do.”

Of course, the more practical problems created by the billable hour model are well documented: it tempts the profession to overdo work, resulting in clients believing they have been charged too much for the problems they have asked their lawyers to solve. The profession inherently and unconsciously—or maybe consciously—resists technologies and processes that would bring greater efficiency, since that could mean fewer billable hours. The profession resists taking the time to do things most very other business routinely does because it’s not billable. Things like long-term planning, training and mentoring, research, and development. It’s not surprising that as a business and profession, legal lags in such things as innovation and efficiency.

## **A Watershed Moment?**

Barbe's letter is important and may be a watershed moment: it's an honest statement and assessment from a senior partner in one of the world's largest law firms, a firm that makes a lot of money billing by the hour. Her letter is a manifesto—not by an outside consultant, therapist or even a disgruntled lawyer—but by a Big Law leader. It's a public statement that our business model is not only bad business, but it also is not worth it terms of the human and professional costs. It's a public declaration that the model is flawed, and we desperately need change. (It should not escape attention that this comes from a woman leader. This is even more evidence that, as a profession, we need more women and diverse people in law leadership positions.) If we aren't willing to look hard at reducing our dependence on the billable hour for pure business reasons, let's do it for our mental health and well-being.