Value Practice:
Maximizing Value in Fee Relationships- Valorem Law Group

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Interviewed while: Founding Member, Valorem Law Group, Chicago

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Valorem describes itself as a revolutionary law firm made up of "large firm refugees" who are committed to killing the billable hour. Valorem ("value" in Latin) handles business litigation using a host of non-hourly fee arrangements that are customized to meet client goals.

- Among the firm's fee arrangements:
  - pure contingency
  - fixed initial payment plus contingency
  - fixed monthly payment with holdback distributed in client's discretion
  - fixed monthly payment with holdback multiplied and converted into stock options upon successful result
- Over 90% of new work since opening (1/2/08) has used alternative fees

Fee arrangements should be customized to reward those behaviors the client wants rewarded. Some examples include:

- results
- fee certainty
- speed of resolution
- taking a "scaled approach" to the problem
- early resolution

In Valorem's view, a true winning fee arrangement has the following elements:

- alignment of client and firm economic interests ("partners in the endeavor")
- fee certainty (no surprises)
- transparency (client should be able to see what the firm is doing at all times in as much detail as desired)
- have "skin in the game" (the client should never wonder if the firm is fully committed to them or the matter)
- specific objectives for the matter are clearly identified, agreed to in writing by all stakeholders and all participants agree to judge success or failure against those objectives

CRITICAL: CLIENT MUST BE THE JUDGE OF VALUE, SUCCESS OR ANY OTHER SUBJECTIVE ELEMENT OF REPRSENTATION.

Every Valorem Invoice includes this **Value Adjustment Line:**

Proposed Invoice Amount: **XXX,XXX.XX**

Exceptional service and value are the standards we live by. If, for any reason, you do not believe that the services we provided should be valued as agreed, we encourage you to make any adjustment -- up or down -- that you believe is warranted.

Value Adjustment	
TOTAL DUE	

Some common questions about Valorem's approach:

1. What happens if the case resolves early? Do you still get paid the full amount agreed to?

   Valorem states that they make great efforts to identify early on, through Early Case Assessment protocols, the real value of the case and resolve those cases that can be favorably resolved sooner rather than later. Unlike its colleagues using the billable hour approach, Valorem doesn't make more if the case lasts longer. The firm says it has seen too many cases that shouldn't end up as financial black holes because early resolution opportunities were missed and e-discovery costs ran amok.

   If the case resolves early, the total amount the firm is paid is entirely up to the client. If the case settles because of something the client did, the firm would encourage the client to ***not*** pay Valorem the full agreed upon amount. The firm does not want the client unhappy about working with the firm. Valorem's goal is to make clients want the firm for future cases. On the other hand, if the case settles early because of the firm's efforts, the firm likes to think clients will recognize that on the Value Adjustment Line. But either way, it is entirely up to the client.

2. Can clients really mark the invoice up or down?

   You bet. Valorem hopes clients will want to mark it up but if the firm is not good to its promise, the firm needs to be sure clients only pay what they think is deserved. The Value Adjustment Line serves two really important purposes. It is an early warning indicator that the firm is not living up to its commitment, and that is something the firm wants fixed promptly. It also is there to remind clients that its relationship is about delivering value. The firm's experience is that if it delivers real value, clients will want to work with the firm again (and you will tell friends about the firm too).

3. How does the firm determine what the fee should be? Isn't it easier to just guess the number of hours it will take and multiply by an hourly rate?

   Not at all. First, hourly rates have a firm's profit built into them. So if you simply multiply expected hours times the firm's rates, you'll get a number that has the firm's profit built into it, regardless of result. The key to a successful alternative is that risk is shared, which means that the base number has to result in a lower cost to the client than an hourly fee, which has a firm's profit built in. Second, a huge amount of time spent on matters is wasted or at least generates very low ROI. Valorem believes that the firm avoids low ROI time commitments and can focus on the things that get the best result quickly because it has highly experienced lawyers collaborating together on client matters.

   Valorem's fee arrangements are customized, and more than one fee option is generally offered. so clients can choose the fee approach that provides the greatest value on the specific engagement.

4. How do clients know that Valorem won't under staff the matter?

   The holdback. Valorem's fees are structured so that a substantial portion of the ultimate fee is held until the end of the engagement. If clients are not satisfied with the result, they aren't going to pay it. The firm's motivation is to secure the result that makes clients want to pay the holdback amount ***and*** to hire the firm for the next engagement. Many firms say this. Valorem believes that it puts its money behind the statement.

5. I've heard a lot of talk about law firm business models lately. How do business models relate to alternative fees?

   Switching from the billable hour model that most firms employ to an effective alternative fee model requires remaking the firm, or, as Valorem did, starting from scratch. Valorem believes that most firms work in silos—senior partner, younger partner, senior associates, younger associates, and work is pushed down. That's how Valorem believes the leverage model works: a majority of the work is done by younger, inexperienced lawyers.

Valorem believes that an effective alternative fee firm is structured to emphasize experience. Since the firm has an economic interest in the outcome and in maximizing efficiencies, it relies on collaboration and experience rather than body count. Valorem believes that a firm that has not made this change is not going to be able to price its services in the same manner.

6. Won't the firm be outgunned by its adversary?

   Valorem says "never." Don't mistake body count for brainpower. Valorem says it has litigated against some of the largest and most respected firms in America who employed teams many times Valorem's size. Experience, efficiency and agility trump legions of inexperienced attorneys every time. For Valorem, its self-described "secret weapon" is that its senior lawyers have a diverse range of experience, and collaborate effectively—since income is influenced by the outcome achieved, the firm has a real incentive to work together. To remove any individual concern, Valorem's partners are all paid exactly the same amount, so there is no personal impediment interfering with maximizing the results the firm achieves for its clients. And, because client fees are set, the firm believes that clients don't pay for that collaboration, but benefit from it.

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