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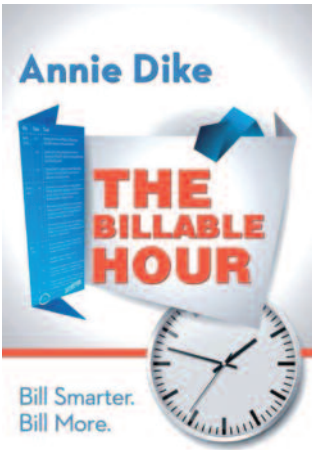
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A Guide to the Independent Child Custody Evaluation

ALSO: (Not) Summary Judgment

Consular Non-Reviewability Doctrine



By Annie Dike |
LexisNexis | \$40 | 100 pages
| 2013 | Available at
www.lexisnexis.com/store

The Billable Hour

Upon being asked to review a book titled *The Billable Hour: Bill Smarter. Bill More.*, I couldn't help but recall the refrain of Sally Struthers asking, "Do you want to make more money? Sure, we all do."¹ And, sure enough, the first paragraph of the text claims, "[i]f you want to bill more — and we all do — this book is for you." While *The Billable Hour* does offer perfectly valid suggestions on crafting time

records that explain to the client the value of your efforts, whether it is indeed "the book for you" likely depends on your length of time in private practice.

Author Annie Dike begins with a proposition that promises to be earth-shattering for most lawyers who bill by the hour. "There is no clock," she proclaims. What she means, however, is something far more pedestrian. Ms. Dike suggests that attorneys should seek to capture the amount of time spent on a task and not necessarily the exact minutes of the day that the task occurred. Thus, one should "reasonably estimate" the time spent on each activity "[b]ecause it is impossible to go back and recall what time you began...and completed ... the task."² In other words, lawyers should probably bill .1 for reviewing an email and not worry about whether the endeavor took place from 8:32 – 8:36 a.m. or from 9:05 – 9:11 a.m. A useful tip to be sure, but not exactly revolutionary — and it most certainly requires a clock.

From this underwhelming opening, the book continues as a collection of mostly good but no better than common-sense advice. The short text is divided into chapters such as "Bill in Bites Not Blocks," "Bill in More Detail," and "Bill More Paralegal Time." For example, Ms. Dike explains that by breaking up time entries into separate tasks, rather than lumping them all

together as a "block," the attorney provides the client with a clear, itemized description of the work. The implication is that this also likely results in more total time billed.

Ms. Dike also provides tips about capturing time that could otherwise be lost. She encourages attorneys to review emails and phone calls made each day to make sure all tasks were recorded. If you spend time reviewing documents or case law, write a memo for the file to memorialize the effort and create valuable work product for the client. Use terms like "updating" or "indexing" a file to avoid the appearance that organizational work using legal skills is merely clerical.

It's not that Ms. Dike's advice is wrong or bad on the whole — it's just that it literally goes without saying for the seasoned (and not-so-seasoned) practitioner. Law firms take billing seriously, and clients take their bills seriously. So, most practitioners quickly adopt the tried-and-true approaches espoused by Ms. Dike. That said, no one comes to work on the first day at a law firm as an expert in billing. Everyone has to start somewhere, and this text suffices as a fine introduction to the concept of billing by the hour.

Of course, no discussion of billing practices is complete without at least an acknowledgment of ethical responsibilities to the client and the court. Ms. Dike sidesteps the issue by reminding readers that they must use their professional

judgment in implementing any of her suggestions. In that same vein, this review will not comment on the advisability of any particular suggestion in the book other than to say that (1) I agreed with many of her practices and disagreed with some and (2) I think the professional judgment of reasonable lawyers will vary.

Ethical considerations aside, there were some discussions that seemed superfluous, like the debate between whether one should record time as “preparing” rather than “drafting” a letter. There were also suggestions that struck me as downright peculiar, such as filing all fee requests under seal so as to protect the lawyer’s billing information that is “sensitive and proprietary and vital to the continued business” of the law firm. And, of course, there was the moment I had to shake my head:

If your state court e-filing system is anywhere near the twentieth century, your paralegal or assistant is probably copied on every email you receive from the court.

Considering that my state court’s e-filing system is just now evolving out of the theoretical phase, is “no comment” an appropriate statement for a book review?³

Speaking of matters that may not usually be commented upon, the book is unusual for a law-related text in that it provides credit to its “designer.” Publishers know that design is important, and *The Billable Hour* is evidently designed for the reader who does not have a lot of time to spend reading. On the positive side, this means that sample time entries appear on almost every page, providing concrete examples of the suggested billing practices. Additionally, the book is sprinkled liberally with quotes from various court cases underscoring the importance of well-maintained attorney billing records. Other

efforts to break up the text are less successful, however. The very large font, odd margins, and overuse of shaded text boxes and italics, along with ample stock photography of file folders, sticky notes, and, of course, Rodin’s *The Thinker* combine to give the impression of a student stretching a term paper to meet a page number minimum and adding flash to mask a lackluster substance.

The lack of depth is made prominent when Ms. Dike concludes her text with an apt summary: “[t]he primary goal is for you to train yourself to keep up with tasks as you perform them.” This statement is so on-the-nose as to approach glibness.⁴ In fact, it calls to mind the currently popular meme “I survived another meeting that should have been an email.” Ms. Dike’s premise and practice tips would likely make an excellent CLE for the beginning lawyer, but the material feels too thin to support a book. Indeed, although the proof copy I reviewed was in print form, the book is now available in electronic format through the Lexis digital store. And it is ultimately this format change — and the resulting price decrease of almost 30 percent — that may well tip the balance in favor of making the purchase worthwhile for certain lawyers.⁵

The Billable Hour is not the book for you if you’ve been in practice for any length of time. It’s probably not the book for you if your firm has embraced Alternative Fee Arrangements, which already comprise an estimated 22 percent of revenues at some of the world’s largest firms.⁶ On the other hand, if you’re a new lawyer, new to private practice, or a new solo practitioner, the book is likely worth the cost in both dollars and time it takes to read it. Similarly, firms seeking a quick way to teach “best practices” in billing to new associates or paralegals may find that the book can

jumpstart the onboarding process and help ensure consistency throughout a firm’s bills.

Like Sally Struthers, we may all want more money, but as to whether *The Billable Hour* will help you get there, your mileage may vary. ^{ATA}

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Notes

1. .3 Contemplated whether Sally Struthers reference was too dated. Strategized regarding potential alternate references. Googled Sally Struthers to confirm spelling of name. Watched YouTube clip of Struthers commercial.

Reviewed Struthers’s Wikipedia page and learned that Rob Reiner was a staff writer on *The Smothers Brothers Comedy Hour*. Spent a moment being nostalgic for when Nick at Nite showed something other than *Friends*.

2. .1 Reviewed guidelines for quotations when omitting words from a sentence. Research to confirm quotation was accurate. Fretted over whether the ellipses were more distracting than useful.

3. .5 Drafted non-sequitur about SEC football because the author practices in Alabama. Deleted non-sequitur.

4. .1 Researched *glib* to confirm proper noun form. Got distracted by graph displaying usage over time for the word in Google ngram viewer. <https://books.google.com/ngrams>

5. .2 Researched availability of texts. Calculated price difference as a percentage. Re-calculated because they don’t teach math in law school.

6. See http://www.researchandmarkets.com/research/cbtkgd/2015_alternative.