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Wyoming State Bar

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**REPORT OF
THE COMMITTEE ON MINIMUM FEE SCHEDULES**

Your committees, the one comprising a member of the State Bar from each judicial district and the second composed of a member from each county, selected by you to consider and, if found advisable, recommend a minimum fee schedule for the State Bar, have this to report of their activities, investigation and conclusions.

Our first step was to determine whether a majority of the State Bar were in favor of the adoption of such a schedule; if so, what name it should bear. Appropriate ballots were sent to the members of the State Bar giving them the chance to express their preference on both questions. Of the 148 ballots returned and voting, the following was the result:

For adoption of schedule of minium fees	122
Against adoption of schedule of minium fees	18
Not voting	6
	148

The same ballots overwhelmingly indicated the selection of "Minimum Fee Schedule" as the preferred name.

More than 148 ballots were mailed out but some 55 were returned unclaimed and quite a number wrote saying they did not think they should vote on the propositions submitted because they had either retired from practice, had entered government service or were corporate employed, entered other business or were practicing in other states.

Our next problem was to determine the form and substance of the schedule without regard to the amount of any suggested minimum fee; that is, wether the schedule should take an elaborate form similar to the Wisconsin and Minnesota schedules, giving detailed figures, and the facts from which the figures originated, or whether the schedule should be confined to an enumeration of such of the usual items of professional work engaged in by the ordinary lawyer which would serve as a framework for the various suggested minimum fees as well as those items not specifically enumerated but requiring comparable effort and skill.

Letters were mailed to the personnel of the committees asking for suggestions on this proposition. The replies amounted to a perfect blank. After considerable time and consultation with printers on costs, we set up a frame work for a schedule, mailed it out and invited suggestions as to changes in form. The suggestions received also amounted to a perfect blank, so we proceeded on the theory that if there were no suggestions, the forms met with the approval of those concerned.

It must be remembered that our activities were being carried on by mail, not personal contact, which nearly always results in delays.

In the meantime, letters were directed to many of the Bar Associations listed in Martindale-Hubble Directory, principally in the western states, asking for at least thirty-five copies of their fee schedules so that each member of your committees could have one. From some of these associations, we got none, some on or two and from one, seven. We were unable to furnish the committee personnel with schedules as precedents so for this reason, their failure to answer can be explained and excused.

We did, however, succeed in accumulating twenty-nine copies of schedules issued by State and Local Associations in other states and some five or six from county associations in Wyoming. These all proved of value for the purpose of comparison as to form and contents. The Minnesota, Wisconsin, Polk County (Des Moines, Iowa), and Cleveland, Ohio, schedules were valuable from the standpoint of their references to various articles on the subject of legal fees.

Many of these articles we were able to obtain and found to be very instructive. They all strove toward the same goal, i.e., a scientific basis for legal charges. Summarizing them, we are forced to the conclusion that, human nature being what it is, no set formula can be established and the best that can be done is to theorize on a basic formula.

Some of the authors of the articles take an idealistic view and stress the point that our profession should not be treated as a "money-getting trade". Others take a middle-of-the-road outlook and endeavor by their writing to keep the profession on a dignified, but paying, basis; and another group is more liberal and advocates the proposition that considering a lawyer's investment in his education, his apprenticeship days, his investment in office equipment and library and his responsibilities toward his clients' affairs, he is entitled to charge a generous fee.

Students on the subject generally agree that there are six prime factors which form the basis for legal charges. They are:

1. The effort expended.
2. Amount involved.
3. Result accomplished.
4. Customary and competitive charges.
5. Ability of the client to pay.
6. Prestige or standing of the lawyer.

The authorities seem to indicate that "the effort expended" is the most important of these factors because more than any other factor, this one involves more of the lawyer's available time than any other. They point out that the more effort expended on any given task ends in better service to one's client whether the effort is expended in thought, investigation or research, and that there is just so much available time allotted to the practitioner, which, in turn, they figure as follows:

Days in year	365
Deduct:	
Sundays	52
Half Saturdays	26
Holidays	9
Vacations (productions days)	12
Sickness, outside activities, etc.	12
	<hr/>
	111
	<hr/>
Total productive days per annum	254
Assume, working hours per day	8
Deduct for answering mail, visiting with clients, getting rid of law book salesmen, etc., etc.	2
	<hr/>
Productive hours per day	6

If you are on the ball six hours per day for 254 days, and we know you won't be, you will have available 1524 productive hours per annum to earn for yourself and your Uncle Sam. Say we sneaked away and fished or played golf or watched a ball game now and then, so let's cut off the 24 hours and make it 1500.

On the basis of 1500 productive hours per annum available, the question then arises, how much per hour does one have to charge to reach a comfortable living income for one's self and family, to say nothing of our Uncle. In computing this, there must be taken into consideration an item called "office overhead".

The national average in 1951 for office overhead for lawyers amounted to \$2.66 per hour. We asked the members of the State Bar to compute their respective overhead based on the time alone available formula, promising if they would do so, their figures would be confidential except so far as it entered into a computation of the State average. A good many of them did not trust us or maybe they were stunned into a paralytic inertia, commonly called "writers' cramp", by the realization that such a thing as overhead should exist in a law office; whatever the cause, only few answered. Believe it or not, the few who did answer and gave us their figures, the state average amounted to \$2.87 per hour. So, Wyoming runs close to form.

Let us give you some more figures from the experts:

"The lawyer's income will depend upon his average charge per hour and after deducting \$2.66 per hour for 'overhead', the net income may be:

\$ 4.00 per hour to net approximately	\$ 2,000 per year
\$ 5.00 per hour to net approximately	\$ 3,000 per year
\$ 6.00 per hour to net approximately	\$ 4,000 per year
\$ 8.00 per hour to net approximately	\$ 8,000 per year
\$10.00 per hour to net approximately	\$11,000 per year
\$12.00 per hour to net approximately	\$14,000 per year
\$16.00 per hour to net approximately	\$20,000 per year"

You will please note that the foregoing is a quotation which fact we call to your attention lest we are called in to prove the correctness of the figures. We take them in the same spirit as when the judge says thus and so is it, that's it and no argument except to one's self! In fact, there is not an original thought in this foregoing, it should all be quoted, only to do so would make the report even larger than it is.

Thus, time being of the essence, it is perhaps the most influencing element in the other prime factors. Time spent influences "Effort Expended". Time spent influences "Results Accomplished" and in time, time spent will influence the standing and prestige of the lawyer. Thus, of the six prime factors, we have but three left, the "Amount Involved", the "Ability of the Client to Pay" and "Customary and Competitive Charges". Of the first of these, we have no control. Of the last, more anon.

We set this summary of our investigation down for two reasons, 1) hoping it might be of some benefit to the members of the State Bar and 2) to show off a little and let you know that what we have done has some background other than our own, so if some member wants to argue, he may do so, but with the authors of the figures, not us.

In compiling the schedule, we herewith submit for the consideration of the State Bar, the factor "Customary and Competitive Charges" has been stressed because we believe that the other factors have received due consideration in arriving at a customary charge.

Of the twenty-nine schedules from other states and the five or six from local associations in Wyoming, we have considered only those which represent recommended minimum fees. These schedules of other states are not in accord. Neither are the schedules from the local associations within the state. The best we could do is to average the recommended minimum charge for each individual item and increase or decrease the result to the nearest even dollar. This is what our schedule shows, the average recommended minimum fee.

The propriety of the adoption of a minimum fee schedule is a moot question. There are sound reasons both for and against. For instance:

Some writers say that the attending publicity is poor public relations because it has the appearance of the lawyers getting together to mulct the public.

Some say that a fee schedule defeats its own purpose because an "able-to-pay" client who is aware of the schedule could and should expect to be treated as every one else.

Others advance the idea that because it is not enforceable, it tends to bind the conscientious lawyer and aids the chisler.

Another school of thought on the subject adheres to the idea that

the relationship of attorney and client is a very personal one and that fee fixing removes the personal element.

On the other hand, others point out that schedules have been used successfully for years in various communities without any detrimental effects.

That it acts to deter fee cutting; is a final and satisfactory answer to a shopping client; and, a guide to the young attorney who is otherwise at a loss to know what to charge is a safe conclusion. One authority quotes with approval the language of the Colorado Medical Association in saying:

“Such schedules are good public relations in allaying the fears of the public on an uncharted and mysterious sea.”

In submitting this schedule, we have endeavored imparitally to carry out our directive. We have had no thought but to determine, to the best of our ability, all elements and ideas considered, what constitutes a fair, average minimum fee.

We have been asked to write teeth into the schedule to assure its enforcement. This we cannot do and would not attempt. Every lawyer must be the judge of his own professional behavior.

In submitting the schedule, we do so with the following recommendations:

1. If a schedule is adopted, that the District, Federal and Supreme Court Judges be asked to approve it as it very often becomes incumbent upon them to set fees.
2. That any schedule adopted be made personal to and within the members of the State Bar and not given out for general publication.
3. The creation of a standing committee on Minimum Fees for the reason that this important subject needs much refinement, supervision and study from year to year, and the chairmanship be rotated each year.
4. If the kind offer of Bancroft-Whitney Company of San Francisco, California, to print any schedule free of charge for the State Bar is accepted, that appropriate acknowledgment be made in the schedule.

This has been an interesting and instructive assignment. It has been a pleasure to work with such a splendid committee personnel and if our efforts prove of benefit, we will feel well repaid.

Judicial DIIIjo

Respectfully submitted,
JUDICIAL DISTRICT COMMITTEE

1st District:

Allen A. Pearson, Cheyenne, Wyoming

2nd District:

Frank R. Schofield, Green River, Wyoming

3rd District:

Harry L. Harris, Evanston, Wyoming
 4th District:
 Henry A. Burgess, Sheridan, Wyoming
 5th District:
 Oliver W. Steadman, Cody, Wyoming
 6th District:
 Rodney Guthrie, Newcastle, Wyoming
 7th District:
 Joseph Garst, Douglas, Wyoming.

COUNTY COMMITTEE

William R. Jones	Platte County	Wheatland, Wyoming
William G. Walton	Laramie County	Cheyenne, Wyoming
Stanley K. Hathaway	Goshen County	Torrington, Wyoming
Albert F. Nelson	Sweetwater County	Rock Springs, Wyoming
Vernon G. Bentley	Albany County	Laramie, Wyoming
Harold Johnson	Carbon County	Rawlins, Wyoming
Vincent A. Vehar	Uinta County	Evanston, Wyoming
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Edward S. Halsey	Weston County	Newcastle, Wyoming
Arthur Oeland	Fremont County	Lander, Wyoming
Marvin L. Bishop	Natrona County	Casper, Wyoming
T. C. Daniels	Converse County	Douglas, Wyoming

By:

JOSEPH GARST
 General Chairman.

REPORT ON THE 1954 ANNUAL MEETING OF NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

The 1954 Annual Meeting of the National Conference of Commissioners on Uniform State Laws was held at the Conrad Hilton Hotel in Chicago, Illinois, during the week of August 9. The State of Wyoming was represented at that meeting by Alfred M. Pence of Laramie and H. Glenn Kinsley of Sheridan. The Conference was attended by 108 Commissioners from 46 Jurisdictions.