

HOW THE BILLABLE HOUR CAN SURVIVE GENERATIVE AI

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INTRODUCTION

Generative AI has the potential to radically accelerate the speed at which law is practiced.¹ Some tasks that once took lawyers hours (or days) can now be completed in minutes (or seconds).² Other tasks that once required teams can now be handled by a single lawyer—if they require a lawyer at all.³ Many lawyers and clients believe these generative AI-fueled efficiencies will bring significant benefits.⁴ But it is equally clear they will pose serious challenges as well.

One of these challenges is lawyer compensation. After all, in the American legal profession, time is literally money. For more than half a century, the billable hour model has been the dominant approach to law firm economics.⁵ In this model, law firms are

1. See *Future of Professionals Report 2025*, THOMSON REUTERS, <https://www.thomsonreuters.com/content/dam/ewp-m/documents/thomsonreuters/en/pdf/reports/future-of-professionals-report-2025.pdf> (last visited Oct. 26, 2025) (predicting lawyers using AI are already saving up to five hours per week) (on file with the *Stetson Business Law Review*); *AI Set to Save Professionals 12 Hours Per Week by 2029*, THOMSON REUTERS (July 9, 2024), <https://www.thomsonreuters.com/en/press-releases/2024/july/ai-set-to-save-professionals-12-hours-per-week-by-2029> [<https://perma.cc/28AW-XVKX>] (predicting AI could free up to 12 hours per week within the next five years).

2. See, e.g., John Villasenor, *How AI Will Revolutionize the Practice of Law*, BROOKINGS (Mar. 20, 2023), <https://www.brookings.edu/articles/how-ai-will-revolutionize-the-practice-of-law/> [<https://perma.cc/NA2A-FHBE>] (“AI will vastly accelerate this process, doing work in seconds that without AI might take weeks.”); Jonathan H. Choi, Amy B. Monahan & Daniel Schwarcz, *Lawyering in the Age of Artificial Intelligence*, 109 MINN. L. REV. 147, 153 (2024) (“AI assistance reduced the amount of time that participants took to complete the tasks roughly uniformly regardless of their baseline speed.”).

3. See Richard Susskind, *Artificial Intelligence Could Replace Traditional Lawyers by 2035*, THE TIMES (Mar. 27, 2025, at 12:00 GMT), <https://www.thetimes.com/uk/law/article/artificial-intelligence-could-replace-traditional-lawyers-by-2035-xwz2j0t2k> [<https://perma.cc/FP3S-3ZV7>].

4. See *The Wolters Kluwer Future Ready Lawyer Report: Embracing Innovation, Adapting to Change*, WOLTERS KLUWER, <https://www.wolterskluwer.com/en/know/future-ready-lawyer-2023> [<https://perma.cc/8PCW-7XPW>] (last visited Oct. 26, 2025) (finding that 85 percent of law firm lawyers and 84 percent of legal departments expect to make greater use of technology to improve productivity); Suzanne McGee, *Generative AI and the Law*, LEXIS NEXIS, <https://www.lexisnexis.com/html/lexisnexis-generative-ai-story/> [<https://perma.cc/876D-YA36>] (last visited Oct. 26, 2025) (noting that 77 percent of lawyers believe generative AI tools will increase efficiency, and 63 percent believe it will change how law is taught and studied).

5. See Jonathan H. Choi, *In Defense of the Billable Hour: A Monitoring Theory of Law Firm Fees*, 70 S. C. L. REV. 297, 298 (2018) (identifying the beginning of the billable hour as the 1970s); Charles N. Geilich, *Rich Man, Poor Man, Beggar Man, Thief: A History and Critique of the Attorney Billable Hour*, 5 CHARLESTON L. REV. 173, 173–74 (2010–2011) (identifying the beginning of the billable hour as the “mid-1960s”); Stuart L. Pardau, *Bill, Baby, Bill: How the Billable Hour Emerged as the Primary Method of Attorney Fee Generation and Why Early Reports of Its Demise May Be Greatly Exaggerated*, 50 IDAHO L.

compensated in direct proportion to the number of hours (or, more often, tenths of hours) their lawyers work.⁶ And all lawyers—even those that eschew hourly billing in favor of alternative fee arrangements—are required by the rules of professional conduct to only charge their clients “reasonable amounts” given the “time and labor required” to complete the task.⁷ As a result, the promise of greater efficiency paradoxically has the potential to harm the financial stability of law firms and, by extension, the lawyers that they employ.⁸ For this reason, a number of scholars,⁹

REV. 1, 3 (2014) (“[T]here was a direct correlation between the hours worked by the lawyer and the services she produced and therefore the fees she generated [by 1975].”); Susan Saab Fortney, *Soul For Sale: An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements*, 69 UMKC L. REV. 239, 246 (2000) (“Attorneys may be surprised to learn that hourly billing first became common between the 1950s and 1970s.”).

6. See *infra* Part II.

7. MODEL RULES OF PRO. CONDUCT r. 1.5 (A.B.A. 2020).

8. See WILLIAM G. ROSS, *THE HONEST HOUR: THE ETHICS OF TIME-BASED BILLING BY ATTORNEYS* 2 (1996) (explaining that the billable hour “diminishes the incentives for expeditious work”); RICHARD SUSSKIND, *TOMORROW’S LAWYERS: AN INTRODUCTION TO YOUR FUTURE* 35 (3d ed. 2023); Choi, *supra* note 5, at 303 (“Finally, billable hours encourage thoroughness but discourage efficiency. In general, lawyers billing by the hour will try to overestimate the extent of legal work and complete matters as slowly as possible.”); *The Inherent Client Conflict of Interest Caused by Hours-Based Billing*, RALPH BAXTER (Mar. 10, 2015), <https://www.ralphbaxter.com/legal-services-today-blog/the-inherent-client-conflict-of-interest-caused-by-hours-based-billing> [<https://perma.cc/WTT6-4RNS>]; A.B.A., *REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES* 16 (2016), https://iaals.du.edu/sites/default/files/documents/publications/aba_future_of_legal_services_report.pdf [<https://perma.cc/DEN8-MMQ6>] (last visited Oct. 26, 2025) (“The billable hour model, which enables lawyers to earn more money if they spend more time on a matter, arguably provides less of an incentive to develop more efficient delivery methods than other ways to charge for services.”).

9. See Nancy B. Rapoport & Joseph R. Tiano Jr., *Fighting the Hypothetical: Why Law Firms Should Rethink the Billable Hour in the Generative AI Era*, 20 WASH. J. L. TECH. & ARTS 41 (2025); Michael Guihot, *New Technology, the Death of BigLaw Monopoly and the Evolution of the Computer Professional*, 20 N.C. J.L. & TECH. 405, 448-49 (2020); Joseph Anderson, *AI and the Legal Puzzle: Filling Gaps, But Missing Pieces*, 75 MERCER L. REV. 1521, 1521 (2024); Andrew M. Perlman, *The Legal Ethics of Generative AI*, 57 SUFFOLK UNIV. L. REV. 345, 354 (2024) (“[I]f generative AI dramatically reduces the time it takes for lawyers to provide some kinds of services, we are likely to see a greater shift towards alternative fee arrangements and an increased focus on the value of a lawyer’s services rather than the time spent on a matter.”); Willem H. Gravett, *Is the Dawn of the Robot Lawyer upon Us? The Fourth Industrial Revolution and the Future of Lawyers*, 23 POTCHEFSTROOM ELEC. L.J. 1, 26 (2020) (“Highly capable systems will assume a steadily increasing share of law firm billable hours, be applied to an ever-expanding set of legal tasks, and require knowledge and abilities beyond the existing skill set of most lawyers practicing today.”).

practitioners,¹⁰ legal commentators,¹¹ and state bars,¹² have predicted that generative AI adoption may fundamentally change, if not eliminate entirely, the billable hour model. At its core, this prediction is based on the view that because generative AI will significantly reduce the time that lawyers need to spend on certain tasks and will eliminate other tasks entirely, the total number of hours that lawyers can bill their clients for will decline.¹³ If that happens, the argument goes, this will cause an overall decrease in law firm revenues which will prompt lawyers and law firms to rethink or reject the hourly billing model in favor of more lucrative

10. See *How AI Is Transforming the Legal Profession (2025)*, THOMSON REUTERS (Aug. 18, 2025), <https://legal.thomsonreuters.com/blog/how-ai-is-transforming-the-legal-profession/> [https://perma.cc/32EU-HG4A] (“43% of legal professionals anticipate a decline in hourly billing models over the next five years.”); Mathew Kerbis, *Use Artificial Intelligence Intelligently: Avoid Sanctions, Ditch the Billable Hour, and Become the Lawyer of the Future*, GPSOLO MAG. (Oct. 11, 2023), <https://www.americanbar.org/groups/gpsolo/resources/magazine/2023-september-october/use-artificial-intelligence-intelligently/?abjoin=true> (on file with the *Stetson Business Law Review*) (“Sure, lawyers can increase their billable rate by ten times or more to make up the difference, but clients are not going to want to spend \$10,000 an hour for legal services, even if they actually end up spending only \$1,000 and get the result much sooner. Lawyers must adopt subscription and value-based flat-fee pricing to survive in the world of GenAI.”); Justin Smith, *Lawyers Report Saving Up to 32.5 Working Days per Year with Generative AI*, EVERLAW (July 22, 2025), <https://www.everlaw.com/blog/ai-and-law/lawyers-report-saving-up-to-32-5-working-days-per-year-with-generative-ai/> [https://perma.cc/DDH6-XJ2T] (“A remarkable 90% of respondents believe that generative AI has already altered conventional billing practices, or will within the next two years.”).

11. See James W. Jones, *How Law Firms Ended Up with the Billable Hour Model*, THOMSON REUTERS (Feb. 11, 2025), <https://www.thomsonreuters.com/en-us/posts/legal/billable-hour-history/> [https://perma.cc/8SGB-VSK2] (“And now, as we move into 2025 and engage a more AI-driven approach to legal work, many predict the billable hour . . . may have to change too.”); Suzi Ring & Emma Jacobs, *Why the Billable Hour Is Still King in the Legal World*, FINANCIAL TIMES (Jan. 27, 2025), <https://www.ft.com/content/7750aff2-0677-4ba9-b571-4e02cf83950d> (on file with the *Stetson Business Law Review*).

12. See, e.g., Isabel Gottlieb, *NJ Bar Warns of AI's Impact on Billing in Guidance for Lawyers*, BLOOMBERG LAW (June 3, 2024, at 17:15 EDT), <https://news.bloomberglaw.com/business-and-practice/nj-bar-warns-of-ais-impact-on-billing-in-guidance-for-lawyers> (on file with the *Stetson Business Law Review*); Reasonable Fees and the Use of Generative A.I., Va. Legal Ethics Draft Op. 1901 (Mar. 20, 2025) (“The factor addressing ‘the amount involved and the results obtained’ supports value-based billing models that focus on outcomes rather than inputs.”).

13. Debra L. Elsbury, *Welcoming the Internet of Things to Our Legal Organizations*, 39 LEG. MGMT. 3, 4 (2020) (arguing that AI disrupts the billable hour model by making legal work faster and more efficient, which undermines the traditional way lawyers earn money); Guihot, *supra* note 9, at 411–12 (arguing that law firms that depend on junior associates for profit may resist tech disruption, because automation could render many of those roles obsolete); Anderson, *supra* note 9, at 1551 (arguing that if AI delivers similar legal output more cheaply, clients will have no reason to pay traditional high fees for the same work).

approaches.¹⁴ This could in turn cause, as one commentator put it, “the billable hour [to] face an existential crisis.”¹⁵ Or maybe we are already there. As one senior lawyer in the UK cautioned, “at this rate [the billable hour] could be dead in months rather than years.”¹⁶

This Article will refer to this prediction that AI-fueled efficiency will destabilize the billable hour as the “AI Efficiency Hypothesis”. Yet, although it is certainly one possible outcome, this Article challenges its inevitability. This Article argues instead that although generative AI will undoubtedly make some legal tasks more efficient to complete and eliminate other tasks entirely, generative AI adoption by lawyers has the potential to reinforce rather than disrupt the billable hour model. The analysis proceeds in three parts.

Part I makes the institutional case for the billable hour’s opportunity to remain viable in the age of generative AI. By briefly tracing the history of the billable hour model in the American legal profession, it explains why—despite decades of criticism—the longstanding structural justifications for the hourly billing model may be sufficiently sticky to protect the model’s continued relevance even as AI adoption increases.

Parts II and III then make the practical case that the billable hour has the potential to serve as an effective compensation model even in a world of AI-enhanced lawyering. Specifically, Part II challenges the seeming inevitability of the AI Efficiency Hypothesis by introducing a new but simple framework for conceptualizing the relevant variables that contribute to the hourly billing model. This framework—which the Article will refer to by its acronym “CHARGE”—can be represented by the following equation:

14. See, e.g., Kerbis, *supra* note 10 (“The ability of these powerful tools to accomplish legal work not only creates incentives for law firms to stop billing time, but it also has the potential to completely disrupt the law firm model as we know it, which is largely built on billable hours. In the long term, we may even see the elimination of the BigLaw model for law firms.”).

15. Danielle Braff, *The Fate of Billable Hours Is in the Hands of Artificial Intelligence*, ABA JOURNAL (Mar. 12, 2024 at 14:11 CDT), <https://www.abajournal.com/web/article/the-fate-of-billable-hours-is-in-ais-hands> [<https://perma.cc/8LG5-UXL4>].

16. Katie Prescott, *Lawtech Is Coming and, Thanks to AI, It Really Fits the Brief*, THE TIMES (July 3, 2024, 12:01 BST), <https://www.thetimes.com/business-money/technology/article/lawtech-is-coming-and-thanks-to-ai-it-really-fits-the-brief-85tcdvchb> [<https://perma.cc/SJ5L-7TH6>].

Compensation for Law Firm =

Hours Worked x Rate Charged – Granted Reductions –
Expenses

Using this framework, the remainder of Part II will make clear that in order to make predictions about the long-term viability of the billable hour as a law firm compensation model, it is essential to understand not only how generative AI is likely to affect the number of hours that lawyers bill but also how generative AI might affect the other CHARGE variables as well.

Part III then takes up this task by discussing the potential effects that generative AI adoption might have on each of the CHARGE variables. Specifically, this Part will make two primary contributions. First, it will argue that, although generative AI will inevitably produce some efficiency gains for some lawyers, the total decrease in hours worked (H) that will result will not necessarily be substantial for many lawyers. Second, it will illustrate how, even if there is a substantial decrease in hours worked by individual lawyers on the tasks that they currently spend time on, generative AI has the potential to positively impact the other four CHARGE variables in ways that have the potential to offset some or all of these lost billable hours. Together Parts II and III offer a counter-narrative to the seeming inevitability of the AI Efficiency Hypothesis. They do this by showing that although generative AI may strain the billable hour model in certain ways, it also has the potential to strengthen it in others, and as a result, there remains reason to believe the billable hour model's time may not be up quite yet.

Of course, this is not the first time that scholars and practitioners have debated whether the billable hour will survive new technologies.¹⁷ Technology has often been seen as heralding the reduction or replacement of hourly billing—if not the reduction

17. See, e.g., John A. Beach, *The Rise and Fall of the Billable Hour*, 59 ALB. L. REV. 941, 941 (1996); Scott Turow, *The Billable Hour Must Die*, 93 A.B.A. J. 32, 34 (2007); Susan Saab Fortney, *The Billable Hours Derby: Empirical Data on the Problems and Pressure Points*, 33 FORDHAM URB. L.J. 171, 171–72 (2005).

or replacement of lawyers altogether.¹⁸ In 1989, for example, an essay in an ABA publication predicted that “the use of technology will allow the attorney to perform a service in less time . . . [and it] is therefore conceivable that wider attorney use of technology will serve as a catalyst in forcing law firms to address the value-billing question.”¹⁹ Similarly, a 1998 law review article argued that “the climate is right for a switch from hourly billing to fixed and value rates . . . [because of] the advent of advanced technology to speed up research and document production.”²⁰ And as Richard Susskind asked provocatively in the title to his 2010 book, will technology bring “*The End of Lawyers?*”²¹

The reality is these predictions that technology would lead to the wholesale replacement of the billable hour with so-called alternative fee arrangements (“AFAs”) such as flat fees, capped fees, blended rates, equity, and subscription style retainers have not come to fruition. Although AFAs have certainly increased in recent years, in some cases quite drastically, their availability has not led to the demise of the billable hour.²² Rather, despite technological innovation and several fundamental reorganizations of the legal market, the billable hour has remained dominant.²³ Of course, just because the billable hour has been able to withstand

18. ROSS, *supra* note 8, at 69 (explaining why technology adoption was seen as potentially harmful to hourly billing); RICHARD C. REED, BEYOND THE BILLABLE HOUR: AN ANTHOLOGY OF ALTERNATIVE BILLING METHODS iii (1989); Dana Remus & Frank Levy, *Can Robots Be Lawyers? Computers, Lawyers, and the Practice of Law*, 30 GEO. J. LEG. ETHICS 501, 506 (2017) (considering empirically the question of how the legal profession will respond to increases in what technology can take over from lawyers.); Milan Markovic, *Rise of the Robot Lawyers?*, 61 ARIZ. L. REV. 325, 331 (2019) (“The notion that technology can supplant lawyers predates artificial intelligence. At one time, commentators speculated that technologies such as the typewriter would revolutionize legal practice and threaten attorney livelihoods by simplifying legal drafting, from which attorneys had derived much of their incomes.”).

19. Mary Ann Altman, *A Perspective—From Value Billing to Time Billing and Back to Value Billing*, in BEYOND THE BILLABLE HOUR 11, 14 (1989).

20. Stephen W. Jones & Melissa Beard Glover, *The Attack on Traditional Billing Practices*, 20 U. ARK. LITTLE ROCK L. REV. 293, 296 (1998).

21. RICHARD SUSSKIND, THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES (2010).

22. Jim Hassett & Matt Hassett, *A Look Back and Ahead a Decade After the ABA Commission on Billable Hours Report*, 31 LEGAL MGMT. 66, 69 (2012) (explaining how even ten years after the ABA Commission on Billable Hours Report described the disadvantages of hourly billing less than 15 percent of total billing came from AFAs.).

23. Ring & Jacobs, *supra* note 11 (“While some might have expected, and some predicted [the billable hour’s] use as an external measure would have fallen faster, it remains the main billing method used by law firms,” says Jeremy Black, a partner at Deloitte.”).

technological innovation in the past does not mean that it will do so in the future. Perhaps “the economic force of the billable hour has never met a technological force as powerful as AI.”²⁴ Others have started to make this case effectively.²⁵ This Article stands as a preliminary response.

To be clear, the objective here is neither to stump for the billable hour model’s continued dominance nor to campaign for its unceremonious demise. Nor is the intent to assess how generative AI will affect other dynamics within the legal market such as how junior lawyers should be trained. Rather, this Article simply seeks to dispute the increasingly accepted assumption that generative AI will necessarily make the billable hour model less useful to practicing lawyers. To do so, it explains why, even if generative AI efficiencies put pressure on some variables in the CHARGE Equation, it is possible—and perhaps even probable—that generative AI-enhanced tools will create ways to not only relieve these pressures but also to create new institutional and practical benefits for hourly billing in the legal profession going forward.

I. The Staying Power of the Billable Hour

Abraham Lincoln is said to have once quipped that “a lawyer’s time and advice are his stock and trade.”²⁶ Yet, unlike today, lawyers in Lincoln’s time were rarely, if ever, paid in proportion to the time they spent working on specific tasks for specific clients. In fact, from the nation’s founding until the mid-twentieth century, time-based billing and the billable hour model more broadly were largely unheard of in the legal profession.²⁷

24. Daniel E. Pinnington & Reid F. Trautz, *Quotable Quotes on the Impact of AI on the Legal Profession*, A.B.A. L. PRAC. MAG. (July 1, 2024), https://www.americanbar.org/groups/law_practice/resources/law-practice-magazine/2024/july-august-2024/quotable-quotes-on-the-impact-of-ai-on-the-legal-profession/ (on file with the *Stetson Business Law Review*).

25. See *supra* notes 12–15.

26. Whether Abraham Lincoln actually said this is less clear. The quote is mentioned in *Martin v. University of Southern Alabama*, 911 F.2d 604, 611 (11th Cir. 1990) and Pardau, *supra* note 5, at 3. See also *A Lawyer’s Time and Advice Are His Stock in Trade*, MISS. ST. UNIV.: SCHOLARS JUNCTION, <https://scholarsjunction.msstate.edu/fvw-prints/636> [https://perma.cc/D2YW-VS2Z] (last visited Oct. 26, 2025).

27. Pardau, *supra* note 5, at 2–5; Geilich, *supra* note 5, at 173; Choi, *supra* note 5, at 314.

During the colonial period and in the early republic, attorney compensation for most legal services was regulated by statute, with legislatures prescribing fixed fees for specific tasks.²⁸ For court-based matters, early American practice followed the “English Rule” under which the losing party paid the prevailing party’s legal costs.²⁹ However, by 1796, American courts had largely abandoned this approach. As the Supreme Court explained in *Arcambel v. Wiseman*, “[t]he general practice . . . was in opposition to [the English Rule],” and therefore, “even if that practice were not strictly correct in principle,” each party was required to bear their own legal costs.³⁰ This approach became known as the “American Rule.”³¹

During this time and into the middle of the nineteenth century, the practice of law looked very different from the way it looks today.³² Multi-member “law firms” largely did not exist in any meaningful way “until the period after the Civil War.”³³ Instead “law practice in the United States was generally conducted either by solo practitioners or by two lawyers who shared office expenses while serving their own clients.”³⁴ It was only then that “business enterprises grew in scale and scope” to the point where larger law firms were formed to meet these “increasing and complex legal needs.”³⁵

Even as the legal profession expanded and became more professionalized, American lawyers “billed their clients primarily through a combination of fixed fees, contingent fees, and an amorphous method known as ‘value billing,’ whereby they would

28. Geilich, *supra* note 5, at 175; ROSS, *supra* note 8, at 10–12.

29. Geilich, *supra* note 5, at 175.

30. *Arcambel v. Wiseman*, 3 U.S. (3 Dall.) 306, 306 (1796).

31. *See id.*; Geilich, *supra* note 5, at 175.

32. *See* Marc Galanter & Thomas M. Palay, *Why the Big Get Bigger: The Promotion-to-Partner Tournament and the Growth of Large Law Firms*, 76 VA. L. REV. 747, 749 (1990) (“In the late 1950s only thirty-eight law firms in the United States had more than fifty lawyers.”); *see generally* GILLIAN K. HADFIELD, *RULES FOR A FLAT WORLD* (2d ed. 2016) (describing the history of the practice of law).

33. MITT REGAN & LISA H. ROHRER, *BIGLAW: MONEY AND MEANING IN THE MODERN LAW FIRM* 17 (2021).

34. *Id.*; *see also* HADFIELD, *supra* note 32, at 122–23; William D Henderson, *Three Generations of U.S. Lawyers: Generalists, Specialists, Project Managers*, 70 MD. L. REV. 373, 377 (2011).

35. REGAN & ROHRER, *supra* note 33, at 17; *see also* Galanter & Palay, *supra* note 32, at 748 (“The big law firm has existed for almost a century.”); Henderson, *supra* note 34, at 374–75.

simply send the client a bill at the end of the year for ‘Professional Services Rendered.’”³⁶ In this model, lawyers would, “without time records . . . review the file and make a judgment [about the appropriate fee], taking into account the impact of the fee on the client who most times was someone who the lawyer knew.”³⁷ This approach reflected the reality that many parts of legal practice at this time were “relatively routinized and simple tasks” that could be predictably priced.³⁸ It also mirrored a professional ethos in which lawyers understood themselves less as mere service providers and more as trusted advisors and friends.³⁹ Given this “attitude of genteel neglect . . . toward business matters,” lawyers based their compensation not on the time required to complete specific tasks, but rather on the lawyer’s availability and the quality of their counsel when required.⁴⁰

To be clear, some lawyers did track their time and consider the time expended when assessing fees during this era. In fact, in the *Canons of Professional Ethics*, the first code of professional ethics adopted by the American Bar Association in 1908, Canon 12 noted that it was “proper to consider . . . the time and labor required” to settle on an appropriate fee, which is a requirement that remains verbatim in the *Model Rules of Professional Conduct* to this day.⁴¹ In addition, in 1913, Reginald Heber Smith introduced systematic timekeeping at the Boston Legal Aid Society.⁴² But Smith’s innovation was designed to measure internal efficiency and productivity not to generate client invoices.⁴³ It would take decades

36. Choi, *supra* note 5, at 314–15; *see also* REGAN & ROHRER, *supra* note 33, at 20.

37. REED, *supra* note 18, at 3; *see also* Choi, *supra* note 5, at 314 (“Few lawyers itemized their services by the hour or established a written compensation agreement with the client in advance.”).

38. *See* Pardau, *supra* note 5, at 2.

39. *See* REED, *supra* note 18, at 3; Choi, *supra* note 5, at 315 (“They considered themselves advocates and advisors, and as such, just as trustworthy when it came to fee calculation as when they undertook sensitive legal work for their clients.”); REGAN AND ROHRER, *supra* note 33, at 20 (“For most of the twentieth century, firms and clients cultivated long-term relationships that lasted for generations.”).

40. Choi, *supra* note 5, at 315.

41. MODEL RULES OF PRO. CONDUCT, *supra* note 7; CANONS OF PRO. ETHICS, Canon 12 (A.B.A. 1908).

42. Pardau, *supra* note 5, at 3; *see Slice of History: Reginald Heber Smith and the Birth of the Billable Hour*, WILMERHALE (Aug. 9, 2010), <https://www.wilmerhale.com/en/insights/publications/slice-of-history-reginald-heber-smith-and-the-birth-of-the-billable-hour-august-9-2010> [https://perma.cc/UXC9-WG3T] [hereinafter *Slice of History*].

43. *Slice of History*, *supra* note 42.

before timekeeping evolved into a common external billing mechanism.⁴⁴

By the 1930s and 1940s, growing client demand, rising law firm overhead, and the increasing complexity of certain legal matters prompted many lawyers to seek higher and more predictable compensation.⁴⁵ In response, state bars began adopting detailed “voluntary” rate schedules assigning specific fees for specific tasks and services.⁴⁶ These rate schedules served dual purposes: (1) they tried to more accurately reflect the time required to complete particular legal tasks and (2) they suppressed the potential for fee-based competition among lawyers.⁴⁷ Although technically voluntary, many state bars treated these fee schedules as mandatory by disciplining lawyers who did not follow them for “unethically” undervaluing their services below these established rates.⁴⁸

Still, for many lawyers, even these minimum fee schedules failed to deliver the desired increase in compensation. In fact, according to the ABA in 1954, “more than half of the lawyers in the United States received a net income of less than \$7,382” meaning that the “average lawyer in this country d[id] not receive a living wage.”⁴⁹ In response, lawyers began to experiment with, and the ABA began to formally endorse, time-based billing.⁵⁰ In a pamphlet titled *The 1958 Lawyer and His 1938 Dollar*, the ABA’s Special Committee on Economics of Law Practice laid out the justification for hourly billing and the process and accounting methods necessary for adopting it. The pamphlet reasoned that “[t]ime being the lawyer’s sole expendable asset, the economic worth of his ability, training and experience is determined by the use made of

44. *See id.*

45. *See* Pardau, *supra* note 5, at 4 (“Another key driver towards timekeeping and the billable hour was, simply put, the desire for lawyers to earn more money.”).

46. *Id.* at 3.

47. *Id.* at 3–4.

48. *Id.* at 3 (“While these minimum fee schedules were supposedly voluntary, if a bar member undercut these minimum prices, it could give rise to disciplinary action by a state bar.”).

49. *The 1958 Lawyer and His 1938 Dollar*, A.B.A. SPECIAL COMM. ON ECON. OF LAW PRACTICE 9, https://www.dcbart.org/getmedia/5ff404e1-f7fd-437a-9b67-c93a4782db08/ABA-The-1958-lawyer_and_his_1938dollar [<https://perma.cc/3FC9-UKX5>] (last visited Oct. 26, 2025).

50. *Id.* at 9–10.

the hours available for the practice of his profession.”⁵¹ The pamphlet went on to note that the “costs of practice approximate 40 percent of . . . lawyer’s gross income(s),” and that in order to accurately calculate their hourly rate they should assume “1,300 fee-earning hours per year.”⁵² Although the notion of billing only 1,300 hours per year feels positively quaint by today’s standards, at least in so-called Big-Law, this move toward time-based compensation marked a fundamental shift in law firm economics.

Still, widespread adoption of the billable hour took time. It was not until 1975, when the United States Supreme Court held in *Goldfarb v. Virginia State Bar* that “voluntary” minimum fee schedules violated the Sherman Antitrust Act’s prohibition on price fixing, and 1977 when the Supreme Court held in *Bates v. O’Steen v. State Bar of Arizona* that lawyers were allowed to market legal services, that hourly billing really took hold.⁵³ With minimum fees effectively banned and the opportunity to compete for business on price, the billable hour rapidly rose to dominance as a creative and seemingly forward-thinking solution to pricing legal work. By the 1980s, the billable hour had become the dominant billing model used by law firms of all sizes.⁵⁴

Although the billable hour ushered in a modern era of significantly increased compensation for lawyers across the profession, it did not take long for critics to raise concerns about the so-called “tyranny of the billable hour.”⁵⁵ These concerns included: an abandonment of the professional ethos and relational nature of the profession, a disincentive to work efficiently or bill time ethically, a greater potential for conflicts, an increased

51. *Id.* at 7.

52. *Id.* at 9–10.

53. See *Goldfarb v. Va. State Bar*, 421 U.S. 773 (1975); *Bates v. O’Steen v. State Bar of Az.*, 433 U.S. 350 (1977); see also MARK A. ROBERTSON, *ALTERNATIVE FEES FOR BUSINESS LAWYERS AND THEIR CLIENTS* 8 (2014); Pardau, *supra* note 5, at 34 (“However, while the Supreme Court’s ruling in *Goldfarb* set the stage for the predominance of the billable hour as the primary mechanism for attorney fee generation in the United States, the notion that there was a direct correlation between the hours worked by the lawyer and the services she produced [and therefore the fees she generated] had already been long established.”).

54. ROBERTSON, *supra* note 53, at 9.

55. Amelia J. Uelmen, *The Evils of “Elasticity”: Reflections On the Rhetoric of Professionalism and the Part-Time Paradox in Large Firm Practice*, 33 *FORDHAM URB. L.J.* 81, 113–14 (2005).

attorney burnout, and a general failure to reward the quality of outputs as opposed to the quantity of inputs.⁵⁶

Yet the billable hour has nevertheless proved to be remarkably durable. As Richard Susskind put it, “hourly billing is not simply a way of pricing and billing legal work; it is a mindset and a way of life.”⁵⁷ For law firms, the billable hour model provides a standardized way to quantify legal work that supports internal accounting processes and—especially for small law firms—mitigates the risk of taking on client engagements that are difficult to price in advance.⁵⁸ More than that, the billable hour has helped law firms—especially large law firms—align individual lawyer incentives with the long-term goals of firm profitability and client service delivery.⁵⁹ In this regard, hourly billing has helped provide an “objective” metric for evaluating attorney performance, a framework for allocating firm resources, and a structure to standardize paths for hiring and career advancement. It also provides, what Mitt Regan and Lisa Rohrer call “compensation as a material economy” (that is, the effective allocation of financial rewards) as well as “compensation as a symbolic economy” (that is, the effective allocation of internal value and respect).⁶⁰ Unfortunately, as is well-documented, these institutional benefits

56. RICHARD C. REED, WIN-WIN BILLING STRATEGIES: ALTERNATIVES THAT SATISFY YOUR CLIENTS AND YOU 92–93 (1992) (“The billable hour discourages efficiency. Additionally, lawyers are not adequately compensated in high-value matters, given all hours are treated as equal.”); Fortney, *supra* note 5, at 264 (“Those things that give most people ‘joy and meaning . . . are absent from [the attorney’s] life.”); ROBERTSON, *supra* note 53, at 10 (“Lawyers perceive value as a function of the hourly rate and effort—clients do not . . . The difference is the perception of value”); ROSS, *supra* note 8, at 2 (“Lawyers add unnecessary work to pad bills, a crime that is almost impossible to prove.”).

57. SUSSKIND, *supra* note 8, at 35.

58. Larry E. Ribstein, *The Death of Big Law*, 2010 WISC. L. REV. 749, 769 (“Hourly billing gives firms a simple way to monitor their lawyers.”); *Legal Trends for Solo and Small Firms 2025*, 12, CLIO, <https://www.clio.com/wp-content/uploads/2025/05/2025-Solo-LTR-Digital.pdf> [<https://perma.cc/W4RX-55TK>] (last visited Oct. 26, 2025) (“Many solo and small firms handle a broader range of cases with varying complexity, while larger firms often handle specific types of cases [or have internal teams that work together in practice area groups]. Thus, solo and small firms may feel more comfortable with hourly billing as it allows them to account for unforeseen developments without risking their fees.”); Uelmen, *supra* note 55, at 108 (“[A]s law firms continued to grow in size complexity, and level of bureaucracy, they began to rely increasingly on computerized time-keeping.”); Choi, *supra* note 5, at 309 (“Large law firms will generally be better able to bear the risk of cost overruns . . . as well as the risk of outcome uncertainty”).

59. See REGAN & ROHRER, *supra* note 33, at 21–22 (explaining that clients became more sensitive to costs, shopping around for other firms. This led firms to focus on marketing themselves, operating more as a business than a relationship-based service.).

60. *Id.* at 13.

have also at times come at the expense of diversity, attorney mental health, and a loss of professional values that cannot and should not be ignored.⁶¹

From the client's perspective, the billable hour has also provided value by reducing information asymmetry between lawyers and clients, thereby allowing clients to gain a critical monitoring function over their lawyer's work.⁶² This transparency not only has the potential to help clients better understand the fees that they are charged, it also provides them with the tools necessary to force law firms to compete for work.⁶³ More than that, and perhaps counterintuitively, by requiring lawyers to track billable hours, clients are able to better budget legal spending on the front end and better scrutinize costs on the back end. This allows outside counsel—especially for larger, more sophisticated cases—to predict costs and advocate for cost savings before and during the course of the representation, as well as after it is complete.

Given these institutional and structural supports, it is not surprising that numerous predictions of the impending doom of the billable hour have failed to come to fruition. This is not to say that alternative fee arrangements have not increased in recent years. They have.⁶⁴ But these AFAs have largely supplemented, rather than supplanted, hourly billing. As one recent study showed, more than 80% of law firms (big, medium, and small) today use hourly billing even if a large percentage of those firms also offer other billing options to their clients for certain tasks or projects.⁶⁵

More than that, even when firms employ AFAs for pricing legal work, they often still use billable hours as a way to capture internal productivity metrics because time worked is seen

61. See Fortney, *supra* note 5, at 269–70.

62. See REGAN & ROHRER, *supra* note 33, at 50 (“Because much of law firm pricing is based on hourly rates, staffing practices hold significant interest for clients. Clients described to us how they look closely at who does their work.”).

63. See HADFIELD, *supra* note 32, at 234; Choi, *supra* note 5, at 316.

64. See Jason Winmill, *Will Alternative Fee Arrangements Be the New Pricing Model for AI-Driven Legal Work?*, THOMSON REUTERS (Sept. 27, 2024), <https://www.thomsonreuters.com/en-us/posts/legal/alternative-fee-arrangements-ai-driven-legal-work/> [https://perma.cc/BD3F-ZZLP] (noting that 15%-25% of matters are billed using AFAs).

65. See *Clio Legal Trends Report 2024*, CLIO, <https://www.clio.com/wp-content/uploads/2024/10/NA-2024-Legal-Trends-Report-Full-Publication.pdf> [https://perma.cc/SNF3-RDY7] (last visited Oct. 26, 2025).

as “the simplest way of measuring output.”⁶⁶ And even when clients agree to fixed fees, they often require law firms to track their time anyway (a practice sometimes referred to as “shadow billing”) with the predictable outcome that “whichever is lower, the flat fee quote or the billable hour calculation, will be what the client says they’ll pay. It is a *can’t lose* for the client, and a *more aggravation for less money* for the law firm.”⁶⁷

For all of these reasons, any effort to reform or retire the billable hour will not be easy even if doing so might make some economic sense. On a macro level, the billable hour is simply too deeply ingrained in American legal practice. Law firms are dependent on it. Clients expect it. And in some cases, such as the fee shifting context, the justice system expressly endorses it. On a micro level, as legal work becomes more streamlined because of generative AI, lawyers will likely face increased pressure to demonstrate how they are adding value both to their colleagues and their clients. Clients, in turn, will likely demand even more detailed oversight of bills to verify that lawyers are using these new tools to efficiently deliver even better results. Consequently, lawyers and clients (or at least some lawyers and some clients) may have strong incentives to preserve hourly billing not merely because of its ability to serve as a pricing mechanism but also because of its longstanding institutional place in modern legal practice.

II. The CHARGE Equation As a Response to The AI Efficiency Hypothesis

The prior Part identified some of the institutional reasons that the legal profession may retain the billable hour in an era of generative AI-enhanced lawyering. But those institutional justifications tell only part of the story. To fully assess whether the

66. Ring & Jacobs, *supra* note 11.

67. Bruce MacEwen & Janet Stanton, *Pricing AI-Driven Legal Services: The Billable Hour Is Dead, Long Live the Billable Hour*, THOMSON REUTERS (Sept. 10, 2024), <https://www.thomsonreuters.com/en-us/posts/legal/pricing-ai-driven-legal-services-billable-hour/> [https://perma.cc/6G74-AJQD]; see also Hassett & Hassett, *supra* note 22; John Chisholm, *Dipping Your Toes in the Water: Are Your Fixed Fees Really Billable Hours in Disguise?*, CHISHOLM CONSULTING (Aug. 2, 2021), <https://www.chisconsult.com/my-perspective/2021/august/claytons-fixed-fees/> [https://perma.cc/EG2Q-8Q5M] (describing fixed fees as “billable hours in disguise”).

billable hour can survive—or even thrive—in an AI-enhanced legal market, we must also examine how the model functions as a financial compensation mechanism. That is the focus of this Part.

As a threshold matter, although the specifics vary, the general approach to hourly billing is remarkably consistent and straightforward across firms of different types and sizes. At its most basic level, in a conventional hourly billing arrangement: (1) clients agree to set hourly rates for work performed by specific law firm lawyers and staff;⁶⁸ (2) these lawyers and staff keep detailed, narrative records of the tasks that they complete and the time it took to complete those tasks (often in tenth-of-an-hour increments);⁶⁹ (3) the firm uses these records to invoice clients for the time worked;⁷⁰ (4) clients negotiate any write-offs or reductions to these invoices with the firm⁷¹; (5) the clients pay the firm the negotiated amounts;⁷² (6) the firm uses the fees collected to pay expenses and overhead—such as office space, technology, insurance, and salaries;⁷³ and then (7) after these expenses are paid, the remainder of the law firm’s earnings are treated as profit that can be shared by the partnership.⁷⁴

To be clear, although attorneys often talk about “billing hours,” the billable hour model described here refers instead to the

68. See REGAN & ROHRER, *supra* note 33, at 45 (explaining that after setting a set rate, firms send letters informing clients of changes in their hourly rates at the beginning of each year).

69. *Id.* at 49 (“Many clients now insist that firms provide a ‘dashboard’ showing what fees and expenses have been incurred on what tasks, and what portion of the budget remains for what services.”).

70. See REED, *supra* note 56, at 92 (detailed statements are provided as evidence of the services provided to justify the charges made.).

71. See Frederick J. Esposito, Jr., *Finance: Time Write-Downs/Write-Offs: Don’t Let Good Cake Go to Waste*, A.B.A. (July 18, 2022), https://www.americanbar.org/groups/law_practice/resources/law-practice-magazine/2022/time-write-downswrite-offs-dont-let-good-cake-go-waste/ (on file with the *Stetson Business Law Review*) (“While law firms continue to take advantage of the resources available to improve upon these areas, there remains a disconnect in the amount of time written down or written off before the bills go out, and in many cases, having to write off billed time in accounts receivable.”).

72. See REGAN & ROHRER, *supra* note 33, at 45 (clients negotiate rates every year.); *Law Firm Rates in 2024: New Report Finds That Rates Continue Strong Growth, But Could Face Shifting Trends*, THOMSON REUTERS 7 (Sept. 17, 2024), <https://www.thomsonreuters.com/en-us/posts/legal/law-firm-rates-report-2024/> [<https://perma.cc/YJ4G-C6YY>].

73. See Rapoport & Tiano Jr., *supra* note 9, at 49–51.

74. See David B. Wilkins, *Partners without Power - A Preliminary Look at Black Partners in Corporate Law Firms*, 2 J. OF THE INST. FOR THE STUDY OF LEGAL ETHICS 15, 16 (1999).

system for compensating law firms, not individual lawyers.⁷⁵ That is because even though individual lawyers track (or “bill”) their time, they are rarely paid in direct correlation to the number of hours that they bill. Instead, they are typically paid in one of two ways. Many lawyers (and other legal professionals) are paid fixed salaries independent of the number of hours they bill or the rates the firm charges clients for their work (although in some cases these lawyers are also paid additional bonuses for hitting specific billable hour targets, for originating new clients or matters, or some combination of the two). This group includes lawyers with titles like staff attorney, associate, counsel, and “non-equity partner.”⁷⁶ This often also includes law firm support staff such as paralegals. The other, typically smaller group, sometimes referred to as “equity partners,” are not paid a fixed salary but instead are entitled to a percentage distribution from the firm’s net profits.⁷⁷ For solo practitioners and small firm lawyers, these distributions often correlate closely to the number of hours the firm bills, but in larger firms the distribution percentages can diverge wildly. Although traditionally all equity partners in these larger law firms were paid a standard percentage of the firm’s net profit regardless of the hours they billed or the work they originated (the “lockstep” model)⁷⁸, today this approach is far less common. Instead, large and medium-sized firms typically determine equity partner compensation quantitatively using formulas that include factors such as client origination, revenue generation, and only to a somewhat lesser extent hours billed or qualitatively based on reviews by a committee of law firm leaders.⁷⁹

In large firms (not to mention in many mid-sized and some smaller firms as well) the work done by salaried lawyers helps drive compensation for equity partners.⁸⁰ That is because by

75. See, e.g., *Law Firm Rates in 2024*, *supra* note 72 (describing law firm rates as opposed to individual attorney billable hour rates).

76. See REGAN & ROHRER, *supra* note 33, at 125 (differentiating income partners and nonequity partners.); Wilkins, *supra* note 74; Eli Wald, *Smart Growth: The Large Law Firm in the Twenty-First Century*, 80 FORDHAM L. REV. 2867, 2869 (2012).

77. See REGAN & ROHRER, *supra* note 33, at 129.

78. *Id.* at 123 (describing this model as one that “based lawyers’ compensation solely on seniority: those who made partner in a particular year advanced in ‘lockstep’ up the compensation scale.”).

79. *Id.* at 129–31.

80. Rapoport & Tiano Jr., *supra* note 9, at 49–50 (noting that profits from nonequity lawyers billing for 2,000 hours pay “overhead, partner compensation, and other expenses.”).

staffing matters with salaried lawyers, whose time is billed to clients for amounts that exceed their salaries and costs to the firm, equity partners can increase their total take-home compensation.⁸¹ This is sometimes referred to as the “pyramid model.”⁸² To demonstrate how this model functions, suppose an associate earns \$200,000 in salary and benefits per year, but generates \$400,000 in client fees from their billed hours during that same year; the \$200,000 difference can be applied first to other firm expenses and then to the firm’s net earnings shared by the equity partners. In other words, in this model the more salaried lawyers a firm has and the more work these firms can bill for, the larger the return for equity partners at the top of the pyramid.⁸³ Although the leverage ratios of partners to associates⁸⁴ have decreased to some degree in recent years and can vary significantly across practice areas, firm sizes, and geographies, the model has proven reliably effective as a means to increase the take-home pay of those at the top of the pyramid while also maintaining significant compensation levels for those at the bottom.⁸⁵

Ultimately, the billable hour compensation model just described can be reduced to what this Article refers to as the “CHARGE Equation”:

Compensation for the Firm =

Hours Worked x Rate Per Hour – Granted Reductions –
Expenses

From a law firm management perspective, the CHARGE Equation represents not just a description of how the billable hour works—although it certainly does that—it also represents a strategic framework for making business decisions. After all, law firms are consistently required to make trade-offs between each of these variables to maximize their goals. For example, a firm that

81. See *id.* at 50 (the higher the ratio of salaried lawyers to partners, the greater the profits per partner).

82. See *id.*

83. *Id.*

84. See *id.* (the term leverage here refers to the number of associates for each partner).

85. *Id.*; Wald, *supra* note 76, at 2870–71 (“[T]he practice realities of large corporate law firms, catering primarily to large corporate clients, tend to comport with the prediction of the tournament of lawyers model by following a pyramid structure and relying on a broad base of associates to support a profit-maximizing partner-to-associate ratio.”).

wants to increase earnings can attempt to accomplish this by increasing billing rates, increasing hours billed to clients, decreasing reductions, or decreasing general expenses—or by trying to optimize for all four.⁸⁶ By contrast, a smaller firm that cannot command higher rates can still try to increase firm compensation (and partner take-home pay) by decreasing general expenses or billing more hours. Or, as some firms have decided, either by choice or necessity, law firm partners can accept lower firm earnings in exchange for working and therefore billing fewer hours.⁸⁷

From the client perspective, the billable hour presents its own financial calculus that extends beyond simply minimizing costs (although cost is of course a key consideration). Sophisticated clients—particularly corporate legal departments—necessarily evaluate legal services based on the business outcomes that they seek to secure.⁸⁸ Although far from perfect, hourly billing allows them to track these expenses necessary to try and secure those outcomes and work backwards from different budgetary and case outcome scenarios.⁸⁹

Most importantly though, the CHARGE Equation reveals a crucial flaw in what this Article has referred to as the AI Efficiency Hypothesis—that is, the assumption that if AI reduces the time lawyers spend on certain tasks, firm compensation will inevitably fall in ways that undermine the long-term viability of the billable hour. Simply put, this flaw is that it is not necessarily true that fewer hours worked (“H”) means a decrease in total law firm

86. See Rapoport & Tiano Jr., *supra* note 9, at 59 (to increase profits, law firms focus on “increas[ing] the total billed hours, or on raising hourly rates [or on a combination of the two]”); REGAN & ROHRER, *supra* note 33, at 37–38 (firms have brought more work in-house to reduce general expenses, spending money more efficiently).

87. See REGAN & ROHRER, *supra* note 33, at 45 (“[T]he rate that firms collect as a percentage of their standard rates has been declining to an all-time low since the downturn . . . [C]lients are less willing to pay a firm’s regular rates and have negotiated them down.”).

88. See Gillian K Hadfield, *The Price of Law: How the Market for Lawyers Distorts the Justice System*, 98 MICH. L. REV. 953, 976 (2000) (“Their fees will reflect the amount clients have at stake and not, as in the perfectly competitive market, the opportunity cost of the service. This is the basic characteristic of market power: prices driven by the value that consumers place on the good rather than the cost incurred by producers of the good. The deep uncertainty in law and the all-or-nothing nature of the stakes for clients give lawyers market power through winner-take-all dynamics.”).

89. See REGAN & ROHRER, *supra* note, 33 at 49 (quoting clients as saying “I want a budget right upfront . . . I want to see if we’re hitting the budget all along the way and to the extent there are deviations I want to talk about those deviations.”).

compensation (“C”). Rather, what the CHARGE Equation shows is that the billable hour compensation model is a multi-variable system where each variable has the potential to contribute to or reduce law firm (and by extension lawyer) earnings.

III. Generative AI’s Potential Net Positive Effect on Each of The CHARGE Variables

“The time for fashioning sensible alternatives [to the billable hour] . . . has clearly come. The billable hour is rapidly losing much of its appeal, and is increasingly under attack.”⁹⁰ These words, penned nearly thirty years ago, could just as easily have been written today thanks to the introduction of generative AI to the legal profession. Indeed, industry analyst Steve Lerner echoed a similar sentiment in a December 2024 article when he wrote, “[r]ecent surveys are—again—saying the billable hour is about to go the way of the dodo.”⁹¹ That said, although the prediction remains the same, the rationale has changed. Today, the view that hourly billing is no longer viable seems to be driven less by general dissatisfaction with misplaced incentives and inefficiencies with the billable hour and more by predictions about the technological efficiencies that AI will bring.⁹²

This Part explains why these predictions may be overstated for at least two reasons. First, as Section A describes, generative AI will not necessarily lead to a sharp and lasting decrease in the total number of billable hours that lawyers across the profession will be able to charge their clients—and may in fact lead to increases. Second, as Sections B through E demonstrate, regardless of generative AI’s effect on hours worked, this technology has the potential to benefit each of the other CHARGE variables in ways that could support the billable hour’s continued viability even in a world of greater efficiency resulting from generative AI-enhanced workflows.

90. See Beach, *supra* note 17, at 948.

91. Steven Lerner, *It’s Too Early To Say Gen AI Will Kill The Billable Hour*, LAW360 (Nov. 6, 2024, at 9:43 EST), <https://www.law360.com/pulse/articles/2257237/it-s-too-early-to-say-gen-ai-will-kill-the-billable-hour> [<https://perma.cc/9H6K-7Y6G>].

92. *Id.* (“In recent surveys, many confidently predicted a decrease in the billable hour because of AI. Sixty percent of legal professionals expect AI-driven efficiencies to reduce the prevalence of the billable hour”).

A. Hours Worked (H)

The first variable in the CHARGE Equation—hours worked—is arguably at the greatest risk from generative AI adoption by lawyers. After all, as empirical studies, industry surveys, and law firm experiments have already shown, generative AI tools have the potential to decrease the time it takes lawyers to complete certain tasks without necessarily decreasing how effective lawyers are at completing these tasks.

For example, one study led by Professor Colleen Chien and law firm partner Miriam Kim, showed that 90% of legal aid lawyers who were given access to paid generative AI tools for a one-to-two-month trial period reported increased productivity, and 75% indicated that they would continue using the AI tools upon completion of the study.⁹³ Although these lawyers do not typically bill clients by the hours, the results are telling. Participants reported using AI primarily for what they described as important but “lower-risk applications like document summarization, confirmatory or preliminary research, the production of first drafts, and translation, from legalese or English into more accessible formats.”⁹⁴

In a second study conducted by the AI Center of Excellence in New Zealand, researchers compared the outputs of generative AI tools when reviewing procurement contracts against junior lawyers and “legal process outsourcers” completing that task without access to generative AI.⁹⁵ This study found that the generative AI tools matched or exceeded human accuracy in identifying legal issues in these contracts in significantly less time and at .03% the cost.⁹⁶ A third study which looked at whether ChatGPT could help law students complete legal writing assignments such as drafting a complaint, a contract, a section of an employee handbook, and a client memo, found that students could complete these tasks more quickly than they could without

93. Colleen V. Chien & Miriam Kim, *Generative AI and Legal Aid: Results from a Field Study and 100 Use Cases to Bridge the Access to Justice Gap*, 57 LOYOLA L. REV. 903 (2025).

94. *Id.*

95. Lauren Martin, et al., BETTER CALL GPT, COMPARING LARGE LANGUAGE MODELS AGAINST LAWYERS (2024).

96. *Id.*

generative AI, without losing accuracy.⁹⁷ And a fourth study found that both specialized generative AI tools like vLex’s “Vincent” and publicly available tools like ChatGPT’s “o1 reasoning model” “significantly boost[ed lawyer] productivity” —in some cases by more than 100%.⁹⁸

Although there are always limitations and replication concerns with early studies like these, industry reports echo these early empirical results.⁹⁹ A 2023 report commissioned by Goldman Sachs predicted that 44% of legal tasks could be automated by generative AI.¹⁰⁰ The 2024 *Clio Legal Trends Report* estimated that up to 57% of law firm billable tasks could be automated.¹⁰¹ And the 2025 *Thomson Reuters Generative AI in Professional Services* survey found that lawyers using AI tools already report saving an average of five hours per week.¹⁰² Many law firms have also started to experiment with AI and have publicly reported productivity gains from generative AI tools.¹⁰³

Some are even trying to take lawyers out of the loop entirely. In the United Kingdom, for example, Garfield.Law was recently approved by the Solicitors Regulation Authority as the first AI-

97. See Choi, Monahan, and Schwarcz, *supra* note 2 (AI substantially increased the speed in completion, but caused little improvement on the quality of work in lawyering tasks).

98. See Daniel Schwarcz et al., *AI-Powered Lawyering: AI Reasoning Models, Retrieval Augmented Generation, and the Future of Legal Practice*, UNIV. OF MICH. PUB. L. 1, 2 (2025).

99. See Harry A. Thompson, AI & The Law 5, Dec. 4, 2024 (unpublished manuscript) (on file with the *Stetson Business Law Review*) (collecting efficiency studies from generative AI use).

100. See Jan Hatzius et al., Global Economics Analyst: The Potentially Large Effects of Artificial Intelligence on Economic Growth (*BriggsKodnani*), GOLDMAN SACHS (Mar. 26, 2023), https://www.key4biz.it/wp-content/uploads/2023/03/Global-Economics-Analyst_The-Potentially-Large-Effects-of-Artificial-Intelligence-on-Economic-Growth-Briggs_Kodnani.pdf [<https://perma.cc/U8G3-JNQ7>].

101. *Clio Legal Trends Report 2024*, *supra* note 65, at 7.

102. See 2025 *Generative AI in Professional Services Report*, THOMSON REUTERS INST., <https://www.thomsonreuters.com/content/dam/ewp-m/documents/thomsonreuters/en/pdf/reports/2025-generative-ai-in-professional-services-report-tr5433489-rgb.pdf> [<https://perma.cc/5XG5-FXGB>] (last visited Oct. 26, 2025).

103. See Gleb Tsipursky, *Justice Meets Algorithms: The Rise of Gen AI in Law Firms*, N.Y. STATE BAR ASS’N (Mar. 7, 2025) <https://nysba.org/justice-meets-algorithms-the-rise-of-gen-ai-in-law-firms/> [<https://perma.cc/RA7D-VG7J>] (describing a mid-size law firm “that reported a 25% reduction in time spent on document review and a 20% increase in overall productivity”); Tom Davenport, *Early Adopters of Gen AI In Law*, FORBES (June 6, 2024, at 11:49 EDT), <https://www.forbes.com/sites/tomdavenport/2024/06/01/early-adopters-of-gen-ai-in-law/> [<https://perma.cc/9KP9-EESA>] (quoting A&O Shearman Sterling’s David Wakeling as saying that he “believes that generative AI will be (and in some cases, already is) a great aid to increased productivity for lawyers”).

based firm authorized to provide legal services without the assistance of human lawyers.¹⁰⁴ Similarly, in the United States, a company called DoNotPay already offers AI-based assistance for various legal issues, including contesting parking tickets and managing small claims without lawyer support.¹⁰⁵

And this is just the beginning. As many technologists are fond of reminding us, generative AI technologies will never be worse than they are today.¹⁰⁶ As a result, the variety and capability of generative AI tools available to lawyers are only going to rapidly increase in the years to come.¹⁰⁷ For example, agentic AI tools are already being developed and deployed for legal applications that will not just generate text or summarize documents, but will also autonomously execute complex legal workflows—chaining tasks together, integrating practice management systems, and adapting outputs based on real-time feedback or changing conditions making them look less like tools and more like freestanding members of legal teams.¹⁰⁸ It is therefore unsurprising that many

104. Michael Cross, *In Depth: “World’s First AI Law Firm” Targets High Street Practices*, LAW SOC’Y GAZETTE (May 9, 2025), <https://www.lawgazette.co.uk/news-focus/in-depth-worlds-first-ai-law-firm-targets-high-street-practices/5123234.article> [https://perma.cc/JVP4-DWYH].

105. See DoNOTPAY, <https://donotpay.com/> [https://perma.cc/52VF-HSGB] (last visited Oct. 26, 2025). Notably, DoNotPay was investigated by and entered into a settlement with the FTC for representing that they had “Robot Lawyer” services, even though those services were not vetted by actual lawyers. It was viewed as a deceptive trade practice. See *Do Not Pay*, FTC (Sept. 25, 2024), [https://ftc.gov/legal-library/browse/cases-proceedings/donotpay#:~:text=Case%20Summary,Containing%20Consent%20Order%20\(205.15%20KB\)](https://ftc.gov/legal-library/browse/cases-proceedings/donotpay#:~:text=Case%20Summary,Containing%20Consent%20Order%20(205.15%20KB)) [https://perma.cc/7SNP-9U8M].

106. E.g., Ethan Mollick, LINKEDIN, (Sept. 9, 2023), https://www.linkedin.com/posts/emollick_todays-ai-is-the-worst-ai-you-will-ever-activity-7106305750431322112-Xr7n?utm_source=share&utm_medium=member_desktop&rcm=ACoAAADzEbEBJsroDsn-V8BsvWIqbl6gfyQafq0 [https://perma.cc/S9TT-6UWX] (“Today’s AI is the worst AI you will ever use.”).

107. See Orly Lobel, *The Law of AI for Good*, 75 FLA. L. REV. 1023, 1084 (2023) (“AI . . . is, by definition, an evolving, improving technology.”).

108. See Zach Warren, *Agentic AI in Legal: What It Is and Why It May Appear in Law Firms Soon*, THOMSON REUTERS INST. (Dec. 9, 2024), <https://www.thomsonreuters.com/en-us/posts/technology/agentic-ai-legal/> [https://perma.cc/3GLU-LZS9] (“AI testing is already underway at some large law firms, and AI agents could be members of legal teams sooner rather than later.”); Tom Martin, *Thinking Like a Lawyer: Agentic Artificial Intelligence and the New Legal Playbook*, NAT’L L. REV. (Feb. 3, 2025), <https://natlawreview.com/article/thinking-lawyer-agentic-ai-and-new-legal-playbook> [https://perma.cc/U7LB-PTJD]; Nicole Black, *Legalweek 2025: Embedded and Agentic Generative AI Expands Software Capabilities*, ABOVE THE LAW (Mar. 28, 2025, at 13:49 EDT), <https://abovethelaw.com/2025/03/legalweek-2025-embedded-and-agentic-generative-ai-expands-software-capabilities/> [https://perma.cc/GZX7-BHZ9] (“Agentic AI is accelerating

lawyers who bill by the hour are increasingly anxious about AI's potential to increase efficiency.¹⁰⁹

Yet the situation may not be quite as dire as it first appears for the viability of the billable hour. Although legal practices centered on high-volume, routine work may be poised for significant disruption, the notion that generative AI will necessarily and drastically reduce total billable hours across the legal profession is far from a foregone conclusion. To the contrary, there are a number of reasons to believe that AI will not necessarily reduce the total number of hours that lawyers can bill and may instead ultimately reinforce or even expand the total volume of billable work in the years to come.

First, many routine tasks that generative AI tools ostensibly threaten to take over have already been displaced by earlier waves of legal. As Professors Remus and Levy observed years before generative AI tools became mainstream, "from one perspective, the dramatic impact of technology on legal practice is nothing new. The Internet, email, and legal research databases like Westlaw and Lexis have been impacting and altering legal practice for decades."¹¹⁰ Templates for common contracts like leases and employment agreements are freely accessible online.¹¹¹ Legal automation platforms can help a person complete any number of

that shift, enabling software tools to automatically complete tasks and generate outputs that are increasingly indistinguishable from human work.").

109. Anderson, *supra* note 9, at 1551 ("One of the most enticing benefits of artificial intelligence for young lawyers is that it will free them from menial tasks such as document review and allow them to focus on more sophisticated or self-rewarding work. The issue that arises, however, is how are law firms supposed to bill the tasks being performed by artificial intelligence to the client?").

110. See Remus & Levy, *supra* note 18, at 2; see also Markovic, *supra* note 18, at 335 ("But lawyers have proven resistant to automation throughout their history, and the automation of certain routine types of legal work is hardly evidence that attorneys' core tasks will soon be performed by intelligent machines.").

111. See, e.g., *Report of NYCLA Task Force on On-Line Legal Providers Regarding On-Line Legal Documents*, N.Y. CNTY. LAWS. ASS'N, <https://www.nycla.org/resource/board-report/report-of-nycla-task-force-on-on-line-legal-providersregarding-on-line-legal-documents/> [<https://perma.cc/YF3D-QFLG>] (last visited Oct. 26, 2025) ("Today, on-line legal forms generate approximately \$4.1 billion in annual revenue, providing, among other things, forms in a host of areas including trademarks, patents, copyrights, wills, living trusts, as well as LLC and corporate formation.").

legal tasks such as drafting a will¹¹² or initiating a divorce,¹¹³ with minimal human input or advice from a practicing attorney. In fact, in 2020, one such platform, LegalZoom, facilitated the formation of “10% of all new LLCs and 5% of all new corporations in the United States”—in most cases without any direct lawyer involvement.¹¹⁴ And the once tedious process of producing hard copy documents in litigation has been largely replaced with eDiscovery tools which make it possible to review and produce many more documents digitally making many cases larger and significantly more complex.¹¹⁵

To be sure, generative AI is perhaps more flexible and capable than earlier legal technologies. This may broaden the range and scope of legal tasks that generative AI technologies can support. But given how much technology is already able to accomplish in the legal market, the risk that generative AI will cannibalize a significant number of billable hours is limited by the reality that prior technologies have already improved the efficiency of legal work in ways that make generative AI's most likely impact more evolutionary than revolutionary.¹¹⁶

Second, even for less routine, more complex billable work, lawyers rarely start from a blank page. Rather, lawyers have long relied upon filed documents, form libraries, and prior work product not just to get started, but often to complete substantial portions of their deliverables.¹¹⁷ This is yet another reason that productivity

112. See Dalia Ramirez, *7 Best Online Will Makers of 2025*, NERDWALLET, (Jan. 6, 2025), <https://www.nerdwallet.com/p/best/investing/estate-planning/online-will-makers> [<https://perma.cc/JKR8-KCAG>].

113. See, e.g., *Online Divorce Without Expensive Divorce Lawyers*, HELLO DIVORCE, <https://hellodivorce.com> [<https://perma.cc/U26R-ZVD7>] (last visited Oct. 26, 2025).

114. *Novo & LegalZoom Announce Partnership*, NOVO (Nov. 30, 2022), <https://www.novo.co/blog/novo-legalzoom-partnership-small-businesses-formation-services> [<https://perma.cc/TVL6-7Y4V>].

115. See *How eDiscovery Tools Transformed the Industry*, CHAMBERS AND PARTNERS (Oct. 23, 2024), <https://chambers.com/articles/how-ediscovery-tools-transformed-the-industry> [<https://perma.cc/L2NQ-TENW>].

116. See Remus & Levy, *supra* note 18, at 530-35 (explaining that empirically less than 5% of work has billed to tasks where automation potentially has strong employment effects); Markovic, *supra* note 18, at 325 (“Most legal tasks are inherently abstract and cannot be performed by even advanced artificial intelligence relying on deep-learning techniques.”).

117. See Lori D. Johnson, *Navigating Technology Competence in Transactional Practice*, 65 VILL. L. REV. 159, 183 (2020) (“Across the solo practitioner, mid-sized firm lawyer, and BigLaw partner interviewed, all of them still rely heavily on existing document forms in creating transactional documents.”); Robert Anderson & Jeffrey Manns, *Engineering Greater Efficiency in Mergers and Acquisitions*, 72 BUS. LAW. 657, 661 (2017) (“Our analysis

gains offered by generative AI are likely to be incremental, making this gap between “AI-augmented lawyering” and “traditional lawyering” narrower than many headline-grabbing studies suggest. Instead, lawyers are more likely to just add generative AI to their toolbox such that, as the increasingly common aphorism suggests, *AI won’t replace lawyers, but it will replace lawyers who don’t use AI*.¹¹⁸

Third, the fear that AI will inevitably reduce the total number of hours for which lawyers across the profession can bill misunderstands the reality that increased efficiency has the potential to positively affect the legal labor markets. This reflects what economists call the “lump of labor fallacy”—the mistaken belief that there is always a fixed amount of work to be done and efficiency gains therefore necessarily reduce the number of available tasks.¹¹⁹ Instead, efficiency gains have the potential to expand the total amount of work by lowering costs, broadening access, and potentially unlocking latent demand.

As economists Ajay Agrawal, Joshua Gans, and Avi Goldfarb argue in their 2018 book, *Prediction Machines*, “when the price of something fundamental drops drastically, the whole world can change.”¹²⁰ Generative AI has this transformative potential, they explain, because it dramatically reduces the cost and time it takes for “prediction,” which they define as “using information you have

is based on the fact that the starting point of the drafting process for every public company deal is the selection of an earlier acquisition agreement that serves as its precedent.”).

118. See *AI and the Practice of Law: Will Lawyers Be Replaced?*, BARONE DEF. FIRM: MICH. CRIM. DEF. LAW. BLOG (May 20, 2025), <https://www.baronedefensefirm.com/blog/ai-and-the-practice-of-law-will-lawyers-be-replaced/> [<https://perma.cc/S5W9-WNT8>] [hereinafter BARONE] (“AI won’t replace lawyers, but lawyers who use AI will replace those who don’t.”); Olivia Roberts, *Legal AI Unfiltered: 16 Tech Leaders on AI Replacing Lawyers, Billable Hour, Hallucinations*, NAT’L L. REV. (Feb. 12, 2025), <https://natlawreview.com/article/legal-ai-unfiltered-16-tech-leaders-ai-replacing-lawyers-billable-hour-and> [<https://perma.cc/S8WW-K7Q3>]. This is not unique to lawyers of course. Dominique Harroch & Richard Harroch, *15 Quotes on the Future of AI*, TIME (Apr. 25, 2025, 11:15 EDT), <https://time.com/partner-article/7279245/15-quotes-on-the-future-of-ai/> (on file with the *Stetson Business Law Review*) (quoting Alphabet CEO stating “[t]he future of AI is not about replacing humans, it’s about augmenting human capabilities.”).

119. See Scott A. Wolla, *Examining the “Lump of Labor” Fallacy Using a Simple Economic Model*, FED. RES. BANK OF ST. LOUIS (Nov. 2, 2020), <https://www.stlouisfed.org/publications/page-one-economics/2020/11/02/examining-the-lump-of-labor-fallacy-using-a-simple-economic-model> [<https://perma.cc/VF8J-X8VV>] (explaining that the “lump of labor fallacy” is the mistaken belief that there is a fixed amount of work to be done, leading to the erroneous conclusion that efficiency gains reduce total employment).

120. AJAY AGRAWAL, JOSHUA GANS & AVI GOLDFARB, *PREDICTION MACHINES: THE SIMPLE ECONOMICS OF ARTIFICIAL INTELLIGENCE* 11 (2018).

to generate information you don't have."¹²¹ Because prediction in this sense is so essential to what lawyers do, generative AI has the potential to fundamentally change the legal profession in ways which will not necessarily decrease the number of hours worked but instead could fundamentally expand the practice of law (especially for lawyers willing to embrace the possibilities provided by legal technology).¹²²

More generally, this phenomenon of dramatic efficiency improvements leading to increased, rather than decreased total consumption relates to what is known as "Jevons Paradox." Jevons Paradox is an economic theory first articulated in 1865 by William Stanley Jevons when he observed that, as coal-burning technologies became more efficient, total coal consumption rose because cheaper energy unlocked new uses, lower prices, and expanded demand.¹²³ The phenomenon has reappeared across many industries since, especially with new and transformative technologies. For example, as cloud storage became cheaper and more efficient, total data storage needs exploded due to greater proliferation of digital services.¹²⁴

Jevons Paradox may seem obvious in one sense and counterintuitive in another. It is obvious, in the sense that if efficiency lowers the effective cost of using a resource, this can lead to reduced prices and increased consumption.¹²⁵ This follows the traditional downward-sloping demand relationship.¹²⁶ But Jevons Paradox is less obvious in the sense that it captures a related but different phenomenon: efficiency does not only drive down price it also has the potential to expand the total scope and volume of work by enabling new tasks that were previously impractical,

121. *Id.* at 24.

122. See Markovic, *supra* note 18, at 334–35.

123. See W. STANLEY JEVONS, *THE COAL QUESTION; AN INQUIRY CONCERNING THE PROGRESS OF THE NATION, AND THE PROBABLE EXHAUSTION OF OUR COAL-MINES* (A.W. Flux ed., London, MacMillan & Co. 1096) (1865); see also Rapoport & Tiano Jr., *supra* note 9, at 92.

124. Bernard Golden, *Cloud computing has its 'Jevons Moment'*, CIO (June 11, 2015), <https://www.cio.com/article/247214/cloud-computing-has-its-jevons-moment.html> (on file with the *Stetson Business Law Review*); Cyrus Moulton, *What is Jevons Paradox? And why it may-or may not-predict AI's future*, NE. GLOB. NEWS (Feb. 7, 2025), <https://news.northeastern.edu/2025/02/07/jevons-paradox-ai-future/> [<https://perma.cc/92UF-YW8U>].

125. AGRAWAL, GANS, & GOLDFARB, *supra* note 120, at 19 ("When the price of something falls, we use more of it").

126. See N. GREGORY MANKIW, *PRINCIPLES OF ECONOMICS* 449 (6th ed. 2012).

uneconomical, or unimaginable.¹²⁷ Put differently, AI does not make existing legal work cheaper or more efficient, it has the potential to both expand existing legal work and create entirely new types of legal work as well. If this occurs, the potential number of hours available to lawyers across the profession could increase overall.

In fact, the legal profession has already experienced versions of this before.¹²⁸ For example, as noted above, when legal research shifted from books to digital databases that promised significant time savings, lawyers just began reviewing more material.¹²⁹ And in eDiscovery, when technology replaced Bankers boxes and document warehouses with computer-based, technology-assisted review (TAR), the volume of documents lawyers reviewed just increased.¹³⁰ In transactional practices, faster tools accelerated deal timelines decreasing the number of hours per deal but leading to greater deal volume and more complex terms creating a greater total number of deal hours.¹³¹ In other words, increased efficiency on legal tasks has not typically eliminated lawyer work, it has typically generated more.¹³²

For litigators, generative AI has the potential to lead to more cases and expanded discovery.¹³³ For transactional lawyers, faster contract drafting may enable the completion of more deals at scale as well as more bespoke dealmaking even as diligence burdens

127. See JEVONS, *supra* note 123.

128. See ROSS, *supra* note 8, at 70–71 (1996), (explaining how technology has the potential to create more billable work not less); Henderson, *supra* note 34, at 373 (arguing that lawyers have evolved from generalists to specialists to project managers in response to changing client demands and technological capabilities, with each transition creating new forms of legal work rather than eliminating the profession).

129. See Gravett, *supra* note 9, at 15 (“The introduction of information technology—electronic databases, the internet and e-mail—changed the speed and mode of the delivery of legal communications, and made redundant the need for legal processes and services to take place anywhere in the physical world, instead occurring in cyberspace. However, it did not transform the fundamental nature of legal services or the practice of law, and was thus sustaining in its effect.”).

130. John Prudhomme, *Discovery in the Paperless World: How Speed and Ease of Technology Has Slowed and Complicated the Process*, 14 SMU SCI. & TECH. L. REV. 159 (2010).

131. See HOW I LAWYER PODCAST, #034: David Lucking – Derivatives Lawyer and Head of Global International Capital Markets at Allen & Overy (Sept. 9, 2021), <https://www.howilawyer.com/34-david-lucking-derivatives-lawyer-and-head-of-global-international-capital-markets-at-allen/> (on file with the *Stetson Business Law Review*).

132. See Markovic, *supra* note 18, at 334–35.

133. See *id.*, at 333 (“In terms of legal prediction, artificial intelligence will likely complement lawyers without necessarily making litigation any less frequent.”).

grow. And for all lawyers, AI-generated time savings may enable them to take on additional matters at lower margins than were previously profitable. After all, 77% of all matters that could require lawyers, do not actually use lawyers today.¹³⁴ In this way, this greater availability of lawyer hours could even help address longstanding access-to-justice gaps in the latent legal market.

It is of course possible that the legal profession will become so different that the billable hour will no longer be a viable approach to law firm compensation. But if history is any guide, this trend of finding ways to maintain hourly billing will continue even with the introduction of generative AI.

Fourth, while generative AI may accelerate routine tasks, it also will create new requirements for lawyers to verify, refine, and improve AI-generated outputs.¹³⁵ More than that, expectations around quality, precision, and complexity are likely to rise due to generative AI adoption in ways that are likely to offset some of the time this technology saves. This too is a phenomenon that the legal profession has seen before. For example, when e-mail and word processing became commonplace in the practice of law, lawyers just produced more drafts and increased their standards for what was file-ready. This efficiency led to a significant increase in the number of hours worked even as completing individual tasks became faster.¹³⁶

As legal tech expert Tom Martin explains it well, “if a research memo used to take you ten hours and now you can generate a half-decent first draft in two . . . 80% of [your] time might be repurposed to refine and iterate on the AI’s output, making the end product more polished, but also piling on more versions and greater complexity.”¹³⁷ The result, he notes, is that “instead of a breather, you get a busier day, with an even higher bar for quality.”¹³⁸ Jordan

134. See Sara Merken, *Why Clio’s Jack Newton Sees Profits and Progress in the “Latent Legal Market,”* REUTERS (Aug. 12, 2021, at 18:27 EDT), <https://www.reuters.com/legal/legalindustry/why-clios-jack-newton-sees-profits-progress-latent-legal-market-2021-08-12/> [<https://perma.cc/ZK27-M5XJ>].

135. See BARONE, *supra* note 118.

136. See *Update on Associate Hours Worked*, NAT’L ASS’N FOR L. PLACEMENT (2016), <https://www.nalp.org/0516research> [<https://perma.cc/3J85-7FSU>] (showing that billable hours have not progressively decreased as a result of greater access to technology).

137. Tom Martin, *The Hyperproductivity Trap: How AI May Reshape Our Expectations, and Ourselves*, LAWDROID MANIFESTO (May 6, 2025), <https://www.lawdroidmanifesto.com/p/the-hyperproductivity-trap-how-ai> [<https://perma.cc/9FAQ-8XBK>].

138. *Id.*

Furlong echoes this point, observing that generative AI has the potential to “eliminate[] simplicity in legal work (because it can do simple tasks in seconds) while also magnifying complexity (because its creative and analytical abilities reveal many more potential problems and opportunities to be addressed).”¹³⁹ The result, he concludes, is that “there’s just as much work or more for lawyers, but it’s all mission-critical, intricate, and highly concentrated.”¹⁴⁰

Fifth and finally, not all legal tasks are ripe for efficiency gains. Rather, there is a natural limit to the amount of increased productivity that generative AI can bring to certain sectors and activities within the legal profession. A seven-hour deposition will still last seven hours.¹⁴¹ A one-week trial will still last one week. A five-hour flight to meet with a regulator will still take five hours. And a thirty-minute client meeting will still take thirty minutes. Of course, law practice may evolve. But for now, the time it takes to complete some substantial number of critical legal tasks is likely to remain largely unaffected by generative AI as are the number of billable hours it takes to complete these tasks.

For all these reasons, although there will inevitably be some efficiencies that generative AI creates, without more drastic changes to the practice of law, time worked may remain, to once again quote Lincoln, “a lawyer’s stock and trade.”

B. Rate (*R*)

The second variable in the CHARGE Equation to consider is the rate that lawyers can demand for the hours that they work. This rate is not only one of the primary levers of law firm compensation in hourly billing, but also the one that has increased most dramatically over the past several decades. In the “later 1990s . . . hourly rates [increased] . . . between 3.5 to 7.3% per year” despite “pressure [in] large corporate law firms to increase efficiency.”¹⁴² More recently, according to Thomson Reuters and the True Value

139. Jordan Furlong, *Redefining Productivity in Legal Services*, (May 16, 2025), <https://jordanfurlong.substack.com/p/redefining-productivity-in-legal> [<https://perma.cc/JLB9-XZ6G>].

140. *Id.*

141. *See* FED. R. CIV. P. 30.

142. Hadfield, *supra* note 88, at 958 (alteration in original).

Pricing Institute, who have been tracking law firm billing rates since 2008, billing rates across the legal market have increased above inflation for all but one of the past sixteen years.¹⁴³ And in 2024, even after firms started to integrate generative AI tools, the average increase in hourly billing rates across all legal market segments was 6.5% as compared to only a 2.8% rise in inflation.¹⁴⁴

Yet if anything, these top-level statistics obscure just how extreme billing rate increases have become—especially at the highest billing firms. In 1998, “[a]verage hourly rates for lawyers in the U.S. in 1998 were \$180 . . . with the top ten percent earning over \$385 an hour.”¹⁴⁵ By 2011, the headlines read, “Top Lawyers Push Rates Above \$1,000 an Hour.”¹⁴⁶ By 2024, those same headlines read “Rock-Star Law Firms Are Billing Up to \$2,500 Per Hour. Clients are Indignant.”¹⁴⁷ And by February 2025, those same headlines read: “More Lawyers Join the \$3,000-an-Hour Club.”¹⁴⁸ And this trend has not been limited to equity partners. According to the 2025 CounselLink Pricing study, “[a]ssociate and of counsel rates have been increasing on average at a higher rate than partner rates for the last several years.”¹⁴⁹ In fact, some associates in Big Law are now billed out at over \$1,000 per hour to clients, with senior associates crossing the \$2,000 threshold.¹⁵⁰ To be sure, most firms charge far less. But the amount that these firms can

143. See *2025 Report on the State of the US Legal Market*, THOMSON REUTERS INST. & GEO. L. CTR. ON ETHICS AND THE LEGAL PROFESSION, <https://www.thomsonreuters.com/en-us/posts/wp-content/uploads/sites/20/2025/01/State-of-the-US-Legal-Market-Report-2025.pdf> [https://perma.cc/9G6K-G3FP] (last visited Oct. 26, 2025).

144. *Id.*

145. Hadfield, *supra* note 88, at 957.

146. Vanessa O'Connell, *Big Law's \$1,000-Plus an Hour Club*, WALL STR. J. (Feb. 23, 2011, 00:01 EST), <https://www.wsj.com/articles/SB10001424052748704071304576160362028728234> (on file with the *Stetson Business Law Review*).

147. Erin Mulvany, *Rock-Star Law Firms Are Billing Up to \$2,500 per Hour. Clients Are Indignant.*, WALL STR. J. (Oct. 4, 2024, 21:00 EDT), <https://www.wsj.com/business/rock-star-law-firms-are-billing-up-to-2-500-per-hour-clients-are-indignant-61b248c2> (on file with the *Stetson Business Law Review*).

148. See David Thomas & Mike Scarcella, *More Lawyers Join the \$3,000-an-Hour Club, as Other Firms Close In*, REUTERS (Feb. 27, 2025, 16:15 EST), <https://www.reuters.com/legal/legalindustry/3000-an-hour-lawyer-isnt-unicorn-anymore-2025-02-27/> [https://perma.cc/AJP4-LXS7].

149. See *2025 Trends Report*, LEXISNEXIS AND COUNSELLINK, <https://ln-counsel.link.lexisnexis.com/2025/trends> (on file with the *Stetson Business Law Review*) (last visited Oct. 26, 2025).

150. See Aebrá Coe, *Some Associates Bill \$2,000 Per Hour As BigLaw Fees Rise*, LAW360 (Apr. 22, 2025, 7:00 AM), <https://www.law360.com/pulse/articles/2327559/some-associates-bill-2-000-per-hour-as-biglaw-fees-rise> (on file with the *Stetson Business Law Review*).

charge serves as a powerful anchoring effect on what the rest of the legal market can (and does) charge.¹⁵¹

Perhaps counterintuitively, these dramatic increases in hourly rates have occurred despite significant headwinds in the legal industry in recent years, especially in Big Law. The reality is that over the past twenty-five years—and most dramatically since the 2008 financial crisis¹⁵²—law firms consistently have been forced to “do more with less.”¹⁵³ This includes choosing to hire and retain fewer associates, fire partners who are deemed “unproductive,”¹⁵⁴ and agree to any number of client concessions as in-house counsel seek to limit legal spending.¹⁵⁵ As Mitt Regan and Lisa Rohrer explain, “one of the most striking changes in the legal services market is the intensified pressure by clients on price.”¹⁵⁶

To contain costs, major corporate clients are increasingly using outside counsel for only the most important and most novel work.¹⁵⁷ And for the work that outside counsel is hired to do, clients are increasingly requiring complex and sophisticated pricing controls. For example, many large corporate clients now rely on “preferred provider” or “panel firm” arrangements—formalized frameworks that limit legal work to a select group of pre-approved

151. See *Law Firm Rates in 2024: New Report Finds That Rates Continue Strong Growth, but Could Face Shifting Trends*, THOMSON REUTERS (Sept. 17, 2024), <https://www.thomsonreuters.com/en-us/posts/legal/law-firm-rates-report-2024/> [<https://perma.cc/R9RE-H5N9>] (noting that Am Law 100 firms led with an 8.4% year-to-date growth in worked rates, prompting Second Hundred and midsize firms to follow suit with aggressive rate increases, suggesting that top-tier firms set pricing benchmarks influencing the entire market); Sinead Kenny, *2025 Law Firm Billing Rate Increases: Why Rates Rose and How to Negotiate Lower Fees*, BRIGHTFLAG (Jan. 29, 2025), <https://brightflag.com/resources/law-firm-billing-rates/> [<https://perma.cc/433F-UVAC>] (highlighting that the top 50 U.S. firms charge double the rates of their lower-ranked counterparts, and that smaller firms often adjust their rates in response to the high pricing set by elite firms, indicating an anchoring effect); Mulvany, *supra* note 147 (“The market is driven by the top end. The top firms are spending money to compete for the best rock-star talent. That’s what is driving this.”).

152. See Wald, *supra* note 76, at 2867 (“[W]hereas before the Great Recession, large law firms were systematically growing, hiring one out of every four law school graduates as entry-level associates, the downturn brought stagnation and reduction in the size of large firms and its aftermath ushered in an ongoing period of uncertainty and instability.”).

153. See Henderson, *supra* note 34, at 389; see also SUSSKIND, *supra* note 82, at 114.

154. See REGAN & ROHRER, *supra* note 33, at 96.

155. See Henderson, *supra* note 34, at 387.

156. See REGAN & ROHRER, *supra* note 33, at 45.

157. See William Josten, *Why and How Corporate GCs are Reallocating Their Outside Legal Work*, THOMSON REUTERS (May 12, 2025), <https://www.thomsonreuters.com/en-us/posts/corporates/reallocating-outside-legal-work/> [<https://perma.cc/N4AU-8LVF>].

outside firms.¹⁵⁸ In exchange for inclusion in this group, law firms are required to agree to client-specific pricing structures, which may include volume-based discounts, capped or fixed hourly fees, or preferred rates for particular matter types.¹⁵⁹ Panel participation also often comes with strict billing guidelines that may discourage or disallow time billed by junior associates, limit staffing ratios, or require prior approval for certain types of charges.¹⁶⁰ And even clients who do not use panels often employ legal spend management software that audits invoices line-by-line, benchmarks fees, and flags inefficiencies.¹⁶¹ Many in-house counsel now also require lawyers to track their attorneys' billable hours even when paying on a fixed-fee or other alternative billing basis (so called "shadow billing" as noted above).¹⁶²

Although large firms serving corporate clients face these increasingly sophisticated pricing constraints, lawyers in smaller firms and solo practices—those who serve individuals, families, and small businesses—experience a different but equally significant form of downward pricing pressure despite rising hourly rates. These "Main Street" lawyers increasingly operate in highly competitive markets where clients are acutely cost-sensitive and are more likely to shop for legal services based on perceived affordability.¹⁶³ Unlike their Big Law counterparts,

158. See Rose D. Ors, *In Practice: How to Enhance the Value of Preferred Law Firm Panels*, THOMSON REUTERS INST. (July 19, 2021), <https://www.thomsonreuters.com/en-us/posts/legal/in-practice-law-firm-panels/> [<https://perma.cc/P5LC-36KW>].

159. See *Law Firm Preferred Provider Networks*, PRACTICAL L.J. (July 3, 2023), <https://www.reuters.com/practical-law-the-journal/legalindustry/law-firm-preferred-provider-networks-2023-07-03/> [<https://perma.cc/5T6U-9RDF>].

160. See *id.*

161. See *What Is Legal Spend Management and How Can It Reduce Costs?*, THOMSON REUTERS (July 2, 2024), <https://legal.thomsonreuters.com/en/insights/articles/what-is-legal-spend-management> [<https://perma.cc/DBA5-DMD4>] (describing how legal spend management software "compares your organization against the highest-performing legal departments from around the world" and "isolates specific types of work by spend, department and company size, type of work, rates by metro and classification"); Laura Johnson et al., *Establishing Best Billing Practices Through Billing Guidelines: Fostering Trust and Transparency on Legal Costs*, 39 U. ARK. LITTLE ROCK L. REV. 1, 3 (2016).

162. See Ken Crutchfield, *Does AI Signal The End Of The Billable Hour?*, ABOVE THE LAW (Jan. 23, 2024, 15:15 EST), <https://abovethelaw.com/2024/01/does-ai-signal-the-end-of-the-billable-hour/> [<https://perma.cc/TK2C-HVZ7>] ("These days sophisticated clients enforce strict rules on what is billable and what is not.").

163. See *U.S. Legal Services Market Size & Share Report*, GRAND VIEW RSCH. <https://www.grandviewresearch.com/industry-analysis/us-legal-services-market-report> [<https://perma.cc/RMS3-BESK>] (last visited Oct. 26, 2025) (explaining that "small firms held the largest market share in 2024, owing to their ability to offer flexible and cost-

these lawyers are rarely shielded by panel arrangements or long-standing institutional relationships. Instead, they must justify their regularly increasing rates directly to clients who are able to leverage market power by, among other things, withholding referrals and writing public facing reviews that include statements about perceived cost effectiveness.¹⁶⁴

So how could it be that clients have become more price conscious but at the same time hourly rates have continued to increase? The answer is consistent with many of the reasons described above in Section A: clients are budgeting for and expecting their lawyers to complete more tasks and to complete them faster even if they are willing to agree to higher hourly rates for the work they complete.¹⁶⁵ Put another way, although lawyers sell their time based on input (number of hours worked), clients buy output (work product and advice) and the hourly billing rate is therefore more of a proxy for the predicted final cost of that output rather than a truly variable cost. As one law firm partner put it, most of his clients “don’t care about the hourly rate[, a]ll they care about is what the bottom line is going to be. So what if you charge \$5,000 an hour if it’s the same amount that they expect to pay.”¹⁶⁶

The relevant question then is whether AI efficiencies are likely to reverse this decades-long rise in lawyer billing rates or whether rates will continue to rise despite generative AI adoption in ways that help backstop the billable hour model (even if lawyers end up billing fewer hours). At this point, the answer remains uncertain.¹⁶⁷ The pessimistic case for rates mirrors the pessimistic case for billable hours described in Section A. That is, if generative AI efficiencies substantially reduce demand for legal services, the

effective legal services” and noting these firms “providing tailored legal solutions at more affordable rates than large firms”); Shari Borek, *Your Complete Guide to Effective Small Law Firm Management*, CLIO (Nov. 24, 2020), <https://www.clio.com/blog/how-to-manage-small-law-firm/> [<https://perma.cc/4A94-ADMD>] (explaining that “small firms held the largest market share in 2024, owing to their ability to offer flexible and cost-effective legal services” and noting these firms “providing tailored legal solutions at more affordable rates than large firms”).

164. See Jason Hennessey, *Tips on How to Get More Referral Clients*, NAT’L L. REV. (June 15, 2023), https://natlawreview.com/article/8-lawyers-share-how-to-land-more-client-referrals?utm_source=chatgpt.com [<https://perma.cc/AQ7P-XG7Y>].

165. See SUSSKIND, *supra* note 82, at 114–15.

166. See REGAN & ROHER, *supra* note 33, at 45.

167. See Crutchfield, *supra* note 162.

resulting surplus of lawyers' hours available could intensify competition for a shrinking pool of client work, which could in turn exert downward pressure on rates—particularly in saturated segments of the market.¹⁶⁸ If these forces accelerate, they could do more than end the billable hour; they have the potential to destabilize the entire legal market as we know it.

By contrast, the more optimistic scenario for hourly rates is that they will continue to rise or even accelerate more rapidly because of generative AI efficiency. This outcome would be consistent with long-standing structural explanations for the inelastic demand that we have seen for decades, where lawyer billing rates have climbed steadily despite technological efficiencies and increased client-based cost pressures.

One reason why rates may continue to increase is that the legal market is, as Professor Gillian Hadfield has explained, in some ways “fundamentally noncompetitive” given the “complexity of legal reasoning and procedure, the profession’s derived monopoly on the legitimate use of coercion, and the unification of the profession to serve the diverse needs for access to law,” insulating it from more traditional economic counterbalances to increased rates.¹⁶⁹ Together, in her words, this creates a “string of powerful market incentives to charge fees above those that would emerge in a competitive market.”¹⁷⁰ Of course, if AI tools allow clients to bypass lawyers for more basic tasks, that monopoly might erode at the margins. But on the other hand, if AI allows lawyers to take on more complex, high-value matters—while still preserving their exclusive role in the legal system—there is every reason to believe that rates have the potential to continue to rise given the sometimes-non-competitive nature of legal pricing.

Another potential reason why lawyers might be able to charge more even as AI makes them more efficient is the reality that many law firms—particularly at the top of the market—compete less on price and more on reputation.¹⁷¹ As a result, steadily increasing billing rates can serve as a signal of increased quality, access, and institutional legitimacy to both clients and fellow lawyers. For this reason, the legal market is one where some (albeit not all) clients

168. See Part III.A. *supra*.

169. See Hadfield, *supra* note 88 at 956, 999.

170. *Id.* at 956.

171. See Wilkins, *supra* note 74, at 41.

pick higher-priced lawyers because they assume higher prices indicate superior skill or service. In this way, the legal market is shaped, at least in part, by a dynamic of “prestige pricing,” in which price increases not just because the representation is better but also because higher billing rates signal better quality, reputation, and exclusivity.¹⁷² The result is that in some segments of the market lawyers will continually compete by charging higher prices.¹⁷³ AI adoption has the potential to exacerbate this dynamic. After all, when firms try to compete in part based on the perceived quality (and expense) of generative AI tools they use, they will likely have an incentive to charge even higher rates as an indirect way to cover the cost of these technologies.

A third potential reason why lawyer billing rates may continue to rise despite some increases in efficiency can be described with reference to an economic theory known as Baumol’s Cost Disease.¹⁷⁴ This theory explains that wages tend to rise even in labor-intensive professions with low productivity growth.¹⁷⁵ For example, playing a classical music concert still takes the same amount of time today as it did a century ago, but musicians’ wages have risen to stay competitive with more productive sectors like manufacturing that have become more efficient.¹⁷⁶ Legal services share this dynamic because “[a]lthough the modern law office, with its computers and access to court through electronic filing, would look like magic to Daniel Webster, the differences in legal practice between Webster’s time and our own are not as great as the

172. See Ribstein, *supra* note 58 (“One promising explanation is that the hourly fee is a function of the law firm’s reputational capital.”); Ring & Jacobs, *supra* note 11 (“The metric survives in part because of its ‘great symbolic value,’” says Laura Empson, a professor at Bayes Business School. “It’s sending a signal to the client that professionals are dedicated to serving them.”).

173. See Hadfield, *supra* note 88, at 971 (“[T]he very fact of charging the higher price may raise the client’s estimate of his quality. Another lawyer may try to woo the client away with a lower price but will have no way of proving that he offers representation of comparable quality.”).

174. See Michael Maiello, *Diagnosing William Baumol’s Cost Disease*, THE UNIV. OF CHI. BOOTH SCH. OF BUS. (May 18, 2017), <https://www.chicagobooth.edu/review/diagnosing-william-baumols-cost-disease> [<https://perma.cc/MHD8-L4KM>].

175. See *id.*

176. See *id.* (“The number of musicians and the amount of time needed to play a Beethoven string quartet for a live audience hasn’t changed in centuries, yet today’s musicians make more than Beethoven-era wages.”).

productivity gains in other areas. Thus, we pay much less for some things and more for legal services.”¹⁷⁷

Even if generative AI improves lawyer productivity at the margins, Baumol’s theory suggests that wages (and by extension, billing rates) may continue to rise because salaries are the dominant cost drive in law firms.¹⁷⁸ As long as lawyers remain essential for high-value, judgment-based work, Baumol’s Cost Disease predicts that lawyer billable rates have the potential to remain significant and even to continue to increase.

A fourth potential reason billing rates have the potential to increase rather than decrease in the age of generative AI is that many AI-enhanced tasks are complements to, not substitutes for, legal services.¹⁷⁹ For example, as technology has made large datasets easier to process, it has boosted the demand for high-end management consultants who can manipulate and interpret that data.¹⁸⁰ The same dynamic is likely to apply in law. As AI improves the efficiency of foundational legal tasks (like document review, research, or contract drafting) and non-billable but essential functions (like client intake and business development), the remaining tasks for lawyers will increasingly involve higher-order human judgment: strategic decision making, risk assessment,

177. See Emery G Lee III, *Law Without Lawyers: Access to Civil Justice and the Cost of Legal Services*, 69 U. MIA. L. REV. *But see* Michael Abramowicz, *The Cost of Justice at the Dawn of AI*, 6–7, GWU L. SCH. PUB. L., 1, 6–7 (2024) (noting that the assumption that law suffers from Baumol’s cost disease is not sufficiently studied or theorized).

178. For a more detailed discussion of the potential of generative AI and its effect on Baumol’s cost disease as applied to law see Abramowicz, *supra* note 177.

179. See Adam N. Eckart, *Transactional Artificial Intelligence*, 26 LEG. WRITING: J. LEG. WRITING INST. 273, 282 (“By utilizing such technology, attorneys can perform their work with greater efficiency and accuracy, increasing their ability to take on more work and reduce cost to the client.”).

180. See Joshua Cogar, *What Is Big Data & How Will It Affect Consulting*, MGMT. CONSULTED (Sept. 26, 2024), <https://managementconsulted.com/what-is-big-data-how-will-it-affect-consulting/> (on file with the *Stetson Business Law Review*) (explaining that “big data analytics” has led top consulting firms to build “implementation practices and Big Data analytics groups” because “successful big data analytics is an ongoing process of discovery and usage of new tools and techniques” that “clients may need to explore with a consulting partner over time”); Seb Murray, *Bain, BCG, And 7 Other Consulting Firms Desperate For MBAs Who Understand Big Data*, BUSINESS BECAUSE (Apr. 17, 2016), <https://www.businessbecause.com/news/mba-jobs/3922/prestige-consultancies-desperate-for-analytics-talent> [<https://perma.cc/RZV9-D7JY>] (reporting that consulting firms are “seemingly desperate for MBAs with data analytics expertise” because “data and analytics have become part of the fabric of how we do business” and that “teams are increasingly bringing data and analytics skills into project analysis and execution”).

negotiation, oral advocacy, and bespoke client counseling.¹⁸¹ These are the very tasks clients depend on most, least want automated, and are most willing to pay for.¹⁸² As a result, as law firm partner Frank Gerratana explains, “I can envision a scenario in which lawyers can simply charge more per hour because they’re spending more time on the highest value work and things that are time-consuming—but not particularly high value—can be automated.”¹⁸³

In this way, even if total billable hours do decrease to some degree, increasing rates may provide a way to offset declines in total compensation caused by generative AI efficiencies. The logic is intuitive: if generative AI enables lawyers to offload low-value tasks, then a greater share of their time can be spent on high-value, strategic work justifying higher hourly rates.¹⁸⁴ Or, as another law firm leader explained it, “[m]ost firm are investing a lot in AI products and services, but I would suggest that the rate increase shows we are getting a really good return on investment . . . Why else would people be willing to pay this?”¹⁸⁵

Consider a partner at a mid-size firm currently billing clients at \$650 per hour. That rate applies whether she is negotiating a bespoke, bet-the-company contract or handling lower-level administrative tasks. If AI removes more of the latter from her plate, her time can now be spent almost exclusively on the former work which requires her unique expertise. Therefore, it is reasonable to think that she can negotiate an even higher hourly rate for her time, given that from the client’s perspective the value of that hour has increased, and the overall time she spends on all tasks might decrease. Moreover, now that this attorney spends less time on lower-level administrative tasks, this attorney may have more time for business development or to tend to additional billable matters.

181. See Gravett, *supra* note 9, at 24.

182. *Id.*

183. See Natalie Musumeci, *Believe It or Not, AI Could Help Lawyers Bill More by the Hour*, BUSINESS INSIDER (Sept. 1, 2024, 10:33 EDT), <https://www.businessinsider.com/ai-impact-billable-hour-lawyers-legal-world-2024-9> [<https://perma.cc/GG8P-SS7J>].

184. *Law Firm Disrupted: Billing Rates, Undisrupted*, LAW.COM (Aug. 22, 2025), <https://www.law.com/2025/08/22/law-firm-disrupted-billing-rates-undisrupted/?slreturn=20250906215954> [<https://perma.cc/Y2ZU-5H84>] [hereinafter *Law Firm Disrupted*] (“An increasingly tech-enabled workforce of lawyers means productivity for the average hour has gone up, so the thinking goes.”).

185. *Id.*

We have seen similar outcomes in other industries such as medicine. For example, when robotic tools became more common in surgical practice, the rates for skilled surgeons increased because the technology elevated the value and precision of human expertise at the critical moments that mattered most.¹⁸⁶ This is consistent with the current approach that many big and small firms seem to be taking toward generative AI. They are marketing their ability to leverage AI to clients as a means to create better work product more efficiently—without necessarily lowering their hourly rates or moving clients away from billable hour engagements.¹⁸⁷ In fact, many firms may try to recover the costs of these tools by increasing their rates.¹⁸⁸

Ultimately, history suggests that the ceiling on billing rates is not just financial, it is also psychological. Although clients are aware of their hourly billing rates, they are really paying for outcomes. Therefore, if lawyers can credibly show their client that AI-enhanced workflows enable them to focus more on high-value tasks, rate increases may not only be tolerated, they may be welcomed.

C. Granted Adjustments (G)

The next CHARGE variable—granted adjustments—refers to the billable hours that law firms work for their clients without compensation. These adjustments are sometimes known as “write offs” or “write downs.” This too is a variable that has dramatically increased in recent years with many clients scrutinizing their bills more closely and with greater skepticism. This trend reflects both rising total legal spend and decreased cost of reviewing bills due to the availability of sophisticated billing analytics software.¹⁸⁹ Even

186. See Jim McCartney, *Robotic Surgery Is Here to Stay—and So Are Surgeons*, AM. COLL. OF SURGEONS (May 10, 2023), <https://www.facs.org/for-medical-professionals/news-publications/news-and-articles/bulletin/2023/may-2023-volume-108-issue-5/robotic-surgery-is-here-to-stay-and-so-are-surgeons/> [https://perma.cc/48WC-3GBC] (noting that robotic surgery enhances surgical precision and outcomes, leading to increased demand for skilled surgeons who can effectively utilize such technology).

187. See Crutchfield, *supra* note 162.

188. See *Law Firm Disrupted*, *supra* note 184.

189. See *AI Time Tracking for Lawyers: Boosting Efficiency and Profitability*, A.B.A. LAW TECH. TODAY (Mar. 17, 2025), https://www.americanbar.org/groups/law_practice/resources/law-technology-today/2025/ai-time-tracking-for-lawyers/ (on file with the *Stetson Business Law Review*).

the smallest legal departments are now able to more effectively monitor, control, and minimize outside legal spend.¹⁹⁰ This, coupled with the fact that clients (at least of large law firms) are increasingly able to get lawyers to agree to reductions to billable hours in advance as a condition for hiring them, has led to a meaningful decrease in what are known as “collection realization rates,” the percentage of standard rates that law firms are able to collect.¹⁹¹

Although generative AI may allow at least some more sophisticated clients to scrutinize these invoices in new ways or to demand additional discounts in advance for work that generative AI supports, generative AI adoption also has the potential to help lawyers decrease these reductions in several ways.¹⁹²

First, instead of only allowing clients the ability to leverage automated tools to review legal bills, generative AI-enhanced tools may allow outside counsel the opportunity to prepare legal bills that better conform with client guidelines and expectations. For example, lawyers can use generative AI tools to more quickly and effectively craft billing entries that match time entries that clients have agreed to pay for in the past or that are consistent with agreed-upon billing guidelines. Generative AI-enhanced tools might also be used to help respond to write off requests while also allowing lawyers to prepare bills faster in the first instance. These are the kinds of tasks that have a major impact on law firms’ financial bottom lines and previously required law firms and more

190. See *Legal Spend Management Software Revolutionizes Law Departments*, LEXIS NEXIS (Oct. 8, 2024), <https://www.lexisnexis.com/community/insights/legal/counsellink/b/counsellink/posts/legal-spend-management-software-revolutionizes-law-departments> [<https://perma.cc/3FCN-6YTG>]; Rob MacAdam, *Streamlining Legal Spend Management for Smaller Law Departments*, ELEVATE (Apr. 30, 2024), <https://elevate.law/expertise/streamlining-legal-spend-management-for-smaller-law-departments/> [<https://perma.cc/4C2M-9W79>].

191. See REGAN & ROHRER, *supra* note 33, at 45.

192. See *AI Time Tracking for Lawyers: Boosting Efficiency and Profitability*, *supra* note 189; Tom Saunders, *How AI Is Removing Legal Obstacles That Slow down Business*, FIN. TIMES (Oct. 17, 2024) <https://www.ft.com/content/6c251704-a17b-43be-b65d-18f3b2f26fb5> [<https://perma.cc/Q37P-EU6P>]; Bob Ambrogi, *The Smart Screen Reader: How Ajax Is Automating Legal Timekeeping with AI-Powered Activity Tracking*, LAW SITES (Sept. 9, 2025), https://www.lawnext.com/2025/09/the-smart-screen-reader-how-ajax-is-automating-legal-timekeeping-with-ai-powered-activity-tracking.html?utm_medium=social&utm_source=linkedin&utm_campaign=LawSitesBlog-2025-09-09-51071 (on file with the *Stetson Business Law Review*) (“Ajax and others of its ilk are betting that the billable hour remains sufficiently entrenched that improving its accuracy and reducing its administrative burden represents a significant market opportunity.”).

specifically law firm partners, to spend a large amount of non-billable time preparing, reviewing, and negotiating bills.¹⁹³ Generative AI has the potential to help level this playing field and reduce administrative burden on law firms, thereby simultaneously reducing granted adjustments and freeing lawyers up to complete additional billable tasks.

Second, generative AI also has the potential to help these lawyers and the law firms that employ them better predict the cost of certain tasks and matters in advance. By using concrete data from past cases and the analytical abilities of generative AI-enhanced tools, lawyers now can better negotiate with clients on the front end and better prime them on the back end about the cost and number of hours that tasks are likely to require. Although this could certainly lead to more project-based billing, it also has the potential to help lawyers continue to use the billable hour while also better signaling the ultimate costs in advance in ways that help limit granted adjustments.

Finally, because generative AI tools have the potential to decrease attorney billing for the kinds of routine tasks that clients regularly refuse to pay for (or to pay full fees for) there may be fewer line items that clients can reasonably dispute in the first place.

D. Expenses (E)

The fourth CHARGE variable—expenses—also has the potential to benefit the billable hour in some ways but admittedly harm it in others. On the harm side, many of these generative AI tools are quite expensive and it is unlikely that clients will be willing to bear the full costs of these tools, at least directly.¹⁹⁴ Moreover, as discussed above, there are real concerns that generative AI adoption will make it harder for law firms to justify

193. See REGAN & ROHRER, *supra* note 33, at 77 (“I am my own sales forces. I am my own marketing force . . . I am effectively my own billing department. If there is a billing dispute I can’t turn it over to my accounting department. I’ve got to go face the client.”).

194. See *2025 Generative AI in Professional Services Report*, *supra* note 102, at 22 (“Many law firm respondents indicated that they expect to absorb GenAI costs as overhead, perhaps because client expectations set by past technological innovations have cemented the expectation that law firms would not bill for these sorts of costs.”).

charging for junior lawyers and for bearing the expense of training them.¹⁹⁵

Yet, at the same time, early indicators show that law firms are still interested in hiring and retaining junior lawyers despite generative AI efficiencies—and maybe because of it. Perhaps, just as junior lawyers were seen as helpful in ushering in the personal computer revolution at law firms in the 1990s, junior lawyers have the potential to usher in the generative AI revolution in the 2020s.¹⁹⁶ As digital natives (and soon-to-be generative AI natives) this group is well-positioned to lead AI adoption at law firms, at least in the short term.

More callously perhaps, even if there is a reduction in the number of junior lawyers hired, generative AI is likely a net positive from the perspective of reducing expenses at the law firm level. After all, hiring, training, and retaining junior lawyers (salary, benefits, office space, and recruiting) is not cheap.¹⁹⁷ To the extent that firms are able to increasingly outsource work to generative AI tools for lower costs than they would have to pay junior associates, this means that the firm—and by extension the firm's equity partners—will be able to retain more of the gross revenues collected. Alternatively, and more hopefully for the profession, if generative AI simply allows junior lawyers to do “higher-level” work earlier in their career, then these junior lawyers can be billed out at higher rates.¹⁹⁸ And if this happens, the

195. See Frank Fagan, *A View of How Language Models Will Transform Law*, 92 TENN. L. REV. (forthcoming 2026) (manuscript at 30), (<http://arxiv.org/abs/2405.07826>) [<https://perma.cc/R27J-XKEG>] (“There is no economic reason for investing in the training and fine-tuning of a model that can satisfy the demand for the legal services of a single lawyer because the lawyer can carry out the work more cheaply than the model.”).

196. See ROSS, *supra* note 8, at 73–74 (describing how junior lawyers' ability with computers was a benefit).

197. See Susan Lambreth, *Winning the War for Talent with Your Practice Groups*, JD SUPRA (April 5, 2022), <https://www.jdsupra.com/legalnews/winning-the-war-for-talent-with-your-2632054/> [<https://perma.cc/5KT4-29RT>].

198. See Melia Russell, *The Founder of Harvey Says a Massive Shift Is Coming to the Legal Profession. 'The Junior Folks Are Incredibly Happy about This.'*, BUSINESS INSIDER (Mar. 13, 2025, at 5:00 ET), <https://www.businessinsider.com/legal-ai-startup-harvey-winston-weinberg-predictions-future-law-2025-3> (on file with the *Stetson Business Law Review*) (“The Harvey founder says that most junior associates spend the first leg of their careers on rote tasks. ‘So whether that’s in reviewing documents in discovery or it’s reviewing documents in a data room, et cetera, you end up not being able to do the strategic level things until like 10 years into your career, if you’re lucky, five,’ he said. Software like Harvey allows them to get tasks done faster. ‘And so what I think will end up happening is the timeline will compress,’ Weinberg said, ‘so you will start being able to actually do the

more work that can be outsourced to generative AI tools, the more revenue the firm can retain so long as the kinds of tasks lawyers do continue to grow. Of course, this requires law firms to prioritize training junior lawyers even if they cannot charge clients for that training. Some firms will make this investment because, as law firms have long known, this is the way to develop internal leadership pipelines and create future client development opportunities. That said, other firms will not make that choice and instead may choose to sacrifice training junior lawyers in favor of protecting their financial bottom line today.

Only time will tell if generative AI can help law firms reduce costs that are not typically passed on to clients. But at the very least there is some reason to believe that generative AI has the potential to reduce some of the expenses that contribute to law firm compensation.

E. Compensation for the Firm (C)

Finally, it is important to return to the beginning of the CHARGE Equation. Although it sits on the other side of the equal sign, compensation is also a variable that firms can choose to manipulate and as a result is a variable on which generative AI can have more than one potential effect. To this point, this Article has presumed that the only way for the billable hour model to remain viable is for it to consistently increase firm compensation. But of course, that is not the only outcome that all lawyers desire.

Instead, some group of lawyers (especially in generation Z) may very well be interested in making marginally less in exchange for working for fewer hours. For these individuals, AI and the billable hour model may create a new opportunity.¹⁹⁹ By leveraging generative AI-driven technology instead of human capital to

high-level strategic work and interact with clients, which is what people really want to do earlier on in your career.”).

199. See *Gen Z: Now Influencing Today's Law Culture*, MAJOR, LINDSAY & AFRICA, (2023), https://209075.fs1.hubspotusercontent-na1.net/hubfs/209075/MLA%20-%20Web%20Research%20Page%20PDFs/2023%20MLA%20Gen-Z%20Survey%20Report%20FINAL.pdf?__hstc=51254006.b1e2c65862721e1323447f0b51e275f1.1749131705809.1749131705809.1749131705809.1&__hssc=51254006.2.1749131705809&__hsfp=1666919083 (on file with the *Stetson Business Law Review*) (finding that many in Gen-Z would trade a portion of their compensation for work-life balance and loan assistance, 62% of respondents said they would trade a portion of their compensation for more time off, 60% for a flexible work schedule, 44% for student loan assistance, and 41% for reduction in billable hours).

complete legal, administrative, and business development tasks, the barriers to entry and costs for running a law firm are likely to go down.²⁰⁰ And, if that happens, these lawyers may choose to accept working fewer hours at lower rates in order to optimize flexibility and work-life balance.

As a result, although big firms may get bigger, small law firms might just get smaller creating a barbell effect if generative AI has the potential to make solo and smaller firms even easier to start, maintain, and grow. Although some of these firms may choose to exclusively adopt alternative fee arrangements such as flat fees or subscription models, these lawyers will also likely be able to achieve their goals using the billable hour should they choose to do so for the reasons described above.

CONCLUSION

At a time when many in the legal profession are predicting the decline, if not the demise, of the billable hour, this Article seeks to encourage us to slow down and consider that this outcome may not be certain. To be sure, generative AI has the potential to make some legal tasks faster to complete and other legal tasks non-existent. Yet, as this Article has attempted to show, accepting that fact does not necessarily lead to the conclusion that hourly billing is no longer a viable compensation mechanism for today's lawyers. Rather, when viewed through both institutional and pricing lenses, the potential for a more complex and durable picture of the billable hour emerges.

Of course, the future is unknown. Maybe the billable hour has in fact finally met its match in generative AI. But for now, that is far from the only or even the most likely outcome. At a minimum, what is clear today is that the future of the billable hour will not be determined solely by whether AI makes lawyers faster at completing the work that they do today. It will depend instead on how AI reshapes the organization of legal work and how lawyers, clients, and firms adapt in the years to come. Whether time remains a meaningful measure of value for lawyers' work will turn

200. See *How Small Law Firms Can Leverage Generative AI*, PRACTICAL L.: THE J., (Oct. 1, 2024), <https://www.reuters.com/practical-law-the-journal/legalindustry/how-small-law-firms-can-leverage-generative-ai-2024-10-01/> [<https://perma.cc/DZK2-BHSZ>].

not only on what AI enables, but also on how the legal market chooses to respond.