

The Market Will Decide the Price of Legal Services, Not Wal-Mart

By Peter L. Smith, Esq.

I was recently quoted in IPLaw360 in a piece on Wal-Mart's ill-conceived memo trying to rein in associate rates charged them for work. The upshot is that Wal-Mart wants no rate increases unless an individual memo is approved as to the individual worth of each attorney billing on a matter. Other than the fact that I cannot believe such a procedure would ever be put into practice on a consistent, to say nothing of a long-term, basis, the plan will of course backfire on Wal-Mart, at least from the law firm point of view.

First, I have to say that I was quoted somewhat incorrectly. The author of the piece indicates that I thought firms would use "tricks" to keep up hourly rates. This is not precisely the case. What will happen, however, is that firms will do everything within their power to keep their stated rates at the premium/premier levels and use tools such as blended rates and other devices to keep clients happy, without admitting to lowering fee rates.

Second, there is no way in hell Wal-Mart or anyone else is going to rein in legal fees. If it is not feasible to control "prices" on a national level with the full support of the federal government, then a single firm, or even a group of corporate concerns, is not going to keep this in check. Hello, people! The market decides prices, not individual companies. Of course Wal-Mart and anyone else can price themselves down into the subprime market (if you will). There are plenty of [attorneys who work](#) for Wal-Mart even at \$120 per hour -- but does Wal-Mart want their people? Basically, the white-shoe firms of the world (using the phrase loosely) will simply move on. If you want premier help, you pay premier prices. Period.

What Wal-Mart surprisingly cannot figure out (since they are supposed to be savvy retailers, as I recall) is that market demand and supply control price -- not testosterone-heavy corporate counsel's departments. Such a move by Wal-Mart to enforce a "slow-down" of fee increases only helps some. It will help their current firms to decide whether they want to continue representing Wal-Mart, and it will help the next-lower-tier firm who is willing to charge less for their less-than-premier services (as perceived by the market, of course) garner a new client. Add to that the well-known fact that as an industry, demand for legal services is incredibly inelastic.

The fact that the greatest global labor shortage of all time in the professional ranks of all professions is upon us and will continue for the foreseeable future means that premier prices -- and all prices -- will continue to rise because the cost of labor will necessarily continue to rise to attract and retain talent.

There isn't a damn thing Wal-Mart -- or anyone else -- can do about that.

Just a thought.