

**Women's Bar Association of Massachusetts  
Nomination for  
NCWBA 2011 Outstanding Member Program**

**Introduction:**

The WBA nominates its "Fee Circles" program and the WBA's Solo and Small Firm Committee for the 2011 NCWBA Outstanding Member Program Award. An outgrowth of member discussions, "Fee Circles," groups put together in different regions of the state to discuss how solo and small firm practitioners address a myriad of rate-setting and collection issues, represent a practical, responsive, and innovative service that the WBA provided to its members that helps individual women lawyers while promoting the WBA's goal of equality overall.

Founded in 1978 by a small group of women lawyers, the Women's Bar Association of Massachusetts (WBA) boasts two dozen regional, affinity group, substantive and organizational committees and four staff members that focus on substantive issues of advancement of women in the profession and society. With a current membership of approximately 1,600 lawyers, judges, and law students across the Commonwealth, the WBA is the third largest bar association in the state and has become an influential presence within the Massachusetts legal community, sought after by the press as an expert on women's legal issues, listened to in the legislative arena, and looked to for guidance in its amicus briefs. The WBA office serves its members as a clearinghouse of information through a weekly email ("Week in Preview") publicizing WBA and non-WBA events of interest to women attorneys, as well as through the Women's Bar Review, a bi-monthly newspaper, and the annual Chronicle magazine. Always striving to meet members' needs, the WBA recently commissioned a member survey to guide the organization, and 32% of our membership responded. The WBA actively sponsors and develops programs to help its members, such as a recent 4-part program on business development and a new 6-part series on demystifying the path to influential and powerful careers.

**Project Description:**

One of the largest WBA committees is the "Solo and Small Firm Committee." In 2010 the Committee developed and implemented a new program consisting of meetings across the state formally called "Roundtable Meetings on Setting Legal Fees and Getting Paid." The meetings (also known as "Fee Circles") were held from July through September 2010. The purpose of the meetings was, as the name suggests, to help solo and small firm practitioners determine competitive pricing and pricing models and to address issues concerning collection. The goal of the program was to encourage women in solo and small firms to charge a fair rate and not undersell themselves, as studies suggest women might be doing.

**Narrative:**

The Inspiration

The mission of the WBA's Solo and Small Firm Committee is to provide peer-to-peer support for solo and small firm practitioners. The Committee recognizes the unique challenges facing lawyers who work in solo practices and small firms and has developed a network of such

attorneys to provide advice to one another on substantive areas of law, client management, office administration, and other issues of concern.

In the spring of 2010, a New York Times article cited a recent study by the Institute for Women's Policy Research showing that women earn 9.2 cents less on the dollar for the same work as their male counterparts (even after accounting for time off for childrearing and the greater likelihood of part-time work). The article speculated that one reason for women's being underpaid might be that they underprice their services. The article was circulated among Solo and Small Firm Committee members by way of its WBA listserv, and this led to a discussion among Solo and Small Firm Committee members about whether a parallel might exist with setting fees by women attorneys. As a result of this discussion, it was decided that the Committee would develop a forum to explore such concerns in more depth and to share information and advice with one another. The forum that was created was a series of Fee Circles in six different parts of the state designed to promote detailed conversations about fees. Created as a pilot project for possible larger scale development, the Fee Circles were limited to ten people in order to facilitate a workable roundtable discussion.

#### The Fee Circles

The meetings were run by one or more of the co-chairs, who attended the meeting and brought light refreshments. The Circle was generally started with a co-chair introducing herself and highlighting the basics of possible antitrust concerns when discussing the setting of legal fees. The co-chair then explained the need to keep attendees' comments, questions, and concerns confidential. By signing the sign-in sheet, which was then circulated, the participants confirmed that they would not collude in setting attorney's fees, nor disclose the discussions held. The participants were then asked to introduce themselves and their area of practice, location of office, and years of experience. They were also encouraged to state in their introduction if they had a specific question that they were hoping would have answered at the meeting. Since the groups were relatively small, this usually resulted in participants asking follow-up questions to the person introducing herself and taking the end of their introductions to give initial comments on a prior attorney's question. Although an agenda had been prepared in advance, discussion developed organically, and the co-chair only referred to the agenda to keep the conversation going if all topics raised appeared to have been addressed, or if discussion had stalled.

Among the topics discussed were ways to determine market rates, the benefits of flat fees versus hourly fees, the importance of developing consistent billing procedures and clear payment schedules, how to draft (and the importance of drafting) strong fee agreements, whether to charge consultation fees and/or retainers, when to reduce rates, and how to minimize collection issues. Since each Circle was allowed to explore different directions based on the concerns of its participants, the discussion sometimes spun off into related activity. For example one Circle had a significant discussions of fee agreement language, which resulted in the Circle's participants agreeing to share their fee agreements (strictly on a voluntary basis) to all other participants by email after the meeting.

#### Logistics

The meetings were set up by the committee co-chairs at various locations throughout Massachusetts, in a meeting or conference room that was free, private, and large enough to

accommodate ten people. To allow attorneys to feel secure about discussing their questions and concerns, a decision was made not to host the Fee Circles at a restaurant, where others might overhear the conversation. Since historically the Solo and Small Firm Committee holds after-work meetings lasting one and a half hours, a decision was made to continue with the same format for the Circles. Space was made available on a “first come first served basis.” The Circles were advertised mainly at the Committee level among several WBA committees, through the WBA’s Week in Preview, and via social media by the co-chairs. Responses were required to confirm seat ability, and membership status was checked by the WBA office shortly before the meeting. The Committee set a modest fee for the Fee Circles; the cost of attendance was \$5 for WBA members and \$10 for non-WBA members. To encourage membership, the event was free for individuals who joined the WBA to attend a Fee Circle. Committee sign-up materials were distributed to WBA members that had not yet joined the Solo and Small Firm Committee, and both WBA and Committee membership applications were provided to non-WBA members (or WBA members whose membership had recently lapsed). For some meetings, a variation of the attached talking points agenda was distributed. .

### The Results

The Fee Circles attracted more than 30 total attendees, and the WBA received tremendous positive feedback on the quality of the events. Many of the individuals who participated reported that they found the discussions to be extremely relevant and useful, and several expressed the desire to establish the program as ongoing discussion groups.

### Conclusion

The Solo and Small Firm Committee’s Fee Circles program was highly successful program for the WBA that followed in the tradition of innovative WBA programs developed in direct response to members’ needs. The program offered its participants advice on highly pertinent issues that, given the statistical evidence indicating that women tend to be underpaid as compared to men, are of particular importance to female practitioners.

The Fee Circles are easily replicable by Women’s Bar Associations throughout the nation, as they require only physical space in which to hold the meetings and the willingness of attorneys to bring with them their experiences, concerns, and questions regarding the topic.

### **Comments from Attendees**

“The fee circle helped me [by allowing] me to speak candidly about something that is always so taboo. Candid discussions with other attorneys is very important for a solo who can't bounce things off of colleagues in her office – because she has none! Through this candid discussion I was able to determine that I was pretty on target with how others of my experience and in my area of law were dealing with fees.” Christina M.

“The fee circle was helpful to me to improve my comfort level with talking about money. There are so many aspects to running a solo law office that aren't addressed in or after law school. One of the hardest for me is talking about rates and payment. As I increase my comfort level on this topic with colleagues, I can shift that comfort to discussions with clients.” Erica T.

“I was pleasantly surprised to see a few folks I had not seen for a while at my [Circle], and a few men! We had an interesting discussion of fees, and I learned about major differences in Eastern and Western Massachusetts fees.” Marie J.

“It was a really good idea. ... I thought it was great to compare notes with other attorneys on billing practices, fee agreements, and how to talk to clients about money.” Aimee B.

“The fee circle was a fantastic opportunity to share ideas with colleagues and understand how to handle difficult client billing issues. I found the group collegiate, collaborative and empowering. I appreciate the time and honesty of everyone to help us as female lawyers be competitive with market rates.” Corinne G.

# Hot Topic: Fee Circles



Are you a solo, a partner in a small firm, or are considering going solo, and have wanted to have a conversation about how other small firm or solo attorneys set their rates? A frank discussion about choosing between flat rates and hourly? When others attorneys discount their fees? How others decide how much of a retainer to ask, or what kind of payment schedule they put their clients on?

The WBA’s Solo and Small Firm Committee and the WBA regional committees are creating a series of Discussion Circles to promote conversations about Fees, including how we go about deciding whether to charge flat or hourly, how to value our work, and how to minimize collection issues. Roundtable circles are limited to 10 people per circle to facilitate roundtable discussion. Locations will be varied throughout Massachusetts.

Fee is \$5 for WBA members; \$10 for non-WBA members; free for people who are not currently WBA members and sign up at the program. Payment can be made in advance or made at the door; Checks are to be made payable to the WBA (no cash in the mail, please).

Circle schedule is as follows:

<p><b><u>Central Massachusetts Committee</u></b>            Wednesday, July 28<sup>th</sup>, 5:30-7:00 PM  <b>Fletcher, Tilton &amp; Whipple, P.C.</b>            370 Main Street, 12th Floor            Worcester, MA 01608            RSVP: <a href="mailto:amh@heidtlaw.com">amh@heidtlaw.com</a></p>	<p><b><u>Western Massachusetts Committee</u></b>            Thursday, July 29<sup>th</sup>, 5:45-7:15 PM  <b>The Law Office of Marie T. Jablonski</b>            10 Center Street, Suite 200            Chicopee, MA 01013            RSVP: <a href="mailto:amh@heidtlaw.com">amh@heidtlaw.com</a></p>
<p><b><u>North Shore Committee</u></b>            Wednesday, August 18<sup>th</sup>, 5:30-7:00 PM  <b>Reade &amp; Reade</b>            100 Conifer Hill Dr., Suite 310            Danvers, MA 01923            RSVP: <a href="mailto:amh@heidtlaw.com">amh@heidtlaw.com</a></p>	<p><b><u>Middlesex Committee</u></b>            Thursday, August 19<sup>th</sup>, 6:00-7:30 PM  <b>Morse, Barnes-Brown &amp; Pendleton, P.C.</b>            Reservoir Place, 1601 Trapelo Road            Waltham, MA 02451            RSVP: <a href="mailto:amh@heidtlaw.com">amh@heidtlaw.com</a></p>
<p><b><u>Norfolk County</u></b>            Tuesday, September 14, 2010, 6:00-7:30 PM  <b>Hutchings Barsamian</b>            110 Cedar Street            Wellesley, MA 02481-3527            RSVP: <a href="mailto:chiara@goodmanlegal.com">chiara@goodmanlegal.com</a></p>	<p><b><u>Boston / Suffolk County</u></b>            Wed., Sept. 22, 2010, 5:45-7:15PM  <b>Pontikes &amp; Swartz, LLC</b>            77 Franklin Street            Boston, MA 02110            RSVP: <a href="mailto:chiara@goodmanlegal.com">chiara@goodmanlegal.com</a></p>

RSVPs are due by email. Please RSVP as follows: for circles in Central MA/Worcester, Western MA, North Shore, Middlesex County: Audrey Heidt at [amh@heidtlaw.com](mailto:amh@heidtlaw.com). For Boston, Norfolk County: Chiara LaPlume at [chiara@goodmanlegal.com](mailto:chiara@goodmanlegal.com).

## WBA

### Hot Topic: Roundtable on Setting Your Rates and Charging Clients

Antitrust Notice: When several people discuss setting rates, there is the possibility of unwittingly engaging in price fixing. Price fixing is a crime. To avoid antitrust violations, you agree that you will not collude with other attorneys to raise, fix or maintain your fees.

Confidentiality Reminder: Everything disclosed in this circle is confidential and should not be disclosed to others.

Topic Suggestions: You and the other attorneys in your fee circle will decide what you talk about. These are informal discussions, not lectures, and the moderator is simply here to guide the conversation. Below are some topic suggestions to get you started.

#### Pricing

- How much to charge (how to set a fee that you are comfortable with, how to tell if you are over or under-charging, when you should drop or raise your rates, etc.)
- How to deal with client push-back about rates
- How big a retainer to get and how to ask for it
- When not to charge
- What pricing method to use
- Options if a client cannot pay a retainer
- When reduced fees are appropriate

#### Billing

- When to bill
- Alternative billing (flat fee, value billing, payment plans, evergreen retainers, etc.)
- When to discount your bill (and when not to)
- How much detail should you include in your invoices?
- Combining two matters in one invoice

#### Collecting

- How to avoid being in the collections business
- Issues to consider in pursuing collections
- Pitfalls in collecting

## WBA

### Hot Topic: Roundtable on Setting your Rates and Charging Clients

Sign-In

NAME

E-MAIL (Optional)

**Antitrust:** When several people discuss setting rates, there is the possibility of unwittingly engaging in price fixing. Price fixing is a crime. By placing your name above, you are agreeing that you will not collude with other attorneys to raise, fix or maintain your fees.

**Confidentiality:** Setting rates and deciding what to charge are sensitive topics for many attorneys. By placing your name above, you are agreeing to create a safe space by keeping all information disclosed in this circle confidential.