2016

Legal Trends Report

Powered by Clio

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Executive Summary

In the 4,000-year history of the legal profession, lawyers, firm owners, and decision makers have suffered from a scarcity of industry data. Law firms have had only sparse resources to find the business insights required to run a viable practice.

Without accurate and relevant data insights, legal firms have been left in the dark when it comes to positioning themselves within their respective markets. The shortcomings of existing legal industry data insights include a number of potential critical deficiencies:

- **They rely on self-reported data.**
- **They draw upon small sample sizes.**
- **They are outdated and may not represent the current industry.**
- **They do not represent the small-to-medium-sized law firms that make up more than 80 percent of the practicing legal population in the United States.**

The *Legal Trends Report* provides, for the first time, actual data-driven insights into the legal sector—focusing in particular on the solo, small, and medium-sized firms that have been traditionally underserved by big data. As the world's most widely used legal practice management system, Clio has become the legal industry's system of record. In compiling the *Legal Trends Report*, Clio used aggregated and anonymized data from approximately 40,000 active users to provide insight into national and state-level trends—as a whole, and within practice-specific areas.

With the information included in this report, law firms can draw upon real-world, accurate data insights and make informed decisions on how to better run their practices.

Report Highlights

2015 Average Hourly Billing Rates

- **Highest average billing rates by state:** DC ($281), NY ($279), CT ($277), CA ($266)
- **Lowest average billing rates by state:** IA ($129), WV ($130), MT ($154), ME ($155)
- **Highest average billing rates by practice area:** Bankruptcy ($275), Corporate ($272), Conveyance ($263), Tax ($262)
- **Lowest average billing rates by practice area:** Criminal ($148), Personal Injury ($182), Insurance ($200), Family ($202)

Average Billing Rates Over Time

- Average billing rates in the United States increased from $210 in 2010 to $232 in 2016 (10.5 percent)
- While average billing rates have increased in the United States, they have only just kept pace with the National Consumer Price Index, which increased by 10.6 percent between 2010 and 2016.

Average Billing Rates Adjusted for Cost of Living by State

When adjusted for cost of living by state, average billing rates show that lawyers practicing in certain states have earning advantages over others. Adjusted rates are referred to as “real” billable rates. (# = state’s national ranking.)

- **DC:** average billing rate = $281 (#1); real rate = $238 (#7)
- **CA:** average billing rate = $267 (#4); real rate = $238 (#7)
- **TN:** average billing rate = $173 (#42); real rate = $191 (#39)
- **NE:** average billing rate = $192 (#41); real rate = $192 (#38)

Key Performance Indicators

Most striking is that lawyers aren't as productive as they typically report. According to the *LexisNexis Law Firm Billable Hours Survey Report* from 2012, lawyers self-reported that their average billing rates were between 60–92 percent—averaging 6.9 hours billed for an average 8.9 hours worked.

However, the *Legal Trends Report* provides summaries for the number of hours worked, billed, and collected in 2015, which are much lower.

- **Utilization rate:** Lawyers logged 2.2 hours of billable time per day (28 percent of an eight-hour day).
- **Realization rate:** Lawyers billed 1.8 hours per day (81 percent of actual hours worked).
- **Collection rate:** Lawyers collected payment on 1.5 hours per day (86 percent of actual hours billed).

The disparity between the self-reported data in the LexisNexis survey and the *Legal Trends Report* isn't necessarily surprising. There are well-understood biases in self-reported data, such as the the social desirability bias,[1] which skews survey answers towards what people feel will seem "good" to their peers. Drawing insights from raw data and user actions removes this bias.

Seasonality

Seasonality insights show that the number of opened matters follow practice-specific trends throughout 2015:

- **Family Law matters** have lower volumes later in the year (17,194 in November and 16,405 in December) compared to earlier in the year (22,747 in January and 24,361 in March).
- **Tax Law matters** begin to spike in December (873), peaking in March (1,785), before dropping in April (1,337) and May (718).
- **Personal Injury matters** remain consistent throughout the year, ranging from 1,658 (December) to 2,103 (March) each month.
- **Criminal Law matters** show higher trends earlier in the year (13,474 for March and 13,084 for May) compared to later in the year (10,108 for November and 10,269 for December).

1 http://www.learnlab.org/research/wiki/images/a/a8/Tourangeau_SensitiveQuestions.pdf

The Age of the Data-Driven Lawyer

The legal profession has reached a turning point. The 21st century has brought new data opportunities that will help lawyers improve their businesses—allowing them to operate more efficiently in delivering effortless customer experiences.

The age of the data-driven lawyer is upon us. But a major stumbling block threatens to keep us in the dark. Despite its 4,000-year history, the legal industry has suffered from a severe scarcity of data. Without the ability to safely and anonymously share useful data between firms, key industry information has been cloistered within individual firms, making it near impossible to make accurate, industry-wide observations.

The most reliable data sets so far have come through services such as Thomson Reuters' Peer Monitor and LexisNexis' Counsel Benchmarking.[2] The problem with these, however, is that they only show insights from large Am Law 100 firms, which are not representative of the small-to-medium-sized firms that make up more than 80 percent of the practicing legal population. In other words, most firms operate in a data vacuum.

Enter the *Legal Trends Report*. For the first time in the legal profession's history, an aggregated and anonymized ground truth of data insights for solo and small-to-medium-sized firms has been created—which will usher in the era of the data-driven lawyer.

2 http://www.abajournal.com/magazine/article/2_new_tools_allow_you_to_compare_major_firms_billing_rates

How Does Data Drive Business?

Being data-driven is about leveraging data insights to make better business decisions. The challenge is in finding access to data that can be aggregated and anonymized with enough scope to inform strategy and action. It's no surprise that some of the most innovative companies in the 21st century are those that aggregate and leverage data at a large scale.

Amazon.com

Amazon.com sits upon one of the most valuable data warehouses on the planet: the buying behavior underlying $107B of sales volume.[3] Amazon leverages this data in a multitude of ways, some of which are obvious: recommendations based on your past purchases, recommendations based on other customer purchases, and targeted ads based on your browsing behavior.

Some of Amazon's other data strategies are less obvious. If you are an Amazon Prime subscriber, Amazon monitors your browsing behavior to make predictions on how likely you are to purchase a given item. If your browsing behavior crosses a certain threshold for a product, Amazon will front-run the item to the distribution facility nearest you to ensure the shortest delivery time—and the most effortless customer experience.[4]

Google

Google has become one of the most valuable companies on Earth by leveraging one specific data insight: the intent to purchase based on search behavior. Much ink has been spilled on Google's ability to leverage this type of data across its search properties and beyond.

Google also applies data about itself to make itself better—creating the ultimate flywheel effect. In its quest to build the perfect team,[5] Google studied a group of 180 teams selected from its 51,000 employees, evaluating every aspect of their behavior—including their email mannerisms, inter- and intra-team dining habits, and empathy characteristics—and attempted to find what attributes drive performance. (The key to high-performing teams? Feeling psychologically safe.)

General Electric

While General Electric (GE) may seem like the prototypical industrial revolution company, it is reinventing itself for the data-driven era. It has recast itself as a "124-year-old startup,"[6] positioning itself as not just a manufacturer, but also as a data broker that can help its customers make better decisions. Take, for instance, GE's aircraft engine group: Its 30,000 engines log hundreds of millions of flight hours every year.[7] Properly instrumented, the flood of data from these engines would give GE and its airline partners the ability to better predict engine failures, optimize fuel efficiency, and improve general operating parameters.

3 http://www.marketwatch.com/investing/stock/amzn/financials
4 http://www.theatlantic.com/technology/archive/2014/01/amazon-thinks-it-can-predict-your-future/357188
5 http://www.nytimes.com/2016/02/28/magazine/what-google-learned-from-its-quest-to-build-the-perfect-team.html
6 http://www.nytimes.com/2016/08/28/technology/ge-the-124-year-old-software-start-up.html
7 http://www.fool.com/investing/general/2014/07/02/is-general-electric-company-ready-to-grab-this-opp.aspx

What Does This Have to Do with Legal?

We already know some of the insights lawyers are looking for to improve their practice. We get asked these questions every day:

- **"What should my hourly rate be?"**
- **"I practice in several areas—should I charge different hourly rates?"**
- **"Should I bill hourly or flat rates?"**
- **"Which states have the most favorable hourly rates?"**

The answers to these questions have, to date, been guessed at through two primary means. The first is by straw polls at networking meetings, where lawyers self-report information to each other. The second is at a slightly larger scale, via reports such as the *LexisNexis Law Firm Billable Hours Survey Report*,[8] where survey responses from 499 firms of various sizes are aggregated and summarized.

Two crippling problems underlie both of these methodologies. First, both suffer from limited sample sizes. Whether basing insights off of data gathered from a handful of colleagues at a Chamber of Commerce meeting or 0.03 percent of the legal population via the LexisNexis survey, both strategies risk drawing incorrect conclusions from a small sample.

Worse, both methodologies depend on self-reported data, thereby introducing significant bias. Most significantly, the social desirability bias[9] is a well-understood cause of skews in self-reported data. Put simply, respondents tend to over-report behaviors that demonstrate what they consider "positive" attributes, and under-report the converse.

By using raw data from actual usage events across Clio's practice management platform, we're able to glean more accurate and reliable insights into the legal industry.

8 https://www.lexisnexis.com/law-firm-practice-management/documents/Billable-Hours-Survey.pdf
9 http://www.learnlab.org/research/wiki/images/a/a8/Tourangeau_SensitiveQuestions.pdfW

Methodology

The *Legal Trends Report* has been created to provide law firms with the data insights that make for better business decisions. Unlike the existing survey-based studies on law firm economics, the *Legal Trends Report* synthesizes actual usage data that has been aggregated and anonymized from Clio's web-based practice management platform.

This report offers descriptive summaries and observations of data from 2015 for Death by a Thousand Cuts: The Lawyer's Funnel. The Billable Hour Index includes data from 2010 through the first nine months of 2016. Where source data was not available, we've prepared statistical estimations to calculate informed insights.[10]

10 For example, to calculate utilization rates, we estimated that lawyers work an average of eight hours in a typical workday. See Appendix B for details.

Defining Our Data Set

The *Legal Trends Report* has been prepared using data aggregated and anonymized from the usage activity of approximately 40,000 Clio customers throughout 2015. These customers were identified using the following criteria:

- They were paid subscribers to Clio, meaning that customers who were evaluating the product via a free trial, or were using Clio as part of our Academic Access Program[11] were not included in this data set.
- They were located in the contiguous United States, thus including the District of Columbia but excluding Hawaii and Alaska. No customers in other countries were included in our data set.
- For 2015 key performance indicators, only customers who created matter and billing data in 2015 were included.
- Any data from customers who opted out of aggregate reporting were excluded.
- Outlier detection measures were implemented to systematically remove statistical anomalies from the data set.

11 https://www.goclio.com/partnerships/academic-access/

Data Usage and Privacy

The security and privacy of customer data is our top priority at Clio. In preparing the *Legal Trends Report*, Clio's data operations team has meticulously ensured that a series of requirements and best practices were observed.

Data collection

- All data insights were obtained in strict accordance with Clio's Terms of Service (section 2.12).[12]
- All extracted data was aggregated and anonymized.
- No personally identifiable information was used.
- No data belonging to any law firm's clients was used (nor is it accessible to the Clio data operations team).

Reporting

Aggregate data has been generalized where necessary to avoid instances where individual firm data could be identified. For example, to avoid reporting data on a small town with only one law firm (which would implicate all of this town's data to this firm), we only report at country and state levels. Additionally, raw data sets will never be shared externally. Data generalizations in this report include:

- Only Clio's default practice areas are identified. All custom labels outside of Clio's default practice areas are aggregated into the category labelled "Other."
- Geolocation data is only reported at the country and state levels.

Clio is effectively a tally counter for user interactions—much like stadiums use turnstiles to count visitors without collecting any personally identifiable information. Similarly, as users interact with the Clio platform, they trigger usage signals that we can count and aggregate into data sets. We can identify trends without collecting information that reveals anything specific about individual customers.

12 Clio customers can opt out of Clio's aggregate data collection at any time.

The Billable Hour Index

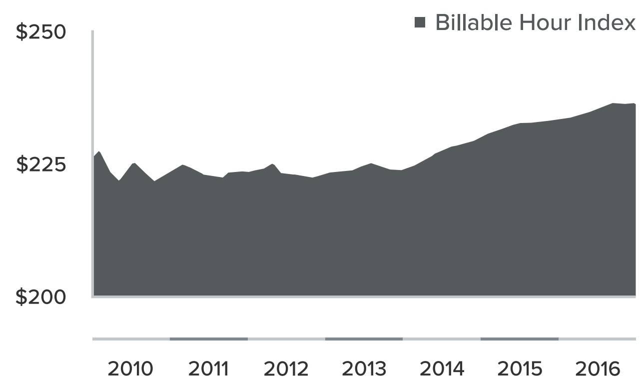
The Billable Hour Index

The *Legal Trends Report* gives us, for the first time, a data-driven estimate of the average hourly rate for small-to-mid-sized firms—a metric we refer to as the Billable Hour Index.

In 2015, the average hourly rate for law firms across the United States was $232 per hour.

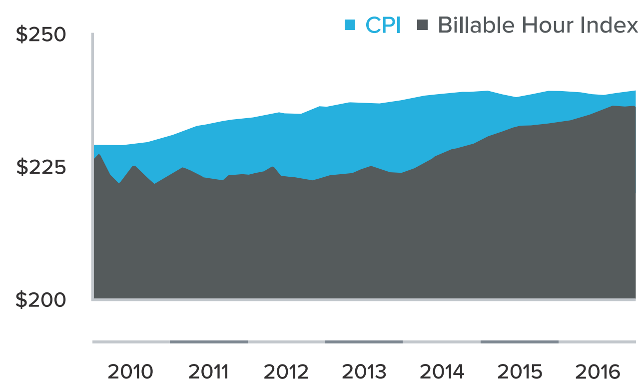
Billable Hour Index (2010–2016)

A time series view of the Billable Hour Index shows how average hourly rates have evolved over time.



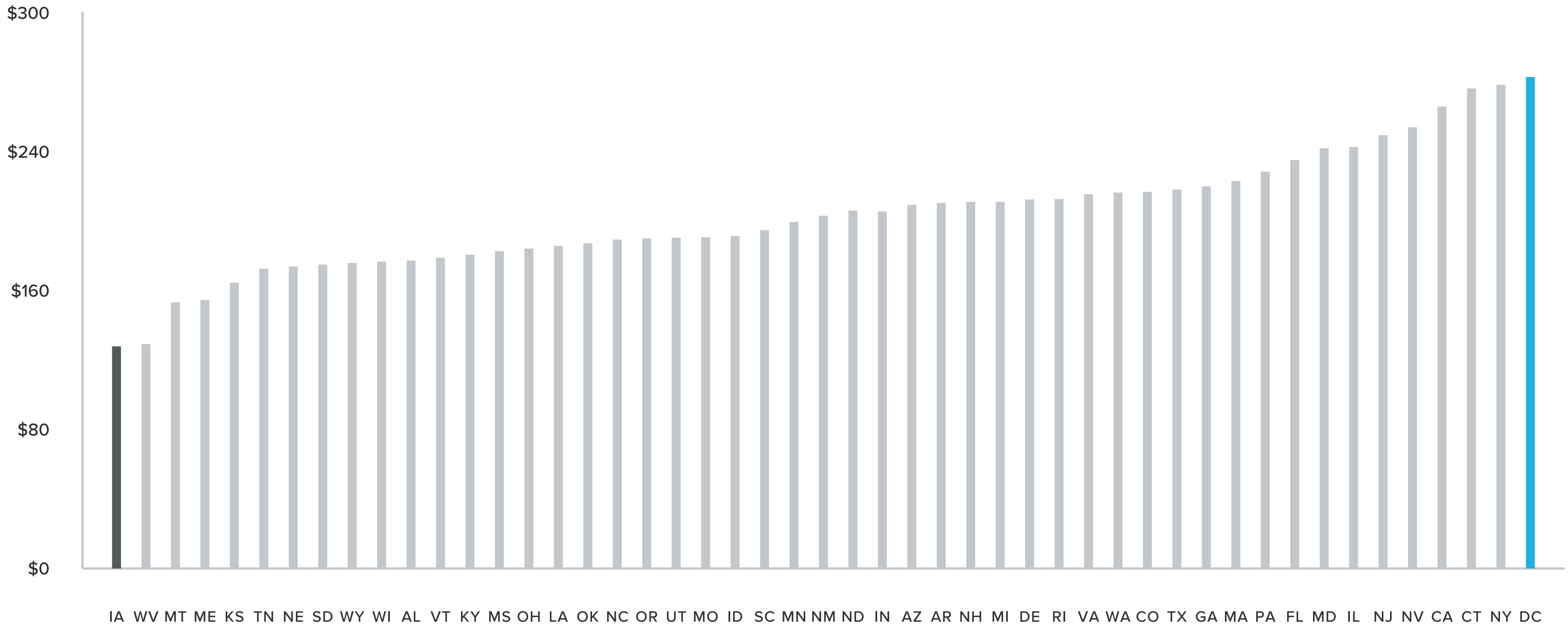
Billable Hour Index Versus Consumer Price Index

While the Billable Hour Index has trended upwards steadily since mid-2010, in real terms it has only, at best, kept pace with the overall rate of inflation, which increased by 10.6 percent between 2010 and 2016. For a number of years, billable rates fell behind.

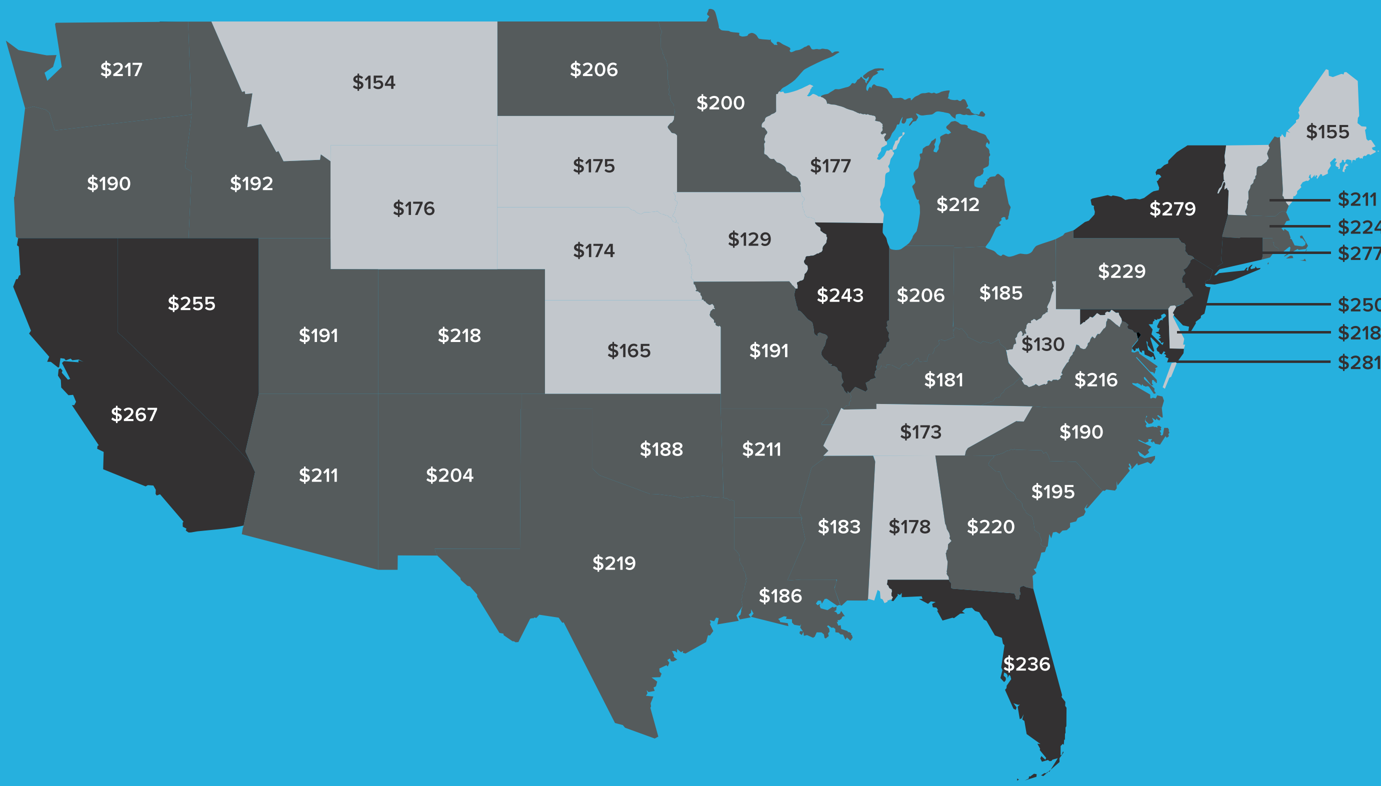


Hourly Rate by State

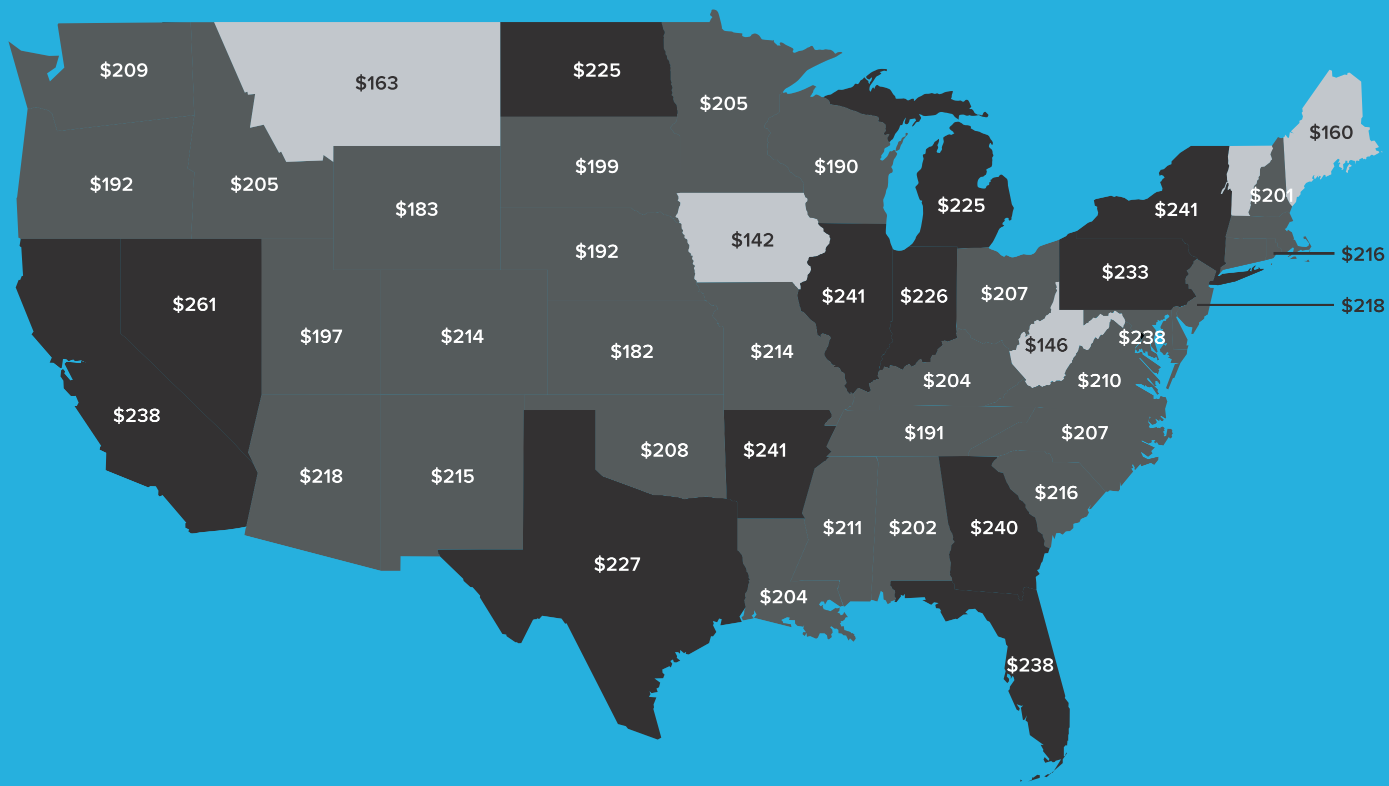
Geo-tagged data allows us to report on the Billable Hour Index at the state level.



A heat map shows the geographical relation between state averages.



However, if we compare average billing rates to cost of living across each state,[13] we can derive a "real" billable rate that reflects actual purchasing power.



13 http://taxfoundation.org/blog/real-value-100-each-state-2016

State Rankings: Absolute Versus Real Rates

The District of Columbia, New York, and Connecticut rank first, second, and third in terms of absolute billing rates. When calibrated for cost of living, however, the District of Columbia drops to seventh on the list and Nevada jumps to number one.

Rank	Top 10 States by Billable Hour	Top 10 States by Real Billable Hour
1	The District of Columbia	Nevada
2	New York	Connecticut
3	Connecticut	Illinois
4	California	New York
5	Nevada	Arkansas
6	New Jersey	Georgia
7	Illinois	The District of Columbia
8	Maryland	Florida
9	Florida	California
10	Pennsylvania	Pennsylvania

If we turn our attention to the lowest-ranking states, we see absolute billing rates that are less than half of the highest-earning states.

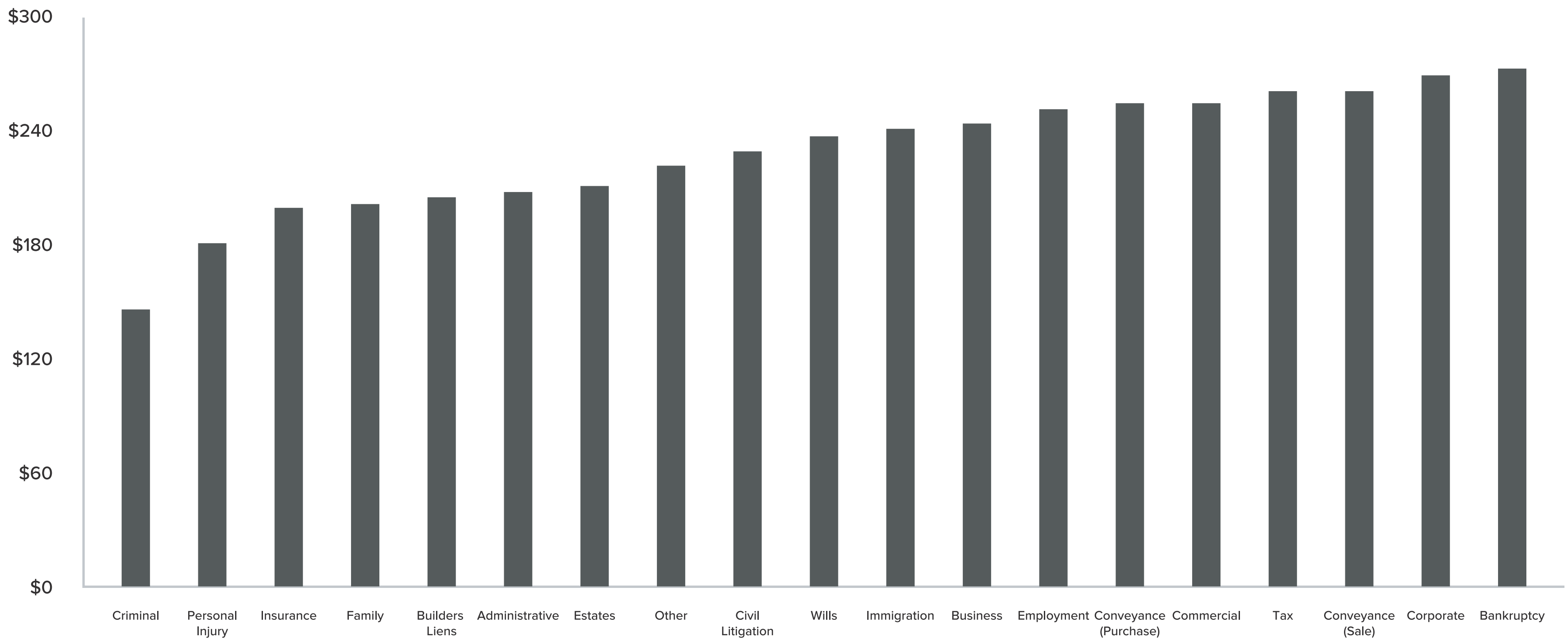
Interestingly, when normalized to cost-of-living data, the lowest-ranking states hardly change position. More significant, however, is that the small purchasing power of low-ranking states does not remotely compensate for the disparity in absolute billing rates. Lawyers in Iowa, even when adjusted for cost of living, make only slightly more than half of what their counterparts make in Nevada.

This data provides groundbreaking insights to lawyers that may be considering a location change. New law graduates and experienced practitioners alike can now answer the question “Where should I work to maximize my take-home pay?” The answer to that question is: Nevada.

Bottom 10 States by Billable Hour	Bottom 10 States by Real Billable Hour	
Iowa	Iowa	1
West Virginia	West Virginia	2
Montana	Maine	3
Maine	Montana	4
Kansas	Vermont	5
Tennessee	Kansas	6
Nebraska	Wyoming	7
South Dakota	Wisconsin	8
Wyoming	Tennessee	9
Wisconsin	Nebraska	10

Rates by Practice Area

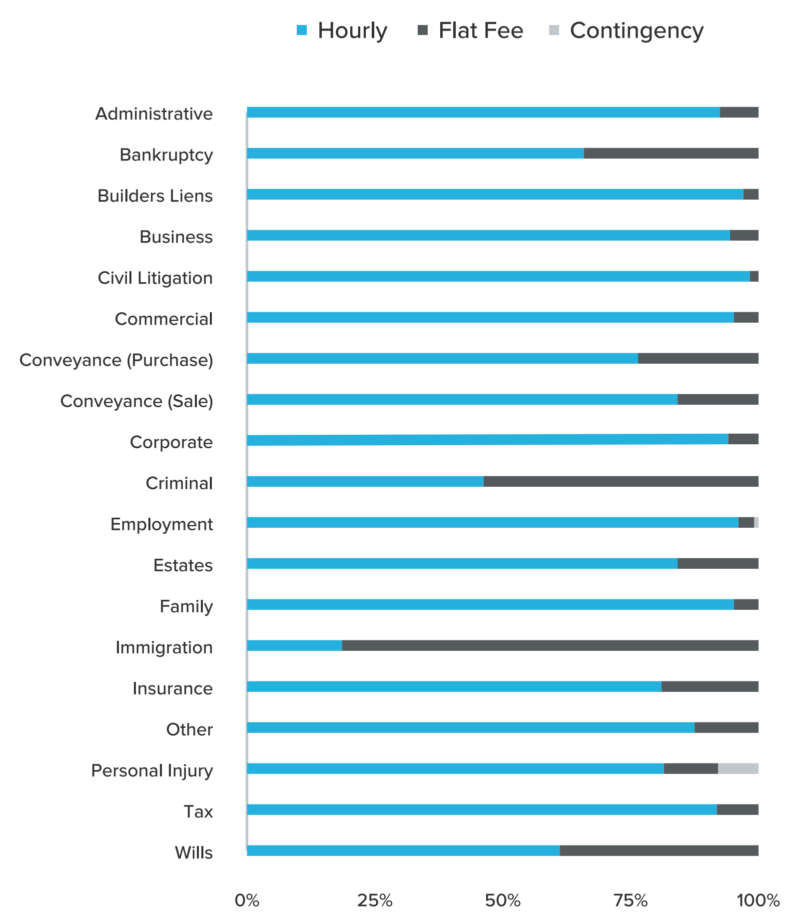
We can also unpack the Billable Hour Index by practice area to learn more about which areas earn the highest hourly rates.



Billable Rates by Fee Structure

While many law firms are switching to alternative fee arrangements like flat fees and value-based billing, the billable hour continues to account for the majority of billings recorded in Clio for most practice areas. Notable exceptions include Immigration, Criminal, Wills, and Bankruptcy.

(Note: Contingency fee billing was a feature added to Clio in August 2015 and is likely underrepresented in Clio's data.)



Death by a Thousand Cuts: The Lawyer's Funnel

Death by a Thousand Cuts: The Lawyer’s Funnel

Many businesses use the idea of a “funnel” to represent effectiveness, where a number of inputs at the “top of the funnel” generate a commensurate amount of value at the “bottom of the funnel.”

Take a retailer, for example. The top of the funnel may be the number of visitors (foot traffic) to the retailer’s store in a day. The bottom of the funnel is the dollar value of goods sold in a day. To improve its business, the retailer will consider ways to both increase volume at the top of the funnel (increasing foot traffic) and maximize output at the bottom of the funnel (for example, by using a sale or special offer to increase the number of visitors who convert to customers).

Lawyers who bill on an hourly basis, however, have a fixed top-of-funnel: the number of hours in a day. Whether you’re working a sane eight-hour workday or an 18-hour marathoner, you can’t find more than 24 hours in a day.

The lawyer’s funnel is likewise unforgiving: We can convert a given number of workday hours to billable time (utilization rate); only a subset of those hours convert to actual billed time after discounting and write-offs (realization rate); an even smaller number of hours become collected revenue when factoring in bad debts (collection rate).

In this section, we utilize the *Legal Trends Report* data to better understand the lawyer's funnel, and where lawyers are losing most of their time—and where efforts should be made to increase earning power.

Utilization Rate[14]

The utilization rate answers the question: "Of your available workday hours, how many are billable?" Non-billable work typically includes all administrative, overhead, and marketing-related activities.

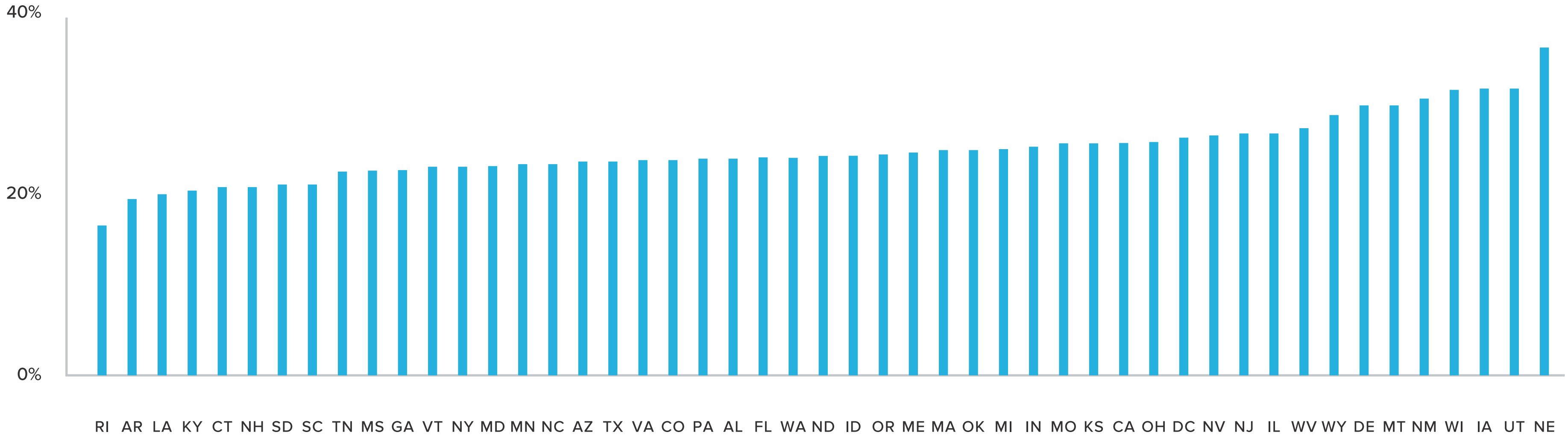
A shocking finding from the *Legal Trends Report* data shows that the average utilization rate in 2015 is only 28 percent. Put another way, out of a typical workday, lawyers only bill 2.24 hours to clients.

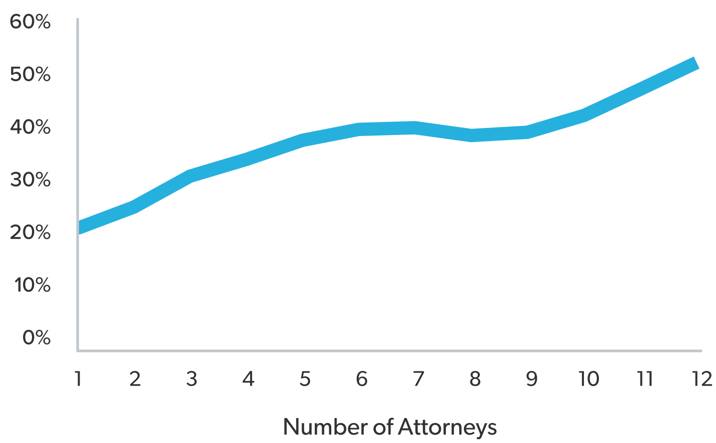
$$\text{Utilization rate} = \frac{\text{Chargeable hours}}{\text{Available hours}}$$

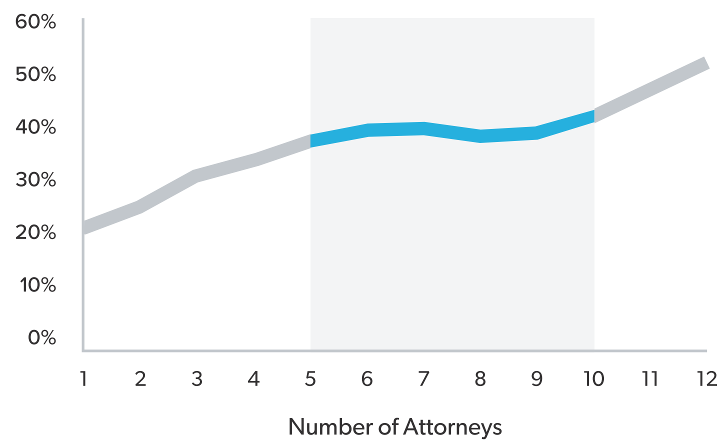
14 See Appendix B for statistical estimation methods used to calculate utilization rate.

Utilization Rate by State

We can also observe significant variations in utilization rate by state. Nebraska has a utilization rate that is more than twice that of Rhode Island.







Is There an Optimal Firm Size?

Finally, if we look at utilization rates across firms of different sizes, we find several interesting data insights.

First, solos have the lowest utilization rate (22 percent), while mid-sized firms of 12 lawyers have a utilization rate more than twice as high (50 percent).

Interestingly, utilization rates plateau for firms with between four and nine lawyers, where utilization rates hover between 35 and 40 percent.

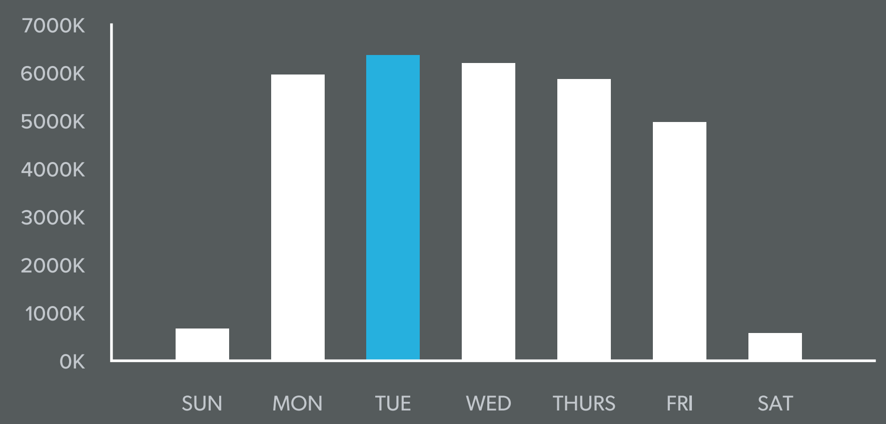
Utilization Rate Versus Number of Attorneys

This pattern provides one of the most important insights derived from *Legal Trends Report* data: Utilization rates increase with firm size, which may imply that law firm efficiency scales with size. However, there is a plateau where efficiency does not increase with size—there are diminishing returns once you've added the fifth lawyer to your firm, and efficiencies do not find greater traction until a tenth lawyer is hired.

If we take the endpoints of our data set—a solo compared to a lawyer in a 12-person firm—we can see the daily economics are stacked against the solo.

Chargeable Hours by Day of Week

When examining chargeable (or utilized) hours by day of week, we see a slight trend where Tuesday is the most productive and Friday is slightly less productive.



Realization Rate

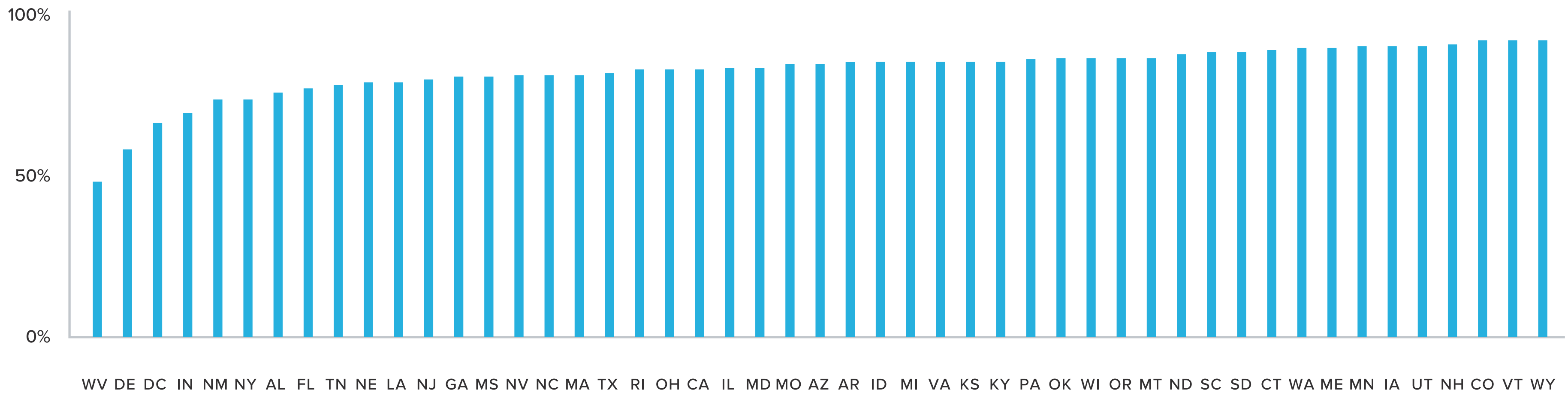
The realization rate represents the number of hours actually billed to clients, net discounting. The average realization rate for lawyers in 2015 is 81 percent. Put another way, for every $100 of billable work conducted, the average lawyer writes off $19.

$$\text{Realization rate} = \frac{\text{Value of billed hours}}{\text{Value of utilized hours}}$$

81%

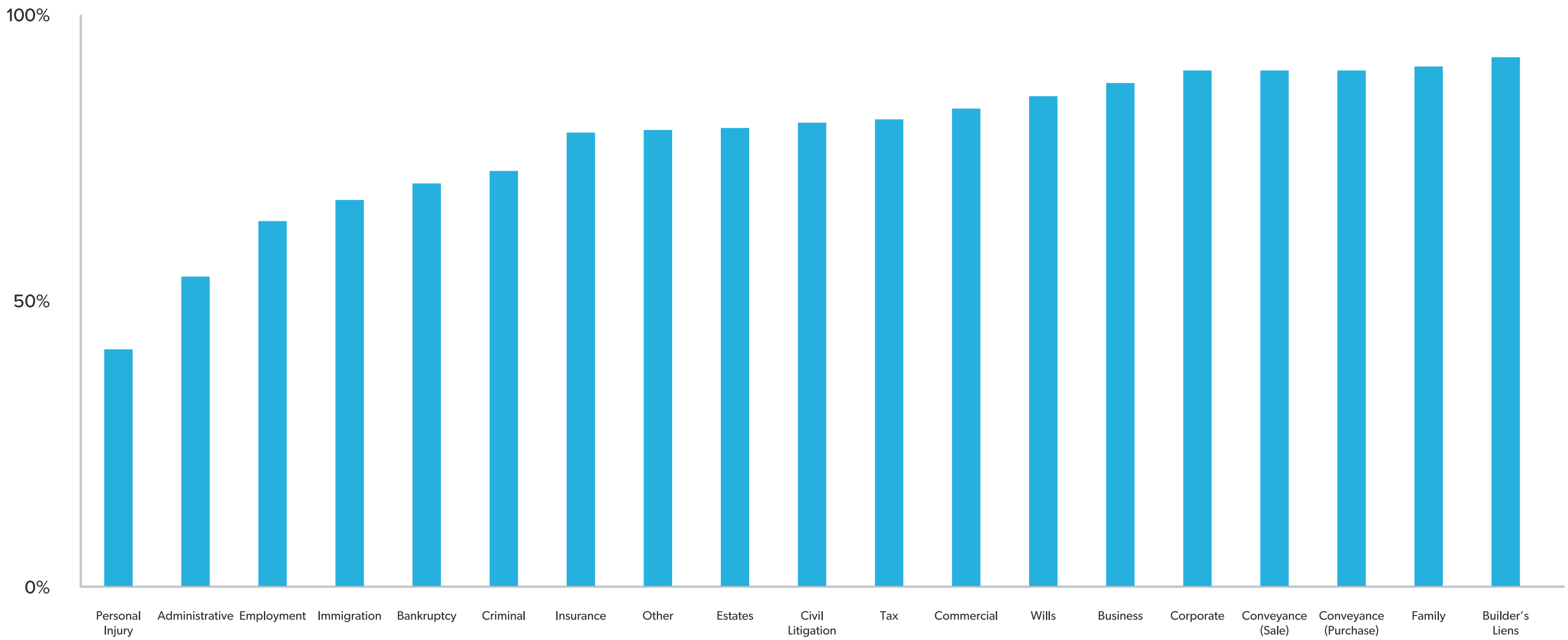
Realization Rate by State

Realization rates appear more consistent than utilization rates between states.



Realization Rates by Practice Area

However, realization rates vary significantly by practice area.



Collection Rate

The final stage of the lawyer's funnel is the collection stage, which represents the total amount of collected revenue compared to the number of billed hours. The collection rate shows the amount of revenue collected after factoring in bad debt and other sources of lost revenue.

The average 2015 collection rate is 86 percent.

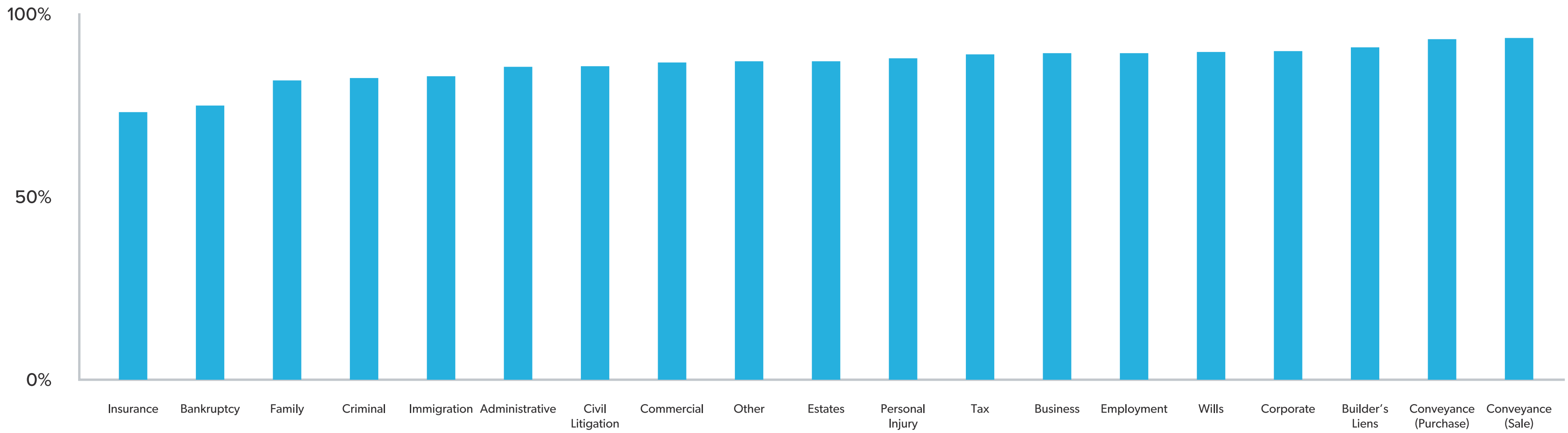
$$\text{Collection rate} = \frac{\text{Total collected revenue}}{\text{Value of billed hours}}$$

Collection Rate by State

Collection rates appear fairly consistent across each state.

Collection Rates by Practice Area

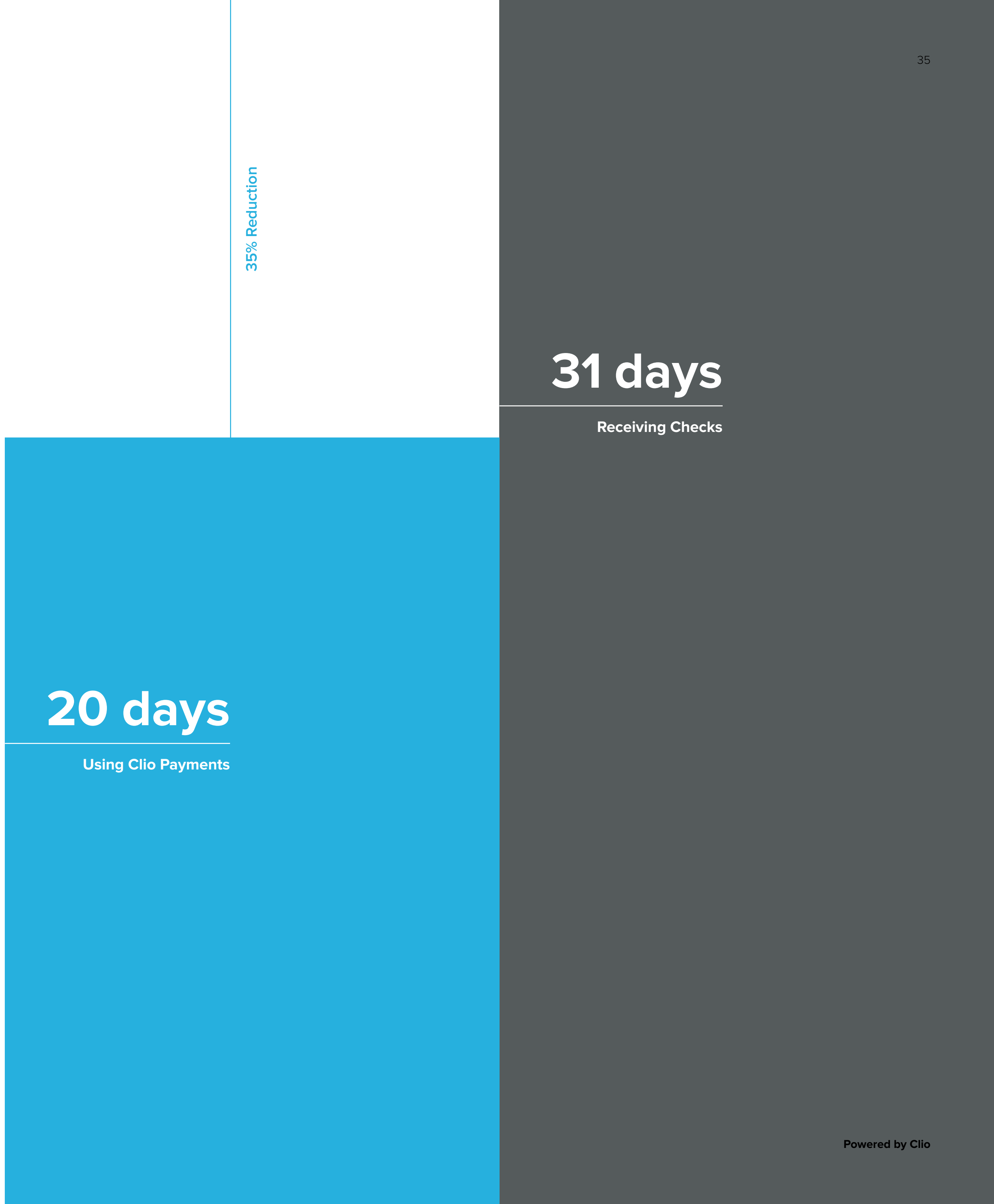
Collection rates are also fairly consistent across practice areas, with slightly lower rates in Insurance and Bankruptcy.



Impact of Accepting Credit Cards

In assessing collection rates, we also evaluated the impact of collecting credit card payments. We observed a 35 percent reduction in average payment times compared to check-based payments.

Time to First Payment:
Clio Payments Versus Payments by Check



Funnel Cloud?
The Devastating Conclusion

Out of an eight-hour workday, the average firm collects payment on only 1.5 hours of billable time. These unit economics would be devastating to almost any industry, and they help explain why, despite charging an average of $232 per billable hour, the average small-to-mid-sized firm struggles to make ends meet.

The average funnel for small-to-mid-sized firms approximates the following:

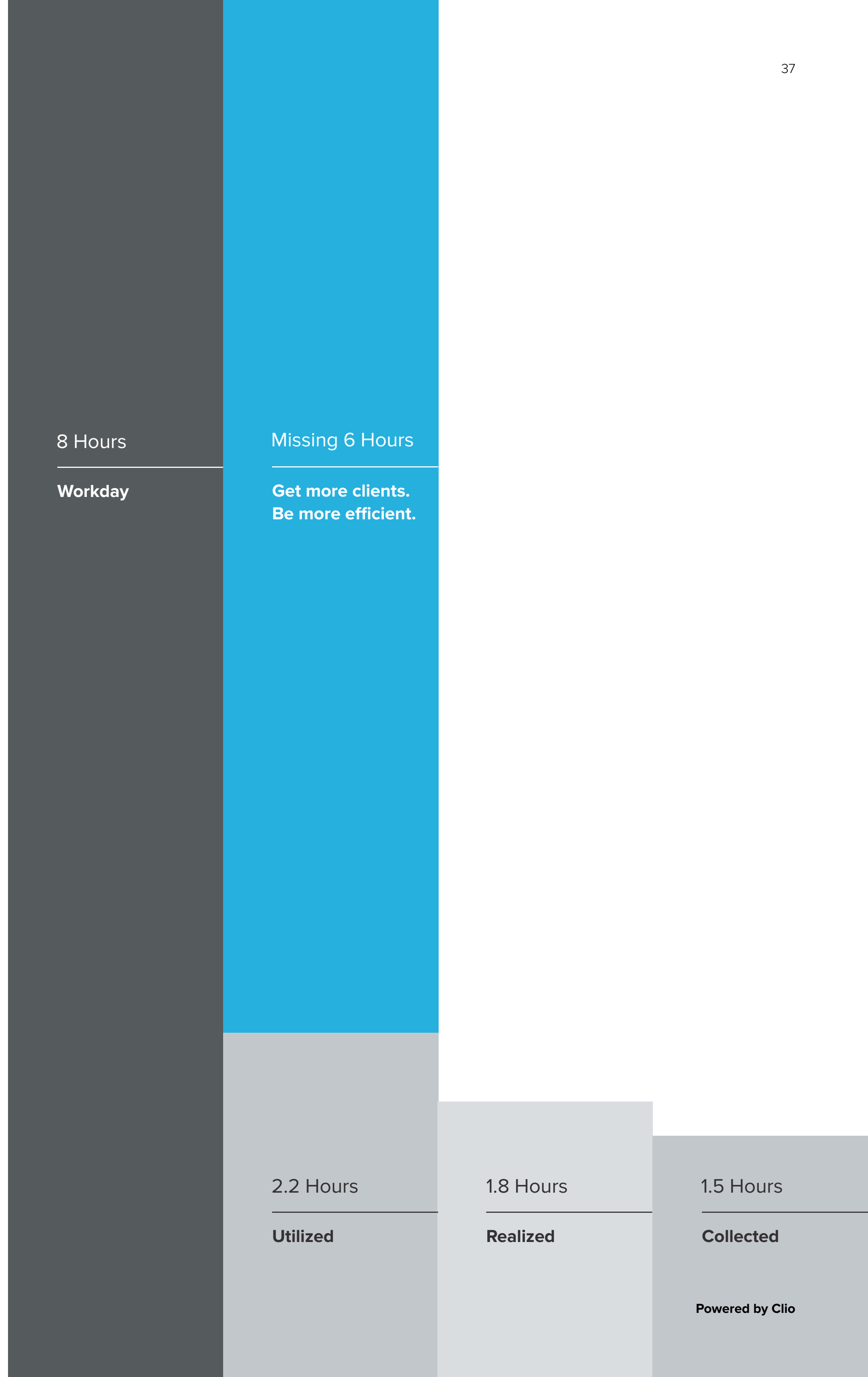
The Case of the Missing Six Hours

In asking why the average small-to-mid-sized firm only collects 1.5 hours of paid time for each workday, we can see the largest factor, by far, is a low utilization rate. Where do we lose six hours (or more) of each workday?

There are two obvious reasons that may factor into this low utilization rate:

- Firms may not have enough work to support more billable hours per day.
- Firms may not have the bandwidth or efficiency to focus more time on billable work—that is, they may be spending too much time on non-billable tasks.

At Clio, our mission is to help lawyers solve both these challenges to grow their client base, and to service that client base as efficiently as possible.



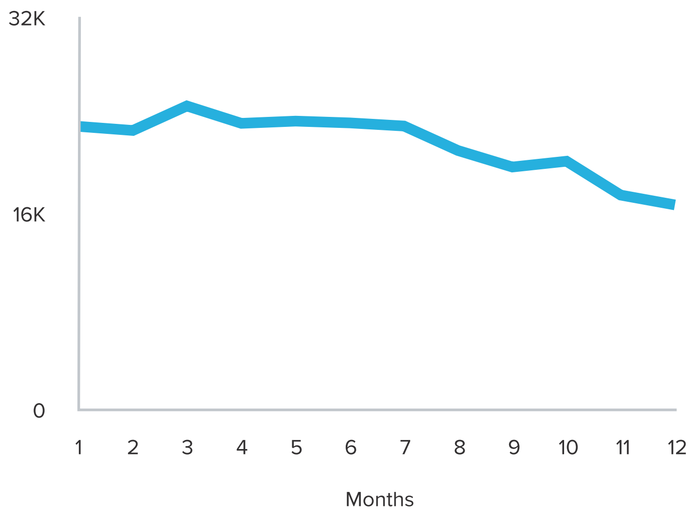
Seasonality

Seasonality

In statistics, seasonality is a term used to describe patterns in a time series of data throughout a given year. Seasonality can be critical from a business perspective because it can help support data-driven decisions in two fundamental areas: (1) knowing when to schedule advertising for seasonally relevant services and (2) knowing how and when to staff your business from a capacity perspective.

In the *Legal Trends Report*, we have prepared a time series of matters (or cases) created in Clio by the month in which they were opened. This allows us to effectively test for seasonality in different areas of practice.

Family Law Matters by Month

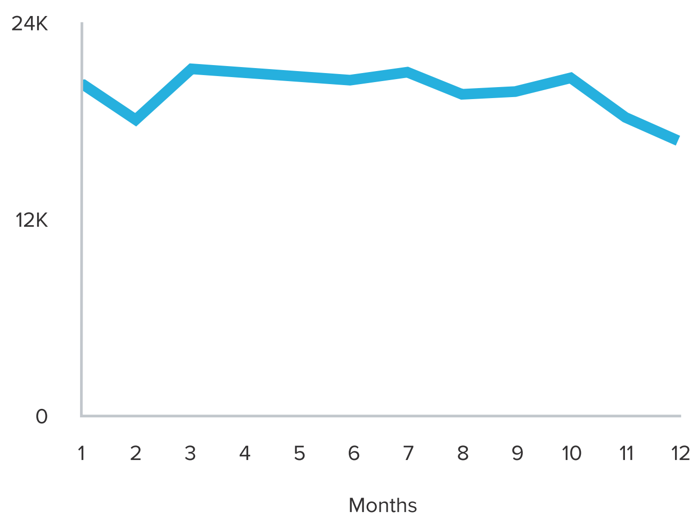


Tax Law Matters by Month

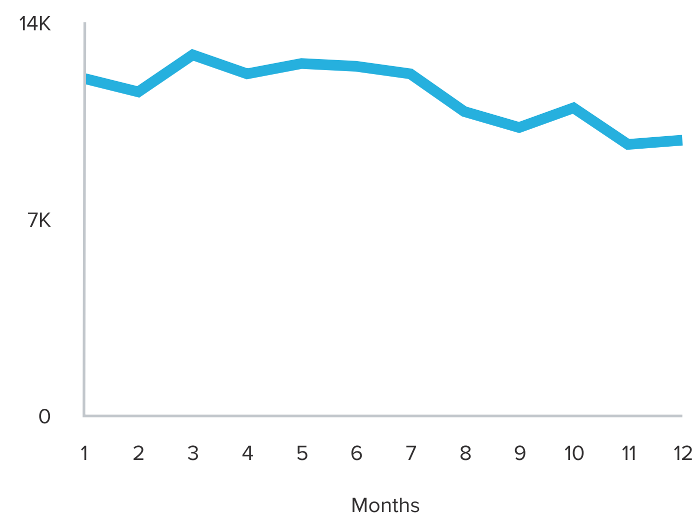
Overall, we see evidence of seasonality in Family Law matters in Clio, with the first half of the year bringing a higher volume of new matters that peak in March. The number of new matters declines in August and decreases further through to the end of the year.

Perhaps unsurprisingly, the greatest seasonal variability observed in the *Legal Trends Report* came in Tax Law. Immediately preceding the end of the tax year (often referred to as “tax season”) is a large spike in the number of Tax Law matters created. The trend is drastically lower from May to September but does see two spikes in October and December. Tax Law is the only area of practice to see a seasonal spike in the month of December.

Personal Injury Matters by Month



Criminal Law Matters by Month



Unlike Family Law and Tax Law, Personal Injury Law presents an interesting example where we struggle to see noticeable seasonality. The dips in this graph map to months with fewer business days (February and December) and do not exhibit obvious seasonal patterns.

Criminal Law shows similar seasonality to Family Law. We see a busier first half of the year with a peak in March, followed by a slower second half beginning in August and lasting through to the end of December.

Appendix

Appendix A: Demographics of Clio Customers

As the most widely used cloud-based practice management platform for law firms, Clio has become the system of record for the legal profession. This allows us to report on trends and indexes that are not only representative of Clio customers, but of the legal profession as a whole.

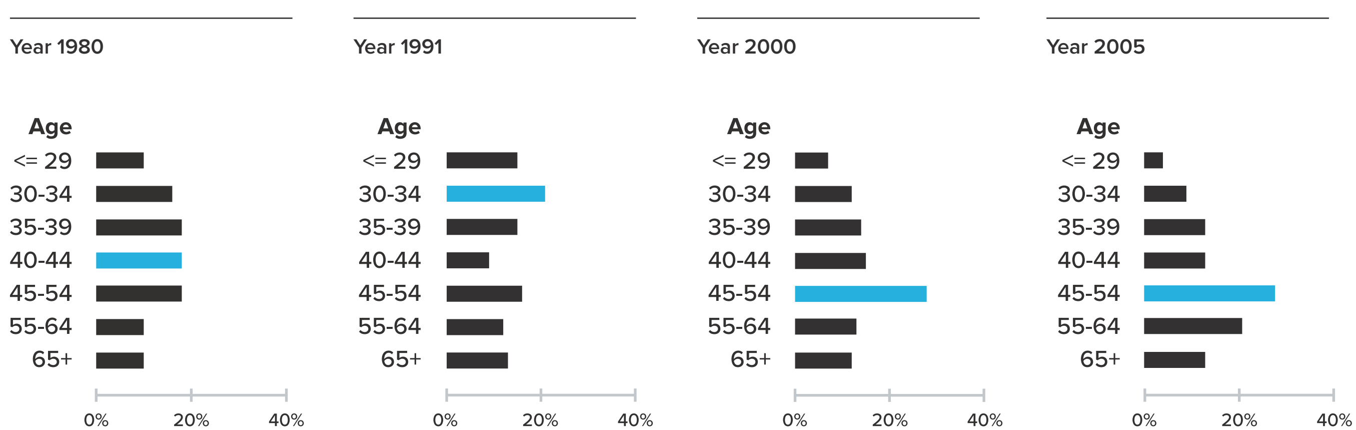
The *Legal Trends Report* itself does not include any personally identifiable information. Information collected via Clio's *2015 Annual Customer Satisfaction Survey*, however, provides insight into its customer demographics. When compared to the most recent law firm demographics published by the American Bar Association,[15] we can observe the following differences that may represent possible selection biases in our data set.

15 http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2016.authcheckdam.pdf

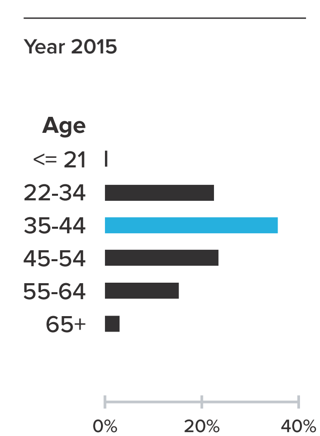
Age

Roughly 36 percent of Clio survey respondents reported being between 35 and 44 years of age, accounting for the single largest segment of Clio customers, while 24 percent reported being between 45 and 54 years of age. By contrast, 26 percent of ABA survey respondents fell between 35 and 44 years of age, while 28 percent fell between 45 and 54 years of age. On average Clio respondents were slightly younger, but we should recognize that ABA data is from 2005 while Clio survey data was collected in 2015.

ABA Survey

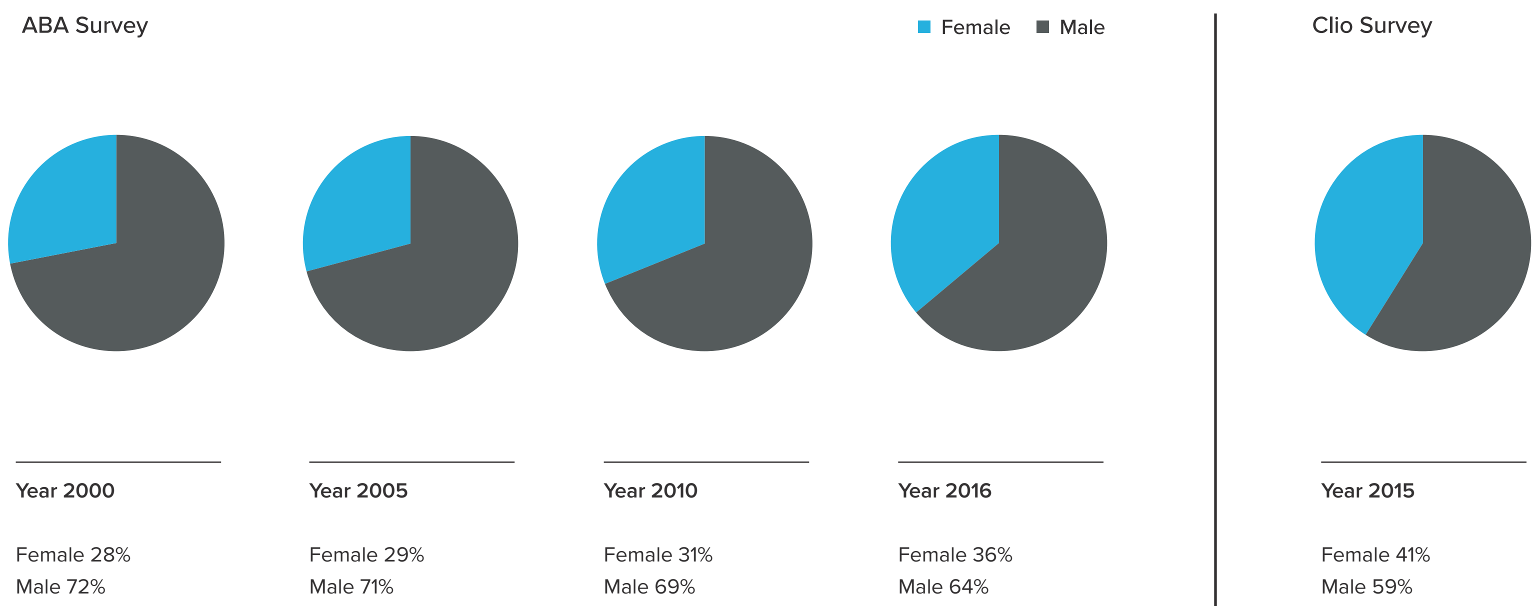


Clio Survey



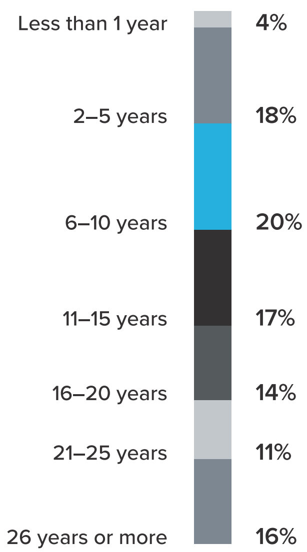
Gender

About 59 percent of Clio survey respondents were male versus 64 percent from the *ABA 2016 National Lawyer Population Survey.*

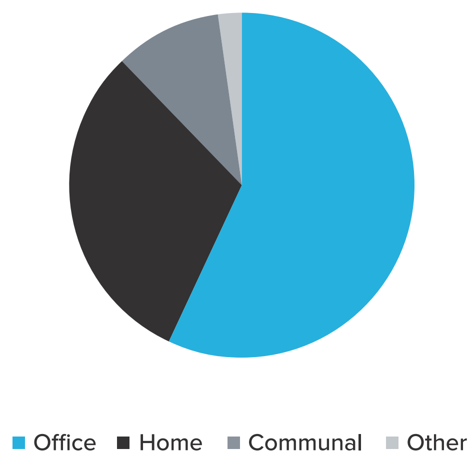


Additional Demographic Information from Clio's 2015 Annual Customer Satisfaction Survey

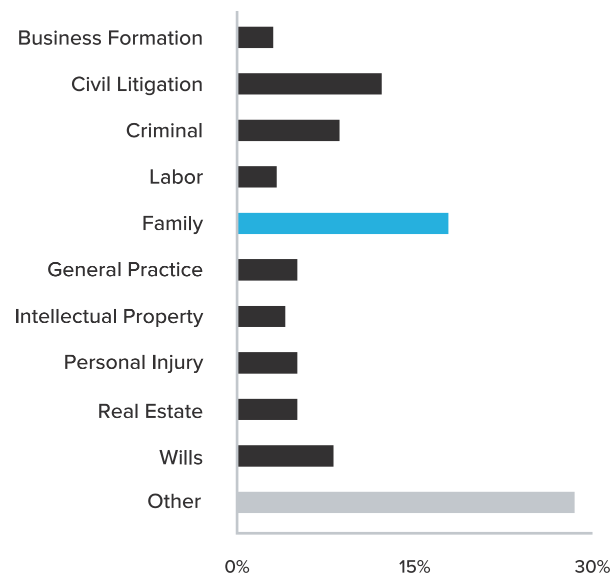
Number of Years in Practice



Primary Work Location



Top Practice Area



Appendix B: Statistical Estimation of Utilization Rate

While nearly all of the data insights presented in the *Legal Trends Report* are based on live data aggregations, the utilization rate is calculated using a statistical estimation.

The numerator of the ratio (the average number of chargeable hours per day) was calculated using source data, while the denominator (the number of available hours per day) was estimated at eight hours per day. For lawyers who work part time or have a longer workday, the denominator will not be representative. However, it is important to note that while the calculated utilization rate is based on this estimation, the overall average number of billable hours worked per day is fixed to the real data from this study.

The number of daily billable hours for each lawyer was calculated by taking the number of hours billed throughout the year and dividing by the total number of business days in 2015 (excluding weekends and federal holidays) and factoring in two weeks' vacation.

Finally, in estimating utilization rate we excluded chargeable entries from flat fee matters.

LEGAL TRENDS REPORT

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