

## DETERMINATION OF ATTORNEY SERVICE FEES AT THE OFFICE OF LEGAL ADVISER MR. PHILIPUS FERNANDEZ IN KUPANG CITY

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### ABSTRACT

In order for business activities to run well and maximize, it is necessary to make several determinations and one of them is tariff setting. One of the suitable pricing methods used in the service sector is the time and material pricing method. The main problem in this study is that the determination of consulting fees is relatively low and does not take into account the costs incurred to facilitate work activities. The type of research used in this research is descriptive analysis in the form of a case study. The data collection methods used in this research are interviews, document collection and observation. The data analysis technique used in this research is the time and material pricing method. The results showed that the calculation of raw material costs, direct labor costs and factory overhead costs was lower than the calculations made by researchers where according to the Office of Legal Counsel Mr. Philipus Fernandez, raw material costs were IDR 5,365,000, direct labor costs were IDR 200,040,000, fixed factory overhead costs were IDR 360,000. 000, and variable factory overhead costs are not taken into account, while according to researchers, raw material costs amounted to Rp 5,605,000, direct labor costs amounted to Rp 200,940,000, fixed factory overhead costs amounted to Rp 483,673,925, and variable factory overhead costs amounted to Rp 54,178,000, so there is a difference in the calculation between the Office of Legal Counsel Mr. Philipus Fernandez and researchers.

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### 1. INTRODUCTION

For business activities to run well and optimally, it is necessary to hold several stipulations and one of them is the determination of rates. Rates setting is a critical decision that supports the successful operation of both profit and non-profit organizations. The definition of rates is the monetary amount charged by a business unit to buyers or customers for goods or services sold or delivered[1]. A rate is the value of a service which is determined by the size of an amount of money based on the consideration that with this value for money a company is willing to provide services to customers. A rate is an expenditure of several costs with certain uses needed to obtain a service. In service facilities in the service sector, rates are a very important aspect to note. Rates setting is closely related to all aspects of business activities and activities. To be successful in achieving goals, companies must set rates or prices appropriately. Rates help companies to determine the value for profit from goods or services for the company because rates have the goal of increasing cost recovery, as reserve fund income to carry out company activities or activities, increase company revenue, and seek maximum profit, rates setting is a statement of company attitude as knowledge in determining whether or not business activities in the service sector are profitable and also as a tool for consideration and decision making in carrying out activities effort. Rates setting affects business life because it is the basis for determining profits according to the target and expectations.

Determination of the number of rates in general according to [2], [3], it is necessary to consider several factors, namely (1) unit cost, (2) type of service and level of utilization, (3) level of ability of the community, (4) competitors' rates, (5) cross-subsidies and revenue plans. Determination of rates affects the volume of business income. If the rates are set too high, the profit will be low, which will result in a decrease in business income, and vice versa, if the rates are set too low, it will bring losses to the company.[4]. In other words, the policy in determining rates can have an effect in providing a guarantee of profit for the business. One method of setting rates that is suitable for use in the service sector is the time and material pricing method. This method uses two rates for determining the selling price, namely

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the first rate is to determine the direct labor time used to serve customers, and the second rate is to determine the price of materials used to serve customers.[5].

This rate-setting method is used by watch repair companies, car and motorcycle repair shops, service companies, and various associations of experts such as accountants, doctors, lawyers, and consultants. The volume of services is calculated based on the time required as a complement to the delivery calculated based on the number of materials provided to the customer. According to [6] the calculation of the selling price of services using the time and material pricing method. There are two components, namely the time component and the material component where the time component is specifically stated as the direct labor hourly rate. This rate is calculated from the sum of three elements, namely: direct labor costs, including additional salaries and benefits; selling and administrative costs; and desired profit. The material components include the purchase price of the materials used during construction plus the material loading charge (MCL). MCL is intended to cover costs for marketing, handling, and storage of materials, plus a profit margin for the materials themselves [7].

Determining the amount of attorney's service fees can be considered from the severity of the case, usually seen from the value of the assets contested and also the legal action desired by a prospective client, the length of time needed to complete the case [8], the client's level of financial ability and how close the case is handled. Payment for attorney services is carried out using 4 methods, namely (1) Contract Fees. In this method, the attorney gets paid when the case handled is over. At the time of signing the power of attorney, a payment of 30% to 50% of the total fee is usually made. (2) portion-based payments (Contingent Fees) in this method the attorney receives a share of the proceeds obtained from a client that is won in a legal dispute, but the attorney will only receive a share if he succeeds in winning the case. If he is not successful, he only receives reimbursement for the operational costs he has incurred. (3) the hourly rate of this payment method is only required for legal matters within the scope of small businesses for the need for legal advice. Usually, lawyers can set a payment per minute of using their services. (4) periodic payments (Retainer) this payment method is that the client will pay the attorney's rental budget regularly either monthly or annually before various attorney services are received by the client and must be defined for mutual agreement [9], [10].

According to the Law governing Indonesian Advocate services, number 18 of 2003 Article 21 concerning Honorarium wherein the article says that Advocates have the right to receive an honorarium for legal services that have been provided to clients and the amount of honorarium for legal services is determined fairly based on the agreement of both parties. Based on direct interviews conducted by researchers (Sunday, 26 February 2017), the sources provided data regarding the costs incurred by clients in handling criminal cases and civil cases. The Law governing the services of Indonesian Advocates number 18 of 2003 has been regulated regarding the fees for attorney services in handling criminal cases, be it rape cases, murder cases, corruption and crash cases as well as civil cases whether it is land dispute cases, business, and trade cases as well as divorce cases. The costs for attorney services in handling criminal cases have the following calculations (1) Comparison of the level of investigation (police) of IDR 5,000,000, (2) Level of Prosecution of IDR 5,000,000, (3) Court trials of IDR 10,000,000, (4) The level of appeal (cassation) for review is IDR 5,000,000.

(2) submitting a civil lawsuit to the District Court with details of the following costs, namely (a) office administration costs of Rp. 5,000,000, (b) operational and accommodation costs including return flight tickets of Rp. 600,000, lodging costs Rp. 300,000 per night, list of lawsuits at mediation I sessions, mediation sessions II, mediation sessions III and mediation IV sessions, lawsuit reading hearings, case response hearings, case replica and duplication hearings, trial evidence of the defendant's and plaintiff's letters, conclusion hearings and trial hearings of decisions so the total number of hearings 16 times. The cost of filing a lawsuit to the district court is Rp. 14,400,000, wherein the lodging costs are Rp. 300,000 plus the plane fee of Rp. 600,000 becomes Rp. 900,000 multiplied by 16 trials and the result is Rp. 14,400,000. The fee for registering a lawsuit depends on the rate determined by the District Court, while the fee for legal evidence and power of attorney is Rp. 1,000,000 and incidental costs are Rp. 5,000,000. For the calculation of service rates at the Legal Counsel's Office, Mr. Philipus Fernandez places more emphasis on many issues, namely setting low consultation fees, consumption costs, and file processing fees borne by the lawyer himself also not taking into account the costs incurred such as the cost of purchasing staples, costs water, equipment depreciation costs, land and car taxes, purchase of ballpoint pens, consumption costs, gasoline costs, and diesel costs to expedite these work activities while the fee for leges proof and power of attorney is Rp. 1,000,000 and incidental costs are Rp. 5,000,000. For the calculation of service rates at the Legal Counsel's Office, Mr. Philipus Fernandez places more emphasis on several issues, namely setting low consultation fees, consumption costs, and file processing fees borne by

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His profession as a lawyer is not always able to bring profit due to the increasing demands for living costs in this era. This is because the pricing or consultation rates set by the attorney are low and the attorney handles more civil cases with a portion payment system or Contingent Fees, namely in this system the attorney only receives a share if he wins the case. If it doesn't work, he will only receive reimbursement for the operational costs he has incurred. This problem caused losses so to meet the needs and daily needs of the lawyer, he was forced to spend his funds to provide salaries to the four employees.

The calculation made or used by the Office of Legal Counsel Mr. Philipus Fernandez is correct because in calculating the service fee, it does not take into account the costs incurred by the Office such as consumption costs, file processing fees, the cost of paying the salaries of four employees using their funds and consulting fees set by lawyers are relatively low. Attorneys in big cities are generally often supported by their clients where clients often pay quite large service fees for consulting, consumption, and transportation costs, but this does not apply to Mr. Philipus Fernandez's Legal Counsel Office where the determination of consulting fees is relatively low.[12].

So that the research aims[13]to (1) find out the cost elements that occur in determining the rates for attorney services at the Office of Legal Counsel Mr. Philipus Fernandez in Kupang City. (2) find out the cost of the attorney's services determined by the Office of Legal Counsel Mr. Philipus Fernandez in Kupang City. (1) find out the number of attorney fees set by the Office of Legal Counsel Mr. Philipus Fernandez in Kupang City.

## 2. METHODS

The research was located at the Office of Legal Counsel Mr. Philipus Fernandez behind the Timor Express office, Liliba sub-district, Oebobo District, Kupang City.

The type of research used in this research is descriptive-analytical research in the form of case study research. Data based on its type is divided into two, namely:

- a. Quantitative data, namely data in the form of numbers or numbers according to their shape.
- b. Qualitative data is data in the form of sentences not in the form of numbers.

Sources of data used in this study are:

- a. Primary data.  
Primary data was obtained directly from the source, namely Mr. Philipus Fernandez
- b. Secondary data  
Secondary data is in the form of documents related to payment transactions and costs required to handle cases.

The data analysis technique used in this study is a comparative analysis which is used to compare the findings with the Time and Material Pricing method[14].

1. Identify the costs incurred at the Office of Legal Counsel, Mr. Philipus Fernandez.  
Determine costs (raw material costs and direct labor costs). Raw material costs consist of the cost of purchasing paper, 4 bottles of ink, and stamp ink. Direct labor costs consist of leadership salaries, and costs of consulting criminal and civil cases. Fixed factory overhead costs consist of the salaries of 2 assistant advocates, salaries of 1 apprentice advocate and 1 administrative staff, staple tiller costs, water costs, equipment depreciation, land, building, and car taxes. Variable factory overhead costs consist of electricity costs, costs for purchasing ballpoint pens, consumption costs, and costs for purchasing gasoline and diesel.
2. Determine the cost of service products at the Office of Legal Counsel Mr. Philipus Fernandez.
  - a) Calculating the cost of production with the following formula:
  - b) Cost of goods and services = raw material costs + direct labor costs + factory overhead costs.
  - c) Calculate markup presentation.  
 $\% \text{markup} =$

$$\frac{(\text{Target ROI}) + (\text{Total Marketing and Administration Cost})}{(\text{Sales Volume in Units}) \times (\text{Full Production Cost per Unit})}$$

- d) Calculating the Amount of Attorney Service Fees  
Service fee per case = Time fee + Material fee  
Time rate = BTKL per case + % markup X BTKL.
3. Make a comparison of the determination of attorney fees according to the Office of Legal Counsel Mr. Philipus Fernandez and according to Time and Material Pricing.
  4. Make a comparison of the determination of attorney fees according to the Office of Legal Counsel Mr. Philipus Fernandez with the Time and Material Pricing method.

### 3. RESULTS AND DISCUSSION

#### 3.1. Calculation of the Cost of Service Products, % markup, markup (in Rp), and attorney fees for each case

##### 1. Calculation of Service Production Prices

Based on the results of an interview with Mr. Philipus Fernandez, in calculating the cost of goods and services, it does not include all the elements of costs incurred, but only: the cost of buying paper, the cost of buying ink, and the salaries of leaders and employees combined. The following is the calculation of the price of service products at the Office of Legal Counsel Mr. Philipus Fernandez.

- a. Civil case
  - 1) Land dispute.  
The cost of producing services is Rp. 47,300,000.
  - 2) Debts and receivables.  
The cost of producing services is Rp. 47,050,000.
- b. A criminal case.
  - 1) Murder.  
The cost of producing services is Rp. 47,150,000.
  - 2) Rape.  
The cost of producing services is Rp. 47,050,000.

Meanwhile, according to researchers, the calculation of the cost of production of services is based on calculating all costs incurred to expedite work activities including material costs, direct labor materials, and office overhead costs, both fixed and variable.[15].

Next, the researcher calculates the cost of production of services in the form of the full cost of production and the price of services produced per unit[16]. To clarify the calculation of the cost of goods manufactured for these services, researchers use the full costing method in which there are elements of production costs consisting of material costs, direct labor costs, and office overhead costs both variable and fixed[17]. This will be seen in the data below:

- a. Civil Case
  1. Land dispute
    - Light case  
The cost of full-service products for light problem land cases is Rp. 7,017,598.44. While the basic price of service products per unit is Rp. 3,508,799.22. The price of the service product per unit is the main result of the service product divided by the volume of minor land dispute cases handled by 2 cases.
    - Heavy case  
The cost of full-service products for cases of land with serious problems is Rp. 7,192,598.44. While the basic price of service products per unit is Rp. 3,596,299.22. The price of the service product per unit is the main result of the service product divided by the volume of serious land dispute cases handled by 2 cases.
  2. Accounts Payable Cases
    - Light case  
The cost of full-service products for the case of accounts payable and credit problems is Rp. 6,817,598.44. While the basic price of service products per unit is Rp. 6,817,598.44. The price of the service product per unit is the main result of the service product divided by the volume of accounts payable and accounts receivable cases handled by 1 case.
    - Heavy case  
The cost of full-service products for cases of debt receivables with heavy problems is Rp. 6,917,598.44 While the cost of service product per unit is Rp. 6,917,598.44. The price of the service

product per unit is the main result of the service product divided by the volume of cases of accounts payable and receivables with serious problems handled by 1 case.

b. A criminal case.

1. Homicides

Light Case

The cost of full-service products for minor homicide cases is Rp. 7.142. 598,44. While the basic price of service products per unit is Rp. 7.142. 598,44. The price of the service product per unit is the main result of the service product divided by the volume of minor homicide cases handled by 1 case.

Heavy Case

The cost of the full-service product for a serious homicide case is Rp. 6.792598,44. While the basic price of service products per unit is Rp. 6.792598,44. The price of the service product per unit is the main product of the service product divided by the volume of serious homicide cases handled by 1 case.

2. Rape Case

Light Case

The cost of full-service products for minor rape cases is Rp. 6,792. 598,44. While the basic price of service products per unit is Rp. 6,792. 598,44. The price of the service product per unit is the main result of the service product divided by the volume of minor rape cases handled by 1 case.

Heavy Case

The cost of full-service products for serious rape cases is Rp. 7,042,598.44. While the basic price of service products per unit is Rp. 7,042,598.44. The price of the service product per unit is the main result of the service product divided by the volume of serious rape cases handled by 1 case.

**3.2. Determining the Amount of Attorney Service Fees at the Office of Legal Advisors Mr. Philip Fernandez**

a. Determination of Rates for Attorney Services according to the Office of Legal Counsel Mr. Philipus Fernandez.

To calculate the rates for attorney services at the office of Legal Counsel Mr. Philipus Fernandez, only determines the rates for attorney services by looking at payments from clients without taking into account the costs that will be incurred.

b. Calculation of Attorney Service Rates according to Researchers Using the Time And Material Pricing Method.

The steps in using the Material Pricing method are as follows:

1. Determine the costs incurred to expedite work activities for the settlement of criminal and civil cases.

2. Determining Mark Up and Service Rates.

a) Civil Case

1) Land dispute

Light Trouble

Mark Up : IDR 47,705,634.2

Service Fee: Rp. 68,112,398.64

Serious Problems

Mark Up: IDR 56,612,942.32

Service Fee: Rp. 79,036,047.76

2) Debts and receivables

Light Trouble

Mark Up: IDR 5,118,814.85

Service Fee: Rp. 14,980,293

Serious Problems

Mark Up: IDR 7,155,069.63

Service Fee: Rp. 17,440,422

b) A criminal case

- 1) Murder  
 Light Trouble  
 Mark Up: IDR 11,713,846  
 Service Fee: Rp. 23,389,321.44  
  
 Serious Problems  
 Mark Up: IDR 16,554,198.44  
 Service Fee: Rp. 29,461,388.86
- 2) Rape  
 Light Trouble  
 Mark Up: IDR 12,022,899.24  
 Service Fee: Rp. 23,571,587.68  
  
 Serious Problems  
 Mark Up: IDR 16,690,958.3  
 Service Fee: Rp. 29,519,846.74

### 3.3. Make a comparison of the determination of the rates for attorney services according to the Office of Legal Counsel Philipus Fernandes and according to the researcher

A comparison of rate setting is shown in the table below.

Table 1. Comparison of the determination of Attorney Service Fees according to the Office of Legal Counsel Mr. Philipus Fernandez and according to the Researcher

Case Type	According to the Office of Legal Counsel Mr. Philipus Fernandez (IDR)		According to Researchers (Rp)	
	Light	Heavy	Light	Heavy
<b>Civil Cases:</b>				
Land dispute	31,500,000	35,500,000	68,112,398.64	79,036,047.76
Debts and receivables	12,000,000	13,950,000	14,980,293	17,440,422
<b>A criminal case:</b>				
Murder	18,750,000	23,725,000	23,389,321.44	29,461,388.86
Rape	18,650,000	23,650,000	23,571,587.68	29,519,846.74

## 4. CONCLUSION

Based on the results of the research and conclusions, the researcher can conclude that: (1) Elements of the costs incurred in determining the rates for attorney services according to Mr. Philipus Fernandez's legal advisor's office consist of raw materials including paper, 4 bottles of stamp ink, direct labor costs includes wages for management, consulting fees for civil and criminal cases, fixed BOP consists of salaries of 2 assistant advocates, the salary of 1 apprentice advocate and 1 administrative staff, purchase of staples, water costs, depreciation of equipment, taxes (land, buildings, cars) and BOP variables consist of the purchase of ballpoint pens, electricity costs, consumption costs and transportation costs (gasoline and diesel). (2) The cost of service products determined by the office of legal adviser Mr. Philipus Fernandez has so far been inaccurate because several costs are not included, such as the calculation of the cost of stamp/stamp ink, consulting fees for civil and criminal cases, costs for purchasing staples, water costs for equipment depreciation, tax costs (land, buildings, and cars), purchase of ballpoint pens, electricity costs, costs consumption, and transportation costs (purchasing gasoline and diesel), whereas according to the discussion that in the calculation of the cost of production must include all elements of costs incurred during activities. (3) The determination of the rates for lawyers' services that have been carried out by Mr. Philipus Fernandez's Legal Advisory Office is still wrong, this is because the Legal Counsel's Office for Mr. Philipus Fernandez determines the rates for attorneys' services based only on fees charged to clients with assets in civil cases land disputes, light matters Rp. 15,750,000, land disputes with serious problems IDR 18,750,000, cases of debt receivables with minor problems IDR 12,000,000, and cases of accounts receivable with heavy problems IDR 13,950,000. For the criminal case of murder, a minor matter of Rp. 18,750,000, murder for serious problems Rp. 23,650,000, while

according to the discussion of researchers, the fee for attorney services is set for civil cases of land disputes for light problems Rp. 34,056,199.32, cases of land disputes for serious problems, Rp. 39,518,023.88, for civil cases, accounts payable with minor problems IDR 14,980,293, and cases of accounts payable with heavy problems 17,440,423. For criminal cases of homicide with minor matters Rp. 23,389,321.44, cases of homicide with serious problems Rp. 29,461,388.86, cases of rape with minor problems of Rp. 23,571,587.68 and cases of rape with serious problems of Rp. 29,519,846.74.

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