International Municipal Lawyers Association 2011 Annual Conference: Work Session II

Defending Attorney Fee and Cost Petitions

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Keys to a Successful Response

1) Supported by FRCP 68 Offer of Judgment.
2) Identifies suspect billings / unrelated billings.
3) Applies proper and reasonable rates.
4) Provides court with "cut and paste" tables.
5) Pays close attention to claimed costs.
6) Applies local rules, standing orders and law (e.g. PLRA limits).
7) Saves dispute on merits for JNOV motion.
8) Responding attorney's billings are not "*glass houses*."
9) Petition does not overreach / double adjust.
10) Supported by expert?



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IDENTIFYING PROBLEM BILLINGS

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Vague Timekeeping

- Three things <u>every</u> billing entry must provide:

1. Who
2. What
3. Why!

How can the court feel assured that time billed is reasonable if the time entry does not document what work the attorney did?

IT CAN'T!

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[redacted], P.C.

Vague

December 31,1996
Invoice Number: 2690

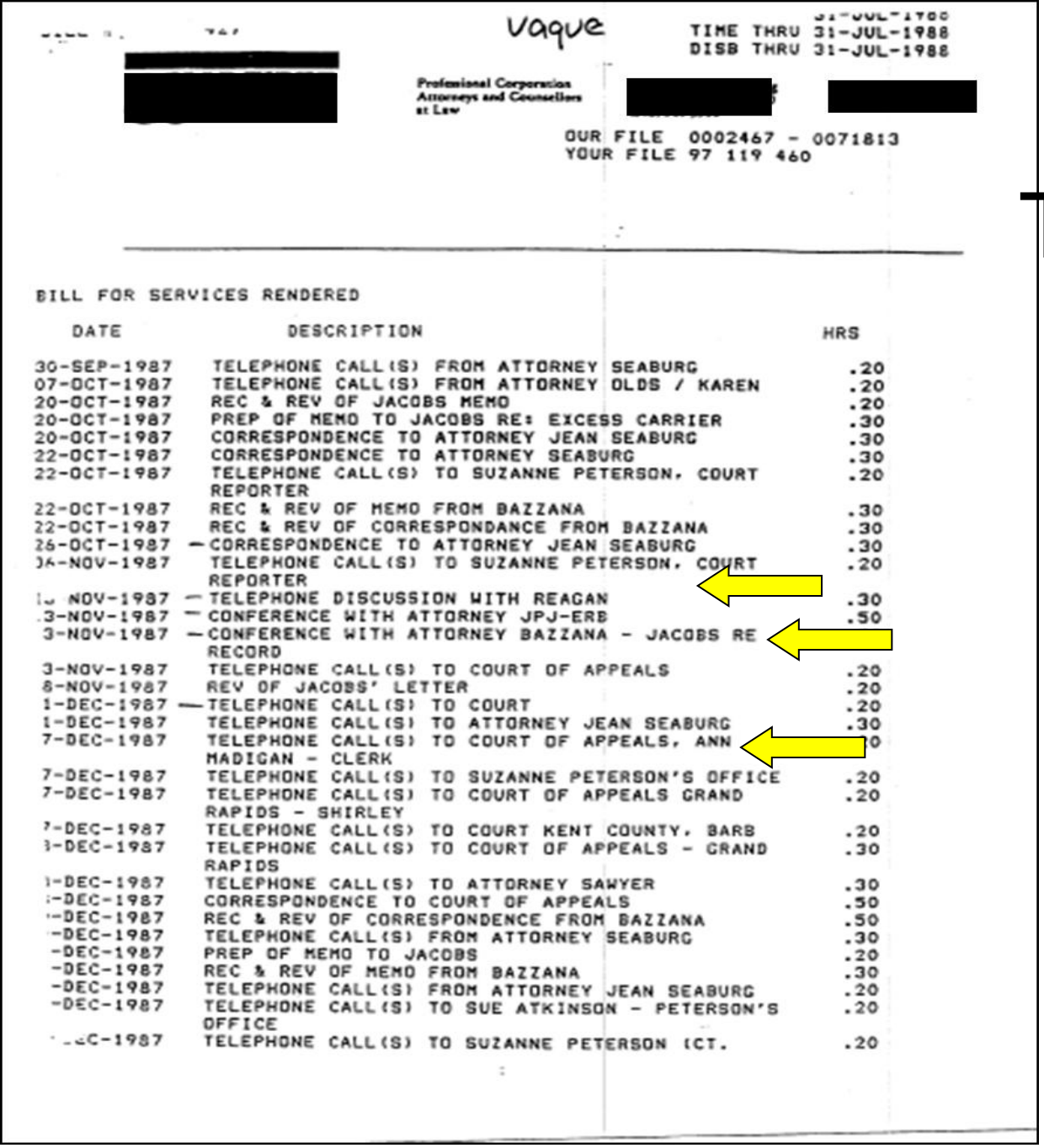
[redacted]

e of vice	Attorney	Description of Service	Time	Value
/08/1996	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.20	$18.00
	KKH	PREPARE STIPULATION AND ORDER	0.10	$9.00
	KKH	TELEPHONE CONF WITH OPPOSING COUNSEL	0.20	$18.00
	KKH	LETTER TO COURT/JUDGE	0.20	$18.00
	JTM	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.20	$18.00
	JTM	LETTER TO PLAINTIFF'S COUNSEL	0.20	$18.00
	JTM	LETTER FROM PLAINTIFF'S COUNSEL	0.20	$18.00
/09/1996	JTM	LETTER FROM PLAINTIFF'S COUNSEL	0.20	$18.00
/10/1996	JTM	PREPARE FOR DEPOSITION	2.10	$189.00
/11/1996	DSE	TELEPHONE CONF WITH CLIENT	0.20	$18.00
	DSE	SUMMARIZE DEPOSITION	0.80	$72.00
	DSE	LETTER TO PLAINTIFF'S COUNSEL	0.20	$18.00
	DSE	TELEPHONE CONF WITH OPPOSING COUNSEL	0.20	$18.00
	DSE	STUDY CLIENT'S RECORDS	1.20	$108.00
	DSE	REQUEST MEDICAL RECORDS	0.60	$54.00
	DSE	REQUEST NURSING HOME RECORDS	0.20	$18.00
	JTM	ATTEND DEP OF MARILYN NEWMAN	3.40	$306.00
	JTM	LETTER FROM OPPOSING COUNSEL	0.20	$18.00
	JTM	PREPARE MOTION TO COMPEL ANSWERS TO INTERROGATORIES	0.50	$45.00
	JTM	ATTEND DEPOSITION OF WITNESS	3.40	$306.00
12/1996	DSE	TELEPHONE CONF WITH CLIENT	0.20	$18.00
	DSE	STUDY CONTRACT	0.40	$36.00
	DSE	STUDY MEDICAL RECORDS	0.60	$54.00
	DSE	STUDY NURSING HOME RECORDS	0.50	$45.00
	DSE	TELEPHONE CONF WITH CLIENT'S ATTORNEY	0.20	$18.00
	JTM	LETTER FROM COPY SERVICE	0.20	$18.00
13/1996	DSE	TELEPHONE CONF WITH CLIENT'S ATTORNEY	0.20	$18.00
	DSE	PREPARE FOR MEETING/CONFERENCE WITH WITNESS	0.80	$72.00
	DSE	CONFERENCE WITH CLIENT	3.50	$315.00
	JTM	RECEIPT/REVIEW MEDICAL RECORDS	0.30	$27.00
14/1996	JTM	LETTER FROM COPY SERVICE	0.20	$18.00

2

Vague Timekeeping

Querrey & Harrow



Vague

TIME THRU 31-JUL-1988
DISB THRU 31-JUL-1988

[redacted]

Professional Corporation
Attorneys and Counsellors
at Law

[redacted]

OUR FILE 0002467 - 0071813
YOUR FILE 97 119 460

BILL FOR SERVICES RENDERED

DATE	DESCRIPTION	HRS
30-SEP-1987	TELEPHONE CALL(S) FROM ATTORNEY SEABURG	.20
07-OCT-1987	TELEPHONE CALL(S) FROM ATTORNEY OLDS / KAREN	.20
20-OCT-1987	REC & REV OF JACOBS MEMO	.20
20-OCT-1987	PREP OF MEMO TO JACOBS RE: EXCESS CARRIER	.30
20-OCT-1987	CORRESPONDENCE TO ATTORNEY JEAN SEABURG	.30
22-OCT-1987	CORRESPONDENCE TO ATTORNEY SEABURG	.30
22-OCT-1987	TELEPHONE CALL(S) TO SUZANNE PETERSON, COURT REPORTER	.20
22-OCT-1987	REC & REV OF MEMO FROM BAZZANA	.30
22-OCT-1987	REC & REV OF CORRESPONDANCE FROM BAZZANA	.30
26-OCT-1987	CORRESPONDENCE TO ATTORNEY JEAN SEABURG	.30
06-NOV-1987	TELEPHONE CALL(S) TO SUZANNE PETERSON, COURT REPORTER	.20
[illegible] NOV-1987	TELEPHONE DISCUSSION WITH REAGAN	.30
3-NOV-1987	CONFERENCE WITH ATTORNEY JPJ-ERB	.50
3-NOV-1987	CONFERENCE WITH ATTORNEY BAZZANA - JACOBS RE RECORD	[illegible]
3-NOV-1987	TELEPHONE CALL(S) TO COURT OF APPEALS	.20
8-NOV-1987	REV OF JACOBS' LETTER	.20
1-DEC-1987	TELEPHONE CALL(S) TO COURT	.20
1-DEC-1987	TELEPHONE CALL(S) TO ATTORNEY JEAN SEABURG	.30
7-DEC-1987	TELEPHONE CALL(S) TO COURT OF APPEALS, ANN MADIGAN - CLERK	[illegible]
7-DEC-1987	TELEPHONE CALL(S) TO SUZANNE PETERSON'S OFFICE	.20
7-DEC-1987	TELEPHONE CALL(S) TO COURT OF APPEALS GRAND RAPIDS - SHIRLEY	.20
7-DEC-1987	TELEPHONE CALL(S) TO COURT KENT COUNTY, BARB	.20
8-DEC-1987	TELEPHONE CALL(S) TO COURT OF APPEALS - GRAND RAPIDS	.30
9-DEC-1987	TELEPHONE CALL(S) TO ATTORNEY SAWYER	.30
9-DEC-1987	CORRESPONDENCE TO COURT OF APPEALS	.50
9-DEC-1987	REC & REV OF CORRESPONDENCE FROM BAZZANA	.50
9-DEC-1987	TELEPHONE CALL(S) FROM ATTORNEY SEABURG	.30
9-DEC-1987	PREP OF MEMO TO JACOBS	.20
9-DEC-1987	REC & REV OF MEMO FROM BAZZANA	.30
9-DEC-1987	TELEPHONE CALL(S) FROM ATTORNEY JEAN SEABURG	.20
9-DEC-1987	TELEPHONE CALL(S) TO SUE ATKINSON - PETERSON'S OFFICE	.20
10-DEC-1987	TELEPHONE CALL(S) TO SUZANNE PETERSON (CT.	.20

Vague Timekeeping

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Block Billing

- Lawyers are required to tell client how much time it took to complete a task
- If billing entry combines 2 or more tasks into one block of time, client is "in the dark"
- While not universal, most courts will consider striking block billed entries.
- **TIP:** Consider whether to seek 100% adjustment or argument in support of other adjustments?

Block Billing

S[redacted]: Review American Express documents; Prepare same for production; Prepare for telephonic hearing on defendants' ex parte application; Draft letter to Vallado regarding American Express; Prepare for Rubin deposition; Appearance at telephonic hearing; Review Thomas Rubin & Associates documents; Telephone call with Rubin regarding same; Telephone call with Sullivan regarding commission payment documents; Meeting with Rubin, Shults and Greenfield regarding Rubin deposition — 6.50 — 1,657.50

H[redacted]: Continue preparation. for T.Prill depo., including review of several depositions referencing T.Prill, discussions with Focus attorneys regarding T.Prill, and lengthy telephone call with D.Parro regarding T.Prill; receipt and review of discovery meet and confer letters from Haworth and DHC and follow up on issues and respond to same; draft discovery meet and confer letters to DHC's and Haworth's attorneys; receipt and review of Schoenike deposition transcript; receipt and review of DHC's motion to compel documents and further responses, discuss same and preparation of opposition with Y.Hazzard; receipt & review of miscellaneous documents, e-mails & letters. — 9.40 — 1,739.00

B[redacted]: Telephone conference regarding telephonic ex parte hearing with J. Wisot and J. Segal; Review and analyze deposition transcripts and outlines. — 3.80 — 703.00

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Billing Rates / Units

- Quarter-Hour Billing?
- Loadstar?
- Laffey Matrix?
- Prevailing Rates?
- Attorney Experience (Pacer)?



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Unit Billing

- When billing hourly, required to bill actual time
- Lawyers often bill in set amounts

EXAMPLES:

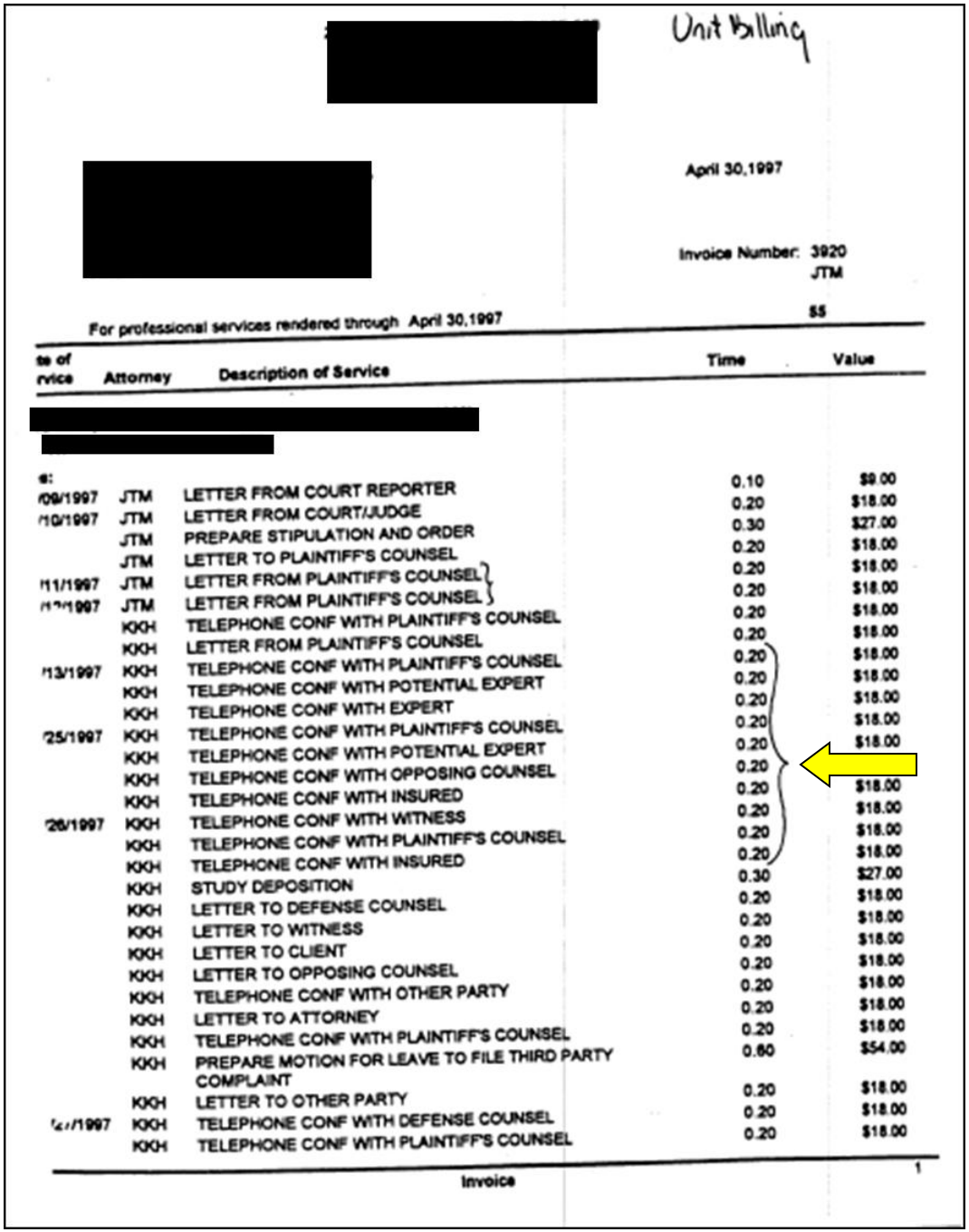
Call = .2

Letter = .3

Prep = 1 hour

File opening charges = 1 hour

OR MORE!



Unit Billing

[redacted]

[redacted]

April 30,1997

Invoice Number: 3920
JTM

$5

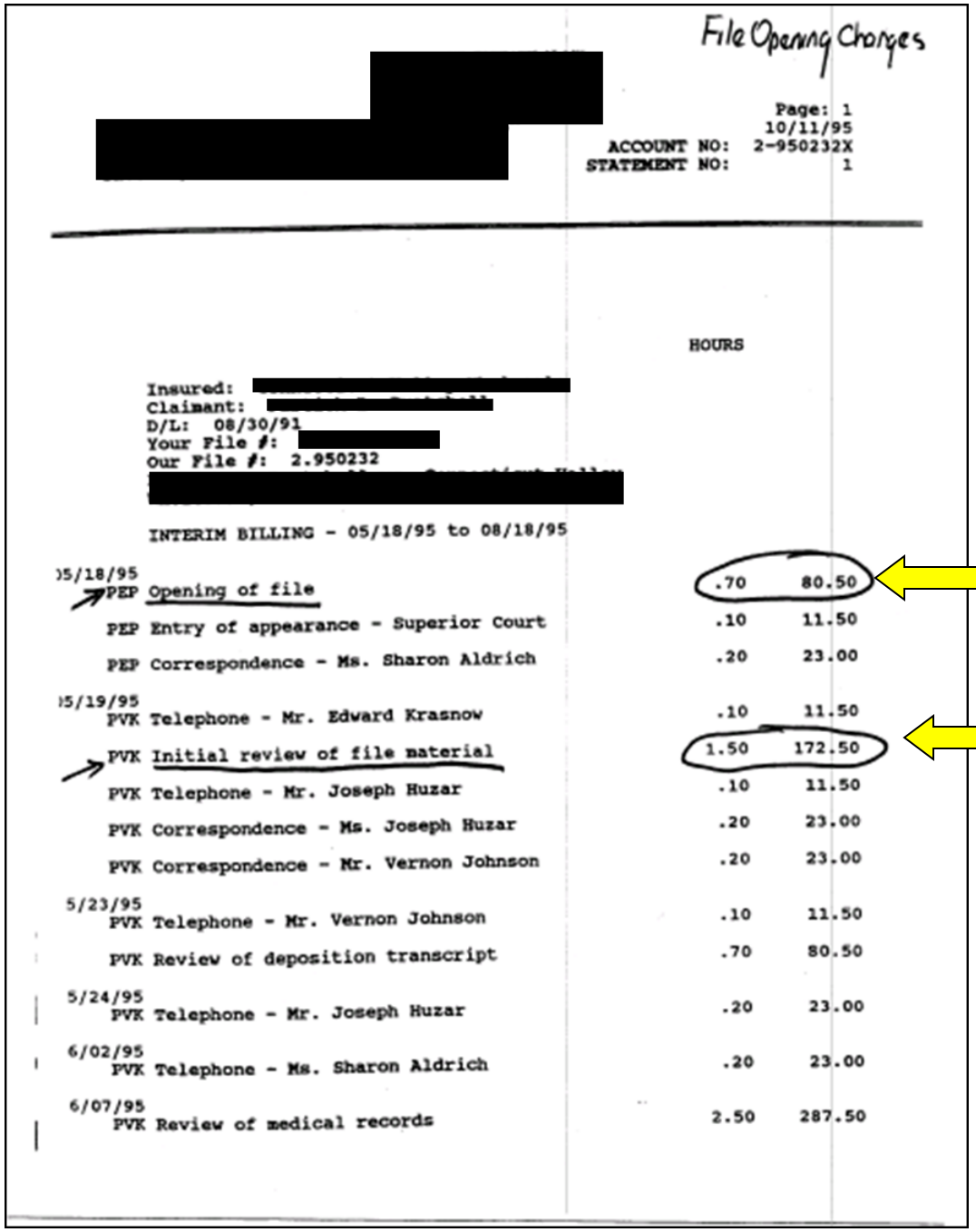
For professional services rendered through April 30,1997

te of rvice	Attorney	Description of Service	Time	Value
[redacted]				
e:				
/09/1997	JTM	LETTER FROM COURT REPORTER	0.10	$9.00
/10/1997	JTM	LETTER FROM COURT/JUDGE	0.20	$18.00
	JTM	PREPARE STIPULATION AND ORDER	0.30	$27.00
	JTM	LETTER TO PLAINTIFF'S COUNSEL	0.20	$18.00
/11/1997	JTM	LETTER FROM PLAINTIFF'S COUNSEL	0.20	$18.00
/12/1997	JTM	LETTER FROM PLAINTIFF'S COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.20	$18.00
	KKH	LETTER FROM PLAINTIFF'S COUNSEL	0.20	$18.00
/13/1997	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH POTENTIAL EXPERT	0.20	$18.00
	KKH	TELEPHONE CONF WITH EXPERT	0.20	$18.00
/25/1997	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH POTENTIAL EXPERT	0.20	$18.00
	KKH	TELEPHONE CONF WITH OPPOSING COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH INSURED	0.20	$18.00
/26/1997	KKH	TELEPHONE CONF WITH WITNESS	0.20	$18.00
	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH INSURED	0.30	$27.00
	KKH	STUDY DEPOSITION	0.20	$18.00
	KKH	LETTER TO DEFENSE COUNSEL	0.20	$18.00
	KKH	LETTER TO WITNESS	0.20	$18.00
	KKH	LETTER TO CLIENT	0.20	$18.00
	KKH	LETTER TO OPPOSING COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH OTHER PARTY	0.20	$18.00
	KKH	LETTER TO ATTORNEY	0.20	$18.00
	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL	0.60	$54.00
	KKH	PREPARE MOTION FOR LEAVE TO FILE THIRD PARTY COMPLAINT	0.20	$18.00
	KKH	LETTER TO OTHER PARTY	0.20	$18.00
/27/1997	KKH	TELEPHONE CONF WITH DEFENSE COUNSEL	0.20	$18.00
	KKH	TELEPHONE CONF WITH PLAINTIFF'S COUNSEL		

Invoice 1

Unit Billing

Querrey & Harrow



File Opening Charges

[redacted]

Page: 1
10/11/95
ACCOUNT NO: 2-950232X
STATEMENT NO: 1

Insured: [redacted]
Claimant: [redacted]
D/L: 08/30/91
Your File #: [redacted]
Our File #: 2.950232
[redacted]

INTERIM BILLING - 05/18/95 to 08/18/95

		HOURS	
05/18/95 PEP	Opening of file	.70	80.50
PEP	Entry of appearance - Superior Court	.10	11.50
PEP	Correspondence - Ms. Sharon Aldrich	.20	23.00
05/19/95 PVK	Telephone - Mr. Edward Krasnow	.10	11.50
PVK	Initial review of file material	1.50	172.50
PVK	Telephone - Mr. Joseph Huzar	.10	11.50
PVK	Correspondence - Ms. Joseph Huzar	.20	23.00
PVK	Correspondence - Mr. Vernon Johnson	.20	23.00
5/23/95 PVK	Telephone - Mr. Vernon Johnson	.10	11.50
PVK	Review of deposition transcript	.70	80.50
5/24/95 PVK	Telephone - Mr. Joseph Huzar	.20	23.00
6/02/95 PVK	Telephone - Ms. Sharon Aldrich	.20	23.00
6/07/95 PVK	Review of medical records	2.50	287.50

Unit Billing

Querrey & Harrow

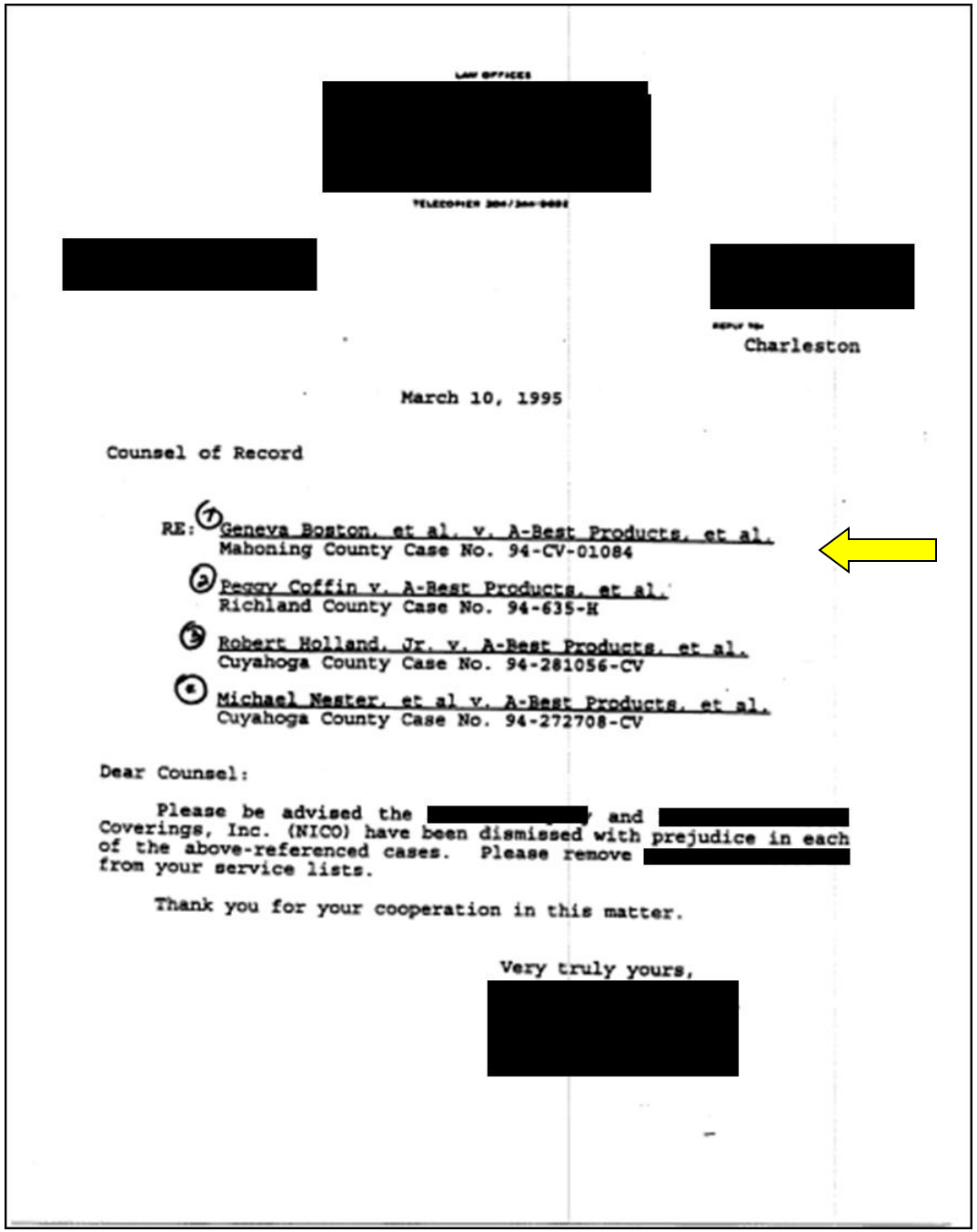
Fee Splitting

Courts will not sanction doubled (or more) charges for the same service.

EXAMPLES:

- One task - many cases
- Enclosure letters
- Form discovery / pleadings
- Work while travelling

TIP: Multi-claimant case?
Demand a "Master Invoice."



[redacted]

[redacted]

[redacted]

Charleston

March 10, 1995

Counsel of Record

RE: (1) Geneva Boston, et al. v. A-Best Products, et al.
Mahoning County Case No. 94-CV-01084

(2) Peggy Coffin v. A-Best Products, et al.
Richland County Case No. 94-635-H

(3) Robert Holland, Jr. v. A-Best Products, et al.
Cuyahoga County Case No. 94-281056-CV

(4) Michael Nester, et al v. A-Best Products, et al.
Cuyahoga County Case No. 94-272708-CV

Dear Counsel:

Please be advised the [redacted] and [redacted] Coverings, Inc. (NICO) have been dismissed with prejudice in each of the above-referenced cases. Please remove [redacted] from your service lists.

Thank you for your cooperation in this matter.

Very truly yours,

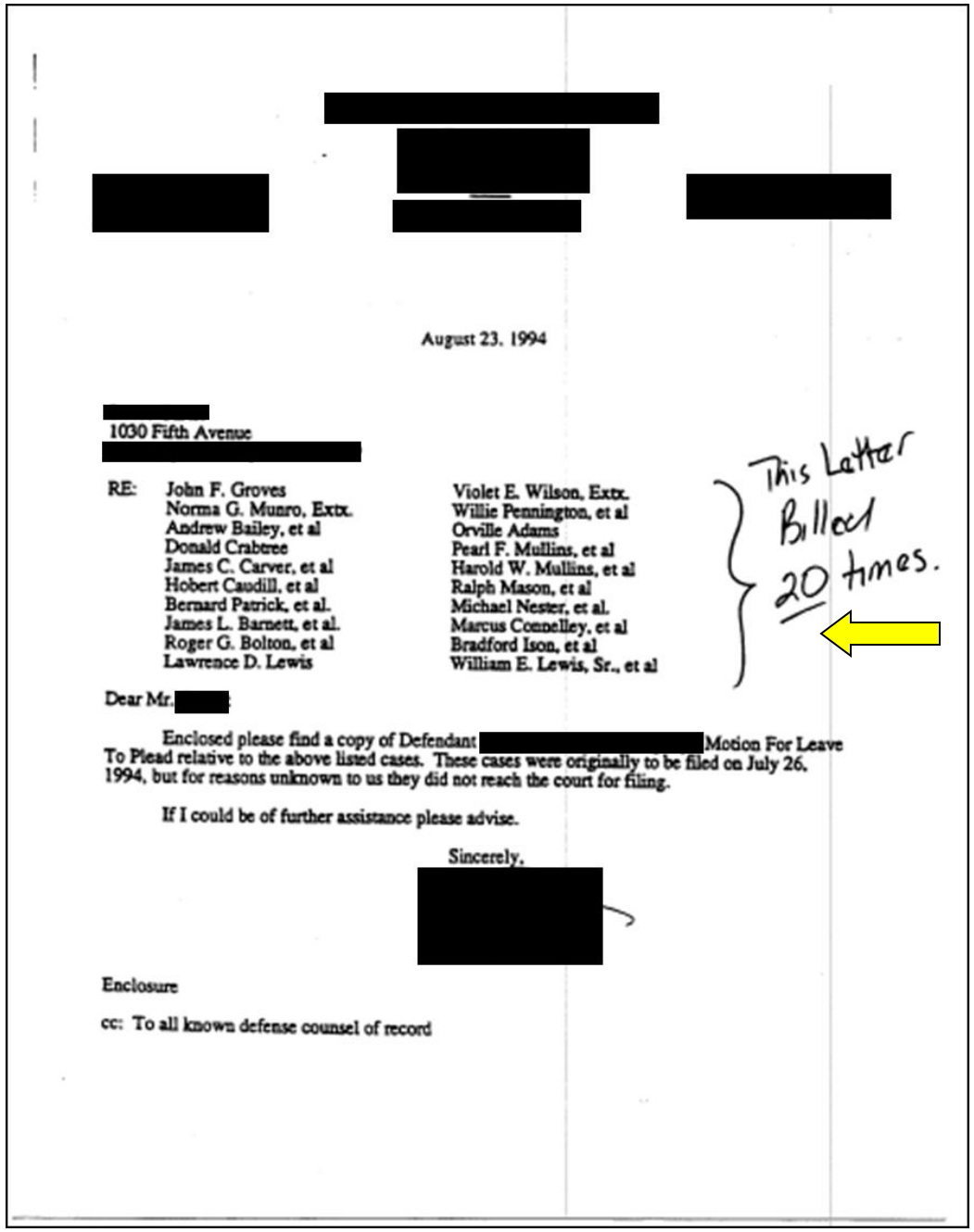
[redacted]

Fee Splitting

Single letter billed four times!

Querrey & Harrow

Fee Splitting



[redacted]

August 23, 1994

[redacted]
1030 Fifth Avenue
[redacted]

RE: John F. Groves
Norma G. Munro, Extx.
Andrew Bailey, et al
Donald Crabtree
James C. Carver, et al
Hobert Caudill, et al
Bernard Patrick, et al.
James L. Barnett, et al.
Roger G. Bolton, et al
Lawrence D. Lewis

Violet E. Wilson, Extx.
Willie Pennington, et al
Orville Adams
Pearl F. Mullins, et al
Harold W. Mullins, et al
Ralph Mason, et al
Michael Nester, et al.
Marcus Connelley, et al
Bradford Ison, et al
William E. Lewis, Sr., et al

This Letter Billed 20 times.

Dear Mr. [redacted]:

Enclosed please find a copy of Defendant [redacted] Motion For Leave To Plead relative to the above listed cases. These cases were originally to be filed on July 26, 1994, but for reasons unknown to us they did not reach the court for filing.

If I could be of further assistance please advise.

Sincerely,

[redacted]

Enclosure

cc: To all known defense counsel of record

Single letter billed twenty (yes, 20) times!

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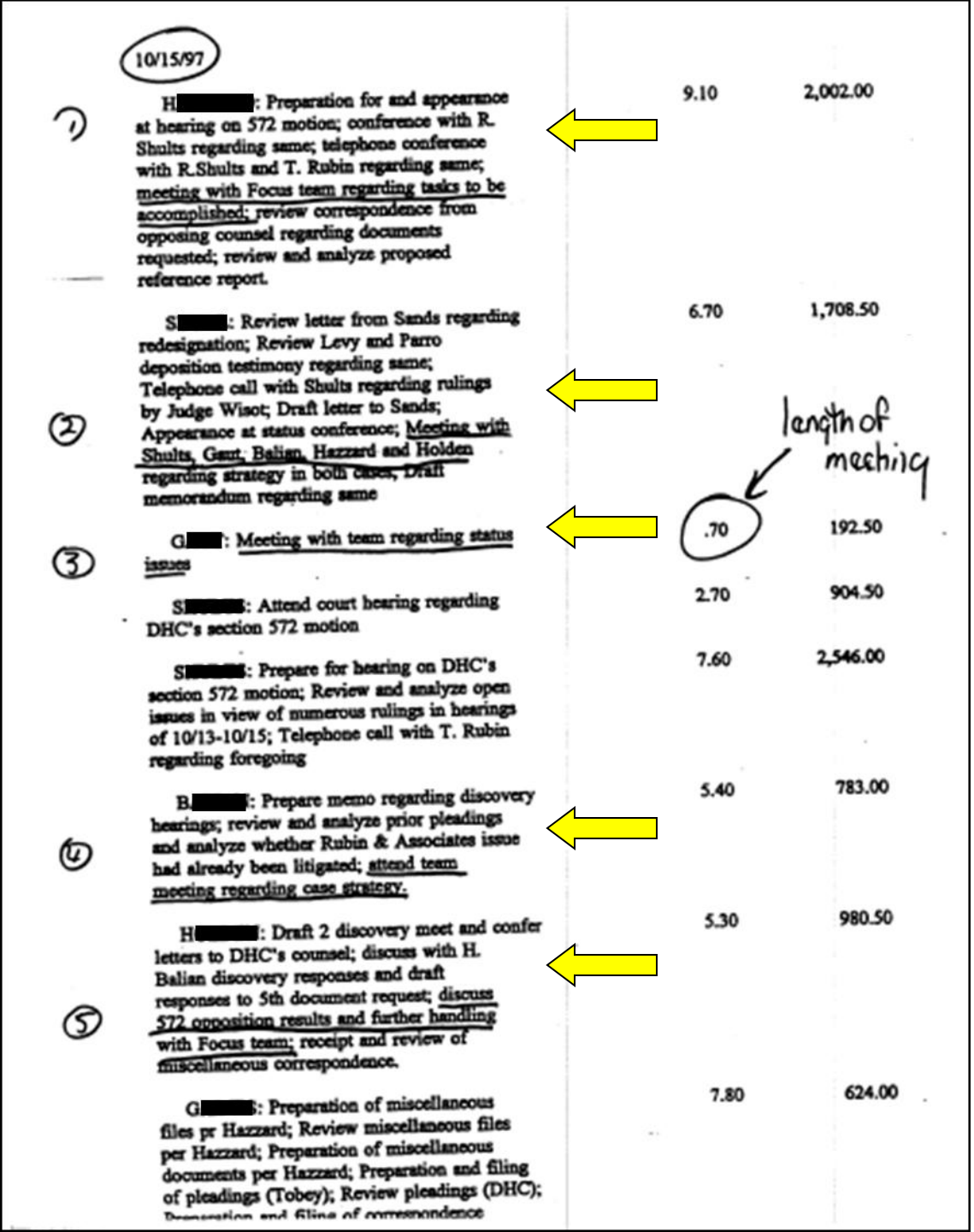
Inefficient Staffing

Courts will cut duplicative efforts:

- Intra-firm conferences
- Duplicating the same work
- Training Associates
- Multiple levels of document review
- More than one attorney at deposition / court
- Attorneys performing paralegal level tasks
- Billing for secretarial time/tasks
- "Mooting" routine court hearings

TIP: Adjust the lower charged time unless case can be made for deceptive billing or improper staffing





10/15/97

1	H[redacted]: Preparation for and appearance at hearing on 572 motion; conference with R. Shults regarding same; telephone conference with R.Shults and T. Rubin regarding same; meeting with Focus team regarding tasks to be accomplished; review correspondence from opposing counsel regarding documents requested; review and analyze proposed reference report.	9.10	2,002.00
	S[redacted]: Review letter from Sands regarding redesignation; Review Levy and Parro deposition testimony regarding same; Telephone call with Shults regarding rulings by Judge Wisot; Draft letter to Sands; Appearance at status conference; Meeting with Shults, Gaut, Balian, Hazzard and Holden regarding strategy in both cases; Draft memorandum regarding same	6.70	1,708.50
2		length of meeting	
3	G[redacted]: Meeting with team regarding status issues	.70	192.50
	S[redacted]: Attend court hearing regarding DHC's section 572 motion	2.70	904.50
	S[redacted]: Prepare for hearing on DHC's section 572 motion; Review and analyze open issues in view of numerous rulings in hearings of 10/13-10/15; Telephone call with T. Rubin regarding foregoing	7.60	2,546.00
4	B[redacted]: Prepare memo regarding discovery hearings; review and analyze prior pleadings and analyze whether Rubin & Associates issue had already been litigated; attend team meeting regarding case strategy.	5.40	783.00
5	H[redacted]: Draft 2 discovery meet and confer letters to DHC's counsel; discuss with H. Balian discovery responses and draft responses to 5th document request; discuss 572 opposition results and further handling with Focus team; receipt and review of miscellaneous correspondence.	5.30	980.50
	G[redacted]: Preparation of miscellaneous files pr Hazzard; Review miscellaneous files per Hazzard; Preparation of miscellaneous documents per Hazzard; Preparation and filing of pleadings (Tobey); Review pleadings (DHC); Preparation and filing of correspondence	7.80	624.00

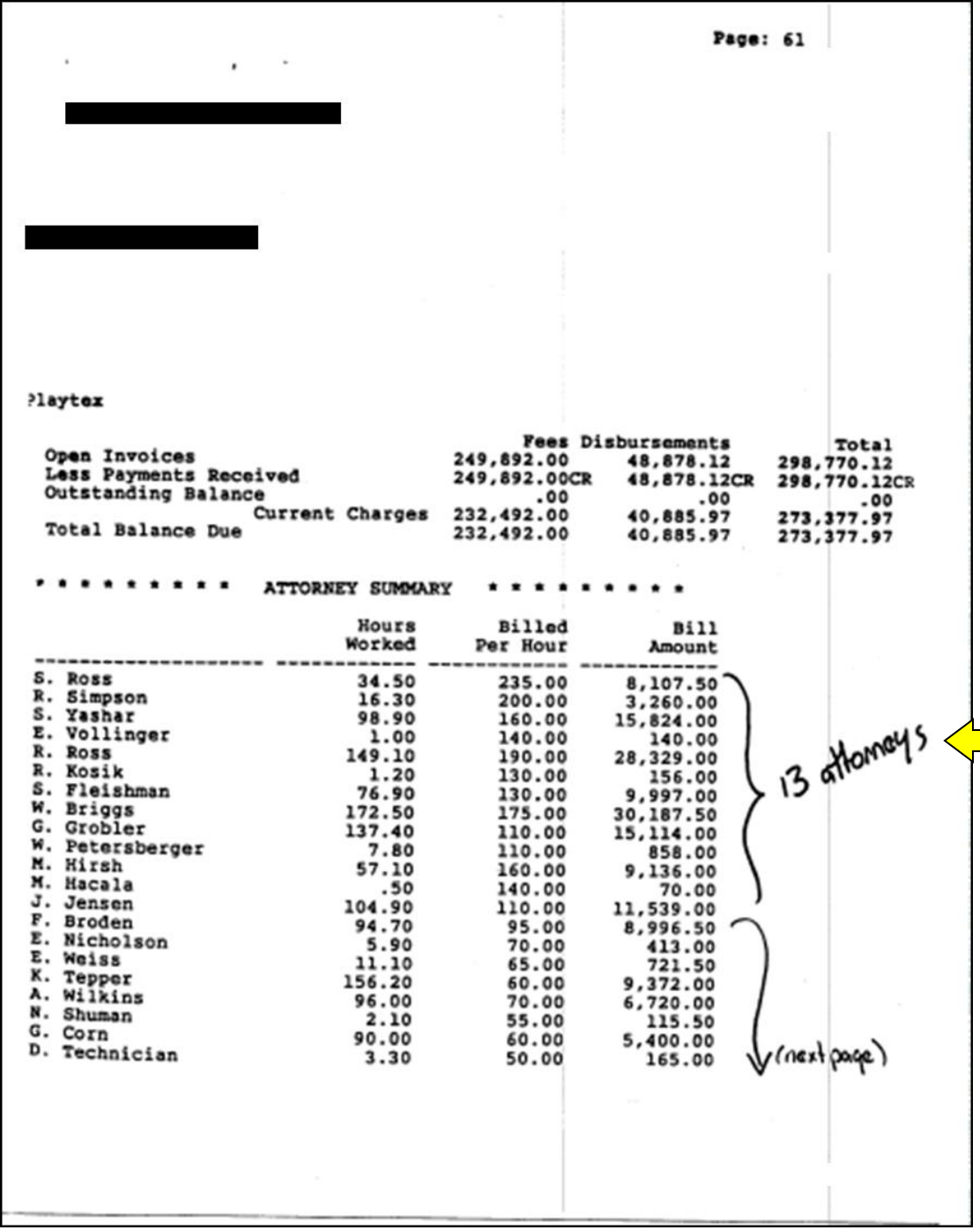
Inefficient Staffing

Five attorneys in meeting.

27.2 total hours billed for 7/10th of an hour meeting.

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Inefficient Staffing



Page: 61

[redacted]

Playtex

		Fees	Disbursements	Total
Open Invoices		249,892.00	48,878.12	298,770.12
Less Payments Received		249,892.00CR	48,878.12CR	298,770.12CR
Outstanding Balance		.00	.00	.00
	Current Charges	232,492.00	40,885.97	273,377.97
Total Balance Due		232,492.00	40,885.97	273,377.97

* * * * * * * * * ATTORNEY SUMMARY * * * * * * * * *

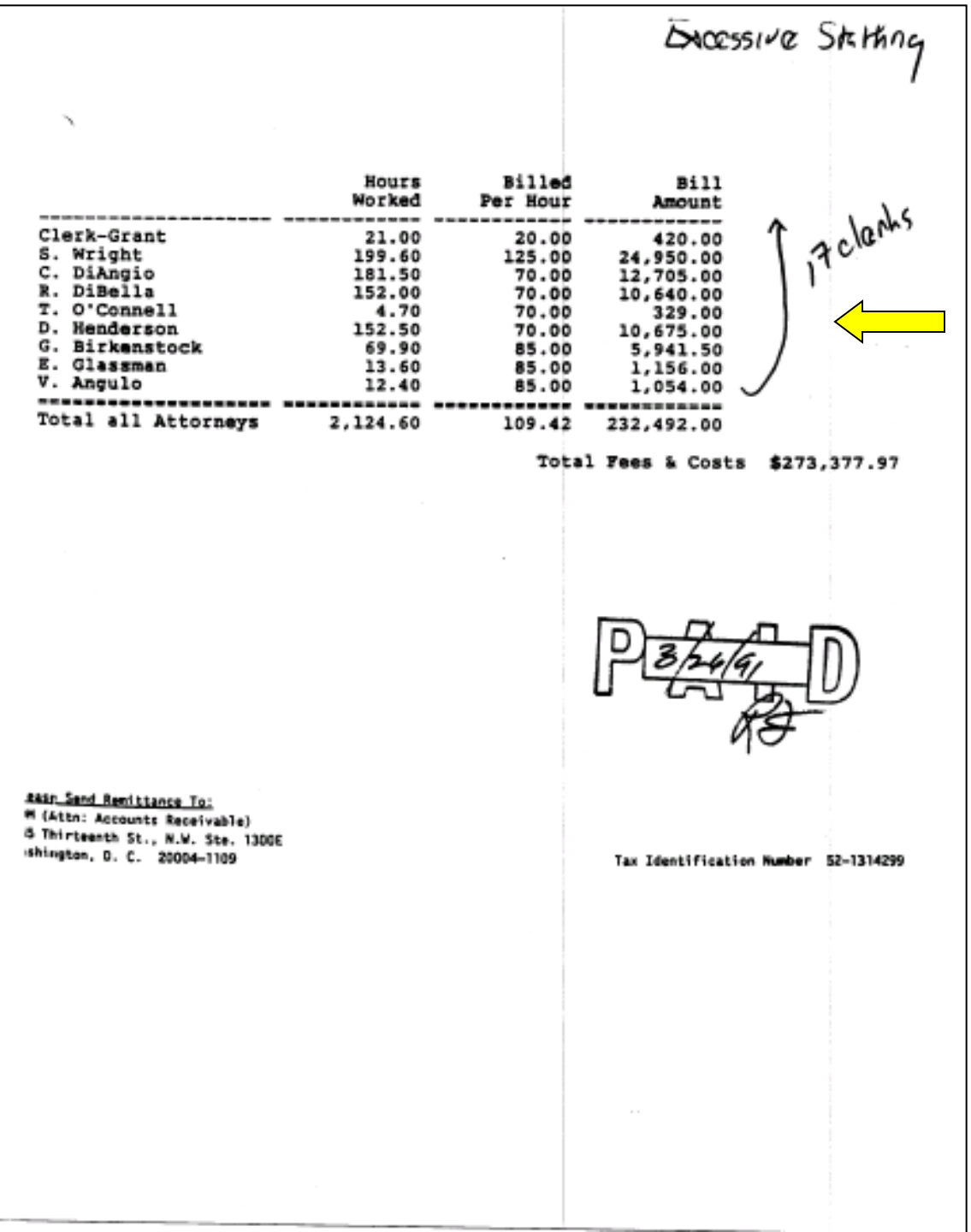
	Hours Worked	Billed Per Hour	Bill Amount
S. Ross	34.50	235.00	8,107.50
R. Simpson	16.30	200.00	3,260.00
S. Yashar	98.90	160.00	15,824.00
E. Vollinger	1.00	140.00	140.00
R. Ross	149.10	190.00	28,329.00
R. Kosik	1.20	130.00	156.00
S. Fleishman	76.90	130.00	9,997.00
W. Briggs	172.50	175.00	30,187.50
G. Grobler	137.40	110.00	15,114.00
W. Petersberger	7.80	110.00	858.00
M. Hirsh	57.10	160.00	9,136.00
M. Hacala	.50	140.00	70.00
J. Jensen	104.90	110.00	11,539.00
F. Broden	94.70	95.00	8,996.50
E. Nicholson	5.90	70.00	413.00
E. Weiss	11.10	65.00	721.50
K. Tepper	156.20	60.00	9,372.00
A. Wilkins	96.00	70.00	6,720.00
N. Shuman	2.10	55.00	115.50
G. Corn	90.00	60.00	5,400.00
D. Technician	3.30	50.00	165.00

13 attorneys

(next page)

Thirteen attorneys and seventeen law clerks during life of case.

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Excessive Staffing

	Hours Worked	Billed Per Hour	Bill Amount
Clerk-Grant	21.00	20.00	420.00
S. Wright	199.60	125.00	24,950.00
C. DiAngio	181.50	70.00	12,705.00
R. DiBella	152.00	70.00	10,640.00
T. O'Connell	4.70	70.00	329.00
D. Henderson	152.50	70.00	10,675.00
G. Birkenstock	69.90	85.00	5,941.50
E. Glassman	13.60	85.00	1,156.00
V. Angulo	12.40	85.00	1,054.00
Total all Attorneys	2,124.60	109.42	232,492.00

17 clerks

Total Fees & Costs $273,377.97

PAID 3/24/91

Send Remittance To:
(Attn: Accounts Receivable)
Thirteenth St., N.W. Ste. 1300E
shington, D. C. 20004-1109

Tax Identification Number 52-1314299

Inefficient Staffing

Thirteen attorneys and seventeen law clerks during life of case.

Querrey & Harrow

[redacted] 2 attorneys for 1 legal transaction

Stempak

Page 17

			Hrs/Rate	Amount
1/20/97	JTH	Review Review and analysis of correspondence; create and update case files accordingly; overnight depositions to D. Snyder; draft notices to take depositions of D. Shupe and P. House.	3.50 75.00/hr	262.50
Partner	PEC	Meeting Meeting with Mr. Snyder; attend and defend Mr. Snyder's deposition.	7.00 250.00/hr	1,750.00
	JAC	Telephone conference Telephone conference with Allen Ross re deposition; telephone conference with P. Cunningham re same.	0.40 110.00/hr	44.00
Associate	VDG	Deposition Deposition for D. Snyder.	5.20 110.00/hr	572.00
	KSH	Review Review and highlighted holdings in cases cited in 15 page ALR article re lack of driver's license relative to the issue of plaintiff's negligence; faxed to P. Cunningham.	0.60 110.00/hr	66.00
	JLC	Preparation Obtain medical records of Wm. Bowling from both Dr. Walker's office and Dr. Lembert's office.	0.25 75.00/hr	18.75
1/21/97	JTH	Review Review depositions of G. Williams, S. Watkins, W. Williams and T. Smith.	1.70 75.00/hr	127.50
[redacted]	VDG	Deposition Deposition of D. Snyder.	5.00 110.00/hr	550.00

Training of associate who attends deposition taken by partner.

Inefficient Staffing

Two attorneys attending deposition

Querrey & Harrow

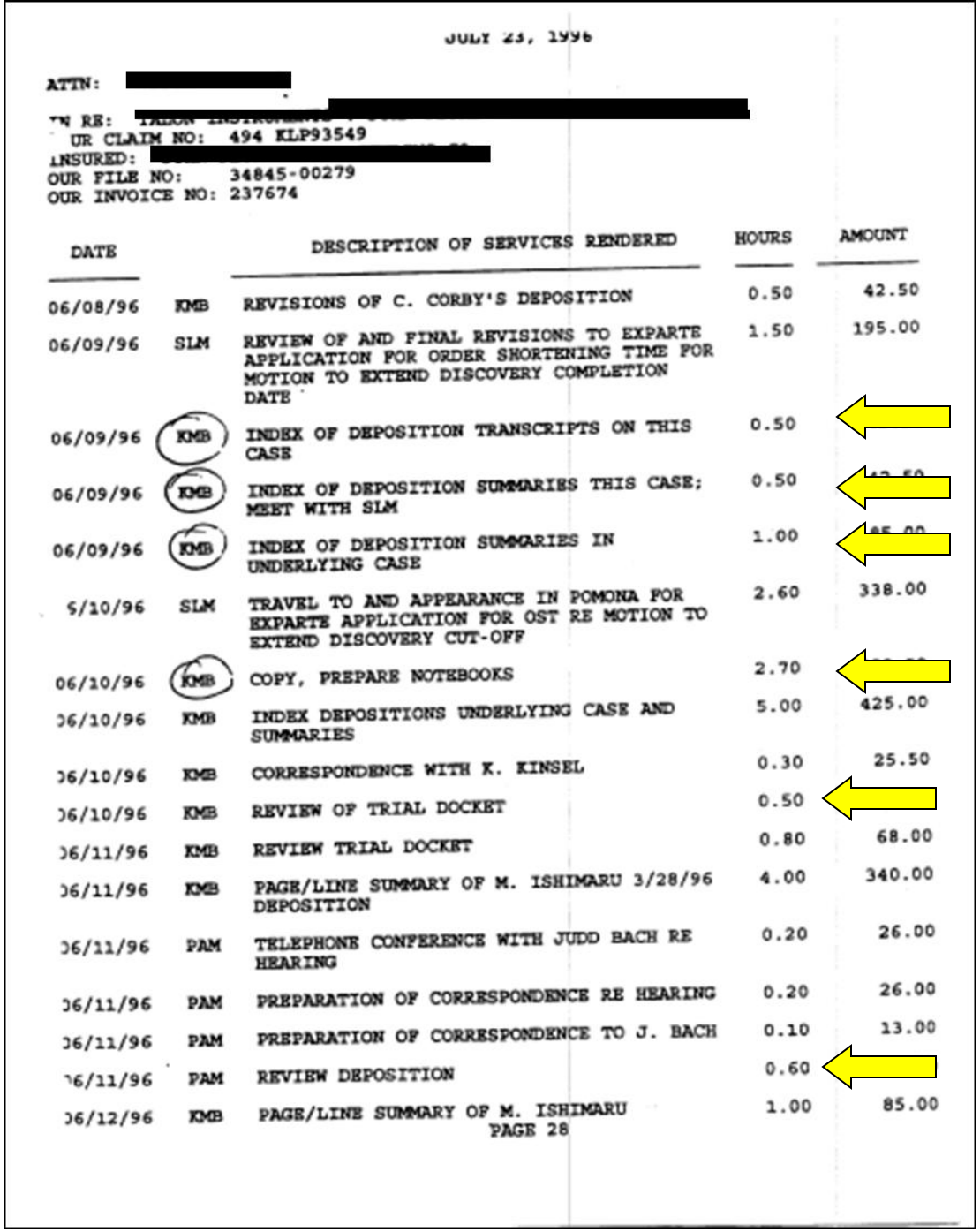
Clerical / Secretarial Billing

- Filing ("indexing," "sorting," etc…)
- Scheduling / Docketing
- Copying
- "Fetching"

TIP: Is timekeeper preparing a document, or just "moving it around?"



Querrey & Harrow



JULY 23, 1996

ATTN: [redacted]

IN RE: [redacted]
OUR CLAIM NO: 494 KLP93549
INSURED: [redacted]
OUR FILE NO: 34845-00279
OUR INVOICE NO: 237674

DATE		DESCRIPTION OF SERVICES RENDERED	HOURS	AMOUNT
06/08/96	KMB	REVISIONS OF C. CORBY'S DEPOSITION	0.50	42.50
06/09/96	SLM	REVIEW OF AND FINAL REVISIONS TO EXPARTE APPLICATION FOR ORDER SHORTENING TIME FOR MOTION TO EXTEND DISCOVERY COMPLETION DATE	1.50	195.00
06/09/96	KMB	INDEX OF DEPOSITION TRANSCRIPTS ON THIS CASE	0.50	
06/09/96	KMB	INDEX OF DEPOSITION SUMMARIES THIS CASE; MEET WITH SLM	0.50	
06/09/96	KMB	INDEX OF DEPOSITION SUMMARIES IN UNDERLYING CASE	1.00	
6/10/96	SLM	TRAVEL TO AND APPEARANCE IN POMONA FOR EXPARTE APPLICATION FOR OST RE MOTION TO EXTEND DISCOVERY CUT-OFF	2.60	338.00
06/10/96	KMB	COPY, PREPARE NOTEBOOKS	2.70	
06/10/96	KMB	INDEX DEPOSITIONS UNDERLYING CASE AND SUMMARIES	5.00	425.00
06/10/96	KMB	CORRESPONDENCE WITH K. KINSEL	0.30	25.50
06/10/96	KMB	REVIEW OF TRIAL DOCKET	0.50	
06/11/96	KMB	REVIEW TRIAL DOCKET	0.80	68.00
06/11/96	KMB	PAGE/LINE SUMMARY OF M. ISHIMARU 3/28/96 DEPOSITION	4.00	340.00
06/11/96	PAM	TELEPHONE CONFERENCE WITH JUDD BACH RE HEARING	0.20	26.00
06/11/96	PAM	PREPARATION OF CORRESPONDENCE RE HEARING	0.20	26.00
06/11/96	PAM	PREPARATION OF CORRESPONDENCE TO J. BACH	0.10	13.00
6/11/96	PAM	REVIEW DEPOSITION	0.60	
06/12/96	KMB	PAGE/LINE SUMMARY OF M. ISHIMARU	1.00	85.00

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Clerical Billing

Querrey & Harrow

Clerical Billing

JULY 23, 1996

ATTN: [redacted]

IN RE: [redacted]
YOUR CLAIM NO: 494 KLP93549
INSURED: [redacted]
OUR FILE NO: 34845-00279
OUR INVOICE NO: 237674

DATE		DESCRIPTION OF SERVICES RENDERED	HOURS	AMOUNT
06/05/96	CHK	PREPARATION OF ORDER EXTENDING DISCOVERY CUT OFF DATE IN ORDER TO DEPOSE JAMES STROOT	0.20	26.00
06/05/96	CHK	PREPARATION OF POINTS AND AUTHORITIES, DECLARATION AND MOTION, FINAL PREPARATION OF EX PARTE APPLICATION REQUESTING ORDER SHORTENING TIME FOR MOTION TO EXTEND DISCOVERY CUT OFF DATE IN ORDER TO DEPOSE JAMES STROOT, DECLARATION OF SLM, FRANK PARK	1.50	195.00
06/05/96	CHK	TELEPHONE CONFERENCE WITH FRANK PARK RE DECLARATION OF HIS IN SUPPORT OF EX PARTE APPLICATION TO EXTEND DISCOVERY CUT OFF AND SERVING JAMES STROOT WITH DEPOSITION SUBPOENA	0.10	13.00
06/05/96	PAM	TELEPHONE CONFERENCE WITH JIM RUPP RE TRIAL PREPARATION	0.70	91.00
06/06/96	SLM	REVIEW AND PREPARE ALL MATERIALS FOR PAM FOR 6/7/96 HEARING BEFORE JUDGE PLATT ON MOTION TO TAX COSTS AND MOTION FOR REVIEW OF JUDGE BACH'S DISCOVERY RULINGS	0.50	65.00
06/06/96	SLM	TELEPHONE CONFERENCE WITH KEITH KINSEL RE MEETING WITH PAM FOR EXPERT PREPARATION	0.20	26.00
06/06/96	SLM	REVIEW OF MOTION TO EXTEND DISCOVERY CUT-OFF AS TO DEPOSITION OF JAMES STROOT AND REVISIONS - DRAFT PREPARED BY CHK	1.50	195.00
06/06/96	KMB	PHOTOCOPY OF EXHIBIT DOCUMENT OF D. HADLEYS 2/22/89 DEPOSITION	0.80	
06/06/96	KMB	PHOTOCOPY OF EXHIBIT DOCUMENTS OF R. CORBY'S DEPOSITIONS	0.80	68.00
06/06/96	KMB	CORRESPONDENCE WITH E. BULCHIS	0.50	
06/06/96	KMB	PREPARATION OF EXHIBITS	2.00	170.00
06/06/96	CHK	PREPARATION OF POINTS AND AUTHORITIES,	0.30	39.00

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Querrey & Harrow

Clerical Billing

JULY 23, 1996

ATTN: [redacted]

IN RE: [redacted]
YOUR CLAIM NO: 494 KLP93549
INSURED: [redacted]
OUR FILE NO: 34845-00279
OUR INVOICE NO: 237674

DATE		DESCRIPTION OF SERVICES RENDERED	HOURS	AMOUNT
04/29/96	PAM	TRAVEL TO AND FROM POMONA FOR DISCOVERY MOTIONS	1.00	130.00
04/29/96	PAM	APPEARANCE AT HEARING WITH DISCOVERY REFEREE	0.50	65.00
04/29/96	PAM	TELEPHONE CONFERENCE WITH FRED KANE	0.10	13.00
04/29/96	KMB	TELEPHONE CONFERENCE WITH T. NOE	0.10	8.50
04/29/96	KMB	TELEPHONE CONFERENCE WITH K. KINGEL	0.10	8.50
04/29/96	KMB	CREATION/REVISION OF LETTER TO K. KINGEL	0.40	34.00
04/29/96	KMB	CREATION/REVISION OF LETTER TO MONTZ	0.40	34.00
04/29/96	KMB	CREATION/REVISION LETTER TO J. BEAR	0.50	42.50
04/29/96	KMB	COMPILATION OF EXPERT WITNESS DOCUMENTS	0.50	42.50
04/29/96	KMB	CORRESPONDENCE REVIEW FOR REQUEST	1.00	85.00
04/29/96	KMB	ASSEMBLAGE OF TRIAL TESTIMONY AND DEPOSITIONS	1.00	[illegible]
05/01/96	PAM	PREPARATION OF CORRESPONDENCE TO CLIENT RE DISCOVERY HEARING	0.30	39.00
05/01/96	PAM	PREPARATION OF CORRRSPONDENCE TO CLIENTS RE FLUKE ASSISTANCE AND TRIAL PREPARATION	0.40	52.00
05/02/96	KMB	CREATE INDEX SYSTEM FOR PLEADINGS, VOLUME 7A, 11-13	3.80	[illegible]
05/02/96	PAM	PREPARATION OF CORRESPONDENCE TO DON WEISMAN AND REVIEW PROPOSED ORDER ON DISCOVERY DISPUTE	0.40	52.00
05/03/96	KMB	INDEXING PLEADINGS VOLUMES 6,9,9-A,3, 13	6.10	[illegible]
05/03/96	CHK	PAGE/LINE SUMMARY OF DEPOSITION OF DOREEN CAIRNS, VOLUME 1, TAKEN ON 11/10/95	3.20	416.00

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

MARLITA THOMAS, as Mother, Next Friend, and Special Administrator of NORMAN L. SMITH, JR., deceased, Plaintiff,	)	No. 04 C 3563
v.	)	Judge Castillo
SHERIFF OF COOK COUNTY, et al. Defendants.	)	

DEFENDANT COOK COUNTY'S RESPONSE AND OBJECTIONTO PLAINTIFF'S PETITION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO 42 U.S.C. §1988

NOW COMES Defendant, Cook County, and for its Response and Objection to Plaintiff's Petition for Attorney's Fees and Costs Pursuant to 42 U.S.C. §1988, and states as follows:

I. OBJECTION TO ATTORNEY FEE CLAIM

As will be seen below, Plaintiff's Petition for Fees and Costs[1] is entirely excessive, often of questionable accuracy and inadequately documented and seeks to add a windfall onto this case. Not only are excessive billing rates sought, but the billing includes time that is questionable on its face, time entered is often improperly block billed, billed in quarter hour increments, duplicative and, often, recovery is sought for clerical and secretarial tasks billing at excessively high claimed attorney rates. In total, this Defendant asserts that a reduction of **$824,199.99** is proper, as discussed further below.

1. Legal standards

The fees awarded by a district court must be reasonable. *Blanchard v. Bergeron*, 489 U.S. 87, 96 (1989). A district court has an independent obligation to scrutinize the legitimacy of a fee petition. *Spellman v. Bd. of Educ.*, 59 F.3d 642, 646 (7th Cir. 1995). A district court must assess what are reasonable billing rates under the circumstances of the case, and should examine

[1] Defendant notes that plaintiff has made no effort to comply with the mandates of Local Rule 54.3, presumably because of the entry of a briefing schedule in this matter. To the extent Rule 54.3 has not been waived, defendant objects to plaintiff's Petition for Fees

Example: Thomas v. Sheriff

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MHN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARLITA THOMAS, as Mother, Next Friend, and Special Administrator of NORMAN L. SMITH, JR., deceased,	
Plaintiff,	**No. 04 C 3563**
v.	**Judge Ruben Castillo**
COOK COUNTY SHERIFF, MICHAEL F. SHEAHAN; COOK COUNTY; JOHN STROGER, JR.; SGT. MONCZYNSKI; SGT. HERNANDEZ; SGT. STRONER; SGT. DEW; LT. KRZYZOWSKI; OFR. SANCHEZ; OFR. DAVIS; OFR. FACUNDO; OFR. HOUSTON; OFR. JOHNSON; OFR. THIEMECKE; OFR. TOOMEY; P. WESTBROOK,	
Defendants.	

MEMORANDUM OPINION AND ORDER

Plaintiff Marlita Thomas ("Plaintiff") brought this suit against Cook County, the Sheriff of Cook County ("Sheriff"), and various officers and medical technicians at the Cook County Department of Corrections ("CCDOC" or "Jail") after her son, Norman Smith ("Smith"), died of pneumococcal meningitis on April 30, 2004, while being held as a pretrial detainee at the CCDOC. Plaintiff brought suit under 42 U.S.C. § 1983; the Illinois Wrongful Death Act, 740 ILCS 180/1 (2005); the Illinois Survival Act, 755 ILCS 5/27-6 (2005); and Illinois common law, alleging that her son died because the Sheriff's officers and medical staff at the Jail ignored his obvious symptoms of meningitis and his and his fellow inmates' repeated requests for medical help. Three and a half years later, after a two-week trial, the jury found in favor of Plaintiff and against certain defendants in the total amount of $4,450,000. (R. 471, 12/13/07 Jury Verdict.) Following the jury verdict, Defendants Cook County, the Sheriff, and Officers Jesus Facundo

Example: Thomas v. Sheriff

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STATUTORY COSTS UNDER 28 U.S.C. § 1920



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COSTS UNDER 28 U.S.C. § 1920 ARE VERY SPECIFIC

1) Fees of the Clerk and the Marshall

2) Fees of the court reporter for necessary transcripts

3) Fees for printing and witnesses

4) Fees for copies

5) Docket fees under 28 U.S.C. § 1923

6) Court appointed experts, interpreters, and special interpreters under 28 U.S.C. § 1828

TRANSCRIPT FEES

- Set by the Judicial Conference
- $3.65 per page for the original
- $0.90 per page for a copy
- $0.60 per page for a second copy
- Not what you paid

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ATTORNEYS' FEES

- Costs that are not recoverable under 28 U.S.C § 1920 are recoverable under 42 U.S.C. § 1988

- No specifics under 1988, so the courts have interpreted the language

- By statute, expert fees now recoverable in the discretion of the court

Newsome v. McCabe

Fees sought: $1,998,693.75

Fees awarded: $825,893.05

Costs sought: $119,929.45

Costs awarded: $ 11,640.22

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How To Deal With Non-Taxable Costs

Review and question everything:

$4,641.12 in “overtime/meals”

$1,920 of overtime/meals billed to “cash”

$898.49 for “trial van”

Straight Abuses

$1,850 for parking/cab fare/mileage

Over $4,000 for hotel rooms/food for trial team

$668.63 for § 1983 treatises bought and delivered to home of associate

$288.75 for use of freight elevator

Items Not Recoverable Because They Are Part Of Hourly Rate:

- Postage
- Faxes
- Computer research (Lexis, Westlaw, etc.)
- Office rent / storage
- Phone calls/roaming charges
- Clerical services
- Travel

Documentation Is Key

- $8,603.25 in "Investigator Fees" disallowed because there was no documentation
- $8,605.53 in "copying costs" disallowed for the same reason
- $2,383 in "Exhibit Board" costs disallowed because there were no reasons for the charges

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Attorney Billing Litigation Practice

1. Fee disputes.
2. Defense tenders.
3. Coverage disputes.
4. Attorney / law firm audits.
5. Panel counsel evaluations.
6. Litigation & billing management.

THANK YOU!



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