

Pay Day

Get Your Legal Bill Approved and Paid Quickly

By Brian Brown and Paul D. Larimore

You've done a good job for your client. A great job, really — you won the case and saved them a lot of money. You submit your bill with the expectation that your client will gratefully pay for the outstanding service you've provided. Granted, you didn't pay much attention to the client's billing guidelines, and you didn't waste time reviewing or editing your bill. After all, they are paying you to be a lawyer, not a billing clerk, right? Your focus is on delivering quality representation and results. That's what the client really wants.

You are taken by surprise when your client rejects the bill. But should you have been surprised? As a lawyer you take pride in your communication skills, but what message did you send when you submitted a sloppy bill that ignored your client's billing preferences?

Your fee bill is just one of many ways you communicate with your client, and it merits the same care you put into an opinion letter or trial summary. Your bill is not just a summary of charges — it is a crucial mode of communication that validates your professional skill in your client's eyes.

Here are some suggestions that will help your bills send the right message about your legal work — and why your client should pay for it — so that they will be quickly approved and paid in full.

1. Know the Rules — And Follow Them

Your client spent considerable time developing billing guidelines, and they expect you to follow them. Many lawyers bill the same way for every client, assuming that since most guidelines are similar, every bill will be mostly correct. The problem with this approach is that every bill will also be partly wrong.

Since each client's billing requirements will be different from another's, it can certainly be a challenge to recall the distinctions. Have copies of all of your clients' readily accessible. Make notes that highlight and help you remember especially important requirements or unique characteristics.

2. Be Specific

You provide your client with regular case status updates, but your bill is the only place where your client sees what they are paying you to do for them on a daily basis. If your time entries are so vague that the client can't tell what you've done — or more

importantly, why they should pay for what you've done — can you really expect them to pay the bill?

Entries like “phone call” or even “phone call with client” are too vague. If you want to be paid for an activity, you should specifically explain what you did and with whom. An essay isn't necessary, but you do have to include the key data — who, what and why — for each activity.

When you submit a bill with vacuous line items like “File Review” without any additional detail, the message you send to your client is that you don't feel the need to tell them everything you do. You shouldn't be surprised if they don't feel the need to pay for everything you do.

3. Be Distinct

“Block billing” is the practice of lumping several billable activities into a single time entry. It's prohibited by virtually all client billing guidelines. So why do lawyers keep doing it? Because it's easier to submit one entry that records everything you've done than to submit a separate entry for each activity.

Take a common example: “Travel to court, attend hearing, meet with counsel, letter to client, 3.0 hours.” This lawyer spent 3 hours on four activities, but how much of that time was spent traveling? How long was the hearing? Did the letter take just a few minutes to draft or 2.5 hours? Your client may also ask whether the sum of your activities truly took 3 hours, and whether your charges would have been less had the activities been billed individually.

When you submit a blocked billing entry, it's fair for your client to assume you didn't read their guidelines, or that you don't care about wasting their time by forcing them to decipher your confusing bill. Assigning time to the separate tasks you've performed will alleviate client confusion — and will avoid your client's dreaded red pen.

4. Use the Minimum Billable Unit

Nearly all modern billing guidelines set the minimum unit for billing at one-tenth of an hour. Although that number sounds small, many receipt/review activities and phone calls take less than six minutes, so most bills have at least a few .1 entries.

Before you submit a bill without any .1 entries, ask yourself a couple of questions:

- Did each action you billed for really take more than six minutes for you to accomplish?
- If not, are you just slower than everyone else, or does your computer lack a .1 key?

If you rarely or never use the minimum billable unit, it will raise a red flag. Your client may even suspect that if the smallest activity is billed at .2 or more, then the larger activities may be padded as well.

The minimum billable unit can be overused as well as underused. Some billers have hit upon the idea of “unbundling” their billing into multiple tasks, such as reviewing five documents to prepare for a deposition and billing each at .1, even though reviewing all five took only 15 minutes. This practice has been called “malicious compliance” by one observer, and if done intentionally may be viewed as unethical.

5. Bill Support Functions Appropriately

Twenty years ago only the largest firms employed paralegals. The situation is now reversed — most firms have a paralegal staff, and most clients’ billing policies anticipate a paralegal’s availability to efficiently and cost-effectively perform work under attorney oversight.

Paralegal rate activities usually include drafting routine subpoenas and notices, indexing, standard discovery, Shepardizing, cite-checking references to case law, statutes and regulations, preparing page-line summaries of depositions, and organizing trial binders. Of course, there is no rule that says your law firm has to employ a paralegal, but understand that paralegal-rate activity does not become lawyer-rate activity just because a lawyer does it. Expect to be paid at paralegal rates for these types of tasks.

There are also some tasks that just can’t be billed for, whether by an attorney or a paralegal. Many clerical and administrative activities constitute overhead and are considered part of the hourly fee structure. You don’t need a long list of what activities are considered clerical, though. One key question will tell you whether a particular activity is billable: Is legal training or skill necessary to complete the task? If the answer is yes, the activity is billable. If the answer is no, no matter how necessary the task may be, no professional should bill for it.

6. Bill for Lawyer’s Time Appropriately

“A lawyer’s time is his stock in trade.” So goes the mantra that senior partners have hectored associates with since the first law firm was founded. Your business depends on you being fairly paid for the time you spend on your client’s behalf, and your bill should contain every hour that was reasonable and necessary. Here, though, are a few caveats:

- Multiple attendances: Most billing guidelines allow more than one biller at an event only if the client approves in advance. If you need your associate or paralegal at a trial or deposition with you, make sure you get permission — and make sure that permission is reflected in your invoice.

- Inter-office conferences: In general, conferences are billable only where the specific expertise of another attorney is utilized to advance the litigation in an efficient and cost-effective manner. Make sure your description provides sufficient detail to demonstrate that the in-firm discussion is not administrative, instructional or supervisory in nature.
- Clients understand that sometimes your partners or associates will have to cover for you, but time spent getting a “pinch hitting” lawyer up to speed on the entire file (unless the use of another lawyer is at the client’s request) is a law firm expense and should not be billed to the client.

7. Review Your Bill Before Sending It

Your bill should be in fairly good shape if you follow these suggestions as you record your time. But that doesn’t mean it’s ready to send out. You don’t send letters or other key forms of communication without proofreading them. Why should this crucial piece of communication be any different?

A basic edit before submitting the bill will catch common mistakes like double billing. This is almost never intentional, but creates a headache for the client while simultaneously making the lawyer look unprofessional. Your editing process can also serve as a final opportunity to ensure your bill fully complies with the client’s billing requirements.

Practicing law is a client-centered activity, and you should treat your legal services invoice as an important form of client communication. In fact, it may be the only piece of communication that gives the client a full picture of what you did on the client’s behalf to achieve a result.

The goal is for your bill to be clear, compliant, detailed and accurate. And, of course, paid.

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