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Federal Court Finds That an Attorney should be Compensated for Time Spent Traveling at a Lower Rate than His or Her Typical Hourly Rate

A reoccurring legal billing issue is whether an attorney may bill his or her normal hourly rate for time spent traveling for a client. The courts have come to different conclusions on this issue in various jurisdictions.

In a recent case, a Federal District Court found that attorneys should be compensated for travel time at a reduced hourly rate rather than allowing them to charge for the full amount. The court reasoned that time spent merely traveling to a location for the purpose of representing a client is less productive than time spent performing regular substantive attorney work. As a result, an attorney should not charge his or her full hourly rate for travel time that is spent less productively. Although the court did not state how much an attorney's rate should be reduced for time spent traveling, it did refer to cases which called for reductions ranging from one-third to one-half of an attorney's normal hourly rate.

Implications for Legal Billing: The issue addresses whether attorneys may receive their full hourly rates for time spent in travel, or if they must be more productive with their time in order to earn the rate that they charge. An attorney's fee should not be measured solely by the time spent working for the client, but instead those rates should also reflect the productivity of the tasks performed by

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that attorney. Thus, it makes sense that an attorney should not be compensated at his or her full hourly rate for time spent merely traveling. But, while attorneys should only be compensated for one-half of their hourly rate for time spent traveling, they can increase productivity and earn their full hourly rates by performing substantive work for that client during their trip. However, this should not apply where an attorney performs substantive work for one client while traveling for a second client since this would unjustly allow

the attorney to charge each client for the same period of time.

* Automobile Club of New York v. Dykstra, 2010 WL 3529235 (S.D.N.Y. 2010). Full copies of court decisions may be available through counsel or through various Internet links or paid services.

By Michael Maher

Sterling Analytics is a consulting and advisory firm that helps companies reduce their legal expenses. Our proven methodologies are based on legal precedent, guidelines and ethical standards that compel law firms to significantly modify improper billing practices. Although our clients come from a broad range of industries with different legal budgets, they share a concern about their legal expenses and are looking for solutions to manage outside counsel while maintaining the highest service level standards. We are able to audit legal fees based on our extensive database of proprietary benchmark data and our solid understanding of traditional legal practices. Our process is fair, independent, cost effective and maintains attorney-client privilege. We are able to measure the extent to which our clients' legal expenses exceed industry standards, and will manage the negotiation and recovery of excessive fees. To institutionalize cost controls, we assist clients by installing systems and protocols that monitor billing activity and catch improper practices.

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