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## District Court Reduces Fee Request for Paralegal Tasks Charged at an Attorney Rate and Excessive Time Spent

In a recent decision from the US District Court of West Virginia, the court reviewed plaintiff counsel's request for attorney's fees and determined that many hours were excessive for the activity stated, and that many hours were billed at a high attorney rate when they required little or no legal reasoning. The court assessed the billed hours for both attorney and paralegal time by each activity, and reduced or eliminated entirely many of the claimed entries as excessive. The end result was a 30% overall reduction in attorneys' fees.

The court first reduced a claimed 1.25 hours of paralegal time for preparation and filing of a Complaint and three Summonses to 1 hour total. Additionally, the court eliminated .25 hours of paralegal time for assisting in reviewing and submitting the Magistrate's Notice to Counsel, for which they allowed only the requested .25 hours of attorney time. Perhaps most significant, a total of .50 hours of attorney time and .50 hours of paralegal time were struck entirely, allowing only a remaining .50 hours of paralegal time for preparing and submitting two motions after a finding that the motions were "routine forms consisting of only one paragraph each, and because the second motion ... is virtually identical to the first motion."

An additional 1.25 hours of attorney time was struck from the itemized record upon further findings of billing at a high attorney rate for "routine and rote tasks" that could be "easily handled by nonattorney staff under supervision." In place of these hours, the court added .75 hours at a paralegal rate for the organization of files instead.

The end result was a reduction in requested fees for attorney time from 8.25 to 6.5 total hours, and paralegal fees from 4 to 3.75 total hours. After the court found the billing rates of \$125 an hour for the attorney and \$75 an hour for the paralegal to be reasonable, the total award was reduced from \$1618.75 to \$1,093.75 (representing a 30% reduction overall).

ATTORNEY TIME WAS STRUCK FROM THE ITEMIZED RECORD UPON FURTHER FINDINGS OF BILLING AT A HIGH ATTORNEY RATE FOR “ROUTINE AND ROTE TASKS” THAT COULD BE “EASILY HANDLED BY NONATTORNEY STAFF UNDER SUPERVISION.”

**Implications for Legal Billing:** This case demonstrates that even where attorneys are found to be claiming a low amount of hours at a reasonable hourly rate, a court will still look at itemized bills to determine whether activities seem to have taken an excessive amount of time given the difficulty (or lack thereof) of the particular task, and whether some of those activities could have been accomplished by a paralegal rather than an attorney.

Simple actions such as the preparation, review and filing of routine documents will be held to a stricter standard, and excessive time spent on these activities will be reduced

accordingly. Additionally, the client should have the benefit of paying a lower paralegal rate for tasks that can be accomplished by a non-attorney, such as preparing and filing routine forms.

\* Brown v. Astrue, 2012 WL 775854 (W.D. Va. 2012). Full copies of court decisions may be available through counsel or through various Internet links or paid services.

By Erin L. Sussman

**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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