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## District Court Reduces Attorneys' Fee Request Due to False Billing, Excessive Time and Duplicate Attendance at Hearings

Following a motion for reimbursement of attorneys' fees, the United States District Court for the Western District of Washington issued a decision in *Elkins, III v. Dreyfus*, dated December 1, 2011, ordering a reduction in the plaintiffs' request. The plaintiffs in the case at bar sought reimbursement of attorneys' fees in the amount of \$127,702. The court agreed, in part, with the defendant's opposition, finding a reduction to be warranted due to false billing entries, improper charges by multiple attorneys for attending the same hearing, and excessive time spent preparing for an argument. Consequently, the court found a reduced award in the amount of \$113,683.50 to be proper.

In order to determine the reasonable number of hours expended, the court began its analysis by inquiring into whether any billing entries appeared to be excessive, redundant, or unnecessary, and thus should be excluded. See *Hensley v. Eckhart*, 461 U.S. 424, 434 (1983) ("Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission."). As a result, the District Court found false billing entries submitted by the plaintiffs. An entry was made regarding revising and finalizing the motion for a temporary restraining order after the motion and supporting documentation had been filed with the court. Therefore, the court excluded this improper entry.

The court further reduced the number of hours billed upon a finding of charges by multiple attorneys who attended the same hearing. It deemed such charges to be excessive given the nature of the hearing. Moreover, the court concluded that 36.8 hours preparing for a brief argument was unreasonable, and determined that no more than 10 hours should have been billed. Thus, a further reduction was warranted on this ground.

# “COUNSEL FOR THE PREVAILING PARTY SHOULD MAKE A GOOD FAITH EFFORT TO EXCLUDE FROM A FEE REQUEST HOURS THAT ARE EXCESSIVE, REDUNDANT OR OTHERWISE UNNECESSARY”

## **Implications for Legal Billing:**

While an attorney is entitled to his or her reasonable fees, as dictated by the relevant market, a fee is not reasonable if it includes excessive, redundant, or unnecessary billing entries. As demonstrated by *Elkins, III v. Dreyfus*, clients should be cognizant of false billing entries, improper charges by multiple attorneys for attending the same hearing or conference, and excessive hours expended preparing for an argument. Although certain improper billing practices may be difficult for the untrained eye to recognize, some are easily detectable and can result in tremendous savings in legal fees to the client.

It is worth noting that there are certain instances in which multiple attorneys attending a hearing or a conference is justified. If the presence of multiple attorneys would prove to be beneficial to the client's case, or if the issues are sufficiently complicated as to warrant multiple attorneys' input, then such instances validate charges by more than one attorney.

\**Elkins, III v. Dreyfus*, 2011 WL 6012485 (W.D. Wash. 2011). Full copies of court decisions may be available through counsel or through various Internet links or paid services.

By Madeline Zuckerman

**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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