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## New York Bankruptcy Court Reduces Requested Attorneys' Fees by \$27,000

In January 2010, the U.S. Bankruptcy Court of the Eastern District of New York reduced requested attorneys' fees from \$143,478.2 to \$116,871. The court reviewed the propriety of the requested fees under the reasonableness guidelines of Section 330(a)(3) of the Bankruptcy Code. Section 330(a)(3) states that in determining the amount of reasonable compensation to be awarded, the court should "consider the nature, the extent, and the value of such services" taking in to account relevant factors such as times spent, rate charged, and benefit to the client. The Bankruptcy Code also requires that an applicant provide the court with a "detailed statement of (1) the services rendered, the time expended and expenses incurred, and (2) the amounts requested." Billing records must clearly identify each specific task billed to satisfy these requirements.

The court found that the submitted billing records sufficiently documented the services performed by the attorneys but determined that several charges were not compensable. The court first excluded \$900 for services performed prior to the effective date of retention. Under the Bankruptcy Code, services performed prior to retention are not compensable. Second, the court reduced the award for unsuccessful appeals made by counsel, because under the Code services that do not benefit the estate are also not compensable. Charges billed for these unsuccessful appeals totaled \$23,434.

The court then reduced the attorneys' fees due to the use of block billing. Block billing is the practice of lumping several charges into one billing entry. Courts disfavor block billing because it prevents them from assessing the reasonableness of each individual item. Here the court found that 14.4 hours, totaling \$2,992, were improperly blocked billed. The court excluded 50% of these charges. Finally, the court

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reduced billed travel time by \$812.50. The court held that travel time should be billed at half rate, not at the attorney's normal hourly rate and accordingly reduced the travel time by 50%.

**Implications for Legal Billing:** The deductions for services performed prior to retention and for unsuccessful work, typically only apply in the bankruptcy proceedings context, where a court is awarding attorneys' fees. However, the reductions for block billing, and excessive travel time, are applicable to all cases in general. Clients should require attorneys to bill each task individually so that the reasonableness of each task can be determined. Additionally,

attorneys should bill travel time at half their normal hourly rate, if at all. Clients should explicitly prohibit block billing and billing for travel time in their billing guidelines to help reduce legal costs.

\* In re Baker, 2010 WL 153576 (Bankr. E.D.N.Y. 2010). Full copies of court decisions may be available through counsel or through various Internet links or paid services.

By Nicholas Paslow

**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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