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## District Court Reduces Attorneys' Fee Request to Account for Clerical Tasks and Research Costs

A Minnesota district court recently reduced a plaintiff's motion for attorneys' fees and costs in a successful ERISA action. After reviewing the billing documentation, the court found research costs and charges that were clerical in nature to be improper.

Tasks that are purely clerical or secretarial in nature should not be charged to the client, regardless of who is performing the task. In this case, the court found several instances where attorneys were charging for filing, serving, or sending courtesy copies to the court. Charging for these types of tasks represents a lack of billing judgment. As a result, the court deducted the amount spent on clerical and secretarial tasks from the plaintiff's award.

The court also took issue with costs associated with computer-aided research. It stated that although the use of computerized research tools like Westlaw and LexisNexis increase efficiency, it "is a component of attorneys' fees and cannot be independently taxed as an item of cost in addition to the attorneys' fee award." The prevailing party requested \$14,208.98 in Westlaw research charges. Since this amount should have been absorbed into the attorneys' hourly rate and not submitted as a separately incurred cost, the court denied the entire expense amount.

**Implications for Legal Billing:** As illustrated by the case above, there are certain legal costs and charges that should never be passed along to a client. Clerical or secretarial tasks should not be performed by attorneys. Where a law firm lacks a secretarial staff, forcing attorneys to complete these clerical duties, the attorneys should not be charging for such tasks as they are considered to be part of a law firm's overhead costs.

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In addition, any costs incurred that are associated with computer-aided research tools should not be charged to the client. Those resources should be already factored into the attorneys’ hourly rate or absorbed as part of the firm’s overhead. Clients can avoid paying for improper charges such as these by clearly stating so in their retainer or outside counsel guidelines. This will alert the retained law firm to proper and

acceptable billing practices and make it clear to the client when violations have occurred.

\*McClelland v. Life Insurance Co. of North America, 2011 WL 31495 (D. Minn. 2011). Full copies of court decisions may be available through counsel or through various Internet links or paid services.

By Maria Miglino

**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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