



By Sally J. Schmidt

## Heat, Humidity and Billing Statements

When the thermometer reaches 95 degrees and the air is so heavy you can hardly breathe, we Minnesotans have a saying: "It's not the heat, it's the humidity." Having suffered through many of those oppressive days, I have a feeling the heat has something to do with it, too. But after being in Phoenix one June when the mercury topped 110 degrees and it wasn't that uncomfortable, I started to believe there was something to this heat and humidity association.

In a way, it reminds me of a similar relationship when it comes to lawyers' bills. After conducting hundreds of interviews with law firms' clients, I've concluded that, in many cases, it's not the amount of time billed, it's the way the time is described.

Don't get me wrong; the amounts on invoices can cause problems, too, particularly involving disbursements. Clients focus on disbursements because they are easier to value than an hour of the lawyer's time. Clients can

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evaluate whether a document was needed quickly enough to justify an overnight delivery charge or how much it costs to receive an incoming fax. If there is careless billing of disbursements, clients conclude the fees must be similarly inflated.

But beyond disbursements, it is often the language—not the number of hours on the bill—that produces an unhappy client. Generally, time entries that clients pay grudgingly or not at all fall into two categories: unacceptable and objectionable.

Unacceptable entries are items outlined in a client's billing guidelines that will not be paid, e.g., staff overtime or attorney travel time. Guidelines also may be imposed on things like the number of people attending a deposition or how many hours of research can be conducted without prior approval. If you bill things that are unacceptable, you are guaranteed to have write-offs.

Objectionable billing language may not be prohibited or even addressed in client guidelines but is certain to raise red flags. My experience shows the most common complaints involve: *interoffice conferences* (clients don't want to pay to have you talk to one another); *research* (someone billing \$150/hour should know these things); *five-minute phone calls* ("nickel and diming"); and *review of file* (bringing another attorney up to speed because of a lack of continuity). Lawyers may perceive value in these activities; clients often do not.

So what can you do to avoid problems with your bills? I have outlined four basic principles, along with some specific tips for your consideration:

### 1. Identify and manage clients' expectations regarding billing.

- Initiate discussions with clients about the firm's billing policies and

protocol, particularly regarding potential problem spots like attorney travel time, travel expenses, copies, etc.

- Ask clients about specific billing requests with which they expect you to comply.

- Make sure everyone in the firm adheres by circulating the client's information to everyone involved in the client's matters, including associates, paralegals, secretaries and the billing department, and reinforce it periodically.

- When new people are assigned to a client's matters, route a copy of the guidelines immediately.

### 2. Use the invoice to explain what has been done on the client's behalf and build value for your services.

- Eliminate passive language and objectionable phrases from your entries.

- Focus on what you're doing ("Develop strategy for litigation"), not how you're doing it ("Review of documents").

- Reference people and matters ("Telephone conference with Joe Smith to discuss acquisition of office park property").

- Let clients select customized invoice formats.

- Include a cover letter to explain a good result or highlight nonbillable services the client received (e.g., an in-house workshop).

- Send the work product (e.g., a research summary memo) before you bill for it.

### 3. Use good judgment.

- Put yourself in the client's shoes. Would you be willing to pay the entry? Some things should be considered an investment or a cost of doing business.

- Review every bill carefully; do not assume the computer can bill for you.

- Teach associates about billing and get them involved in the process.

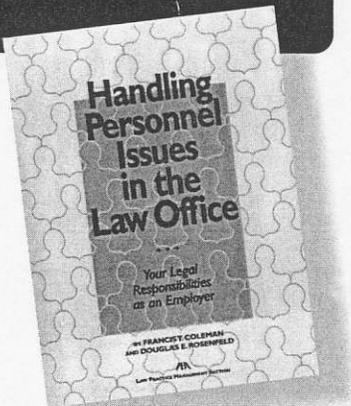
### 4. Remember, the best way to avoid problems is to communicate continually with the client throughout the matter.

- Ask the client for input on how fees and expenses might be reduced.

- Never send a bill that you hold your breath and hope to get paid. Clients hate surprises! Call the client

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# Rx for Lawsuit Prevention



Law practices are just as vulnerable as any other business when it comes to workplace-related legal action. Unwary firms leave themselves open to a multitude of legal challenges from employees, including:

- wrongful discharge lawsuits
- breach of contract lawsuits
- employment discrimination charges
- sexual harassment complaints
- wage and hour claims

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wide guidance on answering those questions.

A large section of the book concerns the tax consequences of benefits, including golden parachutes that typically go to higher-paid executives. IRS regulations provide exact formulas for determining whether a benefit package is subject to excise taxes. Without precise calculation, the employer may unwittingly subject the employee to a substantial tax and lose a substantial deduction for the company.

Forms and checklists comprise approximately half of the book. These include sample layoff policies, reduction in force (RIF) implementation schedules, golden parachute agreements, and WARN forms. Many of the forms are available in WordPerfect 5.1 format on the computer diskette included with the book.

Attorneys dealing with personnel issues for corporate clients would benefit from this book, particularly if the client has announced plans to restructure or reduce its personnel. —J. Wesley Cochran, Director of the Law Library and Professor of Law, Texas Tech University School of Law. ■

## MARKETING ■ Cont'd from page 57

before racking up unexpected charges and set up appointments to talk about bills that exceed expectations.

■ Communicate efforts the firm has made to reduce fees and costs—for example, a lower rate negotiated with a messenger service.

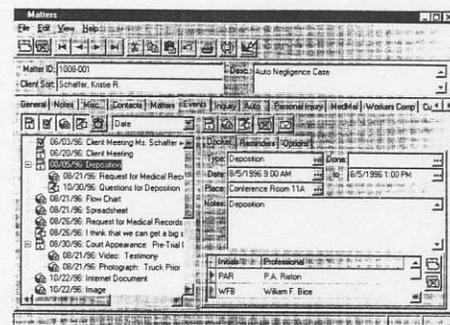
■ Demonstrate your efforts to be sensitive to costs. For example, when a document is completed, your secretary can call and ask, “Do you want it faxed, e-mailed, sent overnight or dropped in the mail?”

## Conclusion

At a time when many lawyers and clients are exploring alternative fee arrangements that create a “win-win” situation, it’s important to keep in mind that the bill itself has the potential to create conflict. If you view the invoice as a marketing communications tool and follow the principles outlined above, the billing process may actually enhance your client relationships. ■

## PRODUCTS ■ Cont'd from page 11

soft’s Exchange groupware. Using ProLaw’s integration, case information from ProLaw automatically appears in Outlook. For example, docketing a trial in ProLaw will automatically schedule it on the attorney’s calendar in Outlook. Reminders automatically fire off e-mail messages notifying attorneys of upcoming deadlines. Sending e-mail to a client or related party in ProLaw takes only one button click.



ProLaw combines front office case management with back office billing and accounting in a single system, creating a more efficient firm management system for firms with 5-500 timekeepers. For example, setting up a new file in ProLaw makes it immediately available for time entry, docketing and scheduling, document production, billing, conflicts, Web research, records management, etc. ProLaw includes built-in integration with Word, WordPerfect, Outlook/Exchange, GroupWise, PC Docs, Excel and Equitrac, to name a few other products.

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## Case Management-Billing Links

Millennium Software, Ltd., has announced the release of an update between its Jr. Partner case management software and Timeslips Deluxe time and billing software, offering users the opportunity to share data between the two programs without duplicative data entry.

The Jr. Partner Timeslips Link now allows users to maintain their current naming conventions in Timeslips, as well as the case numbering format used in Jr. Partner. As with the previous version of the Jr. Partner Timeslips Link, users can import clients from Timeslips into Jr. Partner and export