

# The Art and Science of Hourly Attorney Billing

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Part I

# Introduction

# Why Attorney Hourly Billing is Important

Time is Money

Time only moves forward

Meet or exceed firm billing requirements

Opportunity for professional advancement

Meet personal financial goals

Spend more time moving your cases forward, and less time entering your time

# Why Efficient Billing is Important

According to Yale Law School Career Development Office, an attorney has to work 10 hours just to bill 7

([https://law.yale.edu/sites/default/files/area/departments/cdo/document/billable\\_hour.pdf](https://law.yale.edu/sites/default/files/area/departments/cdo/document/billable_hour.pdf))

But many attorneys have to bill more than 7 hrs a day

If you cannot efficiently capture your time, you can fall behind

- work nights

- work weekends

- work holidays

- just to meet the minimum standard

# ABA Model Rules of Professional Conduct

A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.

ABA Model Rule 1.5(a)

It is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

ABA Model Rule 8.4(c)

# The Fee Agreement

This is a matter of contract between the attorney and the client re what is billable / what is not, and rates.

Different kinds:

- Hourly

- Contingent

- Flat Rate

Most institutional clients require billing in increments of a tenth of an hour: 0.10

# Why Time is Rejected or Cut

Not pre-approved by client

Task not billable per Fee Agreement

Budgets

Internal Meetings

Time billed is excessive

Task is unnecessary

Attorney billed for paralegal tasks

Task not adequately explained

# Appealing Rejected Time Entries

This can be a time sink

Time spent appealing rejected time is non-billable time that could otherwise be spent moving your cases forward

Example: if you spent .50 hrs to justify a .30 that was rejected, you did not lose .20 hrs of billable time, you lost .50 hrs.

If the time is still rejected, you lost .80 hours.

Better to enter it correctly the first time.



# Two Elements in Every Time Entry

## I. Hours Element

Quantify the time spent

Actual time spent and value added

## II. Narrative Element

Specify **What** you did

Qualify **Why** you did it

Qualify **How** it adds value to the case / client

# The Tenth of an Hour

Bill in 1/10th of an hour increments (0.10)

Round up when reasonable

0.10 is not 6 minutes; 0.10 is anything greater than 1 second up to 6 minutes

5 minutes is still 0.10

4 minutes is still 0.10

3 minutes is still 0.10

2 minutes is still 0.10

1 minutes is still 0.10

Use discretion when billing for quick tasks

## Part II

# The Narrative

# The Narrative – Syntax is Everything

## Mad-Libs for Lawyers

### Follow this Simple Formula:

**[Verb] the [Noun] because of the [Basis for doing so] [with an optional Kicker]**

**Fill in the blanks with recognized terms for efficient billing to avoid rejected entries**

# The Narrative – Verbs

**Action is Value**

**5 Key Verbs**

**T.R.E.A.D.**

**Telephone call (to/from)**

**Review**

**Evaluate (Strategize)**

**Attend (Appear, Meeting, Conference)**

**Draft**

# The Narrative – Nouns

Telephone call to/from Opposing Counsel regarding ...

Review Plaintiff's Motion (22 pages plus 125 pages of exhibits)

Evaluate Strategy of filing Motion based on revelations at Plaintiff's deposition

Attend Hearing on Motion

Draft Reply in support of Motion per [client] authorization

# The Narrative – the Basis

Describe how task adds value to the case

- ... to confirm dismissal
- ... to achieve prompt resolution of matter
- ... in preparation for hearing/trial/deposition

Justify why each task was required

- ... as authorized by [client name]
- ... as ordered by the Court
- ... as required by local custom and procedure
- ... to disclose recently received documents
- ... to facilitate early resolution of contested matter

# The Narrative – Kickers

Justifies the time spent on longer tasks tasks

## Examples

- ... and related tasks

- ... and related issues

- ... and prepare same for filing

- ... and appropriate timing of same

- ... and [evaluate] propriety of same

- ... and [evaluate] further handling in light of same

- ... and [evaluate] appropriate response for same



# The Narrative – Progression

## Examples

Review Billy Joe's Joinder to Bobby Sue's Motion for Summary Judgment – 0.20

Review Billy Joe's Joinder to Bobby Sue's Motion for Summary Judgment, and evaluate effect of same - 0.30

Review Billy Joe's Joinder to Bobby Sue's Motion for Summary Judgment and evaluate further handling in light of same – 0.40

Review and Evaluate Billy Joe's Joinder to Bobby Sue's Motion for Summary Judgment and evaluate appropriate use of same at upcoming settlement conference - 0.50

# Block Billing

definition: the combination of multiple, unrelated tasks in a single time entry

## Examples:

Telephone call with client regarding status; draft motion in limine; review correspondence from opposing counsel – 4.70

Review Motion for Summary Judgment, draft correspondence to client regarding same – 5.70

Few institutional clients will allow block billing

Each major verb should be a separate entry

# Block Billing is a Sliding Scale

Definitions vary by client:

Any conjunction or punctuation may flag it as block billing

Depends on how related the tasks are

Compare:

Draft motion for summary judgment and evaluate appropriate exhibits for same  
with

Draft motion for summary judgment and telephone call to client regarding discovery responses

# Narrative Examples

Telephone call to opposing counsel regarding proposed changes to terms of settlement agreement and related issues

Draft motion for summary judgment as authorized by J. Smith and prepare same for filing

Attend hearing on motion for summary judgment and related tasks

Review Plaintiff's Offer of Judgment and evaluate propriety of same

## Part III

# Adding Value

# The Value Triangle



Client cannot sacrifice time due to deadlines.

Client cannot sacrifice quality due to standards.

Therefore, client must pay accordingly for timely, quality representation and work product that adds value to the case.

# Explain that Value in the Narrative

Format: **[VERB]** the **[NOUN]** because of the **[JUSTIFICATION]** and/or **[KICKER]**

The more time you spend, the more detailed the narrative should be.

Justify the work performed

- Authority / Required

- Purpose / Goal Oriented (move case forward)

Justify the amount billed

- Specificity / Length (250 pages)

- Results / Necessity

# Ambiguity adds Value

Be Vague when it benefits you:

Enclosure letters are secretarial and do not add value:

Draft letter to client enclosing order of dismissal.

But status letters and dismissals are more exciting:

Draft status letter to client regarding order of dismissal.

Scheduling is secretarial and adds no value:

Draft letter to opposing counsel to schedule Plaintiff's deposition.

So shift the focus to the deposition:

Draft letter to opposing counsel regarding deposition of Plaintiff.



# Specificity adds Value

Add value with adjectives and prepositions:

- Attend lengthy Hearing on Motion to Dismiss for lack of jurisdiction
- Review Plaintiff's recently produced medical records to prepare for Plaintiff's deposition
- Attend court ordered status conference
- Draft Motion to Dismiss for lack of jurisdiction

Specify page count for large documents

- Review and Evaluate **Voluminous** Medical Records (1234 pages) obtained via subpoena from Hospital

# “Regarding” adds Specificity

Regarding is open-ended; can be anything that adds value to the case by moving it forward towards resolution:

- ... regarding outstanding discovery responses
- ... regarding dismissal and finality of same
- ... regarding appropriate exhibits to dispositive motion
- ... regarding Plaintiff's deposition
- ... regarding proposed changes to terms of settlement agreement

# Specificity: People add Value

## Add value by name dropping

- Claims Handler T. Jones
- Expert M. Smith
- Treating Physician E. Doolittle
- Opposing Counsel Apollo

## .Add value by not sounding secretarial

- Judge's law clerk is "chambers"
- Opposing paralegal is "opposing counsel's office"
- Runner is "attorney service"

# Add Value With Separate Entries

Break block entry into separate “bucket” entries to capture more time and reduce write-downs:

Draft [Motion] as authorized by [client] - 4.90

Evaluate and redact Exhibits to [Motion] as required by local rules regarding personal identifying information - 1.70

Draft Affidavit of [client] in support of [Motion] as authorized by [client] – 1.10

# Brevity adds Value

Brevity is the soul of wit: Sometimes you bill more for drafting a shorter document more likely to be granted.

“If you want me to give you a two-hour presentation, I am ready today. If you want only a five-minute speech, it will take me two weeks to prepare.”

— Mark Twain

“Not that the story need be long, but it will take a long while to make it short.”

— Henry David Thoreau, writer and philosopher.

“If I had more time, I would have written a shorter letter.”

— Marcus Tullius Cicero, philosopher and statesman.

# Correspondence Adds Value

Bill separately for unrelated emails

Bill emails and texts as Correspondence

More formality = more value = justify more time

Client Communications (Duty to Communicate –  
ABA Model Rule 1.4)

Forward all documents for client approval

Bill for request for authority to file

Bill for approval received

Bill for making requested changes

# Appearances Add Value

Separate entry for meetings and conversations before and after the appearance (i.e., no block billing)

Separate entry for evaluation of file in preparation for appearance

Bill for your preparation and *postmortem* report:

- Draft outline for use at appearance

- Draft memorandum to file afterwards

- Draft client status letter

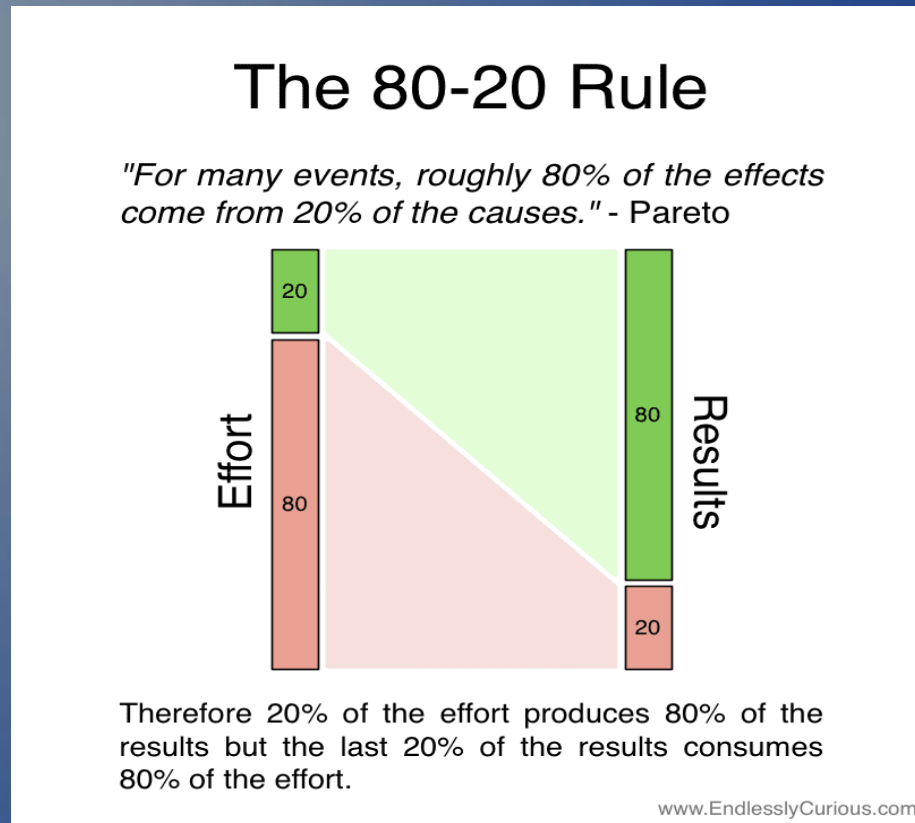
Bill for travel time per client billing guidelines

## Part IV

# Efficiencias



# The Pareto Principle



80% of your time is spent on 20% of your cases

80% of your rejected time comes from 20% of your clients

# 5 Rules of Thumb

Rule 1. Try to bill 10 hours a day

Rule 2. Bill for actual time spent and value added to case/client

Rule 3. Almost everything you do is billable if you word it appropriately

Rule 4. Value all your time, all the time

Rule 5. Anything worth billing is worth billing at least 0.20 for it

# Rule 1 – Bill 10 Hours a Day

Bill 5 hours before lunch

Bill 5 hours after lunch

Clean out your inboxes daily

- Email
- Voice mail
- Calendar

Look 2-3 days or more ahead

Go through your case list daily – go deep

# Rule 4 – Value your time

Do not cut your own time

Why short-change yourself?

Let the partner and client do that

Exception: if you do discount your time as a courtesy to your client, tell the client:

Attend lengthy hearing on motion to compel,  
unusually long docket (time reduced from  
actual 2.70 hrs) – 1.60

Reconsider value of non-billable tasks

# Exceptions to Rule 5 – Junk Mail

Document that adds no value to the case:

- Notice of Change of Address

- Thank you emails

- Administrative Court Notices

But you have to review each to confirm

Do not waste time reviewing Junk

Do not add Justification or Kicker

Bill 0.10, if at all, for each piece of junk mail and move on

# Time Management

Do not spend an entire day (or more) entering your time for the month

Enter time in real time throughout the day

- Bill for appearances as soon as you return to the office

- Bill for telephone calls while on the phone

- Bill for motions and letters as you draft them

# Know the Client's Billing Guidelines

Know what is billable and what is not

- Status Letters

- Budgets

- Local travel time

Know what needs prior approval

- Motions

- Non-Local Travel / Lodging

- Hearings

# Make a Chart

Billable/Approval?	Client A	Client B	Client C
Motions	>5.0	No	Yes
Discovery	yes	no	Yes
Budgets	no	no	yes
Status Letters	Yes	No	No
Research	No	Yes	No
Hearings	App	No	App
Non-local travel	yes	no	no
Local travel	no	no	no
Prefered vendors	No	Copy	Copy/Depo



# Always Be Evaluating

Bill Beyond the Paper

Evaluate / Strategize everything

After Reviewing, but before Drafting:

- Evaluate propriety of ...

- Evaluate appropriate response to ...

- Evaluate potential strategy ...

Capture time evaluating the case away from the office within reason:

- Shower thoughts / Daily commute

# Telephone Calls

Call at least one person on every case, every week

Memorialize every call in writing

Bill separately for return telephone calls

Almost every telephone call can generate at least an hour of billing:

- Draft Confirming letter - 0.40 (Rules 1 and 4)

- Draft Memorandum to file - 0.30 (Rules 4)

- Triggers a separate evaluation entry (Rule 3)

# Navigate Billing Pitfalls

Spread out billing on active cases over several time periods to avoid alarming invoices

Touch multiple cases for multiple clients each day to avoid excessive billing

Obtain client approval in writing and save in the file

Avoid billing time in even amounts (e.g., 1.00 or 2.00)

Enter 0.90, 1.10, or 1.20 to avoid the appearance of block billing

# Avoid Trigger Words

Many institutional clients use software to automatically reject time with certain trigger words. Replace known triggers words.

- “Cover” letters become “status” letters
- “Scheduling order” becomes “discovery order”
- “Research” becomes “evaluate” or “draft”
- “Meetings” become “evaluations”
- “Conferences” become “hearings” or “joint defense calls”

# Avoid Myths and Unethical Tricks

Myth: Bill 0.40 per page. See Rule 2 and ABA Model Rule 8.4(c)

Artificially adding length to your document:

- Include redundant Introduction section

- Add “See” before and parenthetical after every case citation

- Incorporate lengthy footnotes, string citations, block quotes.

- Insert extra line break between headings and numbers; extra space between paragraphs:

IV. Legal Argument

or

IV.

Legal Argument

# Capitalize on Your Firm's Billing Software (p. 1)

## .Use Shortcuts for frequently used Verbs:

“dct” become “Draft correspondence to”

“cf” become “Receive correspondence from”

“tct” becomes “Telephone Call To”

“tcf” becomes “Telephone Call From”

“r” becomes “Review”

“ra” becomes “Review and evaluate”

“msl” becomes “Draft monthly status letter to”

“sel” becomes “Draft special event letter to”

“isr” becomes “Draft interim status report to”

# Capitalize on Your Firm's Billing Software (p. 2)

## .Use Shortcuts for frequently used Nouns:

“oc” become “Opposing Counsel”

“pl” becomes “Plaintiff”

“df” becomes “Defendant”

“ch” becomes “Claims handler”

“cc” becomes “Court’s chambers”

“jl” becomes “claims handler John Lincoln”

“msj” becomes “Motion for Summary Judgment”

“dot” becomes “Deed of Trust”

# Capitalize on Your Firm's Billing Software (p. 3)

.Use Shortcuts for frequently used phrases:

“rt” becomes “and related tasks”

“ri” becomes “and related issues”

“iso” becomes “in support of”

“ae” becomes “and evaluate effect of same”

“auth” becomes “as authorized by”

“fh” becomes “and further handling”

“efh” becomes “and evaluate further handling in light of same”

“tr” becomes “(time reduced from ”



Part V

# Conclusion

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By being aware of every thing you do and the value each adds to the case, you can ethically and efficiently craft a specific narrative that minimizes the chance your time is rejected or cut.

By maximizing your billing efficiency, you can spend more time moving your cases forward.