

# **Effective Legal Office Administration**

## **Lesson 3 – Billing**

# **WORKBOOK**



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## Billing – Overview

- Understanding Billing
- Time and Cost Entries
- Trust Accounts
- Docket Administration

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## How Attorney's Charge

- Attorney's offices generally charge fees in one of three ways
  - Hourly Rates, Flat Fees, Contingent Fees
- Hourly rates are the most common fee type.
- Here, the attorney gets paid an agreed-upon hourly rate for the hours he or she works on a client's case until it's resolved.
- Flat fees involve an attorney charging one total fee up front for handling a matter or a case. This is popular in criminal defense cases.
- Contingency fees are usually calculated as a percentage of the client's recovery. In most contingency fee arrangements, the client is not obligated to pay his or her lawyer unless there is a recovery, in which case, the attorneys fees are deducted from the Plaintiff's award.
  - There are limits to the percentage an attorney can charge as a contingent fee.
  - This is customary in personal injury cases. Not permitted in some other types of cases.
- A **retainer** arrangement is usually a fee paid up front before legal representation commences.
- Sometimes, lawyers and clients agree to arrangements that may blend one or more of these fee arrangements to assist a client with financial challenges.

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## Factors that Impact an Attorney's Fee

- Time & Effort - Lawyers charge both for time they work on a case and the amount of effort the case requires
- Geographic Location - Lawyers in urban and major metropolitan areas tend to charge a lot more than lawyers in rural areas or small towns
- Outcome – In contingent fee matters, the fee may depend on the outcome of the case and the risk of no recovery
- Difficulty of Case - The fee may be higher if the case is difficult or will be time consuming
- Experience - A more experienced lawyer will charge more
- Prominence of Lawyer - If the lawyer is well known and experienced in a particular area of law, the lawyer's rates are usually higher
- Overhead - The costs associated with the lawyer's secretary, copies, books, legal research, and other items
- Preferred Client Discount - Loyalty counts when it comes to working with a lawyer. So a lawyer will sometimes discount services if the client frequently uses his or her services.

Lawyers.com

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## Understanding Billing

- Timekeeping – the process of tracking time for the purpose of billing clients
- Billing – the process of issuing invoices for the purpose of collecting monies for legal services performed and being reimbursed for expenses
- Depending on where you work, you may be required to track your time so it may be associated with a specific case. The determination is normally based on the type of work you will be performing within your job.



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## Understanding Billing

- Ensure everyone keeps contemporaneous time records – it is impossible to accurately reconstruct time
- Be descriptive on the invoice – clients want to know what they are paying for
- Record all telephone calls and all correspondence for billing purposes
- Keep time records from all personnel that work on the file – even if it is later decided the time is not billable

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## Understanding Billing

- Make sure the client understands how your billing works. The attorney will determine the fees but may rely on you to explain when billing will be accomplished.
- Recognize that not only time is billed. You will also be billing for third party expenses, travel expenses, mail expenses, delivery charges, etc. Any time money is spent on behalf of a client, it must be billed to the client.
- You will normally bill for the use of technology. Actual time spent on legal research may be billed; however, the time spent learning to do legal research or any other technology may not be billed. Only bill for the actual time spent.

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## Understanding Billing

- Billing should be done on a regular basis. Clients should know when to expect their billing
- With a good narrative on the invoice, client can be informed on what is occurring with their case on a regular basis
- You should send out a final bill within ten days of case closure
- Ensure the invoice contains enough details to enable the client to know what they are paying for and how much each type of work costs

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# Understanding Billing

Smith & Smith Law, LLC  
252 Broadway - Suite 210  
212.555.6666  
New York, NY 11245

[ Your Logo ]

Andy Halloway  
Pleasantville  
Pleasantville, PA 20115

Invoice 20495

Date	Apr 15, 2011
Terms	Net 15
Service Thru	Apr 15, 2011

In Reference To: Real Estate (Labor)

Date	By	Services	Hours	Rates	Amount
03/14/2011	Jane Smith	Meeting: Meeting with client.	1.50	\$125.00/hr	\$187.50
03/16/2011	Jane Smith	Phone Call: Phone call to client.	0.05	\$125.00/hr	\$6.25
03/21/2011	Jane Smith	Meeting: Another meeting with client.	3.25	\$125.00/hr	\$406.25
03/31/2011	Jane Smith	Draft: Drafting docs for case.	0.75	\$125.00/hr	\$93.75

In Reference To: Real Estate (Expenses)

Date	By	Expenses	Amount
03/14/2011	Jane Smith	Filing Fee: Fees	\$25.00
03/29/2011	Jane Smith	Meal: Meal with client.	\$22.00

Total Hours	5.55 hrs
Total Labor	\$693.75
Total Expenses	\$47.00
Total Invoice Amount	\$740.75
Previous Balance	\$0.00
Balance (Amount Due)	\$740.75

## Time and Cost Entries

- A manual system or an electronic system may be used. Manual systems can still be purchased from many law office supply catalogs.
- Many attorneys bill in six (6) minute increments
- Time Conversion Schedule:

1 to 6 minutes = 0.1	31 to 36 minutes = 0.6
7 to 12 minutes = 0.2	37 to 42 minutes = 0.7
13 to 18 minutes = 0.3	43 to 48 minutes = 0.8
19 to 24 minutes = 0.4	49 to 54 minutes = 0.9
25 to 30 minutes = 0.5	55 to 60 minutes = 1.0

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## Time and Cost Entries

- Billable versus non-billable time
- Billable time – the actual time that is spent working on a case and that is directly billed to a client's account
  - Any work that furthers a clients case other than clerical functions
- Non-billable time – time that cannot be billed directly to paying clients
  - General firm activities
  - Personal time
  - Pro-bono work

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## Time and Cost Entries

- All time must be accounted for. This is normally accomplished with either manual time slips or computerized time slips.
- Include enough detail in the time record to enable clients to understand the work performed. Clients are more willing to pay a bill that fully explains the work completed.
- Billing for attorney time and assistants time is normally done at different rates. Always track your time, even if it eventually is determined by the attorney to not be billable.
- In a larger firm, where your duties as a legal secretary are limited, you may not need to keep time slips. In a small office, you may function as both a legal secretary and a legal assistant. Your work as a legal assistant may be billable. The attorney will make this determination.

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## Time and Cost Entries

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## Time and Cost Entries

- Keep accurate records of all expenses incurred on the clients behalf.
- As a legal secretary, you may be required to collect, organize, and prepare billings. Ensure the office has a system that allows for the collection of all time and expenses incurred on behalf of the client.
- Do not overlook minor costs such as mailings. Even small expenses will add up to a substantial amount over time.
- Ensure the accuracy of any billing you submit to a client. You should have documentation for every item that is being billed.

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## Trust Accounts

- IOLTA or Trust accounts are an important part of how a law firm handles client funds
- A trust account is a separate bank account, normally a checking account, that holds client funds that have not yet been earned
- Client trust accounts are a very specific type of bank account and are normally regulated by the attorney licensing authority in your state
- Funds held in a client trust account may include funds from more than one client; however, there needs to be a separate accounting of each client's funds
- Commingling of funds is strictly prohibited. Client trust accounts and law office funds must never be comingled.

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## Trust Accounts

- Funds that must be held in a client trust account include:
  - Client funds
  - Third-party funds
  - Funds that belong partly to a client and partly to an attorney
  - Retainers for legal services that are unearned and that are the client's property until they are earned



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## Trust Accounts

- Funds that CANNOT be held in a client trust account include:
  - Personal funds of the attorney or staff
  - Business funds of the law firm
  - Investment funds of the law firm
  - Earned fee payments that have become the property of the attorney or law firm

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## Trust Accounts

- Never allow the commingling of client funds
- A law office should consider bonding for anyone that handles client funds
- Interest on Lawyers' Trust Account (IOLTA)
  - A special interest-bearing account set up to hold trust funds
  - The interest accrued is given to the state bar association or a specific non-profit organization for the good of the public
  - Some states limit the amounts to be placed in an IOLTA account. If a large amount would be held in trust for one client, a separate interest bearing account should be opened with the interest given to the client.

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## Trust Accounts

### **Ten Rules of Good Trust Account Management:**

1. Have a trust account and use it for all client monies
2. Only a managing partner should sign on the account
3. Follow the IOLTA rules for your state
4. Notify the client in writing, at least on a monthly basis, regarding all deposits and withdrawals from the client's account balances
5. Unearned fees and unexpended costs belong in the trust account until earned or spent
6. Do not commingle or put attorney/law firm funds in the trust account
7. Reconcile the trust account monthly and maintain a written record of the reconciliation

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## Trust Accounts

### **Ten Rules of Good Trust Account Management (Continued):**

8. Review individual client balances monthly and do not delay giving clients their money
9. Maintain written, detailed records justifying every deposit and every withdrawal in the trust account, including a detailed journal of all transactions and a client ledger
10. Retain trust records even after the matter is closed according to state rules

Source: Adapted from Foonberg, J. (2004) *How to start and build a law practice* (p.576) American Bar Association

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## Docket Administration

- Calendaring – a generic term to describe the recording of appointments for any business
- Docket Administration – a law-office-specific term referring to entering, organizing, and controlling all appointments, deadlines and due dates for a law practice
- Today, case management systems include a docketing system. Even small law firms use some form of computerized system for docket administration
- Failure to meet deadlines may result in a great expense to the attorney

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## Docket Administration

- The scheduling of appointments is critical in a law practice
- Some appointments will be dictated by court rules while others may be dictated by deadlines, such as the statute of limitations
- Rescheduling appointments or legal deadlines is known as requesting a continuance. Court rules are often specific on when a continuance may be granted and how often one may be requested.
- A good docket system will include reminders prior to the actual deadline

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## Docket Administration

- The most important deadline at the start of a case is the Statute of Limitations
- Statute of Limitations – a law that sets the limit on the length of time a party has to file a lawsuit. If the statute of limitations has passed, a lawsuit may not be filed.
- If an attorney allows a statute of limitations to pass without filing a case, they may be liable for malpractice

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## Docket Administration

- You must know the local court rules for calculating deadlines.
- Calendar Day vs. Workdays – some courts make a distinction between calendar days and workdays. You need to know how to count days properly.
- Calendar Days typically means literal days, counting all days including weekends and holidays. Thus, if you receive a document on the 1<sup>st</sup> and you have 10 days to respond, you must respond by the 11<sup>th</sup>. If the ending day is a weekend or holiday, you will have until the following day the court is open for business.
- Workdays typically only refers to those days the court is open. In this case, you would not count any weekend days or holidays the court is not open in your calculation of the due date.

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## Docket Administration

- Document Receipt Date – court rules normally allow the counting of time from the date of receipt of the document. Thus, if you receive a document that was mailed on the 1<sup>st</sup> but received on the 3<sup>rd</sup>, you would start counting from the 3<sup>rd</sup>.
- It is very important to ensure every document you received has a date and time stamp to allow for proper docketing on the calendar.
- Due Dates – you need to know if the court rules base due dates on a file date or a mail date. The rules will specify if the document must be in the court on the due date or if the document must be placed in the mail on the due date.
- You should mark the file copy with the date and time a document was mailed or filed according to the local court rules.

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## Billing – Review

- Understanding Billing
- Time and Cost Entries
- Trust Accounts
- Docket Administration

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Questions

and

Answers

## Review Questions:

1. Name the 3 ways in which attorneys typically generate income:
  - A. Hourly, Contingency, Flat Fee
  - B. Daily, Weekly, Monthly
  - C. Retainer, Weekly, Hourly
  - D. Hourly, Per Appointment, Monthly
2. True or False: Law offices in larger cities tend to have higher fees.
  - A. True
  - B. False
3. How do lawyers who charge hourly break down their time for billing?
  - A. In 4 minute increments
  - B. Every 10 minutes
  - C. \$100 per 1 hour
  - D. In 6 minute increments
4. Which of the following is an example of non-billable time?
  - A. Returning a call to a client
  - B. Drafting a memo to the court
  - C. Meeting with a client in jail
  - D. Studying the blue book on your lunch break
5. True or False: It's perfectly acceptable for the law firm to place both firm money and client money in the firm's trust Account.
  - A. True
  - B. False
6. True or False: Docketing and calendaring are one of the most important parts of a legal secretary's job.
  - A. True
  - B. False
7. True or False: The term 'statute of limitations' refers to the time a person has to file a lawsuit before the claim expires.
  - A. True
  - B. False
8. True or False: All time must be accounted for during your work day.
  - A. True
  - B. False

9. True or False: When a client pays a retainer, that money is held in the client trust account until the office has earned a fee.
- A. True
  - B. False
10. Clients are more likely to pay an invoice promptly if the invoice:
- A. Contains a detailed explanation of the work completed
  - B. Is sent regularly
  - C. Explains clearly the cost connected with each activity
  - D. All of the above

## Answer Key:

1. A  
With some exceptions, lawyers generally bill their clients on an hourly basis, they charge a flat fee, or they collect their fee on a contingency fee basis after they win a recovery for a client.
2. A  
True. Geographic location of the office will have a great impact on how much a lawyer charges.
3. D  
Generally, lawyers bill by 6 minute increments so that each activity is timed and the amount of time spent will be billed as part of an hour divisible by 6.
4. D  
Non-billable time is time that cannot be charged to your client because it's not spent directly advancing their case. This is why reviewing the blue book or eating lunch at your desk are not time that can be billed.
5. B  
False. Not only is it not acceptable to commingle client money and firm money in the firm trust account, it violates the rules of professional conduct. Nothing other than client money should ever be deposited into the client trust account.
6. A  
True. Legal secretaries spend a lot of time managing the calendar of the firm and docketing – or placing dates of importance on the office calendaring system. Not only is it important to manage your docketing system well, failure to maintain this system can open the firm up to malpractice suits if a date is missed.
7. A  
True. Keeping track of statute of limitations dates is very important, missing this deadline can be a problem for an attorney and can lead to malpractice claims.
8. A  
True. Especially when you work in an office that bills clients by the hour, all activities in your day must be accounted for so that it can be determined which time should be charged to the client, and which time is non-billable.
9. A  
True. Until the office has earned a fee, the retainer funds must be held in the trust account. Once the fee is earned, the fee should be charged against the retainer and the appropriate amount withdrawn to pay the attorney's fee.

#### 10.D

You will find that your clients appreciate consistency and predictability in billing and invoicing. Also, they will be less likely to challenge an invoice that has complete explanations and lots of details.