

Attorneys' Fees

Fee Applications and Block Billing Don't Mix

Without enough details, courts may reduce fee awards

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If you anticipate submitting a fee application in federal court, keeping detailed billing records itemized by specific tasks will improve your results, as illustrated by *Barrow v. Greeneville Independent School District*, a recent decision from the U.S. District Court for the Northern District of Texas.

After winning a Section 1983 claim, the plaintiff submitted an application for attorneys' fees and costs in the amount of \$2,093,521.91. Upon an extensive analysis of the application, the court awarded her less than one-third of the requested fees and costs. The trial judge detailed numerous flaws in the fee application, including extreme discrepancies between bills submitted to the court in support of the fee application and bills for the same time period that the plaintiff had produced earlier in the litigation.

Among other billing practices the court criticized was the common practice of "block billing." The court explained that block billing "refers to the time-keeping method by which each lawyer and legal assistant enters the total daily time spent working on a case, rather than itemizing the time expended on specific tasks." In connection with fee applications, courts often frown on block billing because they

"cannot accurately determine the number of hours spent on any particular task" and accordingly are "hindered in determining whether the hours billed are reasonable," the court observed. In *Barrow*, the court reduced the requested fees by 20 percent based upon block billing.

"The court's ruling demonstrates two cardinal rules of practicing law. First, know thy client. Second, know thy judge," comments Loren Kieve, San Francisco, Co-Chair of the Section of Litigation's Federal Practice Task Force. "Many clients are happy with block billing. Some are not and expect more detailed descriptions. The key is satisfying the client's expectations," says Kieve.

Not every fee application including block-billed time records will result in a significant reduction in the fee award. For example, the U.S. District Court for the District of Nebraska recently declined to apply a blanket reduction to a fee application using block billing, stating: "The Court's local rules require specificity in the billing descriptions, but they do not require attorneys to assign a percentage of the billed time for a given day to each particular task performed for the client during that day." □

Resources:

Barrow v. Greeneville Indep. Sch. Dist., 2005 U.S. Dist. LEXIS 34557 (N.D. Tex. Dec. 20, 2005).
Shiller v. Sarry County, 2005 U.S. Dist. LEXIS 29383 (D. Neb. Nov. 11, 2005).