



## ***Law Firm with Inaccurate Billing Records Receives Nothing for Its Efforts***

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Woodland Hills Attorney Barry P. Goldberg warns his colleagues to have believable and accurate time records or risk receiving no compensation whatsoever from a reviewing court. Since the California Court of Appeal did not publish its decision on March 13, 2013, the case name and law firm will be spared mention in this article. However, the Los Angeles Superior Court trial court judgment and court of appeal decision will be the next "talked about" billing case which will circulate through law firms that regularly bill by the hour.

The law firm sued its clients for work on a matter for a legal bill of \$462,652; minus the \$95,220 which the clients had paid. The clients were served, but did not answer. The law firm filed a request for entry of default, and default was entered. The law firm also sought a default judgment. The court set a hearing for an oral "prove up." At the hearing the court had difficulty understanding the bills. There appeared to be multiple identical entries and it was not clear who performed what work.

The court noted, too, that on one subsection of the bill, there were 40 entries for "telephone call with client," 35 of them were billed at .30 hours. The court found it "remarkable" that so many of these calls took precisely 18 minutes.

The court then found that "the Court has serious questions concerning the amount of time billed, both on particular projects and in the aggregate," and gave several specific examples of excessive time on a project (more than 24 hours for drafting and revising a declaration), excessive time in general (over 590 hours for July and August of 2007), and other problems (two billing statements, with different time entries, for the same period).



The court then found that "Certain time records are clearly inaccurate. [The attorney's] testimony concerning how the time records were kept and how the statements were prepared cannot be reconciled with the bills themselves." The court noted an instance in which the attorney had billed 32 hours for a single day, and an instance in which he had billed over 34 hours in a single day.

The court found, "These circumstances cast doubt not simply on those dates for which [the attorney] billed more than 24 hours, but also on all other dates. [The Attorney's] oral testimony at the default prove-up concerning the matter in which he recorded his time, if true, left little room for claims of inadvertent error. The Court is compelled to conclude that the testimony of [the Attorney] was not true, and that the billing statements submitted as proof of the sums allegedly owed are not accurate and reliable records of the time spent. In addition, since an indeterminate number of the time records are demonstrably inaccurate, the Court is left without any principled way of determining what an accurate sum would be. The Court finds the evidence entirely inadequate to prove **any** amount of damages in [The Attorney's] favor."

The Law Firm naturally appealed contending that it was owed something significant, even with a credit for some inaccurate billing. The Law Firm also contended that the court could have asked for a reconstruction of the billing or checked the underlying court docket to see the substantial amount of work completed on the client's behalf.

The Court of Appeal rejected the Law Firm's argument and affirmed the trial court holding; "It was not, however, for the trial court to find alternative methods of determining damages, or to engage in the tasks [the attorney] now suggests. Instead, [the attorney] bore the burden of proving his damages. Having failed to provide the court with credible evidence of damages, he cannot recover damages."



“The trial court made credibility findings and findings of fact, and concluded that [the attorney] did not establish a prima facie case. Credibility findings are the province of the trial court, and the findings of fact are supported by substantial evidence. They are thus not findings which we disturb on appeal.”

No substantial comment is necessary. Law Firms must endeavor to keep accurate records of billing or risk receiving nothing. At a minimum, Law Firms must have clear bills indicating exactly what work was performed, when it was performed and who performed the work. Computerized descriptions with identical time increments should be avoided. Finally, ***someone should review all billing statements to make certain that an attorney never bills for more than 24 hours in any given day!***

For more information about blog author and attorney Barry Goldberg's civil litigation expertise, please visit his web page, [Woodland Hills Civil Litigation Attorney. \*http://www.barrygoldberg.com/Practice-Areas/Civil-Litigation.aspx\*](http://www.barrygoldberg.com/Practice-Areas/Civil-Litigation.aspx)

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