

# Popular Threads on Solosez

## How To Bill For Travel

As primarily an estate planning, probate, and estate and trust administration attorney, travel for me has consisted of driving across the county or to the state capital for an appellate argument (and that's only 1.5 hours to either state capital). This week I'll be headed across the state to attend a hearing. The drive, close to 5 hours each way, is far enough that an overnight will be involved. The client knows this and understands I'm to be paid for travel and hotel. But how does one bill for this?

Deborah Matthews Alexandria, Virginia

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Mileage, meals and hotel. I'm not sure what the IRS allows for mileage these days...last I heard it was \$.34/mi., and that was long before \$2+ gas prices. I'm guessing that charging \$.50 per mile would be reasonable. Be sure to let your client know ahead of time what it is exactly you will be charging for. If you're charging for travel time, then no mileage charges...at least that's the way I do it. You're not really performing any lawyerly functions while driving is my guess.

Tom Simchak, Houston, Texas

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Short version: according to your agreement with your client. Put something about this in your employment agreement.

Over the years, I have seen full hourly, half hourly, no hourly on travel and any combination thereof. Baseline issue is reasonable fee. Deal with this before you go. Also look at whether you are able to do work for another client while there.

Archives have discussions with opinions about "what is fair" but the bottom line is that reasonable fees clearly documented in the fee agreement is best solution.

Darrell G. Stewart, San Antonio, Texas

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I have never succeeded in resolving the question of "what is fair." Obviously I'm not doing "legal work" for my client while I am driving. But, OTOH, I'm spending time that I could be spending doing legal work, at the agreed hourly wage, for other clients. I've usually just elected to charge half my hourly fee for driving time (plus expenses)--and of course that is spelled out in my employment agreement.

Richard O'Connor



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My fee agreement explicitly states that travel time is one-half my hourly rate, and that the client will also pay for parking and tolls.

Sasha Golden, Massachusetts

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I'm pretty sure the mileage rate is now 37 cents/mile this year.

Lesley Hoenig, Illinois

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So, in the original post, she said she had to drive about 5.5 hrs. each way. Under your scenario, if you charge \$200/hr., the client would be charged over \$1,000 just for driving time. Have to be one helluva case to warrant charging a client that kind of money for sitting in a car.

I'd be interested to see how others chime in on this topic.

Tom Simchak, Houston, Texas

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This topic comes up from time to time on this list, and there are all sorts of different approaches. No particular way of billing for a trip is inherently "right" or "wrong" (except for the method where you bill the same hour to 2 clients because you're "working" on 1 client's matter while you're "traveling" for the other.

My general practice for traveling is:

1. All out of pocket expenses are billed dollar-for-dollar.
2. I bill, at my normal hourly rates, for my travel time. Normally, I'll bill only for "business hours," unless I'm traveling after business hours. If I'm sitting in my hotel room at 10am, waiting for an 11am hearing to start, I'll bill the client for that time, because his work is keeping me from other client's work. Though I'm unusually busy enough to \*want\* to fill dead time like that with other clients' work, I don't feel any obligation to avoid such down time.
3. Sometimes I bill for mileage, usually I don't. I'm not terribly consistent on this. More or less when I remember to keep track of the miles, and I remember to bill for it, I do.

I have varied this when, for example, a client hires me for NYC litigation. My main office is in CT for my convenience, so I often won't charge for the train fare or time to get into Manhattan, especially when dealing with a client who originally hired me in NYC. I generally bill from the time I hit Grand Central.

I will typically have a conversation with the client about the need for

travel, and the fact they'll be paying for it, when the need for travel becomes apparent. This is no different than my normal practice of trying to tell a client, in advance, that large expenditures will be necessary in the near future (deposition transcripts, expert witnesses, etc.)

Patrick W. Begos, Westport, Connecticut

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Note that many attorneys bill for time they spend thinking about case even while driving to work--I don't like it but I have seen it suggested by people who should know. Assuming you don't do that, half-time plus expenses is fair (not sure your agreement includes hotels, air, etc.).

I'm not sure it's worth expanding retainer agreement to anticipate every possibility. Most of my own experience has been flying to confer with clients who dare not enter this country and are not so foolish as to expose themselves to big brother by discussing their case over the phone. Those--and anything sizable--are always negotiated.

John P. Page, Tampa, Florida

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Forget driving and the hotel. Fly. Even if your destination is some small town out in the middle of nowhere, there's usually a general aviation airport, and chartering a small plane can be less expensive in the long run.

Jennifer Rose, Mexico

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For that reason, I encourage clients to use attorneys close in proximity to the courts. I may also at times use a local attorney for an appearance at times even when the first option is not chosen.

Due to the "expense" of traveling, assuming one charges, then it becomes easier to cost justify air travel if such is available. San Antonio to Dallas is a 40-50 minute flight but a several hour drive.

However, if the client wants me and only me to deal with a distant matter, then having explained the issues I may be well justified in charging the client. This assumes that no other work is done during the period for another client and acknowledges that I will not be able to bill other clients during the time. Additionally, if I have to give up several hours of otherwise billable time to attend a hearing away from San Antonio, I may not be willing to accept that case or that client.

There are thousands of permutations that may lead to differing results. Therefore my position is that it is best addressed in advance, and agreed upon, where no surprise will arise. Additionally, the overall fee must be reasonable. Within those two guidelines, there is a lot of room for particularized circumstances.

As an atypical example, I have been hired before particularly because I

was an outsider with no local allegiances to represent a client who had determined that an organized effort was underway to deprive said client of material financial assets. The issues included alteration of deed records and other serious issues. This was during a period where high officials were later indicted due to corruption. The client was quite willing to foot the bill for travel by air and overnight hotel accommodation as opposed to use of local attorneys with suspect ties. The client concerns were justified. A hearing would take me out of office for two days minimum, whether minor or major. An informed client sought my services as opposed to others available and quite willingly footed the bill. In fact the client sought to add some risk premiums due to hazardous conditions, but I would not accept that risk premium or many of the gifts the client sought to purchase.

Darrell G. Stewart, San Antonio, Texas

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But the client went out and chose a lawyer who lives 5 hours away from the place where the hearing is going to be.

Presumably there is a retainer agreement spelling out that the lawyer is charging hourly, and that the client is responsible for expenses (if that's not the deal, then this discussion is moot).

Presumably this trip is not a surprise to the client. Client was given a heads up that there was a hearing scheduled where ever.

Sure, there should be a discussion with the client whether it is economically feasible for the client to spend the money he's going to have to spend to have a far-away lawyer handle this case. But, once the client chooses to hire counsel, the question whether the case is large enough to "warrant" a particular charge goes out the window (assuming, of course, we're talking about something that is necessary for the litigation.

I had a case recently where an existing client wanted me to defend a small claims court case. I told him that I would cost significantly more than the person was looking for. I urged him to settle and/or just pay. He wanted to defend. I said OK, and charged my normal rates, which ended up being far higher than what the plaintiff was looking for.

Patrick W. Begos, Westport, Connecticut

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Actually for 2005 it is \$.405. Keep in mind that if you charge more than the IRS rate, it is income in excess of the expense. This is from the IRS page:

"40.5 cents a mile for all business miles driven, up from 37.5 cents a mile in 2004;

15 cents a mile when computing deductible medical or moving expenses, up from 14 cents a mile in 2004; and

14 cents a mile when giving services to a charitable organization."

Randy Birch, Salt Lake City, Utah

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