

Hourly Rate Time Question

Hypothetical: It's just you and your assistant/secretary/paralegal/clerk/hamster in the office.

You've just been hired by a new client. Retainer paid, hourly fee agreement signed for a contested divorce. You do these kinds of cases so often, you could do them in your sleep.

After the client leaves, you drop your intake notes on your secretary's desk. She opens a new file and puts the names and requisite words in the processor, and pops out (1) Petition for Dissolution; (2) Petition for Temporary Relief (maintenance, child support, etc.); (3) Summons; and whatever other documents your jurisdiction requires.

A little later she drops the documents on your desk.

You sign everything, give it all back to her, she gets it all filed with the clerk and off to the process server for service.

All in all, she spent about 20 minutes doing her thing, and you spent 10 proofing and signing. How much time do you bill the client? At your rate? At your assistant's?

This is an argument for flat fee billing, basically.

If you have agreed to do this hourly, you have agreed to bill for your actual time worked. 0.2 for you, 0.4 for your assistant.

The meat and potatoes doesn't come from filing the petition; it'll come later when you're all arguing for three hours in ED mediation about what happened to the bagger attachment for the lawnmower (which would cost \$80 to replace), at a net cost to all parties of \$1,500.

-Rick

Richard J. Rutledge, Jr., North Carolina

The answer is don't charge hourly.

Or, charge a \$2,000 minimum which buys X number of hours, and anything over X hours is charged at your hourly rate. However, 20 minutes is still \$2,000.

Q: Why are divorces so expensive?

A: Because they're worth it.

David Shulman, Florida

I bill for initial documents on a divorce 1.5 hours w/o kids and 2 hours with kids.

This includes all work for petition, financials (2 documents), court sheets, and parenting plan, plus explaining to client, my review, obtaining client signatures, processing to court, and handling the documents when they are returned for service.

Our office only charges one rate regardless of who does the work.

Erin Schmidt

If you "do these kinds of cases so often, you could do them in your sleep" you should already have some sort of billing practice established. How have you been doing this so far?

I'm a true solo, so I don't have to deal with this, but I'd say that if you did this on an hourly basis, you charge for your review time and your assistant's time (whatever you bill him or her out for).

I only do uncontested divorces with no kids and no property issues (so you can imagine how often these come up) and I charge a flat fee.

Nicholas Proy, Maryland

PLEASE remember when billing that it's not just about how long it took to complete the documents. It's about your background and education that gives you the expertise to know what your client needs, the time and research it took to create the original templates of the documents, and the advice you give the client along with the documents. Don't sell yourself short just because you've gotten these procedures down to a science.

Just my \$.02 as a paralegal who's done a LOT of billing for attorneys over the years.

Karen Fetter
Freelance Paralegal, South Carolina

This may vary by state, but in California, if you agree to bill by the hour, then (generally speaking) you can only bill for the actual time spent. You are allowed to bill in increments

of 15 minutes (quarter hours), and if you bill in tenths of an hour, you can charge for a minimum of two-tenths, but other than those sorts of provisions, you cannot bill for "phantom time."

As Rick said, that's the big argument for flat-rate billing. You could, of course, have flat rates for specific tasks (such as "\$500 to draft and file the divorce petition") if properly disclosed -- it doesn't have to be a flat rate for the entire case. But if the agreement with the client is for hourly billing, you can't bill for time that someone else would have taken to do the project. That sort of thing is supposed to be reflected in your hourly rates.

-Brian
Brian H. Cole, California

I don't understand why this is a question. You agreed to handle the case on an hourly basis, and you are obligated to charge by the hour.

And you certainly are entitled to bill for your expertise and experience. That is why your hourly rate is higher than your secretary's rate. You cannot lie about the time it took.

Go to a minimum fee, as suggested earlier - figure out what you want to charge for the work you described and charge it, up front, in your retainer agreement, with an hourly rate thereafter.

Mark

Mark J. Astarita, New York