

Let's Discuss Expenses Charged to Client

I recently was local counsel on a case with a much larger firm and it was interesting to see their costs breakdown. However, I think it would be more interesting to talk to fellow solo and small firm people about what expenses you track and charge to clients.

I always have kept track of parking, even when it's \$2.50, and of course any travel expenses (Except when I moved away from the location of the case, because that didn't seem fair to make my clients pay for me life choices. But if someone in West Texas cannot find a local counsel and hires me? I charge air/hotel/gas, whatever it takes.) Also I pass on charges for investigative reports and postage, but only large postage amounts, not \$.45 stamps.

How about you? What costs do you pass on and how do you go about making your choices?

I came to my system by roughly balancing the difficulty/annoyance in tracking the costs with the dollar amount.

I would be curious how you all track the costs you pass on as well.

Amy Clark Kleinpeter, Texas

I bill for all out-of-pocket expenses including travel mileage. That said, I do not bill for first class mail (envelop large or small so long as it is not priority mail or more). I charge for out-of-pocket copying when I need to pay (e.g., courthouse copier) but I do not charge for in office copies. I do not charge for faxes sent or received. I do not charge to scan documents. I charge for legal research if my plan does

not cover the cost and it is not feasible for me to visit the law library to gain access there (I have yet to bill a client for legal research costs).

I agree with the difficulty/annoyance factor. I know some attorneys who charge by the page for fax, copy, print, scan material as well as for every stamp. I see these items as overhead costs for the business, they do not as the costs are attributable to a client's case. I saw the log sheets used to track these items; talk about an annoyance factor. Besides, what client wants to see a charge for x pages for fax, x pages for copy, etc. at \$y per page?

Much of my work is flat fee plus expenses. I would like to get that down to flat fee only (upfront of course), but... I am out of the trial court now, focused solely on appellate work. That helps in the expense accounting.

Very truly yours,

William M. Driscoll, Massachusetts

Many things should be included in your hourly rate - like most stamps, printing in your office, paper for the printer, faxing and so forth.

But you should be able to charge for extras. So if my client wants me to courier something or overnight it, then that would be an expense they would pay for.

Travel time is a bit different. For example you should either charge mileage for driving to court or time but not both. Your hourly rate should reflect which way your charging. Parking may or may not be an additional expense. It would depend on how you do it. If, for example, you pay for a monthly parking pass for court, then that charge should be reflected in your hourly fee. If you pay on a case by case basis, but it's fairly regular, then that could go either way

If you're doing flat fee plus expenses, then mileage and parking would be legitimate expenses to charge to the client. Mailing a letter to them would not, unless you're doing it in a special way for that client.

Long term travel which needs airfare and hotel accommodations would be outside the norm of typical representation and thus the expenses properly charged to the client, but I would not charge the time it takes to travel there or if I did it would be at an extremely reduced hourly rate

Erin M. Schmidt, Ohio

As to how I track, any expense entered into QuickBooks asks for a client and project associated with it (it can be left blank), and has a checkbox to indicate that the charge is billable. When generating an invoice, I can include the charge and pass it through, or include the charge and hide it (thus reflecting as an unrecovered cost). If it's too small to have its own charge in QuickBooks (with the expense of chargeable postage, which I break out as line items when I replenish Stamps.com), it's too small to bother collecting.

As to what I include, the following is from my Fee Agreement:

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FEES: References to Fees in this agreement specifically refer to the amount to be paid by the Client for professional legal services, whether provided by a lawyer, paralegal, or other employee or contractor of the Firm. Fees do not include costs related to any filing or ancillary transaction required for the pursuit and resolution of this Matter. Items not included in Fees are referred to as "Costs." Common terminology used in attorney fee agreements, and the Firm's general policies regarding fees and billing are set out in the leaflet Billing Policies and Procedures; if you have not already received a copy, please ask for one.

...

COSTS: Costs include, but are not limited to: court costs, court filing fees, service of process, travel-related expenses, and any other costs incurred by the Firm that are specific to the pursuit of this Matter. The Firm does not charge or surcharge for routine postage and administrative expenses, trivial copying, routine legal research, etc. Any specific administrative cost greater than \$5 may be billed. Costs will be billed monthly (if any charges are outstanding), and the Firm will strive to notify the Client of any foreseeable expenses greater than \$50 before they are incurred. If the Matter proceeds to litigation, the Firm may request, and the Client agrees to advance, as much as \$500 to cover these expenses, or the actual amount of the expense if it exceeds \$500 (e.g., a court reporter for a deposition). Any such advances and any charges made against them will be reported on a monthly statement and replenished as necessary. If especially high expenses are anticipated, we can discuss options for securing third-party financing for those expenses. The following is, without limitation, a list of estimated costs that could arise in resolving this Matter:

- Filing Fees, Superior Court: \$200
- Filing Fees, District Court: \$150
- Filing Fees, Magistrate Court: \$96
- Issue of Summons: \$15
- Filing Fees for Motions: \$20 (per filing)
- Service by Sheriff: \$30 (per party served)
- Service by Certified Mail: \$6 (per party served, estimated)
- Service by Designated Courier: \$15 (per party served; estimated)
- Private Personal Service: \$75 (or more for parties avoiding service)
- Service by Publication: \$231 (Winston-Salem)
- Service by Publication: \$175 (Greensboro)
- Service by Publication: \$250 (varies; estimated)
- Private Investigator: \$75 (and up; varies widely)
- Publication of Legal Notices: \$75 (and up, varies by locale and notice)
- Mediator Fees: \$300 per hour (varies; split by parties)
- Arbitrator Fees: \$300 per hour (varies; split by parties)
- Certified Copies of Records: \$15 (varies by document; estimated)
- Recording with Register of Deeds: \$26 (varies by document; estimated)
- Travel: \$0.50 (per mile; or IRS rate if higher)
- Travel Expenses: Varies

Richard J. Rutledge, Jr., North Carolina

The costs I pass along to clients are:

FedEx or other overnight delivery

Certified mail charges above the actual postage

Out-of-the-ordinary postage - for example, serving lots of adjoining landowners with notice of a zoning hearing.

Copying costs for large jobs such as exhibits that are not done "in house".

Filing fees or other such costs "advanced" (I don't usually advance costs, but will occasionally depending on the client).

All of these are charged at cost - no add-on. My representation agreement details what costs the client is responsible for.

I don't charge clients for parking, tolls, travel, etc. - I itemize those on my taxes. Travel time is billable at my regular rate. I guess if I was flying somewhere, had to stay in a hotel, etc., I would have to consider passing those costs along, but it has never come up for me.

My philosophy is that my hourly rate should cover overhead, and overhead includes the normal costs associated with running a law practice, which I feel are day-to-day postage, copies, etc.

Caroline A. Edwards, Pennsylvania

I charge for all copies - its how I pay for my nice copier - but I charge a lot less than commercial places for similar quantities. And less than almost all law offices. Faxes or scanning I charge time for, b/c its almost always done along with document preparation and mailing.

Travel - if I bill hours, I don't bill mileage. If I don't bill travel hours, I bill mileage and gas, mileage at this year's IRS tax rate per mile.

I try to use any travel time I'm not driving to work on a case. This is usually a matter of delaying 1-3 hours of work until I fly. Prep for a hearing the next day is a good example; I can do that while travelling.

Larry Frost, Minnesota

Yes but I know folks in all sorts of businesses that charge the client for the time to travel and then charge the other clients for working on their cases while they travel. I don't see any problem with charging for work you do while traveling, but I don't necessarily agree with charging full rate JUST for the traveling itself.

Erin M. Schmidt

If you don't want to nickel-and-dime clients with charges for regular copying and postage, how about adding a 2-3% administrative charge to your fees, reserving the right to charge for higher-ticket charges such as FedEx, a zillion copies, and certified mail?

jennifer j. rose, Mexico

Precisely. Wrap it into the fee. I find it odd that some attorneys send their clients a bill that itemizes such expenses as they do time charges. Monday: 2.4 hours composing document; print 10 page document at \$0.10 per page for \$1.00; fax document to client at \$0.50 per page for \$0.50; mail client a hardcopy to review incurring \$1.23 in postage...

William M. Driscoll

Charging for copies and postage is a way for the client to be aware of what things cost. I only charge for postage over a standard stamp - copies over 25 pages. I don't do the \$10 fax.

I do a bit of family law - I have clients that want me to file a phone book - I tell them "you know - I have to make 5 copies of this".

Some clients will provide multiple sets of copies to avoid fees. Others will pick up items from my office to avoid postage. Some may arrange for service to avoid process service fee. I am a solo - it reduces my load so I can turn to more lucrative activities - rather than copying 500 pages of discovery responses.

I'd be afraid of the 2 -3 % service fee. If one is doing that - you may as well raise your rate. My clients might freak.

P. Jayson Thibodaux, Washington

My reasoning on this is that the client has asked me to devote that time to the client's matter. If I were not travelling, I would have the opportunity to use the time for something else. This is all clearly set forth in my representation agreement, and I have never had an issue.

Usually I'm driving - but if I do have the opportunity to work on another client's matter during travel time, then during the time I am working I am only billing the client for whom I'm doing the work, not the client for whom I'm travelling. Similarly, if I travel to a municipal meeting at which I'm going to be representing clients on two different matters, the travel time gets split between them.

Caroline A. Edwards

I add 8% to each invoice to cover soft costs and this is explained to clients at first meeting and on retainer agreement. I haven't had a complaint from a single client and I've had this as part of my invoice for nearly ten years. The addition gives me a bit of wiggle room to reduce an invoice by that amount if a client seems to need some sort of discount. I add additional charges for FedEx or other extraordinary expenses. I think clients recognize the volume of paper generated and I explain that they are paying for my time and expertise - not binders, folders, paper, postage, etc., that is generated and leaves the office. I would find it too annoying and time consuming to actually count pieces of paper and keep up with regular postage, etc.

Vicki Levy Eskin, Florida

I took the 2-3% as a fee adjustment, not an additional cost, but I see the point. A GP may charge the fee adjustment as a cost to cover the extra costs in a case requiring significant overhead (e.g., divorce).

I like your use of the charge for copying over a certain limit. When I was doing trial court divorce work I wrapped the overhead cost into my fee; but some cases require much more than others. I had several cases requiring multiple copies of discovery that numbered in the hundreds of pages for each copy. That does add up quickly!

Very truly yours,

William M. Driscoll
