

**Legal Fee**<sup>(TM)</sup>  
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Expert Services

# A Client's Guide to Hiring a Legal Fee Expert

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# David H. Paige, Esq., Testifying Expert:

- ▶ David Paige, a litigator and former general counsel, with over 30 years of experience and in-house counsel, has been qualified by courts in many states as a testimonial expert regarding the reasonableness of legal fees. A frequent speaker at major conferences such as the ABA and the American Judicial Conference, Mr. Paige has been quoted in major publications such as the Wall Street Journal and Forbes on legal billing issues.
- ▶ Under Mr. Paige's leadership, LFA's highly experienced attorney staff utilize well-accepted commercial standards and ethical precedent to construct precise, meticulously documented analyses of fee disputes.
- ▶ Sample areas of report analysis:
  - ▶ Unfair expenses
  - ▶ Rate analysis
  - ▶ Disproportionality
  - ▶ Clerical/administrative work
  - ▶ Efficiency analysis - staffing issues
- ▶ Because of its strong staff and deep experience, Legal Fee Advisors is capable of completing a rapid, objective analysis of disputed fees from a local and national perspective.
- ▶ LFA's extraordinary attorney staff have reviewed hundreds of millions of dollars in fees, applying the law and standards of many states. Efficient, accurate and thorough analysis are core values.

# Typical Legal Billing Disputes:

- ▶ **Statutory and Commercial Fee Shifting Disputes:** Fees shifted to the “losing” party in many contracts and some statutes allow the award of “reasonable” attorneys’ fees to the victor, usually determined under state standards. An objective analysis of reasonableness can focus and qualify the final award, using well-accepted commercial standards, ethical opinions and legal precedent.
- ▶ **Attorney-Client Fee Disputes:** Clients may find that their counsel has billed in unexpected and potentially unfair manner for legal services. LFA will perform a comprehensive analysis of whether the disputed fees conform to applicable legal and ethical standards. Many such disputes are resolved through negotiation or arbitration/mediation.
- ▶ **Insurance-Related Fee Shifting Disputes:**
  - ▶ Conflict Counsel Fees: Many jurisdictions allow insureds to shift the “reasonable” fees of their counsel to their insurer. Objective analysis of the fees of conflict counsel assures that accepted standards are applied to such fees.
  - ▶ Fees Incurred by a Self-Insured Entity: Self-insured entities may not always apply reasonable standards for retention of counsel, leaving insurers to make certain that fees are up to ethical, legal and commercial standards.

# Typical Legal Billing Disputes (cont.):

- ▶ **Potential Fraud:** Clients sometimes discover that counsel may have charged fraudulent fees. LFA performs confidential multi-year fee audits to uncover improper billing practices, and facilitates resolution.
- ▶ **Indemnity of Fees for Directors and Officers:** It is common for corporations to bear the obligation of indemnification of directors and officers in some disputes. Objective fee analysis ensures that such fees are reasonable.
- ▶ **UK Fee Issues:** Many US clients are unfamiliar with UK billing traditions. LFA assists clients in ensuring that such fees are fair and reasonable.

# Choosing a Legal Fee Expert: 5 Main Criteria

- 1. Background in Commercial Litigation?**
- 2. Previous Experience as a Testifying Expert?**
- 3. Familiarity with Legal and Ethical Standards?**
- 4. Familiarity with Commercial Best Practices?**
- 5. Transparent, Line-by-Line Analysis of Fees?**

# Choosing a Legal Fee Expert: 5 Main Criteria [cont.]

- 1. Background in Commercial Litigation?** The expert should have a background in commercial litigation, so that the expert can personally evaluate the fees at issue from experience. Testifying from the expert's direct experience is compelling, and useful to the court.
- 2. Previous Experience as a Testifying Expert?** Significant experience testifying as an expert on legal fees ensures that the expert's work has been subject to scrutiny, and that the expert's methods are sound.
  - ▶ *Ask: Do you believe that the expert will be convincing?*
- 3. Familiarity with Legal and Ethical Standards?** Legal fee experts should be familiar with the concepts set forth in ethical rules and various ABA opinions concerning legal billing practices.
  - ▶ *Ask: To see examples of prior opinions to review the thoroughness of the expert's work.*

# Choosing a Legal Fee Expert: 5 Main Criteria [cont.]

- 4. Familiarity with Commercial Best Practices:** The expert should be familiar with current commercial best legal billing practices. This will aid the court in understanding how a “reasonable” client would react to the disputed fees.
  - ▶ *Ask: Does the expert know what commercial clients consider to be a “fair” reasonable fee?*
- 5. Transparent, Line-by-Line Analysis of Fees:** The expert should perform a detailed examination of all fees - not relying upon a “general” impression, or a computer assisted analysis as a substitute for review.
  - ▶ *Ask: Will the expert be performing a line-by-line analysis of all billings? Will the expert supply back-up data showing how the analysis was conducted?*



# LFA: Qualified Legal Fee Experts:

- ▶ Unique insight into generally accepted commercial billing practices in the United States and Internationally. LFA works with commercial clients on a daily basis to obtain compliance with reasonable billing standards. This allows Mr. Paige to opine on a fee sample's "reasonableness" as compared to what most clients would pay.
- ▶ Real world experience as practicing attorneys.
- ▶ Does not depend upon computer-based bill analysis, but instead employs careful line-by-line analysis, backed up by transparent data and analytics. Computerized billing analysis usually lacks the insight necessary to fairly analyze contested legal billings.
- ▶ Understands privilege, the expert process and his or her role in ensuring success. An experienced expert will understand how to construct a useful report, and the importance of preparation for testimony.

# Expert methods that are not recommended:

## “Net” Opinion: (Overall Cost Evaluation)

The expert determines whether, in their opinion the sum total of the legal fees are reasonable, given the nature of the underlying matter, and the fees charged by the law firm *as a whole*. Standing alone, this is a vulnerable practice, as the expert performs no line-by-line analysis.

▶ This method is not recommended.

## Software Analysis of Bills: (No line-by-line review)

This method involves automated scans of invoices for pre-set keywords and sets of words associated with certain objectionable billing practices.

▶ This method is not reliable and not recommended.

# How should a Fee Expert conduct their analysis?

Some of the best methods for conducting a fee analysis:

## Rate Analysis:

The expert reviews the rates charged by the timekeepers using objective data, and decides the reasonableness of the fees in light of those rates.

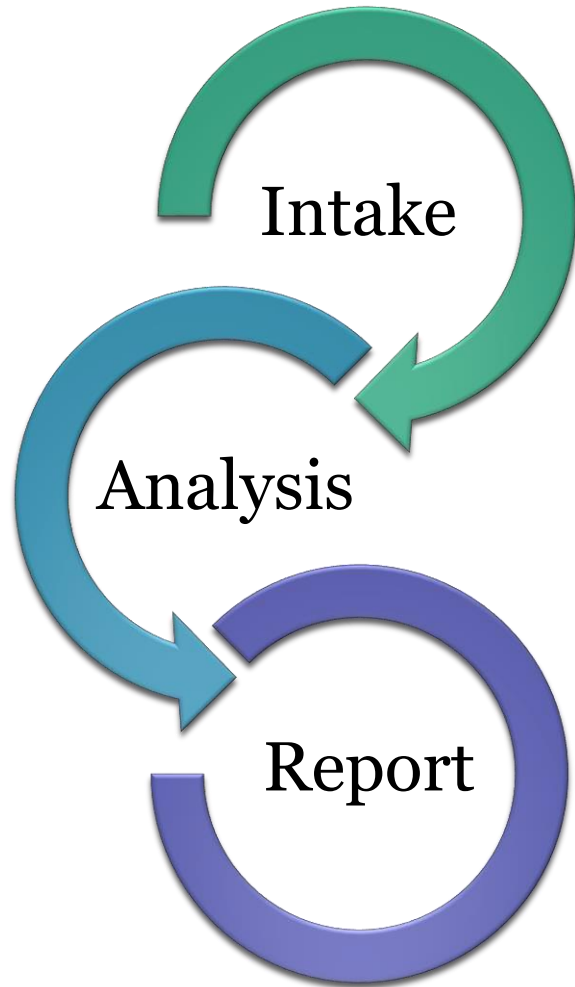
▶ LFA's Method

## Line by Line Analysis:

The expert conducts a line-by-line review of the fees. Line by Line Analysis enables the expert to provide a complete and objective opinion on the fees by applying legal and ethical standards, as well as generally accepted commercial standards, to every entry.

▶ LFA's Method

# How we do it:



- ▶ **Intake:** Obtain invoices, retainer agreements, relevant court documents and prepare for analysis
  - Conduct initial review of applicable case law, commercial and ethical standards. Gather work product samples if needed.
  - Identify objectionable billing practices presented in bills
- ▶ **Analysis:** Conduct line-by-line analysis of invoices
  - Objective processing. Line-by-line review. Compare work product to charges as required. Compile resulting data, preserving full transparency of all aspects of analysis
  - Calculate total dollar and hourly values of objectionable charges and prepare metrics
- ▶ **Report:** Draft report detailing findings and the bases for opinions
  - **Final Report** typically includes:
    - Detailed reporting on dollar amount of each objection and percentage compared to total fees
    - Support in the form of commercial standards, ethical opinions, and case law
    - Full back-up of billing analysis and illustrative examples

# LFA Success Stories:

- ▶ LFA was hired by the General Counsel of a large distributor of home theater products who, after initial review of their invoices, felt they were being overcharged. LFA conducted an analysis of the invoices and created a report that served as the basis for discussions between the General Counsel and their outside counsel. The discussions resulted in a 20% reduction in fees and an implementation of better billing practices.
- ▶ LFA was hired by an intellectual property advisory firm after they were ordered to pay opposing counsel's fees. LFA conducted an analysis of over \$100 million in legal fees in under two months and provided expert testimony, resulting in a 25% reduction in fees.

References available upon request.

# Legal Fee Expert Retention Checklist

## Qualifications:

- ▶ Previous experience as testifying expert. ✓
- ▶ Background in commercial litigation. ✓
- ▶ Familiar with legal and ethical standards on legal billing practices. ✓
- ▶ Familiar with generally accepted commercial standards. ✓
- ▶ Report sample is compelling. Gives ethical and legal precedent. Supplies full line-by-line analysis with report. ✓

## Methodology:

- ▶ Net Opinion X [not recommended]
- ▶ Rate Analysis included ✓
- ▶ Software Analysis. Not line-by-line analysis. X [not recommended]
- ▶ Line by Line Analysis of fee entries ✓

# How to get started:

We will be happy to discuss your unique circumstances and create a tailored solution that will quickly and successfully achieve the best results for you.

LFA can perform expert services:

- On a flat fee basis; and
- On an expedited schedule in many cases.

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