



MOUNTAIN BRIEFS...

by Christopher D. McIntire, Esq.

The legal column for non-lawyers

Today's column is about lawyers who work for governments, corporations, and insurance companies. There is no better introduction to this topic than the story: "A lawyer died and arrived at the gates of heaven. When he announced his name to St. Peter, Peter called the prophets, saints and apostles, along with a good number of others who crowded around the lawyer congratulating him and remarking about how good the lawyer looked. Somewhat surprised, the lawyer asked: 'I don't mind this attention, but what makes

me so special?' St. Peter replied: 'Well, I've added up all the hours for which you billed your clients, and by my calculations, you are 212 years old.'"

This is where most of the "cost" is in the high price of legal services. The problem is not the lawsuits; the problem is the "hourly rate."

Agreeing to hire a lawyer for an "hourly" rate is no different from hiring a plumber to fix your plumbing system at an "hourly" rate. And you can bet that if your plumber is driving a Mercedes, the job is going to be big, expensive, and may even

exceed the value of your house. In the same vein, it is not untypical for lawyers charging hourly rates to charge fees which exceed the value of a case by three, four, and even 10 times.

And to the same extent that an "hourly rate" plumber would justify an extensive, chrome-plated plumbing system as "necessary" for the function of a house, the hourly-rate lawyer is just as able to justify his or her fees as necessary no matter how high a fee is charged.

One of the most outrageous justifications for fees was one I was instructed to make while practicing big-city law: "The client will save \$10 for every \$1 spent defending the case by dissuading other lawyers or plaintiffs from filing suit." It is, of course, impossible to demonstrate such a negative, but it is amazing how many people fall for such an argument.

The second justification for fees out of proportion to the value of a case is, of course, the concept that

The Bear Valley Voice • Friday, August 16, 1996 • 5

some "principle" is involved, although usually the "principle" ends up to be simply the need to defend a defective product line, a bad government decision, or big legal bills.

So costs rise. In published decisions where clients resist attorneys' fees as excessive, courts have noted that some attorneys have billed more than 300 hours to a file in a single month (about 75 hours of billable time per week) and more than 24 hours in a single day. In the 1980s, this type of creative billing was rampant. It was typical in a case deemed "major" by the hourly-rate law firm to double- and even triple-staff a case so that three lawyers will appear at a deposition instead of one, three lawyers will appear at a motion instead of one, etc. The cost, of course, trebled.

In the late 1980s, industry responded to this practice and several large corporations and insurance companies began to audit their legal bills to disclose the days in which more than 24 hours had been billed; motions which were

over-billed; and double-attorney appearances. Much routine work was moved in-house to attorney/employees, and there are examples of major corporations hiring in-house attorneys for the primary purpose of auditing the bills of outside (sometimes referred to as "out-house") attorneys. The result of this internal auditing procedure was the "legal recession" of the late 1980s, lots of unemployed or underemployed lawyers, and a scramble by larger law firms for clients.

This scramble found that one of the areas most receptive to the influence of larger law firms was municipal governments. While larger governments, such as the City of Los Angeles or County of San Bernardino, followed the guidance of business and retained in-house attorneys to audit bills and handle routine matters, municipal governments do not have such discipline. And (while this may be uncomplimentary to many enjoying government positions) municipal

governments, like those which permeate the Big Bear Valley, do not have sufficient sophistication to criticize the conduct or recommendations of a large law firm. The result is that larger firms look towards small government to replace profits, and government budgets have gone through the roof. We need not look off the hill for an example of this result, for the City of Big Bear Lake — with a full-time population of less than 6,000 — has an annual legal budget of \$800,000. No business would tolerate such numbers.

And so the story continues: "A mason refused to carve a gravestone requested by the wife of a deceased lawyer. The wife proposed that the stone read, 'Here lies a lawyer and an honest man.' The stone-mason refused to carve a gravestone for a grave which would obviously hold more than one person."

Next week, what does the practice of law have to do with "fire eaters?"

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