COURT ORDERED ATTORNEY’S FEES: DETERMINING AND CHARGING AN ETHICAL AND APPROPRIATE FEE

CHARLES M. WILSON, III
Law Offices of Charles M. Wilson, III
3500 Oak Lawn Avenue, Suite 400
Dallas, Texas 75219-4371
(214) 584-9119
FAX: (214) 584-9015

State Bar of Texas
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CHAPTER 9
Following graduation from the University of Texas School of Law, Charlie clerked for Justice Clarence Guittard with the Dallas Court of Appeals.

Charlie is board certified in Family Law (1982), Personal Injury Trial Law (1981), and Civil Trial Law (1981) by the Texas Board of Legal Specialization, and has practiced in those areas in Dallas - Fort Worth/North Texas area since 1975. He currently serves his second term on the Texas Board of Legal Specialization’s Family Law Advisory Panel.

From 1995 thru 2001 Charlie served as a member of the District 6 Grievance Committee, which covers Dallas County, serving as a panel chair for several years and the overall Committee’s chair in 2000-2001.

From 1991 to 1994, Charlie served a 3 year term on the State Bar Board of Directors.

He received a Presidential Citation for outstanding service to the State Bar of Texas in 1999.

Charlie was the 1991 recipient of the Gene Cavin Award for Excellence in Continuing Legal Education, the highest award given in the C.L.E. area by the State Bar of Texas.

He is a charter member of the College of the State Bar of Texas, and currently serves on the College’s Board of Directors. He is the Course Director for the College’s Spring Training Course in 2003 - 2006.

He is a sustaining Life Fellow in the Texas Bar Foundation and from 1997 through 2001 was a Trustee for the Texas Bar Foundation, serving as the Chair of the Board of Trustees in 1999 to 2000.

Charlie is a past president of Dallas Trial Lawyers and a past chairman of the Fee Dispute Committee of the Dallas Bar Association.

He is an advocate in the American Board of Trial Advocates, and a Master of the American Inns of Court - Annette Stewart Inn.

Charlie has served on (1) the Dallas Bar Association’s Judiciary Committee, (2) the Family Law Section Board of Directors and (3) has worked in the Pro Bono clinics in Dallas.

In the area of Continuing Legal Education, Charlie is a past Chairman of the State Bar’s CLE Committee (1989-91), he has also been a member of the MCLE Committee (1989-91). Charlie is a current member of the State Bar’s CLE committee.

Charlie has been a frequent author and speaker for the State Bar of Texas and has served as Course Director for: the Advanced Civil Trial Course; Advanced Personal Injury Course; Ultimate Trial Notebook Course; Advanced Worker’s Compensation Course; & Ultimate Pretrial Notebook Course.

Charlie served as one of the authors of Volume II of the Texas Pattern Jury Charge and frequently speaks in the areas of trial tactics, family law, torts, evidence, procedure, grievances and professional negligence. He has also served as an Editor for the Texas Bar Journal.

Charlie is admitted to practice before the District Courts of all four United States Districts in Texas, as well as the Fifth and Eleventh Circuits and the U.S. Supreme Court.
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COURT ORDERED ATTORNEY’S FEES: DETERMINING AND CHARGING AN ETHICAL AND APPROPRIATE FEE
BY CHARLES M. WILSON, III

I. SCOPE OF THE ARTICLE

This article addresses the topic of court awarded attorney’s fees in Texas. As litigation costs have dramatically increased, the recovery of attorney’s fees has become an increasingly important factor in the trial or settlement of litigation. “This attorney’s fees case is a prime example that litigation is an expensive sport.” – Justice Phillip Hardberger, of the San Antonio Court of Appeals, in Herring v. Bocquet, 933 S.W. 2d 611, (Tex. App- San Antonio, 1996, reversed, 972 S.W. 2d 19 (Tex. 1998). The Fifth Circuit Court of Appeals has said that “… a reasonable attorney’s fee is one that is ‘adequate to attract competent counsel, but… [that does] not produce windfalls to attorneys’,” Leroy v. City of Houston, 906 F.2d 1068, 1078-9 (5th Cir. 1990)(applying Texas Law)(citing Blum v. Stenson, 465 U.S. 886, 104 S.Ct.1541, 1548 (1984)).

It is hoped this paper will help Texas attorneys to better understand this issue, by addressing the most common questions presented in this area.

The author wishes to express his appreciation to his daughter, Julie Celeste Wilson, for her invaluable assistance in the preparation of this paper.

II. THE NATURE OF ATTORNEY’S FEES

Attorney’s fees are in the nature of costs and not damages. City of San Benito v. Ebarb, 88 S.W. 3d 711 (Tex. App.- Corpus Christi 2002, pet. denied). Thus the court in San Benito held that a request for attorney’s fees against the state, in a declaratory judgment action, was not a suit for damages, as the attorney’s fees are in the nature of cost, not damages. See also Williams v. Compression Engineering Corp., 704 S.W. 2d 469, 474 (Tex. App. – Houston [14th Dist.] 1986, writ ref’d n.r.e.), and 20 AM. JUR. 2d Costs section 72 (1965).

The issue of attorney’s fees is addressed to the trial courts’ discretion. In Heritage Resources, Inc. v. Hill, 104 S.W. 3d 612 (Tex. App- El Paso 2003), the prevailing party in an oil and gas case sought $5,965,536.00 as attorney’s fees in a Declaratory Judgment Action that was part of what the court described as “marathon litigation”. The Trial Court’s award of $25,000.00 was upheld on appeal-highlighting the power of the Trial Court’s discretionary power.

III. WHEN CAN A PARTY SEEK THE RECOVERY OF ATTORNEY’S FEES?

A. The General Rule

1. In Texas the general rule is that each party pays its own attorney’s fees. Turner v. Turner, 385 S.W. 2d 230, 233 (Tex. 1964).

2. In Texas attorney’s fees can not be recovered from adverse party, unless provided for by statute or by contract between the parties. Dallas Central Appraisal District v. Seven Investment Co. et al, 835 S.W. 2d 75, 77 (Tex. 1992); Holland v. Wal-Mart Stores, Inc., 1 S.W. 3d 91, 94 (Tex. 1999).

   a. This rule is more than 100 years old and is generally called “The American Rule.” Tony Gullo Motors I, L.P. v. Chapa, 212 S.W. 3d 299, 310- 314 (Tex. 2006).

   b. The provision for attorney’s fees in a contract or statute, must be express and can not be implied. Travelers Indemnity Co. v. Mayfield, 923 S.W. 2d 590, 593 (Tex. 1996); Caesar v. Bohacek, 176 S.W. 3d 282 (Tex. App. – Houston [1st Dist.] 2004).


3. In rare cases a claimant may recover attorney’s fees under the principles of equity, based on the theories of (1) the common fund doctrine or (2) attorney’s fees as damages.

   a. The common-fund doctrine is based on the concept that equity requires those who receive the benefits of a lawsuit to bear their share of the cost. A class action or a shareholder’s derivative suit are examples of this type of case. The claimant under this theory must show:

      (1) The claimant maintained the suit at its own expense;

      (2) The suit benefited others;
(3) The suit created a fund from which attorney’s fees can be paid.


b. Attorney’s fees can be collected as actual damages under equity principles in some situations:

1. If the claimant, in a suit for malicious prosecution, incurred attorney’s fees defending itself in a prior civil or criminal suit brought by the defendant, those fees are recoverable as actual damages. *Dahl v. Akin*, 661 S.W. 2d 917 (Tex. 1983).

2. If the claimant was involved in litigation with a third party, that was caused by the defendant’s tortious conduct and resulted in the claimant incurring reasonable and necessary attorney’s fees, then the claimant can recover those fees in a subsequent suit against the defendant. *Turner v. Turner*, 385 S.W. 2d 230, 234 (Tex. 1964).

IV. WHEN IS A CLAIMANT REQUIRED TO SEGREGATE FEES?

A. Background

For more than 100 years Texas has followed the national trend of not allowing recovery of attorney’s fees, unless expressly authorized by a statute or by contract between the parties. This is generally called “The American Rule”.

1. Accordingly, a trial court could not require a losing party to pay the prevailing party’s fees absent a contract or relevant statute so authorizing. Likewise, if the claimant brought multiple claims for recovery, some of which allowed recovery of attorney’s fees and some of which did not, the trial court could not award fees for all actions. This resulted in a claimant, that was seeking attorney’s fees, being required to segregate fees between (1) claims for which fees can be recovered and (2) claims for which fees are not recoverable. *International Security Life Insurance Company v. Finck*, 496 S.W. 2d 544, 547 (Tex. 1973); *Hruska v. First State Bank*, 747 S.W. 2d 783, 785 (Tex. 1988).

2. A problem arose when the fees for the various claims were commingled.

B. Under the “Old” Law- In 1991 the Supreme Court addressed this problem.

1. The court established that an exception to the duty to segregate attorney’s fees arises when the attorney’s fees rendered are in connection with claims arising out of the same transaction and are so interrelated that their proof is from the same facts. *Stewart Title Guaranty Co. v. Sterling*, 822 S.W. 2d 1, 10 (Tex. 1991).

2. A new problem arose: In short order this exception began to “swallow the rule”. In virtually every case with recoverable and non-recoverable attorney’s fees, the claimant contended they were “so intertwined to the point of being inseparable” and thus all fees were recoverable under the *Sterling* decision.

C. The need for a better solution


   a. The Court admitted that the exception it created in *Sterling* was “hard to apply consistently” for the Courts of Appeals;

   b. The Court also noted the various Courts of Appeals disagreed about what makes two claims “inextricably intertwined”- with some focusing on the underlying facts, and others on the elements to be proved and still others on some combination of the two approaches;

   c. The Court further noted the Courts of Appeals differed on whether or not testimony that claims are intertwined was required.
The Supreme Court clarified the law and held:

a. The Court reaffirmed the rule that if any of the attorney’s fees relate solely to a claim for which such fees are unrecoverable, that a claimant must segregate recoverable fees from unrecoverable fees;

b. The Court modified Sterling to the extent that intertwined facts do not make non-recoverable fees recoverable but rather it is only “when discrete legal services advance both a recoverable and unrecoverable claim that they are so intertwined that they need not be segregated”.

D. When segregation is required by the facts of a case, the jury not only determines the amount of attorney’s fees, but also determines the segregation issue. Green International Inc. v. Solis, 951 S.W. 2d 384, 389 (Tex. 1997); Hruska, 747 S.W. 2d at 785.

E. For proper preservation of error, note that the party seeking segregation waives error when that party does not object to the attorney’s fees question in the jury charge on the ground that it does not provide for segregation of any fees the jury might award among recoverable and non-recoverable claims. Hruska, 747 S.W. 2d at 784-85.

V. DOES THE CLAIMANT ON A STATUTORY CLAIM HAVE TO “PREVAIL” TO BE AWARDED ATTORNEY’S FEES?

Question: Is an award of attorney’s fees under the provisions of a statute, contingent upon a finding that a party “substantially prevailed” in the case?

Answer: “Yes”… “No”… “Maybe”…

A. “No”- Texas statutes that provide that a court “may recover”, “shall be awarded”, or “is entitled to” attorney’s fees are not discretionary. Bocquet, 972 S.W. 2d at 20; D.F.W. Christian Television, Inc. v. Thornton, 933 S.W. 2d 488, 490 (Tex. 1996) (applying the non-discretionary rule to the Tex. Civ. Prac. and Rem. code section 38.001 (8)).

B. “Yes”- Texas statutes providing that a party “may recover”, “shall be awarded”, or “is entitled to” attorney’s fees are not discretionary. Bocquet, 972 S.W. 2d at 20; D.F.W. Christian Television, Inc. v. Thornton, 933 S.W. 2d 488, 490 (Tex. 1996) (applying the non-discretionary rule to the Tex. Civ. Prac. and Rem. code section 38.001 (8)).

C. “Maybe”- Under Tex. Civ. Prac and Rem. Code chapter 42 which provides:

1. Where a party makes a settlement offer;
2. And the opposing party rejects the offer;
3. And the opposing party receives a judgment significantly less favorable than the offer;
4. The “offering” party can recover its litigation costs, including attorney’s fees.

VI. WHAT ARE THE BASIC REQUIREMENTS FOR RECOVERY OF ATTORNEY’S FEES?

A. Burden of Proof

1. In Texas the general rule is that the party seeking to recover attorney’s fees carries the burden of proof. Stewart Title Guaranty Co. v. Sterling, 822 S.W. 2d 1, 10 (Tex. 1991).

2. The proof of the attorney’s fees should be by (1) the litigating attorney or by (2) an attorney who has reviewed the litigation attorney’s work, file and billings. Liptak v. Pensabene, 736 S.W. 2d 953, 957 (Tex. App. – Tyler 1987, no writ).

3. The proof the attorney should offer should include:

   a. The nature and extent of services (including hours);
   b. That the services were reasonable and necessary to the prosecution of the case;
   c. The value of the services provided (hourly rates and experience of the attorney);
   d. Usual and customary billing rates;
   e. Any testimony required to segregate fees between claims for which fees are recoverable and claims for which fees are not recoverable.
   f. Source (for a-d): Goudeau v. Marquez, 830 S.W. 2d 681, 683 (Tex. App-
B. Pleading

1. Obviously, any party seeking attorney’s fees must plead for and establish the basis for such a recovery, whether by contract, statute or by virtue of equity.

2. Practice Pointer- Any party seeking attorney’s fees shall comply with the provisions of Tex. R. Civ. P. 54, which provides:

   In pleading the performance or occurrence of conditions precedent, it shall be sufficient to aver generally that all conditions precedent have been performed or have occurred. When such performances or occurrences have been so plead, the party so pleading same shall be required to prove only such of them as are specifically denied by the opposite party.

   By pleading “compliance with all conditions precedent” a party does not have to prove compliance, unless the opposing party alleges non compliance with certain specific requirements. Knupp v. Miller, 858 S.W. 2d 945, 955 (Tex. App. – Beaumont 1993, writ denied).

C. Factors Necessary in Determining Recoverable Attorney’s Fees

1. A “short hand version” of the factors that must be considered before a trial court may award attorney’s fees are that they must be “reasonable and necessary” for the prosecution of the suit. Stewart Title Guaranty Co. v. Sterling, 822 S.W. 2d 1, 10 (Tex. 1991).

   a. The “reasonableness” of attorney’s fees is a question of fact for the jury’s determination. Trevino v. American National Insurance Company, 140 Tex. 500, 168 S.W. 2d 656, 660 (1943).

   b. The issue of are the fees “necessary” is likewise a question of fact for the fact finder. General Motors Corp. v. Bloyed, 916 S.W. 2d 949, 961 (Tex. 1996).

2. Some Texas statutes further limit the recovery of attorney’s fees award by adding the additional requirement that the court may award attorney’s fees that are “equitable and just”. (For example, the Declaratory Judgments Act has this requirement). Such matters of equity are only addressed to the Trial Judge’s discretion, as they are “questions of law” and not fact. Knebel v. Capital National Bank, 518 S.W. 2d 795, 799 (Tex. 1974).

   a. This requires a “multi faceted” review involving both evidentiary and discretionary matters, by the trial court.

   b. “Unreasonable fees can not be awarded, even if the court believed them just, but the court may conclude that it is not equitable or just to award even reasonable and necessary fees. Bocquet v. Herring, 972 S.W. 2d 19, 20 (Tex. 1998).

VII. WHAT ARE THE FACTORS NECESSARY FOR CONSIDERATION IN THE RECOVERY OF ATTORNEY’S FEES?

A. Reasonableness

   This is typically the evaluation of the amount of fees charged, the hours and billing rate of the attorney. The standard for evaluation starts with the opinion in Arthur Anderson & Co. v. Perry Equipment Corp., 945 S.W. 2d 812 (Tex. 1997), where the Texas Supreme Court held:

   1. Factors that a fact finder should consider when determining the reasonableness of a fee include:

      a. The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal service properly;
      
      b. The likelihood… that the acceptance of the particular employment will preclude other employment of the lawyer;
      
      c. The fee customarily charged in the locality for similar legal services;
      
      d. The amount involved and the results obtained;
e. The time limitations imposed by the client or by the circumstances;
f. The nature and length of the professional relationship with the client;
g. The experience, reputation, and ability of the lawyer or lawyers performing the services;
h. Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

2. These factors in Anderson were taken from the Texas Disciplinary Rules of Professional Conduct 1.04. These factors do not comprise an exclusive list according to 1.04(b) of the Disciplinary Rules.

3. Attorney’s fees must bear some reasonable relationship to the amount in controversy. Union National Life Insurance Co. v. Reese, 476 S.W. 2d 928 (Tex. Civ. App.- Houston [14th Dist.] 1972, writ ref’d n.r.e.). However, the amount of damages is just one factor to consider in determining reasonable attorney’s fees. C.M. Asfahl Agency v. Tenson, Inc., 135 S.W. 3d 768, 803 (Tex. App.- Houston [1st Dist.] 2004).

b. Necessary
This is typically the evaluation of the nature and the extent of the services rendered and whatever those actions and hours by the attorney were necessary for the prosecution of the case. This can also involve the consideration of the segregation issue. Thus the amount of work and the difficulty of the work that an attorney performs are evaluated.

1. If an attorney “over prepares” a case for trial, the opposing party should not be held liable for the attorney’s fees due to over preparing. Giles v. Cardenas, 697 S.W. 2d 422, 430 (Tex. App-San Antonio 1985, writ ref’d n.r.e.); Cordova v. Southwestern Bell Yellow Pages, 148 S.W. 3d 441, 449 (Tex. App.- El Paso 2004).

2. The overproduction, overtrying and overbriefing in a case result unreasonable and excessive fees. Allied Finance Co. v. Garza, 626 S.W. 2d 120, 127 (Tex. App.- Corpus Christi 1981, writ ref’d n.r.e.). Likewise if the court finds the case is not complicated or difficult and does not require unusual or extraordinary skills, this will reduce the amount of attorney’s fees from the opposing party. Wuagneux Builders, Inc. v. Candlewood Builders Inc., 651 S.W. 2d 919, 922-923 (Tex. App.- Fort Worth 1983, no writ).

VIII. WHAT ARE THE ISSUES IN THE PROOF OF ATTORNEY’S FEES?

A. Excessiveness
The most common complaint is that the fees charged are excessive. The Trial Court, as well as the Appellate Court, has the duty to reduce the fees sought by a party if the amount is excessive. Argonaut Insurance Co. v. ABC Steel Products Co., 582 S.W. 2d 883, 889 (Tex. Civ. App.- Texarkana 1979, writ ref’d n.r.e.).

1. “Attorney’s fees, where recoverable, must be reasonable under the particular circumstances of the case and must have some reasonable relationship to the amount in controversy or to the complexity of the issue to be determined…” Southland Life Insurance Co. v. Norton, 5 S.W. 2d 767 (Tex. Comm’n App. 1928, holding approved).

2. The recoverable fee should only be that which would be reasonable for a litigant himself to pay his own attorney. Armstrong Forest Products v. Redempo, 818 S.W. 2d 446, 453 (Tex. App.- Texarkana 1991, writ denied).

B. Com mingling
That the fee claim involves matters for which attorney’s fees are not recoverable. This issue of segregation is covered in paragraph IV of this paper.

C. Evidence
That there is no evidence of the attorney’s fees or that the evidence is insufficient to support the award.


2. Even if the evidence is not contradicted, if it is unreasonable, incredible or its belief is questionable, then such evidence would only raise a fact issue to be determined by the trier.

3. A party must supply sufficient documentation of its claim, and where the documentation is inadequate or recently compiled retrospective estimations of time expended the court will not award attorney’s fees. *United Slate, Tile & Composition v. G&M Rooting*, 732 F.2d 495, 502 (6th Cir. 1984). “The documentation offered in support of the hours charged must be of sufficient detail and probative value to enable the court to determine with a high degree of certainty that such hours were actually expended in the prosecution of the litigation” *United Slate*, 732 F.2d at 502, fn. 2.

4. Problems with the evidence of the attorney’s billings can include:

a. The billings do not identify the work sufficiently (see *Pelt* decision cited below);

b. The billings are excessively redacted—preventing reasonable analysis (see *Pelt* decision cited below);

c. Excessive “Block” or “group” billing—This involves putting a large number of entries that are for a variety of tasks together and assigning a single time number to the grouping. This type of billing can “camouflage the work a lawyer does naturally and quite correctly raise suspicions about whether all the work claimed was actually accomplished or whether it was necessary.” *Robinson v. City of Edmond*, 160 F.2d 1275, 1284 (10th Cir. 1998);

d. Billing of “long days”—the practice of routinely billing for excessive hours in one day;

e. Over conferencing:

“The learned art of billing, the first rule of which is that a lawyer spends much of his waking hours in conferences. Client conferences, phone conferences, conferences with opposing lawyers and judges and partners and insurance adjusters and clerks and paralegals, conferences over lunch, conferences at the courthouse, conference calls, settlement conferences, pre-trial conferences, post-trial conferences, name the activity, and lawyers can fabricate a conference around it.”

The Rainmaker, Chapter One, by John Grisham.

f. Over staffing—Too many attorneys and paralegals worked in a matter. “The more lawyers representing a side of the litigation, the greater the likelihood will be for duplication of services.” *Ramos*, 713 F.2d at 554;

g. Redundant activities—The same functions are repeated without proof of necessity;

h. Billing rates—The “measure” of billing rates is not the high rates which the “lions at the bar may command”, but rather an amount adequate to attract competent counsel. *Van Ooteghem v. Gray*, 774 F.2d 1332, 1338 (5th Cir. 1985).

D. Federal Court standards for proof of reasonable and necessary attorney’s fees in Texas cases.

1. In *Pelt v. U.S. Bank Trust National Ass’n*, 259 F. Supp. 2d 541, 543 (N.D. Tex. 2003) the Federal Court (applying Texas Law) held:

The applicant must show the reasonableness and necessity of the hours expended. As such, the applicant must provide the court with significant documentation that will allow it to determine the reasonableness and necessity of the fees sought. If the documentation is vague, lacking, or incomplete, the district court may reduce the number of hours awarded. *Louisiana Power & Light Co. v. Kellstrom*, 50 F.3d 319, 324, (5th Cir.) cert. denied, 516 U.S. 862, 116 S.Ct. 173, 133 L.Ed.2d 113 (1995).

2. In determining the reasonableness of attorney’s fees the fact finder must be guided by standards, and the Texas and Federal standards are substantially similar. *Guity v. C.C.I. Enterprise, Company*, 54 S.W. 3d 526, 528 (Tex. App.- Houston [1st Dist.] 2001). However, the Federal standards are generally provided in a more specific framework for analyzing the reasonableness of an attorney’s fee request. *Guity* 54 S.W. 3d at 528.
3. All four federal court districts have adopted the same specific guidelines concerning attorney time records as part of their local rules relating to bankruptcy practice. These rules are found:

a. For the Northern District of Texas-
   Local Rules Appendices, 8 “guidelines for compensation and expense reimbursement of professionals”-effective 1/1/01;
b. For the Eastern District of Texas-
   Local Rules Appendices, 9007, II “Time Records”;
c. For the Western District of Texas-
   Local Rules Appendices, L-1020.1, “Time Records”;
d. For the Southern District of Texas-
   Local Rules Appendices, procedures for complex chapter 11 cases, II “Time Records”.

These uniform standards are as follows:

A. Time Records Required. All professionals, except auctioneers, real estate brokers, and appraisers must keep accurate contemporaneous time records.

B. Increments. Professionals are required to keep time records in minimum increments no greater than six minutes. Professionals who utilize a minimum billing increment greater than .1 hour are subject to a substantial reduction of their requests.

C. Descriptions. At a minimum, the time entries should identify the person performing the service, the date(s) performed, what was done, and the subject involved. Mere notations of telephone calls, conferences, research, drafting, etc. without identifying the matter involved, may result in disallowance of the time covered by the entries.

D. Grouping of Tasks. If a number of separate tasks are performed on a single day, the fee application should disclose the time spent for each task, i.e., no “grouping” or “clumping”. Minor administrative matters may be lumped together where the aggregate time attributed thereto is relatively minor. A rule of reason applies as to how specific and detailed the breakdown needs to be. For grouped entries, the applicant must accept the Court inferences therefrom.

E. Conferences. Professionals should be prepared to examine time spent in conferences with other professionals or paraprofessionals in the same firm. Relevant explanation would include complexity of issues involved and the necessity of more individuals’ involvement. Failure to justify this time may result in disallowance of all, or a portion of, fees related to such conferences.

F. Multiple Professionals. Professionals should be prepared to explain the need for more than one professional or paraprofessional from the same firm at the same court hearing, deposition, or meeting. Failure to justify this time may result in compensation for only the person with the lowest billing rate. The court acknowledges, however, that in complex chapter 11 cases the need for multiple professionals’ involvement will be more common and that in hearings involving multiple or complex issues, a law firm may justifiably be required to utilize multiple attorneys as the circumstances of the case require.

G. Travel Time. Travel time is compensable at one-half rates, but work actually done during travel is fully compensable.

H. Administrative Tasks. Time spent in addressing, stamping, and stuffing envelopes, filing, photocopying, or “supervising” any of the foregoing is generally not compensable, whether performed by a professional, paraprofessional, or secretary.

IX. WHAT ARE THE STANDARDS FOR APPELLATE REVIEW OF ATTORNEY’S FEES AWARDS?

A. The trial court’s judgment on the award of attorney’s fees will not be reversed on appeal absent a clear showing that the trial court abused its discretion. Oake v. Colin County, 692 S.W. 2d 454, 455 (Tex. 1985).

B. The general test determining if the trial court abused its discretion in the award of attorney’s fees is whether the trial court acted in one of the following ways:

   (1) without reference to any guiding rules and principles. Downer v. Aquamarine Operators, Inc., 701 S.W. 2d 238, 241-242, (Tex. 1985);


C. To determine whether attorney’s fee award is excessive, the reviewing court may draw upon the common knowledge of the Justices of the Court and their experiences as lawyers and judges. Espinoza v. Victoria Bank and Trust

D. Where the appellate court finds the issue of attorney’s fees was not determined in the trial court, that issue may be severed and remanded to the trial court for a determination of reasonable and proper attorney’s fees. *A.V.I. Inc. v. Heathington*, 842 S.W. 2d 712, 718 (Tex. App. – Amarillo 1992, writ denied).

X. ARE FEES FOR LEGAL ASSISTANTS RECOVERABLE?

A. In *Gill Savings Associates v. International Supply*, 759 S.W. 2d 697, 702 (Tex. App. – Dallas 1988, writ denied), the court held that they value of legal assistants’ work may be recovered as an element of attorney’s fees, holding:

“That compensation for a legal assistant’s work may be separately assessed and included in the award of attorney’s fees if a legal assistant perform work that has traditionally been done by an attorney. However, in order to recover such amounts, the evidence must establish:

1. That the legal assistant is qualified through education, training, or work experience to perform substantive legal work;
2. That substantive legal work was performed under the discretion and supervision of an attorney;
3. The nature of the legal work that was performed;
4. The hourly rate being charged for the legal assistant; and
5. The number of hours expended by the legal assistant.”

B. This decision was followed in *All Seasons Window and Door Manufacturing, Inc. v. Red Dot Corp.*, 181 S.W. 3d 490 (Tex. App. – Texarkana 2005).

C. This holding does not allow for billing to include the performance of clerical or administrative duties, but rather tasks that an attorney would have had to complete—“substantial legal work”. Substantial legal work includes, but is not limited to, the following: conducting client interviews and maintaining general contact with the client; locating and interviewing witnesses; conducting investigations and statistical and documentary research; drafting documents, correspondence, and pleadings; summarizing depositions, interrogatories, and testimony; and attending executions of wills, real estate closings, depositions, court or administrative hearings, and trials with an attorney.