



REDUCING LEGAL FEES
AVOIDING HIGH LEGAL BILLS AND FEE DISPUTES
by Layne T. Rushforth

SECTION 1. OVERVIEW

1.1 **Overview:** Rushforth Lee & Kiefer LLP (“the Firm” or “we”) bills for legal services in a three different ways: (1) “by the hour”; (2) a “base document charge”; and (3) a “base fee”. This are explained in our “Fee Policies Memo”¹, which is mandatory reading for our clients. All work is billed by the hour unless we agree otherwise in writing. Any work requested beyond what is specifically included in a base document charge or base fee will be billed by the hour. Please ask questions about anything in the Fee Policies Memo that you do not understand.

1.2 **Hourly Billing:** Work that is billed by the hour always involves time that is beyond our control. Sometimes, the client can control much of the time involved, but, for court-related cases, especially disputed cases, the time required is often beyond the client’s control as well. This memo focuses on things that you, as the client, can control.

SECTION 2. CLIENT-ATTORNEY COMMUNICATION

2.1 **Communication, Generally:** Communication between a client and the attorney is a significant part of the time expended on any legal matter. In some cases, all client-attorney communication is billed by the hour. In other cases, a specified amount of communication time is included in a “base fee” or “document charge”. Either way, it is wise to make all communications more efficient. “Communication” includes all types of information interchanges, including telephone conversations, office consultations, and correspondence (including e-mail messages, letters, and faxes). The balance of this Section 2 suggests how to make your communication with us more time efficient.

2.2 **Telephone Conference:** *Consider scheduling a telephone conference instead of coming to our office for a consultation.* In practice, office consultations are often unnecessary and more time consuming than a telephone conference. We have a conference-call line and the ability to do video conferencing.

2.3 **Out-of-Office Meetings:** *Use out-of-office meetings only when essential.* Out-of-office meetings are expensive because they are always billed by the hour, starting from the time the attorney leaves the office until the attorney returns to the office.² Of course, this is in addition to the time to prepare for the meeting, the time to do a file memo after the meeting, and the time to do work that is triggered by the meeting. If an in-office consultation or a telephone conference will suffice, it will be more cost effective.

2.4 **Limit Idle Chat:** *Avoid extended discussions about other things.* We try to be friendly and conversational, but it is up to you to limit the discussion to your legal matter.

2.5 **Consolidate Communication:** *We encourage you to consolidate your communication.* If you can reduce the number of e-mail messages, phone conversations, and meetings will help keep the bill lower. Even for work that is billed using a base fee, there is a limit to attorney consultation time. Once the limit has been reached, all additional time is billed by the hour. The attorney consultation time includes all types of communication. We encourage you to communicate by us using the method you find most convenient. Sometimes a quick e-mail is best, but in some situations a phone call is more effective than typing back and forth.

2.6 **Provide Thorough Information; Avoid Giving Too Much:** *Provide completely any information we need, preferably in writing.* Much of our time preparing documents is spent in getting

needed information from the client. An interview with an attorney or paralegal to obtain information is much more time consuming than getting the same information through a completed questionnaire or in an e-mail message. When sending us documents, providing us only the pages that are pertinent to what we need will eliminate the need for us to charge you for our time to sort through and cull information from long documents.

SECTION 3. CASE MANAGEMENT

3.1 **Document Revisions:** *It is best to give us all your changes all at once, rather than asking for changes one at a time.* If your engagement agreement with us states that a revision of legal documents is included in a base fee, it only includes the first revision. All other changes to documents will be billed by the hour.

3.2 **Ripple Effect:** *Be aware that one change can trigger other changes.* For example, a change of trustee in a revocable trust will trigger the need to update your will and the certification of trust. Unless the change is included in a base fee or document charge, that will affect the fees we charge.

3.3 **Additional Services:** *Limit additional services and changes.* If you ask for additional services or if you change your mind about what we are doing for you, your legal fees will be higher.

3.4 **Court Case Tactics:** *Make cost-effective decisions on case strategy.* In probate and trust-administration cases in the probate court, some procedures and petitions are mandatory, and we can usually let you know what will be involved in those matters. In contrast, where there is a dispute or where a decision is to be made in the court's discretion, the best we can do is to advise you as to your legal options and tell you what strategy might be appropriate for your case. On such matters, you will make the ultimate decision. We can never guarantee success, and sometimes a bad decision by the court can be remedied only by an appeal (or the equivalent), which is always expensive (and also a gamble). We are unable to give an accurate estimate of legal fees in disputed court matters because of the unpredictability of the actions of opposing parties and their attorneys, as well as the decisions of the Probate Commissioner or Probate Judge. We can and do tell clients that a course of action may not be cost effective, but it is up to the clients to tell us whether they want to move forward with that course of action. (When a client tells us, "It's the principle of the thing", it almost always means higher legal fees, and it leads us to believe that the client is willing to gamble on something that is unlikely to succeed.)

SECTION 4. ILLUSTRATIONS

4.1 **New Estate Plan.** Fred and Wilma ask us to prepare a living trust with some tax-planning provisions, and they are told there is a document charge of \$3,500 for the trust, wills, powers of attorney, trust schedules, and other supplemental documents. The base fee includes two hours of client-attorney communication. For the examples below, the attorney's billing rate is \$350/hour, and the paralegal's billing rate is \$175/hour.¹

(a) **Scenario One:** The legal fees are \$4,550. Fred and Wilma do not fill out the questionnaire or provide a list of assets, and they require multiple meetings and multiple drafts, resulting in \$1,050 of additional charges, as explained below.

¹RLK's current billing rates are listed in the Fee Policies Memo, which is available at <https://www.rlklegal.com/fee-policy>.

(1) They spend an hour with an attorney providing the information requested on the questionnaire. This uses one hour of the included client-attorney communication.

(2) They have several conversations totaling an hour with a legal assistant. Instead of counting this as an included hour of communication, this is billed. (\$175)

(3) They schedule multiple meetings to discuss the various documents with the attorney totaling two hours, one of which is included in the base fee, and the last is billed. (\$350)

(4) After the second draft is done, they change their minds on some issues, which require a half hour of attorney time and an hour of legal assistant time to implement. (\$525)

(b) *Scenario Two.* The legal fees are \$3,500, which is the base fee. Fred and Wilma complete their questionnaire thoroughly and provide the information requested regarding their assets. They provide all of their desired changes in a thirty-minute telephone conversation and spend an hour and a half in a meeting with the attorney reviewing the documents. All of that is included in the base fee, and no additional charges were triggered.

4.2 Estate Plan Update. Jon and Jayne have a living trust and want to change their successor trustees. They also want to update their trust schedules to show all of their current assets. For the examples below, the attorney's billing rate is \$350/hour, and the paralegal's billing rate is \$175/hour.²

(a) *Scenario One:* The legal fees are \$1,225 for this project, calculated as follows:

(1) Jon and Jayne schedule and appointment with an attorney and spend an hour explaining all of their changes. (\$350)

(2) The paralegal spends an hour getting the details on the assets that are to be on the schedule. (\$175).

(3) The paralegal takes 90 minutes to prepare a first draft of an amendment, a new will for each spouse, a new certification of trust, and an updated trust schedule. (\$262.50)

(4) The attorney reviews and revises the documents in about 15 minutes. (\$105)

(5) Jon and Jayne review the documents, and ask the attorney to make minor changes, which takes 10 minutes. (\$70).

(6) Jon and Jayne meet with the attorney to sign the documents in duplicate, which requires a half hour of attorney time (\$175) and paralegal time (\$87.50). One set of originals is retained in our office and one is taken by the clients for their records.

(b) *Scenario Two:* The legal fees are \$507.50, based on the following:

²RLK's current billing rates are listed in the Fee Policies Memo, which is available at <https://www.rlklegal.com/fee-policy>.

(1) Jon and Jayne send an e-mail message explaining all of their changes and providing their asset information for update trust schedules. The attorney reviews this in five minutes and gives instructions to the paralegal. (\$70)

(2) The paralegal takes 90 minutes to prepare a first draft of an amendment, a new will for each spouse, a new certification of trust, and an updated trust schedule. (\$262.50)

(3) The attorney reviews and revises the documents in about 15 minutes. (\$105)

(4) Jon and Jayne review the documents, and ask the attorney to make minor changes, which takes 10 minutes. (\$70).

(5) Jon and Jayne sign the documents in duplicate on their own and have them notarized. One set of originals is sent back to our office and one is retained for their records.

(c) *Scenario Three:* The legal fees are \$385, based on the following:

(1) Jon and Jayne send an e-mail message explaining the change of trustees. The attorney reviews this in five minutes and gives instructions to the paralegal. (\$70)

(2) The paralegal takes 60 minutes to prepare a first draft of an amendment, a new will for each spouse, and a new certification of trust. (\$175.)

(3) The clients use a blank “supplemental trust schedule” form to update their asset list themselves.

(4) The attorney reviews and revises the trust amendment and certification in about 10 minutes. (\$70)

(5) Jon and Jayne review the documents, and ask the attorney to make minor changes, which takes 10 minutes. (\$70).

(6) Jon and Jayne sign the documents in duplicate on their own and have them notarized. One set of originals is sent back to our office and one is retained for their records.

(d) For the same result, the fees can range from \$385 to \$1,225. Avoiding the office consultations can save over \$600, and preparing your own trust schedules can save even more.

(e) Even though you want your fees to be reasonable, it is possible to be penny wise and pound foolish. Frequently, efforts to reduce fees can ultimately create more problems or may result in existing problems going undetected. For example, some clients who have created documents in another state have refused to pay for a Nevada attorney to review them, and the family finds out that they were poorly drafted for use in Nevada only after a death has occurred. (There is a difference between a document that is legal in Nevada and a document that is effective in Nevada.)

4.3 Probate Case: Sam Johnson died, and his daughter is the named executor under the Will. The decedent's Will leaves everything to his two children equally. Without the executor's permission, the decedent's son took his car (worth \$10,000) from the garage and is using it.

(a) *Scenario One*: The executor is angry and asks us to file a petition asserting that her brother took the car without permission and asking for treble damages. The executor is advised that the granting of the petition is discretionary with the judge. Despite that, a petition is filed, and multiple hearings are scheduled, resulting in \$5,000 in legal fees. If the court declines to award treble damages, the \$5,000 has been wasted.

(b) *Scenario Two*: To make sure that the car is properly insured, the executor and her attorney work with her brother to get the proper auto insurance policy, resulting in \$700 in additional legal fees. The executor asks the court to have the car considered as part of her brother's share of the estate and to charge his estate with the cost of arranging for the auto insurance. Unless the son objects, this will not trigger any significant additional fees.

SECTION 5. CONCLUSION

If you want to keep fees to a minimum, you can help by controlling the time that we need to spend to accomplish your objectives.

NOTE: This memo provides general information only and does not contain legal, accounting, or tax advice. For brevity, this memo is oversimplified and should not be relied on for any particular situation. Nothing in this memo can be relied upon for any specific individual's estate plan or to avoid any tax penalties.

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NOTES:

1. <https://www.rkllegal.com/firm-policies>.
2. The "Fee Policies Memo" explains special rules that apply to out-of-town meetings.