Part II: Contingent Liability
Division Specific Billing Guidelines
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Introduction

The provisions contained in these Division Specific Billing Guidelines for Contingent Liability apply to any Matter assigned from the Office of the Chief Legal Officer—P&C Litigation Group on behalf of any and all Nationwide business entities. These Division Specific Billing Guidelines do not apply to Class Actions or Mass Actions assigned by the P&C Litigation Group. Such Class Action or Mass Action Matters will be governed by the OCLO Division Specific Billing Guidelines.

The provisions below supplement the obligations of Outside Counsel set forth in the General Requirements issued by Nationwide. In the event that any provision contained in this document conflicts with a provision contained in the General Requirements, the provision of this part shall supersede and control the obligations of Outside Counsel.

Any questions about the provisions set forth in the Contingent Liability Division Specific Billing Guideline or their applicability to work performed by Outside Counsel should be directed to the Company Representative.

I. Additional Requirements

If requested, a written Project Budget must be submitted to Company Representative within 40 days of the Engagement.

Company will pay only those fees that reflect the most appropriate use of the billing professional’s time. For example, when an attorney performs a paralegal function, the attorney may only bill at a paralegal rate. If the attorney does not have a paralegal rate, a paralegal default rate will apply. See Guidelines For Tasks Performed by Paralegals, below.

When any staff member performs a delivery or messenger task this time must be charged to overhead.

Receipts are required for any expenses greater than $50.00. Credit Card receipts without a copy of a receipt from the vendor of goods or services will not be accepted.

Outside Counsel will not perform legal research in excess of three (3) hours (aggregate) without first consulting the Company Representative.
II. Minimum Invoice Requirements

A. Unless otherwise agreed, invoices shall be submitted as follows:

1. Invoices shall be submitted 30 days after engagement on a Matter, and every 30 days thereafter. For year end billing, invoices must be submitted to Company no later than November 15, unless otherwise agreed upon, for payment in that calendar year.

2. Outside Counsel agrees to submit invoices in accordance with the applicable requirements. The Company reserves the right to refuse to pay a) for activities or expenses incurred more than 90 days prior to the invoice date and/or b) invoices submitted greater than 90 days following the incurred activity.

B. Unless otherwise provided for and agreed upon by the Company and Outside Counsel, the following minimum requirements apply to all invoices submitted to the Company for payment:

1. Each Matter must be separately billed.
2. The invoice must be addressed to the appropriate Company by name.
3. Hourly fees are to be billed in tenth-of-an-hour increments.
4. Each invoice must contain/include:
   a. The TeamConnect Matter Name and the TeamConnect Matter Number.
   b. Claim Number, DOL, Policyholder Name, Coverage Code, Client ID and Business Line, and total amount billed to date on that Matter.
   c. Invoice Number.
   d. Invoice Date.
   e. State and jurisdiction in which the Matter was filed, if applicable.
   f. Firm’s Federal Employee Tax Identification Number (TIN).
   g. The name of the responsible Company Representative.
   h. A detailed description of services rendered in the Matter identifying tasks and indicating who performed each task, and the time spent for each task. Activities must be clearly described and dated in chronological order. Block, group or cluster billing is unacceptable (e.g., listing multiple activities in a single entry/time charge.)
   i. Include the person’s position in the firm (e.g., partner, associate, paralegal, etc.) and the hourly rates for each person on the case/Matter.
   j. State the period that services were performed.
   k. Identify if the bill is interim or final.
   l. Itemize disbursements and expenses separately from services. Professional fees for travel time must be separately itemized from the associated activity.
   m. If appropriate, attach third party invoices.
   n. Any applicable discounts should be presented as a separate line item on each bill (and not reflected in the hourly rate) with a subtotal showing the total discount dollar amount and discount percentage.
o. Shared bills must prominently state “shared” and the percentage due from the Company must be identified separately from the total amount.

C. Third Party Invoices: Invoices for approved third party service providers retained by Outside Counsel that are in excess of $750 shall be submitted to Company Representative for review and processing. Unless otherwise required by Company, Outside Counsel is to direct the third party service provider to ensure such invoices are made billable to the applicable Nationwide entity.

III. Procedures for Submitting Electronic Invoices

The Company no longer accepts paper invoices, except in unusual circumstances.

The Company requires all Outside Counsel to submit invoices through the LeX electronic billing system.

IV. Travel & Other Time Away From The Office

Unless otherwise approved in writing by Company Representative, travel and travel-related expenses approved by Company for reimbursement shall be included in Outside Counsel’s invoice with other services rendered during the applicable billing period.

The Company will reimburse travel expenses that are reasonable and necessary, and subject to the following:

1. Mileage does not exceed the current IRS rate.
2. Hotel accommodations are moderately priced. Meal charges are reasonable.
3. Meals in excess of $25 require an itemized receipt and will be reimbursed only in connection with out-of-town travel. Meals picked up by the firm should not be charged back to the Company.
4. Taxis or shuttles are used rather than rental cars wherever cost-effective.
5. Rental cars are not luxury class and insurance coverage is not charged to the Company.
6. Airfare is coach and, whenever possible, is reserved sufficiently in advance, and with an appropriate carrier, so as to secure the lowest rate under reasonable circumstances.

Where appropriate, the Company expects Outside Counsel to avoid unnecessary travel through such alternatives as teleconferencing and videoconferencing.

If Outside Counsel is traveling on business for more than one client, the Company expects his or her travel-related expenses to be apportioned appropriately between the clients.
V. Postage, Express Mail & Messenger Service

Generally, the Company will not pay for overnight or "express" mail. However, if requested by the Company Representative or the necessity for same is not caused by Outside Counsel (e.g., waiting until the "11th hour" to file a notice, pleading, motion, etc. which otherwise could have been timely filed without the use of express services), overnight mail may be used.

Outside Counsel should not request overnight or express service for deposition or court transcripts unless immediate production is essential or has been approved in advance by the Company Representative. The Company will not pay for postage, parcel post, or any type of express mail services.

In addition, the Company will not pay for employee, messenger delivery, or runner service except under the following circumstances:

1. To meet filing deadlines outside the control of Outside Counsel (the circumstance must be stated on the invoice).
2. When regular mail or standard efforts to serve a party or witness fail or when circumstances dictate the use of an employee messenger, delivery person or runner service (if possible, first discuss this with the Company Representative).

VI. Court Reporter Expenses

If required by the Company, Outside Counsel will use the Company preferred providers for court reporters.

Outside Counsel is expected to use sound judgment and discretion (including economic) whenever scheduling depositions and/or ordering transcripts, copies or other records of testimony. Such activities will be undertaken in accordance with any agreed upon litigation strategy developed with the Company Representative.

VII. Acceptable Expenses

The Company and Outside Counsel agree to the following acceptable expenses:

1. Six cents ($0.06) per page for copies made at your law offices, or the actual per-page charge if made elsewhere, when accompanied by an adequate explanation.
2. Actual long-distance telephone line charges for outgoing fax transmissions where applicable. No "per-page" fax charges will be honored.
3. Actual, related and necessary long-distance telephone calls.
4. Subpoena expenses, witness fees, court filing fees and costs.
5. Records depositions (i.e., records in lieu of deposition) that have been pre-approved by Company Representative.
VIII. Non-Billable Secretarial and Clerical Tasks

The Company will only pay professional legal services and does not pay for certain secretarial or clerical tasks considered part of Outside Counsel's overhead expense. The following is intended as a sample of activities that should not be billed to the Company.

1. Preparing enclosure letters.
2. Preparing proof of service notices.
3. Scheduling/re-scheduling/confirming appointments (depositions, hearings, motions, IMEs).
4. Procuring court reporters.
5. Preparing/processing invoices.
6. Locating addresses or telephone numbers.
7. Preparing mailings.
8. Faxing documents.
10. Logging in receipt of documents.
11. Calendaring.
12. Coordinating service and filing of summons of complaint, subpoenas, discovery, pleadings, motions and the like.
13. Retrieving documents from files.
15. Binding.
17. Scheduling or coordinating messenger or delivery services.
18. Checking conflicts.
IX. Unacceptable Expenses

The Company will not pay Outside Counsel’s overhead expenses, including but not limited to:

1. Case management or litigation systems.
2. Computerized research.
3. Overtime charges.
4. Rent, utilities, conference room or office charges.
5. Books, periodicals and other publications (whether hard copy or on-line).
6. Library staff and library use.
7. Local telephone charges.
8. Cellular phone calls/charges (unless due to emergency and unavailability of conventional telephone).
9. Incoming faxes.
10. Computer and word-processing equipment, including software or equipment rental, email, technology charges.
11. Office supplies.
12. Conference rooms or refreshments during meetings or conferences.
13. Seminars or continuing education courses.
14. First-class airfare.
15. Inadequately described or miscellaneous expenses.
16. Local transportation charges, including mileage, parking fees and tolls, unless the mileage traveled exceeds 50 miles one way or 100 miles round trip from Outside Counsel’s office location.
17. Meals, taxis and limousines for employees to get to and from the office (including at night).
18. Summer intern/law clerk time.
19. Expedited or multiple versions of transcripts unless approved by Company Representative.
20. Interest charges for past due invoices.
X. Unacceptable Fees

A. The Company will not pay unacceptable fees. Unacceptable fees include, but are not limited to, the following:

1. Preparing bills and invoices.
2. Responding to billing inquiries from any entity.
3. Responding to requests from auditors on behalf of Company.
4. Computing time on a billing or administrative function.
5. Billing for telephone call attempts.
6. Billing individual charges for documents sent, provided or furnished to multiple persons/parties (e.g., notice of deposition sent to multiple parties when only one notice is prepared).
9. Rescheduling depositions, hearings and the like caused by Outside Counsel.
10. Searching a file to look for particular documents, reports, etc.
11. Training of firm personnel.
12. Non-attorney/non-paralegal staff (e.g., library staff, file clerks, secretaries).
13. Secretarial work and filing/copying.
14. Managing clerk or other staff time.
15. Word processing.
17. Organizing files and indexing or collating documents produced in discovery unless approved in advance by the Company.
18. Document stamping (e.g., Bates stamping or date stamping).
19. Time spent copying or faxing documents.
20. Time spent to make travel arrangements or accommodations.

B. The following Outside Counsel and staff activities are not billable without prior approval from the Company Representative:

1. More than one-tenth (0.1) of an hour for reviewing notices, pre-printed forms, single page documents, etc.
2. Billing for transfer file review, time or expenses (e.g., billing time to educate a second attorney when the first attorney has a scheduling conflict or the file is reassigned).
3. Preparation of deposition summaries by a person other than the attorney that attended the deposition.
4. Repetitive, duplicative proofreading or editing. Edits/revisions in work are only billable if new information is obtained or is requested by the Company.
5. Using a team of attorneys to handle a lawsuit. Two or more attorneys billing on the same file is unacceptable unless the second attorney is simply "filling in" due to the unavoidable scheduling conflicts (e.g., hearings, depositions, trials) or unless a task can be delegated to an attorney with an equal or lower billing rate and the Company would not incur any additional expense for file orientation/preparation time.
6. Billing for inter-office communications or conferences (e.g., memo to file or discussions regarding file with other attorneys in office). Such communications or conferences are acceptable only if to take advantage of the experience or expertise of another attorney in the firm. If the communication is billable, only the most senior attendee’s time or the drafter of the written communication may bill time.
7. Billing for more than one attendee at a trial, hearing, court appearance, arbitration, mediation, deposition, third party meeting, conference call or meeting or any similar event.

XI. Descriptions

A. Adequate descriptions include, but are not limited to:

1. Entries for conferences and telephone calls must include the identity of each participant, including last name and title (e.g., attorney, witness, client) and the subject of the communication.
2. Entries for legal research must include a description of the particular issue(s) researched and the purpose of the research.
3. Entries for drafting or reviewing documents must identify the specific documents involved (i.e., by title, date, author, subject matter).
4. Entries for drafting or reviewing correspondence or memoranda must include the identity of the author and recipient and the subject matter of the communications.
5. Entries for court appearances must identify the location and purpose of all such appearances.
6. Entries for depositions and interviews must include the identity of each deponent, interviewee or witness, and the location of the deposition or interview.
7. Entries for discovery activities must identify with particularity the specific discovery activity performed and the nature of the task.
8. Entries for trial preparation must identify the specific trial preparation task(s) performed.
9. Entries for the drafting of pleadings must identify with particularity the pleading prepared (e.g., "Defendant's Opposition to Plaintiff's Motion to Compel Responses to Plaintiff's First Set of Interrogatories").

B. Inadequate descriptions include but are not limited to:

1. Attention to matter.
2. Review of file, case or issues.
3. Conference.
4. Review correspondence.
5. Arrangements.
6. Telephone call.
7. Discovery.
8. Trial preparation.
10. Update status or strategy.
12. Motion work.
13. Work on project or case.
15. Pleadings.
16. Prepare for meeting.
17. Work on discovery.
18. Receive/review documents.
20. Analysis.

XII. Guidelines for Tasks Performed by Paralegals

A. The following is a list of typical paralegal tasks that will usually be reimbursed at the Outside Counsel’s paralegal rate or default paralegal rate. The list is not exhaustive but is intended to provide a sample of those activities which do not always require the acumen and experience of an attorney to perform.

1. Drafting deposition notices, subpoenas and subpoena duces tecum.
2. Preparing drafts of discovery requests depending upon the complexity of the case, including requests for production of documents, form interrogatories and requests for IMEs.
3. Indexing, cataloging and organizing discovery prior to trial, including depositions, responses to interrogatories and document requests, medical records, expert reports, accident reports and witness statements (including organizing a trial binder).
4. Preparing pre-approved page line summaries (indexing) deposition prior to trial.
5. Sheparding and cite checking references to case law, statutes, rules, regulations and the like.
6. Researching procedural rules and regulations.
7. Performing pre-approved factual investigations, including: obtaining/procuring information regarding plaintiff’s injuries, including prior accidents; determining corporate name, place of business, structure, shareholders, officers, and employees. Coordinating release of information by federal, state and local governmental agencies, including the IRS, Secretary of State, Department of Motor Vehicles, and Workers’ Compensation Commission.
8. Title searching (including real and personal property) or reviewing land documents to ascertain title and related information.
9. Requesting photographs, medical and employment records.

B. Where Outside Counsel’s personal attention is required to perform any of the tasks usually performed by paralegals, the rate would be the attorney rate provided an adequate explanation is provided at time of billing.

C. Please discuss your firm’s rate and procedures for paralegal task billing with the Company Representative in your area.