

SUCCESSFUL
PERSONAL INJURY INVESTIGATION

*MASTER THE TECHNIQUES OF FINDING THE FACTS
THAT WIN CASES FOR PLAINTIFF ATTORNEYS*

FRANCIS D. "FRANK" RITTER, CLI, CII

Successful Personal Injury Investigation, First Edition

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This manual is dedicated to those plaintiff personal injury investigators, most especially my mentor, Marion Tatum, Jr., C.L.I. (Retired), who, over the past decades, have set the standard of excellence.

— *and* —

It is also dedicated with deep appreciation to my wife, Dixie, without whose love, patience, understanding, and hard work, this manual could never have been written. I love you, Dixie.

CHAPTER FORTY-TWO

CLIENT ACCOUNT SHEETS AND BILLING PROCEDURES

POSTING CLIENT ACCOUNT SHEETS

The Client Account Sheet is kept in the file, and is the place where all of the expenditures of labor and money involved in the working of a case are recorded. It is extremely important that the Client Account Sheet(s) be accurately maintained, because it is from them that the billing will eventually be prepared. It is also from this accounting that many investigator-employers compute the salaries of their investigator-employees.

This is the age of the computer, and computerized time management and billing procedures. However, the author makes the Client Account Sheet entries manually, quite literally as the event takes place, and recommends this to all investigators. If the reader prefers to make computer entries as the expenditure occurs, that is a personal choice. However, the important thing is that the entries be made as the expenditure occurs.

It is a fact of life that memories are faulty, and it is near impossible to accurately record at some future point the time spent on a particular phase of a case. There are investigators who don't make any Client Account Sheet entries until the end of the day, and in some cases, not until the end of the investigation, which can be weeks or even months after the fact. It is impossible to record, fairly and accurately, the time under those circumstances, and either the investigator will be cheated, or the attorney will be cheated.

It is recommended that the investigator get into the habit of logging the costs immediately, be they for actual out-of-pocket expenses or labor. It doesn't take any extra time, and makes for a fair and accurate accounting.

If computerized accounting is the reader's preference, there are numerous software programs that will suffice. However, this section of this chapter is designed to aid the investigator who will be doing his or her expenditure computations manually.

On the first Client Account Sheet in a file (see Figure 271, Tear Out Form #35), complete all of the heading information. This includes the information on the hiring attorney, even if this information is memorized, because others who use the file may not know this information. Also, sometimes a witness will demand proof of whom the investigator represents, and unless the investigator has a hiring letter from the attorney, there is no *real* proof. Showing the witness the Client Account Sheet, more often than not, satisfies them. This is a very useful advantage manually maintained sheets have over computerized Client Account Sheets.

SECTION THREE: *Miscellaneous*

Client <u>GOODMAN, Peter</u> Address <u>123 Local Street</u> <u>Small Town, CA 90012</u> Phone: Bus <u>310-555-1234</u> Res <u>310-555-4657</u> Year: <u>1999</u> \$ Per Hr: <u>60</u> \$ Per Mile: <u>.50</u>	Attorney <u>SMITH, Mary</u> Address <u>4000 Big Blvd., Suite 203</u> <u>Large City, CA 90120</u> Phone: Bus <u>310-555-9876</u> Res <u>310-555-4433</u> Limit 1,000 Retainer: 500
--	---

Date	Invest	Assignment	Hours	Miles	Phone	Meals	Misc	Expense Description
2/1	YI	Rec'd case	N/C					
2/2	YI	T/C AAL RE Sub	1/4					
		pickup & Del						
2/3	YI	Got Subs, served:	8 1/2	82			.75	Parking
		Jones, Smith, May,					150	Wit. Fees \$25, each
		Brown, Jackson &				7.69		Lunch
		Green						
2/4	YI	T/C Search Source	1/4		2.45		27	Computer Source
		found Wit. Black						
2/4	YI	T/C AAL	N/C		.40			
2/5	YI	Served Black	9 3/4	152		19.00		Lunch & Dinner
		Photoed POI					3.99	1 Roll Fuji 100x24
		Film in for dev.					25.	Wit. Fee - Black
		Got pic 4 sets					87.	Dev. cost

Fig. 271- TEAR OUT FORM # 35
Client Accounting Sheet

Tear Out Form #35 is a blank form available for reproduction. The form is simple, but effective, in that there is a space for every type of expenditure the investigator can make.

To the right of where the year the case was received is entered, the agreed upon hourly rate, if there is one, should be shown, along with the per-mile fee. Most importantly, be sure to write down any limit placed on the case, and any retainer received in advance, be it an actual retainer, or an advance against estimated costs. Any limit or retainer amount should be circled in red so that at billing time it is not missed.

DO NOT EXCEED THE LIMITS!

More often than not, any investigator who exceeds the monetary limit placed on a case must suffer the loss of income for all of the work performed beyond that limit.

The Client Account Sheet is laid out in columns and each column is explained below.

I. DATE:

In the column labeled "Date", place the date of each activity as it occurs. If the year changes during the investigation, enter the new year in the same column.

II. INITIALS:

The column labeled "Investigator", is where the investigator's initials are always placed. Even those investigators working solo should get into the habit of placing their initials next to every entry. Cases usually take years to resolve, and it is very common for investigators to expand their business, hiring new investigators who eventually work on older cases as new instructions come in from attorneys. The confusion of who worked what part of a case can not only be very embarrassing, but it can severely damage the credibility of the investigator should this confusion show itself during a deposition or trial.

III. WORK DESCRIPTION:

In the column labeled "Assignment", detail all of the work done on a case as it occurs. One of the most serious problems that can confront an investigator, is for that investigator to not be able to state, with great accuracy, what was done on a case. It is imperative that the function be memorialized in this section as it occurs. The use of abbreviations is not only acceptable, but preferred, as long as they can be understood. The reader should refer to list of abbreviations in Chapter Two, *File Management*.

THE DEVIL IS IN THE DETAILS!

DETAIL means a complete listing of the names of the people talked to, and places gone. State whether or not a connect was made with the intended party, or a message was left for them. List appointments that are made, including the day, date, and time. List all field activity, e.g., what was photographed and at what time. State if a diagram was drawn, etc.

DETAIL *does not mean* a summary of what was discovered or learned, nor what a witness said. Neither should the addresses of locations be placed here. This document is for accounting purposes only. It is not a record of case results!

IV. TIME ON A CASE:

In the column labeled "Hours", place the amount of time required to perform the functions described in the work description detailed in the "Assignment" column. When one hour is spent identifying photographs, state "Photo ID" in the Assignment Column, and enter the number "1" in the hour column.

Time spent on a case is recorded in hours and fractions thereof. Whatever the time increment used, be sure it is used consistently throughout the entire case. It

SECTION THREE: *Miscellaneous*

sometimes happens that an investigator will change the increments in which his or her time is billed. It is recommended that the change-over take place with new cases as they come in, and not make the change in existing cases. Mid-stream changes of this nature can be very disconcerting to the attorney. Also, the time increment chosen should be used consistently in all of the cases. It is both unprofessional, and bad accounting, to bill different attorneys in different time increments. Even though an investigator may have different rates for different attorneys, perhaps owing to a volume discount, all of their billing should be in the same time increments.

Possible time keeping increments of an hour are:

- Tenths (1/10) equal six minute increments;
- Eighths (1/8) equal seven and a half minute increments;
- Sixths (1/6) equal ten minute increments;
- Quarters (1/4) equal fifteen minute increments;
- Halves (1/2) equal thirty minute increments.

It is both unethical and tantamount to theft to log a tenth of an hour, the smallest billing increment, for getting a busy signal or for having a conversation of three minutes or less. To make the accounting fair and honest, the sheet should reflect a "No Charge" (N/C) for these activities.

However, if a call lasts four or five minutes then taking the tenth is perfectly acceptable. The reason it is acceptable is because calls taking seven or eight minutes should also be taken at one tenth. Over the long run, it will even itself out. Regarding busy signals or no answers, at least six or seven attempts should be made before taking the tenth. If billing in quarters, then considerably more attempts should be made. For each attempt, the sheet should reflect that the line was busy or there was no answer. An N/C should be placed in the hour's column, until enough attempts have been made that the charge can be honestly taken.

The author recommends billing portal-to-portal, letting the clock run during all travel time. Do not exceed the speed limit. Remember, driving for sixty miles at 60 mph in a 60 mph speed zone cannot legally be done in less than one hour. If the sheet reflects that the trip was taken in less than one hour, say a 3/4 hour entry for the trip, then the investigator has just informed the attorney, and anyone else who sees the sheet, that the law was broken. Professional and successful personal injury investigators do not break the law!

V. MILEAGE:

In the "Miles" column, enter the number of miles actually driven. Do not log fractions of miles, but rather round off the miles, either up, if over a half mile, or down, if less than a half mile. Do not guess at the number of miles. Such guesses generally fall short of the truth because the investigator, in an attempt to be fair with the attorney, cheats himself or herself out of the legitimate mileage.

The determination of how much to charge per mile is not determined by what the

market will bear. The charge must be fair and honest. As a guide, the author has always used a National Automobile Association study that was released in the early 1980s. It stated that the average cost to operate the average eight-cylinder automobile in the United States was .55 per mile. This cost included everything: Gas, oil, tires, lubrications, tune-ups, registration, insurance . . . everything. That was at a time when the federal government was allowing less than .20 per mile as a legitimate business expense tax write off. Be honest and fair to all concerned.

VI. TELEPHONE CALLS:

In the column labeled "Phone", list the actual or estimated cost of ***all calls***, except local calls for which there is no charge to the client.

Always allow for taxes and charges when logging the cost of calls. To make it easy just add 20% to all actual known costs and to all estimates. For example: If the rate in the phone book for the cost of a three minute call is fifty cents, that call can actually cost sixty cents or more. Information calls to 411 can range anywhere between seventy-five cents and a dollar and a quarter. However, the true cost of the seventy-five cent call may be ninety cents or more. **Do not cheat yourself by undercharging phone costs.**

VII. FOOD EXPENSES:

In the column labeled "Meals", place the actual dollar amount expended for meals. Affix the receipts to white sheets in the file.

SPECIAL NOTE — WHEN IN THE FIELD ON A SINGLE CASE:

Some investigators allow their clock to run during a quick lunch, i.e., 1/2 hour or less. This is a personal decision and one that should be discussed with the attorney. However, the clock must be stopped for meal breaks of longer duration. When in the field for more than five hours, reasonably priced lunches and/or dinners (coffee shop prices) may be charged. If in the field for more than eight hours, lunch and dinner may both be charged to the file. Unless the investigator is in the field overnight, on a SINGLE CASE, breakfast should ***never*** be charged to the file. The theory is that the investigator begins each day at home, and would presumably eat breakfast at home.

REMEMBER

Plan on having to explain these expenses to the attorney.
So, . . .
Use good judgment. Be fair and honest.

VIII. ALL OTHER EXPENSES:

In the "Misc." column, enter the amount of all other expenses, be they out of the investigator's pocket, or out of his or her employer's pocket. Use the "Expense Description" column for a detailed explanation of these costs. Bear in mind that traffic citations such as parking or speeding tickets are NOT chargeable ex-

penses. Some miscellaneous expenses are: Film, film processing, parking fees, photocopying fees, and computer services fees — virtually every cost not already discussed. This includes witness fees, which were discussed in the “Witness Fees” section of Chapter Thirty-Nine, *Service of Process*.

The importance of the accuracy of the client accounting sheets cannot be over emphasized, whether done manually or by computer. The best way to insure this accuracy is to record the function and its cost when it takes place.

BILLING PROCEDURES

Regardless of whether a standard form invoice is used, or every statement is prepared from scratch, investigators often tend to put too much information in their bills. For sure, there has to be enough information for the attorney to understand what the costs were, but more than that is not necessary.

Attorneys recognize that it takes time to write a report or photograph an accident scene, and as long as they know they are getting fair value for their money, they don't really need to have the time explained for every single item being billed.

We have seen statements in which the investigator lists things like:

Report: 1 1/2 Hours
Photograph Scene: 3 Hours
Phone call to Witness: 1/10 Hours
Diagram: 3/4 Hours

By doing the billing this way the investigator is opening up the bill to questions that are not necessary, and may not be answerable. If an attorney asks why it took two hours to photograph a scene the investigator may not remember there was an hour delay for some reason.

Billing that is excessively detailed is not necessary as long as the investigator is billing fairly and honestly, and has the trust of the attorney.

We recommend billing in three day segments, lumping all the time spent on the case together under the category “Labor” and all of the miles driven under the category “Miles”. All of the phone costs for the three days go under the category “Phone”.

Everything else, such as parking fees, computer checks, witness fees, etc., is detailed under the “Miscellaneous” category.

The bills should be prepared in quadruplicate. The original and one copy goes to the attorney on either the investigator's letterhead or on an invoice form. The third, white copy is for the investigator's accounts receivable file while the final pink copy should be put in the file as previously explained in the “Color Coding” Section of Chapter Two, *File Management*.

Finally, somewhere on every bill should be either the investigator's social security number, or Federal Tax ID number. At the end of each year, attorneys have to report to the federal government the amount of money paid to contracted investigators. This is done on IRS Form 1099, which requires either the investigator's social security number or the Federal Tax number. If the investigator doesn't supply this information, it only creates extra work for the attorney who then has to contact the investigator for this information.

INVESTIGATOR'S LETTERHEAD

November 24, 1999
STATEMENT

Attorney Name, Esq.
Address
City, State, Zip

RE: Client's Name (LAST, First)
Investigator's File # _____

INVESTIGATION PER YOUR REQUEST:

October 7, 8, 9, 1999

Labor 8 1/2 Hours	\$	637.50
Miles 154		77.00
Telephone		2.95
Miscellaneous:		
3 Rolls Fuji 100 x 24		11.97
Film Dev. 3 Rolls, 4 prints		78.39

Sub-Total \$ 807.81

October 26, 27, 28, 1999

Labor 3 Hours	\$	225.00
Miles 1		.50
Telephone		37.30
Miscellaneous:		
Postage		.66
Santa Ana FD Rpt.		11.80
CA Corp. Status (3 Runs)		99.00

Sub-Total \$ 374.24

November 9, 10, 11, 1999

Labor 3 1/4 Hours	\$	243.75
Telephone		9.95
Miscellaneous:		
Postage		.66
UCI Slide-to-photo		22.52
PA Corp Status (4 Runs)		132.00
CA Corp Status (5 Runs)		165.00
CT Corp Status (2 Runs)		66.00

Sub-Total \$ 639.86

GRAND TOTAL OWING \$ 1,821.91

TAX IDENTIFICATION (Or Social Security) NUMBER: 33- _____

Fig. 272

Sample Billing Statement

Professional and successful personal injury investigators' billings are always accurate, fair, and honest.

SUMMARY

Accurate billing is of paramount importance, but then, so is timely billing.

Maintaining the client account sheets current, by making the entries as they occur, insures the accuracy of the billing. Preparing and presenting the bills, either with the final report, or in increments that have been agreed upon with the attorney, helps the attorney control the costs of the case, plus gets the investigator promptly paid.

It is apropos that this manual began with ethics, and is ending with one of humanity's greatest temptations, i.e., the mis-handling of money. If an investigator does not present an honest and fair bill, then that investigator is not ethical. If an investigator is not ethical, then the entire investigation is suspect. Can an attorney who believes a bill is fraudulent, honestly have faith in the investigator's work product?

The nation's top plaintiff personal injury investigators are:

Fair

Honest

Professional

Successful

WELCOME TO THEIR RANKS!