

Updates to the UTBMS For Insurance Litigation

The UTBMS Litigation code set is used by several insurance carriers to manage legal expenses. A group of insurer representatives and insurance defense lawyers recently reviewed the UTBMS system to establish whether it is a useful tool for the insurance community. The group determined that the system works well, but there is a need to clarify how the codes are used, as well as a need to educate timekeepers who might be unfamiliar with the UTBMS system.

The following materials discuss 2007 updates to the UTBMS, which are intended to promote consistency in the use and application of the codes by insurers and insurance defense counsel, offer guidance to assist lawyers and clients in using the code set effectively.

While the specific utility of the codes will vary from company to company, some common concepts do apply.

1. Insurance carriers that use UTBMS, do so because the codes provide:
 - a) a common “language” between clients and lawyers regarding legal fees;
 - b) data standards that are generally accepted in the legal community;
 - c) the ability to compare case budgets to invoice details;
 - d) a means of organizing invoice details and budgets to better understand legal expenses.

2. The insurance carriers and lawyers that participated in the aforementioned review of the Litigation code set concluded that the codes will also work for Workers’ Compensation.

3. Insurers also use other UTBMS code sets, such as the Counseling codes, which are often used for Coverage advisory services. Expense codes are also widely used. This paper addresses only the Litigation code set.

4. Its important to understand the hierarchy of the Litigation codes.

Phases are the major categories of legal services typically found in Litigation.

Tasks are the actual legal services.

Activities are the individual steps taken to perform the legal services.

5. Some insurers require budgeting. Common uses of budgets include:
 - Planning – the budget helps the client and lawyer better understand the cost of implementing a case strategy.
 - Approval – a client and lawyer might pre-negotiate legal expenses via a budget.
 - Control – a client and lawyer might use a budget to set parameters for legal services.

The level of detail required for budgeting will vary by client, and by type of case. The code hierarchy allows budgets to have different levels of detail than invoices.

Although even a summary budget will work, most clients prefer budgeting at either the phase level or task level. Rarely will clients request budgets at the activity level. It is best to clarify the required level of detail as early in the case as possible.

6. Electronic billing provides the ability to compare a detailed time entry with a more general budget, which is what allows budgeting to be more flexible.
7. Insurers are increasingly using UTBMS data to analyze much more than the cost of legal services. For example, a carrier might want to know which legal services produce particular outcomes. Inaccurate coding, or use of default or catch-all codes have a negative impact on the analytical process. This is why the task code L190 has been removed from the Insurance Litigation Code set. Firms that are lax in coding discipline should be concerned. You do not want to be

distinguished by the *lack* of information that you provide to a client.



The UTBMS code set is a valuable business tool in the insurance community for the planning and management of litigation and litigation costs. Consistency in the understanding, use and application of the codes optimizes the value derived from them and promotes the ease of use by counsel working with various insurance carrier clients. We hope these materials help promote the desired consistency and ease of use.

Summary of Code Changes for Insurance Litigation

The following code changes have been made.

Task code **L190** (Other Case Assessment, Development and Administration) has been discontinued.

Task code **L360** (On Site Inspections) has been added.

Task code **L390** (Other Discovery) has been discontinued.

Activity code **A112** (Travel) has been added.

UTBMS Litigation Code Set Revised 2007

(For Insurance Litigation)

COMMENTARY AND PRACTICE TIPS AS OF...

L 100 Case Assessment, Development and Administration

L110 Fact Investigation/Development

Interview of client personnel/potential witnesses

Review of documents

Work with an investigator

Legal Research for initial case assessment purposes

Communication for fact investigation

L110 Commentary & Practice Tips

- The only legal research that should be included in this code is that which is directly related to an initial evaluation of the case. All other legal research should be itemized under the primary task for which the research is conducted, such as research for a summary judgment motion (L240).
 - Many of the tasks within the L100 phase will apply during the entire life of the case. However, once concrete trial preparation begins, time that is specifically devoted to trial preparation should be billed to Trial Preparation and Trial/Other Preparation/Support.
1. Keeping track of time spent performing this function will enable both the firms and insurers an opportunity to learn whether they are strategizing together. Insurers will learn whether they are included in the process of putting together a “game plan.”

L120 Analysis/Strategy

Discussions/writings/meetings on case strategy

Preparation of Litigation Plan

Communication on case strategy

L120 Commentary & Practice Tips

- This code allows the lawyer and client to understand the efforts that are devoted to strategic planning and management. Most clients distinguish this from the process of case evaluation. When there might be overlap between the efforts attributable to case evaluation and a case strategy, use this code.
- In-firm conferences pertaining strategy may not be billable. You should consult the Billing Guidelines and, if necessary, obtain approval for such conferences.

L130 Experts/Consultants

Research-Interviewing – Working with Experts/Consultants

Developing Expert/Consultant Reports

Communication with Expert/Consultants

L130 Commentary & Practice Tips

- This code is only meant to deal with the initial processes of identifying and interviewing experts and consultants.
- Time spent in helping an expert witness prepare his or her report or preparing for trial should be billed to L340 or to L420 as appropriate, but not to L130.
- Time spent preparing for expert depositions is billable to L340; time spent preparing expert witnesses for trial should be billed to L420.
- As with other L100 codes, L130 focuses on initial steps in the handling and strategizing of the defendant's case.

- The identification and retention of experts is an important aspect of the defense of any civil case that should be undertaken in consultation with the insurer, who may be able to assist with identifying appropriate experts from experience in other cases.

L140 Document/File Management

File organization/administration for database construction/management

L140 Commentary & Practice Tips

- This code encompasses billable time spent creating and populating document or digital databases, as well as time spent planning, design and overall management of the database. Clerical efforts to set up files or organize files are typically not billable.
- Charges by litigation support consultants for document imaging or for designing and maintaining data bases should be submitted separately as an expense.
- As technology becomes a pervasive aspect of trial practice, the process of creating digitized documents directories and databases has become an important but expensive part of preparing a case for trial. As this becomes a routine component of litigation, clients will expect law firms to have this capability and experience, which should result in efficiencies that reduce the costs. For this reason, it is important to clarify these costs upfront.
- Time that is specific to individual depositions or trial should not be billed to L140. Review of digitized documents in preparation for trial should be billed to (L330) and for trial (L440).
- In-firm conferences pertaining to file organization or management may not be billable. You should consult the Billing Guidelines and, if necessary, obtain approval for such efforts.

L150 Budgeting

Develop/Edit/Correspondence for Budget.

L150 Commentary & Practice Tips

- This code applies to time spent developing, negotiating or revising a budget including correspondence to substantiate the budget and periodic updates required by the client for a matter.
- This would include outlining the cost of anticipated tasks, planning staffing needs and hours, estimating external expenses, and outlining assumptions associated with the budget.
- Some clients do not allow a separate time entry for budgeting because generally this analysis is included in the preparation of the Litigation Plan (L120). Please refer to each client's guidelines regarding billing for budgeting.
- If your client's guidelines are silent regarding billing separately for budgeting, only include the extra time spent developing or analyzing the budget that has not already been billed in preparing your analysis.
- Where budgeting time is treated separately by clients, communications with your client reviewing and/or revising the budget should be billed under this section and not L120.
- Time spent completing client templates by secretarial staff should be considered overhead and is not billable.

L160 Settlement/Non-Binding ADR

Activities directed specifically to settlement.

Planning/Participation in Settlement Discussions

Conferences

Implement Settlement

Pursuing Mediation

Travel to/from Mediation

Attend Mediation
Pre-litigation Demand Letters
Research Settlement
Communication regarding Settlement/Mediation/ADR

L160 Commentary & Practice Tips

- All activities directed specifically to settlement. Encompasses planning for and participating in settlement discussions, conferences, and hearings and implementing a settlement. Covers pursuing and participating in mediation and other non-binding Alternative Dispute Resolution (ADR) procedures. Also includes pre-litigation demand letters and ensuing discussions.
- Post ADR or Mediation settlement discussions that occur concurrently with Trial should be billed under L160 although all other trial activities should be billed using the L400 codes. The intent is to get a true picture of the labor cost for each task.
- Discussions or written communications with your client regarding settlement authority should be billed under this code.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.
- Drafting settlement agreements including Final Releases, Compromise & Release Agreements and Annuity contracts should be billed under this code.

L190 Note – this code is no longer used by Insurance clients.

L200 Pre-Trial Pleadings and Motions

L210 Pleadings

Drafting/Editing Pleading
Reviewing/Answering Complaints
Counter-claims and third party complaints
Motions to dismiss/strike
Jurisdictional motions
Research for Pleadings

L210 Commentary & Practice Tips

- This code encompasses all pleadings by parties, as well as any asserted against prospective parties, including time spent research the legal basis for the pleading and the time preparing it.
- Tracking these initial dispositive motions will provide a database to evaluate the utility and economic feasibility of such motions.

L220 Preliminary Injunctions/Provisional Remedies

Developing/Discussing strategy for remedies
Preparing motions/affidavits/briefs
Reviewing opponent's papers
Preparing for court hearing
Travel to and from court hearings
Attending court hearing
Preparing witnesses for the hearing
Effectuating the remedy
Research for Preliminary Injunctions/ Provisional Remedies

L220 Commentary & Practice Tips

- This code should only be used for seeking or defending against claims for injunctive relief. It may also include Matters dealing with the preservation of or spoliation of evidence.

- Tracking time spent on injunctive remedies allows for an analysis of the amount of time and cost on such motions.
- Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

L230 Court Mandated Conferences.

Preparing for hearing required by court order or procedural rules

Travel to/from Court Ordered Conferences.

Attending hearing required by court order or procedural rules.

L230 Commentary & Practice Tips

- This code only includes travel to and attendance at court-ordered hearings.
- Appearances pursuant to various motions should be billed for the code pertaining to the motion-type. For instance, a summary judgment hearing should be billed to L240.
- Final pre-trial conferences should be bill to L450 (appearing at trial; related hearings)
- Preparation, review and service of papers submitted at court mandated events are included in this code.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

L240 Dispositive Motions

Develop strategy

Legal Research for Dispositive Motions

Motions for complete or partial summary judgment

Prepare Affidavits

Reviewing opponent's pleadings

Defensive motions

Preparing for/Attending hearing

Travel to and from hearing

L240 Commentary & Practice Tips

- This code encompasses all tasks pertaining to dispositive motions, such as Rule 12(b) motions for judgment on the pleadings or motions for summary judgment.
- Motions will often rely upon investigation, discovery and research performed during other tasks in the case and often, discovery is a necessary precursor to a motion. Generally, only time that is directly related to the motion should be billed in this category. For example, while Plaintiff's deposition might be a necessary precursor to a motion, the deposition efforts should be coded L330.
- Some clients require pre-approval for **all** motion practice, which may include responding to motions brought by another party. You should refer to each client's guidelines regarding billing for motion practice.
- If your client's guidelines are silent regarding authorization, you should clearly state the nature, purpose and who initiated the motion practice.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

- The cost benefits of motions are a common topic for discussion. The information gathered under this section facilitates a better understanding of the economic feasibility of summary judgment.

L250 Other Written Motions/Submissions.

Developing all motions other than dispositive, pleadings, and discovery

Responding to all motions other than dispositive, pleadings, and discovery

Arguing all motions other than dispositive, pleadings, and discovery

Research for Other Written Motions/Submissions

L250 Commentary & Practice Tips

- This code encompasses motions that are not specifically addressed by other codes, such as motions to request scheduling conferences or assistance from the court.
- Some clients require pre-approval for **all** motion practice, which may include responding to motions brought by another party. You should refer to each client's guidelines regarding billing for motion practice.
- If your client's guidelines are silent regarding authorization, you should clearly state the nature, purpose and who initiated the motion practice.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

L260 Class Action Certification and Notice

Proceedings unique to class action litigation and derivative suits such as class certification and notice.

L260 Commentary & Practice Tips

- This code should only be used for Rule 23 practice and other research and motion practice that is specific to the designation and certification of class actions.
- The technical requirements of certification and notice are what is to be billed under this section. This section is not for planning and strategizing allocation.

L300 Discovery

L310 Written Discovery /Interrogatories

Developing/Responding/Objecting to Interrogatories

Request to admit

Summarize Interrogatories/admissions received

L310 Commentary & Practice Tips

- Developing, responding to, objecting to, and negotiating interrogatories and requests to admit. Includes mandatory meet-and-confer sessions. Also covers mandatory written disclosures as under Rule 26(a).
- The time spent by the attorney to verify the accuracy of paralegal work billed under L310 is billable unless client guidelines indicate otherwise.
- Preparation of form or standard interrogatories that require minimal time to prepare because they are computer generated should be billed according to the actual time spent by the timekeeper and not “value billed”.

L320 Document Production

Developing, responding, objecting to, and negotiating document request.

Identifying/Reviewing documents for production

Identifying/Reviewing documents for privilege

Prepare/Draft Request to Produce

Prepare/Draft response for Request to Produce
Prepare/Draft Notice of NNP (Notice of Non-Party Production)
Prepare/Draft Subpoena/Authorizations
Obtain non-subpoenaed documents (i.e. tax returns, work comp, disability, court files)
Review/Summarize Subpoenaed Documents
Obtain and exchange medical records

L320 Commentary & Practice Tips

- Developing, responding to, objecting to, and negotiating document requests, including the mandatory meet-and-confer sessions to resolve objections. Includes identifying documents for production, reviewing documents for privilege, effecting production, and preparing requested privilege lists. (While a general review of documents produced by other parties falls under this task, coding and entering produced documents into a data base is Task L140 and reviewing documents primarily to understand the facts is Task L110.)
- L320 is applicable to the identification and analysis to determine portions of documents or whole documents that should or should not be disclosed.
- Identification and analysis of the pertinent data required to support a subpoena is appropriately billed using this code.
- Time spent by a paralegal or attorney dealing with subpoena compliance issues should be billed using this code.
- When multiple subpoenas or authorizations are required, the attorney should bill the actual time spent to complete all requests, not bill each separately.
- Timekeeping related to Electronic Discovery is included in this category, whereas technology and vendor costs relating to Electronic Discovery are

considered Expenses.

- Timekeeping related to obtaining, reviewing and exchanging medical records should use this code. Timekeeping related specifically to medical experts, such as an IME, should be coded under L340.

L330 Depositions

Preparing Deposition notices and subpoenas
Communicating with opposing/other party's counsel on scheduling and logistics
Planning and preparing to take the deposition
Discussing deposition strategy
Preparing witnesses
Reviewing documents for deposition preparation
Attending depositions
Travel to and from
Drafting deposition summaries

L330 Commentary & Practice Tips

- All work concerning depositions, including determining the deponents and the timing and sequence of depositions, preparing deposition notices and subpoenas, communicating with opposing or other party's counsel on scheduling and logistics, planning for and preparing to take the depositions, discussing deposition strategy, preparing witnesses, reviewing documents for deposition preparation, attending depositions, and drafting any deposition summaries.
- L330 is applicable to the identification and analysis of documents to be referred to or used as an exhibit at deposition.
- Some clients consider scheduling of depositions to be clerical work and

should only be billed when there are unusual or special circumstances existing and the deposition could not be scheduled without assistance from a paralegal or attorney. These reasons must be indicated in the billing entry. Please refer to client billing guidelines.

- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.
- In-firm conferences pertaining to discovery may not be billable. You should consult the Billing Guidelines and, if necessary, obtain approval for such conferences.

L340 Expert Discovery

Preparing expert discovery notices

Communicating with expert discovery on scheduling and logistics

Discussing expert strategy

Preparation and consultation with expert

Reviewing Expert documents/records and/or films review

Drafting expert summaries

Independent Medical Examination (IME)

L340 Commentary & Practice Tips

- This code is used once experts have been identified. Activity related to determining the appropriate experts should be coded to L130.
- Activities related to medical expert opinions or testimony, previously shown under L390 (which has been discontinued), should be included here.
- In-firm conferences pertaining to experts may not be billable. You should consult the Billing Guidelines and, if necessary, obtain approval for such

conferences.

L350 Discovery Motions

Developing, responding to and arguing motions that arise from discovery
Protective Order Process

L350 Commentary & Practice Tips

- Developing, responding to, and arguing all motions that arise out of the discovery process. Includes the protective order process.
- Some clients require pre-approval for **all** motion practice, which may include responding to motions brought by another party. You should refer to each client's guidelines regarding billing for motion practice.
- If your client's guidelines are silent regarding authorization, you should clearly state the nature, purpose and who initiated the motion practice.
- Motions that are standard or computer generated with no or little customization should be billed at the actual time spent by the attorney to request the motion be generated and for the part of the motion that is customized.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

L360 Discovery On-Site Inspections

Travel To & From Site Inspections
Attend Site Inspection

L360 Commentary & Practice Tips

This is a new code, established specifically for discovery relation to site inspections. This replaces the “all other” code L390, which is no longer used by Insurance clients.

- Site inspections help a litigator conceptualize the case.
- Many clients require pre-consultation prior attending a site inspection. If so, billing entries should contain who the attorney consulted with prior to attendance at a site inspection.
- This code addresses inspections that occur prior to the trial phase (L400). Site inspections in preparation for trial should be billed under L440 – Trial Preparation and Support.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client’s guidelines regarding billing requirements for travel.

L390 is no longer used by Insurance clients.

L400 Trial Preparation and Trial

The Trial phase commences when lawyer and client determine that trial is sufficiently likely and imminent so that the process of actually preparing for trial begins. It continues through the trial and post-trial proceedings in the trial court. Once trial begins, lawyers who appear in court presumptively should bill their court time to (L450) Trial and Hearing Attendance. Litigation work outside the courtroom during this phase (e.g., evenings, weekends and the time of other attorneys and support personnel), should continue to be classified using other (L400) Tasks.

L410 Fact Witnesses

Preparing for examination and cross-examination of non-expert witnesses.

L410 Commentary & Practice Tips

- The preparation of witnesses includes meetings, mock examinations, site visits, unlike those in (L360), and the review of evidence.
- Preparing direct and cross-exams under this section would include document and record review when preparing direct and cross-examinations. This would include time spent with demonstrative evidence and the use of exemplars. However, the actual development of the demonstrative evidence itself would be allocated to (L440).
- The time entries should identify each witness, indicating the efforts devoted to preparing the direct or cross-examination of each witness.

L420 Expert Witnesses

Preparing for examination and cross-examination of expert witnesses.

L420 Commentary & Practice Tips

- This involves strategizing, review of collateral materials such as prior testimony, review of technical literature, document review and outline preparation for direct and cross-examination. Investigating an opposing expert witness's background and areas of alleged expertise is an activity allocated to this code.
- This code also includes meetings and communications analyzing, adjusting and responding to adversarial experts.
- This would include a review of (in trial) changes in the testimony.
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L430 Written Motions/Submissions

Developing written motions during prep for trial/ and trial
Preparing for Motions in Limine
Preparing/reviewing Jury Instructions
Responding to written motions during prep for trial/ and trial
Arguing written motions during prep for trial/ and trial
Developing/reviewing written pre-trial/trial filings
Witness lists/proposed findings of fact/Conclusions of law
Trial briefs

L430 Commentary & Practice Tips

- This code encompasses all of the papers that are filed with the court from the start of the trial to the finish of the trial.
- It is generally accepted that Motions in Limine are the first written event in the commencement of a trial.
- This code would also involve the amendment of written submissions, particularly jury instructions which are amended to conform with the evidence as a trial proceeds.
- This would include time spent strategizing the timing of when to press trial motions.
- Some clients require pre-approval for **all** motion practice, which may include responding to motions brought by another party. You should refer to each client's guidelines regarding billing for motion practice.
- If your client's guidelines are silent regarding authorization, you should clearly state the nature, purpose and who initiated the motion practice.

L440 Other Trial Preparation and Support Preparing for trial

Preparing Opening/Closing Arguments

Establishing off-site support office

Identifying documents/evidence for use at trial

Preparing demonstrative materials and exhibits

Deposition abstracts/indexing/summarization

Mock Trials/Focus Groups/Jury Research

Travel to/ from Trial Preparation

L440 Commentary & Practice Tips

- This code lists very specific tasks, yet involves a broad range of areas of trial preparation.
- The entries allocated under this code should relate directly to what is necessary to prepare and perfect certain events during the trial.
- This section may involve the preparation of evidence that is incidentally used with fact witnesses and expert witnesses, but does not include actual witness preparation, which should be coded to (L410) and (L420).
- This code will allow for a critical analysis of the trial preparedness of a law firm. A worthy analysis is to review the ratio of trial preparation billing to actual in-trial billing.
- In-firm conferences pertaining to trial preparation may not be billable. You should consult the Billing Guidelines and, if necessary, obtain approval for such conferences.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

L450 Trial and Hearing Attendance

Appearing at trial and at trial related hearings
Appearing at court-mandated trial conferences
Travel to & from Trial & Hearing
Communication regarding trial progression

L450 Commentary & Practice Tips

- This code encompasses time relating to the trial itself. Each trial day should be separately coded and should include an informative description of the trial activities that occurred that day. Time spent preparing for subsequent trial days should be separately coded as provided in this phase.
- Always encourage a company representative to attend trial. This leaves no room for the lawyer-participant's sometimes biased interpretation of the case.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.
- Some clients will not pay for more than one timekeeper to attend trials. You should refer to client guidelines and, where necessary, discuss trial staffing with your client. If multiple timekeepers attend trial, each timekeeper should specifically describe their activities in their time entries.

L460 Post-Trial Motions and Submissions

Developing/Responding/Arguing post-verdict matters
Research Post Trial Motions and Submissions
Travel to/from

L460 Commentary & Practice Tips

- This code includes the review of trial evidence and legal research relating to any unique aspects of the post trial motions (clients expect trial lawyers to know the procedural requirements for typical post trial motions) but does not include time spent on appellate analysis, which should be coded to (L510) or (L520).
- Primarily this code will involve time spent seeking a new trial and/or to have verdicts set aside, or amended by the court.
- Some clients require pre-approval for **all** motion practice, which may include responding to motions brought by another party. You should refer to each client's guidelines regarding billing for motion practice.
- If your client's guidelines are silent regarding authorization, you should clearly state the nature, purpose and who initiated the motion practice.

L470 Enforcement

Enforcing judgments

Collecting judgments

Filings for stay pending appeal

L470 Commentary & Practice Tips

- This code is restricted to the mechanical steps of execution. This occurs when post-trial steps are taken to impose the new found legal status on the property or possessions of another. All the steps required to perfect that right are allocated to this section.
- This code does not include activities regarding appeal. The exception would be only when seeking a stay pending appeal.

L500 Appeal

L510 Appellate Proceedings/Motion Practice

Research Appellate Issues
Prepare/review motions/other filings
Draft Response to motions/other filings
Arguing motions/other filings
Attend Motion Hearing
Travel to and from Motion Hearing
Prepare Notice of Appeal
Designating Appellate Record
Extraordinary Writs/Appellate Proceedings
Review responses to Appellate Petition
Prepare responses to Appellate Petition
Prepare Petition Appendix

L510 Commentary and Practice Tips

- All time associated with motion practice regarding the appellate process should use this code, including time spent on appellate motions, including notices, scheduling and logistics, planning for and preparing to draft all appellate motion papers and memorandum of law.
- Some clients require pre-approval for **all** motion practice, which may include appellate motions brought by another party. You should refer to each client's guidelines regarding billing for motion practice.
- If your client's guidelines are silent regarding authorization, you should clearly state the nature, purpose and who initiated the motion practice.
- All work pertaining to appellate level motion practice should be billed under this code and not L240 or L250.
- Time spent compiling exhibits or putting together the appellate motion

papers should not be billed as it is considered overhead.

- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.

L520 Appellate Briefs

Research Appellate brief

Preparing Appellate brief

Reviewing opposing party appellate brief

Review Record

L520 Commentary & Practice Tips

- As the appeal is not a retrial or a new trial of the case, the appeal should not include new witnesses or new evidence. Appeals are typically based on arguments that there were errors in either the judge's interpretation of the law or procedurally at trial. Accordingly, care should be given to limit the focus of the appellate papers to these errors.
- Consideration should be given to the time billed for preparation of both the appellate brief and the record, as appeals are limited to either the underlying motion papers or the trial issue. Accordingly, a certain level of knowledge and familiarity is implicit.
- If your client's guidelines are silent regarding staffing, some explanation may be either necessary or appropriate regarding the transfer of the file or rotation of staff to handle the appeal. Please refer to each client's guidelines regarding staffing and the rotation of staff onto a file.
- Additionally, in-firm conferences pertaining to preparation of and/or strategy to be applied to the appeal may not be billable, and you should consult the Billing Guidelines and, if necessary, obtain approval for such

conferences.

L530 Oral Argument

Preparing for Oral Argument

Arguing an appeal

Travel to and from

Appeals Communication with Client/Opposing counsel/co-counsel

Prepare Appellate Record.

L530 Commentary & Practice Tips

- Although some appeals courts make their decision only on the basis of the written briefs, they often hear oral arguments before rendering their decision. At times the court will ask that the case be set for oral argument, other times the parties may request oral argument.
- Some clients require a separate time entry for travel to and from events, which is distinguishable from the actual appearance time. The Insurance Litigation Codes include an activity code for this purpose (A112). Refer to each client's guidelines regarding billing requirements for travel.
- In-firm conferences pertaining to preparation for oral argument and/or strategy may not be billable, and you should consult the Billing Guidelines and, if necessary, obtain approval for such conferences.
- Attention should also be paid to the amount of time billed for review in preparation for the oral argument, in light of the time billed for the underlying motion/trial and preparation of the appellate papers. This is especially true if the timekeeper arguing the appeal differs from the timekeepers involved in either the underlying issue or preparation of the appellate materials.

ACTIVITY CODES

A100 ACTIVITIES

- A101 Plan and prepare for
- A102 Research
- A103 Draft/Revise
- A104 Review/Analyze
- A105 Communicate (in firm)
- A106 Communicate (with client)
- A107 Communicate (other outside counsel)
- A108 Communicate (other external)
- A109 Appear for/attend
- A110 Manage data/files
- A111 Other
- A112 Travel

EXPENSE CODES

E100 EXPENSES

- E101 Copying
- E102 Outside Printing
- E103 Word Processing
- E104 Facsimile
- E105 Telephone
- E106 On Line Research
- E107 Delivery Services/Messengers
- E108 Postage
- E109 Local Travel
- E110 Out of Town Travel
- E111 Meals
- E112 Court Fees
- E113 Subpoena Fees
- E114 Witness Fees
- E115 Deposition Transcripts
- E116 Trial Transcripts

E117 Trial Exhibits
 E118 Litigation Support Vendors
 E119 Experts
 E120 Private Investigators
 E121 Arbitrators/Mediators
 E122 Local Counsel
 E123 Other Professionals
 E124 Other

**UTBMS Litigation Code Set Update Initiative
 UTBMS Litigation Code Set Revised 2007
 Ad Hoc Committee Members**

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*MARK PUCCIO, Co-Chair	Zurich
*JOHN G. KELLY, Co-Facilitator	Litigation Management Report/Allegiant Systems
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*MICHAEL AYLWARD	Morrison Mahoney
ED MORRIS	Farmers
BOB GRAVES	Chubb
MICHAEL TOOMEY	Clausen Miller
MARYANN WRIGHT	Conroy Simberg

*BRUCE SIMBERG	Conroy Simberg
PAUL TENAGLIO	Marshall Dennehey
PETE MILLER	Marshall Dennehey
TOM MINNICK	CNA Insurance
JOHN MCGANN	One Beacon
MICHAEL BOUTOT	Esquire
PATRICK GREITEN	The Hartford
PETER HITSON	The Hartford
GEORGE WOOLVERTON	Stockwell, Harris, Woolverton, Meuhl

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