

# Self-Help Ways to Increase Your Legal Bill

*Amundsen Davis Commercial Litigation Alert*  
November 6, 2017

## RELATED SERVICES

Business Litigation

As most clients who have been through commercial litigation know, discovery is expensive. Unfortunately, in trying to reduce legal expenses, many times clients make mistakes that increase legal expenses and sometimes hurt their case. These mistakes are rarely malicious and almost always occur because the client is trying to be helpful.

Most importantly, clients need to resist the urge to do the “first pass” –a mistake where the client takes a first look at the documents requested by his attorney to determine if the documents are important to the case. The thought is that the client is helping the attorney by reducing the number of documents that attorney needs to review. For the same logic, the client thinks this step will save him money. Sometimes, the client doesn’t trust the attorney to appropriately bill for review of the documents. However, savings rarely occur from the “first pass” for several reasons.

First, as a client, you can only guess as to what documents your attorney needs to see now and in the future of your case. The legal standard encompasses significantly more documents than most clients find to be important. Also, context is key in commercial litigation. To appropriately understand your case and determine a litigation strategy, your attorney needs to see the background documents, which normally don’t make it through the “first pass.”

Second, and possibly more important, the attorney for your opponent will be looking for specific documents to determine if you and your attorney have produced all the documents in your possession. It is impossible to know at the start of any case what documents the other side already has, but you can be certain that they will use any document, no matter how benign, to test the sufficiency of your document production. If documents don’t make it through the “first pass”, you will have to produce these documents anyways, defeating the purpose of the “first pass” and also incurring additional attorneys’ fees.

Finally, the “first pass” can harm your case. Every attorney has multiple stories about that time when he was sent a key document by his client that wasn’t previously produced because the client didn’t think it was important. As a mid-level associate, I spend a chunk of my time reviewing documents. I can tell you that I would rather receive 250,000 documents than receive 150,000 documents followed by 100,000 a few months later. The reason is that without all the documents, it is difficult choose the best litigation strategy. When attorneys make

decisions based on only a portion of the facts, bad litigation strategies can be chosen, such as settling a case that you should win, or counseling you not to settle a case that you will ultimately lose.

Moral of the story – You hired an attorney for a reason. Save yourself time and money by producing everything, the first time. If you aren't giving your attorney all of the documents because you don't trust him, get a new one.

## Self-Help Ways to Increase Your Legal Bill