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You Spent How Much? *Who Really Cares?*
Discovery and Evidentiary Value of an Opponent's Billing Records

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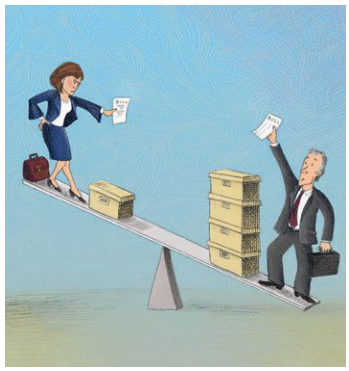

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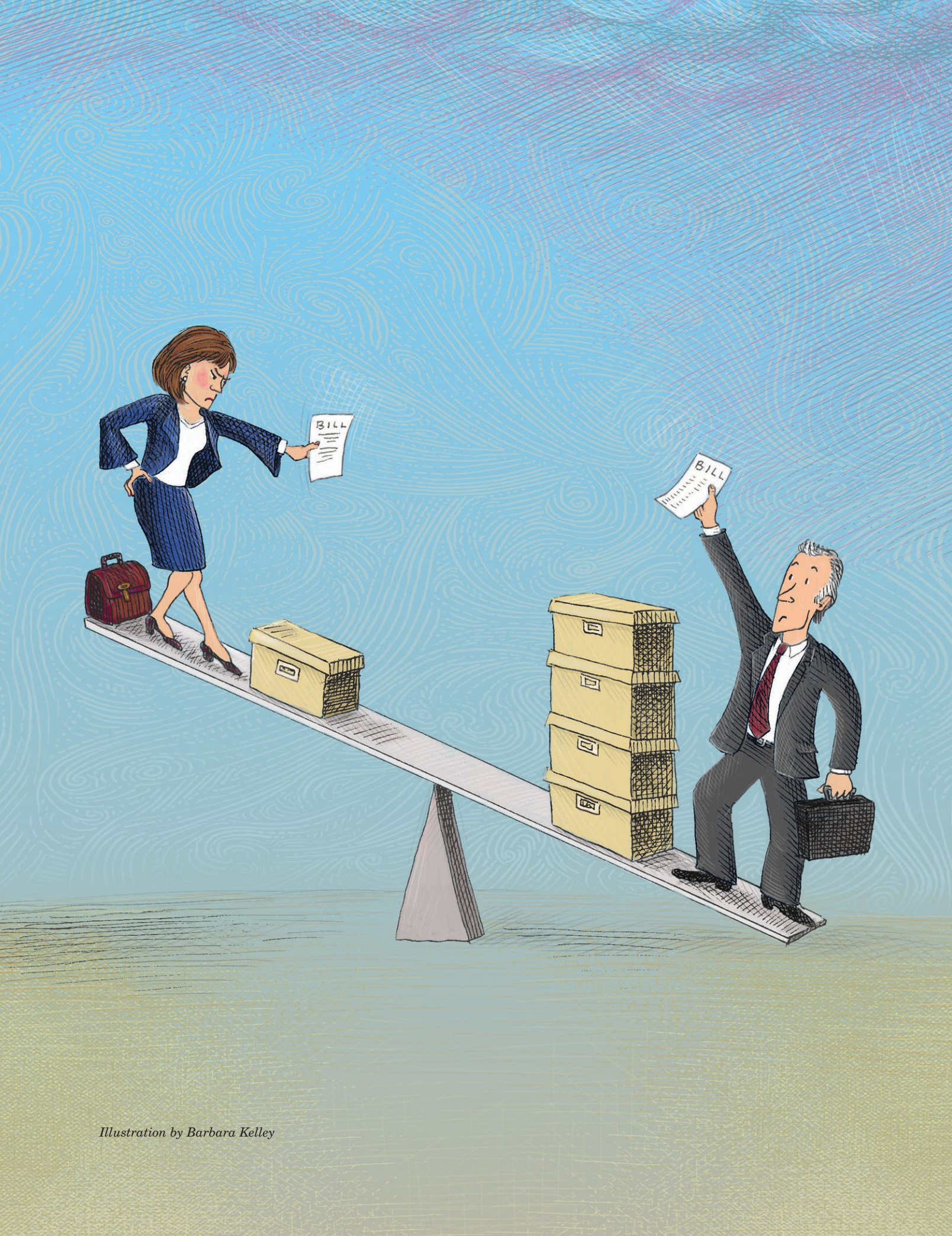

Illustration by Barbara Kelley

You Spent How Much? WHO REALLY CARES?

Discovery and Evidentiary Value of an Opponent's Billing Records

by Jason S. Lambert and D. Michael Arendall

Nowadays, the fight over attorneys' fees and costs due a prevailing party at the end of litigation can be just as contentious — and consequential to the parties — as any single piece of the litigation itself. Parties gather evidence and present expert testimony, with the nonprevailing party contending throughout that the case was simple, should not have taken as much time or effort as it did, or that the prevailing party's counsel was otherwise unreasonable in its prosecution (or defense) of the action. Sometimes, the party opposing the fee and cost award references its own amount of time expended as a benchmark against which the reasonable amount of fees and costs awardable should be judged. Alternatively, the party seeking the fee and cost award might seek the opposing side's fee information for the purpose of establishing the reasonableness of its own time. In either event, though, how truly relevant is an opponent's billable time?

A recent Florida Supreme Court decision indicates that an opposing party's attorneys' fee and cost records are relevant, at least for discovery purposes. Yet the court's conclusion seems to conflict with the general principle held in many other cases that what an opponent spends in litigation is only marginally relevant to an ultimate determination of the reasonableness of a prevailing party's fees. The purpose of this article is to outline the relevant cases and propose a rule that takes into account both the Florida Supreme Court's recent decision and decades of seemingly contrary caselaw.

Paton v. Geico General Insurance Company

In March 2016, the Florida Supreme Court issued its opinion in *Paton v. Geico General Insurance Co*., 190 So. 3d 1047 (Fla. 2016). *Paton* arose from a lawsuit against an insurer after the insurer failed to pay the total amount claimed by the plaintiff under an underinsured motorist policy.[1] Following the plaintiff's success at trial against the insurer, she then added a bad-faith claim against the insurer pursuant to F.S. §624.155.[2] After also prevailing on that claim, the plaintiff sought to recover her attorneys' fees and costs from the insurer.[3] As part of that effort, she sought discovery of her opponent's counsel's time records, including all time-keeping slips and records, bills, invoices, and other correspondence related to the payment of attorneys' fees, and all relevant retainer agreements.[4]

When the insurer objected to the discovery on the grounds that the information sought was privileged and irrelevant, the trial court ordered the production of the requested information, but permitted redaction of privileged information.[5] The insurer then filed a petition for certiorari to the Fourth District Court of Appeal, arguing that the materials sought by the plaintiff were privileged and irrelevant, and that the plaintiff had not made a special showing that would permit discovery of her opponent's billing records.[6] The insurer relied on *HCA Health Services of Florida, Inc. v. Hillman*, 870 So. 2d 104 (Fla. 2d DCA 2003), and *Estilien v. Dyda,* 93 So. 3d 1186 (Fla. 4th DCA 2012), in support of its latter argument.[7] The Fourth District granted the petition and quashed the trial court's order, relying on *Estilien* in noting that the plaintiff had failed to establish that the "billing records of opposing counsel [were] actually relevant and necessary, and their substantial equivalent could not be obtained elsewhere."[8]

The plaintiff then sought further review by the Florida Supreme Court.[9] After analyzing *Hillman*, *Estilien*, and *Anderson Columbia v. Brown*, 902 So. 2d 838 (Fla. 1st DCA

2005), the Florida Supreme Court concluded as follows:

> We agree with the rationale of the First District in *Anderson Columbia* and conclude that the billing records of opposing counsel are relevant to the issue of reasonableness of time expended in a claim for attorney's fees, and their discovery falls within the discretion of the trial court when the fees are contested. When a party files for attorney's fees against an insurance company pursuant to sections 624.155 and 627.428, Florida Statutes, as occurred here, the billing records of the defendant insurance company are relevant. The hours expended by the attorneys for the insurance company will demonstrate the complexity of the case along with the time expended, and may belie a claim that the number of hours spent by the plaintiff was unreasonable, or that the plaintiff is not entitled to a full lodestar computation, including a multiplying factor.
>
> Moreover, the entirety of the billing records are not privileged, and where the trial court specifically states that any privileged information may be redacted, the plaintiff should not be required to make an additional special showing to obtain the remaining relevant, non-privileged information. Additionally, even if the amount of time spent defending a claim was privileged, this information would be available only from the defendant insurance company, and the plaintiff has necessarily satisfied the second prong of the test delineated by Florida Rule of Civil Procedure 1.280(b)(4) for the discovery of privileged information — *i.e.*, the information or its substantial equivalent cannot be obtained by other means without undue hardship. Thus, we conclude that by granting the petition for certiorari, the Fourth District improperly infringed on the sound discretion of the trial court and required Paton to meet an unnecessarily high standard.[10]

After further addressing the Fourth District's improper grant of certiorari to review such a discovery issue, the Florida Supreme Court held that "the hours expended by counsel for the defendant insurance company in a contested claim for attorney's fees filed pursuant to sections 624.155 and 627.428, Florida Statutes, is [sic] relevant to the issues of the reasonableness of time expended by counsel for the plaintiff, and discovery of such information, where disputed, falls within the sound decision of the trial court."[11]

In the years leading up to *Paton*, courts largely treated the issues of discovery and admissibility of an opponent's billing records with intellectual curiosity citing, in part, the unsettled state of Florida law. For instance, in 1999, the Fifth District Court of Appeal discussed the disparate views that courts across the nation had taken on the issue to that point, noting that some courts deem an opponent's billing records as irrelevant because of the influence of so many factors on a particular lawyer's bills; others routinely admit such evidence on the ground that the unique characteristics of a lawyer's billing approach go to weight but not admissibility; and still other appellate courts leave the discovery and admissibility questions in the discretionary hands of trial judges, refusing to find abuse of discretion regardless of outcome.[12] Lacking clarity in Florida on the issue, the Fifth District chose the latter and enunciated a case-by-case approach based upon each case's unique facts, with discretion vested in the trial courts.[13] On the surface, the Florida Supreme Court's holding purports to clarify the state of the law in the arena of discovery of an opponent's attorneys' fee records and to provide trial courts with the leeway to craft discovery and other orders that are framed to unique facts and circumstances. Yet, if given its broadest possible interpretation, *Paton* may be viewed as upending decades of established law in Florida on the probative value — indeed, the admissibility — of such evidence. A review of the *Hillman*, *Estilien*, and *Anderson Columbia* cases is essential to a full analysis and contextualization of *Paton*.

HCA Health Services of Florida, Inc. v. Hillman

In *Hillman*,[14] the plaintiffs were the prevailing parties in a whistle-blower action, entitling them to recover their attorneys' fees and costs pursuant to F.S. §448.104.[15] The plaintiffs served a subpoena duces tecum on the defendant's attorneys seeking "timesheets, invoices, bills, reimbursements, payments, correspondence, contract for services, fee agreement, hourly fee schedules, all computer generated records pertaining to attorneys' fees, costs, expenses…or other related documents."[16] After the defendant objected, the plaintiffs filed a motion to compel, and the trial court ordered the defendant to produce "the actual bills submitted to it by its counsel, including the date of legal service, the hours charged, and the nature of the services performed."[17] The order permitted privileged material to be redacted and provided for an unedited version to be submitted to the court for an in camera inspection.[18] The defendant filed a petition for writ of certiorari with the Second District Court of Appeal seeking relief from the order.[19]

The Second District began its analysis by noting from a case two decades earlier that "the fees of a prevailing party cannot be predicated upon the fees of one's opponent."[20] The court noted multiple examples of the soundness of this rule, including that deposition preparation could take different amounts of time for each side; that one side's document preparation may take less time than another because the client shouldered more of the load; and that one side's client may have different reporting requirements or expectations.[21] For these reasons, not intended by the court to be an exhaustive list, the court recognized that two competent attorneys on opposite sides of a case routinely spend substantially different amounts of time working the same case.[22]

The Second District continued by explaining that "the records of one's opponent are, at best, only marginally relevant to the general issue of determining an appropriate amount of attorney's fees to be awarded in a given case."[23] The court then recognized that an opponent's billing records would likely only be relevant in the rare event of a dispute over a particular billable event — for example, the length of time that the parties attended a mediation session.[24]

The Second District then concluded that two additional factors further militated in favor of holding that an opposing party's attorneys' fee billings had limited — if any — relevance in determining the reasonableness of a prevailing party's attorneys' fees. First, the amount of time spent by opposing counsel is not listed among the factors contained in Rule 4-1.5(b) of the Rules Regulating The Florida Bar to be considered by courts and attorneys in determining a reasonable fee.[25] Second, the court noted that billing records often contain privileged attorney-client information and may

That an unsuccessful opponent has spent half in fee — or less — of what a successful litigant has spent with counsel of his or her choice is but one of a host of considerations or factors that weigh upon the reasonableness of an attorneys' fee award.

also count as privileged work product in many cases.[26] The court recognized that such materials are generally only obtainable upon a special showing that the records are essential for trial and that the information sought is not otherwise available.[27]

After noting that Florida had not adopted a hard-and-fast rule regarding the discoverability of an opposing party's attorneys' fee billing records, the court ultimately held that the trial court "departed from the essential requirements of law because it failed to appreciate and address whether the discovery [sought by the plaintiff] was justified."[28] The court stated that:

> Billing records of opposing counsel are to be treated as privileged work product. The party seeking production must establish that the requested material is actually relevant to a disputed issue, that the records sought are needed to prepare for the attorney's fee hearing, and that substantially equivalent material cannot be obtained from another source. We anticipate that such requests should be few and far between and should be carefully scrutinized by the trial courts. Thus, while the trial court has discretion to permit this discovery, this discretion is quite restricted due to the nature of the material sought.[29]

Consequently, the court granted the petition for certiorari and quashed the discovery order on review.[30]

Estilien v. Dyda

In *Estilien*, the plaintiff prevailed in an action against the defendant for injuries suffered in an automobile accident.[31] He subsequently filed a motion to tax attorneys' fees pursuant to F.S. §768.79, which was granted by the trial court.[32] In order to prove the amount of fees reasonably expended, the plaintiff sought production of "any and all billing records" from the defendant's attorneys.[33] The defendant objected on the grounds that the information sought was irrelevant and constituted work product or attorney-client privileged material.[34] The plaintiff countered that he needed the information in order to reconstruct how much time his counsel spent on the case because counsel worked on a contingency fee basis and did not keep time records.[35] The court ordered production of the billing records, but permitted privileged information to be redacted.[36] The defendant petitioned the Fourth District Court of Appeal for a writ of certiorari to quash the trial court's order and prevent disclosure.[37]

The Fourth District first noted that it had previously held that an opposing party's billing records were not discoverable if such records contained privileged material or were otherwise irrelevant.[38] It then recognized that while other decisions had given trial courts discretion to permit the discovery of an opposing party's attorneys' fee billing records, this discretion is not unfettered, and the need for such information must be balanced against the privacy rights of the attorney and client.[39] Finally, the appellate court analyzed — and agreed with — the reasoning of the *Hillman* decision.[40]

Aligning itself with the Second District in *Hillman*, the Fourth District ultimately held:

> where the billing records of opposing counsel are sought solely for the purpose of supporting a claim for attorney's fees, the party seeking production must establish that the requested material is actually relevant to a disputed issue, that the records sought are needed to prepare for the attorney's fee hearing, and that substantially equivalent material cannot be obtained from another source.[41]

The court noted that the plaintiff's counsel's failure to keep billing records was an insufficient basis for ordering production of the requested records and that the defendant's counsel's records had not been shown to be relevant to the amount of time plaintiff's counsel spent on the case.[42] Therefore, the party seeking production of the opponent's records had not made the special showing necessary for discovery of the information. The Fourth District concluded by granting the petition and quashing the order requiring production of the records.[43]

Anderson Columbia v. Brown

Unlike *Hillman* or *Estilien*, *Anderson Columbia* arose from a decision by a judge of compensation claims requiring disclosure to a claimant of "the hourly fee paid to, and the total hours expended by" the defendant's counsel in a workers' compensation case.[44] The claimant requested the information to support a constitutional challenge to F.S. §440.34(7).[45] That statute limits a successful claimant's attorneys' fee award to $1,500, based upon a maximum hourly rate of $150.[46] The claimant's argument was that the statutory limits constituted a denial of due process and equal protection because employers and carriers may prolong litigation to discourage attorneys from representing injured workers with low-value claims.[47] The JCC determined that the sought-after information was relevant to the constitutional challenge at issue and required the production of defense counsel's billable hours and rate over an objection that such information was privileged.[48] Notably, the JCC's order did not require defense counsel to reveal information containing descriptions of the services rendered.[49]

The First District noted initially that the information ordered to be produced — a bare accounting of hours worked and rates charged — did not infringe on any work-product privilege.[50] The court similarly found that such a minimal disclosure did not reveal any attorney-client privileged materials.[51] Finally, the court concluded that the information sought was relevant to the constitutional challenge and that the claimant was entitled to build his record to support that challenge.[52] The court denied the defendant's petition for writ of certiorari.[53]

Fee Records as Demonstratives, Not Evidence

While the language of the *Paton* court's holding is fairly narrow, when viewed in the context of *Hillman*, *Estilien*, and *Anderson Columbia*, the holding expands the framework for discovery in attorneys' fee disputes, morphing the special showing rule into a much more general one, where an opponent's attorneys' fee billing information is presumed relevant. While that is now the discovery rule in Florida following *Paton*, the weight to be accorded to such records at an evidentiary hearing or at trial is still very much unsettled. For the reasons that follow, our jurisprudence militates in favor of a rule establishing the limited weight that should be attributed to the billing records of an opponent's attorney.

There can be no disputing that in decisions rendered in Florida and elsewhere, trial courts take into consideration the attorneys' fees paid by a nonprevailing party in determining the reasonableness of the fees sought by a prevailing party. In *Kaltzip, Inc. v. TL Hill Construction, LLC*, No. 8:11-cv-018242-T-27TBM, 2013 WL 3242400 (M.D. Fla. June 25, 2013), a federal district court engaged in a detailed analysis of the fees incurred by the two opposing sides after the defendant construction company argued that plaintiff's counsel had out billed him by 73 percent for "intake and review," 59 percent for "discovery related motions," 61 percent for a "motion for summary judgment," and 86 percent for "case management and a pretrial statement."[54] The court noted that plaintiff sought a total of $223,375.11 in attorneys' fees, while the defendant's billing statements reflected that it had incurred fees of just $60,000 in connection with the litigation.[55] Still, though, the trial court indicated that a review of the competing billing records revealed that the 743.7 hours claimed by plaintiff's counsel included unnecessary, excessive, and redundant time entries,[56] and it recognized that the time spent by defendant's attorneys' was not determinative of what was reasonable and necessary for plaintiff's counsel.[57] The court proceeded to reduce the plaintiff's fee award to $164,559.50 — still over $100,000 more than defense counsel's total billings.[58]

Other courts have made similar, though less detailed comparisons, between opposing parties' attorneys' fees. In *LaFerney v. Scott Smith Oldsmobile, Inc.*, 410 So. 2d 534 (Fla. 5th DCA 1982), the court concluded plaintiff's counsel's 90.5 hours did not appear excessive in comparison to 60.25 spent by defendant's counsel.[59] In *State, Department of Transportation v. Skidmore*, 720 So. 2d 1125 (Fla. 4th DCA 1998),[60] the court noted that plaintiff's 3,974.5 hours were not inconsistent with defendant's 2,837 hours of time expended, especially when considering that defendant did not record any time for the first 17 months of litigation.[61] The Fourth District has recognized the limited relevance of records that are used for illustrative purposes, such as supporting a determination that fees are not excessive.[62] And the Third District has approved a trial court's finding that plaintiff's hours were

reasonable in comparison to the defendant's attorneys' time.[63] The Florida Supreme Court has also approvingly, but for no binding precedential value, a comparison between opposing party's attorneys' fees.[64]

Far more frequently, however, courts harp on the marginal relevance that opposing counsel's total fee has in determining a reasonable attorneys' fee to which the prevailing party is entitled. In *Stowe v. Walkers Building Supply, Inc.*, 431 So. 2d 180 (Fla. 2d DCA 1983), the Second District reversed an award of attorneys' fees when the award was based solely on the amount of fees awarded to another attorney in the case.[65] In *Tampa Bay Water v. HDR Engineering, Inc.*, No. 8:08-CV-2446-T-27TBM, 2012 WL 5387830 (M.D. Fla. Nov. 2, 2012), the court fairly compared the hours spent by the plaintiff's attorneys in determining what was reasonable and necessary for the defendant's attorneys.[66] Specifically, the *HDR* court noted that the plaintiff's attempts to compare what the prevailing defendant spent on its attorneys with what other defendants had also spent on their attorneys was "unhelpful" because 1) the other defendants had aligned against the prevailing defendant, which raised the stakes for the prevailing defendant; and 2) the shared efforts of the other defendants made a one-to-one comparison with the prevailing defendant difficult and unfair.[67]

Similarly, in *Harkless v. Sweeny Independent School District, Sweeny, Texas*, 608 F.2d 594 (5th Cir. 1979), the Fifth Circuit observed the clear distinctions in view, approach, and stakes that exist between opponents in the very same case.[68] The court cited language from the trial court's order observing that "[a] lawyer with an intense determination to win will, simply by his virtue of the essential facts of human nature, spend enormous amounts of time on a case to make certain that he is presenting his client's views and arguments in the best possible light."[69] The trial court was persuaded that it was the intense determination to win that motivated the plaintiff's counsel in *Harkless* and led to the "very large amount of time established by the credible testimony."[70] Yet, the appellate court emphasized the limited evidentiary effect of the disparity in billed attorneys' time, saying "[t]hat defense counsel spent significantly less time on the case than did counsel for the plaintiffs is irrelevant so long as all compensated work was necessary and performed in an expeditious manner."[71] The court upheld on appeal the trial court's order awarding the successful plaintiffs substantially more in attorneys' fees than was spent by the unsuccessful opposition.[72]

Likewise, the Seventh Circuit in *Mirabal v. General Motors Acceptance Corp.*, 576 F.2d 729, 731 (7th Cir. 1978), declined the invitation of a litigant to award attorneys' fees based on what the opposing party spent in attorneys' time and billed charges. The court observed that such a holding would ignore the principle that a case may have greater value for one side than another and could lead to scenarios where settlement opportunities are scuttled intentionally in order to drive up an opponent's attorneys' fees for use later as a basis for a fee claim.[73] Because the amount of attorneys' fees borne by a particular litigant "is a matter involving various motivations in an on-going attorney-client relationship," such information has little relevance on the value that the litigant's opponent has received from his or her own attorney.[74]

The 11th Circuit weighed in on the question in a 1983 decision reviewing, among other things, a district court order quashing the plaintiff's subpoena for broad swaths of the defendant's billing records.[75] The court refused to find abuse of discretion in the trial court's discovery order blocking the records.[76] In reaffirming the court's past skepticism that the number of hours billed by an adversary is relevant to the computation of a reasonable attorneys' fee, the 11th Circuit acknowledged that the number of hours one litigant deems necessary to adequately prepare a case may differ starkly with the time spent by another litigant in the same case.[77] Citing *Mirabal*, the court recognized that "[t]he case may have far greater precedential value to one side than the other."[78] Indeed, one side may engage substantially more experienced counsel at a higher, but not necessarily unreasonable, billing rate.[79] While conceding that district courts should have the flexibility and discretion to allow such discovery when relevant — and that objections may go to weight, not admissibility or discoverability — the court cautioned that there are numerous other avenues to show the reasonableness of attorneys' fees that do not entail an inspection of the opponent's billing records.[80]

Charting the Course Forward

Although the Florida Supreme Court has delineated clearly in *Paton* a relatively broad rule of discovery regarding an opponent's billing records in contested attorneys' fee disputes, such a discovery standard must not cloud the persuasive reasoning of courts opining that a litigation adversary's billing records have quite limited probative value. That an unsuccessful opponent has spent half in fee — or less — of what a successful litigant has spent with counsel of his or her choice is but one of a host of considerations or factors that weigh upon the reasonableness of an attorneys' fee award. And it should be one of the least weighted of such considerations.

The metaphor used by a panel of the Fifth Circuit in 1981 is as apropos today as it was then:

> Time alone is not the measure for counsel's fees. If counsel is, like the taxi driver who takes a circuitous route, imbued with hope of being rewarded with a fee measured only by the meter reading at the end of the journey, the statutory grant of attorney's fees would become a bounty for crafty lawyers.
>
> Time must, however, be recognized, else opposing counsel might make every case unrewarding by requiring maximum exertion and thus effectively prevent effectuation of one of the purposes of statutes authorizing the award of attorney's fees: to enable the litigant to gain the services of counsel.[81]

Yet, there can be little dispute that the meaning and strategic importance of a case, a cause of action, or a remedy, to one litigant, even on the same side of the proverbial "v.," cannot be equated in any meaningful way to that of a fellow litigant. A litigant who stands to suffer a great financial loss may, by reason of such tangible or intangible motives, commit more of her fortune to obtaining relief in the civil courts than her opponent who engages counsel to

defend the same.

The litigant who takes aggressive, but thrifty, steps that drive up the fees of his or her opponent must not be able to hang a hat defensively upon his own attorneys' budget-conscious approach. The Florida Supreme Court has decried the act of conflating the litigation tactics of adversaries, remarking that a litigant may exercise its business judgment to "go to the mat," but it must also realize that "a day of reckoning would come should it lose in the end."[82] In *Palma*, the court quoted with approval language from the Fifth Circuit in *McGowan*, remarking that "although defendants are not required to yield an inch or to pay a dime not due, they may by militant resistance increase the exertions required of their opponents and thus, if unsuccessful, be required to bear that cost."[83]

In our quest to make information more accessible, a quest made easier with the technology of our age, we must be careful that we do not lose sight of the timeless adage: Just because we can do something does not necessarily mean that we should do it.[84] The delta between opponents' attorneys' fees alone cannot and should not render one sum of fees reasonable and the other unreasonable, however large or small the delta may be. To do so ignores the universe of reasons that exist for the delta, only some of which are capable of scientific measure. The natural consequence, therefore, must be that while discovery of an opponent's billing records may prove to be somewhat interesting or insightful to the question of fee reasonableness, the information contained in these records, if discovered and admitted at all, should be accorded limited value and weight in evidence. An opponent's billing records are truly relevant in no greater than the narrow instance mentioned by the Second District in *Hillman* — that rare occasion of ambiguity in a dispute over an identifiable, billable litigation event.❑

[1] *Paton,* 190 So. 3d at 1048.
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.* at 1049.
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.* at 1052 (internal citations omitted).
[11] *Id.* at 1053.
[12] *Mangel v. Bob Dance Dodge, Inc.*, 739 So. 2d 720, 724 (Fla. 5th DCA 1999).
[13] *Id.* at 724-25.
[14] *Hillman*, 870 So. 2d at 105.
[15] In an interesting twist, the underlying decision in favor of the plaintiffs, which was also pending on appeal when this opinion was issued, ultimately was reversed by the Second District approximately one year following the issuance of the opinion reversing the trial court for permitting discovery of the opposing party's attorneys' fee records. *See HCA Health Services of Florida, Inc. v. Hillman*, 906 So. 2d 1094 (Fla. 2d DCA 2004).
[16] *Hillman*, 870 So. 2d at 106.
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.* (citing *Stowe v. Walker Builders Supply, Inc.*, 431 So. 2d 180 (Fla. 2d DCA 1983)).
[21] *Id.* at 106.
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.* at 107.
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Estilien*, 93 So. 3d at 1187.
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.* at 1188 (citing *Heinrich Gordon Batchelder Hargrove Weihe & Gent v. Kapner*, 605 So. 2d 1319 (Fla. 4th DCA 1992); and *Finol v. Finol*, 869 So. 2d 666 (Fla. 4th DCA 2004)).
[39] *Id.* at 1188.
[40] *Id.*
[41] *Id.* at 1188-89.
[42] *Id.*
[43] *Id.*
[44] *Anderson Columbia*, 902 So. 2d at 840.
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.* at 841.
[52] *Id.*
[53] *Id.*
[54] *Kaltzip,* 2013 WL 3242400 at *2.
[55] *Id.* at *2, n. 6.
[56] *Id.* at *2.
[57] *Id.* at *2, n. 6.
[58] *Id.* at *4.
[59] *LaFerney,* 410 So. 2d at 535.
[60] *See also Shudlick v. Shudlick*, 618 So. 2d 740, 741 (Fla. 4th DCA 1993) (noting that a fee award to a wife was not out of line with the husband's legal expenses).
[61] *Skidmore*, 720 So. 2d at 1129.
[62] *Brown Distributing Co. of West Palm Beach v. Marcel*, 866 So. 2d 160, 161 (Fla. 4th DCA 2004) (denying certiorari review of a trial court order granting discovery, redacted for privilege, of the time in the case spent by adverse counsel).
[63] *See Chrysler Corp. v. Weinstein*, 522 So. 2d 894, 895-96 (Fla. 3d DCA 1988).
[64] *See State Farm Fire & Casualty Company v. Palma*, 555 So. 2d 836, 837 (Fla. 1990) (noting that the 650 hours determined to be reasonable for plaintiff's counsel by the trial court was further confirmed by defense counsel's having spent 731 hours).
[65] *Stowe*, 431 So. 2d at 181.
[66] *Tampa Bay Water*, 2012 WL 5387830 at *6 (defendant was the prevailing party and sought $10,474,291.50 in attorneys' fees).
[67] *Id.*
[68] *Harkless,* 608 F.2d at 597.
[69] *Id.*
[70] *Id.*
[71] *Id.* at 598.
[72] *Id.*
[73] *Mirabal,* 576 F.2d at 729, 731.
[74] *Id.*
[75] *Johnson v. University College of University of Alabama in Birmingham*, 706 F.2d 1205, 1208 (11th Cir. 1983).
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Id.*
[80] *Id.* at 1208-09.
[81] *McGowan v. King, Inc.*, 661 F.2d 48, 50 (5th Cir. 1981).
[82] *Palma*, 555 So. 2d at 837.
[83] *Id.* (citing *McGowan*, 661 F.2d at 51).
[84] As Judge Farmer observed: "Judges and lawyers [have lost]…sight of a truth they formerly accepted almost universally: viz., that there is an economic relationship to almost every legal service in the marketplace. The value of any professional service is almost always a function of its relationship to something else — *i.e.*, some property or other right.…Trial judges and lawyers used to accept a priori the idea that, no matter how much time was spent or how good the advocate, the fair price of some legal victories simply could not exceed — or, conversely, should not be less than — some relevant sum not determined alone by hours or rates. Since *Rowe*, that all seems lamentably forgotten." *Progressive Exp. Ins. Co. v. Schultz*, 948 So. 2d 1027, 1033 (Fla. 5th DCA 2007) (citing *Ziontz v. Ocean Trail Unit Owners Assoc., Inc.*, 663 So. 2d 1334, 1335-36 (Fla. 4th DCA 1993)).

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