

Marc B. Hankin

From: Dirk Van Tatenhove, Esq. [Dirk@ProbateLit.com]
Sent: Monday, December 15, 2003 12:14 PM
To: Marc Hankin

Marc:

Minimum cost of 1 week (4 days x 8hrs/day) of trial, including absolute minimum of daily preparation at \$250/hr is \$2,000 per day x 4 = \$6,000.

With normal court appearances, a settlement conference or mediation, a deposition or two, some subpoenaed bank and medical records, normal trial preparation, a reasonable, knowledgeable opposing counsel representing a reasonably sane and well adjusted client, you might squeak by for \$20,000. Change a few of these assumptions, add an expert witness or two, and you could easily be looking at \$50,000 or more.

Marc B. Hankin

From: Kenneth G. Petrulis [kgp@gwtaxlaw.com]
Sent: Monday, December 15, 2003 8:07 AM
To: Marc Hankin; sarah.sutro@sen.ca.gov
Cc: Patricia McGinnis; Andrew Wallet (E-mail); Arati Kulkarni (E-mail); Bert Z. Tigerman (E-mail); Blake A. Rummel Esq. (E-mail) (E-mail); David Bazil (E-mail); Deane Wong (E-mail); Frieda Gordon (E-mail); Gary Edelstone (E-mail); Geraldine A. Wyle Esq. (E-mail) (E-mail); Howard Hou (E-mail); Howard S. Klein (E-mail); James Spar (E-mail); Janice E. Fogg (E-mail); Joel Sachs (E-mail); Joelle M Drucker (E-mail); Jordis Moore (E-mail); Kenneth G. Petrulis (E-mail); Lillian W. Wyshak (E-mail); Marc Sallus (E-mail); Mitch Lorraine Karasov (E-mail); Morris Mainstain (E-mail); Stanley I. Arenberg (E-mail); Steve Sosa (E-mail); Steven M. Read MD (E-mail); Tara Morris (E-mail); Terry Magady (E-mail); Wayne R. Johnson (E-mail); Yvette C. Garrity (E-mail)

Dear Sarah,

I am a member of the Beverly Hills Bar Association and a Certified Specialist, Estate Planning Trust & Probate Law. I litigate regularly in the probate courts in Southern California. Consider the amount of time to properly prepare and try a matter. Even a short trial in a contested conservatorship takes 100-200 hours. The rate for volunteer panel attorneys in the Los Angeles Superior Court, which is substantially below the market rate for experienced practitioners, is \$225/hour. You can see that this is a minimum of \$22,500 for a competent practitioner. A one week trial involves substantially more time and at least \$50,000-\$75,000 in costs and fees.

I would have no trouble discussing with Pat the source or quality of the numbers she is quoting. We had a reception last Thursday for new admittees, eager for work. They might consider working for the fees Pat is quoting. Would you want to risk your freedom and rights in that way?

The biggest problem in the courts comes not from overpayment of fees. Rather, when courts squeeze fees too much, they drive away the honest competent practitioner. There is plenty of work out there at market rates (\$300 and up), with fees paid monthly. What you are left with when courts won't approve reasonable fees are underpaid practitioners. The pool of underpaid, while including many fine practitioners, also has more of the marginal practitioners who cause problems: poor representation, wasting of court time and resources, and marginal ethics.

Historically, areas of probate law, including conservatorships are considered loss leaders at most firms. Nobody goes into this area to make a fortune in fees. I urge you to consider that when important rights are at stake, skill and expertise are to be valued and attracted with fair compensation.

Kenneth G. Petrulis
Goodson & Wachtel, apc
310 208 8282 Ext. 108
kgp@gwtaxlaw.com <mailto:kgp@gwtaxlaw.com>

NOTE: THE INFORMATION CONTAINED IN THIS EMAIL MESSAGE MAY CONTAIN ATTORNEY-CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AT 310-208-8282.

-----Original Message-----

From: Marc Hankin [mailto:marc@marchankin.com]

Marc B. Hankin

From: Gary Edelstone [edelstone@compuserve.com]
Sent: Monday, December 15, 2003 2:21 PM
To: Kenneth G. Petrulis; Marc Hankin
Cc: Patricia McGinnis; Andrew Wallet (E-mail); Arati Kulkarni (E-mail); Bert Z. Tigerman (E-mail); Blake A. Rummel Esq. (E-mail) (E-mail); David Bazil (E-mail); Deane Wong (E-mail); Frieda Gordon (E-mail); Geraldine A. Wyle Esq. (E-mail) (E-mail); Howard Hou (E-mail); Howard S. Klein (E-mail); James Spar (E-mail); Janice E. Fogg (E-mail); Joel Sachs (E-mail); Joelle M. Drucker (E-mail); Jordis Moore (E-mail); Kenneth G. Petrulis (E-mail); Lillian W. Wyshak (E-mail); Marc Sallus (E-mail); Mitch Lorraine Karasov (E-mail); Morris Mainstain (E-mail); Stanley I. Arenberg (E-mail); Steve Sosa (E-mail); Steven M. Read MD (E-mail); Tara Morris (E-mail); Terry Magady (E-mail); Wayne R. Johnson (E-mail); Yvette C. Garrity (E-mail)

I agree with what you said, but with one qualifier.

On the smaller matters, the services need to be scaled to the amount in controversy. Any competent client will decline to spend \$25,000 to try to protect \$30,000 -- and the same principle should pertain when courts award fees for incompetent clients. If the matter is too small -- no matter how "grave an injustice" -- the fees should not be disproportionate to the results. If a attorney wants to work pro bono and use the sledge hammer to crack the nut, fine, but the courts in my view have a legitimate concern in not awarding fees that are out of line.

And as long as we have a capitalist society, the reality will be that the poor will not be able to afford \$400/hour counsel, and incompetent clients should not be forced to hire them involuntarily.

Our bar association doesn't want to be advocating the results in the lawyer joke: "That lawyer will make sure he gets everything you've got coming to you."

Workgroup Discussion:

Less-than-Affluent Elderly and Access to the Courts

Wednesday November 19, 2003 1:30-3:45 p.m.

Date: Fri, 02 Jan 2004 17:46:42 -0800

From: "Sutro, Sarah" <Sarah.Sutro@SEN.CA.GOV>

Subject: Elder Access to the Courts

* * * *

Wills are often signed by persons with a very low level of competence and/or those who are vulnerable to and the victims of influence. A prime example is a 90+ year old life-long bachelor whose niece arranged a live-in caregiver in his dotage—only to learn a year later that this person had taken him to Las Vegas for a marriage. Despite the niece's initiating legal measures promptly and devoting substantial finances to the matter (finally totaling over \$300,000), the matter required over a year and a half to resolve. Pity the isolated and "less-than-affluent" who might have to cope with a similar situation.