LEGAL DECODER

LEGAL FEE DISPUTES: USING AI/DATA ANALYTICS TECHNOLOGY AS A SWORD (OR A SHIELD)

a Legal Decoder Case Study

OVERVIEW

Commercial litigation is a multifaceted area of law commonly involving high-stakes disputes. In addition to monetary damages, the parties also must consider legal fees which can meaningfully impact case strategy and its economic value. In the U.S., each party customarily bears its own legal fees and expenses for the litigation regardless of who wins the lawsuit. Sometimes, the losing side may have to pay the winner's legal fees. This can happen because of fee shifting laws, contract clauses, or special rules. When this happens, it often leads to disputes over whether the legal fees are reasonable. The losing party may argue that the fees are too high, while the winning side must prove that the fees were necessary and reasonable.

This case study explores how law firms use Legal Decoder's data analytics technology to drive best outcomes where legal fees are disputed and evaluated.

> **WHEN LEGAL FEES BECOME AN ISSUE IN A LAWSUIT, THE PARTY THAT OFFERS CREDIBLE, BENCHMARK-DRIVEN DATA TO SUPPORT THE REASONABLENESS OR UNREASONABLENESS OF THE LEGAL FEES IN DISPUTE HAS THE ADVANTAGE.**

CASE STUDY BACKGROUND

In a lawsuit that allowed for fee shifting, a prominent AmLaw 200 law firm sought to recover over a million dollars (including costs and interest) for its work on a routine discovery motion (the "Discovery Motion"). Opposing Counsel intuitively felt the amount sought to be recovered was roughly five times higher than reasonable for the Discovery Motion work and did not want its client to have to pay the AmLaw 200 firm's unreasonably high bill. Opposing Counsel also knew that a "gut hunch" as to the proper amount of fees would not carry the day in front of the court. Extrinsic evidence and potentially expert testimony would be needed to persuade the court that legal fees sought by the AmLaw 200 firm were excessive for a routine motion. Opposing

Counsel looked for a legal spend analytics tool regularly used in front of courts that could show that the work undertaken: (i) exceeded industry benchmarks for similar work; (ii) wasn't handled efficiently from a staffing and workflow perspective; and (iii) was billed in invoices riddled with poor billing hygiene. After discovering that Legal Decoder's technology addressed these crucial needs, Opposing Counsel engaged Legal Decoder.

LEGAL DECODER'S SOLUTION

Legal Decoder's data analytics software tools have been regularly used before courts or other adjudicative bodies to evaluate billions in legal fees for "reasonableness" under the prevailing law. The Compliance Decoder tool programmatically analyzes efficiency levels and billing hygiene of each legal professional based on line-item time entries. The Pricing Decoder tool easily surfaces how long tens of thousands of discrete legal tasks (i.e., a motion to compel, deposition notice or stock purchase agreement) should take, by task or by phase, according to industry-wide benchmarks. The resulting data analytics allow a party to persuasively show a court that fees are reasonable or unreasonable, based on an industry-accepted data analytic tools and empirical evidence as opposed to a gut hunch.

Legal Decoder's solution applies in all jurisdictions and allows parties to make a highly informed assessment of their chances of success on the fee issue.

> # LEGAL DECODER
> ## LEGAL SPEND ANALYSIS
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> **TECHNOLOGY CAN BE USED AS BOTH A SWORD (CHALLENGING FEES) AND SHIELD (DEFENDING FEES) DEPENDING ON A PARTY'S OBJECTIVE.**

THE COURT'S DECISION MIRRORED LEGAL DECODER'S ANALYSIS

The fee data from the AmLaw 200 firm spanned nine months and involved 18 legal professionals in over 400 line-item entries (the *"Fee Data"*). The Fee Data contained blocked billed descriptions which were automatically disaggregated and parsed into over 1,200 line-item parts to be further analyzed. The following summarizes the main issues surfaced by Legal Decoder's technology:

Confirmation of Benchmarked Cost

(Legal Decoder's Finding No. 1): Legal Decoder queried comparable matters in its database to determine how long, on average, it takes to complete activities related to the Discovery Motion in question and who should undertake those activities. Legal Decoder's Pricing Decoder confirmed that across all legal professional levels, the average amount of time spent on all tasks associated with the Discovery Motion was 147.2 hours, correlating in cost to between $80,000 to $130,000 (depending on hourly rate). Opposing Counsel's gut hunch and intuition were roughly 60% higher than these benchmarked amounts, which was eye-opening in terms of the accuracy of gut hunches.

> *Court's Opinion:* After a 75% reduction in hours, Court awarded the AmLaw 200 Firm approximately $115,000 in respect of the Discovery Motion (squarely within Legal Decoder's projected range).

Partner Heavy Staffing Mix

(Legal Decoder's Finding No. 2): Partner-level legal professionals accounted for nearly 68% of billings on the Discovery Motion with associates accounting for approximately 31% of billings on the matter. This partner-to-associate staffing mix/ratio is the opposite mix of customary personnel usage, other than in highly unique situations. Senior legal professionals with higher billing rates regularly handled tasks below their pay grade as evidenced by a high volume of Skill Set Mismatch – Overqualified (SM-OQ) flags which triggered on line-item time entries totaling over $670,000 (approximately 68.3% of total amount billed which correlates very closely to Court's 75% reduction).

> *Court's Opinion:* Court ruled that matter was not "staffed appropriately" because "partners and senior level attorneys did work that could have been done by more junior attorneys or staff…"

Poor Workflow Efficiency

(Legal Decoder's Finding No. 3): When workflow efficiency is optimized, legal work is handled without waste, redundancy, repetition or friction. The repeated task (RT) flag triggered on line-item time entries equaling 23.8% of total amount billed, nearly two times (2x) greater than the overall industry. Considerable redundancy occurred at the Partner-level where seven partners recorded billing entries with tasks relating to the Discovery Motion totaling over $310,000. The excessive research (ER) flags triggered on more than 17.0% of the invoiced amount.

> *Court's Opinion:* The Court's opinion highlighted "excessive research" concluding that "work was not distributed in a rational way."

Billing Hygiene Challenges

(Legal Decoder's Finding No. 4): Poor billing hygiene happens when legal professionals fail to record clear and concise narrative entries with accurately recorded time, which is the only way that a client or a court can understand the value being delivered by a legal professional. Legal Decoder's billing hygiene flags highlight when time entries do not meet this "best-in-class" standard. The Fee Data triggered three billing hygiene flags: block billing (BB), vague entry (VE) and repeated narrative (RN) at a frequency more than two times (>2x) the industry average for these flags.

> *Court's Opinion:* The Court highlighted all these issues ("Billing records also show block billing" and "[T]he nature of the research is not always identified, an some entries are as general as 'work on motion' without specifying whether the work is drafting, revising, editing, etc."). Due to pervasive block billing and vague entries, the Court invoked its broad authority to make across-the-board percentage cuts in hours, as opposed to an item-by-item approach.

CONCLUSION

The Court's Opinion was 100% aligned with and supported by Legal Decoder's analysis. Legal Decoder's data analytics provided Opposing Counsel with a decisive, winning edge in its argument to the Court that fees were not reasonable. That edge is equally potent and decisive when defending the reasonableness of fees based on Legal Decoder's track record. If winning a fee dispute is mission-critical, Legal Decoder has become the obvious data solution.