

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHERRY LYN MICLAT and BENZOR
SHEM VIDAL, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

ADVANCED CARE STAFFING, LLC, and
PRIORITY CARE STAFFING, LLC,

Defendants.

Civ. Action No.: 23-cv-5296

**DECLARATION OF
JOSHUA R. O'NEILL IN
SUPPORT OF PLAINTIFFS'
ATTORNEYS' FEES, COSTS,
SERVICE PAYMENTS, AND
SETTLEMENT
ADMINISTRATION
EXPENSES**

I, Joshua R. O'Neill, declare the following:

1. I am an attorney at Nichols Kaster, PLLP and one of Plaintiffs' counsel in this matter. I submit this declaration in support of the Plaintiffs' motion for attorneys' fees, costs, service payments, and settlement administration expenses.
2. The declaration of Anna P. Prakash in support of the parties' motion for preliminary settlement approval discusses Nichols Kaster's qualifications and experience. (ECF No. 86-2.)
3. Nichols Kaster's firm resume was also filed in support of preliminary settlement approval. (ECF No. 86-4.)
4. A true and correct copy of the ABA Litigation Code Set, including the ABA's Expense Codes, is attached hereto as **Exhibit 1**.

Administration Expenses

5. Defense counsel and Plaintiffs' counsel selected CPT Group as the Settlement Administrator in this action after soliciting bids from three reputable settlement administrators. CPT Group provided the lowest bid at \$14,000. Defendants agreed to cover \$2,000 of this amount

apart from the Gross Settlement Amount.

6. I understand that the \$14,000 amount is capped and no additional money from the Gross Settlement Fund will go to pay settlement administration expenses.

Attorneys’ Fees and Costs

7. To date, my firm has incurred \$13,145.03 in unreimbursed out-of-pocket costs to litigate the *Vidal* and *Miclat* actions.

8. All of these costs are summarized here:

ABA Expense Code	Description	Cost Paid by Nichols Kaster
E106 Online Research	I have included Westlaw and Pacer charges here	\$2,721.85
E108 Postage	I have included the cost of postage and shipping here	\$173.12
E110, E11 Out-of-Town Travel and Meals	I have included the cost of lawyers and Plaintiffs traveling to and from depositions here, as well as hotels and meal costs associated with the same. Class Counsel have also included one purchased roundtrip plane ticket for the Final Approval hearing in this category.	\$2,607.58
E112 Court Fees	I have included the cost of pro hac vice filings and ordering certificates of good standing here	\$630.45
E118 Litigation Support Vendors	I have included the cost of Relativity and collection vendors here	\$3,544.95
E121 Arbitrators/Mediators	I have included the mediator’s fee here	\$3,392.08
E124 Other	I have included the cost of requesting records from the New York Department of State here	\$75.00
		<i>TOTAL: \$13,145.03</i>

Attorneys’ Fees, Time, and Labor

9. My firm has spent a significant amount of time on this case since investigating with co-counsel beginning in 2022. After exercising billing discretion to remove time entries associated with redundant or unnecessary work, media and publicity, erroneous entries, reconciling inconsistencies, and the like, my firm’s total time on this case through January 26, 2026, equals 348.8 hours. We have excluded over 85 hours in time from Nichols Kaster’s billing records. I am confident that the remaining 348.8 hours were necessary to achieve the results we achieved for our clients, including the Settlement Class. These hours amount to a lodestar of \$192,355.00 when using current rates. Broken down by timekeeper, these hours, rates, and lodestar amounts are as follows.

Nichols Kaster				
Timekeeper	Position	Hours	Current Rate	Lodestar Using Current Rate
Anna Prakash 2005 Grad	Partner	191.4	\$700	\$133,980.00
Angi Kittelson	e-Discovery Manager	8.0	\$195	\$1,560.00
Cameron Pylka	Litig. Support Specialist	1.2	\$195	\$234.00
Hillary Birchem	Financial Loss/ Valuation Analyst	2.6	\$245	\$637.00
Joshua O’Neill 2021 Grad	Associate	134.4	\$400	\$53,760.00
Monique Burgoz	Paralegal	11.2	\$195	\$2,184.00
Total for Nichols Kaster		348.8		\$192,355.00

10. We have not been paid for any of this time. A further explanation of this work

follows.

11. Class Counsel began investigating Mr. Vidal's case in 2022, after ACS initiated an arbitration against Mr. Vidal. Class Counsel met with Mr. Vidal, reviewed relevant documents, and researched applicable law. Our work was thorough, time-consuming, and undertaken with the goal of making sure that we were filing a strong case despite the risks associated with challenging an established business, practices that are commonplace in the industry, and relying on relatively novel case law. Mr. Vidal provided Class Counsel considerable assistance during this stage of the case.

12. On September 16, 2022, Plaintiff Vidal filed a declaratory judgment action against ACS in this Court seeking to halt that arbitration. *Vidal v. Advanced Care Staffing, LLC*, No. 1:22-cv-05535-NRM-MMH, ECF No. 1 (E.D.N.Y. Sept. 16, 2022). ACS sought leave to file a motion to compel arbitration and dismiss. *Id.*, ECF No. 11 (E.D.N.Y. Oct. 20, 2022). Plaintiff Vidal responded, *id.*, ECF No. 13 (E.D.N.Y. Oct. 27, 2022), and subsequently moved for a preliminary injunction to stay the AAA arbitration. *Id.*, ECF No. 23 (E.D.N.Y. Jan. 23, 2023). After briefing and argument, this Court granted Vidal's motion for preliminary injunction. *Id.*, ECF No. 39 (E.D.N.Y. Feb. 24, 2023).¹ ACS appealed to the Second Circuit. *Id.*, ECF No. 40 (March 7, 2023). On March 7, 2024, the Second Circuit affirmed this Court's grant of the preliminary injunction in *Vidal*. *Vidal v. Advanced Care Staffing, LLC*, No. 23-cv-303, 2024 WL 980634 (2d Cir. Mar. 7, 2024).

13. On July 12, 2023, Cherry Lyn Miclat ("Plaintiff Miclat"), a nurse and former employee of ACS, filed this class action lawsuit. After the Second Circuit resolved the *Vidal* appeal, the parties in *Miclat* agreed to limited discovery to evaluate whether settlement discussions

¹ See also *Vidal*, No. 1:22-cv-05535-NRM-MMH, ECF No. 42 (April 4, 2023) (full opinion).

would be fruitful.

14. Beginning in the summer of 2024, Class Counsel spent months in arms-length negotiations between counsel and the parties, including the United States Department of Labor and the New York Office of the Attorney General, including two mediation sessions. After the second mediation session, the parties continued discussions in the hopes of reaching a global settlement. This took over six more months and involved a variety of complications, including what if anything the Companies would agree to with respect to changing their practices in and outside of New York (given different claims and positions asserted by respective counsel), how to allocate the Gross Settlement Amount, and how and whether the *Miclat* complaint should be amended to effectuate settlement

15. The Court granted Preliminary Approval on November 19, 2025, (ECF No. 88), and we continued working with the Settlement Administrator and defense counsel to review and finalize data, approve formatted Settlement Notices, and approve the Settlement Website.

16. Given my experience litigating and settling class and collective actions, I believe that this Settlement is fair, reasonable, and adequate.

17. The non-monetary relief in this Settlement is more expansive than that in recent comparable settlements involving similar fact patterns. Among other things, no former employees will be required to pay any alleged debt that Defendants contend is owed for resigning without Good Reason.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: February 3, 2026

/s/ Joshua R. O'Neill
Joshua R. O'Neill

EXHIBIT 1

Uniform Task-Based Management System

Litigation Code Set

- [Overview](#)
- [Litigation Code Set](#)
- [Litigation Code Set: Sample Budget Format](#)
- [Litigation Code Definitions](#)
- [Background, Definitions, Principles, and Assumptions](#)
- [Participants and Liaisons](#)
- [Disclaimer & Copyright](#)

Counseling Code Set, Project Code Set, Bankruptcy Code Set

- [Overview](#)
- [Counseling Code Set](#)
- [Project Code Set](#)
- [Bankruptcy Code Set](#)
- [Activity Codes](#)
- [Expense Codes](#)
- [Participants and Liaisons](#)
- [Disclaimer & Copyright](#)

Disclaimer & Copyright

The authors hereby grant permission to use the codes and related definitions, in whole or in part, on a non-exclusive, royalty-free basis. In addition, this document may be freely reproduced and distributed in any electronic or hardcopy medium, on a nonexclusive, royalty-free basis, provided that this reproduction and distribution are not for profit, and that this title page is included in its entirety.

This document has not been approved by either the Council of the Section of Litigation, or the ABA House of Delegates, and therefore, does not constitute official Section or ABA policy.

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Overview

The Uniform Task-Based Management System is a budgeting and billing system designed to provide clients and law firms with meaningful cost information on legal services. The first major area of legal work addressed by the System is litigation. This document presents the Litigation Code Set and definitions developed by a tripartite effort of the American Bar Association Section of Litigation, the American Corporate Counsel Association, and a group of major corporate clients and law firms coordinated and supported by Price Waterhouse LLP. The System enables lawyers to budget and bill by litigation task, aiding client and counsel in understanding, managing and conducting litigations. It is intended to cover all contested matters, including judicial litigation, binding arbitration and regulatory/administrative proceedings.

The goals of the Litigation Code Set are to:

1. Enable client and counsel to plan and maintain an efficient and effective litigation.
2. Facilitate effective communication of the tasks and costs of litigation and any variations from the expected or the norm.
3. Provide each client and law firm with a means to individually understand and compare the cost of litigation, for greater efficiency and as a foundation for use of alternative billing arrangements.
4. Harmonize the various task-based efforts to ease widespread adoption of a simple, concise and flexible task-based management approach.

The Litigation Code Set is grouped into five basic phases or aspects of a litigation, plus expenses:

- Case Assessment, Development and Administration
- Pre-Trial Pleadings and Motions
- Discovery
- Trial Preparation and Trial
- Appeal

Each phase consists of a number of tasks, such as Written Discovery, Document Production and Depositions. In total, 29 tasks comprise the Litigation Code Set.

All work associated with a task should be included in that category. For example, Depositions (L330) encompasses all time spent on depositions including deposition notices and subpoenas, deposition scheduling and logistics, planning for and preparing to take the depositions and any deposition summaries. The intent is to provide a true picture of the labor cost of each task. (Out-of pocket expenses, such as witness fees and transcripts, are treated under Expenses.)

For each billing period, the time charges by attorney or other professional are recorded by task. The System also allows for accumulation of the time charges, providing a comparison at a glance of the cost of each phase and each task for the month, for a specified budget period, and cumulatively for the litigation. Expenses can also be reported on a period and cumulative basis on request.

For those desiring, a budget can be prepared for each phase, and within that, each task for the whole case and/or by quarter (or other time period). The monthly bills would then compare that month's bill and the cumulative total with the budget.

The System also provides a long form for those wishing to capture the task-based work by specific activity. The activity identifies how the work is being performed (e.g., communicating in firm, researching, drafting, and reviewing). For this purpose, any or all of eleven activities can be used with any or all of the tasks of the System.

The intention of the Litigation Code Set is to minimize multiple interpretation and options for coding time. It is recognized that not all litigation work will fit neatly in a particular category. Work can overlap tasks, categories may be imprecise, or time may be expended on the truly unusual. Users should categorize the work to its primary purpose. Definitions are provided for guidance. Where uncertainty envelops substantial or repeating work, it is best for client and counsel to agree in advance on the category to be used.

It is important to understand the considerations that went into the development of consensus around a single standard. Therefore, following the definitions is a discussion of the background of this initiative, and the guiding principles and assumptions that informed the development of the Litigation Code Set.

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Litigation Code Set

L100 Case Assessment, Development and Administration

- L110 Fact Investigation/Development
- L120 Analysis/Strategy
- L130 Experts/Consultants
- L140 Document/File Management
- L150 Budgeting
- L160 Settlement/Non-Binding ADR
- L190 Other Case Assessment, Development and Administration

L200 Pre-Trial Pleadings and Motions

- L210 Pleadings
- L220 Preliminary Injunctions/Provisional Remedies
- L230 Court Mandated Conferences
- L240 Dispositive Motions
- L250 Other Written Motions and Submissions
- L260 Class Action Certification and Notice

L300 Discovery

- L310 Written Discovery
- L320 Document Production
- L330 Depositions
- L340 Expert Discovery
- L350 Discovery Motions
- L390 Other Discovery

L400 Trial Preparation and Trial

- L410 Fact Witnesses
- L420 Expert Witnesses
- L430 Written Motions and Submissions
- L440 Other Trial Preparation and Support
- L450 Trial and Hearing Attendance
- L460 Post-Trial Motions and Submissions
- L470 Enforcement

L500 Appeal

- L510 Appellate Motions and Submissions
- L520 Appellate Briefs
- L530 Oral Argument

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) #: 1064

A108 Communicate (other external)

A109 Appear for/attend

A110 Manage data/files

A111 Other

E100 Expenses

E101 Copying

E102 Outside printing

E103 Word processing

E104 Facsimile

E105 Telephone

E106 Online 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

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Sample Budget Format

Case: _____
Month From Inception: _____
Budget Period: _____
Month into Budget Period: _____

	For Budget	Period From Inception
--	------------	-----------------------

Current Billings	Bills to Budget Date	Bills to Budget Date
------------------	----------------------	----------------------

L100 Case Assessment, Development and Administration

- L110 Fact Investigation/Development
- L120 Analysis/Strategy
- L130 Experts/Consultants
- L140 Document/File Management
- L150 Budgeting
- L160 Settlement/Non-Binding ADR
- L190 Other Case Assessment, Development and Administration

L200 Pre-Trial Pleadings and Motions

- L210 Pleadings
- L220 Preliminary Injunctions/Provisional Remedies
- L230 Court Mandated Conferences
- L240 Dispositive Motions
- L250 Other Written Motions and Submissions
- L260 Class Action Certification and Notice

L300 Discovery

- L310 Written Discovery
- L320 Document Production
- L330 Depositions
- L340 Expert Discovery
- L350 Discovery Motions
- L390 Other Discovery

L400 Trial Preparation and Trial

- L410 Fact Witnesses
- L420 Expert Witnesses
- L430 Written Motions and Submissions
- L440 Other Trial Preparation and Support
- L450 Trial and Hearing Attendance
- L460 Post-Trial Motions and Submissions
- L470 Enforcement

L500 **Appeal**

L510 Appellate Motions and Submissions

L520 Appellate Briefs

L530 Oral Argument

E100 **Expenses (Itemize)**

TOTAL

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Litigation Code Definitions

The Litigation Code Set is intended for use in all adversarial matters including litigation, binding arbitrations, and regulatory/administrative proceedings. The following definitions elaborate on the intended scope of each phase and task and should guide attorneys in coding time.

L100 Case Assessment, Development and Administration. Focuses on the case as a whole, the "forest" rather than the "trees".

L110 Fact Investigation/Development. All actions to investigate and understand the facts of a matter. Covers interviews of client personnel and potential witnesses, review of documents to learn the facts of the case (but not for document production, L320), work with an investigator, and all related communications and correspondence.

L120 Analysis/Strategy. The thinking, strategizing, and planning for a case, including discussions, writing, and meetings on case strategy. Also includes initial legal research for case assessment purposes and legal research for developing a basic case strategy. Most legal research will be under the primary task for which the research is conducted, such as research for a summary judgment motion (L240). Once concrete trial preparation begins, use L440 for trial strategy and planning.

L130 Experts/Consultants. Identifying and interviewing experts and consultants (testifying or non-testifying), working with them, and developing expert reports. Does not include preparing for expert depositions (L340) or trial (L420).

L140 Document/File Management. A narrowly defined task that comprises only the processes of creating and populating document and other databases or filing systems. Includes the planning, design, and overall management of this process. Work of outside vendors in building litigation support databases should be an Expense.

L150 Budgeting. Covers developing, negotiating, and revising the budget for a matter.

L160 Settlement/Non-Binding ADR. 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.

L190 Other Case Assessment, Development and Administration. Time not attributable to any other overall task. Specific use in a given matter often may be pre-determined jointly by the client and law firm.

L200 Pre-Trial Pleadings and Motions. Covers all pleadings and all pretrial motions and procedures other than discovery.

L210 Pleadings. Developing (researching, drafting, editing, filing) and reviewing complaints,

answers, counter-claims and third party complaints. Also embraces motions directed at pleadings such as motions to dismiss, motions to strike, and jurisdictional motions.

L220 Preliminary Injunctions/Provisional Remedies. Developing and discussing strategy for these remedies, preparing motions, affidavits and briefs, reviewing opponent's papers, preparing for and attending court hearing, preparing witnesses for the hearing, and effectuating the remedy.

L230 Court Mandated Conferences. Preparing for and attending hearings and conferences required by court order or procedural rules (including Rule 16 sessions) other than settlement conferences (L160).

L240 Dispositive Motions. Developing and discussing strategy for or opposing motions for judgment on the pleadings and motions for complete or partial summary judgment, preparing papers, reviewing opponent's papers, defensive motions (e.g., motion to strike affidavit testimony, Rule 56(f) motion), and preparing for and attending the hearing.

L250 Other Written Motions/Submissions. Developing, responding to, and arguing all motions other than dispositive (L240), pleadings (L210), and discovery (L350), such as motions to consolidate, to bifurcate, to remand, to stay, to compel arbitration, for MDL treatment and for change of venue.

L260 Class Action Certification and Notice. Proceedings unique to class action litigation and derivative suits such as class certification and notice.

L300 Discovery. Includes all work pertaining to discovery according to court or agency rules.

L310 Written Discovery. 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).

L320 Document Production. 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.)

L330 Depositions. 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.

L340 Expert Discovery. Same as L330, but for expert witnesses.

L350 Discovery Motions. Developing, responding to, and arguing all motions that arise out of the discovery process. Includes the protective order process.

L390 Other Discovery. Less frequently used forms of discovery, such as medical examinations and on-site inspections.

L400 Trial Preparation and Trial. 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.

L420 Expert Witnesses. Preparing for examination and cross-examination of expert witnesses.

L430 Written Motions/Submissions. Developing, responding to and arguing written motions during preparation for trial and trial, such as motions in limine and motions to strike proposed evidence. Also includes developing other written pre-trial and trial filings, such as jury instructions, witness lists, proposed findings of fact and conclusions of law, and trial briefs.

L440 Other Trial Preparation and Support. All other time spent in preparing for and supporting a trial, including developing overall trial strategy, preparing opening and closing arguments, establishing an off-site support office, identifying documents for use at trial, preparing demonstrative materials, etc.

L450 Trial and Hearing Attendance. Appearing at trial, at hearings and at court-mandated conferences, including the pre-trial conferences to prepare for trial. For scheduling conferences that are denominated as "Pre-Trial Conferences", but not directed toward conduct of the trial, use Task L230.

L460 Post-Trial Motions and Submissions. Developing, responding to and arguing all post-verdict matters in the trial court, such as motions for new trial or j.n.o.v., for stay pending appeal, bills of costs, and requests for attorney's fees.

L470 Enforcement. All work performed in enforcing and collecting judgments and asserting or addressing defenses thereto.

L500 Appeal. Covers all work on appeal or before a reviewing body.

L510 Appellate Motions and Submissions. Developing, responding to and arguing motions and other filings before a reviewing body, such as motions and other filings for stay pending appeal.

L520 Appellate Briefs. Preparing and reviewing appellate briefs.

L530 Oral Argument. Preparing for and arguing an appeal before a reviewing body.

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Background, Definitions, Principles, and Assumptions

A. Background: The Need

Until the past decade, law firm billing was relatively straightforward. Firms billed their clients in greater or lesser detail, typically providing in-depth narrative descriptions of the tasks and processes underlying their hourly charges. In issuing bills and providing the underlying detail, each firm followed its own approach. In recent years, however, clients have become more focussed in requesting additional billing information of their outside law firms, or asking that billing data be presented in specific formats. In some instances companies have wanted to analyze their costs along various dimensions to provide benchmarks for the more systematic evaluation of legal costs. In others, there has been a desire to develop a database of costs on discrete legal activities. Most of these efforts have been part of an overriding effort to manage corporate legal expenses more effectively by considering inside/outside mix, comparative performance by attorneys and firms of discrete activities, and other aspects of cost.

As a consequence of these trends, many law firms' administrative organizations are faced with the challenge of complying with a broad range of specialized billing requirements - each unique to one client. This situation already poses a substantial burden to a number of firms. As law departments expand their use of "task-based billing" and broaden their efforts to manage outside legal costs more effectively, firms face the prospect of overwhelming complexity as they strive to comply with the various requests of dozens of clients. Ultimately, law departments will be burdened by different law firm coding structures and billing systems.

Aside from "need" narrowly defined, there are significant benefits to both law firms and law departments in terms of administrative simplicity and cost reduction to be gained from standardization. In addition, the development of standard billing categories will permit introduction of billing based on Electronic Data Interchange (EDI). This technology is already widely employed in other areas of commercial activity. By linking the suppliers and consumers of legal services, EDI offers the prospect of "paperless billing" and a new level of administrative and cost efficiency.

The need, therefore, is for a uniform set of billing and task categories - detailed describers of legal work that would be acceptable to both law departments and firms, and that could prevail across American industry, financial services, and commerce. Analogous to the role of standards in other industries and functions, standard billing categories would make it possible for law firms to standardize their billing systems and for corporate law departments to work with their law firms in a far more efficient manner than prevails today.

B. Definitions

Following is a glossary of terms that will be helpful in understanding the Litigation Code Set.

1. **Coding set/coding scheme.** A list of alphanumeric codes and corresponding terms and definitions that describe the universe of legal work in a given area.
2. **Field.** A specific, defined category of information that is entered into an information management system or database.
3. **Area of law.** A label describing a discrete area of legal practice or specialization. Examples include real estate, intellectual property, and environmental. The group envisions that each department and firm would define these as appropriate.

4. **Matter type.** This designation describes or categorizes a specific legal services project for purposes of analysis and reporting. In most cases, matter types are more detailed than areas of law though for some specialized areas of law there may not be a more detailed listing of matter types. For example, a litigation case might be categorized as an antitrust, environmental, international trade, etc. matter.
5. **Phase.** This is the highest level category in the coding hierarchy. For litigation, examples are Pre-Trial Pleadings and Motions, and Discovery. Phases represent collections of tasks and activities that occur largely in a sequence during the course of a case or matter. Typically, timekeepers will enter time at the task level, but phase-level time entry will also be permitted. This might be useful in smaller cases in which task-level detail is not needed.
6. **Task.** This represents more detail under the phase level in the coding hierarchy. All tasks roll up to a phase. Tasks are intended to capture tangible work product produced or business results achieved. Tasks (or phases) are one of two fields to be recorded by timekeepers.
7. **Activity.** This is a code intended to describe how work is accomplished (e.g., communicating, drafting). Activities represent the second field to be recorded (optionally) by timekeepers.

C. Principles

The following list of guiding principles has informed the development of the Litigation Code Set. These principles emerged throughout a number of meetings held during 1994 and early 1995 and discussions of the various options under consideration.

1. **Support of business objectives and processes.** A primary, recurring consideration has been to focus on the purposes and uses of standardized coding. A number of business objectives and administrative processes that should be supported by the coding scheme were identified. These include planning and budgeting, time entry, status monitoring and reporting, bill preparation, electronic transmission of bills and payments, bill review and analysis, development of alternative financial arrangements, and practice and profitability analysis. Consistently, the group returned to the question: How are we going to use the data to be tracked?
2. **Simplicity.** The Litigation Code Set must be simple and straightforward to ensure widespread use. This includes limiting the total number of codes to a manageable level. The team consistently returned to this fundamental principle as it explored a wide range of alternatives, which frequently suggested more detailed coding schemes than we developed.
3. **Ease of use.** In practice, the Litigation Code Set should be easy for attorneys and other staff to use. The codes should be intuitive and capture an attorney's logical work processes.
4. **Suitability for all size offices.** Currently-available technology will be an important asset in the efficient implementation of the coding scheme. Still, the group has assumed that not all law offices will have advanced technology solutions at their disposal to facilitate the capture and analysis of time. For the coding scheme to be used widely, law offices and attorneys must be able to use the codes in a manual fashion.
5. **Avoidance of multiple interpretation..** A primary concern with some existing code sets is the multitude of ways in which a single time entry can be coded, depending on individual interpretation. The codes should minimize opportunity for multiple interpretation.
6. **Flexibility to track both tasks and activities.** Some team members value the ability to analyze work according to categories of activity (e.g., communication, drafting) in addition to task (e.g., deposition). Others emphasize the importance of tracking and analyzing the level of effort expended to complete tangible work product, segments of a case, or defined business objectives. For this group, simply

D. Assumptions

Following is a list of assumptions that guided the development of the Litigation Code Set. These assumptions were drawn from discussions during initiative meetings.

1. **The fundamental coding structure has two fields: tasks (embedded within phases) and activities.** Whereas task codes track time associated with tangible work product accomplished (e.g., motion, deposition), activity codes describe how the work was performed (e.g., communicating, drafting). Not every law office will wish to use activity codes, but the coding scheme is flexible to accommodate those who value activity analysis. The team discussed the desirability of coding at a lower level below task. In the interest of simplicity, though, this additional detail may be captured using narrative rather than adding more levels. This experience was borne out by those team members with direct experience coding time.
2. **Narrative time entries will be retained.** The Litigation Code Set does not envision the elimination of narrative descriptions of time entries. However, the need for this level of detail may be reduced in smaller, less complex cases with successful adoption and implementation of the coding scheme.
3. **For purposes of tracking and analysis, a matter type code distinguishes among various types of matters.** A matter type designation can be used to distinguish among various types of litigation and to identify alternative dispute resolution matters.
4. **The Litigation Code Set focuses on meeting the requirements of most matters.** The Litigation Code Set has been designed to be suitable for use with most matters. However, there may exist cases of such size, complexity, or other unique characteristics that the codes are not sufficiently detailed. The objective was to develop a code set for the vast majority of cases and to provide a framework in which more detailed codes can be developed for extraordinary cases.

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Participants

The following organizations are among those that participated:

Corporate Participants

American Airlines Inc.
Chase Manhattan Bank, N.A.
Chrysler Corporation
CIGNA Corporation
Citicorp/Citibank N.A.
Dow Chemical Company
DuPont Company
Eastman Kodak Company
Metropolitan Life Insurance Company
NationsBank Corporation
Niagara Mohawk Power Corporation
NYNEX Corporation
The Pacific Telesis Group
Philip Morris Companies Inc.
Prudential Insurance Company of America
TRW Inc.
Viacom International Inc.
Westinghouse Electric Corporation

Law Firm Participants

Abelman, Frayne & Schwab
Adams, Duque & Hazeltine
Crowell & Moring
Goodwin, Procter & Hoar
Heller Ehrman White & McAuliffe
Jones, Day, Reavis & Pogue
Kenyon & Kenyon
King & Spalding
McCutchen, Doyle, Brown & Enersen
McMillan Binch
Milbank, Tweed, Hadley & McCloy
Nixon, Hargrave, Devans & Doyle
O'Melveny & Myers
Paul, Weiss, Rifkind, Wharton & Garrison
Peterson & Ross
Pillsbury Madison & Sutro
Reed Smith Shaw & McClay
Sedgwick, Detert, Moran & Arnold
Shearman & Sterling
Sidley & Austin

Skadden, Arps, Slate, Meagher & Flom
Weil, Gotshal & Manges
White & Case
Wilmer, Cutler & Pickering

Liaisons from Other Groups

American Bar Association (ABA) Liaisons

J. Michael Hemmer, Covington & Burling
Richard Alpert, Digital Equipment Corporation
Robert D. Fram, Heller Ehrman White & McAuliffe
Julie Welborn, Liberty Mutual Insurance Company
Raymond L. Ocampo, Jr., Oracle Corporation
Michael T. Connell, Bank of California

American Corporate Counsel Association (ACCA) Liaisons

Charles H. Goodman, Independent Consultant
Richard Mulroy, Mutual Life Insurance Company of New York
Mark Goodwin, Overnite Transportation Company

Litigation Code Set

[Overview](#) | [Litigation Code Set](#) | [Sample Budget Format](#) | [Definitions](#) | [Background, Definitions, Principles, and Assumptions](#) | [Participants & Liaisons](#) | [Disclaimer & Copyright](#)

Disclaimer & Copyright

This document contains the Litigation Code Set and related definitions developed by a tripartite initiative of the American Bar Association Section of Litigation, the American Corporate Counsel Association, and a sponsoring group of major corporate law departments and law firms coordinated and supported by Price Waterhouse LLP.

The authors hereby grant permission to use the codes and related definitions, in whole or in part, on a non-exclusive, royalty-free basis. In addition, this document may be freely reproduced and distributed in any electronic or hardcopy medium, on a nonexclusive, royalty-free basis, provided that this reproduction and distribution are not for profit, and that this title page is included in its entirety.

May 1995

A copy of this document can be received by calling the ABA Member Services Department at (312) 988-5522 and asking for Product Code #: 5310129 or using the [online order form](#). A \$10.00 fee (\$12.50 for non-members of ABA) will be charged to cover copying, shipping, postage and handling costs.

This document has not been approved by either the Council of the Section of Litigation, or the ABA House of Delegates, and therefore, does not constitute official Section or ABA policy.

American Bar Association Chicago, IL 60611
ISBN #: 157073-203-5

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Overview

The Uniform Task-Based Management System is designed to enable the providers and recipients of legal services to track, by time and task, cost information on legal services and to implement budgeting and billing systems utilizing this information. The first set of standards issued under the Uniform Task-Based Management System was the [Litigation Code Set](#), which was released in May 1995.

This document presents the Counseling Code Set, the Project Code Set and the Bankruptcy Code Set and related definitions. These code sets were developed by a sponsoring group of major corporate clients and law firms coordinated and supported by Price Waterhouse LLP. The Bankruptcy Code Set is derived from the code set published by the U.S. Department of Justice, Executive Office for the United States Trustee.

The Counseling and Project Code Sets are designed to be adaptable to all practice areas and matter types. As such, the phases and tasks defined in these code sets are more general in nature. The Steering Committee concluded that it would not be practicable to develop practice-specific task codes. The group decided instead to develop a standard that specifies the principal categories or types of tasks undertaken on most non-litigation matters (e.g., due-diligence, negotiation, documentation, rather than identifying tasks unique to each area of practice (e.g., tenant lease for real estate)).

Effective implementation of the Uniform Task-Based Management System depends on effective communication between counsel and client. It is necessary to confirm which code sets should be used at the initiation of work. For example, there might exist a situation in which the Counseling Code Set is initially used to capture time spent on informal discussions on a particular issue, which after some time turns into a more formally defined matter for which the Project Code Set is appropriate.

The Counseling, Project and Bankruptcy Code Sets use the same list of activity and expense codes presented in the Litigation Code Set.

The Steering Committee participants recognize that there has been less experience in the use of task-based codes for commercial projects and general counseling than for litigation matters. As such, it is anticipated that discussion within the industry on the counseling and project codes will ensue and appropriate revisions may be made as these codes come into broader use. Currently there is no mechanism within the legal industry to maintain, refine and update the Code Sets. Until such a group or process is established by a recognized and representative professional organization within the industry, Price Waterhouse LLP will continue to provide informal leadership and information sharing services in this area. Comments should be addressed to the following individuals at Price Waterhouse LLP:

Mr. Jonathan P. Bellis
Phone: 212-596-7570

Ms. Kathryn K. Parker
Phone: 212-596-7526

Mr. David N. Horne
Phone: 212-596-7536

Law Firm & Law Department Consulting Group
Price Waterhouse LLP
1177 Avenue of the Americas
New York, NY 10036

Fax: 212-596-8986

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Counseling Code Set and Definitions

The Counseling Code Set is part of the broader Uniform Task-Based Management System which also includes codes for litigation, bankruptcy and projects (including transactions and administrative filings). The Counseling Code Set provides flexibility in the Uniform Task-Based Management System. It is intended to capture time spent by attorneys in preparing and delivering general legal advice for all areas of law (e.g., tax, labor, corporate, regulatory, lobbying). The Counseling Code Set may also be used to capture time over a monthly billing period that is not otherwise attributable to a discrete matter, transaction, project or litigation. Communication between client and counsel about which code set to use at the onset of any matter is advisable.

The following definitions elaborate on the intended scope of each task and should guide attorneys in coding time.

Counseling Code Set

C100 Fact Gathering. This phase includes all initial inquiries, meetings and instructions and the identification and collection of information relevant to the assignment.

C200 Researching Law. This phase includes all legal research tasks, including internal meetings and consultations with those with special expertise, and computer and on-line research.

C300 Analysis and Advice. This phase includes all tasks associated with analysis of both the facts and research performed (under C100 and C200) and communicating related opinions or advice to clients. Written communication, meetings, and telephone conversations during which advice is conveyed would all be captured by this phase.

C400 Third Party Communication. This phase includes all discussions with third parties not otherwise covered above, such as communications with regulators or parties to contracts with the client.

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Project Code Set

The Project Code Set includes all legal tasks performed for non-litigation matters of a similar task pattern described below. This Code Set can be used for transactions (e.g., real estate, securities, financings, restructurings, mergers and acquisitions), for administrative filings with Federal and state agencies, and for stand-alone projects (e.g., establishing an environmental compliance program). All of these assignments share, to a large extent, the same underlying process steps.

The Project Code Set is part of the broader Uniform Task-Based Management System which also includes codes for litigation, bankruptcy, and counseling. The Project Code Set applies to all areas of law.

The following definitions elaborate on the intended scope of each phase and task and should guide attorneys in coding time.

P100 Project Administration. Focuses on administrative aspects of the assignment, including planning, budgeting, and maintenance of documents. Covers developing, negotiating, and revising the administrative plan and the budget for a matter. Also includes developing and communicating project status reports. Time coded here is to be distinguished from strategizing about the project, which is included in the P300 code.

P200 Fact Gathering/Due Diligence. Includes all time spent investigating facts, obtaining documents and completing due diligence and the preparation of related reports and reviews with clients.

Also includes coordination with third parties (including other counsel) in connection with fact investigation, interviews of client and non-client personnel, document review performed for purposes of identifying, understanding and analyzing facts and issues, and all related communications and correspondence.

P210 Corporate Review. This task includes all fact investigation/due diligence from a corporate perspective, such as structural reviews, material contract reviews, SEC filing reviews, financing document reviews, and industry information reviews.

P220 Tax. This task includes all steps involved in conducting fact investigation/due diligence from a tax perspective.

P230 Environmental. This task includes all fact investigation/due diligence from an environmental perspective.

P240 Real and Personal Property. This task includes all fact investigation/due diligence from a real and personal property perspective.

P250 Employee/Labor. This task includes all fact investigation/due diligence from an employee benefits and labor perspective.

P260 Intellectual Property. This task includes all fact investigation/due diligence from an intellectual property (patent, trademarks, copyrights) perspective.

P270 Regulatory Reviews. This task includes fact investigation/due diligence from a regulatory perspective not covered elsewhere. Includes review of agency filings (e.g., FCC, FTC, and State analogues) by a party to or the subject of the transaction or project. Also includes consumer credit reviews.

P280 Other. This task includes all fact investigation/due diligence not captured more specifically in the P200 codes set forth above.

P300 Structure/Strategy/Analysis. Includes time spent in planning the approach to the deal or project. Tasks include all analysis performed for purposes of developing and reassessing the strategy for the project or transaction, and all steps taken to develop a written outline or description of the structure of a transaction or the strategy for a matter (e.g., term sheets) throughout the life of the matter.

P400 Initial Document Preparation/Filing. This phase includes all tasks undertaken to prepare transaction documents and opinions prior to their being sent to non-client third parties. Also includes all tasks undertaken to file documents (including regulatory filings). All related communications with the client and review of client generated transaction documentation should be coded here.

P500 Negotiation/Revision/Responses. This phase includes conducting negotiations, revising the initial (P400) transaction documentation as a result of such negotiations, attendance at meetings, and responses thereto (including communications with clients with respect thereto). The review of documents received from non-client third parties should also be coded here.

P600 Completion/Closing. This phase includes all tasks related to transaction pre-closing and closing, project completion or filing acceptance, such as attendance at closing.

P700 Post-Completion/Post-Closing. This phase includes all post-completion or post-closing tasks such as amendments to final documentation and resolution of post-closing issues. Also includes all implementation tasks (e.g., funds held in escrow) and preparation of closing binders (i.e., primarily clerical actions). Would not typically include total or significant restructuring which should be considered a new assignment.

P800 Maintenance and Renewal. This phase includes all tasks related to subsequent maintenance and renewal requirements under the terms of the transaction or project such as monitoring of lease agreements, routine waivers and coordination of UCC requirements.

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Bankruptcy Code Set and Definitions

This code set is intended for use on bankruptcy matters. Tasks relating to adversarial matters, such as preference actions, must be captured using the Litigation Code Set. The Bankruptcy Code Set is derived from the code set published by the U.S. Department of Justice, Executive Office for the United States Trustee.

B100 Administration B110 Case Administration. Coordination and compliance matters, including preparation of statement of financial affairs; schedules; list of contracts; United States Trustee interim statements and operating reports; contacts with the United States Trustee; general creditor inquiries.

B120 Asset Analysis and Recovery. Identification and review of potential assets including causes of action and non-litigation recoveries.

B130 Asset Disposition. Sales, abandonment and transaction work related to asset disposition.

B140 Relief from Stay/Adequate Protection Proceedings. Matters relating to termination or continuation of automatic stay under 362 and motions for adequate protection.

B150 Meetings of and Communications with Creditors. Preparing for and attending the conference of creditors, the 341(a) meeting and other creditors' committee meetings.

B160 Fee/Employment Applications. Preparations of employment and fee applications for self or others; motions to establish interim procedures.

B170 Fee/Employment Objections. Review of and objections to the employment and fee applications of others.

B180 Avoidance Action Analysis. Review of potential avoiding actions under Sections 544-549 of the Code to determine whether adversary proceedings are warranted.

B185 Assumption/Rejection of Leases and Contracts. Analysis of leases and executory contracts and preparation of motions specifically to assume or reject.

B190 Other Contested Matters (excluding assumption/rejection motions). Analysis and preparation of all other motions, opposition to motions and reply memoranda in support of motions.

B195 Non-Working Travel. Non-working travel where the court reimburses at less than full hourly rates.

B200 Operations

B210 Business Operations. Issues related to debtor-in-possession operating in chapter 11 such as employee, vendor, tenant issues and other similar problems.

B220 Employee Benefits/Pensions. Review issues such as severance, retention, 401K coverage and

B230 Financing/Cash Collections. Matters under 361, 363 and 364 including cash collateral and secured claims; loan document analysis.

B240 Tax Issues. Analyses and advice regarding tax-related issues, including the preservation of net operating loss carry forwards.

B250 Real Estate. Review and analysis of real estate-related matters, including purchase agreements and lease provisions (e.g., common area maintenance clauses).

B260 Board of Directors Matters. Preparation of materials for and attendance at Board of Directors meetings; analysis and advice regarding corporate governance issues and review and preparation of corporate documents (e.g., Articles, Bylaws, employment agreements, compensation plans, etc.)

B300 Claims and Plan

B310 Claims Administration and Objections. Specific claim inquiries; bar date motions; analyses, objections and allowances of claims.

B320 Plan and Disclosure Statement (including Business Plan). Formulation, presentation and confirmation; compliance with the plan confirmation order, related orders and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims.

B400 Bankruptcy-Related Advice

B410 General Bankruptcy Advice/Opinions. Analysis, advice and/or opinions regarding potential bankruptcy related issues, where no bankruptcy case has been filed.

B420 Restructurings. Analysis, consultation and drafting in connection with the restructuring of agreements, including financing agreements, where no bankruptcy case has been filed.



Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#)
| [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

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

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Expense Codes

E100 Expenses

- E101 Copying
- E102 Outside printing
- E103 Word processing
- E104 Facsimile
- E105 Telephone
- E106 Online research
- E107 Delivery services/messengers
- E108 Postage
- E109 Local travel
- E110 Out-of-town travel
- E111 Meals
- E112 Courtfees
- 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

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Participants

The following organizations are among those that participated:

Corporate Participants

American Airlines Inc.
Chase Manhattan Bank, N.A.
Chrysler Corporation
CIGNA Corporation
Citicorp/Citibank N.A.
Dow Chemical Company
DuPont Company
Eastman Kodak Company
Metropolitan Life Insurance Company
NationsBank Corporation
Niagara Mohawk Power Corporation
NYNEX Corporation
The Pacific Telesis Group
Philip Morris Companies Inc.
Prudential Insurance Company of America
TRW Inc.
Viacom International Inc.
Westinghouse Electric Corporation

Law Firm Participants

Abelman, Frayne & Schwab
Adams, Duque & Hazeltine
Crowell & Moring
Goodwin, Procter & Hoar
Heller Ehrman White & McAuliffe
Jones, Day, Reavis & Pogue
Kenyon & Kenyon
King & Spalding
McCutchen, Doyle, Brown & Enersen
McMillan Binch
Milbank, Tweed, Hadley & McCloy
Nixon, Hargrave, Devans & Doyle
O'Melveny & Myers
Paul, Weiss, Rifkind, Wharton & Garrison
Peterson & Ross
Pillsbury Madison & Sutro
Reed Smith Shaw & McClay

Sedgwick, Detert, Moran & Arnold

Shearman & Sterling

Sidley & Austin

Skadden, Arps, Slate, Meagher & Flom

Weil, Gotshal & Manges

White & Case

Wilmer, Cutler & Pickering

Counseling Code Set, Project Code Set, Bankruptcy Code Set

[Overview](#) | [Counseling Code Set](#) | [Project Code Set](#) | [Bankruptcy Code Set](#) | [Activity Codes](#) | [Expense Codes](#) | [Participants and Liaisons](#) | [Disclaimer & Copyright](#)

Disclaimer & Copyright

NOTE: This document contains the Counseling Code Set, the Project Code Set, and the Bankruptcy Code Set developed by a sponsoring group of major corporate law departments and law firms coordinated and supported by Price Waterhouse LLP.

The authors hereby grant permission to use the codes and related definitions, in whole or in part, on a non-exclusive, royalty-free basis. In addition, this document may be freely reproduced and distributed in any electronic or hardcopy medium, on a nonexclusive, royalty-free basis, provided that this reproduction and distribution are not for profit, and that this title page is included in its entirety.

November 30, 1995

A copy of this document may be received by calling the ABA Membership Services Department at (312) 988-5522 and asking for Product Code #: 5310202 or by using the [online order form](#). An \$8.00 fee will be charged to cover copying and postage, plus \$2.00 for handling (\$10.00 for non-ABA members, plus \$3.95 for handling).