



[Print This Page](#) | [Close Window](#)

---



## ABA Legal Technology Resource Center

Helping Lawyers Solve the Technology Puzzle

### Cost Recovery: What's Fair Game?

---

How can lawyers recover costs without compromising their ethics? This article, published in *The Professional Lawyer* (Volume 15; Issue 2), outlines popular cost recovery technology tools.

by Molly Kilmer Flood, M.L.I.S

Advances in technology have created a new law office. Computers, fax machines, scanners, and photocopiers now take up valuable real estate. WestLaw and LexisNexis allow users to skip a trip to the library. These tools increase efficiency and help attorneys better serve their clients. There are also quite expensive to purchase and use. Law firms need to find ways to accurately recoup these costs without fleecing and potentially losing any clients. Costs can be recovered using specific technology tools or by using built-in features found in research databases you may already own. Tracking certain office fees helps lawyers and clients see where their money is going.

Cost recovery brings up many substantial ethical concerns. The ABA Model Rules of Professional Conduct are excellent resources for those seeking a happy medium between cost recovery and over billing. These rules can be found at the web site for the [ABA's Center for Professional Responsibility](#). Model Rule 1.5 discusses fees. It is suggested that you and your client predetermine how costs will be recouped. Instead of billing your client for each and every fax and photocopy, you may want to negotiate a set fee for each month. According to Rule 1.5, fees must be reasonable and can include in-house services including copying and telephone use. Overhead expenses such as rent, utilities, and office supplies cannot be recovered. A lawyer should never charge his or her hourly rate when performing clerical tasks. Reasonable computer-assisted research fees can be passed on to clients.

ABA Formal Opinion 93-379 reinforces all of the guidelines discussed in the Model Rules. It also argues that lawyers must disclose exactly what charges the client will be billed for. Every bill to the client should be itemized so that he or she knows exactly what they are paying for. The Attorney-Client relationship can only benefit from these disclosures. The opinion states, "The relationship will be similarly benefitted if the statement for services explicitly reflects the basis for the charges so that the client understands how the fee bill was determined?". These agreements should be in writing, especially in a situation when a client has retained your service for one specific matter. Honest billing practices help dispel the negative and inaccurate public perception of the profession.

Once the attorney/client relationship is worked out, lawyers and staff must be brought into the loop. Mandatory training should help make lawyers and staff aware of the importance of accurate cost recovery. If the client on a specific case has made an unusual billing demand, all lawyers and staff assigned to that matter should be made aware of the situation. Lawyers and staff who have no client contact are often clueless about the entire billing process. Knowing the wishes and desires of every client they serve will encourage them to keep accurate records of their time and expenses.

Like Dorothy's quest to leave Oz and return home, you may have had the ability to recover certain costs all along. Many proprietary research databases such as LexisNexis, WestLaw, and Factiva have built-in tools to track usage. All three databases boast mandatory client screens that force all users to input client and matter numbers. These itemized searches are reflected in your bill. WestLaw and LexisNexis go a step further. WestLaw's QuickView and LexisNexis' Client Validator are software tools that allow authorized users to monitor usage. If your client requires more information about database costs, detailed reports can also be created. These reports can show the who, what, and where of database usage in an easy to understand format.

While mandatory client screens have eliminated many of the phantom charges on database bills, legal research fees can still be quite exorbitant. Recent law school graduates have become accustomed to free, unlimited access to WestLaw and LexisNexis and have no idea how truly expensive those databases are in the real world. Regular monitoring and training may help combat this problem. Law librarians are also excellent resources and are experts in efficient database searching.

The tracking of printing, copying, and faxing costs is a more complicated process. Companies such as Equitrac, Elite Billback, and Copitrak are leading providers of cost recovery solutions. These systems rely on a partnership between hardware and software to provide accurate cost recovery. Photocopiers and fax machines are equipped with control terminals. These small computers require users to input client and matter numbers before any faxing, scanning, or copying can occur.

Phone calls are tracked by dialing the appropriate client and matter numbers before the call. Elite BillBack gives firms the options of eliminating this step. The system monitors all phone calls. Users are asked via e-mail to provide client and matter numbers for calls over a certain length. Even though client and matter numbers are required before each call, Copitrak and Equitrac systems monitor and record all phone calls. This backup information is immediately sent to the system administrator's hard drive.

Printing costs are an excellent candidate for cost recovery. Printing materials can be more expensive than photocopying. Firms have the option of requiring client and matter information for any size printing jobs. An additional popup window appears when any user selects the print option while in their word processing program. Your cost recovery system must work with all of your document processing and management software. Equitrac, Billback, and Copitrak integrates with both Microsoft Word and Corel WordPerfect. They also work with iManage, Wordox, and most of the other major document management system providers.

Organization is the key to any successful cost recovery system. The information collected from control terminals, telephones, and computers is stored in cost recovery software. A desktop program is the key component of any cost recovery system. This software allows system administrators and other authorized users to add or delete billing codes. Authorized billers can also be added or removed from various cases. Advanced systems allow you to access real-time

information. Billing information can be reviewed on a daily basis. Customizable reports can be created along with charts and graphs.

Cost recovery systems are good for both lawyers and clients. Clients have clear evidence showing that they are not being overbilled. Lawyers potentially avoid tense conversations with clients about billing. Software and hardware this beneficial and ethically sound should be mandatory in any law firm.

\* Mention of a company, product, or service does not indicate endorsement or support by the American Bar Association or the authors.

**This page was printed from:** <http://www.abanet.org/tech/ltrc/publications/costrecovery1.html>

[Close Window](#)

© 2007. American Bar Association. All Rights Reserved. [ABA Privacy Statement](#)