

Guide to Common Benefit Time Billing

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Common Benefit Billing Manager & Auditor

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INSTRUCTIONS FOR COMPLETING THE TIME REPORT

Disclaimer: This Guide is meant to supplement the definitions, limitations, and criteria set forth in the prior common benefit orders and the Settlement Agreements. The prior common benefit orders and Settlement Agreements supersede anything contained in this Guide in the event of a conflict.

I. Introduction and Overview of Process

Firms submitting Supplemental Fee Applications for an award of common benefit attorneys' fees are required to submit Time Reports to the Auditor for work performed between June 30, 2021 and June 30, 2023.

The following is a brief overview of the submission and audit process and the applicable deadlines. Detailed instructions for each step are set forth in the sections below.

Deadline	Task
August 15, 2023	MDL Participating Counsel submit MDL common benefit time between June 30, 2021 and June 30, 2023 to the Auditor via PEC Counsel using the MDL Time and Expense Reporting template
August 25, 2023	<p>Non-MDL Participating Counsel submit common benefit time between June 30, 2021 and June 30, 2023 to the Auditor at OpioidTimeReport@amylcollinspc.com using the Time Report template in Appendix A and posted on the website: http://opioidepaneldocuments.com</p> <p>MDL Participating Counsel submit non-MDL common benefit time between June 30, 2021 and June 30, 2023 to the Auditor at OpioidTimeReport@amylcollinspc.com using the Time Report template in Appendix A and posted on the website: http://opioidepaneldocuments.com</p>

MDL Participating Counsel

MDL Participating Counsel who are subject to the *Fee and Expense Order* (Doc. 358) are required to submit their monthly, contemporaneously-kept common benefit time to the Auditor via PEC Counsel. Thus, MDL Participating Counsel who have already submitted their common benefit time ***shall not*** resubmit that time. MDL Participating Counsel who have not submitted monthly time for work performed between June 30, 2021, and June 30, 2023, shall submit that time to the Auditor via PEC Counsel using the MDL Time Report as soon as possible, but no later than **August 15, 2023**.

Additionally, MDL Participating Counsel who have performed work on cases outside of the MDL for which they have not submitted their monthly, contemporaneously-kept time but for which they intend to seek common benefit attorneys' fees shall submit such "non-MDL time" on the Time Report available on the website: <http://opioidfeepaneldocuments.com>. MDL Participating Counsel shall not add the non-MDL time to their monthly time submitted pursuant to the *Fee and Expense Order*. In other words, time spent by MDL Participating Counsel for work outside of the MDL shall be submitted separately on the Time Report using the instructions in Section II below.

Non-MDL Participating Counsel

Non-MDL Participating Counsel have not been subject to the monthly time reporting requirements of the *Fee and Expense Order*, but they are permitted to apply for common benefit attorneys' fees pursuant to the Settlement Agreements. In order to fully evaluate New Applicant Fee Applications, the Fee Panel requires that Non-MDL Participating Counsel submit their common benefit time on the Time Report located at the website: <http://opioidfeepaneldocuments.com>. A Time Report exemplar is attached as Appendix A. The instructions in Section II of this Guide are provided to assist Non-MDL Participating Counsel in properly preparing their Time Reports for submission to the Auditor for consideration by the Fee Panel.

Fee Applicants shall fully review the applicable provisions of the Settlement Agreements, applicable orders entered by the MDL Court, and this Guide prior to preparing their Time Reports.

II. New Time Submissions

The following directions apply to Fee Applicants that: (1) have not previously submitted their common benefit time to the Auditor (e.g., firms litigating outside of the MDL); or (2) are MDL Firms that have previously submitted their common benefit time to the Auditor, but now also seek to submit additional common benefit time for work in non-MDL cases.

A. Format and General Guidelines

Time and Expense Reporting Template. Use the Time Report template provided on the website: <http://opioidfeepaneldocuments.com>. Do not modify the format of the Time Report template or use your own form.

Fill out all columns. Use N/A instead of leaving cells blank.

B. Entering Time

Last Name, First Name. Enter the name of the Firm Member who performed the task.

Level. Enter the Level of the Firm Member using the pre-selected levels from the dropdown box within the cell.

Date of Service. Enter the date on which the task was performed. Do not enter a range of dates.

Category Code. Select the appropriate Category Code from the dropdown box. Category Codes are listed in Appendix B and set out more fully in the *Fee and Expense Order* (pp. 6-9).

Detailed Description of Work Performed. Describe the work performed in sufficient detail for the Auditor to determine the nature and purpose of the service.

Defendant: For work performed specific to a defendant, group of defendants, or type of defendants (e.g., Pharmacies), include that information in the description.

Depositions: For work performed in furtherance of depositions, including targeted document review and other preparation, include the name of the witness and their affiliation in the description.

Travel: Include the purpose of the travel.

Billing Rate. Enter the customary billing rate for the firm member using then-applicable billing rates for the time entry. Note that the use of these rates does not guarantee their payment and the Fee Panel reserves the right to establish standardized, appropriate billing rates.

Contract Attorneys. The services of contract attorneys shall be billed at the actual cost of those services. Fee Applicants must disclose that the attorney is a contract attorney by selecting “Contract Attorney” from the dropdown box in the Level column.

Time Spent. Enter the amount of time spent on the work using tenth-of-an-hour increments.

Fees Total. The template should automatically calculate this amount, which is the Time Spent multiplied by the Billing Rate. In the event the template does not calculate the amount, please leave the cell blank. Fees will be calculated by the Auditor during her review.

Individual Case. If the task entered was specific to a case or group of cases, please select “Yes” from the dropdown box. Otherwise, select “No.”

Case Name. Enter the name of the case for any entry in which “Yes” is selected in the Individual Case column. The Case Name shall include the name of the plaintiff(s) and defendant(s) as named in the style of the case.

Case Number. Enter the case number for any entry in which “Yes” is selected in the Individual Case column.

Court. Enter the name of the court for any entry in which “Yes” is selected in the Individual Case column.

Case Status. For any entry in which “Yes” is selected in the Individual Case column, choose from the dropdown box the most recent status of the case.

C. Time Limitations and Special Guidelines

In addition to the limitations and exclusions contained in the Settlement Agreements and the *Fee and Expense Order*, the following is a non-exhaustive list of additional limitations and exclusions regarding common benefit time as determined by the Fee Panel.

Pleadings and Briefs. Mere review of another attorneys’ work without being specifically asked to work on an assignment may not be compensable.

Depositions. The number of attorneys who attend a deposition should be commensurate with the difficulty and importance of the deposition. Unnecessary attendance at a deposition shall not be compensated.

Status Conferences. Except for Co-Lead Counsel, Liaison Counsel, and members of the PEC or their designees, attending and listening to MDL Status conferences is not compensable unless specifically authorized by Co-Lead Counsel.

Emails and Correspondence. Time spent reviewing emails or other correspondence of which the attorney is neither the writer nor the recipient may not be compensable.

D. Frequent Time Billing Issues

The following time billing issues are those that occur most frequently. The following section is intended to assist Fee Applicants in preventing and/or correcting these issues.

Block Billing. Combining multiple tasks performed on the same day will not be permitted.

The description below is an example of block billing. This is because multiple tasks are listed in the same time entry and are not reasonably related. This is also because the Category Code for one or more tasks is not the same.

Last Name, First Name	Level	Date of Service (00/00/0000)	Category Code	Detailed Description of Work Performed	Time spent (by .1 increments)
Collins, Amy	Attorney 10-15 Years	1/1/2022	16. Experts/Consultants	Prepare for and attend weekly PEC meeting; prepare for and participate in call with expert Dr. Smith; prepare for meet and confer with Acme re production issues; prepare outline for deposition of John Doe	8.0

In the entries below, the tasks are properly separated into multiple entries and the combined time for those tasks does not exceed the time in the original block billed entry.

Last Name, First Name	Level	Date of Service (00/00/0000)	Category Code	Detailed Description of Work Performed	Time spent (by .1 increments)
Collins, Amy	Attorney 10-15 Years	1/1/2022	02. Attorney Meeting/Strategy (PEC)	Prepare for and attend weekly PEC meeting	0.4
Collins, Amy	Attorney 10-15 Years	1/1/2022	16. Experts/Consultants	Review and comment on expert report of Dr. Smith	1.3
Collins, Amy	Attorney 10-15 Years	1/1/2022	08. Written Discovery/Plaintiffs' Document Production	Prepare for meet and confer with defendant Acme re production issues	1.7
Collins, Amy	Attorney 10-15 Years	1/1/2022	13. Depositions (Prepare/Take/Defend)	Prepare outline and select exhibits for deposition of John Doe	4.6

Depositions. For work performed in furtherance of depositions, including targeted document review and other preparation, include the name of the witness and their affiliation in the description. See examples below.

Last Name, First Name	Level	Date of Service (00/00/0000)	Category Code	Detailed Description of Work Performed
Associate, Ashley	Attorney 0-5 Years	6/20/2022	15. Document Review Tier 2	Targeted review of documents of Acme witness John Doe in preparation for his deposition
Partner, Patricia	Attorney 15 Years+	6/21/2022	13. Depositions (Prepare/Take/Defend)	Preparation for the deposition of Acme witness John Doe
Partner, Patricia	Attorney 15 Years+	6/22/2022	13. Depositions (Prepare/Take/Defend)	Travel to Houston, TX for deposition of Acme witness John Doe
Partner, Patricia	Attorney 15 Years+	6/23/2022	13. Depositions (Prepare/Take/Defend)	Participate in the deposition of Acme witness John Doe
Partner, Patricia	Attorney 15 Years+	6/24/2022	13. Depositions (Prepare/Take/Defend)	Travel back to Miami from Houston after the deposition of Acme witness John Doe

Document Review. Descriptions associated with “document analysis” or “document review” should contain sufficient detail to allow the Auditor to generally ascertain what was reviewed. Furthermore, the following additional information should be included in the descriptions:

Tier 1 Document Review. The name of the plaintiff, defendant, third party, or entity for which the review is being conducted.

Example: “Tier 1 review of CVS production”

Tier 2 Document Review. The name of the plaintiff, defendant, third party, or entity for which the review is being conducted and the purpose of the review. This includes targeted review of documents in preparation for a deposition.

Example: “Targeted document search and review re TEVA Message Recall Program to assist attorneys preparing for corporate depositions.”

Inadequate detail. Time entries for work performed should be described in sufficient detail to determine the nature and purpose of the work. Examples of inadequate detail:

Last Name, First Name	Level	Date of Service (00/00/0000)	Category Code	Detailed Description of Work Performed
Associate, Ashley	Attorney 0-5 Years	1/1/2022	14. Document Review Tier 1	Doc Review
Partner, Patricia	Attorney 15 Years+	1/2/2022	13. Depositions (Prepare/Take/Defend)	Depo prep
Paralegal, Paul	Paralegal	1/3/2022	07. Pleadings/Motions	Review motion
Partner, Patricia	Attorney 15 Years+	1/4/2022	04. Client Communications	Call with client
Partner, Patricia	Attorney 15 Years+	1/5/2022	03. Attorney Communications	Call with co-counsel

Examples of the same tasks described in sufficient detail:

Last Name, First Name	Level	Date of Service (00/00/0000)	Category Code	Detailed Description of Work Performed
Associate, Ashley	Attorney 0-5 Years	1/1/2022	14. Document Review Tier 1	Tier 1 review of Acme production
Partner, Patricia	Attorney 15 Years+	1/2/2022	13. Depositions (Prepare/Take/Defend)	Prepare for Acme 30(b)(6) depo of John Doe
Paralegal, Paul	Paralegal	1/3/2022	07. Pleadings/Motions	Cite check bellwether plaintiff City of _____'s opposition to Acme's MSJ
Partner, Patricia	Attorney 15 Years+	1/4/2022	04. Client Communications	Call with client bellwether plaintiff City of _____ to identify custodians for plaintiffs' document production
Partner, Patricia	Attorney 15 Years+	1/5/2022	03. Attorney Communications	Call with co-counsel ABC Law Firm re strategy for upcoming meet and confer with defendant Acme re production issues.

E. Deadline for Submission

Deadline for New Time Reports. Fee Applicants who are submitting new time shall submit their Time Report no later than **August 25, 2023**.

Late Submissions. Late submissions of Time Reports will not be permitted without prior leave of the Fee Panel and only for good cause shown.

F. How to Submit

Time Reports shall be emailed or sent via ShareFile to the Auditor at OpioidTimeReport@amylcollinspc.com.

III. Auditor Review

The Auditor will review each Time Report to verify that the time entries contain sufficient descriptions of work performed that inured to the common benefit of the Participating Subdivisions and/or Tribal Nations. Time entries that fall into one or more of the following categories will be disallowed by the Auditor, subject to the Fee Panel's final determination.

- A. Any time entry in which the hours of service were not properly submitted or coded in accordance with prior common benefit orders and any requirements of the Fee Panel.
- B. Any time entry that does not meet the definition of common benefit work or that does not benefit the Participating Litigating Subdivisions or Tribal Nations.
- C. Any time entry that was incurred in connection with the prosecution of an individual case or group of individual cases asserting claims in this litigation, unless: (1) the case or cases were designated by the Court as bellwether or common benefit cases and Counsel were authorized by Co-Lead Counsel to perform such work primarily for the common benefit of the Participating Litigating Subdivisions or Tribal Nations; or (2) the work performed in connection with the case or group of cases was used to advance the litigation for the benefit of the Participating Litigating Subdivisions or Tribal Nations. Case-specific work will be analyzed to determine the extent to which it is deemed to have benefited the Participating Litigating Subdivisions or Tribal Nations. If case-specific work added nothing to the common benefit, it will not be considered compensable.
- D. Any time entry that does not meet the requirements of prior common benefit orders and any requirements of the Fee Panel.
- E. Any time entry that is not described in sufficient detail to determine the nature and purpose of the service involved. Examples: Reviewing emails, general review of documents without explanation, reviewing court records, phone call with no explanation, review correspondence, internal administration.
- F. Excessive and/or unnecessary time entries expended to “review” pleadings, emails, correspondence, and similar items.
- G. Any submission of time in which the amount of “review” time is excessive individually, or as a whole when judged in reference to the role of the timekeeper, or which did not substantially benefit the Participating Litigating Subdivisions or Tribal Nations.
- H. Any submission of time that is excessive on its face when considered as a whole in light of the role(s) that the timekeeper(s) had in this litigation, or which did not substantially benefit the Participating Litigating Subdivisions or Tribal Nations.
- I. Excessive and/or unnecessary items of time for “monitoring” or review of Electronic Court Filings (“ECF”).
- J. Excessive and/or unnecessary items of time for “monitoring” the MDL proceedings or related state court litigation by attending hearings, status conferences, or meetings.

- K. Any time not reasonably necessary and not part of a bona fide effort to advance the interests of the Participating Litigating Subdivisions or Tribal Nations.
- L. Any time in which more than one timekeeper within one firm reviewed a single document, email, deposition or pleading without an independent reason clearly explained by the firm as to why review by more than one timekeeper was necessary and beneficial to the Participating Litigating Subdivisions or Tribal Nations generally.
- M. Any time within one firm for the purpose of monitoring or reviewing the work of a timekeeper for that firm's internal purposes.
- N. Any time related to preparing, amending, or correcting time and expense reports for submission, including preparing audit responses.
- O. Any time arising out of representation of any entity that is not a Participating Litigating Subdivision or Tribal Participating Government as defined in Exhibit R to the Settlement Agreements, including, but not limited to: private hospitals, third-party payors, NAS claimants, personal injury/wrongful death claimants, or any entity other than a Participating Litigating Subdivision or Tribal Participating Government, unless the work performed was for the common benefit of the Participating Litigating Subdivisions or Tribal Participating Governments generally.
- P. Any time related to representation of Participating Litigating Subdivisions or Tribal Participating Governments in matters other than those claims against the Settling Defendants, as defined in the Settlement Agreements; however, submitted time may include an appropriate share of time worked to pursue claims against multiple defendants including the Settling Defendants.

Audit Notice

Applicants will be provided notice and an opportunity to respond if the Auditor flags for disallowance a significant percentage of the Applicant's total submitted time for work performed through June 2023. The Fee Panel, in its sole discretion and after consultation with the Auditor, will determine the timing and manner of notice provided to Applicants who are subject to an Audit Notice.

Appendix A

<p align="center">NATIONAL OPIOID SETTLEMENT COMMON BENEFIT NON-MDL TIME REPORT</p>	
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Time Report for:	Firm Name	Total	-	\$	-					
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TIME CATEGORY CODES	
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|-------------------------------------|---|--|--------------------------|
| 01. Investigation/Factual Research | 06. Legal Research | 11. Plaintiffs' Executive Committee Work | 16. Experts/Consultants |
| 02. Attorney Meeting/Strategy (PEC) | 07. Pleadings/Motions | 12. Co-Lead & Co-Liaison Work | 17. Settlement/Mediation |
| 03. Attorney Communications | 08. Written Discovery/Plaintiffs' Document Production | 13. Depositions (Prepare/Take/Defend) | 18. Trial Preparation |
| 04. Client Communications | 09. Court Appearances | 14. Document Review Tier 1 | 19. Trial |
| 05. Case Management | 10. Committee Work | 15. Document Review Tier 2 | 20. Appeals |

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Appendix B

Time Category Code Chart

The following chart lists examples for each Category Code as guidance and is not an exhaustive list of all possible tasks that may relate to a specific Category Code. Counsel shall use a specific category code in place of a more general code when possible and may not create a new Category Code.

Category Code	Examples
01. Investigation/Factual Research	<ul style="list-style-type: none"> • Interviewing witnesses • Developing facts from internet research • Consulting with industry participants including clients • Preparing memos relating to any of the above
02. Attorney Meeting/Strategy (PEC)	<ul style="list-style-type: none"> • Planning meetings where counsel coordinate efforts • Meetings to prepare for arguments and depositions
03. Attorney Communications	<ul style="list-style-type: none"> • Communicating with plaintiffs' or defendants' counsel • Communicating with Special Masters • Includes communications pursuant to the duties and responsibilities of Co-Liaison Counsel and Committee Leaders
04. Client Communications	<ul style="list-style-type: none"> • Status reports to clients • Answering client questions • Advising clients on case progress and strategy decisions • Preparations for document discovery and depositions
05. Case Management	<ul style="list-style-type: none"> • Scheduling • Administrative matters • Making of assignments • Managing personnel and resources • Meet-and-confers for case management conferences and preparation of statements therefor.

06. Legal Research	<ul style="list-style-type: none"> • Research into legal matters associated with pleadings and motions, discovery, and issues that may come up in hearings
07. Pleadings/Motions	<ul style="list-style-type: none"> • Work on and motions related to: <ul style="list-style-type: none"> • Operative complaints • Class certification • Experts • Dismissal • Summary Judgment • This work should be by those primarily responsible for researching and briefing these matters.
08. Written Discovery/Plaintiffs' Document Production	<ul style="list-style-type: none"> • Drafting and responding to written discovery • Preservation of and production of Plaintiffs' documents
09. Court Appearances	<ul style="list-style-type: none"> • Includes appearances at: <ul style="list-style-type: none"> • Status conferences • Motion hearings • Pre-trial hearings • For attorneys primarily responsible for preparing and arguing such matters
10. Committee Work	<ul style="list-style-type: none"> • Work performed for committees established by PEC and not otherwise covered by another category herein
11. Plaintiff's Executive Committee Work	<ul style="list-style-type: none"> • Includes work performed by the PEC <ul style="list-style-type: none"> • Weekly meetings • Creating assignments • Engaging in strategic planning for the case
12. Co-Lead and Co-Liaison Work	<ul style="list-style-type: none"> • Work specific to Co-Lead Counsel/Co-Liaison Counsel
13. Depositions (Prepare/Take/Defend)	<ul style="list-style-type: none"> • Development of deposition outlines • Gathering and review of exhibits • Appearance at deposition as first chair

	<ul style="list-style-type: none"> • Supporting the first chair
14. Document Review Tier 1	<ul style="list-style-type: none"> • Document review by less-senior attorneys • Review through established document review platform • Involves making initial cut of documents
15. Document Review Tier 2	<ul style="list-style-type: none"> • Review of work of Tier 1 document reviewers • Making further cuts • Coding documents for specific use in case
16. Experts/Consultants	<ul style="list-style-type: none"> • Working with testifying or consulting experts and their staff • Involves deep dive into science and metrics • Review of reports • Preparation for testimony • Review of defense expert reports • Taking of defense expert depositions
17. Settlement/Mediation	<ul style="list-style-type: none"> • Preparation of mediation statements • Participating in settlement negotiations • Documenting the settlements
18. Trial Preparation	<ul style="list-style-type: none"> • Meet-and-confers leading up to the preparation of the joint pretrial statement • Getting the case ready for trial • Includes all substantive matters the Court normally requires be submitted with pretrial statements, such as: <ul style="list-style-type: none"> • Pretrial motions • Jury instructions • Trial exhibits • Deposition designations • Garnering evidence to be presented at trial
19. Trial	<ul style="list-style-type: none"> • All aspects of a trial
20. Appeals	<ul style="list-style-type: none"> • Any type of appeal within the context of the case, including mandamus

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| | <ul style="list-style-type: none">• Appellate brief writing• Making appellate arguments |
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