

Personal Credibility is the Key to Success

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Two recent cases illustrate the fact that very often, the most important asset available to an attorney seeking her fees is her personal credibility.

For example, in the Anti-SLAPP suit context (Strategic Lawsuit Against Public Participation), the California Court of Appeal recently reduced an attorney fee award requesting 600 hours down to only 71 hours. The appellate court, in *Christian Research Institute v. Alnor*, 165 Cal. App. 4th 1315 (2008) stated that the billing entries were padded and vague, and therefore the request for compensation was not credible. Some of the appellate court's comments are instructive for counsel submitting a fee request, not only under the SLAPP statute, but at any other time:

“An attorney’s chief asset in submitting a fee request is his/her credibility, and where vague, blocked billed time entries inflated with non compensable hours destroy an attorney’s credibility with the trial court, we have no power on appeal to restore it.” *Alnor* at 1326.

Another example was published just yesterday, when Federal Judge Susan Illston of the Northern District of California sanctioned plaintiff's counsel \$25,000 for submitting false fee application information in certain civil rights cases. According to Dan Levine of Cal Law (www.callaw.com), Judge Illston felt the fee applications raised too many questions; they may not have been based upon contemporaneous time records, and certain time records may not have been produced.

The observations by these two courts highlight the need for counsel to submit scrupulous bills in support of fee applications. If the court feels that the billing entries are sloppy or are not reflective of actual work performed, this will work to the submitting parties' disadvantage. If the fee application raises enough concern that the court begins to question counsel's *credibility*, the court may slash the fees down to a minimum, may deny any fees whatsoever, and may even sanction the attorney for submitting questionable information.