PENPRES MEDIA JUNE 30, 2026

BLAKE LIVELY FEE PETITION ANALYSIS

Anti-SLAPP Fee-Shifting Request Under California Civil Code § 47.1

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EXECUTIVE SUMMARY

The NYT defended the SAME defamation claim (2nd COA), the exact same one Lively is seeking fees for, PLUS two additional claims. Total cost: $150,000.

> 27. The Times incurred not less than $150,000 in legal fees and costs for defending against the lawsuit, which had no basis in law or fact.

from NYT Anti-SLAP complaint

There is simply no justification for awarding Lively millions when:

	NYT	Lively
Defended the 2nd COA (Defamation)?	✅ Yes	✅ Yes
Additional claims defended	+2 more	0 more (only defamation is recoverable)
Total anti-SLAPP fee request	$150,000	$8,035,041
Same case, same judge, same complaint	✅	✅

These fees are extraordinarily high for a case resolved at the MTD stage, and present significant reasonableness concerns under both questions. While certain factors may partially justify elevated costs (celebrity parties, media scrutiny, multi-party consolidated litigation, anti-SLAPP fee-shifting statute), the overall magnitude raises serious red flags that a court would likely scrutinize heavily.

The Logic Is Simple:

1. The NYT defended this exact defamation claim for roughly $50,000 (one-third of their $150K for 3 claims)
2. Lively is only entitled to recover for defending this exact defamation claim
3. Therefore, the baseline for this work is ~$50,000–$150,000
4. Even with generous adjustments for being a more central defendant: $200,000–$450,000 maximum
5. Anything above $800,000 is indefensible

Recommended Award: $200,000 – $450,000. Not millions.

The NYT's $150K fee request is the market price for this exact work in this exact case. You don't get to spend 53x more than your co-defendant on the same claim and then bill the other side for your extravagance.

DISPOSITIVE COMPARISON: LIVELY VS. NYT

A. The Facts

Both Blake Lively and The New York Times were defendants in the same lawsuit, facing the same complaint, before the same judge. Both filed MTD. And the MTD itself was relatively straightforward. The billing records show the MTD was filed March 20, 2025 (approximately 2 months after the complaint), opposed by the Wayfarer Parties, with reply filed approximately April 10, 2025, and the MTD granted partially on June 9, 2025.

Both also brought anti-SLAPP motions, seeking fees. The fact that the court granted the MTD suggests the claims were legally deficient on their face, which paradoxically undermines the argument that $8M was necessary to achieve this result. If the claims were clearly meritless (as the court found), an experienced team should have been able to identify and argue this more efficiently.

Comparative Overview: Lively vs. NYT

	Blake Lively	**New York Times**
Defamation claim (2nd COA)	✅ Named defendant	✅ Named defendant
Additional claims faced	6 more (but NOT recoverable under anti-SLAPP)	2 more (Promissory Fraud + Breach of Contract)
Claims recoverable	1	3
Fee request	$8,035,041	~$150,000
Cost per recoverable claim	$8,035,041	~$50,000
Ratio	53x overall / 160x per claim	1x
Counsel quality	Top-tier	Top-tier

B. Why This Comparison Is Dispositive

The NYT comparison is not merely illustrative; it is dispositive of the reasonableness inquiry:

1. **Same defamation claim:** The NYT defended against the identical 2nd COA. The legal work to defeat this claim — analyzing the statements, establishing protected activity, demonstrating lack of probability of prevailing — was substantively the same for both defendants.

2. **NYT had MORE work:** The NYT also had to defend against Promissory Fraud and Breach of Contract claims, which required entirely separate legal analysis (contract

interpretation, fraud elements, etc.). Lively's recoverable work is limited to the defamation claim alone.

3. **NYT is a sophisticated party:** The Times is one of the most frequently sued media companies in America. Its counsel knows exactly what defamation defense costs. If they determined $150K was reasonable for 3 claims, that is powerful market evidence.

4. **No distinguishing factor justifies 53x:** There is no characteristic of Lively's defense that could rationally multiply the cost by 53 times:
   - Celebrity status? The NYT is equally high-profile.
   - Complexity? Same complaint, same facts.
   - Stakes? Both faced the same reputational allegations.
   - Volume of statements at issue? Same article, same statements.

C. The Inescapable Conclusion

If $150,000 is what competent, top-tier counsel charges to defend 3 anti-SLAPP claims in this case, then the **maximum reasonable fee for defending 1 claim cannot exceed $150,000**, and logically should be less (since Lively had fewer claims to defend).

Any award above $150,000 requires Lively to demonstrate what **specific, concrete work** she performed that the NYT did not and why that work was (a) necessary, (b) related solely to the defamation claim, and (c) reasonable in amount.

D. What Courts Typically Award at the MTD Stage

Courts evaluating fee-shifting in cases resolved at the MTD stage generally expect fees in the following ranges:

Case Complexity	Typical MTD-Stage Fee Range	Notes
Simple defamation	$50,000 – $250,000	Single plaintiff, single defendant
Moderately complex defamation	$250,000 – $750,000	Multiple claims, some discovery
Complex multi-party defamation	$500,000 – $2,000,000	Consolidated cases, extensive briefing
Full defamation defense through trial	$1,000,000 – $5,000,000	High-profile, extensive media, multiple motions

$8 million is well above even the "exceptional" range for MTD-stage resolution.

WHAT IS ACTUALLY RECOVERABLE?

A. The Complaint's Nine Causes of Action

COA	Claim	Against Lively?	Anti-SLAPP Recoverable?
1st	Civil Extortion	✅ Yes	❌ No
2nd	**Defamation**	✅ **Yes**	✅ **Yes, ONLY THIS**
3rd	False Light	✅ Yes	❌ Not moved on
4th	Breach of Implied Covenant	✅ Yes	❌ No
5th	Intentional Interference w/ Contract	✅ Yes	❌ No
6th	Intentional Interference w/ PEA	✅ Yes	❌ No
7th	Negligent Interference w/ PEA	✅ Yes	❌ No
8th	Promissory Fraud	❌ (NYT only)	N/A
9th	Breach of Implied-in-Fact Contract	❌ (NYT only)	N/A

B. The Allocation Failure

Lively **faced 7 claims total**. She is entitled to recover fees only for the **1 defamation claim**. Yet:

- **65% of fees ($5.23M)** are categorized as "Both Matters," completely unallocated
- **No methodology** separates defamation work from the other 6 claims
- **No line-item identification** of which entries relate to defamation vs. extortion vs. interference vs. breach of covenant
- **The burden is on the movant** to demonstrate allocation and she has not met it

Even if the court were inclined to award more than the NYT benchmark, the **complete failure to allocate** between 7 claims means the court cannot determine what portion relates to the defamation claim. The petition should be denied or drastically reduced on this basis alone.

C. The core problem

Blake Lively is asking to be awarded $8M for a Case That Never Reached discovery completion. The case was **dismissed on June 9, 2025**, approximately 4.5 months after the complaint was filed. Yet the billing continues **through June 2026** (another 12 months post-dismissal), and the total reaches $8 million.

Timeline Breakdown:

Period	Phase	Approx Fees
Jan 16 – Mar 20, 2025	Pre-MTD (complaint through filing MTD)	~$2.5M
Mar 20 – Jun 9, 2025	MTD Pending + Reply + Discovery	~$3.0M
Jun 9, 2025 – Jun 1, 2026	Post-Dismissal (Rule 11, 47.1, spoliation)	~$2.5M

D. Why This Exceeds "One Defamation Complaint" Norms

1. Staffing Was Disproportionate
- **90 unique timekeepers** billed to this matter
- **Two full-service law firms** (Willkie Farr + Manatt Phelps)
- **15+ attorney**s billing significant hours
- Multiple partners **billing simultaneously on the same tasks**

For a defamation case resolved on the pleadings, this staffing level is extraordinary. Typical defamation MTDs are handled by:
- 1 lead partner
- 1-2 senior associates
- 1-2 junior associates
- Paralegal support

2. The Discovery Was Premature and Excessive: In a defamation case where the MTD was ultimately successful:
- **Why were 4 sets of RFPs served?**
- **Why were 2 sets of interrogatories propounded?**
- **Why was a full ESI protocol negotiated?**
- **Why was a "witness summit" held?**
- **Why were 30(b)(6) depositions noticed?**

If counsel believed the MTD would succeed (which it did), pursuing aggressive discovery simultaneously suggests either:
- **Lack of confidence in the MTD** (undermining the fee request), or
- **Deliberate over-litigation to maximize fees**

3. The Rule 11 Campaign Was Extensive: The billing shows Rule 11 letters were sent to 6 separate parties (Nathan, Sarowitz, Heath, IEWU, Abel, Wayfarer), each requiring:
- Individual research
- Individual drafting
- Individual notices of motion

- A consolidated motion brief
- A reply brief
- A supplemental letter

This campaign consumed hundreds of hours and hundreds of thousands of dollars. While Rule 11 is appropriate when claims are truly frivolous, **the scope of pursuing 6 separate sanctions targets in a single case is unusual** and a court may question whether this was proportionate.

E. The "Both Matters" Problem

Over **$5.23 million (65% of total fees)** is categorized as "Both Matters," meaning it was split between Wayfarer vs Lively and Blake Lively's own case.

Schedule	Description	Amount	% of Total
B.1	Willkie – Defense of [This] Matter	$1,162,669	14.50%
B.2	Willkie – Both Matters	$3,381,426	42.10%
B.4	Manatt – Defense of [This] Matter	$1,104,620	13.70%
B.5	Manatt – Both Matters	$1,846,812	23.00%
B.3/B.6	Expenses	$539,514	6.70%

This raises critical questions:
- What is the allocation methodology? (50/50? Some other split?)
- Is the defendant being asked to pay for work on a different case?
- Would the same work have been done regardless of this complaint?

The fee petition is asking the Wayfarer Parties to **subsidize Lively's prosecution of her own case**, which **is not what anti-SLAPP fee-shifting is for**.

If the "Both Matters" work was primarily driven by the other case, then attributing half to this defamation complaint is unreasonable.

WHY $8 MILLION IS UNREASONABLE FOR A CASE DISMISSED AT THE MTD STAGE

A. The Fundamental Paradox

If the defamation claim was so clearly meritless that it could be dismissed on the pleadings without discovery, then $8 million was not necessary to achieve that result.

The MTD/anti-SLAPP succeeded because the claims were legally deficient on their face. This means:

- The legal issues were identifiable from the complaint alone
- No factual development was needed
- The motion could be briefed from the four corners of the complaint
- Experienced defamation counsel should recognize these deficiencies immediately

B. What $8 Million Actually Bought (and Why Most Was Unnecessary)

Category	**Amount**	**%**	**Necessary for Defamation MTD?**
Discovery	$2,831,013	35.20%	❌ **Completely unnecessary** as case was resolved on pleadings
Writing/Motions	$2,395,989	29.80%	⚠️ Only a fraction relates to the anti-SLAPP motion
Strategy	$1,081,468	13.50%	⚠️ Excessive: 90 people strategizing about one legal motion?
Meetings	$429,990	5.40%	❌ Overstaffing: 39 days with 3+ attorneys billing
Attorney Research	$364,970	4.50%	⚠️ Only defamation research is recoverable
E-Discovery Vendors	$201,139	2.50%	❌ **Completely unnecessary**, no discovery needed
Expert Witnesses	$173,277	2.20%	❌ **Completely unnecessary** for MTD
Emails	$173,109	2.20%	⚠️ Coordination overhead from overstaffing
Legal Research	$134,530	1.70%	⚠️ Only defamation research recoverable
Other	$249,557	3.10%	Mixed

Over 40% ($3.2M+) was demonstrably unnecessary for a case resolved on the pleadings.

C. The Discovery Absurdity

$2.83 million (35% of total) in discovery, in <u>a case that never got past the pleadings</u>:

- 4 sets of Requests for Production served
- 2 sets of Interrogatories propounded
- 30(b)(6) depositions noticed
- ESI protocols negotiated
- Third-party subpoenas issued (Sony, WME, etc.)
- Full e-discovery vendor retained ($201K)
- 1,225 billing entries for discovery work
- **2,690 hours** of discovery work in a case dismissed on a 12(b)(6) motion

None of this mattered.

Discovery is typically **stayed or limited** when an MTD is pending. And the court dismissed the case on the legal sufficiency of the complaint. The court granted the MTD on June 9, 2025, meaning much discovery was either: premature (conducted before the MTD was decided) or post-dismissal (related to remaining claims or sanctions motions).

As such, every dollar spent on discovery was wasted, and the opposing party should not pay for counsel's decision to conduct unnecessary discovery while a dispositive motion was pending.

D. The Post-Dismissal Problem

The case was dismissed June 9, 2025. Billing continued for **12 more months** through June 2026. Post-dismissal work includes:

- 6 separate Rule 11 sanctions motions
- Spoliation motion
- Rule 3.6 professional conduct motion
- Fee petition preparation (this very request)

Rule 11 sanctions are not recoverable under anti-SLAPP fee-shifting. They are a separate sanctions mechanism under a different legal standard. The anti-SLAPP fee award covers fees incurred in bringing the anti-SLAPP motion, not a year-long punitive campaign against opposing counsel.

Requesting for **$2.5M in post-dismissal work is extraordinary** and suggests that the fee petition itself became a major litigation and multiple sanctions motions were pursued simultaneously.

WHAT A REASONABLE FEE LOOKS LIKE

A. Starting Point: The NYT Benchmark

The NYT's $150,000 for 3 claims establishes the **market rate** for anti-SLAPP defense work in this specific case. This is the most reliable benchmark because:

- Same case, same facts; same defamation claim
- Comparable counsel quality
- More claims defended (3 vs. 1)

Baseline for 1 defamation claim: $50,000–$150,000

B. Legitimate Upward Adjustments (Adjustments to NYT Baseline)

Factor	Adjustment	Rationale
Lively was more central target	+$50K–$100K	More factual allegations directed at her
Protective order work (celebrity)	+$25K–$50K	Legitimate privacy concerns
Volume of complaint (length)	+$25K–$50K	More allegations to address
Fee motion preparation	+$50K–$100K	Reasonable to prepare this motion
Total adjustments	**+$150K–$300K**	

C. Recommended Award

Calculation	**Amount**
NYT baseline (1 claim)	$50,000–$150,000
Legitimate adjustments	+$150,000–$300,000
Recommended total	**$200,000–$450,000**

D. Why Not More?

Any award above $450,000 requires the court to accept that:

- Lively's defense of 1 claim reasonably **cost 3x+ more** than the NYT's defense of 3 claims
- $2.83M in unnecessary discovery should be compensated
- 90 timekeepers were necessary for one legal motion
- 65% unallocated "Both Matters" billing is acceptable
- 12 months of post-dismissal billing is recoverable under anti-SLAPP
- A 53:1 ratio between co-defendants in the same case is reasonable

None of these propositions is defensible.

ALTERNATIVE ANALYSIS: MAXIMUM GENEROUS AWARD

Even **under the most generous possible interpretation**, giving Lively every benefit of the doubt, the maximum defensible award would be:

Component	Max Amount	Rationale
Anti-SLAPP motion briefing (defamation only)	$300,000	Generous for one motion
Legal research (defamation-specific)	$75,000	Proportionate share
Strategy (defamation-specific, 1/7 of claims)	$150,000	1/7 allocation
Protective order (celebrity-related)	$75,000	Legitimate
Fee motion preparation	$150,000	Reasonable
Costs (proportionate share)	$50,000	1/7 of expenses
MAXIMUM GENEROUS TOTAL	**$800,000**	

This represents a 90% reduction from the $8M request, and is still 5x the NYT's total fee for more claims.

SPECIFIC OBJECTIONS TO THE FEE PETITION

A. Rate Objections

Timekeeper	Implied Rate	Issue
Michael Gottlieb	~$2,013/hr	Exceeds any reasonable market rate
Multiple partners	$1,500+/hr	Above median for this market/case type

B. Staffing Objections

- 90+ timekeepers for one defamation claim (NYT used ~3-5)
- Two full-service firms (NYT used one)
- 39 days with 3+ attorneys billing simultaneously
- Multiple partners attending same meetings

C. Task Objections

- $2.83M discovery: Unnecessary, case resolved on pleadings
- $201K e-discovery vendor: Unnecessary, no discovery needed
- $173K expert witnesses: Unnecessary, MTD is a legal question
- $47K clerical work at attorney rates: Should be staff rates
- $134K legal research databases: Overhead, not separately billable in most jurisdictions

D. Temporal Objections

- 12 months post-dismissal billing: Not recoverable under anti-SLAPP
- Rule 11 campaign: Separate sanctions mechanism, not anti-SLAPP fees
- Spoliation motion: Collateral matter, not defamation defense

E. Allocation Objections

- 65% unallocated: "Both Matters" with no methodology
- 7 claims, 1 recoverable: No separation between claims
- Affirmative case subsidization: "Both Matters" likely includes Lively's own claims

IMPORTANT QUESTIONS TO ANSWER

Q1: Are the costs reasonable for a case dismissed at the MTD stage?

Absolutely not. If the defamation claim was legally deficient on its face (as the court found), then:

- Discovery was unnecessary **($2.83M wasted)**
- Expert witnesses were unnecessary **($173K wasted)**
- E-discovery vendors were unnecessary **($201K wasted)**
- **90 timekeepers** were unnecessary
- **17 months of billing** was unnecessary

The NYT proved this point: competent counsel can defend anti-SLAPP claims in this case for $150K. The case's resolution on the pleadings **confirms** that the work was straightforward, not that it was complex.

Q2: Are the costs reasonable for one defamation claim?

Absolutely not. The NYT defended the **same defamation claim plus two others** for $150,000.

There is <u>no rational basis for awarding Lively 53x that amount for fewer claims</u>. The fee petition:

- Fails to allocate between 7 claims (only 1 is recoverable)
- Includes 65% unallocated "Both Matters" billing
- Includes work on non-recoverable matters (Rule 11, discovery, affirmative claims)
- Reflects a staffing decision (90 timekeepers, 2 firms) that is the client's choice, not the opposing party's obligation

The Bottom Line: The New York Times, defending 3 claims in the same case, established that $150,000 is the market rate for this work. Lively has not demonstrated why defending 1 claim should cost 53 times more. It shouldn't.

<u>Recommended Award: $200,000 – $450,000</u>

This range:

- Uses the NYT benchmark as the starting point (as it should be)
- Adds legitimate adjustments for Lively being a more central defendant
- Accounts for protective order and celebrity-specific work
- Includes reasonable fee-motion preparation costs
- Maintains proportionality with the only comparable data point in this case
- Still represents a **1.3x–3x multiplier** over the NYT's fee for MORE claims, which is generous

Any award above $800,000 would require the court to explain why one defendant's defense of one claim reasonably costs 5x+ what another defendant spent defending three claims in the identical proceeding.

APPENDIX A: KEY STATISTICS

Comparative Metrics: Lively vs. NYT

Metric	Lively	NYT	Ratio
Fee request	$8,035,041	$150,000	53:1
Claims defended (recoverable)	1	3	0.33:1
Per-claim cost	$8,035,041	$50,000	**160:1**
Timekeepers	90+	~3-5 (est.)	~20:1
Law firms	2	1	2:1
Hours billed	7,633	~200 (est.)	~38:1
Billing duration	17 months	~4-5 months (est.)	~4:1
Discovery costs	$2,831,013	~$0	∞
Expert costs	$173,277	~$0	∞
E-discovery vendors	$201,139	~$0	∞

APPENDIX B: KEY ARGUMENTS FOR OPPOSING THE FEE PETITION

A. Strongest Arguments for Reduction

1. **Proportionality to Result:** The case was dismissed on the pleadings. $8M is disproportionate to a result that experienced counsel should achieve for $100-400k.
2. **Premature Discovery:** Over $2.8M in discovery was conducted before the MTD was decided. If the claims were meritless (as the court found), this discovery was unnecessary.
3. **Overstaffing:** 90 timekeepers, two firms, and multiple partners billing simultaneously on the same tasks demonstrates inefficiency.
4. **"Both Matters" Allocation:** 65% of fees are attributed to "Both Matters" without clear allocation methodology. The opposing party should not subsidize work on a separate case.
5. **Post-Dismissal Excess:** 12 months of post-dismissal billing at ~$2.5M is disproportionate for sanctions motions that could have been handled more efficiently.
6. **Rate Reasonableness:** Rates of $1,500–$2,000/hour (Michael Gottlieb at ~$2,013/hr) exceed market rates for this type of work.

B. Recommended Approach for the Court

The court while evaluating this petition should:

1. Require detailed allocation of "Both Matters" fees with clear methodology
2. Exclude or heavily reduce pre-dismissal discovery costs
3. Cap hourly rates at reasonable market rates ($1,200–$1,500 for partners)
4. Evaluate necessity of each post-dismissal motion independently
5. Consider whether two firms were necessary and reduce for duplication

APPENDIX C: WHAT'S INCLUDED IN FEE REQUEST

In a fee-shifting request (where a prevailing party asks the court to order the other side to pay attorney fees and costs), the request typically breaks into two buckets: attorney fees and costs/expenses. Courts generally want each category itemized and documented, not just a lump sum.

Attorney Fees

- Hourly time entries for every attorney, paralegal, and law clerk who worked on the matter, usually billed in increments (often 0.1 hour)
- Description of the task for each entry (research, drafting, court appearances, client communication, depositions, etc.) — vague entries like "worked on case" are often challenged or cut
- Hourly rates for each timekeeper, which must usually be "reasonable" for the local market and the attorney's experience (this is the "lodestar" calculation: reasonable hours × reasonable rate)
- Sometimes a multiplier is requested on top of the lodestar in certain jurisdictions/circumstances (rare, and increasingly disfavored federally)

Courts scrutinize this for billing judgment; they expect the requesting party to have already written off excessive, redundant, or unnecessary time before submitting the request.

Costs and Expenses

Commonly included:

- Filing fees and court costs
- Service of process fees
- Deposition costs (court reporter, transcripts, videography)
- Expert witness fees (sometimes capped separately or excluded depending on the statute)
- Copying and printing costs
- Postage and courier fees
- Travel expenses: flights, hotels, mileage, parking, and sometimes meals, if the travel was reasonably necessary (e.g., out-of-town depositions, hearings, or trial) and the rates are reasonable (not first-class flights or luxury hotels, typically)
- Legal research fees (Westlaw/Lexis charges), though some courts treat this as overhead already baked into the hourly rate rather than a separately recoverable cost
- Translation/interpreter services
- Process for obtaining records (medical records, certified documents, etc.)

What's usually NOT recoverable or gets cut

- General overhead (rent, utilities, basic office supplies), usually deemed part of the hourly rate

- Excessive or unreasonable travel (luxury accommodations, first-class airfare absent special justification)
- Duplicative work (e.g., three attorneys billing for the same hearing)
- Clerical/administrative tasks billed at attorney rates (often expected to be billed at a lower rate or excluded entirely)
- Time spent on unsuccessful claims unrelated to the successful ones, in some jurisdictions

A few important caveats

- Not "every action taken" automatically counts; courts apply a reasonableness review, and opposing counsel can object line-by-line. Judges (or magistrate judges, in federal cases) often reduce requested fees if they find time excessive, redundant, or insufficiently documented.
- The exact categories depend heavily on the specific statute or contract clause authorizing fee-shifting (e.g., 42 U.S.C. § 1988 for civil rights cases works differently than a contractual fee provision), and on local court rules about what's taxable as "costs" versus what falls under "fees."
- Federal courts often distinguish between costs taxable under 28 U.S.C. § 1920 (a narrower, specific list) and broader "expenses" that may or may not be recoverable depending on the fee-shifting statute at issue.

APPENDIX D: THINGS THAT ARE FLAGGED

The recurring issues courts flag aren't usually "is this category compensable" but rather:

1. **Vagueness** — block-billed or generic entries ("strategy call," "review documents") without enough detail to assess necessity
2. **Duplication/overstaffing** — multiple timekeepers billing for the same meeting, hearing, or document review
3. **Billing judgment** — whether the requesting party already trimmed excessive/redundant time before submitting, which courts expect
4. **Reasonableness of rate vs. task** — senior partners billing for clerical or paralegal-level tasks (filing, proofreading, scheduling)

APPENDIX E: EXPLORING FEE & COST SUBCATEGORIES

These are all standard categories that show up in attorney time records and fee petitions, but each one carries its own scrutiny risk in a fee-shifting motion. Here's how courts typically treat each:

A. Meetings (internal meetings, team calls, discussing/advising)

Generally included, but heavily scrutinized. This is one of the most commonly challenged categories. Courts often reduce or strike time when:

- Multiple attorneys bill for the same internal meeting (often only one biller's time is allowed, or a percentage is cut)
- Entries are vague ("conference with team re: case") rather than specific about what was discussed and why it was necessary
- The meeting seems like overstaffing or duplication rather than necessary coordination

Best practice (and what courts expect to see) is a description specific enough to show the meeting was substantively necessary, not just touching base.

B. Strategy (strategize, confer internally, prepare for)

Recoverable, but same vulnerability as meetings. Strategy time is legitimate attorney work, but "internal strategy session" with no further detail is a classic target for an opposing party's objection that it's vague, duplicative, or excessive billing judgment wasn't exercised.

C. Emails (correspondence, emails)

Generally included as routine case communication, but:

- Often billed in minimum increments (e.g., 0.1 hr) which can add up and draw objections if there are dozens of short emails
- Courts sometimes view high volumes of brief email entries as evidence of inefficient billing practices or block billing concerns
- Should reflect substantive content, not purely administrative/clerical correspondence (clerical email handling may get cut or rate-reduced)

D. Writing/submitting motions and filings (review, rewrite, edit, proofread, revise)

Core recoverable category, as this is squarely within the lodestar. Courts expect this kind of substantive work. Issues arise mainly with:

- Multiple rounds of editing/proofreading billed by multiple senior attorneys (may get cut as duplicative)
- Proofreading/cite-checking billed at attorney rates rather than paralegal rates (some courts reduce this)

E. Research (Westlaw, Lexis, Bloomberg, case analysis, document review)

Two separate things, treated differently:

- Attorney research time: fully recoverable as part of the lodestar
- Research database charges (Westlaw/Lexis/Bloomberg fees) are jurisdiction-dependent. Some courts treat these as a separately recoverable cost; others (including a fair number of federal courts) treat legal research database fees as overhead already built into the hourly rate, and decline to award them separately. This is one of the more inconsistent areas across jurisdictions.

F. Attending hearings (appear for conference, attend hearing)

Recoverable, including prep time and travel-to-court time in many jurisdictions, though some courts apply a reduced rate for travel time (e.g., 50% of normal rate) on the theory the attorney isn't doing substantive work while in transit.

G. Support (travel, transportation, hotel, taxi)

Recoverable as costs, with the caveats from before — must be reasonable (no first-class, no luxury hotel rates), reasonably necessary (not optional or convenience travel), and well-documented (receipts, not estimates). Local taxi/rideshare/parking is usually fine; this is one of the more routinely approved cost categories as long as it's tied to a specific case event (hearing, deposition, client meeting).

H. Support (travel, transportation, hotel, taxi)

Recoverable, but this is often the single biggest cost driver and gets the most scrutiny, particularly:

- ESI/e-discovery vendor costs: some courts allow these as taxable costs, others don't, and there's a real split depending on jurisdiction and whether the costs were for "exemplification" or just convenience (this echoes the Race Tires America v. Hoosier Racing Tire line of cases under § 1920 in federal court, where many e-discovery processing costs were found not taxable)
- Document review time: if billed by contract attorneys or a large team, courts look closely at hourly rates for document reviewers (often expected to be billed well below partner/associate rates) and for evidence of efficient review (e.g., use of TAR/predictive coding, deduplication) versus brute-force linear review
- Subpoena costs (service, witness fees) are typically recoverable as routine costs

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