



AMERICAN
BANKRUPTCY
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Alexander L. Paskay
Memorial Bankruptcy
Seminar

**AI-Powered Fee Examination
in Bankruptcy: Ensuring
Reasonableness via Technology**

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AI-Powered Fee Examination in Bankruptcy

Data-Driven Reasonableness under Section 330 in the AI Era

American Bankruptcy Institute

Alexander L. Paskay Memorial Bankruptcy Seminar

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Joseph R. Tiano, Jr., Esq.

Founder & President, Legal Decoder, Inc.

- Founded Legal Decoder after after 20 years of practicing law.
- Legal Decoder's data analytics technology is utilized by AmLaw 50 firms, Fortune 500 legal departments, and in significant legal and bankruptcy cases.

Thought Leadership & Academia

- Adjunct Professor of Law at Arizona State University Sandra Day O'Connor Law School
- Authored twelve law review articles and numerous other publications on legal topics.
- Regularly presenter for CLEs on Artificial Intelligence, LegalTech, legal data analytics, legal ethics and malpractice.

Previous Professional Experience

- Former Partner at Pillsbury Winthrop Shaw Pittman, LLP and Thelen LLP.

Education

- J.D., University of Pittsburgh School of Law (1995).
- B.S. in Business Administration, Georgetown University (1992).

Personal Background

- Native Washingtonian, currently residing in Scottsdale, Arizona with his wife, Meredith, and their two sons, Gabriel and John-Paul.



Why Bankruptcy is Different

Visible

Publicly filed applications

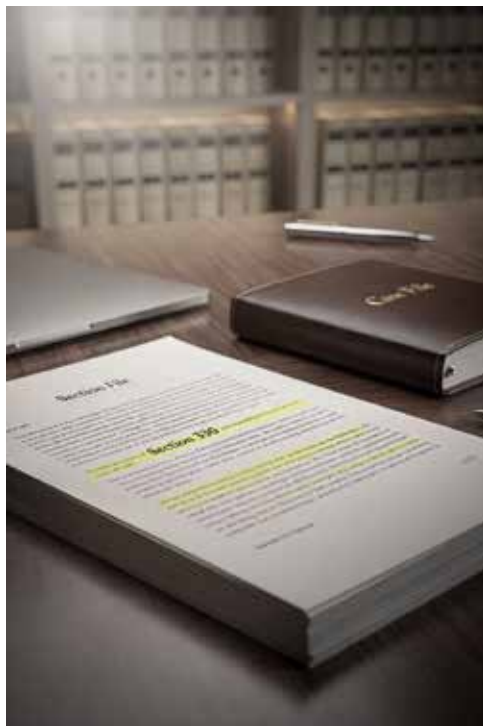
Contestable

Multiple parties can scrutinize

Adjudicated

Court-approved invoices

📄 The Reality: Fees paid from estate—creditors bear the cost



11 U.S.C. §330: The Legal Framework

Multi-Factor Test

Hourly Rates charged

Necessity and benefit to estate

Similar to any expected fee analysis

The Problem: Manual review cannot analyze thousands of time entries at scale

2013 U.S.T.P. Guidelines

Larger Chapter 11 Cases

Assets/liabilities \geq \$50 million

- Rates
- Budgets and staffing plans
- Electronic billing format
- Fee examiners

Goal: "Enhance disclosure and transparency around compensation"



The Volume Challenge

Hundreds of Millions Annual / case

Dozens Billing Simultaneously

Manual Review = 35 hrs. / \$1,000,000

This is where technology must enter the picture.





Legal Decoder: Invoice Review and more...



Purpose-Built

Proprietary legal spend data analytics software aligned with USTP Guidelines and OCGs



Court-Vetted

Court-approved in bankruptcy and other fee shifting cases



Deep Industry Track Record

Deployed at AmLaw20 firms & Fortune 50 legal departments to guide better economic relationships



Two Core Data Sets

Data Set 1: Invoice Data

- Billing records from fee applications
- Line-item detail: who, what, when, duration, rate

Data Set 2: Biographical Data

- Name, title, years of experience, practice area
- Practice area, firm affiliation

Cross-referenced on a line-item-by-line-item basis





The Analytical Engine

Rule-Based Algorithms and Flagging System



1 Software evaluates every line item

2 Benchmarked against established norms

3 Rule triggered → flag attached

47 distinct flags across three categories

Flag Category 1: Staffing Efficiency



Ensures right professional handles appropriate tasks

- Skill-level mismatches (partner doing associate work) and leverage imbalances
- Excessive time on routine tasks for experience level
- Benchmarked against billions in fee data

Goal: Right person, right task, right time



Flag Category 2: Workflow Efficiency

Excessive Internal Communications

Benchmark: ~12%; flags at 40%+

Duplicative Review Cycles

Repeated narratives suggesting unnecessary work

Collaboration Inefficiencies

Multiple professionals on same task without clear value



Goal: Eliminate waste, redundancy and friction in workflow process

Flag Category 3: Billing Hygiene

Ensures proper documentation and clarity

- Block billing
- Vague entries
- Round-hours (suggesting estimates vs. actual time)
- Repeated narratives

Goal: Clear & concise with accurately recorded time

Case Name	Invoice Number	Invoice Date	Invoice Period	Invoice Status	Flagged	Invoice Amount	Invoice Date	Invoice Status	Invoice Amount
10/1/2019	10/1/2019	10/1/2019	10/1/2019	10/1/2019	10/1/2019	10/1/2019	10/1/2019	10/1/2019	10/1/2019
10/2/2019	10/2/2019	10/2/2019	10/2/2019	10/2/2019	10/2/2019	10/2/2019	10/2/2019	10/2/2019	10/2/2019
10/3/2019	10/3/2019	10/3/2019	10/3/2019	10/3/2019	10/3/2019	10/3/2019	10/3/2019	10/3/2019	10/3/2019
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10/5/2019	10/5/2019	10/5/2019	10/5/2019	10/5/2019	10/5/2019	10/5/2019	10/5/2019	10/5/2019	10/5/2019
10/6/2019	10/6/2019	10/6/2019	10/6/2019	10/6/2019	10/6/2019	10/6/2019	10/6/2019	10/6/2019	10/6/2019
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10/27/2019	10/27/2019	10/27/2019	10/27/2019	10/27/2019	10/27/2019	10/27/2019	10/27/2019	10/27/2019	10/27/2019
10/28/2019	10/28/2019	10/28/2019	10/28/2019	10/28/2019	10/28/2019	10/28/2019	10/28/2019	10/28/2019	10/28/2019
10/29/2019	10/29/2019	10/29/2019	10/29/2019	10/29/2019	10/29/2019	10/29/2019	10/29/2019	10/29/2019	10/29/2019
10/30/2019	10/30/2019	10/30/2019	10/30/2019	10/30/2019	10/30/2019	10/30/2019	10/30/2019	10/30/2019	10/30/2019
10/31/2019	10/31/2019	10/31/2019	10/31/2019	10/31/2019	10/31/2019	10/31/2019	10/31/2019	10/31/2019	10/31/2019

- 249 time entries. Nine months. Over \$750K.
- "Correspond with multiple parties re restructuring strategy and tactics."
- 50% WRITE OFF



Real Patterns from Major Bankruptcies

Layers of partners editing same document

Task descriptions too vague to determine necessity

Associate billing at high rates for simple tasks

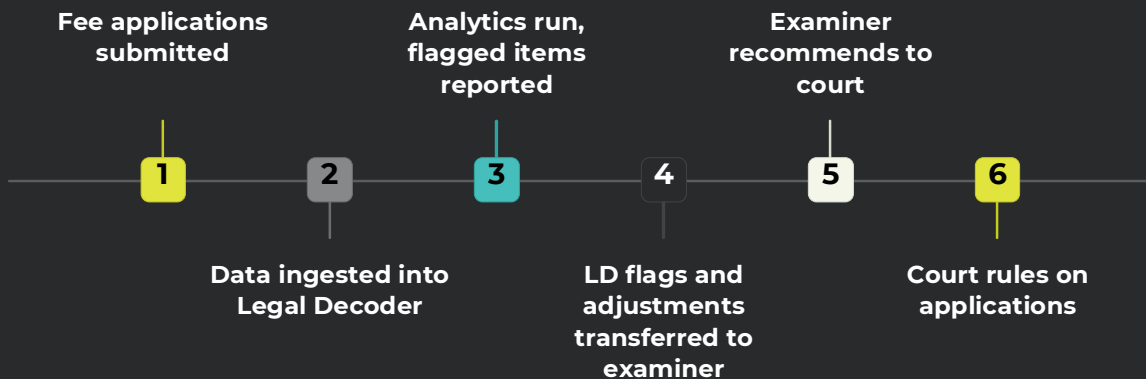
Excessive "conference" entries across team members

Draft cycles suggesting inefficient collaboration

Critical Question: Was staffing/workflow reasonable?



The Process in Practice



Typical Results



■ Flagged for Adjustment ■ Approved

Benchmark Outcomes

~20% of line items trigger flags

Flags translate to approximately ~8%-12% fee adjustments

Common Issues: BB, VE, OC, CHP, skill-level mismatches

Two Fee Examiner Success Models

1. **Absolute reduction:** Dollar-based fee reductions goals
2. **Behavioral improvement:** Drive better billing as measured by declining flags



From Simplistic to Data Driven Analysis

Traditional Approach

- Fee reviewers spot-check line items
- Subjective judgment calls
- Limited sample size

Legal Decoder Approach

- Every line item evaluated
- Empirical benchmarks replace subjective judgment
- Comprehensive analysis, not sampling



Result: Precisely the "measure and analyze" approach contemplated by USTP Guidelines



Use Case: Fee Examiners



Automated & Data Driven

Programmatic analysis of every invoice entry against benchmarks



Behaviors/Pattern Recognition

Multi-faceted, multi-dimensional analysis that withstands scrutiny



Complete Record

Courts receive complete and reliable evidentiary record under § 330



Use Case: Law Firms (Proactive)



Strategic Pre-Bill Hygiene

- Identify and correct billing issues before fee applications filed
- Reduces write-offs and improves realization rates
- Demonstrates compliance with USTP Guidelines
- Shows billing hygiene and staffing efficiency to courts

Competitive Advantage: Data-driven foundation for pricing legal services



Use Case: Creditor Committees & Corporate Legal

In-House Counsel

Debtor's in-house team can monitor outside counsel spending to ensure efficiency and guideline compliance

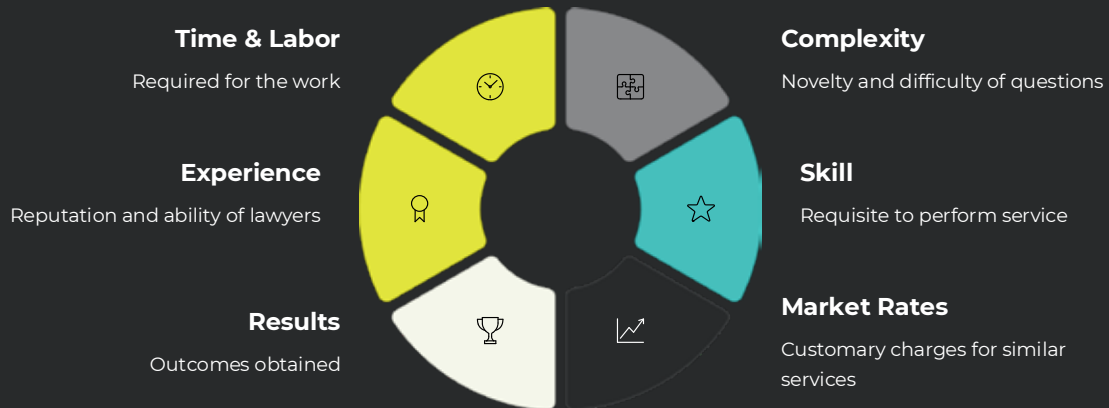
Creditor Committees

Evaluate value commensurate with fees; parties in interest have objective data for challenging applications

Result: Enhanced accountability across all stakeholders



Model Rule 1.5: Reasonable Fees



Technology's Impact: These factors are now objectively measurable through comparative data

Rule 1.5 + Section 330 Convergence



Legal Decoder provides the empirical basis satisfying both standards which converge in bankruptcy



Enter the AI Dimension

Four Critical Questions Courts Will Ask

1 Reduced Time
What's reasonable when AI reduces drafting time by 60%?

2 Review Standards
How much review of AI output is necessary?

3 Rate Adjustments
How does AI affect the hourly rate?

4 Disclosure Requirements
What level of AI usage disclosure is required?

Critical Point: Bankruptcy fee examination may be the first place courts regularly confront these questions



Rule 1.1: Technological Competence

Comment 8 Establishes Duty

Application to Billing Analytics:

- Risks and benefits of AI usage
- Understanding how AI evaluates billing practices
- Leveraging technology for compliance
- Staying current with evolving standards



Bottom Line: Ignorance of billing analytics is no longer a defensible position



Rule 3.3: Candor to Tribunal

Duty not to make false statements of material fact



Risk in Fee Applications

Need to verify accuracy of fee applications



Proactive Approach

Pre-submission analytics show evidence of self-policing



Universal Application

Same Rules Apply

Rules 1.1, 1.5, 3.3 govern \$10K and \$10M matters alike

Client Sophistication Increasing

Across all market segments, clients demand accountability

Fee Disputes at Every Level

Preventive value: Analytics avoid problems before escalation



Segmenting Legal Work

The "Defend-Extend-Create" Framework

Defend: Protect and price for value delivered in core human-judgment tasks

Extend: Pricing should reflect efficiency gain where AI augments capability

Create: New revenue streams from AI-enabled services

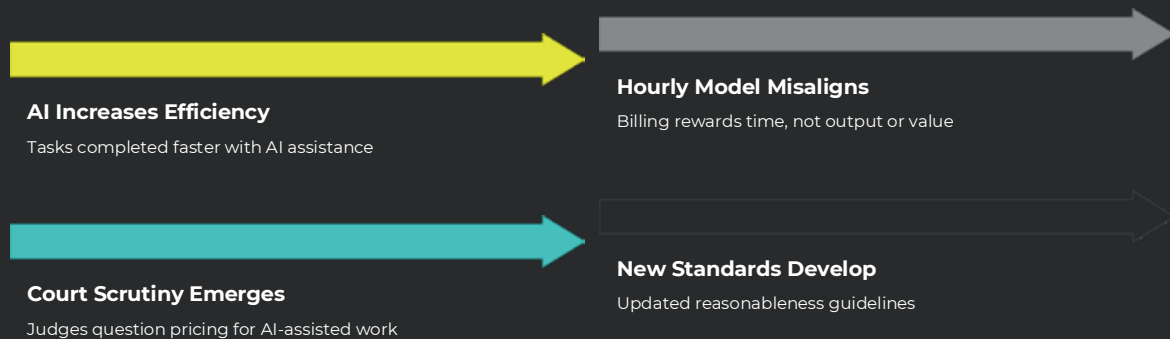
Fee Examination Questions for AI Assisted Work

- Was task suitable for AI assistance?
- What level of human oversight was appropriate?
- Were task descriptions clear about AI involvement?
- Were billing rates adjusted?

Legal Decoder data provides empirical foundation for answering these questions



The AI Productivity Paradox



Prediction: Fee examination will force honest conversations about AI's impact on billing that the profession has been avoiding.

Solution: Use legal spend data to reprice services based on value delivered—not hours expended



Building a Defensible AI-Era Billing Record



Five Best Practices

- 1. Clear Task Descriptions:** "Researched X issue for Y purpose" (not just "research")
- 2. Staffing Documentation:** Explain why this person did task
- 3. Workflow Justification:** Document why review layers are needed
- 4. AI Disclosure:** Disclose AI involvement as a best practice
- 5. Pre-Submission Analytics:** Show self-policing



Faculty

Steven M. Berman is a partner in the Tampa, Fla., office of Shumaker, Loop & Kendrick, LLP, specializing in the firm's bankruptcy and creditors' rights practice group. He has more than 30 years of bankruptcy experience and focuses his practice on business bankruptcy litigation, representing creditors, investors, distressed-debt lenders, trustees, committees and business entities litigating disputes in bankruptcy court. Mr. Berman is Board Certified by the American Board of Certification in both Creditors' Rights Law and Business Bankruptcy Law, and he is a member of the Florida, California, District of Columbia, New York, Puerto Rico (Federal) and Texas bars. He is also admitted to practice before the Second and Eleventh Circuit Courts of Appeals and the U.S. Supreme Court. Mr. Berman serves on the boards of directors for ABI and serves on its Endowment Committee and its Task Force on Veterans and Servicemembers Affairs. He routinely volunteers and speaks at its seminars and other programs. On a local level, Mr. Berman is a member of the Tampa Bay Bankruptcy Bar Association, the Bankruptcy Bar Association of the Southern District of Florida, the Southwest Florida Bankruptcy Professionals Association and the San Diego Bankruptcy Forum. In addition, he guest lectures at the University of Florida College of Law and Stetson University College of Law in their advanced bankruptcy courses. Mr. Berman provides *pro bono* bankruptcy and insolvency services and training for U.S. Navy Judge Advocate General officers and staff, and represents servicemembers and their families in need. He is AV-rated by Martindale-Hubbell and was listed in *Florida Super Lawyers* from 2013-22. Mr. Berman received his B.S. in multinational business operations in 1987 from Florida State University and his J.D. in 1990 from the University of Florida Levin College of Law.

Joseph R. Tiano, Jr. the founder and CEO of Legal Decoder, Inc. in Scottsdale, Ariz. He practiced law for nearly 20 years before founding Legal Decoder to provide the analytic tools and data to effectively price and manage the cost of legal services delivered by outside counsel. Legal Decoder's data analytics technology is used in law firms of all sizes from AmLaw 50 law firms to boutique firms; in Fortune 500 legal departments; and in major lawsuits and chapter 11 bankruptcy cases (PG&E, Purdue Pharma, Toys R Us, Rite Aid and others) where legal fees are scrutinized. Mr. Tiano is a prolific author, having co-authored law review articles published in scholarly journals. In addition, he has written articles for countless blogs and other online media on substantive legal issues and the legal industry in general. Mr. Tiano regularly presents at CLEs and other seminars and courses on topics ranging from artificial intelligence, LegalTech, legal data analytics to legal ethics and legal malpractice. He also is an adjunct professor of law at the Arizona State University Sandra Day O'Connor Law School, where he currently teaches a course on artificial intelligence and legal ethics to 2L and 3L students. Previously, Mr. Tiano was a partner at Pillsbury Winthrop Shaw Pittman, LLP and Thelen LLP, where he grew and managed all aspects of a multi-million-dollar cross-border finance practice. He received his B.S. in business administration from Georgetown University in 1992 and his J.D. in 1995 from the University of Pittsburgh School of Law.