

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FT. LAUDERDALE DIVISION

CASE NO: 96-10022-CIV-ROETTGER

KATHLEEN M. NILES, as Personal
Representative of the Estate of
MARTIN BRUCE NILES, deceased.

Plaintiff.

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.

GEOFFREY DEAN CLEALL.

Plaintiff.

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.

FILED BY
01 SEP 24 1999
CLARENCE H. HODGES

**PLAINTIFF CLEALL'S MOTION FOR REASONABLE
ATTORNEY'S FEES AND EXPENSES
WITH SUPPORTING MEMORANDUM OF LAW**

Plaintiff, Geoffrey Dean Cleall, by and through undersigned counsel, pursuant to Federal Rule of Civil Procedure 54(d), Local Rule 7.3, The Final Judgment entered on January 16, 2001 and

NON-COMPLIANCE OF S.D. Fla. L.R. 7.1.A.4
EVERSOLE & RUDD, P.A.

Order entered on August 23rd, 2001, files this motion for an award of his reasonable attorneys' fees and costs, and in support states as follows:

1. On January 16, 2001, the Court entered a Final Judgment in favor of the Plaintiff Cleall on his claims against these Defendants.

2. On August 23rd, 2001, the Court entered an Order awarding prejudgment interest to Plaintiff Cleall, and disposing of all pending motions, thereby bringing this litigation to a close.

3. As the prevailing party in this breach of contract and bad faith action, Plaintiff Cleall is entitled to reasonable expenses of litigation and attorneys fees.

4. In support of his claims, Cleall presents the following Exhibits:

- A. Affidavit of Geoffrey Dean Cleall.
- B. Affidavit of John F. Eversole, Esq., counsel for Cleall, verifying the attorneys' fees and costs incurred, with attached time-sheet and cost itemization.
- C. Affidavit of Larry Stewart, Esq., in support of John F. Eversole, Esq.'s, motion for reasonable fees and costs.
- D. Affidavit of Sally Alyce Gross, Esq., co-counsel for Cleall, verifying the attorney's fees incurred, with attached time-sheet.
- E. Affidavit of Andrew Needle, Esq., in support of Sally Alyce Gross, Esq.'s fees.

5. As will be detailed more fully below, Plaintiff Cleall is entitled to recover, before enhancement, \$282,000 to \$329,000 in attorneys' fees and \$32,790.77 in expenses or costs.

6. The undersigned certifies that pursuant to Local Rule 7.3, counsel for Plaintiff will, within three days of this motion, confer with counsel for Defendants, in a good faith effort to resolve this motion by agreement. The undersigned will notify the Court of the results of the conference and

whether a hearing will be necessary.

LITIGATION HISTORY

Background to the Federal Court Action: In October of 1990, while Plaintiff Cleall was flying with student pilot Martin Niles, the Cessna 150G malfunctioned and crashed, severely injuring Cleall and killing Niles. After being turned down by other attorneys, Cleall was able to retain Eversole in a contingent fee arrangement. Eversole filed suit on Cleall's behalf in state court, against a number of defendants who contributed to the crash. Maintenance on the aircraft was primarily the responsibility of Marathon Aviation, insured by National Union and AIG based on procurement of a policy by Wenk Aviation. For various reasons, AIG and Wenk refused to defend Marathon Aviation. By 1995, it became clear that entry into a Consent Judgment would best serve Cleall's interest. That judgment was entered, in June of 1995, for \$1,210,750.00.

Pleadings and Discovery: On March 19, 1996, after attempting to resolve the matter without suit, Cleall filed his initial federal court complaint. Two amendments followed, one in May of 1996, and another in March of 1998. Due to the tremendous amount of discovery accomplished in state court, discovery under the federal case was limited. Cleall responded to requests for admissions, interrogatories, and production. As well, Cleall took responsibility to access and interpret National Transportation and Safety Board reports and photographs, and, of course, attended depositions of fact and expert witnesses.

Cleall's responses to dispositive motions: As this Court knows, Cleall was able, after strategizing with and giving input to Niles' counsel, to adopt a number of motions or memorandum "filed by Niles." By so doing, Cleall maximized judicial economy and minimized duplication of effort. Thus, where Cleall wrote independently, he did so on issues vital to Cleall's cause. These

memoranda included opposition to Wenk's and AIG's motions to dismiss Cleall's claims, and responses to National Union/AIG's and Wenk's motions for summary judgment, with appropriate affidavits.

Cleall's responses to evidentiary and motions in limine: Again, Cleall promoted judicial economy by adopting Niles' arguments whenever possible. The consideration must not negate Cleall's participation in discussing strategy and legal arguments. As well, Cleall wrote separately about the use of his state court deposition and the admissibility of the NTSB report.

Trial: This Court presided over a jury trial in Key West that lasted three weeks (with a short intermission for a threatening hurricane). Throughout trial, the Defendants attacked every conceivable aspect of the case, not only through witnesses, but with memoranda. The jury deliberated 2 times for the 2 phases of the trifurcated trial (the last phase being decided by the Court as a matter of law) and delivered resounding plaintiff's verdicts.

Post-Trial motions: Cleall responded to or joined in responses to the Defendant's post-trial motions, and following entry of the January 16, 2001 final judgment, prepared a memorandum of law to amend judgment to award prejudgment interest.

MEMORANDUM OF LAW

7. Plaintiff is entitled to "prevailing party" attorneys' fees.

Under Florida Statutes sec. 627.428, the beneficiary of an insurance policy who obtains a judgment against an insurer under a contract executed by the insurer may recover reasonable fees:

(1) Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy of contract executed by

the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

...

(3) When so awarded, compensation or fees of the attorney shall be included in the judgment or decree rendered in the case. Fla. Stat. §627.428.

Accordingly, Plaintiff Cleall requests an award of attorneys fees from the inception of this lawsuit through entry of the Court's August 23, 2001 order, in the following amounts which reflect the total of the following reasonably expended attorney and paralegal time:

<u>Attorney:</u>	<u>Hourly Rate:</u>	<u>Hours:</u>	<u>Total:</u>
John F. Eversole	\$300 to \$350	940	\$282,000 to \$329,000
Sally Alyce Gross	(variable) ¹	322.8	\$52,056.25
John F. Eversole		Multiplier of 2.0 =	\$564,000 to \$658,000
Sally Alyce Gross		Multiplier of 2.0 =	\$104,112.50

CALCULATION OF PLAINTIFF CLEALL'S ATTORNEYS' FEES AWARD

As noted in this Court's Order of August 23rd 2001, the amount of attorneys' fees awarded depends on the standards discussed in *Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292 (11th Cir. 1998). *Norman* represented the Court's refinement of its own prior

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See Exhibit D, paragraph 3, regarding incremental increases in Sally Alyce Gross, Esq.'s hourly fees during the course of this protracted litigation.

analyses, within the cumulative framework established in a series of Supreme Court decisions. *Norman*, 836 F.2d at 1298-99 (discussing *Hensley v. Eckerhart*, 461 U.S. 424 (1983); *Blum v. Stenson*, 465 U.S. 886 (1984); *Riverside v. Rivera*, 477 U.S. 561 (1986); *Pennsylvania v. Delaware Valley Citizens' Council*, 478 U.S. 546 (1986); and *Pennsylvania v. Delaware Valley Citizen's Council*, 483 U.S. 711 (1987)). The Supreme Court adopted the "lodestar" approach, believing it would result in more objective fee estimates. *Id.* At 1299.

The District Court has wide discretion in exercising its judgment on appropriate fees, but that discretion is "not without limits." *Id.* At 1304. If the Court disallows hours, it must "show why an award of these hours would be improper." *Id.* With that overview, we move to an analysis of the fee request in this case, pursuant to *Norman*.

A. Reasonable Hourly Rate

"A reasonable hourly rate is the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience and reputation." *Id.* At 1299. The movant must produce satisfactory evidence that the requested rates are "in line with prevailing market rates." *Id.* The expert opinions, "perfectly proper" when submitted by affidavit, should address rates actually billed and paid in similar litigation, and should address the similarity of the provider-attorney's reputation, skill, and experience. *Id.* and *id.* At 1303. The provider-attorney's ability to work efficiently and effectively toward accomplishment of the client's goals, knowledge of the substantive and procedural law, and persuasiveness are also important considerations. *Id.* at 1300-01.

Here, Cleall retained John F. Eversole, Esq., who, in 1995, arranged for trial support from SallyAlyce Gross, Esq. Mr. Eversole's hourly fee is \$300 to \$350 per hour. Ms. Gross' hourly fee

rose during the years of litigation, from \$100 per hour to \$200 per hour for trial support.

The affidavits and time-sheets attached hereto as Exhibits B and D detail the litigation experience and hours involved in pursuit of this cause. The hourly rates requested by Plaintiff's counsel are in accordance with the prevailing market rates for counsel with comparable skill, reputation and experience, as reflected by the supporting affidavits, Exhibits C and E.

B. Hours Reasonably Expended

After determining the reasonable hourly rate, the Court will evaluate the number of hours reasonably expended. *Norman*, 836 F.2d at 1301. Fee applicants must exercise billing judgment, so that the hours included are those reasonable to bill, irrespective of the provider-attorney's skill, reputation or experience. *Id.* Objections from the opposing party must be precise. *Id.* Clients, may, of course, retain multiple attorneys. They all may be compensated so long as they are "unreasonably doing the same work and being compensated for the distinct contribution of each lawyer." *Id.* at 1302.

Here, Plaintiff's counsel and the supporting affiants have reviewed the time-sheets and various pleadings. The itemizations reflect time actually spent in representing the Plaintiff. The number of hours expended for which attorneys' fees are sought is reasonable considering the complexity of the issues raised, the numerous witnesses involved, the pretrial motions, and the nature of the Defendants involved. Duplication of effort has been eliminated from the billing. Notably, Plaintiff Cleall elected not to "run up" hours by creating largely duplicative memoranda of law where the memoranda filed by Niles, after consultation with Cleall's counsel, adequately presented all relevant arguments. Any "shared" time is directly related to discussing applicable law, and developing strategy. This Plaintiff should not be penalized because it worked with an eye toward

judicial economy and efficiency, nor for the number of attorneys involved. Both plaintiffs and defendants often utilize a team of attorneys who divide up the work. *Johnson v. University College*, 706 F.2d 1205, (11th Cir.) , *cert. denied*, 464 U.S. 994 (1983). Mr. Eversole and Ms. Gross each contributed necessary expertise to the successful prosecution of Cleall's claims. Moreover, the Defendants were represented by multiple attorneys-further evidence of the complexity of the litigation.

Regarding the number of attorney hours it should be noted that no time is listed for the numerous paralegal hours spent in various stages of the litigation, obviating the need for attorney hours.

Accordingly, the Court should not impose any reductions on the hours reasonably expended in litigation of this cause.

C. Adjustment of the Lodestar

The lodestar is a simple calculation of the reasonably hour rate times hours reasonably expended: lodestar = rate x hours. *Id.* The Court should compensate the prevailing party for excellent results. *Id.* As well, exceptional results justify enhancement of the lodestar. *Id.* Conversely, a reduction is permissible if results were partial or limited. *Id. Where the fee arrangement was contingent, as in the case at bar, an enhancement is appropriate if there was a risk of non-recovery. Id.* Specifically, the multiplier is appropriate where tied to the availability of counsel. Additionally, the Court should consider the effects of delay: the time value of money and effects of inflation require awards at current, rather than historic rates. *Id.*

As well as following the dictates of *Norman*, this Court is guided by the Florida Supreme Court's decision in *Standard Guaranty Ins. Co. V. Quanstrom*, 555 So.2d 828 (Fla. 1990), where the

request for attorney's fees arose under section 627.428, Fla. Stat., the same statute as at issue here. *Quanstrom* addressed contingency fee multipliers in light of the United State Supreme Court's decision in *Pennsylvania v. Delaware Valley Citizen's Council*, *supra*. *Quanstrom* designated three categories of cases: (1) public policy enforcement cases, (2) tort and contract claims, and (3) family law, eminent domain, and trust matters. *Quanstrom*, 555 So.2d 833. Clearly, as a contract claim, the current case falls within category (2).

Under *Quanstrom*, in contract cases, determination whether a multiplier is appropriate involves:

(1) whether the relevant market requires a contingency fee multiplier to obtain competent counsel; (2) whether the attorney was able to mitigate the risk of nonpayment in any way; and (3) whether any fo the factors set forth in *Rowe* are applicable, especially, the amount involved, the results obtained, and the type of fee arrangement between the attorney and his client. *Id.* at 834.

These variables largely replicate those set forth in *Norman*. After deciding that an enhancement is appropriate, the Court must assign a number based on *Quanstrom*'s formula: if the trial court determines that "success was more likely than not at the outset, it may apply a multiplier of 1 to 1.5; if the trial court determines that the likelihood of success was approximately even at the outset, the trial judge may apply a multiplier of 1.5 to 2.0; and if the trial court determines that success was unlikely at the outset of the case, it may apply a multiplier of 2.0 to 2.5." *Id.*

After five years of intense litigation and a three week trial, Plaintiff Cleall won on all issues. The final judgment—clearly an excellent result—awarded Cleall \$1,210,750.00 in damages, plus \$939,884.01 in prejudgment interest. The Court is reminded that although this federal court action commenced in 1996, John F. Eversole, Esq., undertook Cleall's cause in 1991, by prosecuting the

underlying state court action that resulted the consent judgment. Thus, Eversole has worked for ten years on this matter.

Absent a contingent fee arrangement. Cleall could not have paid for representation. Indeed, the National Transportation Safety Board blamed Cleall for the crash. Cleall previous attempts to find counsel failed, because "he was to blame." Finally, a nonlawyer friend, who knew John F. Eversole from other matters, suggested that Cleall contact him. After several meetings, Eversole agreed to investigate and purse the claim.

The relevant market requires a contingent fee multiplier to obtain competent counsel able to litigate in a complex case in federal court. This case, in particular, required extraordinary expertise in aeronautics, an attribute brought to Cleall's cause through John F. Eversole's background in the Air Force and as an engineer. In fact, Eversole is one of a handful of attorneys currently board certified in a aviation law. Exhibit C. That certification couples with his civil trial lawyer certification. Exhibit C.

Eversole brought Sally Alyce Gross into the case to provide trial, and eventual appellate support. Gross graduated from law school in 1993 and clerked for The Honorable Peter T. Fay, of the Eleventh Circuit Court of Appeals. Exhibits D and E. Since 1994, she was worked for some of the most accomplished Miami personal injury firms, providing trial and appellate support. Exhibit E. She brought not only her federal court clerking experience, but the experience in insurance coverage and bad faith disputes, to Cleall's cause.

Few Plaintiffs' lawyers are able and willing to commit to a contingent fee cause that involves a decade of legal battle. Eversole and Gross committed ten and five years, respectively, to this effort.

Counsel could not have mitigated the risk of nonpayment in any way. Without violating the

applicable privileges and confidentiality, counsel attempted to resolve this case through demand letters and settlement negotiations. Mediation in this matter lasted hours and resulted in an impasse on April 12, 2000.

Additionally, *Quanstrom* instructs us to consider the factors set forth in *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145, 1150-51 (Fla. 1985). Some of those factors have already been addressed, including the time and labor required; complexity; customary fees for similar work; experience, skills and efficiency of the lawyers; and whether the fee is contingent. Additionally, the Court may consider the likelihood that acceptance of the case will preclude other employment by the lawyer. *Id.* In the present cause, the outlay of costs and the commitment to this client affected John F. Eversole's ability to take on other "big" cases. For Sally Alyce Gross, the demands of this cause resulted in her decision to turn down other engagements during 2000 and 2001.

The remaining question is the multiplier figure. The Court must, therefore, consider the likelihood of success when counsel undertook this cause. First, no one wanted to take Cleall's cause. Exhibit E. He had been "blamed" by the NTSB for the death of his friend and student pilot Martin Niles. Eversole accepted the case knowing that it would be an uphill battle. He was right. Defendant AIG refused to defend; Defendant Wenk claimed that Cleall caused the crash and was an employee. Exhibit C. By 1996, when this suit launched in federal court, Eversole had already chased the Defendant insurance company's insured through the state courts, where the insurer's refusal to indemnify and defend resulted in entry of the consent judgment. In federal court, Cleall would have to overcome coverage defense obstacles, as well as convince jurors that the true cause of the crash was mechanical failure. The chance of success, at the outset, was unlikely, given the

number and complexity of issues. Clearly, Eversole engaged in this pursuit when the chance of success was unlikely; similarly when Eversole brought Gross into the federal case in 1996, the legal team faced significant hurdles, with low odds on winning.

Thus, Plaintiff Cleall believes that he is entitled to a contingency risk multiplier of at least 2.0, less than the maximum allowable, but a figure that fairly compensates for the tremendous risks involved herein for the last ten years.

PLAINTIFF CLEALL IS ENTITLED TO "PREVAILING PARTY" COSTS

Federal law governs the taxation of costs in the federal district courts, even where the court's jurisdiction is premised on diversity of citizenship, as in the case at bar. *Gobbo Farms & Orchards v. Poole Chemical Co.* 81 F. 2d 122, 123 (10th Cir. 1996). Federal Rule of Civil Procedure 54(d) provides for the award of costs to the prevailing party:

Except when express provision therefor is made either in a statute of the United States or in these rules, costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs...

A prevailing party is one who obtains relief that materially alters the parties' legal relationship by modifying the behavior of the defendants in way that directly benefits the plaintiff. *Farrar v. Hobby*, 506 U.S. 103 (1992). Given the Court's entry of final judgment in Cleall's behalf for \$1,210,750.00 plus \$939,844.01 in prejudgment interest, Cleall is, by definition, the prevailing party entitled to reimbursement of allowable costs. Those costs are itemized on an attachment to Exhibit B, John F. Eversole's affidavit. Accordingly, Cleall respectfully asks the Court to approve the itemization of taxable costs attached to Exhibit A.

Lastly, it should be mentioned, while not included in the litigation costs. Mr. Larry S.

Stewart, one of this country's most pre-eminent plaintiffs attorneys, as is well known in the Florida legal community as well as the entire country, has spent time in reviewing these files and preparing his Affidavit. Clearly, as other courts have found, his hourly rate is clearly at the \$500 per hour level, if not higher. He has stated, very modestly, that he has spent only 8 hours in the review of these matters although the actual time he has spent is significantly greater. Therefore, Plaintiff's counsel is mentioning this additional cost to the court to be dealt with as this court sees fit.

This Court should enter an Order awarding to Plaintiff Cleall \$668,112.50 to \$762,112.50 in attorneys' fees, after enhancement, and \$32,790.77 in costs.

Respectfully submitted,

EVERSOLE & RUDD, P.A.
Attorneys for Cleall
Grove Forest Plaza
2937 S.W. 27 Avenue
Suite 106
Miami, FL 33133
(305) 444-2255

By: 

JOHN F. EVERSOLE III
Florida Bar No. 371513

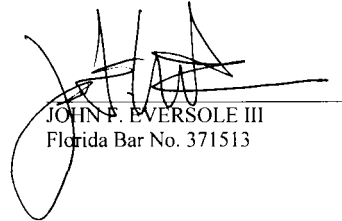
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 24th day of September 2001 to **KARL PEARSON, ESQ.**, 135 W. Central Blvd., #800, Orlando, FL 32802; **PAUL BUTLER, ESQ.**, 1025 Thomas Jefferson Street, N.W., #300 West, Washington,

D.C. 20007, **STEVEN KELLOUGH, ESQ.**, 5800 Montgomery Drive, Miami, FL 33156; and

IAN G. OSUR, ESQ., Ian G. Osur, P.A., 9350 South Dixie Highway, Suite 1200, Miami, Florida

33156.



JOHN P. EVERSOLE III
Florida Bar No. 371513

See Exhibit D, paragraph 3, regarding incremental increases in Sally Alyce Gross, Esq.'s hourly fees during the course of this protracted litigation.

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EVERSOLE & RUDD, P.A.

Grove Forest Plaza, 2937 SW 27th Avenue, Suite 106, Miami, Florida 33133-Telephone: (305) 444-2255-Telefacsimile: (305) 444-7288

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FT. LAUDERDALE DIVISION

KATHLEEN M. NILES, as Personal
Representative of the Estate of
MARTIN BRUCE NILES, deceased,

CASE NO. 96-10022-CIV-ROETTGER
MAGISTRATE JUDGE SELTZER

Plaintiff,

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.

_____/

GEOFFREY DEAN CLEALL,

Plaintiff,

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.

AFFIDAVIT OF GEOFFREY DEAN CLEALL

STATE OF FLORIDA)
COUNTY OF MANATEE)
SS

BEFORE Me, the undersigned authority personally appeared GEOFFREY DEAN
CLEALL, who after first being duly sworn attests to the following:

1. My name is Geoffrey Dean Cleall and I reside at 4611 Swordfish Drive,
Bradenton, Florida 34208.
2. I am over the age of eighteen years of age and have personal knowledge regarding
the facts contained in this Affidavit.

EVERSOLE & RUDD, P.A.

CASE NO. 96-10022-CIV-ROETTGER
MAGISTRATE JUDGE SELTZER

3. I was the instructor pilot in a Cessna 150G, N3220J, during a flight in which we experienced engine failure and crashed on October 30, 1990.
4. I received severe injuries in the crash and when I got out of the hospital, I found that the NTSB was blaming me for stalling the aircraft and causing the crash.
5. The official NTSB factual report dated July 30, 1991, states as the probable cause for the accident my failure to maintain sufficient airspeed after an engine failure which caused the airplane to crash. The engine failure was listed as only a "related" cause.
6. I telephoned and called several attorneys to assist me with the case since I knew that there had been an in-flight failure of not only the engine but the elevator cable which was in direct opposition to all of the findings of the NTSB. In fact, the NTSB found, from their metallurgist, that the crash had caused the elevator cable to break rather than failing in flight. A number of attorneys including some who were mentioned to me as "experts" in insurance law told me that they did not want to represent me because not only did I "cause" the crash but that since I was, in their preliminary opinion, an "employee" of the insured, Marathon Aviation, there would be no coverage.
7. I did not have the funds, to hire an attorney on an hourly basis, since I was convalescing from my injuries, which included a below the knee amputation of my left leg, and I could not work. I never received any benefits, worker's

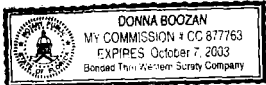
compensation, or otherwise, from anyone because I was in fact, an independent contractor at the time of the crash.


- 8. I found no one interested in taking my case on a contingency basis until a friend of mine, who is not a lawyer, recommended John F. Eversole III, who specialized in aviation law and related insurance matters.
- 9. I contacted him and he agreed to handle my case, which he has handled since the latter part of November 1991.
- 10. Due to the fact that the NTSB had made a number of errors in both the metallurgical findings as well as the probable cause finding, I was contemplating giving up finding an attorney until I was introduced to, and met with John F. Eversole III.
- 11. FURTHER AFFIANT SAYETH NAUGHT.



 GEOFFREY DEAN CLEALL

SWORN to and subscribed before me, the undersigned authority this 21 day of September, 2001, personally appeared GEOFFREY DEAN CLEALL, who after first being duly sworn and producing FDL C440204633659 as identification and/or who is personally known to me attests that he has executed the above Affidavit and that the information contained therein is true and correct to the best of his knowledge and belief.





 NOTARY PUBLIC, State of Florida At Large
Donna Boozan
 Printed Name of Notary Public
877763 10/7/03
 Commission Number & Expiration Date

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FT. LAUDERDALE DIVISION

CASE NO: 96-10022-CIV-ROETTGER

KATHLEEN M. NILES, as Personal
Representative of the Estate of
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Plaintiff.

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Defendants.

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Plaintiff.

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.

AFFIDAVIT OF JOHN F. EVERSOLE III

STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

BEFORE ME, the undersigned authority, on this day personally appeared , JOHN F.

EVERSOLE III ESQ., who after first being duly sworn attests to the following:

1. My name is John F. Eversole III and I am a Board Certified Civil Trial Lawyer, a Board Certified Aviation Lawyer in good standing with the Florida Bar since 1983.

2. I am admitted to practice in Federal Court in Florida in the Southern and Middle Districts. I have served on a number of Florida Bar Committees, including the Eleventh Circuit Grievance Committee, The Aviation Law Committee and the Aviation Law Certification Committee, of which I am presently the Chairman. My firm represents Plaintiffs in aviation, products liability, medical malpractice and other significant personal injury matters as well as the related insurance and bad faith matters arising out of those claims.

3. A copy of my Curriculum Vitae is attached hereto as Exhibit "A".

4. Prior to going to law school, I received an engineering degree and served in the United States Air Force as a flight test engineer, flying numerous fighters, particularly the F-15 Eagle in the Air Force Systems Command. I flew numerous air-to-air combat test missions throughout the United States against various simulated threats. I had several other test pilot positions, including investigating air crashes involving military personnel.

5. I have been the attorney of record for Geoffrey D. Cleall since I was hired in the underlying matter on a standard contingency contract back in 1991. Having been involved in numerous aviation cases, I knew when I first interviewed Mr. Cleall in depth, that the NTSB frequently cites pilot error in general aviation cases when, in fact, there may be numerous other contributing factors. Although I had no knowledge that the NTSB was in error in this case, I agreed to represent Mr. Cleall because of my past experience with the NTSB, the FAA, and their treatment of general aviation accidents.

6. I have attached a detailed list of my hours of work in the subject case, broken down by chronological phases of the case, hereto as Exhibit "B". I have handled this entire 10 year matter for Mr. Cleall, including all of the countless hours of work in the underlying action which relate directly to the subject case. However, I have not listed these hours in the hourly break-down attached hereto. In addition, paralegals and clerks at my firm spent numerous hours in this very contentious litigation, which I have not included in the fee break-down at all - all of the hours listed are mine alone.

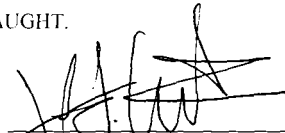
7. Regarding costs, the same applies in that many thousands of dollars in costs were spent in the underlying case developing the facts and evidence that applied directly to this case, but those costs are not included. The costs included directly applied to the bad faith case and were necessitated by the nature of the litigation. Significantly, thousands of dollars in costs were saved by sharing costs with Mr. Osur and Mr. Kellogg in the companion case where we could do so for efficiency, both from a fiscal standpoint as well as streamlining the litigation. The costs are outlined and attached as Exhibit "C". Counsel for all plaintiffs elected early on to prevent duplication and, as a result, the costs are much, much reduced over what one would see in a case of this complexity, magnitude and contentiousness.

8. I hired Sally Gross, Esq., in 1995 to assist me in trial/appellate support in anticipation of the typical scorched earth litigation that is common in insurance bad faith cases. Her fees are addressed in a separate Affidavit.

9. By this Affidavit, I am stating that the attached fee break-down describes the work that I performed since 1992 which directly applies to this case. Since, this work does not include all of work that was associated with this litigation, as stated above, it is a very distilled list of the hours

expended necessarily to represent Geoffrey Dean Cleall to the best of my ability.

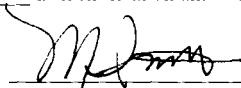
FURTHER AFFIANT SAYETH NAUGHT.



JOHN F. EVERSOLE III

Signed and sworn to before me on this 24 day of September, 2001, by

✓ _____ He/she is personally known to me or has produced
_____ as identification and who did (did not) take an oath.



NOTARY PUBLIC, State of Florida
At Large

MY COMMISSION EXPIRES: 9/9/03

M. Izquierdo

PRINT NOTARY'S NAME

CC 870105

COMMISSION #

JOHN F. EVERSOLE III
Board Certified Civil Trial Attorney (Since 1993)
Board Certified Aviation Attorney (Since 1996)

EXPERIENCE:

Practice has consisted of medical negligence, wrongful death, products liability, aviation, commercial, admiralty, and personal injury litigation.

1995 - Present

Eversole & Rudd, P.A.
Miami, Florida

1991 - 1995

Fournaris & Eversole, P.A.
Miami, Florida

1986 - 1991

Spence Payne Masington Needle & Eversole, P.A.
Miami, Florida

1983 - 1986

Floyd Pearson Richman Greer Weil & Zack, P.A.
Miami, Florida

1974 - 1980

Captain, USAF Flight test engineer flying F-15, F-16, F-4, and other fighter aircraft in air-to-air combat missile testing.

EDUCATION:

1983

University of Florida College of Law
Juris Doctor

1980

University of West Florida
Master in Business Administration

1974

University of Virginia
Bachelor of Science in Mechanical Engineering

BAR MEMBERSHIPS:

1988

The District of Columbia Bar

1984

United States District Court
Southern District of Florida
Middle District of Florida

1983

The Florida Bar

MEMBERSHIPS:

The Florida Bar (Chairman, Aviation Law Committee, 1986-1988) American Bar Association (Aviation and Space Law Committee); The Florida Bar Board of Legal Specialization - Aviation Law Certification Committee (Chairman); Dade County Trial Lawyers Association; The Association of Trial Lawyers of America; Academy of Florida Trial Lawyers; National Transportation and Safety Board Bar Association; International Society of Air Safety Investigators.

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

		UNDERLYING CASE	
03/25/92	JFE	Receipt and review of Niles' interrogatories to AIG (underlying case)	.2
04/29/92	JFE	Receipt and review of AIG's objections to Niles' interrogatories of 03/25/92 (underlying case).	.3
05/27/92	JFE	Telephone conversation with Jerome Pivnik re: Waiver of SOL	.5
05/28/92	JFE	Draft and finalize Waiver of Statute of Limitations In Consideration of Dismissal and provide draft to Defendant	2.0
08/04/92	JFE	Pre-deposition conference with client	4.0
08/05/92	JFE	Preparation for and attendance at deposition of Dean Cleall	6.8
11/09/92	JFE	Receipt and review of deposition transcript of Dean Cleall with exhibits	4.0
01/16/95	JFE	Telephone conference with Sally Gross, Esq.	.2
01/17/95	JFE	Telephone conference with Steve Kellough, Esq.	.4
01/20/95	JFE	Telephone conference with Robert Feldman of Aero Welding	.6
01/22/95	JFE	Pre-deposition conference with client	1.5
01/23/95	JFE	Preparation for and attendance at continued deposition of Dean Cleall	5.3
01/24/95	JFE	Telephone conference with George Butler	.7
01/27/95	JFE	Preparation for and attendance at deposition of Jack C. Lipscomb	3.1
02/03/95	JFE	Preparation for and attendance at deposition of Donna Jean Perez	6.5
03/02/95	JFE	Preparation for and attendance at deposition of Jeffrey Kennedy, NTSB	3.8
03/23/95	JFE	Telephone conference with Robert Dillon, Esq.	.2
03/31/95	JFE	Telephone conference with Steve Kellough, Esq.	.4
04/04/95	JFE	Telephone conference with client	.5
04/27/95	JFE	Receipt and review of deposition transcript of Jack C. Lipscomb with exhibits	1.1
04/27/95	JFE	Telephone conference with Ian Osur, Esq.	.2
05/08/95	JFE	Telephone conference with Ian Osur, Esq.	.5
05/12/95	JFE	Telephone conference with George Butler	.6
05/16/95	JFE	Telephone conference with Ian Osur, Esq.	.3
05/25/95	JFE	Telephone conference with George Butler	.6
05/30/95	JFE	Telephone conference with client	.7

CASE: Cleall v. National Union, AIG Aviation and Wenk Aviation

CASE NO: 96-10022-CIV-Roettger

JUDGE: Roettger

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

06/01/95	JFE	Rough draft and research of Stipulation re: settlement	2.0
06/02/95	JFE	Research re: Stipulation/Settlement	1.0
06/05/95	JFE	Finalize and review Stipulation for Entry of Final Judgment and Final Judgment	3.0
06/05/95	JFE	Receipt and review of deposition transcript of Jeffrey Kennedy	1.8
06/08/95	JFE	Telephone conference with client	1.0
07/17/95	JFE	Telephone conference with Ian Osur, Esq.	.4
08/17/95	JFE	Telephone conference with George Butler	.9
08/21/95	JFE	Telephone conference with George Butler	.7
08/25/95	JFE	Telephone conference with Ian Osur, Esq.	.2
09/15/95	JFE	Telephone conference with George Butler	.5
10/18/95	JFE	Telephone conference with George Butler	.8
12/05/95	JFE	Draft letter to Ian Osur / Steve Kellough	.3
12/06/95	JFE	Telephone conference with George Butler	.9
12/06/95	JFE	Letter to Jerome Pivnik, Esq.	.3
12/13/95	JFE	Telephone conference with Jerry Pivnik, Esq.	.3
12/15/95	JFE	Telephone conference with George Butler	.7
01/11/96	JFE	Telephone conference with Steve Kellough	.5
01/30/96	JFE	Telephone conference with George Butler	.5
01/30/96	JFE	Letter to Karl E. Pearson re: possession of plane and certain parts	.2
01/30/96	JFE	Letter to Jerome Pivnik, Esq. re: possession of plane and certain parts	.2
01/30/96	JFE	Letter to George Butler re: possession of the plane and its parts	.2
02/06/96	JFE	Conference with Steve Kellough, Ian Osur and Jerome Pivnik	1.5
02/09/96	JFE	Letter from Karl Pearson, Esq. re: unable to take control of plane parts and will hold plaintiff responsible for preservation	.2
02/14/96	JFE	Letter to Karl Pearson rejecting offer to obtain possession of aircraft parts	.2
03/02/96	JFE	Review entire underlying case file, correspondence and pleadings	4.0
03/04/96	JFE	Review entire underlying case file, correspondence and pleadings	4.0
03/16/96	JFE	Draft Complaint against National union, AIG and Wenk	4.0

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

03/17/96	JFE	Draft Complaint against National Union, AIG and Wenk	3.0
03/19/96	JFE	Prepare Complaint for filing; preparation of Civil Cover Sheet	.3
03/19/96	JFE	Preparation of Summons: AIG Aviation Corporation	.2
03/19/96	JFE	Preparation of Summons: National Union Fire Insurance Company of Pittsburgh	.2
03/21/96	JFE	Telephone conference with Ian Osur, Esq.	.2
03/27/96	JFE	Telephone conference with Clayton Rappaport	.2
03/29/96	JFE	Receipt and review Judge Paine's Order of Recusal	.2
04/10/96	JFE	Letter to client re: complaint filed in federal court	.2
04/10/96	JFE	Preparation of Notice of Lawsuit and Request for Waiver of Service of Summons directed to AIG	.2
04/10/96	JFE	Preparation of Notice of Lawsuit and Request for Waiver of Service of Summons directed to Wenk	.2
		BAD FAITH LITIGATION - 1996	
04/10/96	JFE	Receipt and review of Niles' Request to Produce to Nat'l Union, AIG, and Wenk	.4
04/10/96	JFE	Letter to Jerome Pivnik, Esq. confirming acceptance of service of complaint against AIG	.2
04/10/96	JFE	Letter to Karl Pearson, Esq. confirming acceptance of service of complaint against Wenk	.2
04/17/96	JFE	Telephone conference with Jerry Pivnik, Esq. re: agreement to transfer and consolidate	.3
04/18/96	JFE	Telephone conference with Karl Pearson, Esq. re: Wenk	.4
04/18/96	JFE	Telephone conference with Ian Osur, Esq.	.3
04/18/96	JFE	Research re: amending complaint prior to service	.5
04/18/96	JFE	Telephone conference with Ian Osur, Esq.	.2
04/18/96	JFE	Telephone conference with Karl Pearson, Esq.	.2
04/18/96	JFE	Telephone conference with Ian Osur, Esq.	.2
04/24/96	JFE	Telephone conference with Karl Pearson, Esq. re: notice of appearance on behalf of Wenk	.2
04/24/96	JFE	Letter from Karl Pearson, Esq. confirming proper entity is Wenk Aviation Insurance Agency, Inc.	.2
04/24/96	JFE	Letter from Larry Roth, Esq. to Clerk of Court, USDC re: Defendant Wenk's Notice of Appearance	.1
04/24/96	JFE	Receipt and review Notice of Appearance of Larry Roth, Esq. and Karl Pearson, Esq., Roth Edwards & Smith, P.A. on behalf of Wenk	.2

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
04/24/96	JFE Review file and draft Amended Complaint	3.0
04/25/96	JFE Telephone conference with George Butler	.5
04/29/96	JFE Final review of Amended Complaint to be filed	.5
05/01/96	JFE File Amended Complaint	.5
05/02/96	JFE Letter to Karl Pearson, Esq. re: Amended Complaint	.2
05/02/96	JFE Letter to Jerome Pivnik, Esq. re: Amended Complaint	.2
05/03/96	JFE Receipt and review of Wenk's response to Niles' request to produce served with the complaint and documents attached thereto	4.5
05/06/96	JFE Letter from Karl Pearson, Esq. re: consolidating of cases	.2
05/06/96	JFE Review of documents attached to Wenk's response to Niles' request to produced served with the Complaint	4.0
05/07/96	JFE Review of documents attached to Wenk's response to Niles' request to produce served with the Complaint	4.0
05/08/96	JFE Review of documents attached to Wenk's response to Niles' request to produce served with the Complaint	2.0
05/08/96	JFE Letter to Karl Pearson, Esq. re: response to Amended Complaint and consolidation of Complaint	.2
05/17/96	JFE Receipt and review of Niles Joint Motion for Enlargement of Time to File Scheduling Report	.4
05/21/96	JFE Letter to Clerk of Court from Larry Roth, Esq. re: Joint Motion for Enlargement of Time to File Scheduling Report	.1
05/23/96	JFE Telephone conference with Ian Osur, Esq.	.2
05/23/96	JFE Telephone conference with Karl Pearson, Esq. re: request for extension of time to file response to Amended Complaint	.1
05/23/96	JFE Letter from Karl Pearson, Esq. re: Wenk's response to Amended Complaint	.2
05/24/96	JFE Letter to Clerk of Court from Larry Roth, Esq. re: Wenk's Motion to Dismiss and Memorandum in Support of Motion to Dismiss	.1
05/24/96	JFE Receipt and review of Wenk's Motion to Dismiss and Memorandum in Support of Motion to Dismiss (Cleall's Amended Complaint)	1.6
05/24/96	JFE Research: case law cited in Wenk's Memorandum of Law in support of Motion to Dismiss Amended Complaint	2.4

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
05/24/96	JFE Review of Aviation Insurance Contract attached as Exhibit A to Wenk's Motion to Dismiss	1.3
06/01/96	JFE Telephone conference with Ian Osur, Esq.	.2
06/11/96	JFE Telephone conference with Ralph Anderson, Esq.	.2
06/12/96	JFE Telephone conference with Karl Pearson, Esq. re: request for extension of time to file memorandum in opposition to motion to dismiss	.3
06/12/96	JFE Preparation of Unopposed Motion for Extension of Time to File Memorandum in Opposition to Motion to Dismiss	.8
06/18/96	JFE Letter to client re: offer of judgment from National Union and AIG	.3
06/25/96	JFE Telephone conference with Ian Osur, Esq.	.2
07/02/96	JFE Letter to client re: offer of judgment from Wenk	.3
07/02/96	JFE Letter to Sally Gross, Esq. re: draft memorandum in opposition to Wenk's motion to dismiss	.3
07/02/96	JFE Telephone conference with Sally Gross, Esq. re: MOL in opposition to Wenk's motion to dismiss	.4
07/03/96	JFE Review and revise draft MOL in opposition to Wenk's motion to dismiss	3.0
07/03/96	JFE Telephone conference with Sally Gross, Esq. re: MOL	.5
07/08/96	JFE Review and revise draft MOL in opposition to Wenk's motion to dismiss	2.0
07/09/96	JFE Letter from Karl Pearson, Esq. re: Exhibit A to Wenk's Motion to Dismiss and MOL in Support	.1
07/09/96	JFE Receipt and Review of complete policy referenced as Exhibit A to Wenk's Motion to Dismiss and MOL in Support	.9
07/09/96	JFE Telephone conference with Sally Gross, Esq. re: MOL	.2
07/10/96	JFE Telephone conference with Ian Osur, Esq.	.2
07/10/96	JFE Telephone conference with Sally Gross, Esq. re: Cleall's MOL in opposition to Wenk's motion to dismiss	.2
07/10/96	JFE Letter to Sally Gross, Esq. re: complaint and Wenk's Exhibit A to its motion to dismiss and MOL	.2
07/10/96	JFE Telephone conference with Judge Roettger's Chambers re: pleadings to be filed with the Ft. Lauderdale branch of USDC	.1
07/10/96	JFE Draft and review of Cleall's Motion for Oral Argument on Wenk's Motion to Dismiss	.3

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

07/10/96	JFE	Review of Cleall's Memorandum of Law in Opposition to Wenk's Motion to Dismiss Counts I, IV and V	.5
07/15/96	JFE	Telephone conference with client	.5
07/16/96	JFE	Telephone conference with Karl Pearson, Esq. re: Wenk's response to plaintiff's MOL in opposition to Wenk's motion to dismiss Counts I, IV, and V	.2
07/16/96	JFE	Letter from Karl Pearson, Esq. re: Wenk's response to plaintiff's MOL in opposition to Wenk's motion to dismiss Counts I, IV, and V	.2
07/17/96	JFE	Letter to Clerk of Court from Larry Roth, Esq. re: Wenk's Unopposed Motion for Extension of Time to Serve Reply Memorandum to Plaintiff's Memorandum in Opposition to Motion to Dismiss and proposed Order	.1
07/17/96	JFE	Telephone conference with Karl Pearson, Esq. re: Wenk's request for extension of time to file reply MOL	.2
07/17/96	JFE	Receipt and review of Wenk's Unopposed Motion for Extension of Time to Serve Reply Memorandum to Cleall's Memorandum in Opposition to Motion to Dismiss	.6
07/24/96	JFE	Telephone conference with George Butler	.5
08/02/96	JFE	Receipt and review of Court's Order Denying Wenk's Motion to Dismiss and review of case law cited in order	.4
08/05/96	JFE	Letter to Clerk of Court from Karl Pearson, Esq. re: Wenk's Reply to Plaintiff's Memorandum in Opposition to Motion to Dismiss	.1
08/05/96	JFE	Receipt and review of Wenk's Reply to Plaintiff's Memorandum in Opposition to Motion to Dismiss	.7
08/12/96	JFE	Telephone conference with Karl Pearson, Esq. re: Wenk's Answer to Counts I, IV and V of Plaintiff's Complaint	.2
08/12/96	JFE	Letter from Karl Pearson, Esq. re: Wenk's Answer to Counts I, IV and V of Plaintiff's Complaint	.2
08/23/96	JFE	Receipt and review of Wenk's Answer and Affirmative Defenses to Cleall's Amended Complaint	.7
08/27/96	JFE	Letter to Karl Pearson, Esq. and Jerry Pivnik, Esq. from Steven Kellough, Esq. re: scheduling conference to prepare scheduling report pursuant to the local rule	.2
09/06/96	JFE	Telephone conference with client	.8
09/09/96	JFE	Receipt and review of Nat'l Union's/AIG's Notification of 90 Days Expiring and Ripeness for Hearing on Motion to Transfer and Consolidate filed in <i>Niles</i>	.2
09/09/96	JFE	Receipt and review of Nat'l Union's/AIG's Notification of 90 Days Expiring and Ripeness for Hearing on Motion to Transfer and Consolidate filed in <i>Cleall</i>	.2

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

09/09/96	JFE	Receipt and review of Nat'l Union's Answer and Affirmative Defenses to Niles' Amended Complaint	.5
09/09/96	JFE	Receipt and review of AIG's Motion to Dismiss Counts I, III & VII in Niles' Amended Complaint	.5
09/09/96	JFE	Receipt and review of Nat'l Union's Answer and Affirmative Defenses to Cleall's Amended Complaint	.5
09/09/96	JFE	Receipt and review of AIG's Motion to Dismiss Counts I, III & VII in Cleall's Amended Complaints	.5
09/09/96	JFE	Research re: case law cited in AIG's motion to dismiss Counts I, III & VII in Niles' and Cleall's Amended Complaints	1.0
09/10/96	JFE	Receipt and review of Nat'l Union's Request for Admissions to Cleall, Niles and Wenk	.5
09/11/96	JFE	Receipt and review of Clerk's Notification of 90 Days Expiring and Ripeness for Hearing on Nat'l Union/AIG's motion to transfer	.2
09/16/96	JFE	Receipt and review of Nat'l Union's response to Niles' request for production served with the complaint	.3
09/20/96	JFE	Telephone conference w/Ian Osur re: National Union's request for admissions	.5
09/20/96	JFE	Telephone conference with client	.5
09/23/96	JFE	Telephone conference with Jerome Pivnik, Esq. re: request for extension of time to respond to AIG's motion to dismiss	.2
09/23/96	JFE	Preparation of Unopposed Motion for Extension of Time to Respond to AIG's Motion to Dismiss	.4
09/24/96	JFE	Receipt and review Niles' MOL in opposition to AIG's motion to dismiss Counts I, III and VII	1.0
09/24/96	JFE	Telephone conference with Sally Gross, Esq. re: Niles' MOL in opposition to AIG's motion to dismiss Counts I, III and VII	.7
09/25/96	JFE	Telephone conference with Ian Osur	.5
09/25/96	JFE	Telephone conference with Sally Gross, Esq. re: Cleall's response to AIG's motion to dismiss	.8
09/25/96	JFE	Review of initial draft response to AIG's motion to dismiss	1.2
09/26/96	JFE	Research: case law relied upon in response to AIG's motion to dismiss	2.3
09/26/96	JFE	Letter to Sally Gross, Esq. re: settlement agreement between Niles/Marathon and Cleall/Marathon and Final Judgment for Cleall/Marathon signed 8/2/95	.3
09/27/96	JFE	Letter to Sally Gross, Esq. re: Niles Settlement with Marathon and Final Judgment	.2

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

09/30/96	JFE	Letter from Sally Gross, Esq. re: draft response to AIG's motion to dismiss	.3
09/30/96	JFE	Review and revise draft response to AIG's motion to dismiss	2.6
10/01/96	JFE	Receipt and review of Cleall's Response to AIG's Motion to Dismiss with exhibits filed by Sally Gross, Esq.	.6
10/03/96	JFE	Telephone conference with Steve Kellough	.5
10/03/96	JFE	Letter from Deborah Orlove, Esq. re: now representing National Union and AIG in conjunction with Jason Oletsky, Esq.	.2
10/03/96	JFE	Receipt and review of Order Granting Cleall's Unopposed Motion for Extension of Time to Respond to AIG's Motion to Dismiss	.2
10/03/96	JFE	Receipt and review of Niles' response to Nat'l Union's request for admissions of 9/10/96	.4
10/07/96	JFE	Preparation of draft response to Nat'l Union's request for admissions of 9/10/96	.8
10/08/96	JFE	Telephone conference with Debra Orlove	.2
10/08/96	JFE	Receipt and review of Nat'l Union's/AIG's Motion to Appear Pro Hac Vice with exhibit	.1
10/08/96	JFE	Receipt and review of Nat'l Union's/AIG's Notice of Appearance	.2
10/08/96	JFE	Telephone conference with Michael Perse, Esq. re: AIG's request for extension of time to reply to Cleall's response to AIG's motion to dismiss	.2
10/08/96	JFE	Receipt and review of AIG's Motion for Extension of Time to Reply to Cleall's response to motion to dismiss	.3
10/10/96	JFE	Finalize response to Nat'l Union's Request for Admissions of 09/10/96	.8
10/10/96	JFE	Receipt and review of Wenk's Response to Nat'l Union's Request for Admissions of 09/10/96	.4
10/12/96	JFE	Receipt and review of Order Granting AIG's Motion for Extension of Time to Reply	.2
10/12/96	JFE	Receipt and review of Order Granting Limited Appearance(Pro Hac Vice Motion)	.3
10/18/96	JFE	Receipt and review of AIG's Reply in Support of AIG's Motion to Dismiss	.7
10/18/96	JFE	Research: case law cited in AIG's reply in support of AIG's motion to dismiss	1.3
10/31/96	JFE	Telephone conference with client	.8
11/13/96	JFE	Telephone conference with client	1.0
12/23/96	JFE	Telephone conference with George Butler	.5
		BAD FAITH LITIGATION - 1997	
01/07/97	JFE	Telephone conference with George Butler	.5

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
01/21/97	JFE Telephone conference with Steve Kellough	.3
01/28/97	JFE Telephone conference with Ian Osur	.5
02/10/97	JFE Telephone conference with Ian Osur	.6
02/13/97	JFE Telephone conference with Steve Kellough	.5
03/04/97	JFE Telephone conference with Steve Kellough	.5
03/11/97	JFE Telephone conference with client	1.1
03/17/97	JFE Telephone conference with Steve Kellough	.5
03/17/97	JFE Telephone conference with Ted Siver, insurance consultant	1.0
03/17/97	JFE Letter to Ted Siver, insurance consultant, forwarding documents for review	.4
03/25/97	JFE Letter from George Butler re: plane wreckage	.2
03/26/97	JFE Conference with Steve Kellough, Esq. and Ted Siver	2.0
03/27/97	JFE Letter to George Butler re: plane wreckage	.3
03/27/97	JFE Letter to Ted Siver re: amending complaint	.3
04/08/97	JFE Telephone conference with Steve Kellough	.5
04/21/97	JFE Telephone conference with Steve Kellough	.7
04/28/97	JFE Telephone conference with Steve Kellough	.6
05/05/97	JFE Telephone conference with Steve Kellough	.5
05/22/97	JFE Telephone conference with Steve Kellough	.6
05/23/97	JFE Telephone conference with Steve Kellough	.4
05/30/97	JFE Telephone conference with Ian Osur	.5
06/02/97	JFE Telephone conference with Ian Osur	.6
09/25/97	JFE Receipt and review of AIG's Notice of Change of Address	.1
09/26/97	JFE Telephone conference with Ian Osur	.7
11/06/97	JFE Conference with Steve Kellough, Esq. and Ian Osur, Esq.	2.0
11/14/97	JFE Letter to client re case management conference	.4
11/19/97	JFE Receipt and review of Wenk's Motion to Consolidate	.6
11/20/97	JFE Letter from Karl Pearson, Esq. to all counsel re: court docket sheets for both cases and renewed motion to consolidate	.2

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

11/20/97	JFE	Review and comparison of court docket sheets for both cases to ensure completeness of pleadings	1.5
12/02/97	JFE	Telephone conference with Ian Osur	.5
12/03/97	JFE	Telephone conference with Ian Osur	.5
12/04/97	JFE	Telephone conference with Ian Osur	.5
12/05/97	JFE	Telephone conference with Ian Osur	.5
12/10/97	JFE	Telephone conference with Ian Osur	.5
12/16/97	JFE	Telephone conference with Ian Osur	.5
		BAD FAITH LITIGATION - 1998	
02/12/98	JFE	Receipt and review of Niles' witness list	.6
02/12/98	JFE	Receipt and review of Niles' exhibit list	.6
02/12/98	JFE	Receipt and review of Niles' motion for leave to amend complaint and incorporated MOL	1.0
02/12/98	JFE	Research: case law cited in Niles' MOL in support of motion for leave to amend complaint	2.0
02/12/98	JFE	Telephone conference with Steve Kellough	.5
02/12/98	JFE	Receipt and review Joint Status Report filed in <i>Niles</i>	.6
02/12/98	JFE	Receipt and review of Niles' request for production to Nat'l Union, AIG and Wenk	.3
02/12/98	JFE	Receipt and review of Niles' interrogatories to Wenk	.4
02/12/98	JFE	Receipt and review of Niles' interrogatories to Nat'l Union/AIG	.4
02/17/98	JFE	Preparation of initial draft of amended complaint	1.0
02/26/98	JFE	Review and revise amended complaint	.5
03/02/98	JFE	Telephone conference with Judge Roettger's chambers re: status of pending motion to consolidate	.2
03/02/98	JFE	Receipt and review of Wenk's Interrogatories and Request for Production of Documents to Nat'l Union Fire and AIG Aviation	.4
03/02/98	JFE	Receipt and review of Nat'l Union/AIG's interrogatories and request for production to Wenk	.4
03/03/98	JFE	Receipt and review of Wenk's interrogatories to Niles	.4
03/03/98	JFE	Receipt and review of Wenk's request for production to Niles	.3
03/03/98	JFE	Receipt and review of Wenk's Interrogatories to Cleall	.4

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
03/03/98	JFE Receipt and review of Wenk's Request for Production to Cleall	.4
03/04/98	JFE Letter from Karl Pearson, Esq. re: status of judge's ruling on motion to consolidate	.2
03/04/98	JFE Receipt and review of Omnibus Order Granting Wenk's Motion to Consolidate and Niles' Motion for Leave to Amend Complaint	.4
03/05/98	JFE Receipt and review of Niles' Notice of Filing: Joint Status Report, Scheduling Report and Order entered on 02/12/98	.2
03/06/98	JFE Review and revise amended complaint	.5
03/11/98	JFE Review and revise amended complaint	1.0
03/11/98	JFE Receipt and review of Order on Niles' Motion to Amend	.2
03/11/98	JFE Review and revise amended complaint	.8
03/17/98	JFE Final review and revisions to amended complaint	2.2
03/17/98	JFE Research: case law in support of motion for leave to amend complaint	2.0
03/18/98	JFE Preparation of draft motion for leave to amend complaint and incorporated MOL	1.0
03/18/98	JFE Final preparation of Second Amended Complaint; organize exhibits for filing	1.8
03/19/98	JFE Letter to Clerk of Court re: Plaintiff's Motion for Leave to Amend Complaint and Incorporated Memorandum of Law and proposed Order	.2
03/19/98	JFE Preparation of proposed Order on Plaintiff's Motion for Leave to Amend Complaint	.3
03/19/98	JFE Final preparation of Motion for Leave to Amend Complaint and Incorporated Memorandum of Law	.5
04/02/98	JFE Telephone conference with Steve Kellough re: scheduling order	.7
04/03/98	JFE Telephone conference with Steve Kellough re: status and strategy	1.0
04/03/98	JFE Receipt and review of Wenk's Answer and Affirmative Defenses to Niles' Amended Complaint	.7
04/09/98	JFE Telephone conference with Karl Pearson, Esq. re: extension of time to respond to discovery	.2
04/09/98	JFE Letter to Karl Pearson, Esq. re: extension of time to respond to discovery	.2
04/15/98	JFE Receipt and review of Wenk's Witness List	.4
04/15/98	JFE Receipt and review of Wenk's Exhibit List	.4
04/15/98	JFE Receipt and review of Niles' Lay Witness List	.5
04/15/98	JFE Receipt and review of Niles' Exhibit List	.4

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
04/20/98	JFE Telephone conference with Ian Osur	.5
04/20/98	JFE Telephone conference with client	.8
04/20/98	JFE Telephone conference with Steve Kellough	.5
04/21/98	JFE Telephone conference with Paul Butler	.6
04/22/98	JFE Receipt and review of Scheduling Order in <i>Niles</i>	.2
04/23/98	JFE Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: Deposition of Joanne Mahan/Wenk Aviation Representative	.2
04/27/98	JFE Telephone conference with Paul Butler, Esq. re: case schedule and other matters	.5
05/01/98	JFE Letter to Paul Butler, Esq. re: case schedule	.2
05/01/98	JFE Receipt and review of Niles' Request for Admissions to Nat'l Union, AIG and Wenk	.4
05/05/98	JFE letter to Ian Osur, Esq. from Karl Pearson, Esq. re: depositions of Wenk representatives	.2
05/12/98	JFE Telephone conference with Ian Osur	.5
05/13/98	JFE Receipt and review Offer of Judgment/Proposal for Settlement from Wenk	.3
05/13/98	JFE Telephone conference with Ian Osur	.5
05/13/98	JFE Preparation for and attendance at deposition of Charles Wenk	7.7
05/14/98	JFE Preparation for and attendance at deposition of Joan Mahan	4.4
05/15/98	JFE Telephone conference with Ian Osur	.5
05/20/98	JFE Conference call with Ian Osur and Steve Kellough	1.1
05/21/98	JFE Letter to George Butler re: status	.2
05/22/98	JFE Letter to client re: offer of judgment from Wenk	.3
05/28/98	JFE Receipt and review of Niles' Response to Wenk's Request for Production	.2
06/01/98	JFE Receipt and review of Wenk's Expert Witness Disclosure	.3
06/01/98	JFE Receipt and review of Niles' Expert Witness Summary/Reports Pursuant to 16.1.K with exhibits	2.0
06/02/98	JFE Letter to Paul Butler, Esq. re: proposed scheduling order for submission to the court	.2
06/03/98	JFE Receipt and review of Wenk's Response to Niles' Request for Admissions of 05/01/98	.7
06/05/98	JFE Receipt and review of Niles' Motion to Compel Discovery and Incorporated Memorandum of Law	.7
06/05/98	JFE Research: case law cited in Niles MOL in support of motion to compel	.7

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: JOHN F. EVERSOLE III	TIME
06/10/98	JFE Telephone conference with Steve Kellough re: depositions	.3
06/10/98	JFE Letter to Edward Howard from Ian Osur, Esq. re: Mr. Howard's scheduled depositions and exhibits marked at the depositions of Charles Wenk, Wendy Wenk Deeter, Joanne Mahen and Kay Sheppard at Wenk Aviation	.2
06/11/98	JFE Letter to Paul Butler from Steven Kellough, Esq. re: Edward Howard's deposition and outstanding discovery, expert witness lists with resumes and opinions and Wenk's outstanding discovery	.2
06/11/98	JFE Receipt and review of Niles' notice of Receipt of Response to Request for Admissions of 05/01/98 from Wenk	.2
06/15/98	JFE Telephone conference with George Butler	.5
06/16/98	JFE Receipt and review of Niles' Motion for Leave to File its Certificate of Counsel Nunc Pro Tunc in Support of its Motion to Compel Discovery	.3
06/17/98	JFE Telephone conference with client	.8
06/17/98	JFE Preparation for and attendance at deposition of Rodney Gaard	5.8
06/17/98	JFE Preparation for and attendance at deposition of Edward Howard	3.5
06/18/98	JFE Receipt and review of Notice of Taking Deposition: Records Custodian, Bilzen, Sumberg, Dunn & Axelrod, P.A.	.5
06/18/98	JFE Receipt and review of Subpoena duces tecum for deposition of records custodian of Bilzen, Sumberg, Dunn & Axelrod, P.A.	.3
06/30/98	JFE Telephone conference with Paul Butler	.3
07/01/98	JFE Receipt and review of Niles' Motion to Strike and/or Preclude Defendants' Expert Witnesses	.6
07/01/98	JFE Research: case law cited in Niles' motion to strike	.6
07/06/98	JFE Telephone conference with Elizabeth Lim, Esq. re: Nat'l Union/AIG's & Wenk's request for extension of discovery schedule	.4
07/06/98	JFE Telephone conference with Ian Osur	.5
07/06/98	JFE Receipt and review of Nat'l Union's/AIG's/Wenk's Joint Motion for Extension of the Discovery Schedule	.6
07/08/98	JFE Telephone conference with George Butler	.5
07/08/98	JFE Letter from Steven Kellough re: copies of records received from Bilzen, Sumberg, Dunn, Price & Axelrod LLP	.2
07/08/98	JFE Review of Memorandum to "File" frm Rick Dunn re: telephone conversation with Jerry Pivnik dated May 13, 1994	.5

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
07/08/98	JFE Review of certified letter to National Union Fire Insurance Corporation from Richard M. Dunn and Michael G. Srebnick dated May 9, 1994	.5
07/08/98	JFE Review of letter to Richard M. Dunn, Esq. from Thomas Scott, Esq. dated June 24, 1994	.3
07/10/98	JFE Receipt and review of Niles' Response to Nat'l Union's/AIG's/Wenk's Joint Motion for Extension of the Discovery Schedule	.5
07/10/98	JFE Receipt and review of Niles' Reply to Defendants' Response to Niles' Motion to Strike and/or Preclude Defendants' Expert Witnesses	.6
07/10/98	JFE Research: case law cited in Niles' reply to response to motion to strike	.6
07/10/98	JFE Letter to Thomas Almy, Esq. from Ian Osur, Esq. re: complete and accurate copy of the relevant policy	.2
07/13/98	JFE Receipt and review of Wenk's Response to Plaintiffs' Motion to Compel Discovery	.4
07/13/98	JFE Receipt and review Wenk's Response to Plaintiffs' Motion to Strike and/or Preclude Defendants' Expert Witnesses	.4
07/13/98	JFE Receipt and review of Wenk's Response to Niles' Request for Production of 02/12/98	.3
07/13/98	JFE Receipt and review of Wenk's Answers to Niles' Interrogatories of 02/12/98	.3
07/13/98	JFE Receipt and review Wenk's Answers to Nat'l Union/AIG's Interrogatories and Request for Production of 03/02/98	.4
07/16/98	JFE Receipt and review of Wenk's Supplemental Witness List	.3
07/16/98	JFE Receipt and review of Wenk's Supplemental Exhibit List	.3
07/16/98	JFE Receipt and review of Wenk's Answers to Interrogatories and Requests for Production	.5
07/16/98	JFE Receipt and review of Niles' Reply to Wenk's Response to Motion to Compel Discovery	.6
07/21/98	JFE Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: Wenk's answers to interrogatories and request for plaintiff's exhibits listed in plaintiff's exhibit list	.5
07/21/98	JFE Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: depositions of Rodney Gaard and Edward Howard and request for dates for the depositions of Joe D' Aiuto, Kathleen Niles, Dean Cleall, and plaintiffs' experts	.3
07/22/98	JFE Receipt and review of Niles' Response to Wenk's Interrogatories of 03/03/98	.3
07/23/98	JFE Receipt and review of Nat'l Union's/AIG's Opposition to Niles' Motion to Strike Expert Witnesses	.8
07/24/98	JFE Receipt and review of Niles' Witness List	1.1
07/24/98	JFE Receipt and review of Niles' Amended Exhibit List	.4
07/28/98	JFE Telephone conference with George Butler	.5

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
07/28/98	JFE Letter to Sally Gross, Esq. re: National Union's answer and affirmative defenses and Wenk's answer and affirmative defenses	.2
07/28/98	JFE Receipt and review of Niles' Answers to Nat'l Union/AIG's Interrogatories of 03/02/98	1.2
07/28/98	JFE Receipt and review of Niles' Response to Nat'l Union/AIG's Request for Production of 03/02/98	.5
07/30/98	JFE Letter to client re: defendants' request for Cleall's deposition	.3
07/30/98	JFE Letter to client re: status	.4
07/30/98	JFE Receipt and review of Niles' Motion for Protective Order	.25
07/30/98	JFE Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: Joseph D'Aiuto's deposition	.2
07/30/98	JFE Letter to Karl Pearson, Esq. from Ian Osur, Esq. re: plaintiffs' motion for protective order pending court's determination of plaintiffs' motion to strike and/or preclude defendant's experts	.2
07/30/98	JFE Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: plaintiffs' motion for protective order	.1
07/30/98	JFE Letter to Karl Pearson, Esq. re: correspondence about setting depositions and motion for protective order	.2
08/03/98	JFE Receipt and review of Wenk's Motion for Leave to Amend Defendant's Answer and Affirmative Defenses and Incorporated Memorandum of Law	1.0
08/03/98	JFE Research: case law cited in Wenk's motion for leave to amend answer and affirmative defenses	1.0
08/03/98	JFE Receipt and review of Niles' Motion for Summary Judgment and Memorandum of Law in Support Thereof	2.0
08/03/98	JFE Research: case law cited in Niles' MOL in support of motion for summary judgment	2.0
08/04/98	JFE Letter to Thomas Almy, Esq. from Karl Pearson, Esq. re: depositions of Joe and Althea D'Aiuto	.2
08/04/98	JFE Letter to Karl Pearson, Esq. from Thomas Almy, Esq. re: depositions of Joe and Althea D'Aiuto	.2
08/04/98	JFE Letter to Karl Pearson, Esq. from Ian Osur's office re: cancellation of the D'Aiuto depositions	.1
08/11/98	JFE Receipt and review of Niles' response in opposition to Wenk's motion to amend answer and affirmative defenses	.7
08/11/98	JFE Research: case law cited in Niles' response to Wenk's motion to amend	.7
08/12/98	JFE Receipt and review of Wenk's Opposition to Niles' Motion for Protective Order	.4

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: JOHN F. EVERSOLE III	TIME
08/12/98	JFE Research: case law cited in Wenk's opposition to Niles' motion for protective order	.4
08/13/98	JFE Receipt and review of Wenk's Revised Motion for Leave to Amend its Answer and Affirmative Defenses and Incorporated Memorandum of Law	.6
08/13/98	JFE Research: case law cited in Wenk's revised MOL in support of motion for leave to amend answer	.6
08/14/98	JFE Receipt and review of deposition transcript of Joan Mahan	1.4
08/14/98	JFE Receipt and review of deposition transcript of Charles Wenk	2.4
08/14/98	JFE Letter to Ian Osur, Esq. re: Wenk's position regarding coverage	.3
08/17/98	JFE Receipt and review of Wenk's request for pretrial conference and memorandum of law	.4
08/18/98	JFE Telephone conference with Elizabeth Lim, Esq. re: extension of time to respond to motion for summary judgment	.2
08/18/98	JFE Receipt and review of Nat'l Union/AIG's unopposed motion for extension of time to respond to motion for summary judgment	.4
08/19/98	JFE Receipt and review of Order Granting Nat'l Union's/AIG's Unopposed Motion for Extension of Time to Respond to Motion for Summary Judgment	.1
08/20/98	JFE Receipt and review of Omnibus Order: Granting Cleall's Motion for Leave to Amend Complaint; Denying Defendant's Motion for Reconsideration; Granting Wenk's Motion for Leave to Amend Affirmative Defenses; Granting Defendant's Joint Motion to Extend Discovery Deadlines; Denying Niles' Motion for Protective Order Denying Niles' Motion to Strike or Preclude Defendant's Expert Witnesses; Granting Niles Motion to File a Certificate of Counsel Nunc Pro Tunc; Denying Niles' Motion to Compel Discovery	1.0
08/20/98	JFE Receipt and review of Wenk's Unopposed Motion for Extension of Time to Serve Response to Niles' Motion for Summary Judgment	.4
08/21/98	JFE Receipt and review of Wenk's Reply to Niles' Response in Opposition to Wenk's Motion to Amend Answer and Affirmative Defenses	.9
08/21/98	JFE Research: case law cited in Wenk's reply to Niles' response to Wenk's motion to amend	.9
08/25/98	JFE Telephone conference with Paul Butler re: NTSB report and his client's position	1.0
08/28/98	JFE Telephone conference with Steve Kellough	.5
08/28/98	JFE Receipt and review of Nat'l Union's/AIG's Motion to Exceed Page Limit	.3
08/28/98	JFE Telephone Conference with all counsel re: scheduling conference with all counsel re: scheduling report required by the court	2.0
08/28/98	JFE Telephone conference with Steve Kellough re: strategies	1.0
08/30/98	JFE Letter from client re: possible witnesses and exhibits	.5

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: JOHN F. EVERSOLE III	TIME
08/31/98	JFE Telephone conference with client re: deposition	.2
08/31/98	JFE Telephone conference with Steve Kellough re: strategies	.5
08/31/98	JFE Receipt and review of Notice of Production of Non-Party: Rollins Burdick Hunter of Kansas, Inc. n/k/a AON Aviation	.5
08/31/98	JFE Receipt and review of Subpoena duces tecum without deposition to Rollins Burdick Hunter of Kansas, Inc. n/k/a AON Aviation	.3
09/01/98	JFE Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: CVs of defense experts, Jim Harrison and Thomas Ruke	.2
09/01/98	JFE Review of CV of defense expert Jim Harrison	.5
09/01/98	JFE Review of CV of defense expert Thomas Ruke	.5
09/01/98	JFE Letter to all counsel from Steven Kellough, Esq. re: minutes of August 28, 1998 conference re: scheduling report	.5
09/02/98	JFE Letter from Steven Kellough, Esq. Re: records from Bilzen, Sumberg, Dunn, Price & Axelrod, LLP	.2
09/02/98	JFE Letter to clerk of court from Thomas Almy, Esq., re: National Union/AIG's Opposition to Niles' Motion for Summary Judgment and Defendants' Cross-Motion for Summary Judgment	.1
09/02/98	JFE Receipt and review of Nat'l Union's/AIG's Opposition to Niles' Motion for Summary Judgment and Cross-Motion for Summary Judgment and exhibits	2.8
09/02/98	JFE Research: case law cited in Nat'l Union's/AIG's MOL in opposition to Niles motion for summary judgment and in support of its cross-motion for summary judgment	3.4
09/03/98	JFE Receipt and review of Wenk's Response in Opposition to Niles' Motion for Summary Judgment	.5
09/04/98	JFE Telephone conference with Steve Kellough	.5
09/04/98	JFE Letter to client re: deposition	.2
09/04/98	JFE Receipt and review of Request for Copies (Marine Bank n/k/a Citizens & Southern Bank of Monroe County and RC: Rollins Burdick Hunter of Kansas, Inc. n/k/a AON Aviation)	.3
09/04/98	JFE Letter to Steven Kellough, Esq. re: deposition of Dean Cleall taken August 5, 1992	.2
09/04/98	JFE Letter to Karl Pearson, Esq. from Ian Osur, Esq. memorializing telephone conference re: future discovery	.4
09/09/98	JFE Receipt and review of Niles' Motion for Extension of Time to File her Response to Wenk's Response to Motion for Summary Judgment	.6

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

09/09/98	JFE	Receipt and review of Niles' Motion for Extension of Time to File her Response to AIG's/Nat'l Union's Response to Motion for Summary Judgment and Response to Cross-Motion for Summary Judgment	.6
09/09/98	JFE	Receipt and review of Wenk's Request for Copies: Rollins Burdick Hunter of Knassa, Inc. n/k/a AON Aviation, Marine Bank n/k/a Citizens & Southern Bank of Monroe County	.2
09/10/98	JFE	Receipt and review of Wenk's Amended Answer and Affirmative Defenses to Niles' Amended Complaint	.8
09/10/98	JFE	Letter to Sally Gross, Esq. re: motion for summary judgment	.3
09/15/98	JFE	Letter from Steve Kellough, Esq. re: bad faith letters addressed to Karl Pearson	.4
09/15/98	JFE	Letter to Paul Butler, Esq. re: amount of consent judgment	.3
09/15/98	JFE	Letter from Sally Gross re: motion for summary judgment	.5
09/15/98	JFE	Research re: case law discussed in letter from Sally Gross	3.0
09/15/98	JFE	Receipt and review of Wenk's Answer and Affirmative Defenses to Cleall's Second Amended Complaint	1.0
09/17/98	JFE	Telephone conference with Ian Osur, Esq.	.5
09/23/98	JFE	Receipt and review of deposition transcript of Rodney Gaard	3.8
09/23/98	JFE	Receipt and review of deposition transcript of Edward Howard	1.5
09/23/98	JFE	Letter to Karl Pearson, Esq. re: amount of consent judgment	.2
09/23/98	JFE	Receipt and review of Niles' Notice of Filing Supplement to Expert Witness Summary	.7
09/25/98	JFE	Receipt and review of Response to Plaintiff's Request for Copies	.4
09/25/98	JFE	Receipt and review of Response to Plaintiff's Request for Copies	.4
09/25/98	JFE	Receipt and review of Wenk's Response to Cleall's Request for Copies: Nationsbank	.4
09/28/98	JFE	Receipt and review of Wenk's response to Niles' request for copies	.2
09/28/98	JFE	Review of letter to Karl Pearson, Esq. from Michael Martel of Aon Corporation	.2
09/28/98	JFE	Receipt and review of Wenk's response to Cleall's request for copies	.2
09/28/98	JFE	Receipt and review of Niles' Agreed Motion for Extension of Time to File her Response to AIG's/Nat'l Union's Response to Motion for Summary Judgment and Response to Cross-Motion for Summary Judgment	.2
09/28/98	JFE	Receipt and review of Niles' Agreed Motion for Extension of Time to File her Reply to Wenk's Response to Motion for Summary Judgment	.4

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: JOHN F. EVERSOLE III	TIME
09/28/98	JFE Receipt and review of Nat'l Union's/AIG's Motion to Dismiss Cleall's Second Amended Complaint or, in the alternative, for Summary Judgment	.6
09/28/98	JFE Telephone conference with Steve Kellough, Esq. re: strategies	.8
09/28/98	JFE Telephone conference with Karl Pearson	.5
09/28/98	JFE Research: case law cited in Niles' reply to AIG's response in opposition to Niles' motion for summary judgment and response to AIG's cross-motion for summary judgment	4.0
09/28/98	JFE Receipt and review of Nat'l Union's/AIG's Motion to Dismiss Cleall's Second Amended Complaint or, in the alternative, for Summary Judgment	1.0
09/28/98	JFE Research: case law cited in AIG's motion to dismiss second amended complaint or for summary judgment	2.0
09/29/98	JFE Telephone conference with Karl Pearson, Esq. re: no objection to the amount of the consent judgment	.3
09/29/98	JFE Letter from Karl Pearson, Esq. re: no objection to the amount of the consent judgment	.2
09/29/98	JFE Letter to all counsel from Karl Pearson, Esq. re: deposition of Mr. Harrison	.2
09/29/98	JFE Receipt and review of Niles' Response to AIG's Statement of Material Facts	.7
09/29/98	JFE Receipt and review of Niles' Reply to AIG/Nat'l Union's Response in Opposition to Niles' Motion for Summary Judgment and Response to AIG's/Nat'l Union's Cross-Motion for Summary Judgment	2.0
09/29/98	JFE Receipt and review of Niles' Motion for Leave to Amend Motion for Summary Judgment to Include Statement of Material Facts	1.0
09/29/98	JFE Research: case law cited in Niles' motion to amend motion for summary judgment	2.0
09/29/98	JFE Receipt and review of Niles' Reply to Wenk's Response in Opposition to Niles' Motion for Summary Judgment	.7
09/30/98	JFE Receipt and review of Niles' Notice of Filing Second Supplement to Expert Witness Summary	.3
09/30/98	JFE Receipt and review of AIG's Answer and Affirmative Defenses to Niles' Amended Complaint	.9
09/30/98	JFE Receipt and review of Nat'l Union's Answer and Affirmative Defenses to Niles' Amended Complaint	.9
10/02/98	JFE Telephone conference with Paul Butler, Esq. re: coverage	.5
10/05/98	JFE Telephone conference with Karl Pearson, Esq. re: Cleall's deposition	.2

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

10/05/98	JFE	Letter to Sally Gross, Esq. re: Wenk's reply to plaintiff's response in opposition to Wenk's motion to amend answer and affirmative defenses and Niles' response in opposition to Wenk's motion to amend answer and affirmative defenses	.2
10/07/98	JFE	Letter from Sally Gross, Esq. re: scheduling, the employee exclusion clause, and demands	1.5
10/07/98	JFE	Preparation of draft witness list	1.7
10/07/98	JFE	Research: case law discussed in Sally Gross' letter: review of pleadings referred to in letter: review of documents referred to in letter	4.0
10/08/98	JFE	Conference with Sally Gross, Esq.	1.5
10/08/98	JFE	Review and revise Cleall's witness list	1.0
10/08/98	JFE	Receipt and review of Nat'l Union's/AIG's Consent Motion for Extension of Time to Reply to Niles' Response to Cross-Motion for Summary Judgment	.4
10/09/98	JFE	Preparation for and attendance at deposition of Pete DeMahy	3.5
10/09/98	JFE	Telephone conference with client re: paid medical bills	.5
10/09/98	JFE	Telephone conference with Steve Kellough	.4
10/09/98	JFE	Letter to Sally Gross, Esq. re: waiver of statute of limitations	.2
10/09/98	JFE	Letter to Sally Gross, Esq. re: Cleall's pay	.3
10/09/98	JFE	Preparation for and attendance at deposition of Phil Gallagher	5.0
10/09/98	JFE	Revise and finalize Cleall's Witness List	.6
10/09/98	JFE	Preparation of draft response to AIG's motion for summary judgment	1.2
10/09/98	JFE	Research: case law in opposition to AIG's motion for summary judgment	3.0
10/09/98	JFE	Preparation of Response to Nat'l Union's/AIG's Motion for Summary Judgment	1.3
10/09/98	JFE	Preparation of Cleall's expert witness summary per 16.1K	2.0
10/12/98	JFE	Telephone conference with Paul Butler re: whether AIG/National Union will contest value of clients' damages	.5
10/12/98	JFE	Letter from Paul Butler, Esq. re: confirmation that AIG will not contest value of clients' damages but reserves right to contest AIG/National Union's liability	.2
10/12/98	JFE	Letter to client re: deposition	.3
10/12/98	JFE	Receipt and review of Wenk's Notice of Change of Address	.1
10/12/98	JFE	Telephone conference with Steve Kellough	.7
10/12/98	JFE	Telephone conference with Steve Kellough	.4

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

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DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
10/12/98	JFE Review and revise Cleall's response to Nat'l Union/AIG's motion for summary judgment	1.0
10/12/98	JFE Review and revise Cleall's expert witness summary pursuant to 16.1.K	1.0
10/12/98	JFE Review and revise Cleall's Response to Nat'l Union's/AIG's Motion for Summary Judgment	1.0
10/12/98	JFE Telephone conference with Steve Kellough	.3
10/12/98	JFE Review of letter to Karl Pearson, Esp. From Tammy Shepler on behalf of NationsBank dated September 21, 1998	.2
10/13/98	JFE Telephone conference with client	.7
10/13/98	JFE Review draft of Cleall's Motion to Stay Proceedings on Nat'l Union's/AIG's Motion for Summary Judgment pending Necessary Discovery and case law in support thereof	3.0
10/13/98	JFE Telephone conference with client re: employment	.8
10/13/98	JFE Telephone conference with George Butler	1.0
10/13/98	JFE Telephone conference with Steve Kellough	.3
10/13/98	JFE Review and finalize Cleall's Response to Nat'l Union's/AIG's Motion for Summary Judgment	.8
10/13/98	JFE Review and finalize Cleall's Notice of Filing Expert Witness Summary/Reports Pursuant to 16.1.K	1.2
10/13/98	JFE Review and finalize Cleall's Response to Nat'l Union's/AIG's Motion for Summary Judgment	.8
10/13/98	JFE Receipt and review of Niles' Notice of Filing Amended Expert Summary	.3
10/13/98	JFE Receipt and review of Wenk's Notice of Filing Expert Witness Summary	.4
10/13/98	JFE Review and revise Cleall's Motion to Stay Proceedings on Nat'l Union's/AIG's Motion for Summary Judgment pending Necessary Discovery	1.0
10/14/98	JFE Preparation for and attendance at deposition of Phil Parker	6.3
10/14/98	JFE Telephone conference with Sally Gross, Esq. re: Cleall's Motion to Stay Proceedings on Nat'l Union's/AIG's Motion for Summary Judgment pending Necessary Discovery	.5
10/14/98	JFE Receipt and review of Cleall's Motion to Stay Proceedings on Nat'l Union's/AIG's Motion for Summary Judgment pending Necessary Discovery and caselaw cited therein	1.6
10/14/98	JFE Receipt and review of Notice of Counsel's Name Change	.1
10/15/98	JFE Telephone conference with Sally Gross, Esq.	.3
10/15/98	JFE Preparation for and attendance at deposition of David Kohlman	4.9

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
10/15/98	JFE Letter to Karl Pearson, Esq. re: Final Judgment entered on August 2, 1995: demand for \$1,000,000 plus interest to settle all claims against Wenk	.4
10/15/98	JFE Receipt and review of AIG/Nat'l Union's Reply to Niles' Response to Cross-Motion for Summary Judgment	1.1
10/15/98	JFE Research: case law cited in AIG's reply to Niles' response to cross-motion for summary judgment	1.0
10/15/98	JFE Receipt and review of Wenk's Interrogatories to Cleall	.5
10/15/98	JFE Receipt and review of Wenk's Request for Production to Cleall	.3
10/16/98	JFE Telephone conference with Steve Kellough	.3
10/16/98	JFE Receipt and review of Niles' Notice of Adopting Expert Witness Summaries/Reports	.3
10/19/98	JFE Letter from Karl Pearson, Esq. denying demand for \$1,000,000 plus interest	.2
10/19/98	JFE Receipt and review of Wenk's Notice of Production from Non-Party: Avemco Insurance Company, Orlando Executive Airport, Orlando, Florida	.5
10/19/98	JFE Conference call with Steve Kellough and Ian Osur	.5
10/19/98	JFE Receipt and review of Notice of Production from Non-Party: Avemco Insurance Company	.3
10/19/98	JFE Receipt and review of Supboena duces tecum without deposition to Avemco Insurance Company	.2
10/20/98	JFE Receipt and review of Wenk's Motion for Summary Judgment Against Cleall	.4
10/20/98	JFE Telephone conference with George Butler	.5
10/20/98	JFE Telephone conference with Karl Pearson, Esq.	.4
10/20/98	JFE Receipt and review of Wenk's Memorandum in Support of Wenk's Motion for Summary Judgment Against Cleall with exhibits	1.1
10/20/98	JFE Research: case law cited in Wenk's MOL in support of motion for summary judgment	2.2
10/20/98	JFE Receipt and review of Niles' Notice of Filing Second Amended Expert Summary	.4
10/20/98	JFE Receipt and review of Wenk's Notice of Filing Supplemental Expert Witness Summary	.4
10/20/98	JFE Telephone conference with George Butler	.5
10/21/98	JFE Receipt and review of Wenk's Supplemental Exhibit List	.3
10/21/98	JFE Receipt and review of Wenk's Supplemental Witness List	.3
10/21/98	JFE Receipt and review of Wenk's Request for Admissions to Niles	.6

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: JOHN F. EVERSOLE III	TIME
10/22/98	JFE Receipt and review of Niles' Request for Copies (RC: Avemco Insurance Company)	.3
10/22/98	JFE Research: MOL in support of motion requesting stay on summary judgment proceedings and response to Wenk's motion for summary judgment	3.0
10/26/98	JFE Receipt and review of AIG's/Nat'l Union's Reply to Cleall's Response to Motion to Dismiss and exhibits	.8
10/26/98	JFE Research: case law cited in AIG's reply to response to motion to dismiss	1.6
10/26/98	JFE Preparation of draft affidavit of client	.5
10/26/98	JFE Review and revise Motion Requesting a Stay on Summary Judgment Proceedings and Response to Wenk's Motion for Summary Judgment	1.0
10/26/98	JFE Research: MOL in support of motion requesting stay on summary judgment proceedings and response to Wenk's motion for summary judgment	2.0
10/27/98	JFE Receipt and review of AIG's/Nat'l Union's Supplement to Designation of Expert Witnesses	.4
10/27/98	JFE Telephone conference with client	.8
10/28/98	JFE Telephone conference with Steve Kellough	.5
10/28/98	JFE Review Response to Wenk's Motion for Summary Judgment	2.0
10/28/98	JFE Receipt and review signed affidavit from client	.2
10/29/98	JFE Review and finalize Motion and Memorandum of Law Requesting a Stay on Summary Judgment Proceedings and Response to Wenk's Motion for Summary Judgment	.5
10/30/98	JFE Receipt and review of AIG's/Nat'l Union's Opposition to Cleall's Motion to Stay Proceedings	1.3
10/30/98	JFE Research: case law cited in AIG's MOL in opposition to motion to stay proceedings	2.0
10/30/98	JFE Receipt and review of Nat'l Union's/AIG's Amended Opposition to Niles' Motion for Summary Judgment and Defendants' Amended Cross-Motion for Summary Judgment	2.3
10/30/98	JFE Research: case law cited in AIG's amended oposition to Niles' motion for summary judgment and defendants' amended cross-motion for summary judgment	2.0
10/30/98	JFE Receipt and review of Nat'l Union's/AIG's Statement of Material Facts to which there is no Dispute in Support of Cross-Motion for Summary Judgment and Allegations made by Niles' in her Motion for Summary Judgment but Unsupported in the Record	.7
11/02/98	JFE Telephone conference with Karl Pearson, Esq. re: Cleall's deposition	.2
11/02/98	JFE Letter to Karl Pearson, Esq. confirming cancellaion of Cleall's deposition	.2
11/03/98	JFE Telephone conference with George Butler	.5

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

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11/10/98	JFE	Receipt and review of Niles' Revised Response to AIG's Revised Statement of Material Facts with exhibits	1.0
11/10/98	JFE	Receipt and review of Niles' Amended Reply to AIG's/Nat'l Union's Response in Opposition to Motion for Summary Judgment and Amended Response to AIG's/Nat'l Union's Cross-Motion for Summary Judgment	1.8
11/10/98	JFE	Research: case law cited in Niles' amended reply to AIG's response in opposition to motion for summary judgment and amended response to AIG's cross-motion for summary judgment	2.0
11/10/98	JFE	Receipt and review of Niles' Request for a Hearing on her Motion for Summary Judgment and Memorandum of Law in Support Thereof	.4
11/10/98	JFE	Receipt and review of Niles' Response to Wenk's Request for Admissions of 10/21/98	.2
11/16/98	JFE	Telephone conference with Steve Kellough	.5
11/16/98	JFE	Receipt and review of Niles' Notice of Filing a Correction to No. 7 of her Revised Response to AIG's Revised Statement of Material Facts	.3
11/18/98	JFE	Letter to client re: proposed answers to interrogatories	.2
11/18/98	JFE	Preparation of Cleall's Response to Wenk's Request for Production of 10/15/98	.4
11/24/98	JFE	Letter from Karl Pearson re: Cleall's answers to Wenk's interrogatories	.2
11/25/98	JFE	Receipt and review of AIG's/Nat'l Union's Amended Reply to Niles' Response to Cross-Motion for Summary Judgment	1.6
11/25/98	JFE	Research: case law cited in AIG's amended reply to Niles' response to cross-motion for summary judgment	2.3
11/30/98	JFE	Telephone conference with Ian Osur	.2
11/30/98	JFE	Preparation of Answers to Wenk's Interrogatories of 10/15/98	.8
11/30/98	JFE	Telephone conference with Ian Osur re: George Butler	.5
12/01/98	JFE	Telephone conference with Ian Osur	.6
12/01/98	JFE	Telephone conference with Ross Edwards	.2
12/01/98	JFE	Telephone conference with Ian Osur	.5
12/01/98	JFE	Telephone conference with Steve Kellough	.5
12/01/98	JFE	Receipt and review of Wenk's Supplemental Response to Niles' Amended Reply and Amended Response to AIG's/Nat'l Union's Response to plaintiff's Motion for Summary Judgment and Cross-Motion for Summary Judgment	.5
12/03/98	JFE	Receipt and review of Response to Plaintiff's Request for Copies	.2

CASE: Cleall v. National Union, AIG Aviation and Wenk Aviation

CASE NO: 96-10022-CIV-Roettger

JUDGE: Roettger

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
12/03/98	JFE Review of Avemco Insurance Company Policy File #470419	4.0
12/03/98	JFE Receipt and review of Wenk's Response to Cleall's Request for Copies: Avemco Insurance Company, Orlando Executive Airport, Orlando, Florida	.2
12/08/98	JFE Telephone conference with Ian Osur	.6
12/11/98	JFE Receipt and review of Omnibus Order Denying Nat'l Union's/AIG's Motion to Dismiss Cleall's Second Amended Complaint; Granting Niles' Motion for Leave to File an Amended Summary Judgment; Denying Niles' Request for a Hearing on her Motion for Summary Judgment; and Denying Niles' two Motions to stay Summary Judgment proceedings	.5
12/22/98	JFE Telephone conference with George Butler re: Kohlman deposition	.5
12/22/98	JFE Telephone conference with Sally Gross	.5
01/05/99	JFE Telephone conference with Paul Butler	.4
01/07/99	JFE Telephone conference with Ian Osur	.3
01/07/99	JFE Telephone conference with Ian Osur	.8
01/08/99	JFE Telephone conference with Ian Osur re: work product issue	.5
01/08/99	JFE Letter to Ian Osur, Esq. re: plaintiffs' experts	.4
01/08/99	JFE Receipt and review deposition transcript of Phil Gallagher	3.0
01/12/99	JFE Receipt and review of AIG's/Nat'l Union's Motion to Exclude Expert Witnesses	.3
01/12/99	JFE Research: case law cited in AIG's motion to exclude expert witnesses	1.0
01/14/99	JFE Review of file materials re: orders referenced in AIG/National Union's motion to exclude expert witnesses	.5
01/14/99	JFE Letter to Sally Gross, Esq. re: orders referenced in AIG/National Union's motion to exclude expert witnesses	.3
01/14/99	JFE Receipt and review of deposition of David Kohlman	2.9
01/15/99	JFE Telephone conference with Ian Osur	.5
01/15/99	JFE Receipt and review of deposition of Pete DeMahy with exhibits	1.5
01/15/99	JFE Receipt and review of deposition of Phil Parker with exhibits	4.3
01/20/99	JFE Telephone conference with Sally Gross	.6
01/20/99	JFE Telephone conference with Steve Kellough	.5
01/20/99	JFE Telephone conference with Sally Gross	.5

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BILLING ENTRY: JOHN F. EVERSOLE III

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01/20/99	JFE	Research re: motion to exclude expert witnesses	1.0
01/20/99	JFE	Letter to Sally Gross, Esq. re: motion to exclude expert witnesses	.3
01/20/99	JFE	Letter to Sally Gross, Esq. re: Wenk's no objection to consent judgment; Wenk's supplement expert witness summary and supplemental witness list and AIG's designation of expert witnesses	.4
01/22/99	JFE	Telephone conference with Ian Osur	.7
01/25/99	JFE	Preparation of draft response to AIG's motion to exclude expert witnesses	2.0
01/27/99	JFE	Review and revise Cleall's Response to AIG's/Nat'l Union's Motion to Exclude Expert Witnesses	1.0
01/27/99	JFE	Telephone conference with Steve Kellough	.9
01/28/99	JFE	Review and revise Response to AIG's/Nat'l Union's Motion to Exclude Expert Witnesses	1.0
01/29/99	JFE	Telephone conference with Ian Osur	.8
01/29/99	JFE	Research: case law cited in Niles' response in opposition to AIG's motion to exclude expert witnesses	1.0
01/29/99	JFE	Accumulate exhibits to be attached to response to AIG's motion to exclude expert witnesses	.5
02/05/99	JFE	Telephone conference with Karl Pearson	.2
02/16/99	JFE	Telephone conference with George Butler	1.0
02/22/99	JFE	Telephone conference with Jerry Pivnik	.5
02/22/99	JFE	Telephone conference with George Butler	.5
03/08/99	JFE	Telephone conference with client	1.0
03/11/99	JFE	Telephone conference with Jerry Pivnik	.4
04/27/99	JFE	Telephone conference with Ian Osur	.7
04/27/99	JFE	Telephone conference with Ian Osur re: scheduling conference	.3
04/28/99	JFE	Telephone conference with Ian Osur	.4
04/29/99	JFE	Telephone conference with Ian Osur, Esq.	.4
05/19/99	JFE	Telephone conference with George Butler	.7
06/24/99	JFE	Receipt and review of Revised Order Pre-Trial Conference (Niles' Only)	.3
07/02/99	JFE	Conference call with Steve Kellough and Ian Osur	.4

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

DATE	BILLING ENTRY: JOHN F. EVERSOLE III	TIME
07/14/99	JFE Receipt and review of Nat'l Union's/AIG's Motion to Continue Pre-Trial Conference (Niles' Only)	.6
07/19/99	JFE Preparation of draft motion for clarification	1.0
07/19/99	JFE Receipt and review of Niles' Response to Nat'l Union's/AIG's Motion to Continue Pre-Trial Conference (Niles' Only)	.3
07/19/99	JFE Telephone conference with Steve Kellough, Esq.	.5
07/20/99	JFE Telephone conference with Steve Kellough, Esq.	.5
07/20/99	JFE Review and revise motion for clarification	.5
07/21/99	JFE Telephone conference with Steve Kellough, Esq.	.4
07/21/99	LS Review of Omnibus Order dated 3/4/98 granting Wenk's motion to consolidate re: how pleadings to be filed and kept by clerk's office	.4
07/21/99	JFE Review and finalize Cleall's Motion for Clarification	.6
07/21/99	JFE Receipt and review of Order on Motion to Continue August 4, 1999 Pre-Trial Conference	.2
07/22/99	JFE Telephone conference with Steve Kellough, Esq.	.5
07/22/99	JFE Receipt and review of AIG's Answer and Affirmative Defenses to Cleall's Second Amended Complaint	.9
07/22/99	JFE Receipt and review of Nat'l Union's Answer and Affirmative Defenses to Cleall's Second Amended Complaint	.9
07/26/99	JFE Telephone conference with Steve Kellough, Esq.	.3
07/29/99	JFE Letter from client re: update	.2
08/16/99	JFE Letter to Ian Osur, Esq. re: undisposed motions	.5
08/17/99	JFE Letter to client re: defendants' motions for summary judgment	.3
08/24/99	JFE Telephone conference with Steve Kellough, Esq.	.5
08/24/99	JFE Letter to Ian Osur, Esq. re: revisions to joint pretrial stipulation	.4
08/24/99	JFE Letter from Ian Osur, Esq. re: joint pretrial stipulation	.3
08/24/99	LS Incorporate revisions to pretrial stipulation (exhibits)	.5
08/25/99	JFE Review and revise Joint Revised Pre-Trial Stipulation	1.5
08/26/99	JFE Review and revise Joint Revised Pre-Trial Stipulation	2.0
08/26/99	JFE Review and revise Joint Revised Pre-Trial Stipulation	1.0
08/30/99	JFE Preparation of draft supplemental witness list	.5

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

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DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
08/30/99	JFE Review and revise Joint Revised Pre-Trial Stipulation minus Wenk	1.5
08/31/99	JFE Telephone conference with client	.5
08/31/99	JFE Conference call with Ian Osur, Esq. and Steve Kellough, Esq. re: pretrial stipulation	.8
08/31/99	JFE Letter from Steve Kellough, Esq. re: revised pretrial stipulation	.3
08/31/99	LS Incorporate revisions to pretrial stipulation (exhibits)	.5
08/31/99	JFE Receipt and review of Wenk's Notice of Filing: Revised Pre-Trial Stipulation executed by Wenk only	4.4
08/31/99	JFE Receipt and review of Wenk's Witness List	.4
08/31/99	JFE Review and finalize Cleall's Supplemental Witness List	.4
08/31/99	JFE Review and revise Joint Revised Pre-Trial Stipulation minus Wenk, call witnesses	2.0
09/01/99	JFE Telephone conference with Ian Osur, Esq.	.4
09/01/99	JFE Letter to all counsel from Ian Osur, Esq. re: exhibit list attached to pretrial stipulation	.3
09/01/99	JFE Letter to Ian Osur, Esq. re: pretrial stipulation	.3
09/01/99	JFE Letter from Steve Kellough, Esq. re: pretrial stipulation	.2
09/01/99	JFE Letter to Steve Kellough, Esq. re: pretrial stipulation	.2
09/01/99	JFE Incorporate revisions to pretrial stipulation	.5
09/01/99	JFE Letter to Clerk of Court from Ian Osur, Esq. re: pretrial stipulation filed on behalf of plaintiffs and AIG; Wenk to file unilateral pretrial stipulation	.2
09/01/99	JFE Receipt and review of Wenk's Revised Witness List	.4
09/01/99	JFE Telephone conference with client re: proposed affidavit	.5
09/01/99	JFE Review and finalize Joint Revised Pre-Trial Stipulation minus Wenk, call witnesses	3.5
09/01/99	JFE Draft proposed affidavit of Dean Cleall	1.0
09/02/99	JFE Telephone conference with Karl Pearson, Esq. re: pretrial stipulation	.4
09/02/99	JFE Letter from Karl Pearson, Esq. re: Exhibit 139 of pretrial stipulation	.2
09/02/99	JFE Review and revise proposed affidavit of Dean Cleall	.8
09/03/99	JFE Letter from Karl Pearson re: exhibits to pretrial stipulation	.3
09/03/99	JFE Incorporate exhibits into Wenk's pretrial stipulation	.5
09/03/99	JFE Review of file documents re: Exhibit 139	1.0
09/03/99	JFE Letter to Karl Pearson, Esq. re: Exhibit 139 and Joseph D' Aiuto	.3

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BILLING ENTRY: JOHN F. EVERSOLE III

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09/03/99	JFE	Receipt and review of AIG's/Nat'l Union's Notice of Filing Objections to Exhibits	.4
09/03/99	JFE	Finalize proposed affidavit of Dean Cleall	.5
09/03/99	JFE	Receipt and review of Niles' Notice of Filing Additional Objections to Exhibits	.6
09/03/99	JFE	Preparation of notice of filing Cleall's affidavit in opposition to motion for summary judgment	.5
09/07/99	JFE	Telephone conference with Sally Gross	.5
09/07/99	JFE	Review and finalize Cleall's Notice of Filing Affidavit of Geoffrey Dean Cleall in Opposition to Defendant's Motion for Summary Judgment	.5
09/07/99	JFE	Prepare and finalize Cleall's Notice of Substitution of Original Affidavit of Geoffrey Dean Cleall	.4
09/07/99	JFE	Receipt and review of Niles' Motion in Limine to Exclude Evidence of Unauthenticated Letter from Rollins Burdick Hunter and Incorporated Memorandum of Law and exhibits	1.2
09/09/99	JFE	Letter from Sally Gross, Esq. re: strategy	.5
09/09/99	JFE	Research: case law referred to in Sally Gross' letter	1.0
09/09/99	JFE	Letter to Thomas Almy, Esq. and Karl Pearson, Esq. from Steve Kellough, Esq. re: Exhibit 139 and revised exhibit lists	.3
09/09/99	LS	Incorporate revisions to pretrial stipulation (exhibits)	.8
09/13/99	JFE	Research re: case law pertaining to defendants' reliance on Cleall's state court deposition	2.0
09/13/99	JFE	Telephone conference with client re: Joseph D'Aiuto	.5
09/14/99	JFE	Preparation of proposed affidavit of Joseph D'Aiuto	1.0
09/15/99	JFE	Letter to client re: Joseph D'Aiuto	.2
09/15/99	JFE	Letter to client re: Report on Pretrial Conference held on 9/8/99	.2
09/15/99	JFE	Draft plaintiff's reply to defendants' reliance on Cleall's state court deposition as substantive evidence in support of summary judgment and MOL	2.0
09/17/99	JFE	Letter to Sally Gross, Esq. re: motion and memorandum of law in opposition to Wenk's motion for summary judgment	.2
09/17/99	JFE	Letter to Karl Pearson re: motion and memorandum of law in opposition to Wenk's motion for summary judgment	.2
09/17/99	JFE	Letter to Paul Butler re: motion and memorandum of law in opposition to Wenk's motion for summary judgment	.25
09/21/99	JFE	Receipt and review of Wenk's Response in Opposition to Niles' Motion in Limine to Exclude Letter Regarding Availability of Insurance	.9

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BILLING ENTRY: JOHN F. EVERSOLE III

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09/21/99	JFE	Research: case law cited in Wenk's response in opposition to Niles motion in limine to exclude letter regarding availability of insurance	1.0
09/29/99	JFE	Telephone conference with client re: Joe D' Aiuto	.4
09/29/99	JFE	Telephone conference with Paul Butler, Esq.	.3
09/30/99	JFE	Receipt and review of Niles' Reply to Wenk's Response to Niles' Motion in Limine to Exclude Evidence of Unauthenticated Letter from Rollins Burdick Hunter	2.3
09/30/99	JFE	Research: case law cited in Niles' reply to Wenk's response to Niles' motion in limine	2.0
10/01/99	JFE	Receipt and review of Wenk's Response in Opposition to Niles' Motion to Preclude the Court's Consideration of Prior Deposition Testimony	.8
10/01/99	JFE	Research: case law cited in Wenk's response in opposition to Niles' motion to preclude court's consideration of prior deposition testimony	1.0
10/05/99	JFE	Research: Defendants' Reliance on Cleall's State Court Deposition as Substantive Evidence in Support of Summary Judgment	2.5
10/06/99	JFE	Telephone conference with Sally Gross, Esq.	.5
10/06/99	JFE	Receipt and review of Nat'l Union's/AIG's Response to Niles' Motion to Exclude Evidence of Rollins Burdick Hunter Letter	.3
10.06.99	JFE	Review and revise reply to Defendants' Reliance on Cleall's State Court Deposition as Substantive Evidence in Support of Summary Judgment	1.5
10/07/99	JFE	Letter from Sally Gross, Esq. re: draft reply memorandum on motion to preclude defendants' reliance on Cleall's state court deposition	.6
10/07/99	JFE	Research: case law discussed in letter from Sally Gross, Esq.	1.0
10/07/99	JFE	Receipt and review of Nat'l Union's/AIG's Response to Cleall's Motion to Preclude Consideration of Cleall's Prior Deposition Testimony	.3
10/07/99	JFE	Review and revise Cleall's Reply to Defendants' Reliance on Cleall's State Court Deposition as Substantive Evidence in Support of Summary Judgment	1.0
10/07/99	JFE	Letter to all counsel from Elizabeth Lim, Esq. re: AIG's response to Nile's motion to exclude evidence	.2
10/08/99	JFE	Letter from Karl Pearson, Esq. re: exhibits to Cleall's reply to defendants' reliance on Cleall's state court deposition	.2
10/08/99	JFE	Review and finalize Cleall's Reply to Defendants' Reliance on Cleall's State Court Deposition as Substantive Evidence in Support of Summary Judgment	1.0
11/18/99	JFE	Telephone conference with Sally Gross, Esq. re: status	.2
11/23/99	JFE	Telephone conference with Jan Osur, Esq. re: George Butler	.5

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

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11/23/99	JFE	Telephone conference with George Butler re: telephone conference with Ian Osur	.3
12/02/99	JFE	Receipt and review of AIG's/Nat'l Union's Motion in Limine to Exclude Testimony of Pete Demahy	1.8
12/02/99	JFE	Research: case law cited in AIG's motion in limine to exclude testimony of Demahy	2.0
12/07/99	JFE	Telephone conference with Ian Osur re: George Butler	.5
12/13/99	JFE	Telephone conference with Ian Osur, Esq.	.4
12/15/99	JFE	Receipt and review of Niles' Motion to Strike and . Alternatively, Response in Opposition to AIG's and National Union's Motion in Limine to Exclude Testimony of Pete Demahy and exhibits	2.1
12/15/99	JFE	Research: case law cited in Niles' motion to strike	2.0
12/27/99	JFE	Receipt and review of AIG's/Nat'l Union's Memorandum in Reply to Niles' Opposition to Motion in Limine to Exclude Testimony of Pete Demahy and exhibits	.8
12/27/99	JFE	Research: case law cited in AIG's MOL in reply to Niles' MOL in opposition to motion in limine	1.0
12/30/99	JFE	Receipt and review of Nat'l Union's/AIG's Response to Niles' Motion to Strike Defendants' Motion to Exclude Testimony of Pete Demahy	.5
12/30/99	JFE	Research: case law cited in AIG's response to Niles' motion to strike AIG's motion to exclude Demahy	.5
01/05/00	JFE	Receipt and review of Niles' Reply to National Union's and AIG's Response in Opposition to plaintiff's Motion to Strike Defendants' Motion in Limine to Exclude Testimony of Pete Demahy	.7
01/05/00	JFE	Research: case law cited in Niles' reply to AIG's response in opposition to Niles' motion to strike	1.0
01/13/00	JFE	Receipt and review Order of Dismissal	.2
01/13/00	JFE	Research: case law and local rules re: dismissal	.4
01/21/00	JFE	Telephone conference with Steve Kellough, Esq. re: the SOL in state court	.5
01/28/00	JFE	Letter to George Butler re: update	.3
02/01/00	JFE	Receipt and review of Niles' Motion for Relief from Order Dismissing Cause and Incorporated Memorandum of Law	.7
02/01/00	JFE	Research: case law cited in Niles' motion for relief from order of dismissal	.5
02/02/00	JFE	Letter to Sally Gross, Esq. re: Niles' motion for relief from order dismissing cause	.2

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BILLING ENTRY: JOHN F. EVERSOLE III

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DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
02/03/00	JFE Telephone conference with Sally Gross, Esq. re: adoption of Niles' motion for relief from order of dismissal	.3
02/04/00	JFE Telephone conference with Ian Osur re: checks	.8
02/04/00	JFE Review of file materials re: George Butler and Bob Denaburg to prepare response to defendants' motion to strike	1.5
02/07/00	JFE Telephone conference with George Butler	.5
03/01/00	JFE Receipt and review of Order on Niles' Motion for Relief from Order of Dismissal	.3
03/02/00	JFE Prepare and finalize Cleall's Notice of Adoption of Niles' Motion from Relief from Order Dismissing Cause and Incorporated Memorandum of Law	.4
03/13/00	JFE Receipt and review of Wenk's Memorandum in Opposition to Cleall's Motion for Relief from Judgment	1.2
03/14/00	JFE Research: case law cited in Wenk's MOL in opposition to Cleall's motion for relief	2.2
03/21/00	JFE Receipt and review of Order on Cross-Motions for Summary Judgment	.5
03/21/00	JFE Receipt and review of Revised Order Trial Instructions (Niles Style but includes Cleall)	1.0
03/21/00	JFE Receipt and review of Order of Referral to Mediation, call to schedule	.3
03/21/00	JFE Review of Cleall's Reply to Wenk's Memorandum in Opposition to Cleall's Notice of Adoption of Niles' Motion for Relief from Judgment	.8
03/22/00	JFE Letter from Sally Gross, Esq. re: Cleall's reply to Wenk's memorandum in opposition to Cleall's notice of adoption of Niles' motion for relief from judgment	.2
03/22/00	JFE Review and revise draft reply to Wenk's memorandum in opposition to Cleall's notice of adoption of Niles' motion for relief from judgment	1.5
03/22/00	JFE Review of Cleall's Reply to Wenk's Memorandum in Opposition to Cleall's Notice of Adoption of Niles' Motion for Relief from Judgment	.7
03/23/00	JFE Telephone conference with Steve Kellough	.5
03/23/00	JFE Telephone conference with Sally Gross, Esq. re: Cleall's reply to Wenk's memorandum in opposition to Cleall's notice of adoption of Niles' motion for relief from judgment	.3
03/23/00	JFE Letter from Sally Gross, Esq. re: exhibits to motion for clarification	.3
03/23/00	JFE Receipt and review of Cleall's Request for Clarification	.4
03/23/00	JFE Review of Cleall's Reply to Wenk's Memorandum in Opposition to Cleall's Notice of Adoption of Niles' Motion for Relief from Judgment	.5
03/24/00	JFE Conference call with Ian Osur and Steve Kellough	1.1

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

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03/24/00	JFE	Telephone conference with Judge Roettger's chambers re: active case number and venue in Key West	.3
03/28/00	JFE	Telephone conference with Tom Almy, Esq. re: Nat'l Union's motion to continue trial	.3
03/29/00	JFE	Letter to all counsel from Karl Pearson, Esq. re: continuance of trial	.3
03/29/00	JFE	Letter to client re: status of pending motions for summary judgment	.7
03/29/00	JFE	Letter from Karl Pearson, Esq. re: transcript of pretrial conference	.2
03/30/00	JFE	Letter to Sally Gross, Esq. re: trial setting, trial preparation, and strategy	1.2
03/30/00	JFE	Receipt and review of Nat'l Union's/AIG's Motion to Continue Trial Date	.2
03/31/00	JFE	Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: mediation	.2
03/31/00	JFE	Letter to Tom Almy, Esq. from Ian Osur, Esq. re: mediation	.3
03/31/00	JFE	Receipt and review of Nat'l Union's/AIG's Notice of Filing Original Affidavit of Mark Dombroff in Support of Motion to Continue Trial Date	.2
03/31/00	JFE	Receipt and review of Wenk's Motion for Continuance of Trial	.5
04/05/00	JFE	Telephone conference with client re: status	.4
04/05/00	JFE	Telephone conference with client	.2
04/05/00	JFE	Telephone conference with client	.3
04/05/00	JFE	Receipt and review of Notice of Mediation Conference	.2
04/06/00	JFE	Letter from Ian Osur, Esq. re: trial strategy	.3
04/06/00	JFE	Receipt and review of Nat'l Union's/AIG's Motion for Emergency Hearing on Defendant's Motion to Continue Trial Date	.4
04/07/00	JFE	Telephone conference with client	.5
04/07/00	JFE	Receipt and review of Order on Motions to Continue Trial	.6
04/10/00	JFE	Letter to Ian Osur, Esq. re: trial strategy	.4
04/11/00	JFE	Telephone conference with George Butler	.4
04/11/00	JFE	Conference with client re: status and preparation for trial	2.0
04/11/00	JFE	Telephone conference with George Butler	.5
04/11/00	JFE	Telephone conference with Mark Dombroff	.3
04/12/00	JFE	Travel and attendance at Mediation	5.0
04/13/00	JFE	Telephone conference with client	.3

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
04/13/00	JFE Receipt and review of Mediator's Report of Impasse	.1
04/14/00	JFE Letter from Karl Pearson, Esq. re: Marathon Aviation chck	.3
04/14/00	JFE Letter from Tom Almy, Esq. re: Marathon Aviation check	.3
04/17/00	JFE Research file materials re: Marathon Aviation check	2.0
04/19/00	JFE Telephone conference with client	.4
04/19/00	JFE Letter to all counsel from Elizabeth Lim, Esq. re: withdrawal of Jason Oletsky, Esq. as counsel for AIG	.2
04/19/00	JFE Telephone conference with client re: Joe D'Aiuto	.3
04/19/00	JFE Telephone conference with Ian Osur, Esq. re: Joe D'Aiuto	.4
05/01/00	JFE Telephone conference with Ian Osur, Esq. re: D'Aiuto	.5
05/01/00	JFE Receipt and review of Nat'l Union's Motion for Leave to Withdraw	.3
05/03/00	JFE Telephone conference with Elizabeth Lim	.3
05/04/00	JFE Preparation for trial, review depositions, pleadings	6.0
05/04/00	JFE Research re: amending responses to requests for admission	2.0
05/09/00	JFE Telephone conference with Elizabeth Lim	.3
05/10/00	JFE Letter from Elizabeth Lim, Esq. Re: Marathon Aviation check	.2
06/05/00	JFE Letter to Elizabeth Lim, Esq. re: No checks written to Cleall from D'Aiuto	.3
06/06/00	JFE Telephone conference with Ian Osur, Esq. re: trial preparation	.3
06/06/00	JFE Telephone conference with Ian Osur, Esq. re: Joseph D'Aiuto	.4
06/07/00	JFE Letter from Karl Pearson, Esq. re: D'Aiuto's affidavit and Marathon checks	.3
06/07/00	JFE Receipt and review of Wenk's Counsel's Notice of Change of Name and Address	.2
06/08/00	JFE Letter to Althea D'Aiuto from Ian Osur re: trial	.4
06/08/00	JFE Telephone conference with Ian Osur re: Althea D'Aiuto	.5
06/21/00	JFE Letter to Karl Pearson, Esq. re: affidavit of Joseph D'Aiuto	.3
06/29/00	JFE Receipt and review of Court's Notice of Calendar Call/Trial Order	.2
06/29/00	JFE Telephone conference with Ian Osur re: trial preparation	.5
07/05/00	JFE Letter to client re: trial	.2
07/12/00	JFE Receipt and review of Nat'l Union's/AIG's Motion in Limine Concerning Issues to be Determined by the Jury	1.0

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

07/12/00	JFE	Research: case law cited in AIG's motion in limine re: issues to be determined by jury	2.0
07/19/00	JFE	Preparation of draft of Cleall's Response to AIG/Nat'l Union's Motion in Limine Regarding Issues to be Determined by the Jury	.8
07/19/00	JFE	Telephone conference with Ian Osur, Esq. re: witnesses	.7
07/19/00	JFE	Letter to Karl Pearson, Esq. from Ian Osur, Esq. re: witnesses to be called at trial	.3
07/19/00	JFE	Receipt and review of Niles' Response to Nat'l Union's/AIG's Motion in Limine, Cross-Motion in Limine, and Incorporated Memorandum of Law	1.2
07/19/00	JFE	Research: case law cited in Niles' MOL in support of her response to AIG's motion in limine	1.5
07/21/00	JFE	Review and revise Cleall's Response to AIG's Motion in Limine Regarding Issues to be determined by the Jury	.5
07/21/00	JFE	Letter from Karl Pearson, Esq. to Ian Osur, Esq. re: Wendy Wenk	.2
07/21/00	JFE	Review and finalize Cleall's Response to AIG/Nat'l Union's Motion in Limine Regarding Issues to be Determined by the Jury	.5
07/24/00	JFE	Review and finalize Cleall's Response to AIG's Motion in Limine Regarding Issues to be determined by the Jury	.5
08/01/00	JFE	Telephone conference with Paul Butler	.3
08/01/00	JFE	Letter to Karl Pearson, Esq. and Paul Butler, Esq. re: Joe D'Aiuto	.2
08/01/00	JFE	Letter to George Butler re: final trial preparations	.8
08/01/00	JFE	Letter from Paul Butler, Esq. re: Joe D'Aiuto	.6
08/01/00	JFE	Letter from Karl Pearson, Esq. re: Joe D'Aiuto	.3
08/01/00	JFE	Letter to Ian Osur, Esq. from Karl Pearson, Esq. re: witnesses to be called at trial	.3
08/01/00	JFE	Letter from Karl Pearson, Esq. re: Joe D'Aiuto	.2
08/02/00	JFE	Receipt and review of Wenk's notice of filing affidavit of James T. Harrison, Jr. in support of motion to set trial for time certain and/or for continuance	.2
08/02/00	JFE	Receipt and review of affidavit of James T. Harrison, Jr.	.3
08/02/00	JFE	Telephone with George Butler re: trial	.9
08/03/00	JFE	Letter to Robert Denaburg from Ian Osur, Esq. re: trial	.3
08/04/00	JFE	Receipt and review of Clerk's Notice of Service of Order on Motion to Continue Trial	.2
08/04/00	JFE	Receipt and review of Order on Motion to Continue Trial	.3

CASE: Cleall v. National Union, AIG Aviation and Wenk Aviation

CASE NO: 96-10022-CIV-Roettger JUDGE: Roettger

DATE BILLING ENTRY: JOHN F. EVERSOLE III TIME

DATE	BILLING ENTRY	TIME
08/04/00	JFE Telephone conference with Steve Kellough, Esq. re: D' Aiuto	.7
08/05/00	JFE Telephone conference with Ian Osur	.5
08/07/00	JFE Telephone conference with Steve Kellough, Esq. re: trial	.8
08/07/00	JFE Telephone conference with Sally Gross, Esq. re: AIG's reply to Cleall's response to Defendants' motion in limine concerning issues to be determined by the jury	.4
08/07/00	JFE Letter to Sally Gross, Esq. re: AIG's reply to Cleall's response to Defendants' motion in limine concerning issues to be determined by the jury	.3
08/07/00	JFE Telephone conference with Steve Kellough re: Rick Dunn	.8
08/07/00	JFE Trial Preparations (coordination of witnesses; file organization; supplement trial notebook, etc.)	8.0
08/07/00	JFE Telephone conference with Steve Kellough re: jury instructions	1.1
08/08/00	JFE Receipt and review of AIG's supplemental exhibit list	.5
08/08/00	JFE Review of Notice of Cancellation dated June 1, 1990 to Marathon Aviation signed by Phil Pond and Francesca K. Horne	.5
08/08/00	JFE Telephone conference with Karl Pearson, Esq. re: D' Aiuto's deposition	.3
08/08/00	JFE Telephone conference with client re: trial	.7
08/08/00	JFE Trial Preparations (coordination of witnesses; file organization; supplement trial notebook, etc.)	8.0
08/09/00	JFE Telephone conference with client	.7
08/09/00	JFE Trial Preparations (coordination of witnesses; file organization; supplement trial notebook, etc.)	8.0
08/10/00	JFE Telephone conference with Steve Kellough re: NTSB	.8
08/10/00	JFE Trial Preparations (coordination of witnesses; file organization; supplement trial notebook, etc.)	8.0
08/10/00	JFE Research: Withdrawal or Amendment of Admission	2.5
08/11/00	JFE Preparation of draft of Motion to Allow Withdrawal or Amendment of Admission dated 10/10/96	1.5
08/11/00	JFE Telephone conference with Ian Osur re: trial	2.5
08/11/00	JFE Trial Preparations (coordination of witnesses; file organization; supplement trial notebook, etc.)	8.0
08/12/00	JFE Review and revise Cleall's Motion to Allow Withdrawal or Amendment of Admission dated 10/10/96	1.0

		TRIAL	
8/13/00	JFE	Trial preparation and travel to Key West	6.0
08/13/00	JFE	Preparation of draft amended response to request for admissions dated 10/10/96	.5
08/13/00	JFE	Review and revise Cleall's Motion to Allow Withdrawal or Amendment of Admission dated 10/10/96	1.0
08/13/00	JFE	Telephone conference with George Butler re: trial	2.0
08/14/00	JFE	At courthouse: calendar call, meeting with I.Osur and S. Kellough. conference with witnesses for trial. prepare direct/cross	8.5
08/14/00	JFE	Revise and finalize Cleall's Amended Response to Request for Admissions dated 10/10/96	.5
08/14/00	JFE	Review and finalize Cleall's Motion to Allow Withdrawal or Amendment of Admission dated 10/10/96	.5
08/15/00	JFE	First day of trial. Trial preparation before / after trial	9.0
08/15/00	JFE	Preparation for and attendance at deposition of Weldon Garrelts	3.3
08/16/00	JFE	Trial preparation continued. review video depositions. prepare direct / cross	7.0
08/17/00	JFE	Trial / post trial meetings with co-counsel in preparation for next day	12.5
08/17/00	JFE	Receipt and review of deposition transcript of Weldon Garrelts with exhibits	1.3
08/18/00	JFE	Trial / post trial conferences. Review of trial with client. co-counsel	11.0
08/20/00	JFE	Trial preparation	5.0
08/21/00	JFF	Trial received jury verdict. prepare for next phase	12.0
08/22/00	JFE	Trial. Trial preparation for the next day. Conference with technical experts on metallurgy and piloting.	12.5
08/23/00	JFE	Attendance at trial ended at noon for hurricane emergency.	5.0
08/23/00	JFE	Review of Plaintiffs' Motion for Judgment as a Matter of Law Regarding Necessity of Proving Bad Faith of AIG. exhibits attached thereto and case law cited therein	2.2
08/24/00	JFE	Continue trial preparation. drafting memoranda. scheduling for remaining trial	6.0
08/25/00	JFE	Trial preparation. review of exhibits and depositions	6.0
08/25/00	JFE	Telephone conference with Dinah Stein re: AIG/bad faith	.5
08/27/00	JFE	Continue trial preparations / prepare cross	6.0
08/28/00	JFE	Trial preparations	6.0

DATE

BILLING ENTRY: **JOHN F. EVERSOLE III**

TIME

08/28/00	JFE	Telephone conference with Ian Osur	.5
08/28/00	JFE	Telephone conference with client	.4
08/29/00	JFE	Trial, prepare for next day meet with experts.	12.5
08/30/00	JFE	Trial, prepare for expert testimony, conference with co-counsel and clients/ late video depo of Pete DeMay	14.0
08/31/00	JFE	Attendance at trial, verdict and prepare for next day	10.0
08/31/00	JFE	Review of Verdict Form	.5
08/31/00	JFE	Receipt and review of Wenk's Memorandum of Law Regarding the Measure of Damages	.6
09/01/00	JFE	Attendance at trial, hearing on various matters.	5.0
		POST TRIAL	
09/05/00	JFE	Telephone conference with Ian Osur, Esq. re: verdict forms	.3
09/06/00	JFE	Telephone conference with Ian Osur, Esq. re: verdict forms	.2
09/06/00	JFE	Telephone conference with Ian Osur, Esq. re: Bob Denaburg	.2
09/19/00	JFE	Letter from Dinah Stein, Esq. re: plaintiffs' memorandum on bad faith and excess liability	.2
09/19/00	JFE	Review and revise draft memorandum on bad faith and excess liability	2.0
09/20/00	JFE	Telephone conference with Sally Gross, Esq. re: memorandum on bad faith and excess liability	.4
09/20/00	JFE	Letter to Dinah Stein, Esq. re: memorandum on bad faith and excess liability	.2
09/20/00	JFE	Letter from Dinah Stein, Esq. re: revised draft of memorandum on bad faith and excess liability	.2
09/20/00	JFE	Letter from Ian Osur, Esq. re: experts	.3
09/20/00	JFE	Letter from Ian Osur re: experts' bills	.3
09/21/00	JFE	Telephone conference with Ian Osur, Esq. re: experts	.3
09/21/00	JFE	Review and revise latest draft of memorandum on bad faith and excess liability	1.5
09/21/00	JFE	Letter to Dinah Stein, Esq. re: supplemental authority	.3
09/21/00	JFE	Review of Plaintiffs' Request for Oral Argument Regarding Bad Faith Issues	.3
09/21/00	JFE	Review of Plaintiffs' Memorandum of Law Regarding Bad Faith, exhibits attached thereto and case law cited therein	2.0

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

09/21/00	JFE	Receipt and review of Wenk's Memorandum of Law Regarding Measure of Damages and Bad Faith	.5
09/21/00	JFE	Research: case law cited in Wenk's MOL re: measure of damages and bad faith	1.0
09/21/00	JFE	Receipt and review of Wenk's Renewed Motion for Judgment as a Matter of Law Regarding the Statute of Limitations and Memorandum of Law	.9
09/21/00	JFE	Research: case law cited in Wenk's MOL in support of its renewed motion for judgment re: statute of limitations	1.5
09/21/00	JFE	Receipt and review of Wenk's Amended Motion for Judgment as a Matter of Law Regarding Election of Remedies and Memorandum of Law	.5
09/21/00	JFE	Research: case law cited in Wenk's MOL in support of its amended motion for judgment re: election of remedies	1.0
09/21/00	JFE	Receipt and review of Wenk's Motion for Judgment as a Matter of Law Regarding Marthon's Assignment and Memorandum of Law in Support	.5
09/21/00	JFE	Research: case law cited in Wenk's MOL in support of motion for judgment re: Marathon Aviation's Assignment	1.0
09/22/00	JFE	Receipt and review of Wenk's Request for Oral Argument	.1
09/22/00	JFE	Receipt and review of AIG/National Union's Trial Brief RE: Bad Faith Issues and Recoverable Damages	1.1
09/22/00	JFE	Research: case law cited in AIG's trial brief re: bad faith issues and recoverable damages	2.1
09/22/00	JFE	Receipt and review of AIG/National Union's Response to Defendant Wenk's Motion for Judgment on Partial Findings	.9
09/22/00	JFE	Research: case law cited in AIG's response to Wenk's motion for judgment	1.0
09/25/00	JFE	Receipt and review of Wenk's Notice of Filing: Memorandum of Law Regarding the Measure of Damages	.3
09/25/00	JFE	Telephone conference with Ian Osur, Esq. re: experts	.2
09/25/00	JFE	Letter to Sally Gross, Esq. re: memorandum on bad faith and excess liability	.2
09/26/00	JFE	Letter to Sally Gross, Esq. re: memorandum on bad faith and excess liability	.2
09/27/00	JFE	Letter from Dinah Stein, Esq. re: supplemental authority	.8
09/27/00	JFE	Letter from Ian Osur, Esq. to Robert Denaburg re: trial matters	.2
09/29/00	JFE	Letter from Ian Osur, Esq. to Robert Lipscomb re: trial matters	.2
09/29/00	JFE	Letter from Ian Osur, Esq. to George Butler re: trial matters	.2
09/29/00	JFE	Letter from Ian Osur, Esq. to Phil Gallagher re: trial matters	.2

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
09/29/00	JFE Letter from Ian Osur, Esq. to Pete DeMahy, Esq. re: trial matters	.2
10/02/00	JFE Receipt and review of Reply Memorandum in Support of Wenk's Motion for Judgment on Partial Findings	2.2
10/02/00	JFE Research: case law cited in Wenk's reply MOL in support of its motion for judgment on partial findings	2.0
10/04/00	JFE Receipt and review of AIG/National Union's Amended Response to Wenk's Amended Motion for Judgment on Partial Findings	.4
10/04/00	JFE Receipt and review of AIG/National Union's Response to Plaintiffs' Memorandum on Bad Faith	.9
10/04/00	JFE Research: case law cited in AIG's response to plaintiffs' MOL on bad faith	1.1
10/04/00	JFE Receipt and review of AIG/National Union's Motion to Strike Plaintiffs' Post-Trial Memorandum	.7
10/04/00	JFE Research: case law cited in AIG's motion to strike plaintiffs' post-trial MOL	1.4
10/06/00	JFE Receipt and review of Niles' Response to Wenk's Amended Motion for Judgment as a Matter of Law Regarding Election of Remedies	.6
10/06/00	JFE Research: case law cited in Niles' response to Wenk's amended motion for judgment re: election of remedies	1.2
10/06/00	JFE Receipt and review of Niles' Response in Opposition to Wenk's Renewed Motion for Judgment as a Matter of Law Regarding Statute of Limitations	.4
10.06.00	JFE Receipt and review of Niles' Response to Wenk's Memorandum of Law Regarding Measure of Damages and Bad Faith	.6
10/06/00	JFE Research: case law cited in Niles' response to Wenk's MOL re: measure of damages and bad faith	1.2
10/06/00	JFE Receipt and review of Niles' Response in Opposition to Wenk's Renewed Motion for Judgment as a matter of Law Regarding Assignment	.4
10/10/00	JFE Letter to Ian Osur, Esq. re: adoption of pleadings	.2
10/10/00	JFE Prepare and finalize Cleall's Notice of Adoption of Various Responses Filed by Niles	.4
10/10/00	JFE Receipt and review of AIG/National Union's Supplemental Response to Niles' Memorandum Regarding Bad Faith	.5
10/12/00	JFE Receipt and review of AIG/National Union's Motion to Strike Wenk Aviation's Reply to National Union/AIG's Amended Response to Wenk's Amended Motion for Judgment	.3
10/12/00	JFE Receipt and review of AIG/National Union's Memorandum in Support of its Motion to Strike Wenk's Reply to National Union/AIG's Amended Response to Wenk's Amended Motion for Judgment	.3

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
10/12/00	JFE Receipt and review of Wenk's Response to Cleall's Notice of Adoption	.3
10/16/00	JFE Receipt and review of Wenk's Motion for Extension of Time to File Replies	.4
10/17/00	JFE Telephone conference with Ian Osur, Esq. re: experts	.3
10/23/00	JFE Receipt and review of Niles' Response in Opposition to AIG/National Union's Motion to Strike Niles' "Post-Trial" Memorandum	.5
10/23/00	JFE Research: case law cited in Niles' response in opposition to AIG's motion to strike Niles' post-trial MOL	1.0
10/23/00	JFE Receipt and review of Niles' Reply to AIG's Supplemental Response to Niles' Memorandum on Bad Faith	.8
10/23/00	JFE Receipt and review of Niles' Reply to AIG's Response to Niles' Memorandum on Bad Faith	.5
10/23/00	JFE Receipt and review of Reply Memorandum in Support of Wenk's Motion for Judgment as a Matter of Law Regarding Election of Remedies	1.0
10/23/00	JFE Research: case law cited in Wenk's reply MOL in support of its motion for judgment re: election of remedies	1.5
10/23/00	JFE Receipt and review of Reply Memorandum to Niles' Response to Wenk's Memorandum of Law Regarding Measure of Damages and Bad Faith	.8
10/23/00	JFE Research: case law cited in Wenk's reply MOL in support of its motion for judgment re: measure of damages and bad faith	1.3
10/26/00	JFE Receipt and review of Wenk's Response to AIG/National Union's Motion to Strike Wenk's Reply	.5
10/26/00	JFE Research: case law cited in Wenk's response to AIG's motion to strike Wenk's reply	.5
10/26/00	JFE Receipt and review of Wenk's Reply to Niles' Response in Opposition to Wenk's Renewed Motion for Judgment as a Matter of Law Regarding Statute of Limitations	.4
10/26/00	JFE Receipt and review of Wenk's Reply to AIG/National Union's Amended Response to Wenk's Amended Motion for Judgment on Partial Findings	.5
10/26/00	JFE Receipt and review of Wenk's Reply to Niles' Response in Opposition to Wenk's Renewed Motion for Judgment as a Matter of Law Regarding Assignment	.5
10/26/00	JFE Research: case law cited in Wenk's reply to Niles' response to Wenk's renewed motion for judgment re: assignment	1.1
11/02/00	JFE Receipt and review of National Union/AIG's Reply to Plaintiffs' Opposition to National Union/AIG's Motion to Strike Plaintiffs' Post Trial Memorandum	.8
11/02/00	JFE Research: case law cited in AIG's reply to plaintiffs' opposition to AIG's motion to strike	1.3

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

11/07/00	JFE	Receipt and review of Kathleen Niles' Renewed Response in Opposition to Wenk's Renewed Motion for Judgment as a Matter of Law Regarding Statute of Limitations	.7
12/14/00	JFE	Receipt and review of Order Granting The Motion for Leave to Withdraw	.2
01/15/01	JFE	Receipt and review of Wenk's Motion for Rehearing and/or Clarification and MOL	1.2
01/15/01	JFE	Research: case law cited in Wenk's MOL in support of motion for rehearing and/or clarification	.5
01/17/01	JFE	Receipt and review of Final Judgment	.6
01/17/01	JFE	Telephone conference with client	.5
01/17/01	JFE	Telephone conference with Sally Gross	.5
01/17/01	JFE	Telephone conference with Ian Osur	.5
01/17/01	JFE	Telephone conference with Steve Kellough	.5
01/22/01	JFE	Receipt and review of letter from Karl Pearson, Esq.	.2
01/23/01	JFE	Telephone conference with Karl Pearson, Esq.	.2
01/23/01	JFE	Calculations of prejudgment and postjudgment interest pursuant to the statute	1.0
01/23/01	JFE	Review and revise motion to alter or amend final judgment, prejudgment and postjudgment interest	.5
01/24/01	JFE	Receipt and review of Niles' Motion to Alter or Amend Final Judgment to Include Prejudgment and Postjudgment Interest and Retain Jurisdiction to Award Attorney's Fees & Costs	1.5
01/24/01	JFE	Review and finalize Cleall's Motion to Alter or Amend Final Judgment, Prejudgment and Postjudgment interest and Retain Jurisdiction to Award Attorneys' Fees and Costs	1.2
01/25/01	JFE	Letter from Sally Gross, Esq. Re: post-judgment interest and case law	.5
01/25/01	JFE	Letter from Sally Gross, Esq. Re: motion for fees & costs	.3
01/26/01	JFE	Telephone conference with Dinah Stein	.5
01/26/01	JFE	Receipt and review of Niles' notice of correction to motion to alter or amend final judgment	.6
01/29/01	JFE	Letter from Sally Gross, Esq. Re: cost/fee affidavit	.4
01/29/01	JFE	Re-calculations of prejudgment and postjudgment interest	.5
01/29/01	JFE	Letter from Sally Gross, Esq. Re: extension of time re: cost/fee affidavits	.3

DATE

BILLING ENTRY: JOHN F. EVERSOLE III

TIME

DATE	BILLING ENTRY: <u>JOHN F. EVERSOLE III</u>	TIME
01/29/01	JFE Preparation of draft Notice of Correction to Motion to Alter or Amend Final Judgment dated 01/24/01	.5
01/30/01	JFE Review and finalize Cleall's Notice of Correction to Motion to Alter or Amend Final Judgment dated 01/24/01	.6
01/31/01	JFE Receipt and review of AIG's Motion for Judgment as a Matter of Law, or in the Alternative, Motion for New Trial	1.6
01/31/01	JFE Review of excerpts of trial transcripts incorporated and attached to AIG's motion for judgment as a matter of law or motion for new trial	2.5
01/31/01	JFE Research: case law cited in AIG's motion for judgment as a matter of law or motion for new trial	2.0
02/01/01	JFE Letter to Sally Gross re: AIG's Motion for Judgment or Motion for New Trial	.3
02/09/01	JFE Receipt and review of AIG/Nat'l Union's Response to Plaintiffs' Motions to Alter or Amend Final Judgment	.8
02/12/01	JFE Research: case law cited in AIG/Nat'l Union's response to motions to alter or amend final judgment	1.2
02/13/01	JFE Receipt and review of AIG/Nat'l Union's motion to dispense with supersedeas bond pursuant to Fed.R.Civ.Pro.62(D) and exhibits	3.0
02/13/01	JFE Telephone conference with Dinah Stein, Esq.	.3
02/13/01	JFE Telephone conference with Sally Gross, Esq.	.3
02/13/01	JFE Review of Niles' response to AIG/Nat'l Union's motion for judgment as a matter of law and/or new trial, and incorporated memorandum of law	1.0
02/13/01	JFE Research: case law cited in Niles' response to AIG/Nat'l Union's motion for judgment and/or new trial	2.0
02/13/01	JFE Letter from Sally Gross re: fee/cost MOL	.3
02/13/01	JFE Review of joint motion for extension of time to file motions for attorneys' fees and costs	.5
02/13/01	JFE Review of proposed order granting plaintiffs' joint motion for extension of time to file motions for attorneys fees and costs	.3
02/14/01	JFE Telephone conference with Dinah Stein, Esq	.3
02/14/01	JFE Telephone conference with Sally Gross, Esq.	.3
02/14/01	JFE Receipt and review of Niles' response to AIG/Nat'l Union's Motion for Judgment as matter of Law and/or New Trial and incorporated MOL	.5
02/15/01	JFE Receipt and review of proposed Supersedeas Bond for Stay of Execution of Judgment Pending Appeal	.5

COSTS MEMORANDUM

CASE: Cleall vs. National Union, AIG et al.

DATE: 07/19/01

PAID TO: CHECK NO. AMOUNT

COURT FEES

Clerk of the Court	1071	120.00
		Total:120.00

PROCESS SERVER

Process Services, Inc.	1072	25.00
		Total:25.00

MEDIATION

James O. Nelson	8386	153.00
		Total:153.00

EXPERT

Siver Insurance Consultants	1517	2500.00
George Butler	2219	1000.00
Robert Denaburg	2222	500.00
Siver Insurance Consultants	6070	2440.36
Robert Denaburg, PE	1146	754.00
George Butler	1147	1072.33
George Butler	8666	481.47
Pete DeMahy		2147.54
Robert Denaburg		2758.62
Jack Lipscomb		3983.45
Weldon E Garrets		1576.24
Martin Leshaw Ct Reporters		631.10
Salazar Productions		452.40
Phil Gallagher		4064.81
Jareda Corporation (George Butler)	8150	165.88
		Total:24,528.20

PHOTOCOPIES

Black's Copy Services	1109	98.40
Black's Copy Services	5346	13.63
Black's Copy Services	5396	13.63
Black's Copy Services	5616	25.77
Black's Copy Services	6341	51.75

EVERSOLE & RUDD, P.A.

COSTS MEMORANDUM

CASE: Cleall vs. National Union, AIG et al.

DATE: 07/19/01

PAID TO: CHECK NO. AMOUNT

Roth Edwards & Smith	7560	170.25
Black's Copy Services	8349	26.41
Black's Copy Services	8373	25.55
Black's Copy Services	8428	52.18
Black's Copy Services	8611	61.33
Pacific Photocopy(MBNA)	8712	40.28
Griselle Aguilera	1149	32.00

Total:611.18

TRIAL LODGING, ETC.

MBNA America/Restaurant	8657	587.35
MBNA America/Hotel	8657	1281.10
MBNA America/Hotel	8712	2152.15
MBNA America/Restaurant	8712	320.08

Total:4340.68

STORAGE OF AIRCRAFT

OK Storage & Transfer	1052	120.00
OK Storage & Transfer	1118	90.00
OK Storage & Transfer	1122	120.00

Total:330.00

MISC.

LONG DISTANCE		120.46
IN-HOUSE COPIES	10,249	2,562.25

Total:2,682.71

TOTAL COSTS: \$32,790.77

EVERSOLE & RUDD, P.A.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FT. LAUDERDALE DIVISION

CASE NO: 96-10022-CIV-ROETTGER

KATHLEEN M. NILES, as Personal
Representative of the Estate of
MARTIN BRUCE NILES, deceased,

Plaintiff,

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.
_____ /

GEOFFREY DEAN CLFALL,

Plaintiff,

vs.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, P.A.,
etc., et al.,

Defendants.
_____ /

**EXPERT OPINION AFFIDAVIT REGARDING
ATTORNEY'S FEES AND COSTS**

STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

BEFORE ME, the undersigned authority, on this day personally appeared LARRY S.

STEWART, ESQ., who after first being duly sworn attests to the following:

QUALIFICATIONS OF AFFIANT

1. This Affidavit is submitted with respect to Plaintiff Geoffrey D. Cleall's request for award of attorney's fees and costs in the instant case.

2. I have been a member in good standing of the Florida Bar since 1963 with a practice focusing on the representation of Plaintiffs in State and Federal Courts in numerous states in personal injury, insurance, aviation, products liability, medical malpractice and commercial matters. In particular, my firm and I have prosecuted claims against insurance companies, including bad faith claims, have made claims for attorney's fees and I have testified as an expert on both insurance bad faith issues and attorney's fees claims. I am familiar with the prevailing attorney fee rates in the South Florida area and have myself been awarded attorneys fees, most recently as an expert witness on an attorney fee claim. See Colombo v. Puig, 2001 WL 883440 (Fla. App.3 Dist.) (award based on an hourly rate of \$500.00).

3. A copy of my Curriculum Vitae is attached hereto as Exhibit "A".

KNOWLEDGE OF ATTORNEY JOHN F. EVERSOLE III

4. In 1983, when I was a Senior Partner at Floyd Pearson Stewart, et al., I hired John F. Eversole III in his first job out of law school.

5. His engineering and Air Force background was very beneficial in one of the first cases that he assisted me on which involved a Piper PA28 which had crashed in Australia.

6. He continued to develop as an attorney, working on a number of significant products liability and wrongful death cases. He tried a number of cases in a number of areas, including a case against an insurance agent for negligent failure to procure an appropriate policy.

7. I left the Floyd Pearson firm to start my own firm in 1985 and I continued to follow John F. Eversole's as a mentor for many years thereafter. I know that he has been very active in products liability litigation, insurance litigation, and aviation litigation, and he has practiced as a partner with a colleague of mine, J.B. Spence for a number of years before he started his own firm where he has been very successful for the last ten years.

8. He was instrumental in obtaining recognition by The Florida Bar to certify the field of aviation law as a board certification area and he is one of the small cadre of attorneys who are currently board certified in aviation law. He is also board certified in civil trial law.

9. The above qualifications, I feel uniquely served GEOFFREY DEAN CLEALL in this hard fought, problematic and difficult case as more fully stated below.

CHARACTERISTICS UNIQUE TO THIS CASE

10. I have reviewed the extensive file in this matter including the affidavits of John F. Eversole III and Geoffrey D. Cleall, and interviewed Mr. Eversole about the case. This insurance coverage and bad faith case began in a tragic October 1990 crash of a Cessna 150G resulting in severe injuries to Mr. Cleall and the death of the student pilot Martin Niles. The NTSB investigated the crash, completed a factual incident report and, somewhat later, published the NTSB probable cause of the accident.

11. The accident occurred when Mr. Cleall and the student pilot were practicing landing techniques, in what is customarily called "touch and go" landings. During one of these landings and upon the application of power, there was a severe engine failure, causing tremendous vibration in the aircraft and a drastic loss of power at altitude. Mr. Cleall attempted to land the aircraft as soon as possible and as he approached the airfield in Marathon, Florida, he heard a loud snap in the back

of the aircraft, the control yoke became loose and came back into his lap, and he lost control over the aircraft. The aircraft pitched down and the accident occurred.

12. The NTSB secured the aircraft in their typical manner and discovered that the "up" elevator cable was separated at the crash scene. The elevator cable was sent to Washington, D.C., where it was tested by a metallurgist for the NTSB who stated that the aircraft cable was severed as a result of the impact having been cut on a bulkhead or other part of the aluminum structure of the aircraft. Therefore, as its probable cause finding, the NTSB found GEOFFREY DEAN CLEALL at fault for the crash and the death of Martin Niles.

13. I have reviewed an Affidavit filed in this matter by GEOFFREY DEAN CLEALL who stated that, once he got out of the hospital, he could not find an attorney to represent him on a contingency fee basis to bring an action against those truly responsible for the crash. He knew that, despite the accusatory NTSB findings, the elevator cable had separated in flight, causing him to lose control of the aircraft. Attorneys did not want to risk their time and funds on a case in which the risk of success, based on the NTSB findings, was so low.

14. Mr. Cleall continued to seek representation until he was referred to John F. Eversole III by a non-lawyer friend who knew him from other aviation matters.

15. John F. Eversole III agreed, after several meetings with Mr. Cleall, to investigate and possibly pursue the claim, which started this long and tortuous litigation.

16. In the underlying case, Mr. Eversole filed suit against a number of Defendants who contributed somewhat to the crash. However, most of the negligent maintenance on the aircraft was performed by Marathon Aviation, Inc., which, was insured under a National Union and AIG Aviation policy, which had been procured by the insurance agent for Marathon Aviation, Wenk

Aviation, Inc.

17. During the course of that litigation, from 1991 until 1995, Defendant AIG, refused to defend Marathon Aviation, stating that there was no insurance coverage for a number of reasons including the fact that GEOFFREY DEAN CLEALL caused the crash according to the NTSB. Further, AIG claimed that there was no coverage at all for either Plaintiff for various reasons related to the language of the policy and that the Defendants had allegedly canceled the policy. Mr. Eversole discovered that there was a unique financing arrangement between Wenk Insurance Agency and the principal of Marathon Aviation. Basically, for years, Wenk would “finance” the premium by paying it and allowing the principal of Marathon Aviation to make periodic payments to it for the premium. When a dispute arose between Wenk and the Marathon Aviation, Inc., regarding the payment schedule, Wenk contacted AIG and told it to rescind the policy which they did, even though the premium had been paid in full by Wenk, pursuant to this ongoing private financing arrangement.

18. With regard to these issues of coverage and bad faith, the co-plaintiff, Martin Niles, stood in the same position against the Defendants as did GEOFFREY DEAN CLEALL. However, Mr. Cleall’s hurdles were much higher in that he had to prove to a trier of fact that the elevator cable did, in fact, break in flight. Further, in the latter stages of the litigation the Defendants raised a new issue, namely, that Mr. Cleall was an employee of Marathon Aviation and therefore not covered by the policy. Therefore, at trial, another dispositive issue that had to be faced by Mr. Eversole was proving that Mr. Cleall was not an employee but an independent contractor during the short period of time he was working at Marathon Aviation before the crash. This is important because this demonstrates the difficulty in this case from the outset and why a substantial

multiplier should be applied in arriving at a reasonable fee.

19. In 1995, it became clear that it would be in Mr. Cleall's best interest to enter into a consent judgment with the principal of Marathon Aviation for a number of reasons. First, it would greatly reduce the time required to get a jury to determine the critical issues in this case. The Coblentz type agreement probably saved a year, if not more, for Mr. Cleall, as well as litigation costs. Secondly, the evaluation of the case from the Plaintiff's standpoint by Mr. Eversole, as well as his appellate co-counsel, Sally Gross, led him to recommend this to Mr. Cleall to take a calculated risk due to his opinion of the bad faith case and his opinion that the causes of the crash did not involve pilot error.

20. In the interim, the entire tail section, or empennage, of the aircraft had been obtained by Mr. Eversole and some of his experts who determined, unequivocally, that the cable could not have broken as a result of the impact for a number of metallurgical and scientific reasons. Mr. Cleall accepted Mr. Eversole's recommendations and in June of 1995 entered into a consent judgment with the principal of Marathon Aviation in the amount of \$1,210,750.00, which represented a fair and negotiated settlement amount for his severe injuries less amounts that had been received in partial settlements in the underlying action.

THE SUBJECT CASE

21. I have reviewed numerous boxes of pleadings and files, representing the entire case file since this case was commenced by an initial Complaint in March of 1996. My review of the pleadings demonstrated to me a hard fought and "trench warfare" type of litigation which is somewhat common in insurance coverage/bad faith cases, in my experience. There were numerous dispositive motions filed on every conceivable aspect of the case, all of which were found to be

without merit. As the trial approached, during trial, and after trial, the flurry of defense memoranda continued and were successfully dealt with by Mr. Eversole at all stages of the litigation. The trial itself covered three weeks with a short intermission due to a hurricane threat. One would be hard pressed to think of any motion that the Defendant could file that was not filed by both Defendants during this case.

22. It is my opinion that Mr. Eversole demonstrated great skill in handling Mr. Cleall's case and that, were it in the hands of a less skilled attorney, it could have been lost. I have reviewed and am aware of, for example, the dispute and testimony concerning the meaning of "employee" in the insurance contract; the dispute and the testimony and demonstrative exhibits concerning the elevator cable; and the cross-examination of defense experts, particularly Messrs. David Kohlman and James Ryan. In each instance Mr. Eversole's skill, knowledge and persuasiveness carried the day.

LODESTAR ANALYSIS

23. I have reviewed Mr. Eversole's affidavit and made a detailed examination the hours expended on this matter and I am of the opinion that Mr. Eversole's time of 940 hours were necessary and are completely reasonable especially in view of the aggressive and combative manner in which this case was defended. I express no opinion on the defense tactics except to note that additional time was required on Mr. Eversole's part because of the tactics. I further note that had it not been for Mr. Eversole's skill in negotiating a Coblentz agreement, many more hours with much resulting delay, would have been required to complete this case. Finally, I am of the opinion that had this case been handled by an attorney who did not possess Mr. Eversole's unique combination of skill and aviation knowledge, many more hours of work would have been required to accomplish

the same results and that would have been justified.

24. In my opinion the reasonable hourly rate for a lawyer of Mr. Eversole's skill and ability is from \$300 to \$350. I base this on personal knowledge of attorneys' fees that have been awarded to me by courts in the South Florida area; of attorneys' fees that have been awarded to other lawyers in the South Florida area in similarly situated lawsuits; and on numerous discussion that I have had and continue to have with prominent attorneys in South Florida as to prevailing and reasonable rates. It is my opinion that Mr. Eversole's skill as an attorney, including both his knowledge of the law and his advocacy skills, together with his expertise in aeronautical matters, more than qualifies him for the hourly rate stated above.

25. Based on the foregoing, it is my opinion that the lodestar figure for Mr. Eversole's services should be a minimum of \$282,000.00 to a maximum of \$ 329,000.00.

ENHANCEMENT OF LODESTAR

26. It is my opinion that the lodestar in this case should be enhanced. First, this was a contingent fee case. Mr. Eversole risked his time, considerable expense and the time of his office where there was a substantial chance of a non-recovery of a fee. This was necessary because Mr. Cleall had no funds or resources to pay for an attorney and, prior to finding Mr. Eversole, had been unable to find any attorney to take his case. Second, at the time that Mr. Eversole undertook to represent Mr. Cleall, and throughout the case, the chances of success were small. The case on behalf of Mr. Cleall was much more difficult than that of the co-plaintiff, Kathleen Niles. Mr. Cleall's case involved the additional issues of "pilot error", and, late in the case, the issue of his employment status, either one of which could have been fatal. Third, the results obtained by Mr. Eversole were exceptional. Mr. Everole prevailed on every issue and his personal skill carried the day.

27. It is further my opinion that as a matter of public policy the lodestar should be enhanced. Civic justice requires access to courts and access to courts, in any meaningful way, requires access to competent, skilled counsel. Civic justice in America is promoted if individuals in Mr. Cleall's position can have some reassurance they can obtain competent counsel. An enhancement of the lodestar under the circumstances of this case will, as a matter of precedent, promote access to counsel and justice.

28. It is my opinion that under the facts of this case there should be an enhancement of the lodestar by a factor of 2.0. I base that opinion on the degree of difficulty of the case, the lack of likelihood of success at the outset of the case and the exceptional results that were obtained. In all respects, Mr. Eversole's quality of representation was superior. He faced skilled, determined and well financed adversaries. He overcame multiple challenges and steered the case to a total victory. His service to his client was extraordinary.

29. Applying the enhancement factor to the lodestar figure, it is my opinion that a reasonable attorneys' fee award in this case should be a minimum of \$564,000 up to the sum of \$658,000.00.

COSTS

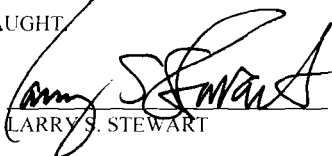
30. I have examined the costs incurred and expended in this case in the sum of \$32,790.77. Not all of the costs expended by Eversole & Rudd, P.A., are taxable. Nonetheless, it is my opinion that the costs for court fees, service of process, mediation and expert fees, copy expenses, storage of the aircraft and trial lodging in the total amount of \$32,790.77 are and should be taxed. This amount does not include any expert fees that may be awarded in connection with the motion for attorneys' fees.

CONCLUSION

31. In connection with the review of the file and preparation of this affidavit, affiant spent 8 hours.

32. In sum, it is my opinion that a reasonable attorneys' fee in this case, with enhancement, is the amount of \$564,000 to \$658,000 and that reasonable taxable costs are \$32,790.77.

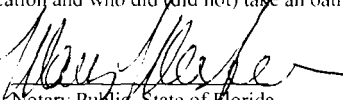
FURTHER AFFIANT SAYETH NAUGHT

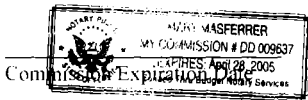

LARRY S. STEWART

Signed and sworn to before me on this 24th day of September, 2001, by

_____ He/she is personally known to me or has produced
_____ as identification and who did (did not) take an oath.

Mary Masterrer
Print Notary Public's Name


Notary Public, State of Florida
At Large



Commission Number

LARRY S. STEWART
One Southeast Third Avenue, Suite 3000
Miami, Florida 33131
Phone: (305) 358-6644
FAX: (305) 358-4707

ADMITTED TO PRACTICE:

Florida, 1963
United States Supreme Court, 1967
United States Court of Appeals, Fifth Circuit, 1965
United States Court of Appeals, Eleventh Circuit, 1981
United States Court of Appeals, Fourth Circuit, 1990
United States District Court, Southern and Middle Districts of Florida, 1963

EDUCATION:

University of Florida, BA 1960
University of Florida, JD with honors 1963
Certified in Civil Trial Advocacy in 1983 by The Florida Bar and the National Board of Trial Advocacy

ASSOCIATION OF TRIAL LAWYERS OF AMERICA

President 1994-1995
Executive Committee 1990 to 1996
Board of Governors 1983 to 1994
Sustaining Member 1977 to 1990
Chair ATLA PAC 1997-1999
Co-Chair ATLA Endowment 1998-2001
Co-Chair ATLA List Committee 1997
Wiedman Wysocki Citation of Excellence 1990, 1992, 1999
Co-Chair Public Affairs Committee 1993-1994
Medical Malpractice Task Force 1992-1993, Co-Chair 1993-1994
Chair Ethical Conduct Committee 1989-1990, member 1989-1993
Chair Ethics Committee 1988-1989
Chair Board Reorganization Committee 1988-1989
Chair Ad Hoc Committee on Section Roles 1989-1990
Co-Chair Section and Litigation Group Coordinating Council 1992-1993
Co-Chair Organizational Review Committee 1991-1992
National College of Advocacy Board of Trustees 1989-1993
Committee to Investigate DuPont Plaza Hotel Fire 1987-1988
Election Committee 1988-1989
Designated Debate Leader on Advertising Resolution 1989
Member M Club 1984-1998
Civil Justice Foundation Champion 1986-1999
Executive Committee Birth Trauma Litigation Group 1990-1993
New Lawyers Division 1994 Joe Tonahill Award

ACADEMY OF FLORIDA TRIAL LAWYERS

President 1978-1979
Secretary 1976-1977
Board of Directors 1972-1994
President's Award 1980
Governing Council Amendment 10 Campaign
Al J. Cone Lifetime Achievement Award, 1992
Perry Nichols Award, 1995

THE FLORIDA BAR

Chair Trial Lawyers Section 1975-1976
Chair Civil Trial Certification Committee 1984-1986
Chair Continuing Legal Education Committee 1972-1974
Vice-Chair Rules Committee 1971-1973
Chair Basic Trial Advocacy Course Development 1974-1975
Young Lawyers Section, Board of Governors 1967-1973, Treasurer 1970-1971

DADE COUNTY BAR ASSOCIATION

1995 Special Service Award

DADE COUNTY TRIAL LAWYERS ASSOCIATION

Founding Member

UNITED STATES DISTRICT COURT, Southern District of Florida

Admission Rules Committee 1980 - 1989
Mediation Rules Committee 1991 - 1994

FELLOW, INTERNATIONAL ACADEMY OF TRIAL LAWYERS

Board of Directors 1989-1995
Chair Membership Committee 1991-1993
Vice-Chair Administration of Justice Committee 1990
Chair Site Committee 1989, 1993, 1999

FELLOW, AMERICAN COLLEGE OF TRIAL LAWYERS

FELLOW, INTERNATIONAL SOCIETY OF BARRISTERS

INNER CIRCLE OF ADVOCATES

AMERICAN BOARD OF TRIAL ADVOCATES

Founding Member Miami, Florida Chapter
Florida Trial Lawyer of the Year, 1993

ROSCOE POUND FOUNDATION

President 1999-2001
Vice-President 1997-1999
Trustee 1993-1997
Lifetime Fellow
Chair, 1998 State Court Judges Forum
Chair, 1993 Court Funding Roundtable
Contributor and Moderator 1992 Pound/Yale State Court Judges Forum

TRIAL LAWYERS FOR PUBLIC JUSTICE

Sustaining Member 1985-2001
Trial Lawyer of the Year Honorable Mention 1983
Trial Lawyer of the Year Finalist 1989

PUBLIC CITIZEN

Sustaining Member 1984-2001
Charter Member, Partners in Citizenship

INSTITUTE FOR INJURY REDUCTION

Sustaining Member 1988-1995

AMERICAN JURY FOUNDATION

Trustee 1993-1995

THE AMERICAN LAW INSTITUTE

1993 to date
Torts: Product Liability, Members Consultative Group
Torts: General Principles, Advisor
Torts: Apportionment of Liability, Advisor
Restitution and Unjust Enrichment, Members Consultative Group

THE INSTITUTE FOR CIVIL JUSTICE AT RAND

Board of Overseers 1999 -

ACADEMIC CONFERENCES AND TASK FORCES, Member of:

Florida Legislature 1989-90 Motor Vehicle Insurance Task Force
Advisory Panel University of Iowa Damages Study, 1993; Dissenting Remarks at 80 Iowa L.Rev. 1265
CPR Commission on Ethics and Standards of Dispute Resolution Practice 1995
University of Michigan Journal of Law Reform Products Liability Symposium, 1996;
Timmy Tumble v. Cascade Bicycle Co.: *A Hypothetical Case Under the Restatement (Third) Standard for Design Defect*, 30 U. Mich. J. L. Reform 511 (1997)
University of Kansas Law and Organizational Economics Center, Symposium, 1998, The Restatement (Third) of Torts: Products Liability: *Is it a Reasonably Safe Product?*; A Manifestly Unreasonable Design: The Habush Amendment - An Exception to Proof of a

AUTHOR

- "The Case of the Pre-Natal Injury", 15 Univ. F. L. Rev. 527
- "The Duty of Obtaining Medical Consent", Vol. 48, No. 8 Florida Bar Journal p. 614 (October 1974)
- "Do We Really Want A Managed Bar", Vol. L, No. 2, Florida Bar Journal p. 94 (February 1976)
- Chapter "General Principles", Florida Civil Practice Damages, published by the Florida Bar 1968; revised for Second Edition (1980)
- Chapter "Pre-Trial Conferences", Florida Civil Practice Before Trial, published by the Florida Bar, 1969; revised for 1975, 1983 and 1993 editions.
- "The Winning Edge--The Opening Statement", Trial Diplomacy Journal, Vol. 7 No. 4, Winter 1985/85
- "Second Opinion-Our Judges Are Not Destroying the Tort System", Vol. LX, No.4, Florida Bar Journal, pg. 24, April 1986
- "Exposing The Hoax - Time to Call A Halt to Tort Reform", Trial Magazine, July 1986"
- "In Search of Gold - The Odyssey of Trend v. Honeywell", Trial Diplomacy Journal, Winter 1987/88
- "Advertising: The Need for a Strong ATLA Policy", ATLA Advocate, Vol. 15. No. 6, July 1989
- "Arguing Pain and Suffering Damages in Summation", Trial Magazine, March 1992
- "Dealing With The Longevity Defense", 8 ATLA Professional Negligence Rep. No. 1, Feb. 1993
- "Medical Incompetence: Great Hidden Secret", Trial Magazine, May 1993
- "Toward 2000", Trial Lawyer, Vol. 6, Issue 4, July 1993
- "Plaintiffs' Bar Questions Products Liability Proposal", The National Law Journal, Aug. 1, 1994, B22; reprinted Trial Magazine, Sept. 1994.
- "Damage Caps Will Hurt Injured Consumers". The Washington Times, Insight Magazine, Nov. 7, 1994; reprinted as "The ALI and Products Liability: *Restatement or Reform?*" Trial Magazine, Sept. 1994.
- "Protect Americans. Not Unsafe Products", National Debate, December 1994 at p. 40.
- "ADR Is No Solution for Injured Consumers". Jour. of Mass. Academy of Trial Attorneys, Vol. 2, No. 3, p.29 (Jan. 1995).
- "An Interview With Larry S. Stewart", ACCA Docket, Vol. 13, No. 2, p.28 (March/April 1995).
- "Damage Allocation Laws Pose Threat to Fairness", The National Law Journal, July 24, 1995, C6.
- The Impact in Your Next Trial of Tort Reform in the Congress, State Legislatures, and the Courts", Forum, Vol. 26, No. 4, p.24, May 1996.
- "The ALI's Proposed Restatement - How Will It Affect Your Practice? - An Interview With Larry S. Stewart.
- "Roundtable on Products Liability Litigation", Trial Magazine, November 1997.

"Keys to Success", Trial Magazine, July 1998.

"Phase Two of the ALI's Tort's Project: Apportionment of Liability", Trial Magazine, August, 1998.

"A New Frontier", Trial Magazine, November 1998

"The Duty to Warn - A Matter of Reasonableness. Not Arbitrariness", Vol. 73, No. 4, The Florida Bar Journal p. 55 (April 1999)

BOOK REVIEWS

"The Preparation of a Product Liability Case", Baldwin, Hare and McGovern, Little Brown and Company (1981)

"Moral Vision and Professional Decisions", Rand Jack and Dana Jack, Cambridge Univ. Press (1989), Trial Magazine, Dec. 1990

"The Law of Lawyering: A Handbook on the Model Rules of Professional Conduct", 2d Ed., Hazard and Hodes, Prentice Hall Law & Business 91990, Trial Magazine, Apr. 1991.

"The Litigation Explosion", Walter Olson, Truman Talley Books (1991), Trial Magazine, Aug., 1991.

"Anatomy of Cross-Examination", Leonard E. Davies, Prentice Hall Law & Business, Trial Magazine, April, 1994

"Medical Malpractice and the American Jury: Confronting the Myths About Jury Incompetence, Deep Pockets, and Outrageous Awards", Neil Vidmar, University of Michigan, Trial Magazine, Nov. 1995

"Integrity", Stephen L. Carter, Basic Books, Trial Magazine, July 1996

"No Contest", Ralph Nader and Wesley J. Smith, Random House (1996), Trial Magazine, Jan. 1997.

TRIALS PUBLISHED

Dorsey v. Honda Motor Co., Ltd., M. BELLI, MODERN TRIALS (2nd Ed. 1982) 2.125

Tietig v. Chris-Craft Corp., M. BELLI, MODERN TRIALS (2nd Ed. 1982) 42.1002;
Gibbons and Smith. Products Liability Litigation, Callaghan & Company (1988)
Appendix 13B.

Weiner v. Blue Cross/Blue Shield, "Centerpiece" 29 ATLA L. Rep. 408 Nov. (1986)

Placker v. Peoples Gas System, "Centerpiece" 31 ATLA L. Rep. 408 Nov. 1988.

Trend Coin Co. v. Honeywell, Inc., Opening Statements: Good Beginnings@, Trial Magazine, Mar. 1996.

FACULTIES of continuing legal education programs:

The National College of Advocacy

The Florida Bar

ALI/ABA

Academy of Florida Trial Lawyers

American Institute of Medical Law

Broward County Trial Lawyers

Assn.

Caduceus Self Insurance Fund

California Trial Lawyers Assn.

Connecticut Trial Lawyers Assn.

Dade County Trial Lawyers Assn.

Dade Judicial College

Defense Research Institute

Florida Circuit Judges Conference

Georgia Trial Lawyers Assn.

Hastings College of Advocacy

Indiana Trial Lawyers Assn.

Iowa Trial Lawyers Assn.

Kansas Trial Lawyers Assn.
Kentucky Academy of Trial Attys.
Louisiana Trial Lawyers Assn.
Magnolia Bar Assn.
Maryland Trial Lawyers Assn.
Melvin M. Belli Seminar
Minnesota Trial Lawyers Association
Nat. Assn. Railroad Trial Counsel
Nebraska Assn. of Trial Attorneys
New Mexico Trial Lawyers Assn.
North Carolina Academy of Trial Lawyers
North Dakota Trial Lawyers Assn.

Ohio Academy of Trial Lawyers
Palm Beach County Bar Assn.
Pennsylvania Trial Lawyers Association
South Carolina Trial Lawyers Association
State Bar of South Dakota
Utah Trial Lawyers Association
Virginia Trial Lawyers Association
West Virginia Trial Lawyers Assn.
Western Trial Lawyers Assn.
Wyoming Trial Lawyers Assn.

ADDRESSES to:

Academy of Florida Trial Lawyers
ABA Section of Litigation
American Bar Foundation Forum
on Product Liability
American Corporate Counsel Assn.
Broward County Trial Lawyers Assn.
Dade County Trial Lawyers Assn.
Dallas Trial Lawyers Assn.
Greater Miami Chamber of Commerce
The Florida Bar
Indiana Trial Lawyers Assn.

Massachusetts Academy of Trial Lawyers
Kansas Trial Lawyers Assn.
West Virginia Trial Lawyers Assn.
Melvin M. Belli Society
International Academy of Trial Lawyers
North Carolina Academy of Trial Lawyers
Texas Trial Lawyers Association
National Conference of Insurance
Legislators (NCOIL)

TESTIMONY before:

North Carolina Legislature, Special Committee on Medical Malpractice Liability
Medical Malpractice Symposium, Florida Agency for Health Care Admin. Nov. 12, 1993
Committee on Commerce, The Florida Senate, Jan. 10, 1994
Judiciary Committee, U.S. House of Representatives, 104th Congress, Feb. 13, 1995
Energy and Commerce Committee, U.S. House of Representatives, 104th Congress,
February 21, 1995
Consumer Affairs, Foreign Commerce and Tourism Subcommittee of the U.S. Senate
Committee on Commerce, 104th Congress, April 3, 1995
Select Senate Committee on Litigation Reform, The Florida Senate, Sept. 18, 1997

TELEVISION and RADIO appearances on:

Television:

WPLG-TV, Miami
KARE-TV, Minneapolis
CNBC, J.A.M.A. Medical Rounds
CNN, The World Today

CNN, Newsday
CNN, Crossfire
CBS, This Morning
ABC, World News Tonight

WETA-TV/PBS, Technopolitics
CBS, Sunday Night News
CNN, Inside Business
CNBC, Cal Thomas Show
Conus TV News
ABC Nightline
CNN, Newsmaker Saturday
It's Your Business

French Agency TV
ABC News, Good Morning America
Orange County Cable News
Fox, Morning News
Inside The Law

Radio:

CBS Radio, The Gil Goss Show
British Broadcasting Corp.
WSYR Syracuse, Midday With Joe
Galuski
The Pat Buchanan Show
NPR, Talk of the Nation
CBS Radio, Crosstalk
WAMU Washington, The Derrick
McGrinty Show
WTOP, New York
Sun Radio Network, Opinions
WMXJ Miami, South Florida Majic
NBC Radio, O'Leary Kamber Show

USIA, Australian Teliconference
WKSL Salt Lake, KSL Talk
WKFH Wichita, The Kathleen Clark
Show
PBS, Sunday Rounds
NPR, Morning Edition
KCNN, Grand Forks, Hot Talk
Radio America, Dateline Washington
Talk America Radio, The Bill Bailey
Show
The Susan Loggins Show
WEVO, Concord, N.H. Perspectives
KCPW Salt Lake, Public Affairs Hour

LAW SCHOOL HONORS AND AWARDS

Order of the Coif
University of Florida Law Review, Executive Editor
University of Florida Moot Court Team
Florida Bar Moot Court Competition, Best Brief 1963
John Marshall Student Bar Association, President
American Law Students Association
Vice President Fifth Circuit
Board of Directors
Chair Scholarship and Fellowship Committee
Alumnus Profile, Univ. of Florida Lawyer, Spring 1995

OTHER ORGANIZATIONS AND HONORS

Martindale-Hubbell AV rating 1973- to date
Who's Who International, American Law, In America, and South and Southwest Editions
Best Lawyers in America
Melvin M. Belli Society, Outstanding Achievement Award 1994-1995
Florida Blue Key
University of Florida College of Law Alumni Council 1986-1994
Palmer Preparatory School Board of Trustees 1978-1985; Chair 1982-1984

WPBT Television Director 1986-1990; Chair Art Auctions 1984-1985
Dade County Art in Public Places Committee 1979-1981
Center For The Fine Arts Board of Trustees 1991-1994
Trustee of the Florida Democratic Party
Florida Federal Judicial Nominating Commission
Miami Project to Cure Paralysis, Legal Advocates Committee
Doral Ryder Open, Board of Governors 1987-1989
University Club, Board of Directors 1970-1976; President 1975-1976
Grove Isle Club, Board of Directors 1980-1993

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Fort Lauderdale Division

KATHLEEN M. NILES, as Personal)
Representative of the Estate of)
MARTIN BRUCE NILES, deceased)

Plaintiff,)

vs.)

NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA, AIG)
AVIATION (ILLINOIS) CORPORATION)
and WENK AVIATION)

Defendants.)

GEOFFREY DEAN CLEALL,)

Plaintiff.)

vs.)

NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA, AIG)
AVIATION (ILLINOIS) CORPORATION,)
and WENK AVIATION)

Defendants.)

CASE NO.: 96-10022 CIV-ROETTGER

MAGISTRATE JUDGE: SELTZER

AFFIDAVIT OF SALLY ALYCE GROSS, ESQUIRE

STATE OF GEORGIA)
)ss
COUNTY OF BARROW)

BEFORE ME, the undersigned authority, personally appeared SALLY ALYCE GROSS, ESQUIRE, who, after been first duly sworn deposes and states:

1. I have been admitted to the practice of law in Florida since 1993. I am also admitted to practice in the Southern District of Florida, and the Eleventh and Fourth Circuit Courts of

Appeals. Since 1995, my practice has specialized in litigation support and appeals for plaintiffs' personal injury firms. I am *of counsel* to Needle Gallagher & Ellenberg, P.A., and have worked also on cases for Leesfield Leighton Rubio & Mahfood, P.A., Gamba and Lombana, P.A., William Petros, P.A., and Katzen & Katzen, P.A. Several of the cases that I have participated in involved insurance disputes and bad faith issues.

2. In 1995, John F. Eversole, Esq. asked if I would assist with trial support in this case on behalf of Plaintiff Cleall. At that point, the matter already had an extensive state court history. Initially, I familiarized myself with the underlying issues giving rise to this federal court action, and then assisted in responses to motions to dismiss, dismissal, and summary judgment. Pre-trial motions addressed admissibility of evidence and expert testimony, burden of proof, policy interpretation, assignments, ratification, and admissions. During trial, I assisted with issues as they arose, including special jury instructions and verdict forms. Post-trial motions required extensive research into Florida's prejudgment interest statute.

3. Throughout these years, I have consulted with counsel for Niles on various legal issues, and/or reviewed Niles' motions and memoranda of law for potential adoption by Cleall. Where possible, in the interest of judicial economy, I recommended that Cleall not submit lengthy legal arguments that would have been duplicative of those filed by Niles.

4. During 1990 and 1991, I turned down work on other cases because I did not want additional assignments to interfere with my ability to represent Cleall.

5. The attached Fee Breakdown describes the work that I performed between 1995 and

the present on this case. My hourly consultation fee has risen in twenty-five dollar per hour increments, from \$100 per hour in 1995 to \$200 per hour in 2001.

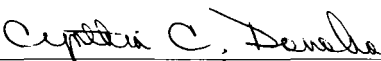
FURTHER AFFIANT SAYETH NOT.



SALLY ALYCE GROSS

BEFORE ME, the undersigned authority, personally appeared SALLY ALYCE GROSS, who is personally known to me or who has presented a valid driver's license with photographic identification, and who, upon being first duly sworn according to law, deposes and says that she executed the foregoing.

SWORN TO AND SUBSCRIBED before me this 24th day of Sept., 2001.



Notary Public, State of Georgia

My Commission Expires: _____

CYNTHIA C DONOHO
Notary Public, Gwinnett County, Georgia
My Commission Expires April 30, 2005

Case: Cleall v. National Union, AIG Aviation and Wenk Aviation
Case No.: 96-10022-CIV-Roettger
Attorney: Sally Alyce Gross, Esq. for Plaintiff Cleall

Date	Description	Hours
	1995-1996	
01/16/95	Telephone conference with JFE	.20
07/02/96	Telephone conference with JFE	.40
07/05/96	Telephone conference with JFE	.50
07/06/96	Review letter from JFE, Amended Complaint, Wenk's motion to dismiss, draft memorandum in response, Niles' memorandum in response	4.00
07/07/96	Research motion to dismiss, draft memorandum in response	6.00
07/08/96	Revise memorandum in response to motion to dismiss	3.50
07/09/96	Telephone conference with JFE	.20
07/09/96	Finalize memorandum in response, motion for oral argument on motion to dismiss	2.00
07/10/96	Telephone conference with JFE	.20
07/10/96	Review state complaint, Wenk's Exhibit A to motion to dismiss	1.75
07/10/96	Prepare and file notice of appearance	.50
08/05/96	Review Order on Wenk's Motion to Dismiss and review case law	.50
08/09/96	Review Wenk's reply to Cleall's memorandum in response to motion to dismiss	1.00
08/30/96	Review Kellough letter of 08/27/96	.25
09/11/96	Review Pivnik letter of 09/09/96	.25
09/11/96	Review AIG's motion to dismiss	.75
09/12/96	Review AIG's request for admissions, answer and a/d's, notice of ripeness for hearing on transfer and consolidation.	1.00
09/23/96	Prepare and file motion for extension of time to respond to AIG's motion to dismiss filed on 09/09/96; review AIG motion to dismiss, research case law cited by AIG	2.00
09/24/96	Telephone conference with JFE	.70
09/25/96	Telephone conference with JFE and begin draft response to AIG motion to dismiss	1.60
09/26/96	Review Niles' response to AIG's motion to dismiss, research response to AIG motion to dismiss, draft response with letter to JFE	7.00
09/27/96	Review letter from JFE re. settlement agreements and 1995 judgments	1.50
10/01/96	Finalize response to AIG motion to dismiss and file	1.75
10/04/96	Review letter from Dombroff	.10
10/05/96	Review Niles' Response to Request for admissions	.10
10/06/96	Prepare and file motion for extension of time to respond to AIG's motion to dismiss	1.00
10/10/96	Review notice of appearance of Kluger with Motion to appear pro hac vice	.10
10/10/96	Review AIG's motion for extension of time to respond to Cleall's response to motion to dismiss	.30
10/12/96	Review Order granting AIG's motion for extension of time to reply	.10
10/12/96	Review Cleall's and Wenk's responses to request for admissions	1.00

10/20/96	Review AIG's reply in support of motion to dismiss and research case law cited	2.20
	TOTAL HOURS 1995-96	42.45
1997		
11/22/97	Review Wenk's motion to consolidate	.50
	TOTAL HOURS 1997	.50

1998

02/16/98	Review Joint Status Report, Scheduling Report and Order	.50
03/08/98	Review Order granting motion to consolidate	.10
3/15/98	Draft motion for leave to amend complaint with memo of law	2.00
04/18/98	Review Wenk's witness and exhibit list	.30
04/25/98	Review Scheduling Order in Niles	.10
05/17/98	Review Wenk's offer of judgment to Cleall	.20
06/10/98	Review Niles' filing of expert witness summary reports, motion to compel discovery, witness and exhibit lists, Wenk's answer to Niles' amended complaint	.50
07/05/98	Review JFE letter updating case and issues	.50
07/18/98	Review AIG policy	2.00
07/21/98	Telephone conference with JFE	.50
07/22/98	Review Omnibus Order and discuss with JFE	1.00
07/27/98	Fax JFE re. pleadings needed	.10
07/29/98	Review letter from JFE with NU and Wenk answers and affirmative defenses	1.00
08/06/98	Review Niles' motion for summary judgment with memorandum of law, and research its case law	3.00
08/27/98	Review Omnibus Order of August 20, 1998	1.00
09/05/98	Review Wenk's response to Niles' motion for summary judgment	1.00
09/05/98	Review NU/AIG opposition to Niles' motion for summary judgment and Defendants' cross-motion for summary judgment	2.00
09/11/98	Review JFE letter re. Niles' motion and auto statute	.50
09/10/98	Letter to JFE re. motion for summary judgment	.50
09/17/98	Research employee exclusion clause	5.00
09/19/98	Letter to JFE re. employee exclusion clause and auto statute as needed for Niles' motion	1.50
9/30/98	Review AIG's motion to dismiss or for summary judgment with memo of law and attachments. Review Kellough's correspondence to Pearson from 1995 and 1998	4.00
10/02/98	Review Niles' reply to Wenk's response in opposition to summary judgment, Niles' response to cross-motion for summary judgment, Niles' response to AIG's statement of material facts, review May 13, 1993 correspondence from Dunn to JFE, May 4, 1993 correspondence from JFE to Srebnick, November	6.00

	23, 1992 correspondence from JFE to Srebnick, November 18, 1992 correspondence from Srebnick to JFE, November 11, 1992 correspondence from JFE to Srebnick, July 24, 1992 correspondence from Pivnik to Garcia, June 18, 1992 stipulation for dismissal, May 20, 1992 correspondence from Roth to JFE, May 13, 1992 correspondence from Srebnick to JFE, May 12, 1992 correspondence from JFE to Cleall	
10/06/98	Review letter from JFE re. Wenk's reply to our opposition to Wenk's motion to amend answer and affirmative defenses, AIG's answer and affirmative defenses, Wenk's answer and affirmative defenses, Wenk's answer and affirmative defenses to Cleall's second amended complaint, Wenk's reply to Plaintiff's response in opposition to motion to amend answer and affirmative defenses, Niles' response in opposition to Wenk's motion to amend answer and affirmative defenses	6.00
10/06/98	Letter to JFE on scheduling, employee exclusion, estoppel, laches	4.00
10/07/98	Review Cleall deposition	2.00
	Research premature summary judgment, continue research on laches and estoppel	5.00
10/08/98	Meeting with JFE	2.00
10/09/98	Review JFE letter re. statute of limitations	.75
10/12/98	Review JFE letter with enclosures re employee issue, and various other documents on issue; research and outline memorandum	.75
10/13/98	Review JFE letter on employee issue	.50
10/12/98	Draft memorandum of law in response to AIG's motion for summary judgment	8.00
10/14/98	Prepare motion and memorandum of law to stay proceedings on AIG's motion for summary judgment, with exhibits, and response to AIG's motion for summary judgment	3.50
10/14/98	Telephone conference with JFE	.50
10/15/98	Telephone conference with JFE	.30
10/15/98	Finalize response to motion for summary judgment	1.00
10/18/98	Review AIG's motion to exclude expert witnesses with attachments, review April 22, 1998 scheduling order	1.00
10/21/98	Review Wenk's supplemental witness list, exhibit list, request for admissions to Niles.	.70
10/22/98	Review Wenk's motion and memorandum of law for summary judgment and review case law cited	3.00
10/22/98	Draft memorandum of law in response to Wenk's motion for summary judgment	3.00
10/23/98	Revise memorandum of law in response to Wenk's motion for summary judgment	2.50
10/23/98	Telephone conference with JFE	.90
10/24/98	Finalize memorandum of law in response to Wenk's motion for summary judgment	1.00
10/26/98	Discussion with JFE re. Cleall affidavit and AIG's reply to our response to motion to dismiss	.50
10/27/98	Review AIG reply and research case law cited therein	2.00
10/28/98	Review Cleall affidavit	.10
10/28/98	Review Wenk's supplemental expert witness summary, notice of production from nonparty, Niles' amended expert summary	.20
10/30/98	Review AIG's memo in opposition to our motion to stay and case law	2.00
11/3/98	Review AIG's amended opposition to Niles' motion for summary judgment with cross-motion for summary judgment, with Statement of Material facts	.50

11/12/98	Review Niles' response to request for admissions	.50
11/12/98	Review Niles' revised response to AIG's revised statement of material facts, with Niles' amended reply to AIG's response in opposition to motion for summary judgment, and attachments	2.00
12/8/98	Telephone conference with JFE	.50
12/8/98	Telephone conference with JFE	.50
12/18/98	Review Omnibus Order of December 11	.20
12/21/98	Telephone conference with JFE	.70
12/22/98	Telephone conference with JFE and fax to JFE	.80
	TOTAL HOURS 1998	90.20
	1999	
01/15/99	Review letter from JFE re. AIG motion to exclude expert	1.00
1/20/99	Review JFE fax and discussions with JFE re. pending motions	1.00
1/25/99	Letter to JFE re. motion to exclude, Wenk's supplemental expert witness summary and lists, and AIG's designation of experts; research and draft response to AIG's motion to exclude expert witnesses Butler and Denaburg	4.25
1/26/99	Revise response to AIG's motion to exclude expert witnesses	2.00
1/29/99	Finalize response to AIG's motion to exclude expert witnesses	1.00
2/2/99	Review Niles' response in opposition to AIG's motion to exclude expert witnesses, notice of filing additional objections to exhibits, motion in limine to exclude evidence of unauthenticated letter	3.00
04/15/99	Telephone conference with JFE	.50
04/26/98	Telephone conference with JFE	.60
06/30/99	Email to JFE re case status	.10
07/12/99	Review revised order on pre-trial conference and JFE email	.50
07/15/99	Telephone conference with JFE	.40
07/17/99	Email to JFE re. need for omnibus order on pending motions, need for motions in limine	.50
07/19/99	Review letter from JFE re. defendants' motion to continue pretrial conference	.20
07/20/99	Prepare motion for clarification regarding Order of March 28, 1998 consolidating cases, review Niles response to AIG's motion to continue pretrial conference	1.50
09/07/99	Telephone conference with JFE	.50
09/08/99	Review letter from JFE re. Cleall affidavit	.10
09/08/99	Research and prepare memo to JFE re. Cleall's supplemental affidavit	5.50
09/10/99	Review Cleall and Niles' pre-trial stip, witness and exhibit lists	2.00
09/11/99	Review Wenk's pre-trial stip and compare to plaintiffs' and witness list, and revised witness list	2.50
9/11/99	Research and draft motion and memo to preclude reliance on Cleall's state court deposition in support of summary judgment	3.25
09/17/99	Finalize and file motion/memo to preclude reliance on Cleall's state court deposition in support of summary judgment	1.75
09/20/99	Review letter from JFE re. motion and memo in opposition to Wenk's motion for summary judgment	.20
09/23/99	Review Wenk's response in opposition to motion in limine to exclude letter regarding availability of insurance	.50

10/3/99	Review Wenk's response in opposition to Cleall's motion to preclude reliance on state court deposition and cases cited	2.00
10/04/99	Research and draft reply memorandum on motion to preclude defendant's reliance on Cleall's state court deposition in support of summary judgment. discussion with JFE re D'Aiuto affidavit	4.50
10/05/99	Telephone conference with JFE	.40
10/06/99	Telephone conference with JFE	.50
10/07/99	Finalize and file memorandum to preclude reliance on Cleall's state court deposition	.50
10/07/99	Review letter from JFE re. Cleall's affidavit and supplemental witness list	.20
10/09/99	Review AIG's response to our motion to preclude reliance on state court deposition	1.00
11/18/99	Telephone conference with JFE	.20
12/18/99	Review AIG motion to strike Demahy and Niles' motion to strike or response to AIG motion in limine regarding Demahy	2.00
	TOTAL HOURS 1999	44.15
	2000	
01/08/00	Review Niles' reply to AIG's response in opposition to motion in limine to exclude Demahy	.50
01/26/00	Review Order of Dismissal and discuss with JFE	.50
01/27/00	Telephone conference with JFE re. dismissal rules and order	1.00
02/15/00	Review Niles' motion for relief from order dismissing cause with memorandum of law and email to JFE	1.00
03/01/99	Telephone conference with JFE re. Min for relief from Order dismissing cause	.50
03/17/00	Review Wenk's memorandum in opposition to Cleall's motion for relief from judgment	1.00
03/02/00	Review Cleall's notice of adoption of Niles' motion for relief from judgment	.10
03/05/00	Review Order on Niles' motion for relief from Order of Dismissal	.10
03/23/00	Prepare reply to Wenk's memorandum in opposition to Cleall's notice of adoption of Niles' motion for relief from judgment	1.50
03/23/00	Review Revised Order of Trial Instructions. Order of referral to mediation. Order on cross-motions for summary judgment. discuss with JFE; Draft request for clarification. File Reply to Wenk's memorandum in opposition to Cleall's notice of adoption of Niles' motion for relief from judgment	4.00
04/02/00	Review JFE letter with assignments and issues	.50
04/03/00	Research deposition from other case issue. limiting scope of experts testimony issue	1.50
04/03/00	Review Wenk's motion for continuance	.10
04/04/00	Research undisclosed witness issues and NTSB employee testimony issues and memo to JFE	6.50
04/06/00	Telephone conference with JFE re. trial strategy	.50
06/10/00	Review Wenk's notice of change of name and address	.10
07/19/00	Review Niles' response to AIG's motion in limine regarding issues to be determined by jury, and cross-motion in limine	2.00
07/20/00	Research and draft response to AIG's motion in limine regarding issues to be determined by jury (re. status as an employee v. general contractor: <i>Sosa, Ramirez, Westmorland, Pridgen, CTC Devel., Crooms, Deni</i>)	3.50

07/25/00	Research burden of proof on employee exclusion issue and prior admission	5.00
07/30/00	Memo to JFE re. admission, Cleall's statement in hospital, burden of proof	1.50
07/31/00	Review JFE info on admission	.50
07/31/00	Review Wenk's motion for continuance	.50
08/01/00	Respond to JFE re. admission	.10
08/02/00	Research admission issue and review demand correspondence, review Wenk's affidavit of Harrison	4.00
08/03/00	Review Order on Motion for continuance	.10
08/07/00	Review AIG's reply to Cleall's response to motion in limine regarding issues to be determined by jury and conference with JFE re. same	1.90
08/15/00	Memo to JFE re. independent contractor v. employee issue and jury instructions	2.00
08/16/00	Talk with JFE re. request for admission issue, burden of proof memo	.30
08/17/00	Research effect of cashing refund check, ratification, AIG's memo, priority of assignments, defense opinions on ultimate issue	14.00
08/18/00		
08/20/00	Letter to JFE re. trial issues	4.00
08/22/00	Review JFE memo re. assignment problem; Review AIG bench memorandum on inadmissibility of NTSB report, research and prepare responsive bench memo.	6.50
08/23/00	Review Wenk memo of law on assignment and statute of limitations, Draft bench memorandum of law regarding priority of assignments	6.00
08/24/00	Review letter from JFE re. amended complaint issue, jury instructions and special question regarding ratification; finalize and send JFE bench memo on priority of assignments; Review joint motion for judgment as a matter of law regarding necessity of proving bad faith	6.00
08/26/00	Prepare and email to JFE motion for judgment as a matter of law on the employee exclusion clause	2.00
08/30/00	Research two issue rule and email JFE re. preserving employee issue and two issue rule	3.00
09/04/00	Review Wenk's memorandum of law regarding measure of damages	1.50
09/19/00	Review Niles' memorandum of law on bad faith; letter to JFE re. Niles' memorandum and specific applications to Cleall	3.00
09/20/00	Discussion with Niles' counsel re. additions to memorandum, discussion with JFE re. Cleall correspondence	.50
09/22/00	Review final of joint motion on bad faith and request for oral argument	1.00
09/26/00	Review Wenk's memorandum of law on bad faith	1.50
09/26/00	Review Wenk's memorandum of law and renewed motion for judgment as a matter of law on statute of limitations	2.00
09/26/00	Review Wenk's memorandum of law on Marathon's assignment and request for oral argument	1.00
10/05/00	Review Wenk's reply memorandum in support of motion for judgment on partial findings	1.50
10/10/00	Discuss adoption with JFE and review Notice of adoption of Niles' responses and motions	.50
10/12/00	Review Niles' responses in opposition to Wenk's motions regarding judgment as a matter of law, election of remedies, statute of limitations, bad faith	2.50
10/16/00	Review Wenk's response to Cleall's notice of adoption	.50
10/20/00	Review Wenk's motion for extension of time to file replies	.10
10/25/00	Review joint reply to AIG's response re plaintiffs' memorandum on bad faith, and reply to AIG's supplemental response to plaintiffs' memorandum on bad faith	3.00

10/28/00	Review joint response to AIG's motion to strike Plaintiffs' post-trial memorandum; Review Wenk's reply memorandum in support of motion for judgment as a matter of law regarding election of remedies and bad faith	3.00
11/10/00	Review Niles' renewed response in opposition to Wenk's renewed motion for judgment as a matter of law regarding statute of limitations	.50
12/16/00	Review Order on various motions	.10
	TOTAL HOURS 2000	104.50

2001

01/18/01	Review Wenk's motion for rehearing or clarification with memorandum of law	.50
01/22/01	Review Final Judgment	.50
01/24/01	Discussion with JFE office re need to amend final judgment	.10
01/24/01	Discussion with Niles' counsel re. mtg: review of Niles' motion to alter or amend	2.00
01/25/01	Draft Cleall's motion to alter or amend, email to JFE	1.50
01/26/01	Discussion with JFE re. motion, research on interest rates, rules on filing cost/fee motions	3.50
01/29/01	Discussion with Niles' counsel re. motion for extension of time to file fee motions; email JFE re. same; review final of Cleall motion	2.00
02/01/01	Review Niles' notice of correction of motion to alter final judgment	.50
02/02/01	Review AIG's mtg for Judgment as a matter of Law or for New trial	1.50
02/02/01	Discussion with JFE re. AIG's mtg, and adoption of Niles' response to same	.20
02/09/01	Draft and revise Cleall's notice of correction on alternation of final judgment amount; Discuss joint motion for extension of time to file motions for fees/costs with JFE, and draft same	2.00
02/12/01	Review Niles' response to Cleall's notice of correction re. adoption of arg.	1.00
02/15/01	Review AIG's response to Plaintiffs' motion to alter or amend final judgment and research authorities; email JFE re. response	2.20
02/16/01	Research interest issue on section 55.03	6.50
02/18/01	Draft argument on interest issue with legislative history analysis	3.00
02/20/01	Revise arguments on interest issue, copies to Niles' counsel	1.00
02/22/01	Review Niles' arguments on prejudgment interest triggering date	1.50
02/27/01	Review AIG's reply to Plaintiffs' response to Motion for Judgment as a matter of law or for New Trial, with exhibits	1.00
07/28/01	Review Order of 8/23/01 re. prejudgment interest	.20
08/30/01	Review <i>Norman</i> and additional case law, discuss with JFE	1.00
08/31/01	Draft affidavits on attorneys fees	1.00
9/19/01	Draft fees petition, confer with JFE on petition and affidavits	6.00
9/20-21/01	Revise fees petition, email Niles counsel re. standards	3.00
	TOTAL HOURS 2001	41.00

TOTAL FOR TRIAL SUPPORT RENDERED BY SALLY ALYCE GROSS, ESQ.
1995-2001

1995-96	42.45 hours @ \$100.00	=	4,245.00
1997	.50 hours @ \$125.00	=	67.50
1998	90.20 hours @ \$150.00	=	13,530.00
1999	44.15 hours @ \$175.00	=	7,726.25
2000	103.05 hours @ \$175.00	=	18,287.50
2001	41.00 hours @ \$200.00	=	8,200.00
			<hr/>
		\$	52,056.25
		x Multiplier	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Fort Lauderdale Division

KATHLEEN M. NILES, as Personal)
Representative of the Estate of)
MARTIN BRUCE NILES, deceased)

Plaintiff,)

vs.)

NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA, AIG)
AVIATION (ILLINOIS) CORPORATION)
and WENK AVIATION)

Defendants.)

GEOFFREY DEAN CLEALL,)

Plaintiff,)

vs.)

NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA, AIG)
AVIATION (ILLINOIS) CORPORATION,)
and WENK AVIATION)

Defendants.)

CASE NO.: 96-10022 CIV-ROETTGER

MAGISTRATE JUDGE: SELTZER

AFFIDAVIT OF ANDREW NEEDLE, ESQUIRE

STATE OF FLORIDA)
)ss
COUNTY OF DADE)

BEFORE ME, the undersigned authority, personally appeared ANDREW NEEDLE,
ESQUIRE, who, after been first duly sworn deposes and states:

1. I am a Board Certified Civil Trial Lawyer, admitted to practice in Florida, by the

Southern and Middle Districts of Florida, the Fifth and Eleventh Circuit Courts of Appeal, and the United States Supreme Court. I have been a Member of the Board of Governors of the Florida Bar since 1997, and was a member of the Bar's Grievance Committee for the Eleventh Judicial Circuit from 1987-1988. I have participated in numerous additional bar committees and professional associations, and frequently lecture for the Academy of Florida Trial Lawyers. *See Curriculum Vitae, attached.* My firm represents plaintiffs in the full range spectrum of personal injury cases. I am very familiar with insurance coverage and bad faith disputes.

2. I am familiar with fees charged by South Florida attorneys specializing in trial support.

3. I have known Sally Alyce Gross, Esq., since 1991 when she began clerking at Spence Payne Masington & Needle, P.A.. Ms. Gross worked for the firm throughout law school. After graduating from the University of Miami School of Law in 1993, as a member of Law Review and with a class rank of 2/347, Ms. Gross clerked for Judge Peter T. Fay, at the Eleventh Circuit Court of Appeals. Since 1995, Ms. Gross has been affiliated with my law firm, either as an employee or in an *of counsel* status. Throughout the past six years, she has provided litigation support to this firm, and has handled almost all of our appeals. As well, Ms. Gross has provided trial support or appellate assistance to Leesfield, Leighton Rubio & Mahfood, P.A., Katzen and Katzen, P.A., Gamba & Lombana, P.A., and other Miami law firms.

4. Ms. Gross has established a fine reputation as a specialist in litigation support and appellate matters. She is known as a thorough and meticulous researcher, a skilled writer, and an efficient worker who often completes complicated analysis in far less time than one might expect.

As well, she communicates well with co-counsel, an ability particularly valued in a case such as this, involving not only Cleall's primary trial counsel, but coordination of strategy with counsel for co-plaintiff Niles.

5. Ms. Gross' involvement in this case began in 1995, when the matter already had a state court history. Initially, Ms. Gross had to become familiar with the underlying issues giving rise to this federal court action. Since 1995, Ms. Gross has participated in Plaintiff Cleall's responses to motions to dismiss, dismissal, and summary judgment. As trial approached, the parties wrote extensively about the exclusion of experts, admissibility of evidence, burden of proof, various exclusionary clauses in the policy, assignments, ratification, and special jury instructions. Post-trial matters included responses to motions for judgment as a matter of law or for new trial, as well as a complicated analysis of Florida's prejudgment interest statute, which went through several revisions during the relevant years.

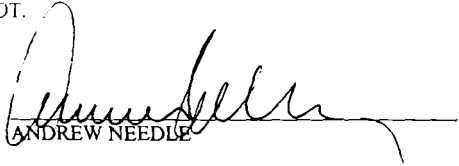
6. Ms. Gross' hourly fee has risen, in twenty-five dollar per hour increments, from \$100 per hour in 1995 to \$200 per hour in 2001. I find these fees to be well-within the acceptable range of \$75 per hour to \$250 per hour charged by counsel with comparable experience, skills and reputation, dealing with similar issues.

7. Specifically, although hourly rates are typically charged only by defense counsel, when South Florida appellate plaintiffs' attorneys work on an hourly fee basis, they charge rates similar to Ms. Gross'. Ms. Gross' \$100 per hour fee in 1995

is entirely reasonable. Her incremental increases in hourly rates reflect community charges for appellate counsel with increasing experience.

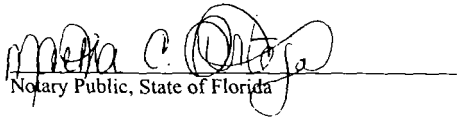
8. In sum, based on my knowledge, experience and training, as well as my familiarity with the South Florida community of attorneys providing litigation support, I find that the hourly billing breakdown prepared by Ms. Gross reflects a reasonable amount of time spent on the itemized matters. I also find that Ms. Gross' hourly rates are not only reasonable, but are well-within the range one would expect for attorneys of her experience and skill.

FURTHER AFFIANT SAYETH NOT.

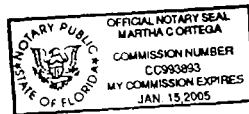

ANDREW NEEDLE

BEFORE ME, the undersigned authority, personally appeared ANDREW NEEDLE, who is personally known to me and who, upon being first duly sworn according to law, deposes and says that he executed the foregoing.

SWORN TO AND SUBSCRIBED before me this 20th day of September, 2001.


Notary Public, State of Florida

My Commission Expires:



ANDREW NEEDLE

CURRICULUM VITAE

Office Address: 1401 Brickell Avenue, Suite 900
Miami, Florida 33131

Office Telephone: (305) 530-0000

Office Fax: (305) 530-1919

Born: New York, New York
April 7, 1953

Member: Needle Gallagher & Ellenberg, P.A.
Miami, Florida

Former Associations: Spence, Payne & Masington, P.A. (1977-78)
Spence, Payne, Masington & Grossman, P.A. (1978-1984)
Spence, Payne, Masington, Grossman & Needle, P.A. (1984-1988)
Spence, Payne, Masington & Needle, P.A. (1988-1994)
Spence, Payne, Masington, Needle & Leeds, P.A. (1994-1995)
Needle & Gallagher, P.A. (1995)
Needle Gallagher & Areces, P.A. (1995-1998)
Needle Gallagher Areces & Ellenberg, P.A. (1998-1999)

Certification: Board Certified as a specialist in Civil Trial
Law by the Florida Bar, June 1991

Courts: Admitted to Florida Bar 1977; admitted to United States District Court,
Southern District of Florida; admitted to United States District Court,
Middle District of Florida; admitted to United States Court of Appeal,
Fifth Circuit; admitted to United States Court of Appeal Eleventh
Circuit; admitted to United States Supreme Court

Preparatory Education: Cornell University, Ithaca, New York - Bachelor
of Science, June 1974

Legal Education: University of Miami, Coral Gables, Florida. Juris Doctor
cum laude May 1977

Fraternities: Phi Kappa Phi; Phi Delta Phi; Sigma Alpha Mu

Member: American Bar Association (Litigation Section; Insurance, Negligence

& Compensation Law Section including appointment to Medicine and Law Committee, 1996)

Association of Trial Lawyers of America

Academy of Florida Trial Lawyers (EAGLE; Medical Malpractice Task Force 1994-)

American Board of Trial Advocates

Dade County Bar Association (Young Lawyers Section; Assistant Chairman, Circuit Court, General Jurisdiction Committee, 1979-1980; Assistant Chairman Judicial Reception Committee, 1979-1980; Board of Directors 1981-1983)

Florida Bar Young Lawyers Division (member Legal Education Committee 1978; Board of Governors 1983-1987; Chairman ABA/YLS Liaison Committee 1985; member President's Preferred Committee 1985; Assoc. Chairman Scholarship Committee 1986).

Florida Bar (Board of Governors 1997- ; President's Special Commission on Advertising, 1987-89; Member Grievance Committee 11th Judicial Circuit, 1987-88).

Dade County Trial Lawyers Association

Author:

Outline of case law interpreting Florida Statute §768.44 - Medical Mediation Statute, Academy of Florida Trial Lawyers, 1979 Legislative Seminar

"Post Trial Motions," Florida Civil Trial Practice, Chapter 18, 3rd Edition, 1984; 4th Edition, 1990; and 5th Edition, 1998

"Shadow Juries Won't Keep You in the Dark",
Miami Review, March 5, 1990

"An Ill-Conceived Brainstorm: State Legislators Enact Law Imposing Legal Inequities", Miami Review, August 23, 1991

"Malpractice Litigation: Views of A Plaintiff's Attorney", Caduceus Newsletter, Spring 1992

"Effective Use of Technology in Preparing and Trying Cases: An Historical Perspective and Comparison", The Florida Bar News, January 15, 1996.

Lecturer:

Academy of Florida Trial Lawyers - "Negligent Security" December 1986

Academy of Florida Trial Lawyers - "Current Thoughts on the Death on the High Seas Act", December 1987

Academy of Florida Trial Lawyers - "Admissibility of Prior and Subsequent Incidents", Tampa/Miami, May 17 & 18, 1990

Academy of Florida Trial Lawyers - "Medical Malpractice Pre-suit Screening: Pitfalls and Opportunities", Miami, November 2, 1990

Academy of Florida Trial Lawyers -
"Fighting Medicare/Medicaid Liens and
Other Such Nuisances", December, 1990

Academy of Florida Trial Lawyers -
"Handling Blue Cross-Blue Shield Rights,"
Orlando/Ft. Lauderdale, April 25 & 26, 1991

Academy of Florida Trial Lawyers- "Florida's Hospital Review Committee Privileges: A Chinese Wall Against Responsibility", December, 1993

National Education Network- "Trying the Auto Accident Case", Miami, February, 1994

Academy of Florida Trial Lawyers- "Group Health Carrier Subrogation Rights or Rights of Reimbursement", Annual Convention, November, 1994

Academy of Florida Trial Lawyers- "The Good Samaritan Act's Emergency Room Provisions- Samaritans and Goodness Have Nothing to Do With It", December, 1994

Academy of Florida Trial Lawyers- Demonstration of Jury Selection Techniques, 1994 Annual Convention, November, 1994

Academy of Florida Trial Lawyers- "The Legal Aftermath of *Fabre v. Marin* and Strategies for Settlement and Trial", December, 1994

Academy of Florida Trial Lawyers- "Group Health Insurance Liens", March, 1995

The Florida Bar- "Effective Use of Technology in Preparing and Trying Cases- An Historical Perspective and Comparison", Annual Convention, June, 1995

Academy of Florida Trial Lawyers- "Group Health Carrier Subrogation Rights and Rights of Reimbursement: General Legal Principles, Pitfalls, Suggestions for Negotiating, Strategies for Releases and Settlements", March, 1996

Lorman Education Services- "Insurance Litigation in Florida- Health Insurance Subrogation Rights and Rights of Reimbursement", November, 1996

Academy of Florida Trial Lawyers- "Florida's Collateral Source Statute", March, 1997

National Bar Association/Women Lawyers Division Dade County Chapter- "Preparing and Litigating the Personal Injury or Wrongful Death Case", March, 1998

Academy of Florida Trial Lawyers- "Group Health Carrier Subrogation Rights and Rights of Reimbursement", March, 1998

Coral Gables Bar Association- "Medical Malpractice: The Myth of the Frivolous Lawsuit", June, 1998

Association of Trial Lawyers of America (Paralegal Affiliate Group of South Florida)- "Basic Steps in the Medical Malpractice Case", September, 1998

Dade County Trial Lawyers' Association- "How to Prepare for & Conduct Cross Examination of Defense Experts", Masters of the Courtroom IV, November, 1998

Dade County Trial Lawyers' Association- "Direct Examination of the Plaintiff", Masters of the Courtroom V: A Mock Trial, October, 1999

Lorman Education Services- "Auto Insurance Law and Accident Litigation in Florida- Discovery and Pretrial Preparation", October, 1999

National Business Institute- "Medical Malpractice in Florida", November, 1999

Lorman Education Services- "Health Insurance Subrogation Rights and Rights of Reimbursement", January, 2000

Lorman Education Services- "Auto Insurance Law and Accident Litigation in Florida- Discovery and Pretrial Preparation", October, 2000

Academy of Florida Trial Lawyers- "The Current Effects of the Collateral Source Statute 768.76", March, 2001

National Business Institute- "Evidence and Hearsay in the Florida Courtroom", March, 2001

Consultant: Editorial Consultant - Matthew Bender Law Books:
Florida Tort Law Series 1987

Miscellaneous: "Trial Talk: Maritime Personal Injuries
and Pleasure Boat Liability," WLRN (Dade County
Public Television), March, 1991

"Professional Profiles", WVCG, Miami, May, 1992

Certified Instructor of Insurance Education, State of Florida, October 10, 2000; Instructor #948003 (Personal Lines, Commercial Lines, Risk Management Education)

Named One of South Florida's Top Attorneys in the area of "Personal Injury" by *Miami Metro Magazine*, January, 2001

Areas of Practice
and Experience:

Medical Malpractice; Construction Related Injuries and Deaths; Motor Vehicle Negligence; Negligent Security; Premises Liability; Products Liability; Railroad Injuries and Deaths; Aviation Litigation; Civil Rights Violations Resulting in Injuries and Death; Insurance Litigation; Maritime Personal Injury and Wrongful Death