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Page printed from: *Daily Report*

Back to Article

DLA Piper denies overbilling, gives talking points to lawyers in wake of criticism

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DLA Piper responded yesterday to allegations by a former client that internal firm emails obtained through discovery show DLA engaged in fraudulent overbilling.

The law firm in a public statement said: "We hold ourselves to the highest legal and ethical standards. The behavior as described is unacceptable to DLA Piper and our clients. The emails were in fact an offensive and inexcusable effort at humor, but in no way reflect actual excessive billing."

Meanwhile, DLA management sent a memo to the firm's attorneys detailing points to convey to clients. "While we will make no effort to defend the foolish emails generated by the lawyers involved in this matter, we will defend vigorously the firm's track record of delivering high-quality legal services at a fair price, including the reasonable fees generated in the matter in question," according to the memo sent to the *New York Law Journal*.

Roger Meltzer, DLA Piper United States cochair, said in an interview that DLA attorneys were answering calls from clients yesterday and others reached out to in-house counsel on their own.

DLA's response comes a day after allegations surfaced in *DLA Piper v. Victor*, 650374/2012, in which the firm's former client, Adam Victor, says that court exhibits show DLA attorneys discussing deliberate overbilling on his case. In one 2010 email, a then-DLA attorney refers to a "churn that bill, baby!" approach and says "that bill shall know no limits."

The exhibits are part of litigation initiated by DLA against Victor for failure to pay $679,00 in past due legal bills. Victor filed cross claims, alleging a "sweeping practice of over-billing" (*New York Law Journal*, March 26).

DLA was hired in April 2010 by Project Orange Associates, which was owned by Victor, to handle its bankruptcy. The firm was later disqualified due to a conflict.

A preliminary conference on discovery deadlines is expected Thursday before Justice Ellen Coin (See Profile) and DLA's answer to Victor's latest salvo is due next week.

Meltzer said no clients have cut off ties as a result of the exposure of the emails and he believed the firm would not suffer a loss of revenue or client relationship.

Meltzer, a member of the board of directors of ALM, the Law Journal's parent company, insisted the firm has not overbilled anyone, noting the case in which the emails were filed was a collection lawsuit. He also said the firm regards the email traffic as inappropriate and does not condone it.

One email said "I hear we are already 200K over our estimate — that's Team DLA Piper!" and "DLA seems to love to low ball the bills."

Meltzer insisted that "none of those emails reflect the firm's culture."

"Our firm culture is providing the highest conceivable legal standards and services" at fees that are appropriate and fair as determined between the client and the firm, he said, adding the comments have "nothing to do with policies of the firm or ethical standards" in how it provides legal services.

"Every professional organization needs to be vigilant about its professional standards and this experience will undoubtedly require us … to reaffirm and be ever more vigilant," Meltzer said.

Clients 'enormously supportive'

DLA Piper will host an internal firmwide video conference on Wednesday to address the emails and to reaffirm the firm's principles.

"I don't think this is a policy issue. I think this is an issue of unfortunate banter between some associates that has come out," he said. "We have come too far with quality relationships [with clients] … for people to believe this is the DLA Piper way."

Clients have been "enormously supportive," and know the emails are not related to the firm's standards, performance or billing practices, he said.

By late Tuesday, Meltzer said, he had not received one comment from a client other than one who quipped, "you can't be having a good day."

The three attorneys who wrote the emails have left the firm, Meltzer said.

In Victor's case, the firm believes it provided legal services that ought to be paid for. He said DLA wouldn't sue a client "if we were not confident in the appropriateness of a bill."

Among the points made in the internal memo, the firm said, attorneys should convey that the "emails were in fact an offensive and inexcusable effort at humor but in no way reflect actual excessive billing."

It should also be conveyed that "our bills and billing practices undergo the most sophisticated reviews and audits by clients who employ such techniques as a standard practice in connection with outside counsel billings," the memo said.

Legal consultants and in-house counsel said the content of the emails feed into clients' worst nightmares.

Susan Hackett, CEO and CLO of Legal Executive Leadership and former general counsel at the Association of Corporate Counsel, said, this issue is not only about DLA. "It's about the worry that this is every firm," she said.

She said the claim alleged in the court papers "undermines the trust that is critical to every in-house counsel-outside counsel relationship." Addressing how in-house counsel would react, she said the claims raise "their worst suspicions" and "it's going to make them think twice about every large bill they see now."

Leigh Dance, a consultant to global corporate counsel, said the claims are "a few giant steps backwards for inside-outside counsel partnering. You just wince to hear this kind of banter between lawyers in a high quality global firm."

"One example does not make a rule. Outside counsel have made huge progress to flex to corporate buyers' demands for value. This story won't change that, but it certainly underscores the importance of a good working relationship between the client and the law firm team," Dance said.

Lisa Lerman, a law professor at Catholic University of America in Washington who has written on legal fees, said in a statement that legal billing fraud is a "pervasive problem" in the American legal profession.

Many firms, she noted, have created an ethical infrastructure, including policies, training and advisory services, that should make billing fraud less common.

Christine Simmons writes for New York Law Journal*, a* Daily Report *affiliate.* Corporate Counsel*, also a* Daily Report *affiliate, contributed to this report.*