

Attorney Fees

Drinker Biddle Wins \$1.78M Bill Battle; Firm Clocked 5,225 Hours in 3 Months

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By [Martha Neil](#)

Drinker Biddle & Reath has won a \$1.78 million award from a Pennsylvania state-court jury in a hard-fought legal bill battle that bared ordinarily confidential fee details in a bet-the-company patent litigation case.

It all began in 2006, when AgriZap Inc. retained the Philadelphia-based firm to handle a patent dispute concerning its "Rat Zapper," after the case was transferred to the Eastern District of Pennsylvania with a trial looming. Led by partner Gregory Lavorgna, an approximately 35-member team of lawyers and paralegals billed 5,225 hours on the case over three months as they prepared on an expedited basis for the trial, recounts the [Legal Intelligencer](#) in a lengthy article reprinted in *New York Lawyer* (reg. req.).

Because the company couldn't afford to pay all of its legal costs at the time they were incurred, an unusual fee deal was struck in December 2006. If AgriZap lost, it would have 18 months to pay the Drinker Biddle bill. And, if the case was a trial winner, the law firm would get treble its legal fees, plus costs.

In fact, AgriZap won a \$2.7 million jury verdict, turning down a subsequent settlement offer from the defendants for \$2.2 million plus continuing royalty payments. Then, on appeal, the patent was found to be unenforceable, reducing the award on a still-surviving fraud verdict to \$1.275 million, the article reports.

Meanwhile, Drinker Biddle's trebled bill arrived. It was for nearly \$5 million—an amount far higher than AgriZap apparently had expected. Attorneys for the law firm and its ex-client disagree about why they weren't able to settle the fee dispute, which both sides say they attempted to do.

Under the fee agreement, the law firm was apparently entitled to payment of triple its hourly charges regardless of how much the client won at trial. And Drinker Biddle for some time attempted to collect the full amount, although it eventually reduced the total it sought in the bill battle to the firm's actual hourly charges and costs, according to attorney Alan Cotler of Reed Smith, who represented AgriZap.

On the law firm's side, were attorneys Dean Phillips and Deborah Simon of Elliott Greenleaf & Siedzikowski. The court upheld the fee agreement, and the jury awarded Drinker Biddle exactly what it sought, Phillips tells the legal publication. The fee agreement, he adds, was proposed by the president of AgriZap, who himself is a lawyer.

However, it appears that the bill battle could be revving up for at least another round or two. In motions for post-trial relief, AgriZap is contending, among other arguments, that the law firm breached its fiduciary duty by entering into an unfair fee agreement and that the jury was not properly instructed to consider the reasonableness of the amount sought, the *Legal Intelligencer* reports.

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