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4 Tips For Using AI To Max Fee Awards In NY Lease Disputes

By **Allyson McKinstry, Eryn Howington and Emily Strickland** (August 11, 2026, 2:45 PM EDT)


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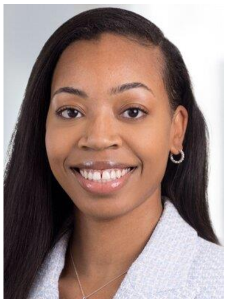
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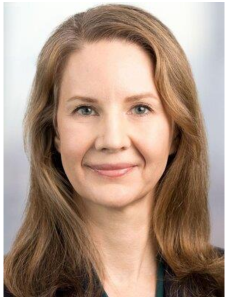
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On June 1, Part 161 of the New York State Unified Court System rules took effect, permitting attorneys to use artificial intelligence tools in preparing court filings with no mandatory disclosure requirement.

However, any attorney who does so must independently verify the filing contains no fabricated cases, statutes or other material, and certify as much by signing, or face potential sanctions.

Part 161 arrives as AI tools are increasingly deployed in litigation, including in preparing fee applications.

Fee-shifting provisions are common in commercial leases. But because New York follows the American Rule (i.e., each party bears its own attorney fees absent a contractual, statutory or court rule exception), what is recoverable depends on the scope of the fee-shifting clause, the adequacy of billing records and the reasonableness of hours claimed, as articulated in the New York Court of Appeals' 1986 opinion in Matter of A.G. Ship Maintenance Corp. v. Lezak.[1]

Often, fee-shifting provisions are not analyzed until a dispute ends, when a party must prepare a fee application under tight deadlines from billing records not maintained with fee recovery in mind. The result is costly preparation work and avoidable fee reductions. AI tools can materially reduce those costs and improve the quality of fee applications.

This article provides guidance on maximizing fee awards in commercial leasing disputes using AI tools while remaining compliant with Part 161 and the ethical obligations it reinforces.

Fee Provisions Under New York Law

New York courts require clear intent to shift fees and will construe ambiguous clauses against the party seeking fees.[2] Courts strictly construe contractual fee-shifting provisions and will not infer fee shifting from general indemnification language or broadly worded covenants.[3] Examples of types of fee-shifting clauses include the following:

- Prevailing party clauses, which typically encompass all disputes arising out of or in connection with a commercial lease but are still subject to apportionment, meaning fee recovery will be limited to time spent on issues a party prevailed on;[4]
- Enforcement-only clauses, which are narrower and may exclude declaratory judgment actions, tort claims and formation disputes;[5]
- Default or collection clauses, which are triggered only upon a defined default, which must be first established;[6] and
- Defined-scope clauses, which restrict recovery to fees incurred in only the specified proceeding, e.g., limited to unlawful detainer proceedings.[7]

In addition, New York courts will not award certain categories of fees unless clearly stated in the clause.

Prelitigation fees require language encompassing presuit work, per the Supreme Court of the State of New York, Appellate Division, First Judicial Department's 1999 decision in Chase Manhattan Bank NA v. Each Individual Underwriter Bound to Lloyd's Policy No. 790/004A6A0001.[8]

So-called fees on fees require unmistakably clear authorization.[9] Recovery of appellate fees depends on the circumstances.[10]

Understanding at the outset of any dispute what types of claims or categories of fees are recoverable under your clause enables you to make adjustments so that billing records are maintained in a similar manner (i.e., phase codes, task codes or key words in time entries to readily identify fees that are recoverable versus excluded).

Common Reasons Fees Are Reduced

New York courts determine a fee award by applying the lodestar method: reasonable hours expended multiplied by a reasonable hourly rate.[11]

Reasonable rates are measured against prevailing market rates in the relevant community for lawyers of comparable skill, experience and reputation.

In assessing reasonableness, courts, such as the Second Judicial Department in 2015's Lancer Indemnity Co. v. JKH Realty Group LLC, have considered factors including the time and labor required, difficulty and novelty of the issues, a lawyer's experience and reputation, results obtained, and customary fees for similar services.[12] The moving party bears the burden of proof.[13]

In New York, reasonable hourly rates vary significantly depending on case type. Rates in commercial lease disputes have ranged from $275 per hour for a senior attorney and $250 per hour for a junior attorney in state court,[14] and up to $1,915 per hour for a partner and $901 per hour for a junior associate in federal court.[15]

Courts also frequently reduce fee awards based on the adequacy of time records, such as block billing and vague entries, clerical tasks billed at attorney rates, and excessive or duplicative staffing.

For prevailing party clauses, absent time records that adequately segregate time spent on specific issues or motions, New York courts routinely apply flat percentage reductions where a party achieves only partial success. Reductions of 20% to 30% are common, as seen in the U.S. District Court for the Northern District of New York's 2023 findings in Franco v. Gunsalus.[16]

Early research on what courts consider reasonable hourly rates in similar actions and sufficient timekeeping records can assist with making staffing and matter management decisions that will minimize fee reductions down the road.

Compliance With Part 161

Practitioners should be mindful of practical compliance points. Individual judges retain discretion to impose stricter AI requirements under Title 22 of the New York Codes, Rules and Regulations, Section 161.4, so counsel must check the assigned judge's standing orders.

AI-assisted filings also must independently comply with the New York Rules of Professional Conduct, including Rule 3.3 (prohibiting false statements of fact or law to tribunals) and Title 22 of the New York Codes, Rules and Regulations, Section 130-1.1 (prohibiting frivolous arguments).

Under Title 22 of the New York Codes, Rules and Regulations, Section 161.3, any attorney using AI to prepare a filing must carefully review it and ensure it contains no fabricated or fictitious cases, statutes or other material.

By signing, the attorney certifies that such review was conducted. Failure to comply may result in sanctions or other remedial action. In the fee application context, this means that AI-generated lodestar calculations, billing summaries and case citations must each be verified against source records and primary legal authority before submission.

Tips to Maximize Your Fee Recovery

The data adage of "garbage in, garbage out" particularly applies here because the accuracy of generative AI outputs depends on the accuracy of inputs. GenAI tools offer the greatest value when integrated at the start of a matter to ensure recordkeeping aligns with the requirements to support a fee award.

Even where that is not possible, GenAI tools remain useful in analyzing records to expedite preparation of a fee application. Consider the following tips.

1. Consider fee recovery when a matter opens.

It is critical to analyze fee-shifting clauses before significant work begins. GenAI tools can compare fee-shifting provisions across related lease documents for consistency, flag scope limitations and check clause language against known New York judicial interpretations of similar provisions.

You as the attorney should verify legal research, and then GenAI tools can efficiently perform the comparison.

It is equally important to set up an efficient billing structure to avoid commingling recoverable and nonrecoverable time. Client-required phase or task codes may not match the scope of the fee-shifting clause, and additional codes may be necessary to break out work that falls outside the clause's scope.

Once time is commingled, disaggregating can be extremely difficult, as time records may not contain necessary key words for AI to perform an accurate review. Deploying GenAI early as an audit tool can flag entries outside recoverable scope, allowing corrections midmatter rather than retroactively.

2. Establish good timekeeping practices.

Client billing requirements typically dictate timekeeping practices, which may differ from what New York courts require to support a fee award. Adjusting practices at the outset based on your clause and the law will improve your data's utility and help maximize recovery.

These practices should be communicated to every timekeeper to ensure consistency.

Best practices include avoiding block-billing that combines unrelated tasks; using task-oriented descriptions; avoiding descriptions disclosing privileged or strategic advice that requires redaction; and segregating separate issues, tasks or claims.

GenAI tools can help enforce these standards across a large billing record. Prompting a GenAI tool to review entries for block billing, vague descriptions, clerical tasks billed at attorney rates, and entries outside the clause's scope allows counsel to identify and correct deficiencies before you submit a bill to a client.

3. Verify data is accurate and useful.

Evidence to support a fee application is all about the data. The lodestar calculation requires organizing voluminous billing data by timekeeper, rate, task and litigation phase, all within tight postjudgment deadlines (e.g., 14 days under Federal Rule of Civil Procedure 54(d)(2); by court order in New York state court).

Using phase and task codes creates structured data that tracks major litigation stages (i.e., pleadings, discovery or trial), allowing time to be summarized by phase or claim without reviewing each entry.

Retroactively applying codes is time-consuming and error-prone. GenAI tools can suggest categories based on entry descriptions, but counsel must supply applicable date ranges and category definitions.

Use spreadsheet exports from billing systems as the preferred format. Where invoices arrive in PDF format, AI can categorize entries and build tables, but outputs must be verified against source records. Prompt GenAI tools to preserve time entry descriptions verbatim rather than summarizing entries, and consider evaluating outputs for a small sample before processing the full record.

Do not defer a privilege review. Since billing records filed as exhibits may disclose privileged information, they must be reviewed and redacted appropriately. GenAI tools can help flag potentially privileged entries for attorney review, but counsel must make the final privilege determination.

4. Use AI to reduce the cost of organizing data for fee application.

Fee applications require a brief addressing entitlement to fees, reasonableness of rates and hours, and a lodestar calculation. AI is particularly useful here to help organize and analyze billing data, minimizing preparation time.

Some GenAI tools may also assist with data presentation in charts and graphs. This is critical where the clause does not cover fees incurred for fee applications.

Although New York does not require fee experts, they are useful in complex cases.[17] A qualified expert can testify to prevailing market rates, assess the reasonableness of hours, and rebut rate or staffing challenges with independent, data-driven opinions. AI remains useful in preparing and organizing data, thereby reducing expert costs.

Conclusion

Fee applications are particularly common in commercial lease disputes, and AI tools should be incorporated early and routinely to maximize fee recovery. This is not only the trend but also the expectation. Just be sure to check any AI-produced work before using it!

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[1] See Matter of A.G. Ship Maintenance Corp. v. Lezak, 69 N.Y.2d 1 (1986).

[2] See Hooper Associates, Ltd. v. AGS Computers, Inc., 74 N.Y.2d 487, 491-492 (1989).

[3] Id. at 491-92; Gotham Partners, L.P. v. High River Ltd. Partnership, 76 A.D.3d 203, 209 (1st Dep't 2010) (third-party indemnification language does not extend to prevailing party fees unless expressly stated).

[4] See, e.g., Moore v. Beautiful Spaces, LLC, 146 N.Y.S.3d 45, 46 (2021); see also Nestor v. McDowell, 81 N.Y.2d 410 (1993) (plaintiff only entitled to attorneys' fees with respect to the central relief sought).

[5] See Hooper, 74 N.Y.2d at 492 (strictly construing clause providing for fees "in connection with the enforcement" of the agreement and holding it did not reach a breach of contract counterclaim); NetJets Aviation, Inc. v. LHC Communications, LLC, 537 F.3d 168, 175 (2d Cir. 2008) (applying Hooper and holding enforcement-only language does not encompass claims sounding in declaratory relief).

[6] See e.g., Cier Indus. Co. v. Hessen, 526 N.Y.S.2d 77, 79 (1988) (lease requiring tenant to pay landlord's attorneys' fees incurred by reason of tenant's default); Levine v. Infidelity, Inc., 2 A.D.3d 691, 692 (2d Dep't 2003) (mortgage note requiring payment of collection costs and attorneys' fees upon default).

[7] See Kamco Supply Corp. v. On the Right Track, LLC, 149 A.D.3d 275, 279 (2d Dep't 2017)(lease authorizing attorneys' fees incurred in "summary proceedings" did not extend to related plenary action).

[8] Chase Manhattan Bank, N.A. v. Each Individual Underwriter Bound to Lloyd's Policy No. 790/004A6A0001, 258 A.D.2d 1, 7 (1st Dep't 1999).

[9] 546-552 West 146th Street LLC v. Arfa, 99 A.D.3d 117 (1st Dep't 2012).

[10] U.S. Underwriters Ins. Co. v. City Club Hotel, LLC, 3 N.Y.3d 592 (2004).

[11] Flemming v. Barnwell Nursing Home & Health Facilities, Inc., 56 A.D.3d 162, 165 (3d Dep't 2008), aff'd, 15 N.Y.3d 375 (2010); Matter of Freeman, 34 N.Y.2d 1, 9 (1974).

[12] Lancer Indem. Co. v. JKH Realty Group, LLC, 127 A.D.3d 1035, 1036 (2nd Dep't 2015).

[13] Id.

[14] Franpo Realty LLC v. Power Furniture, Inc., 127 N.Y.S.3d 235 (N.Y. Civ. Ct. 2019).

[15] Cerco Bridge Loans 6 LLC v. Schenker, No. 23 CIV. 11093 (DEH), 2026 WL 710363, at *5 (S.D.N.Y. Mar. 13, 2026).

[16] See, e.g., Franco v. Gunsalus, 2023 WL 8106306, at *11 (N.D.N.Y. Oct. 20, 2023), aff'd, 2025 WL 1260869 (2d Cir. May 1, 2025).

[17] See Fox Indus., Inc. v. Gurovich, 60 A.D.3d 546, 548 (1st Dep't 2009) (expert testimony not required where court familiar with prevailing rates).