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February 20, 2006

VIA OVERNIGHT MAIL

Hon. Janet N. Poston
Hennepin County Government Center
300 South Sixth Street
Minneapolis, MN 55487

Re: Connecticut Specialty Ins. Co. v. Pinnacle Corp., et al., CT-03-015259

Dear Judge Poston:

I am an attorney in private practice in Chicago. Between August 2000 and October 2005, I was a litigator in the Chicago office of Holland & Knight LLP. Between August 2002 and December 2004, I worked nearly full-time on one lawsuit -- The Rottlund Company, Inc. v. Pinnacle Corporation, et al., 01-CV-1980, which was pending in the United States District Court for the District of Minneapolis before Judge David S. Doty. Along with several of my Holland & Knight colleagues, I represented Pinnacle Corporation. I was one of the lawyers who ultimately tried the case before Judge Doty in November and December 2004.

I never appeared before Your Honor in the Connecticut Specialty v. Pinnacle Corporation litigation, but I was recently reminded that I was admitted *pro hac vice* in this case in September 2004, while I was still with Holland & Knight. I recently learned, too, that there is an evidentiary hearing in this case at the end of the month. It is my understanding that the hearing involves the reasonableness of certain attorneys' fees. It is also my understanding that some of my former colleagues may testify in that hearing, though I have not spoken to those individuals in over two months.

I write today because this Court should know of my concerns relating to the bills that Holland & Knight submitted to Pinnacle Corporation during the course of the Rottlund litigation. In early 2005, I first reviewed some of those bills in connection with a fee petition that was being prepared. I stopped work on that project after I observed a troubling pattern. The hours that the billing attorney -- in this case, Edward F. Ryan -- entered on the bills were frequently inflated far beyond the hours that the timekeeping attorneys had actually recorded on their computerized timesheets. In this letter, I offer the Court just a few examples of this practice.¹

¹ If the exhibits I have attached to this letter have already been produced in discovery, the information contained in my letter will probably not be news to anyone.

I began working on this case on August 7, 2002, while I was still an associate with the firm. Exhibit A is a printout from the Holland & Knight Elite Webview database that reflects my actual time entries (without narrative descriptions) for the Rottlund litigation between August 7 and August 28, 2002. Exhibit B is the bill that Mr. Ryan sent the client on September 9, 2002 for work that H&K did in August 2002. Compare my actual time entries for August 7-9 and August 13-16 with the hours that the client was told I worked on those dates:

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
August 7	.2	6.5
August 8	3.5	6.5
August 9	3.4	6.5
August 13	1.5	6.5
August 14	1.5	6.5
August 15	5.8	6.8
August 16	3.5	6.5
Total	19.4	45.8

For my first seven days of work on the case, the client was billed for 26.4 hours of "phantom time" at my then-hourly rate of \$250. This amounts to a \$6,600 overcharge.

My colleague and former partner Scott Petersen began working on this lawsuit at about the same time I did. Exhibit C is a two-page printout (printed on two separate dates) from the same database. It reflects Mr. Petersen's actual time entries (without narrative descriptions) for the Rottlund litigation between September 3 and September 27, 2002.² (The time entry for September 14 appears on both pages of Exhibit C.) Exhibit D is the bill that Mr. Ryan sent the client on October 9, 2002 for work that H&K did in September 2002. Compare Mr. Petersen's actual time entries for September 3-6, 9-14, 16-19, and 23-27 with the hours that the client was told Mr. Petersen worked on those dates:

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
Sept. 3	3.7	6.7
Sept. 4	3.6	6.6
Sept. 5	2.9	6.9
Sept. 6	6.1	8.1
Sept. 9	3.1	7.1
Sept. 10	7.2	7.2

² I do not have a copy of the pre-bill printout reflecting Mr. Petersen's actual time billed (if any) for the last three days of September 2002. The client was billed for 9.4 hours of work on September 28 and 8.2 hours of work on September 30. Mr. Petersen's actual billed time can be found in both Holland & Knight's Elite database and its Carpe Diem database.

Sept. 11	3.8	7.8
Sept. 12	2.9	7.9
Sept. 13	3.3	8.3
Sept. 14	6.2	7.2
Sept. 16	5.7	7.7
Sept. 17	4.8	7.8
Sept. 18	1.6	7.6
Sept. 19	2.7	6.7
Sept. 23	1.8	6.8
Sept. 24	2.3	8.3
Sept. 25	.6	8.6
Sept. 26	1.2	7.2
Sept. 27	3.8	8.8
Total	67.3	143.3

Mr. Petersen's "phantom" hours for the first twenty-seven days of September 2002 (76 hours) exceeded the amount he actually billed during that period (67.3). For the days listed above, the client was over-billed \$20,520, based on Mr. Petersen's then-hourly rate of \$270.³

By March 2003, there was a new twist to the billing for Mr. Petersen's work. Exhibit E is another printout from the Elite Webview database. It reflects Mr. Petersen's actual time entries (without narrative descriptions) on the Rottlund litigation for March 2003. (It also includes his time for the first eight days in April 2003.) Exhibit F is the bill that Mr. Ryan sent the client on April 8, 2003 for work that H&K did in March 2003. Mr. Petersen only entered time for four days in March 2003 (March 7, March 11-12, and March 27). Those four time entries totaled two hours. The bill sent to the client, however, contained twenty-one time entries for Mr. Petersen's March 2003 work on the file. The time for the four dates on which Mr. Petersen actually worked was significantly inflated.

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
Mar. 7	.4	5.7
Mar. 11	.5	3.5
Mar. 12	.6	3.6
Mar. 27	.5	5.3
Total	2.0	18.1

³ September 2002 was not an aberration. A comparison of Holland & Knight's pre-bills and bills for work done on this case during the last three months of 2002 should reflect that Mr. Petersen's time was overstated by more than 200 hours.

The time for the seventeen dates on which Mr. Petersen did no work on the file (March 3-6, March 10, March 13-14, March 17-19, March 21, March 24-26, March 28, and March 31) was simply crafted – along with the generic narratives – from whole cloth.

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
Mar. 3	0.0	5.1
Mar. 4	0.0	4.9
Mar. 5	0.0	5.5
Mar. 6	0.0	5.2
Mar. 10	0.0	5.3
Mar. 13	0.0	5.8
Mar. 14	0.0	5.9
Mar. 17	0.0	5.0
Mar. 18	0.0	5.1
Mar. 19	0.0	5.3
Mar. 20	0.0	5.3
Mar. 21	0.0	5.2
Mar. 24	0.0	5.2
Mar. 25	0.0	5.4
Mar. 26	0.0	5.4
Mar. 28	0.0	5.1
Mar. 31	0.0	5.1
Total	0.0	89.8

Mr. Petersen's "phantom" hours for March 2003 (105.9) resulted in an overcharge to the client of \$30,181.50, based on Mr. Petersen's then-hourly rate of \$285.

The March 2003 bill also contained overcharges for Mr. Chris Carmichael, an associate who worked on the file. Exhibit G is a printout from the Holland & Knight Elite Webview database that reflects Mr. Carmichael's actual time entries (without narrative descriptions) on the Rottlund litigation for March 2003. Compare Mr. Carmichael's actual time entries for March 3-6 with the hours that the client was told Mr. Carmichael worked on those dates:

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
Mar. 3	0.4	6.8
Mar. 4	0.4	6.8
Mar. 5	0.4	6.6
Mar. 6	0.5	6.5
Total	1.7	26.7

The client was charged for twenty-five "phantom" hours of Mr. Carmichael's time for March 2003. This resulted in an over-charge of \$4,875, based on Mr. Carmichael's then-hourly rate of \$195.

My own time was also inflated during March 2003, even though I was already working full-time on the case. Exhibit H is a multi-page printout from the Holland & Knight Elite Webview database that reflects my actual time entries (without narrative descriptions) for the Rottlund litigation for March 2003. Compare my actual time entries for five March dates with the hours that the client was told I worked on those dates:

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
Mar. 9	2.1	8.1
Mar. 12	2.2	7.2
Mar. 20	7.4	8.4
Mar. 27	8.4	9.4
Mar. 31	7.6	8.6
Total	27.7	41.7

The client was charged for fourteen "phantom" hours of my time for March 2003. This resulted in an over-billing of \$3,710, based on my then-hourly rate of \$265.

The March 2003 overcharges for my time, Mr. Petersen's time, and Mr. Carmichael's time total \$38,766.50. Holland & Knight's bill for professional services that month was \$83,172.00. The charges for "phantom time" represented 46.6% of that bill.

This practice of adding "phantom" time was still ongoing in late 2003. Exhibit I is the bill that Mr. Ryan sent the client on October 7, 2003 for work that H&K did in September 2003 (along with a couple of time entries for late August 2003). Exhibit J is a printout from the Holland & Knight Elite Webview database that reflects the actual time entries (without narrative descriptions) for Mr. Christopher Murdoch for both late August and September 2003. Mr. Murdoch is a partner in the firm, and he tried the case with me. Several of Mr. Murdoch's time entries were inflated when they appeared on the bill.

<u>Date</u>	<u>Actual time worked</u>	<u>Time billed to client</u>
Aug. 29	3.8	5.8
Sept. 3	2.7	6.7
Sept. 4	3.1	4.1
Sept. 8	2.1	6.1
Sept. 10	2.9	5.9
Sept. 12	5.6	6.6
Sept. 15	4.5	6.5

Sept. 22	4.9	5.9
Total	29.6	47.6

Mr. Murdoch's eighteen "phantom" hours on the October 7, 2003 bill resulted in an overcharge to the client of \$6,750, based on Mr. Murdoch's then-hourly rate of \$375.

These are isolated examples of the pervasive billing irregularities that occurred on this file. They are offered to show the pattern (which began on day one), the length of time it lasted, and the number of lawyers (at least four) whose time was inflated without their knowledge. A detailed comparison of the client bills and the actual attorney time records would be needed to establish the amount of the total overcharge, which is undoubtedly a six-figure sum. I did not conduct that analysis, nor do I have all of the documents needed to do it.

In early 2005, I raised my concerns about these billing irregularities with Holland & Knight's Loss Prevention Partner for the Chicago office. Roughly a week after raising the issue with that partner, I met with Mr. Ryan and listened to his explanation. I found it wholly unpersuasive. During my next several months at the firm I discussed my concerns with other partners who worked (or had worked) in Loss Prevention capacities in the Chicago office. I am unaware of any corrective and/or disciplinary measures taken by the firm with respect to these issues.

After raising ethical concerns about the billing practices of Mr. Ryan, who was formerly the Executive Partner of the firm's Chicago office (and who, in 2005, was a member of the firm's National Directors Committee), I thought it wise to begin looking for a new job. In October 2005, I resigned from the partnership at Holland & Knight LLP.

In November 2005, pursuant to In re Himmel, 125 Ill. 2d 531, 541 (1988), I raised my concerns about these billing practices with the Attorney Registration and Disciplinary Commission of the State of Illinois. It is my understanding that the ARDC is currently investigating the matter.

It is not easy for me to raise these issues with Your Honor. I bear no ill will toward any of the people or parties involved in this matter. I do not want these revelations to have any bearing on whether my former client is entitled to its defense costs, but I do not believe that an insurance company should have to pay for phantom legal fees. Pinnacle should recover those fees from Holland & Knight.

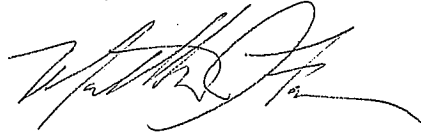
I also have no interest in allowing this matter to consume any more of my time than it already has. I am currently trying to balance the demands of a new job with the many responsibilities I have as a husband and a father. Just two months ago, my wife was diagnosed with breast cancer. She underwent a double mastectomy on January 11, 2006, and she began chemotherapy last week. That said, I know that I have obligations

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and responsibilities as a member of the bar. It is those obligations and responsibilities I am attempting to honor with this letter.

Should The Court need to reach me, my daytime phone number is 312.753.6641.
Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew I. Farmer". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Matthew I. Farmer

Enclosure
cc: Mr. Scott Renfroe, ARDC