

Is Your Firm Failing at Collections?



Some have argued that law schools do little to prepare one to become a practicing lawyer and do little to teach one how to effectively manage the processes of billing clients and collecting receivables.

As a result, most lawyers experience costly lessons ranging from tracking time based on clients' preferences to drafting client-friendly bills and collecting in full and in a timely fashion. For many lawyers, it isn't until they become a partner and are approaching compensation time that they truly realize the complexities of managing the financial aspects of a client relationship.

Just as often, many partners pay attention only up to the point of billing and ignore the need to collect from clients. This failure to collect is a painful and costly lesson that partners and law firms struggle to solve. Here are tips on how to manage clients and collect receivables.

MATTER INTAKE IS WHERE IT ALL BEGINS

Matter intake policies and guidelines might sound like bureaucratic mumbo jumbo, but they can prevent a lot of headaches and inefficiencies. Too many firms fail to communicate expectations to their partners. As a result, every partner sets their own standards and makes their own mistakes. For example, a firm could have guidelines that mandate the minimum fee expected from every client. Make it explicitly clear that all clients will get billed monthly and all clients are expected to pay their bills within 30 to 45 days. In addition, it helps if you attempt to get a fee deposit equal to X months of fees. Apply that deposit to the final invoice and not the first.

It is also beneficial to do an objective assessment to find out if the client has the ability and will to pay their bills. Has this client used and fired another law firm on this matter? Is this client reluctant to pay you a fee deposit? If they can't pay the fee deposit, how will they ensure they will pay you the full fee? If the client had previous matters in your firm, what are the payment patterns, what issues or scenarios have occurred for nonpayment of bills or reasons for write-offs? In the best-run firms, whether large or small, a person other than the primary lawyer, such as a management committee member or a practice group head, typically approves or disapproves all new clients and matters by looking at each

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individual scenario from the firm's point of view. The problem with many firms is that they implement this procedure in form, not function. If you have such a procedure in your firm, ask your leaders how many matters they reject. If their answer is zero, your firm has a policy in form, not function, and you are likely wasting time without producing results. Great firms routinely reject between five and 20 percent of all new clients.

ASK FOR RETAINERS OR DEPOSITS IN ADVANCE

Do your engagement letters ask for retainers or a fee deposit? Is it a meaningful amount? Is there a possibility or a clause in the engagement letter for replenishment?

Sometimes a client might not want to pay a retainer or deposit, or you might not want to ask for one. However, as a practice and a policy, make this a routine part of the client matter engagement process. Many partners feel that asking for a fee deposit is unrealistic, but it is likely their primary competitor routinely asks for, and gets, deposits from 50 percent or more of the same clients.

In many jurisdictions, the rules regarding applying fee deposits differ greatly from the application of disbursement deposits, so follow the relevant bar association rules.

EVERGREEN RETAINERS ENABLE SUCCESSFUL CLIENT MANAGEMENT

Evergreen retainers are one of the best ways to bring down your receivables, and they prompt frequent and healthy communication with clients. An evergreen retainer is simple: You receive the money upfront and require regular replenishments as all invoices get paid from the evergreen retainer. This is convenient for the client, as they do not have to send a payment for every bill. However,

you will want to ensure that you have the client's authorization to take money from the evergreen retainer to pay your bills. This will leave less room for disputes of your billing.

YOU ARE IN THE LEGAL-ADVICE-FOR-PAY BUSINESS; YOU ARE NOT A BANK

Unless it is discussed at the inception of the relationship, or at some early point during the matter, it is unreasonable to carry a nonpaying client for a lengthy period. You are not a bank to float the debt of the client. Lawyers are often surprised to find that, except in a few select circumstances, the bar does not expect you to give away your services to a nonpaying client.

CLIENT RELATIONSHIPS AND COMMUNICATION ARE KEY

Some firms assume client relationships exist only at the lawyer level, whereas the most successful firms with the happiest clients emphasize that those relationships also exist at other levels, including accounting. Frequent and open communication with the client through the right people in accounting leaves discussion channels open for billing and payment issues. Not only should the lawyer be in continual communication with the key client contact, but the accounting person helping the lawyer should also frequently communicate with the client's accounting office. Even if the key client contact forgets to mention problems with the bills to the lawyer, there will be information communicated from the accounting office to address any issues without delay. Adding a personal touch at several levels can make a significant difference. Seemingly small details such as remembering birthdays, family events, favorite shows or sports teams can create a favorable shift in the client's perception of the firm and its employees. This level of connection can make the difference between late and timely payments.

UNDERSTAND THE DIFFERENCE BETWEEN WORK YOU BILL FOR AND CLIENT RELATIONS

Clients love when a lawyer is not trying to fill their billable hours requirement at every interaction and cares enough to check in from time to time without billing for that effort.

DON'T WAIT TO COLLECT

While collecting sooner rather than later might not sound like the most earth-shattering advice, you would think it is a national security secret by the way most lawyers address the issue. As soon as a bill ages between 30 to 45 days, it is a good idea for you, or someone in your accounting department, to check in with the client. With most clients, the longer you wait, the more the value of your work dwindles, so get paid while the memory of your work is fresh on your client's mind.

ASK, AND YE SHALL RECEIVE

Don't be shy to follow up on your accounts receivable and bring it to the attention of the client. Many lawyers have a difficult time asking for payments owed to them. If you did the work and did a good job, you need to be paid for your services. Successful firms quickly determine each lawyer's skill set and comfort level with collections; if a lawyer is collection-shy, appoint someone else to do it.

MAKE SURE SOMEONE MINDS THE STORE

Is someone watching your book of business? The partners should be given the tools to do their jobs, and that means having someone they absolutely trust to manage payments made through their book of business. This could be a billing coordinator who knows the partner's book well or a unique individual entrusted to make decisions related to his/her book (not legal advice). Law firms can experience success if one individual for a

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lawyer's book of business interacts with the client, from welcoming them to the firm to checking in with them from time to time (from an administrative aspect).

HAVE A STRONG ONBOARDING PROCESS

Newly hired partners and associates should be acculturated to the firm from day one. If you are new to the firm, you want to bring your best habits and leave the not-so-good ones behind. If clients are following you to your new firm, now is the time for you to orient the client to pay their bills on time. Leave thoughts of "this is how I did it at my former firm" at your old firm, because, while your colleagues might not tell you, they will expect you to perform on the promises made on revenue. Firms should have a strong onboarding process where new partners and associates are educated on the firm's practice of billing and collections.

ALL LAWYERS SHOULD MONITOR ACCOUNTS RECEIVABLE

If you are a lawyer who is soon to be a partner, get in the habit of looking at your accounts receivable at least weekly. As you work a matter, pay attention to the bills that are aging, even if it is not your client. Most partners leave the responsibility of collections to the billing partner. Since

you all work together, this should be a collaborative effort. However, a billing partner should mentor young colleagues to manage the client someday. An internal collaborative team effort will bring you more success than working in isolation and obsessing about credit.

PRESENT YOUR BEST FACE

Don't let your staff act like a barbaric collection agency. The way you collect receivables can make or break a relationship with a client. Regardless of who is calling the client, build a close relationship from the moment you say "hello" to the point you bid farewell. It is a relationship of understanding and empathy: The client could be at an emotionally sensitive point because of the legal process and where they are on the case. Great staff can get you paid, but be sure the right staff with the right personalities call your clients. We are in an era where too many people send impertinent tweets or thoughtless SnapChat comments, and that could damage a lifetime of reputation and hard work. Bad staff will move on, but the burden of a bad collection experience is yours to bear forever.

BE GRACIOUS AND HUMBLE

When you receive payments, have you or your staff ever picked up the phone to say

"thank you" to your client? Doing so can go a long way. The next time your bill is received, it might go in the first check run and not to the bottom of the pile.

It is surprising how many lawyers don't understand how bills get paid by clients. They might think the decision to be paid is controlled entirely by their client contact or the general counsel, but, just as often, a clerk may have some latitude as to when to pay you. Once in a while (other than during end-of-the-year holidays), surprise your client accounts payable specialist, or the client's assistant, with a box of chocolates or other small gift. Even sending a simple, hand-written thank you note to your client after the conclusion of a matter will do wonders in terms of maintaining a positive relationship. Minor gestures such as these will drastically increase the odds of a client thinking of you when the next case comes along.

Customer service might start with your partners, but it is affected just as much by your billing and collections efforts. Collections need a special human touch. The more you customize it to match your clients, the more successful you will be in getting paid and getting more business! 



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