

Regarding Your Big Bill

While firms won't send out thugs to collect, they still want to be paid.



Law Firm Administration

A Special Report

By JAKE KROCHESKI

Through the years, lawyers have not focused on money that is owed to them—and what they should and should not do, and can and cannot do, to collect that money.

In fact, for lawyers there is now a stigma concerning collections, and that hampers their efforts to successfully collect the money their clients owe. Attorneys have developed an attitude that connects collections with a lack of professionalism. They, like other professionals, equate collections with sending nasty letters, making calls that demand payments, suing clients, and so on. In essence, this perception runs contrary to their professional conduct, which holds their clients' interests in the highest regard.

Collections in the legal culture are not black and white. Because nothing is absolute, lawyers have been conditioned to take a relaxed attitude in their collections efforts. This is largely due to a complex professional attitude that gives clients the constant benefit of the doubt, and in which clients do not see the importance of making payments a priority. Attorneys also do not realize that clients will take advantage of their professional relationship. Thus begins a vicious cycle. Lawyers are not vigilant in getting their clients to pay. The clients, as a result, are not quick to pay. The lawyers are slow to press their clients. And so on.

Consultants and business managers have for years urged law firms to act more like businesses. But the reality is that law firms are different from other businesses in many respects, particularly as they relate to receivables. In most businesses, when a customer decides to make a purchase, payment is expected upon receipt of that purchase. Or the purchase is made on credit or with a loan that requires a formal payment arrangement with a set amount of dollars to be paid in installments. Either way, if a payment is not made, the item could be taken back, or a customer could lose his right to purchase future items.

The business of buying legal services does not lend itself to

such strict purchase and payment rules. It often involves complicated transactions, equally complex business relationships, and disputed resolutions that require many hours of work at high billing rates, resulting in high bills to clients. Stopping work because a client does not pay is sometimes not an option because of ethical obligations.

But there is no denying that this problem is compounded by attorneys continuing to make mistakes in managing their accounts receivable. Smart clients take advantage of the fact that there are no clearly defined expectations. They pay slowly and infrequently, knowing law firms are not diligent about following up and pursuing collections.

The reality is that problems with collections within the legal profession are not a financial-management issue. It's all about effective practice management, which requires attorneys and law firms to manage their accounts receivable proactively. However good the firm's financial staff, it is ultimately the attorneys who are at the heart of the relationship. They are responsible for the success—or failure—of the collection efforts because it is they who steer the relationship with the client.

OVERCOMING MISCONCEPTIONS

Much of the success of efforts to improve collections practices hinges on the ability to change lawyers' attitudes regarding collections and teach them why it is necessary to keep bills from aging too long. This means attorneys need to start overcoming certain misconceptions, including the following:

- *Collection problems begin when receivables start aging past 90 days.* If bills have not been paid within 90 days, your collections problem has already grown to a significant size. Clients reason that if the firm has waited several months to try to collect unpaid bills, they can wait to pay them. They assume, with good reason, that they are in a better position to negotiate a discount. The longer a law firm waits to collect unpaid bills, savvy clients realize, the more likely the bills will end up being discounted—or written off altogether.

- *Past-due situations are caused by clients who do not want to pay their bills.* Actually, 90 percent of clients are perfectly willing to pay their bills, although many are dealing with cash-flow problems. Also, clients fall victim to “sticker shock,” which happens when a client expects to receive a bill of a certain size and gets a rude awakening when a larger invoice arrives.

- *Lawyers damage their relationships by asking clients to pay their bills.* Law firms lose clients by doing poor work or by failing to deliver client service, not by asking clients to pay their bills.

- *A collection staff or department is the key to efficient collection efforts.* Many law firms fail to evaluate their staff’s performance in collecting aging receivables. The collection staff is therefore left with little guidance as to what its collection responsibilities should be—and this does not necessarily include addressing and pursuing older, more difficult accounts more than 90 days old. Collection staff often ends up being responsible only for monitoring payment of ongoing clients, sending reminder statements, or providing accounts-receivable reports to attorneys. Although these duties are important, they do not address the more fundamental issues concerning collecting for complicated transactions and for client relationships that require more individual attention.

- *Clients will call if they have a problem with a bill.* Some clients will, in fact, be quick to call if they perceive a problem. Most, however, will not call. They might be uncomfortable talking about money; they might be totally confused by the bill and don’t know where to begin; or they might be unprepared to admit they do not have the means to pay.

- *It is effective to communicate through the mail with those who have not paid their bills.* The mail is far less effective than the telephone because a conversation allows you to have a dialogue about the bill. Besides, letters and reminder statements are more easily misplaced and avoided. If the client continues to receive reminder statements and still does not pay, chances are that there is an issue preventing payment. Even a brief, nonconfrontational telephone conversation should communicate to the client the urgency of the need to pay and allow you to learn quickly if there are any problems or concerns—and what it will take to pay.

- *Sophisticated new accounting and collection software is the answer to all our collection problems.* New software is a terrific tool, but it won’t collect your receivables and is only as good as the people using it. It takes specialization to fully grasp

how the software can help a firm’s collection efforts. Law-firm staffs are often responsible for many day-to-day tasks that leave them little time to explore and make maximum use of the functions the software offers.

- *We have the right reports to help analyze our receivables.* Most firms still use generic reports that have too much information to target problem offenders. Firms need to be generating information that will help them get their arms around the status of receivables. They need to know if an account is being actively pursued and what the payment status is. They need to know who is pursuing the collection efforts (the attorney or the collection staff) and whether they are getting results. They need to categorize their accounts in order to know the reasons the clients are not paying, such as cash-flow problems, disputed fees and services, or third-party responsibility. They need to know where the problem accounts are in order to determine a plan of action to get the bills paid.

- *We already have an accounts-receivable management program in place.* Technically, you probably do. But is it effective? Does it yield results? Leadership needs to understand that strong collection results, especially with accounts more than 90 days past due, are the key measure of the success of a firm’s program. The leadership and the attorneys need to learn the simple arithmetic. A substantial portion of accounts receivable are more than 90 days past due. Older receivables are far less likely to be collected. Only 50 percent of receivables at 120 days will be collected, and the likelihood drops precipitously after that.

Accept that collecting is a process, not a single action. The process will not work unless all the necessary steps are taken. Follow-through is key. For example, when you are talking to a client, and the client asks that you follow up at a given time after they have had a chance to review the bill, then, by all means, follow up at that time.

If you do all the necessary follow-up, you will likely succeed. But it may depend on how you define success. Success may not always be full payment; it may be simply understanding why it is that the client is not paying—which is a lot better than not getting paid and not knowing why.

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