

Maintaining the Quality of Your Receivables
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The quality of law firm receivables ought to be better than other service receivables. The reason: the work is well documented and the lawyers have an intimate knowledge of their clients. However, the value of law firm receivables will diminish in the absence of a process for managing them.

Special Problems for Law Firms...

- Inability to Act
Because law firms don't like to collect receivables, they are often very old by the time action is taken. If no one has called the debtor for a year, the debtor is psychologically oriented toward nonpayment, and may have "written off" the debt in their mind. "This is a rich law firm and they don't care if I don't pay".
- Aging of the Debt Increases Risk
When claims age they become less collectible. If they age long enough the debtor may be dead or out of business. Most failures to pay are because of the debtors' inability, not because they are crooked or don't want to pay; therefore, the longer you wait to take action, the more likely the debtor will pay nothing.
- Conflicts of Interest
It is very dangerous to do work for somebody who has not paid. Lawyers who are not being paid tend to avoid working the files, which in turn breeds malpractice suits. An attorney should devote their full loyalty to the client or withdraw from the case.
- Statements of Account
There is some disagreement as to whether statements should categorize outstanding invoices by age, or merely show unpaid invoices. Will the former cause debtors to pay just the oldest invoices?
- Was the Proper Party Billed?
A major problem is to determine who the firm represents, who should be billed, and who is legally responsible for the debt. Perhaps the parent corporation is going to pay, or different kinds of work for subsidiaries should be billed separately. The lawyer may do personal work or quasi-corporate work, which may be inappropriately billed to the company. If work is performed for the benefit of entities or persons who were not parties to the engagement, they may deny responsibility for the bills. The problem may be avoided with an engagement letter explaining the charges, who is going to pay them, and when they will be paid.
- Increasing the Motivation to Pay on Time
Not all the circumstances are negative. Very few people pay in thirty days, but some do. For example some people pay doctors and lawyers immediately because they want to know that they can call them in the middle of the night and get good service. To do that, they must have paid their bills on time.

Maintaining the Quality of Your Receivables...(continued)

The Collection Process...

An important first step in the collection process is to set policy. First, determine what constitutes delinquent receivables. A rigid rule may be difficult to enforce. You may need to allow for flexibility to accommodate relationships with different clients.

Second, set billing parameters that are part of the firm's marketing strategy. A loose policy may be good for attracting and keeping clients, but may decrease profits. A tight policy, which requires that all bills must be paid in thirty days, may cause a loss of clients.

Review all delinquent receivables once a month in a committee setting. The persons working on the account should be called in to report to the committee. Don't leave it entirely in an associate's or partner's hands.

Contact the client. Letters and emails are the cheapest, but the worst way to communicate. The best way is to get on the phone. The details of the process will vary from firm to firm, but most often there must be a provision for someone other than the attorney handling the client to make the call. No one likes to do what is not their work, especially if it is dirty work like collecting. It is uncomfortable asking a client for money when you may have recently had dinner or traveled with them. It's better for someone else in the firm to take action.

The person making the call may be an administrative person or a partner or associate. Perhaps the first call is made by an administrative person with a follow-up call, if necessary by a partner.

Prepare a form which summarizes the balance due, the kind of work, and the history of the bill. Then ask the attorney who handled the case to assess the risk of counterclaim on a 1 to 10 scale. And also, assess the prospects of collecting on a 1 to 10 scale. Summarize the benefits the client received and what explanation the client has given, if any, for nonpayment. Then determine whether to write it off, continue attempting to collect or sent it to an attorney.

Once the file has been designated as a case to be litigated, the next step is for a third party in the firm to confer with the attorney in charge and determine whether to put more time into it. Unless you decide to continue to work with this client, someone should contact the client and advise them that work will terminate unless payment is made. Your staff should also be advised.

Avoiding Counterclaims...

If you have advised the client that you are withdrawing, you are then at arms length. The most important task is to make sure there is no counterclaim. Assessing the probability of a counterclaim requires input from the attorney and review by management. Once that is done the odds of a counterclaim are very, very small.

If you didn't live up to the firm's standards of performance then maybe you shouldn't be paid. Even if you don't get a counterclaim you may lose the case. Since the advent of rules providing for sanctions for untrue pleadings there has been a reduction of the number of baseless counterclaims.

Conclusion...

Lawyers are often skeptical about the collectibility of their receivables. Unless the firm develops and implements an active program for managing the collection process, such skepticism can become a fulfilling prophecy.