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CHECKLIST FOR TAMING YOUR RECEIVABLES (redux)

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Cash flow is critical for firms of any size. And it's a topic that frequently gets discussed among attorneys. The questions asked and discussed vary widely and include:

- Should I start taking credit card payments? I can't afford credit card fees, so who charges the lowest rates? Have you seen any improvement in cash flow since you started taking credit cards? Do you allow clients to pay retainers by credit card? Does your merchant account or billing system permit you to automatically charge the client monthly? Is use of credit card mandatory or voluntary for your clients?
- Do you sue clients for long overdue fees? When should I put the pen down when clients fall into arrears? How do I ethically extricate myself from the matter when the client falls behind and stops making payments?
- Do you offer discounts for clients as an incentive to pay quickly? Do you re-charge the client if they take the discount after the cutoff? Do you charge interest on past due amounts? How often do you do it, and when do you start? Do you charge the client for the credit card fee?
- What method(s) do you use to follow-up on your receivables? Does the attorney make a call? Does a staff member make a call? Do written statements go out? Do you use an outside service? When does your follow-up activity start? Am I doing a better or worse job than your firm managing this area?

The questions above are just a sample of the never-ending quest for information that may provide the one nugget of gold that is your magic bullet. That's the hope, anyway. But as I stated in my article, "Getting Paid," in the January, 1999, issue of *The Pennsylvania Bar News*, "There is no magic secret to ensuring you get paid for the work you do. Rather, there is a methodology you can and should follow. If you do, you will greatly improve your cash flow and dramatically decrease the percentage of bad

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receivables.” Sadly, with the exception of credit card use, not much else has changed since 1999 except, probably, the increasing amount of receivable debt your firm carries.

I have written seven more on this topic for the PBA, as well as for the American Bar Association, state and county bar and other publications. I have also presented more than 50 seminars on the topic. I started my journey of managing receivables — and collecting on bad checks — in my very first job in high school. Receivables management has been a part of my job description ever since, so, I consider myself somewhat of an expert in this area.

This time around I’ll give you a checklist with the hope that you will find a few nuggets of gold on the checklist you can put into play at your firm.

Client Intake

- Check client’s capacity to pay – income, savings, credit score, borrowing capacity, credit card limits and currently available funds. Did the previous attorney(s) get paid?
- *Ask* the client “What is your plan for payment for my services?”
- For most practice areas, get a healthy retainer. If it is evergreen, explain replenishment procedures and what happens if it is not replenished.
- Clearly explain payment terms and expectations.
- Use a strong engagement letter with language that explains consequences for nonpayment and any additional interest or other charges that might be applied. Spell out dispute resolution procedures.
- In Pennsylvania, you can make use of credit card mandatory if a client is past due or more than a certain amount is owed. Consider this for family law or other matters where collection is a constant struggle. Include this in your engagement letter and have the client sign a credit card charge authorization and provide account information. (Caveat: be careful where and how you store such information because regulations apply.)
- Be sure your engagement letter language is crystal clear if you are going to bill a flat fee or a non-refundable fee, which doesn’t go into Interest on Lawyers Trust Accounts (IOLTA).
- If you are going to pay the client’s bills from their IOLTA funds or their credit card, be sure to clearly state in the engagement letter (and during the intake meeting) the minimum amount of time they have to review the bill

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and raise objections or ask questions before you pay the bill.

Billing

- Send your bills out regularly, reaching your client electronically or by mail no later than the 10th of the month for the preceding month's time and costs.
- Do not take their money from IOLTA or use their credit card until they have had sufficiently reasonable time to review and raise objections or ask questions. I suggest not less than 48 hours from receipt. Describe this process in your engagement agreement.
- Do not write off/down your time when billing without the client *knowing* you are controlling the legal spend for them. Show the value with "No Charge," "Courtesy Reduction," or other notation. (My clients often see "Hug Discount" as explanation.) Clients will always compare the value they feel they've received against the bottom line of the bill. Be sure all the time is visible to them when they do that subjective comparison in their mind.
- Use sufficiently detailed descriptions to demonstrate value for all time entries. The client will be asking "why?" for every time entry. Give it to them in the description: not just what, but why.
- Make sure your invoice format is easy to read and comprehend. I am constantly amazed at how confusing many law firm invoices are for me to understand, especially if there are IOLTA funds applied.

Collecting

- Follow-up activity should begin on the day the bill is due and be performed consistently, at least once a month, until the bill is paid in full.
- The firm should have the follow-up performed by a non-attorney who is properly trained in ethics and receivable management, is customer friendly, and whose job is primarily to manage receivables so that it is done consistently and persistently.
- The firm should empower the receivables person with the ability to instantly resolve disputes within a certain threshold. The faster the firm eliminates small disputes that can hold up payment of large sums, the less leverage a client has to hold a bill "hostage." Partial payments are always preferable to no payments. The firm should actively offer payment schedules, particularly when authorized to apply the scheduled payments to a credit card. Every

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conversation with the client should be noted. Promise of payment should always be entered on the calendar for follow-up on the date promised. Building a system of follow-up and accountability is key to getting clients to keep their promise to pay.

- Any dispute not immediately resolved should be promptly researched, and discussed with the client in 24 to 48 hours. If necessary, this is an area where an attorney may need to assist in the process. Especially if a compromise may need to be made.
- With *very* rare exception, no client should be exempt from receivables management follow-up. It's just good business management, and when explained as part of the client intake process, should not offend any clients.

Measure Your Results

- Measure your receivable turnover rate before implementing any changes/improvements. You can compare this number to benchmark data, but in no event should your firm be willing to accept a number in excess of 90 days. Sixty days would be a reasonable target. Recalculate every six months to track progress of new procedures, new client screening effectiveness etc.
- Measure your work-in-progress turnover rate. For example, how fast are you turning your inventory of time and costs into receivables. Compare your result to a benchmark survey. You'll see clearly if you are doing better or worse than most firms. Recalculate every year to track effectiveness of new procedures. Depending on firm size, you might want to repeat this exercise by individual lawyer and by practice group or department.

There you have it folks. PBA members who need assistance with any part of this checklist are encouraged to schedule a time to chat with me.

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