

## Collecting Your Fees With Ease

by Arthur G. Greene

Successful collection of a fee involves more than taking remedial action after a problem arises. While traditional collection policies may be necessary, they do not enhance the lawyer/client relationship and will never represent a good solution to the problem. The real answer is taking a comprehensive approach, with the goal of avoiding the problem all together.

Lawyers who avoid collection issues have:

- Good Client Intake methods,
- An ability to set and manage client expectations,
- A knack for keeping clients thankful,
- An ability to communicate value in the bills they submit,
- An incessant focus on meaningful client service, and
- A clear policy for addressing collection problems that arise.

Get it right and many clients will make payment by return mail.

### Client Intake

Let's start at the beginning. The initial client meeting has more to do with the successful collection of bills than any other factor. At this meeting, the client's expectations are set, for the process, the likely outcome, the timeframe involved and the cost. Failure to set client expectations at this critical time is a primary cause for uncollected fees.

Law firms should have a policy as to the standard topics to be covered. Develop a checklist to assure that all lawyers in the firm conduct meaningful discussions with clients about objectives, risks,

the plan for going forward, and the cost.

The discussion about fees must be both clear and candid. The lawyer should provide an estimate or range and agree to call the client if anything occurs that will affect the estimate. Let the client participate in any decision as to whether to expand the intended work, which would result in unexpected fees. If the additional work is necessary to achieve the desired result, the client will likely agree to the extra fees. Having the client participate in the decision means the client will never be surprised by the amount of a bill.

### If Walls Could Talk



In this issue I'll share a recent experience about our Annual Retreat held last December. People sometimes seem surprised when I tell them Arthur and I hold a Retreat. They ask, "So, uhm, what do you do?" The short answer is we work on those issues any growing business confronts that never get addressed in the regular course of a business day.

The reason we hold our retreat is simple. It's because we care about our business and the clients we serve. When I read iconic writer Wendell Berry's Jefferson Lecture "It All Turns on Affection," it struck a chord. Berry's eloquent message delivered last spring in Washington, D.C. was to pay attention to and have affection for our environment and our land. For me, paying attention to our business is the motivation behind our Retreat.

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It is also important to let the client know that should payment of a bill become a problem the client should call to let you know. It is important to let the client know you offer payment by credit card as an option to defaulting on the bill. All of these subjects should be covered in the intake discussion.

The initial client meeting is the point in time when the lawyer will be in a strong position to have a clear and candid discussion about the costs involved in pursuing the matter. Once the arrangement is set, it is the client who may have the upper hand. As a result, the lawyer should never hesitate to be candid in the initial meeting and to request the desired fee arrangement and/expected fee deposit.

The requirement of a fee deposit serves two purposes. First, it secures the prompt payment of fees, once the lawyer's bill is rendered. But more importantly, it tests the client's willingness or ability to pay for legal services. Any hesitation by the client is a clear warning sign.

The client needs to be fully apprised of all the ramifications of moving forward with representation. The lawyer's goal is to be sure the client's enthusiasm for proceeding hasn't masked some harsh realities involved in going forward. Have a heart-to-heart discussion to determine if the client is prepared for and comfortable with the realities of the anticipated legal action and the financial commitment involved.

### **Keeping Clients Thankful**

Getting off to the right start with a client takes both effort and skill. However, the bigger challenge is delivering on the expectations created and keeping clients content, during what may be difficult and stressful times. Lawyers who are able to keep their clients thankful will earn the best rewards for the work they perform.

Surveys show that what clients want most from their lawyer is one who cares about them and their legal problems. Care and concern score as more important to most clients than the result achieved or even the amount of the fee. There is an important lesson here. Provide personalized care and service and they will be thankful and appreciative of your efforts, regardless of the difficulties that may be inherent in their legal problems. Clients who can see that their lawyers show genuine concern are relatively content and are more likely to send their payment for fees by return mail.

### **Use the Billing Process to Communicate Value**

The lawyer's monthly bill for services is a communication tool. To maximize this tool, it must convey to the client a sense of accomplishment and value provided. Re-

place shortcut time entries that portray mechanical functions with more meaningful entries that reflect accomplishment and value. It is not difficult to picture a client receiving a bill containing mechanical time entries and being disturbed by the cost of the project. On the other hand, the client reading the more substantive descriptions is better able to appreciate the work that has been done for the cost.

### **Focus on Client Service**

Unfortunately, following that right start during client intake, it is all too easy for the lawyer to lose the confidence of the client. Let's count some of the ways:

- Fail to return a telephone call promptly
- Be late with a promised document
- Overlook a promise to do something
- Delay giving the client bad news
- Forget or put off telling the client about a development
- Send a bill in an amount that surprises the client

These events may seem minor to the lawyer, who is straight out trying to balance the demands of a busy practice. To the client, the failure will be considered a defining event and will affect the lawyer's chance of payment by return mail.

As the matter proceeds, client communications become critical. There are several key ingredients:

- Keep the client informed of what you are doing
- Contact the client periodically, regardless of what is happening
- Alert the client to any changes in the plan or the risks
- Alert the client ASAP to anything that might affect the amount of the fee
- Deliver bad news immediately
- Return phone calls within two hours or have your secretary return the call and tell the client when you will be available
- Set aside time in the evening or on weekends to return pending phone calls
- Make certain the descriptions in your bill effectively reflect the value of the services rendered

It is incredibly easy to do something that disappoints a client and causes them to lose confidence in the lawyer or the process. That loss of confidence is to be avoided at all costs.

## Adopt a Collection Policy

What about a collection policy? If the recommendations about good client intake and managing expectations, etc. are employed, there will be no need for a collection policy. However, it will take time before those recommendations can be realized. Also, there is always the possibility of a few clients becoming a collection problem, even under the best of circumstances. Therefore, every firm needs a collection policy.

Most firms with collection problems lack a standard policy or fail to consistently apply an existing policy. The longer an overdue receivable goes without attention, the more courage the client will gain for further delay of payment. Most lawyers make the mistake of not addressing receivables until they are in the sixty to ninety day range. Unfortunately, at that stage the client is conditioned that timely payment does not seem to be particularly important. Therefore, the best approach is for the firm's policy to address overdue receivables in quick order and consistently.

### Find the Magic: Payments by Return Mail

Magic? It may sound a bit supernatural, but it is not all that hard to get return mail payments from most clients. All it takes are clients with realistic expectations and lawyers meeting those expectations, while regularly showing concern for the clients.

Think back to some of your best client relationships. What do you remember about them? It may be that you remember that payments of your legal fees came back by return mail. The bill was hardly out the door, and there was the check! It was probably so unusual that the immediate payment continues to stand out in your mind. It is also likely that the prompt payment of your fee didn't go unnoticed. You began to treat that client a little better than the slow pay clients. You probably returned that client's telephone call more promptly than the others. And, you may have tended to lowball the time when filling out your timesheets. The client frequently expressed appreciation for the services you rendered and you probably expressed thanks for the prompt payment. It was a good situation all around.

What was it that caused the client to pay so promptly? Most likely, the clients understood the process and had realistic expectations as to outcome and cost. You had done a good job at the initial client meeting and the case had progressed as expected. To the extent there were any changes from what was discussed, you kept the client involved and gave advance warning of those changes. The client was satisfied and appreciated your services. This represents the dynamic that you want to replicate, over and over and over.....

## *If Walls Could Talk continued...*



Months ahead of our December Retreat, we begin to make notes of those matters of relevance. Whether one idea might be to discuss the role for new administrative support or another might be brainstorming innovative ideas to help our clients, these issues make it onto our formal Agenda.

The Agenda is a one to two page document that we both share in preparing. It contains a list of the most pressing topics that can be adequately addressed over a day and a half. We carefully select the Retreat location, weighing pros and cons. A place that is too busy may create distractions from our purpose of focusing our attention on the plan at hand. Choosing a site about an hour away from the office offers just enough escape from the pull of everyday demands.

Our Agenda covers the typical arena of a financial review. Goal setting talks include what we think is going well and what could be improved. Generally, there are organizational considerations. Working towards paperless files and materials is an ongoing goal. Helping and satisfying our clients is our primary aim, so we always discuss the critical issues they bring to us and how we can better serve them.

Our Retreat concludes with a written Recap of our Action items. We end our Retreat with a feeling that our time has been well spent and that we have done our clients a service. We also come away with a feeling of optimism that we are doing what is necessary for our business to prosper for as long as possible. Our 2013 year-end Retreat is already reserved at our favorite location. The Inn at Pleasant Lake in New London, New Hampshire suits our criteria. This year, we plan to add a mid-year Retreat.

Retreats come in many forms. Some might be quite different from the one I just described, but there are common factors; setting aside time and a space to focus on work of a different nature than the day to day. Speaking from firsthand experience, I can recommend Retreats to law firms of any size. I encourage you to think about how a Retreat might benefit your firm and if you need a planner or facilitator we are happy to help.

Kathy Fortin

## Consider Attending the ABA TECHSHOW

The annual TECHSHOW of the American Bar Association will take place in Chicago from April 4 – 6, 2013 at the Hilton Chicago. There will be six (6) tracks, including a Solo and Small Firm track, and a choice of more than fifty (50) separate programs. Whether your interest is in practice management software, speech recognition, document assembly, social media, cloud based tools, networking, or e-discovery, the answers are at TECHSHOW. There will be an exhibit hall with more than 60 vendors, including most of the legal software companies. Attending the TECHSHOW involves a significant investment of time and money, but it is a one-stop type event that will answer those nagging questions and help you make the decisions necessary to improve your firm's technology support. Check details at [www.techshow.com](http://www.techshow.com).

### Our View on Consulting

We believe the key to successful consulting involves knowing the client. Any recommendation for change must be based on an understanding of the firm culture and the dynamic within the law office. The last thing our clients need is a generic recommendation that does not take into account the unique aspects of their law firm.

For that reason, we are committed to knowing and understanding each of our clients in order to provide advice that will work for their firm.

## Arthur's Checklist



Does your firm have an adequate succession plan? Factors that should be considered include:

- Structuring documents that include a process for the admission of new partners,
- A provision in the structuring documents providing how the firm will be valued for purposes of transferring an interest in the firm to the next generation,
- Recruiting of one or more potential successors,
- Published partnership criteria,
- A plan for mentoring the next generation of lawyers in managing the firm and in developing clients,
- A plan for transitioning of clients, and
- An exit plan for retiring lawyers that rewards them for the firm they have created.

Visit our website at

[www.arthurgreene.com](http://www.arthurgreene.com)

where you will find a complete listing and description of our services, speaking topics and publications.

### Activities

- Arthur's article on "Succession Planning" appears in the October issue of the Michigan Bar Journal and in the Nov./ Dec. issue of The Pennsylvania Lawyer.
- Come visit us at the New Hampshire Bar Association Winter Meeting on March 8, 2013 and in Burlington, Vermont at the Vermont Bar Meeting on March 15, 2013.
- In February, Arthur attended the ABA Mid Winter Meeting in Dallas and attended meetings of the Governing Council and Publishing Board.
- In May, The ABA will publish Arthur's article in the Law Practice Magazine Finance Column, "Eliminating Receivables to Improve the Bottom Line."