

### EFFECTIVE BILLING CAN MAKE A DIFFERENCE

Do your clients rush to pay your bills? Clients often dread getting a lawyer's bill as much as going to the dentist. And if that's not bad enough, sometimes a carefully developed client relationship may be unnecessarily and even permanently damaged by the way bills are prepared and submitted. This doesn't have to happen. If you use the right strategy in your billing process, you can actually improve your client relationships as well as your cash flow.

#### Start at the Beginning

All too often, billing and collection problems arise because the lawyer fails to discuss fees, costs, and billing procedures with the client before starting work on the matter. Corporate general counsel usually require a budget or confirmed fee arrangement, but other clients also want to know what your legal services will cost. Don't wait for them to ask. Show that you understand their concerns by discussing financial matters at the very first meeting.

Describe for the client how you will handle his or her matter – the strategy, steps, timetable, and whatever else might be involved. If other lawyers or staff will be assisting you, explain who they are and what their roles will be. If possible, introduce these people to the client. Clarify that you will involve these other professionals for two reasons: (1) to provide the needed expertise, and (2) to save the client money. Then discuss the fee arrangement, whether it will be on an hourly basis, a fixed fee, or some other arrangement. If you are billing hourly, give the client your rate and also the rate of each other person working on the case.

Don't stop there, however, because the client may have "sticker shock" at some of those rates.

What clients are really interested in is the bottom dollar. Saying "I believe the total fees will be approximately \$5,000" is a lot more understandable to a client than just saying "I will bill at my standard rate of \$200 an hour" – or saying nothing at all. If the client will be responsible for other costs in addition to the fees, explain those costs. If you require a retainer, explain how it will be applied as the work proceeds.

It may be helpful to give the client a choice of your standard billing formats and also, if applicable, a choice of frequency (monthly, quarterly, end of matter). If you prefer a certain format and frequency, tell your clients how and when you will bill, but still make sure it will be satisfactory to them. Most clients prefer to be billed regularly because it helps them plan their cash flow. It also helps you with yours. In addition, a series of smaller bills is less distressing to the client than one large bill at the end. Finally, tell the client you will confirm all of this in a written retainer or engagement letter that you'll ask the client to sign and return to you.

By taking the time to cover these matters at the outset of the representation, you will not only avoid most billing and collection problems but also establish a strong client relationship and trust – which is the ultimate goal.

#### Keep the Communication Flowing

Even in this age of electronics, the gist of the old adage, "shower the client with paper," is still relevant. Send clients copies of all appropriate letters, memos, and relevant documents. It's important for the client to have access to information.

#### DISCLAIMER

*IN BRIEF* includes claim prevention information that helps you to minimize the likelihood of being sued for legal malpractice. The material presented does not establish, report, or create the standard of care for attorneys. The articles do not represent a complete analysis of the topics presented, and readers should conduct their own appropriate research.

Discuss all steps and strategies with the client as the matter progresses. When possible, or when required by the Oregon Rules of Professional Responsibility, present all the options and give the client a choice. For example, explain that “I believe we could settle this case now for [estimated amount], or we can go to trial. [Explain risks and potential rewards of trial.] What would you prefer?” If you have a recommendation, give it. But give the client a choice whenever you can – and know when the ethics rules require it.

If something occurs that could cause your final fee to exceed your initial projections, advise the client immediately. Don’t just proceed with the work. No client wants to be surprised with unexpected fees that were not discussed.

## Use Billing As a Marketing Tool

A wise lawyer once said, “I bill promptly and regularly, while the glow of appreciation still shines in the client’s eyes.” This is a good rule to follow. Here are some other points to keep in mind.

- **Make your bills descriptive.** Specifics on a bill inform clients of your efforts on their behalf. It also adds value to your services. For each entry, briefly describe the purpose of the action taken. For example, “Review of documents to determine conformity with client’s intentions” (rather than simply “review documents”) or “Conference call to Mary Jones to discuss extending lease” (instead of just “phone call”).

- **Avoid terms that may raise a red flag.** Certain billing entries consistently vex clients, regardless of how necessary or warranted the action. Some of these statements are interoffice conference (clients don’t want to pay for legal professionals in the same office to talk to one another); research (clients feel you should know the law); travel time (unless you made some arrangement beforehand, clients won’t pay for this); and review of file (unless you give a compelling reason). If you want to capture and bill for this time, discuss it with clients up front and explain why it is important and how it will further their case or matter. Another entry likely to raise a red flag is billing for short phone calls, unless you have an agreement with the client. Clients consider this “nickel and diming.” However, entering the time and then marking it as nonbillable will please your clients.

- **Don’t charge for insignificant items.** One of the biggest sources of client annoyance is being billed for small costs such as postage, messenger service, phone service, and the like, because clients consider these a cost of doing business. You can greatly enhance your standing with clients by not billing for these inci-

dent expenses. Tell the client which costs you charge for and which you don’t, and include a statement in your retainer letter to that effect. Consider capturing these business expenses when you next assess your hourly rate or give a fee quote for a case or matter.

- **Review every bill carefully before you send it.** Put yourself in the client’s position. Would you be willing to pay the bill? Send a cover letter, however brief, with every invoice, and always include the magic statement, “If you have any questions about this bill, please contact me.”

## The Golden Opportunity

Presenting the final bill on a matter is a golden opportunity for perpetuating a client relationship and laying the foundation for future work and referrals. The secret is to treat the final bill not as the end of a matter but as the close of a chapter in a continuing relationship.

Always include a cover letter specifically stating that this is the final bill. Clients need to know the matter has been completed.

Thank the client for allowing you to assist him or her. Include reminders about anything else the client needs to do (like “Put your will in your lock box”). In addition, refer to other services you or your firm could provide and suggest that the client keep this in mind. Conclude by saying that most of your business comes from client referrals and that you would appreciate such referrals if the client is asked about a lawyer.

Billing is not just a mechanical or financial process. By applying marketing strategy, it can become a client development tool as well.

DEE CROCKER  
PLF PRACTICE MANAGEMENT ADVISOR