Billing and Collections Best Practices Checklist

By John T. Podbielski, Jr.

Billing

- Timekeepers should enter or record time contemporaneously with the work performed.
- With the increased use of alternative fee agreements and matter budgets, best practices dictate that time should be released or posted by 12 noon or, alternatively, no later than 5:00 pm on the following business day for work performed the preceding day.
- Work in Progress (WIP) reports by client/matter and aging periods should be generated and distributed to billing attorneys at least monthly, preferably at the beginning of the month.
- WIP/unbilled time and costs should be billed monthly, with the exception of matters that will be paid at a closing or the conclusion of the case.
- "Substantial" legal fees and costs, as defined by each firm, should be billed more frequently than monthly.
- For matters billed hourly and to be paid at closing or at the conclusion of the transaction, informational bills should be sent to the client monthly in order to avoid surprises.
- The appropriate attorney should provide a "heads up" to the client prior to sending out an invoice much larger than anticipated fees or expected. Clients never like surprises.
- Accounting should address with attorneys any WIP which is more than 60 days old.
- All invoices should be mailed by the billing or accounting department to ensure invoices are mailed when posted. The same rule applies for statements of account. Generally speaking, attorneys or their secretaries should not be sending out invoices or statements of account unless it is a request for a duplicate copy.
- For the months in which no work has been performed or costs billed, a statement of account should be sent to the client, listing each open invoice and the total amount due.
- Cover letters generally serve no useful purpose and should probably be omitted altogether, especially if they cause any delay in the mailing of invoices. Significant communications and matter status updates should be provided to the client prior to sending the invoice or, otherwise, they look to be self-serving.
- Enclose a remittance envelope with invoices and statements of account.
- Provide your clients with alternative payment options, including ACH, credit cards, and domestic and international wire.
- Address and resolve "unapplied" payment issues promptly.
- Consider printing proformas, pre-bills, and/or draft bills on different color paper so they stand out and avoid being lost.
- Review of proformas and pre-bills by attorneys should be considered a priority item. Proformas or pre-bills should be turned around as quickly as possible but should not exceed ten (10) calendar days from their receipt unless there are exceptional circumstances.
- The firm should send invoices and statements of account via electronic mail in lieu of mailing when presented with the opportunity,
- Consider using window envelopes and folding machines to increase efficiency in mailing out invoices.
- All mailing envelopes and labels should have the words "ADDRESS SERVICE REQUESTED" or "RETURN SERVICE REQUESTED" in the appropriate area in accordance with United States Postal Service regulations.
- Consider using an electronic lockbox if your volume dictates it.
- A well designed invoice should contain:
    - The amount due and due date – these items should be readily identifiable – no searching should be necessary;
    - A due date, preferably a date certain, consistent with the terms of your engagement letter;

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- The full name of the attorney overseeing the matter, not their initials or first initial and last name;
- A contact name, telephone number, and email address in case the client has any questions;
- Remittance/payment options;
- A listing of open invoices and balances due;

- An aging table (more so the case on a statement of account).

Collections

- Generate and distribute accounts receivable reports by client/matter and aging periods at least monthly, preferably at the beginning of every month. These reports need to be timely and accurate – if your attorneys lose confidence in these reports, they've lost their usefulness.
- Make sure your attorneys understand these reports.
- Meet with your billing attorneys one-on-one quarterly. For those attorneys that have substantial books of business or accounts receivable issues, meeting more frequently may be in order.
- Inform your billing attorneys what the firm's expectations are with respect to payment and when the firm considers an account to be past due, necessitating that it be addressed by the attorney, collections staff, or, if necessary, firm management.
- Attorneys should be alerted daily when a client has made a payment toward their account. Preferably, this should be done via an automated email message. Information should include the cumulative payment amount and the invoices paid or partially paid.
- Collections staff should solicit permission from billing attorneys to work specific past due accounts or obtain blanket permission from them.
- Firm management should permit collections staff to contact clients on accounts that the firm considers to be seriously past due and are not being effectively addressed by the billing attorney.
- All contacts or communication with a client or the billing attorney should be documented in the firm's collection software and diaried for follow up, if necessary. Alternatively, for smaller firms, Microsoft Excel spreadsheets can be used.
- Initial collection efforts should be done by telephone and/or email.
- Your initial calls to clients should reflect your firm name on their caller IDs. Clients should know you are calling (at least initially).
- Attempted telephone contact with clients who are not responsive should be made at varied times throughout the day, including in the morning, afternoon, evening, and, if necessary, on Saturday.
- Consider using call blocking or using a cell phone to attempt contact for clients who are non-responsive.
- If voicemail messages are not responded to, leave call-back messages with the client's administrative assistant, secretary, or receptionist. Be judicious in the information divulged and the message you leave.
- Timely and consistent follow up is necessary to ensure success. Minimally, this means weekly but could be every other day or even daily, depending on the specific factual circumstances.
- As with clients, follow up with billing attorneys when they have informed you that payment from a client is forthcoming or they will call or follow up with their client.
- No more than three collection letters should be sent. Provide a deadline/date certain for the client to either pay or contact the firm – typically, this is ten (10) days. Each successive letter should up the ante or escalate the consequences if payment is not made or if the client does not communicate with the firm.
- All letters to clients should be reviewed and personally signed by the writer – do not use signature stamps. Use blue ink to sign these letters.
- Firm management should approve all payment plans.

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- Billing and/or collections staff should diary and monitor all payment plans.

- Payment promises should be confirmed in writing via letter or email but do not necessarily need to be signed by the client. Billing and/or collections staff should be alerted to any payment plans so they can monitor payments.

- Broken promises, i.e. missed payments, should be followed up within three (3) days of the due date.

- To establish a sense of urgency and to get the client's attention, demand letters should be sent to clients via Priority Mail, Federal Express, or UPS in their respective oversized envelopes.

- In order to collect your delinquent accounts on a contingent fee basis, use collection agencies for smaller balances and collection law firms for larger balances. Alternatively, consider a two tiered approach – refer the account to a collection agency first and then to a collection law firm if those efforts fail. Collection agencies generally have experienced professional telephone collectors on staff, while collection law firms may not. On the other hand, collection law firms can commence a lawsuit, obtain a judgment, and enforce the judgment, while collection agencies cannot.

- Establish guidelines and procedures for determining which accounts should be forwarded in order to avert a potential legal malpractice claim, especially for accounts referred to collection law firms. A review of the invoices and the file should be conducted, among other things, by a colleague who is not involved in the matter. Moreover, the billing attorney should certify to firm management that they have no reason to believe that the client has any factual and/or legal basis to assert a legitimate claim for legal malpractice.

- A final demand letter should be sent to the client prior to forwarding the account to a collection agency or collection law firm. Stamp the letter (not the outside of the envelope) "Final Notice."

- Use words like "may," "recommend," or "consider" in your letters, if appropriate. However, never threaten actions the firm has no intention of ever taking.

- Unless deemed pointless, a "last chance call" in an attempt to establish contact with the client concurrently with or upon the expiration of the final demand letter should be considered.

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