

HINSHAW

& CULBERTSON LLP

LAWYERINGLAW.COM**Fee Collection Checklist****Fee Collection Checklist**

Before suing a client for legal fees, a law firm should always conduct a review of the client matter, and the client's attitude and history. Many insurers and lawyers who frequently litigate legal malpractice claims believe that fee disputes underlie as many as 40 percent of the claims and no less than 25 percent of the claims. This means that suing a client has at least of one-in-four chance of drawing a legal malpractice claim in response.

The following Analysis Checklist provides a minimal review before suing for fees.

Fee Agreement

Was the client informed of the basis or rate of the fee before or within a reasonable time after the commencement of the representation as required by Rule 1.5(b)?

Will there be a dispute over the terms of the fee agreement?

Is the fee agreement in writing?

Has the fee agreement been modified to benefit the firm during the attorney-client relationship?

Are there any ethical or legal limitations on our ability to enforce the fee agreement?

Have we abided by our agreements?

Will our billing statements make good evidentiary exhibits?

Have we requested payment of the outstanding fees in writing?

Have we requested payment of the outstanding fees over the telephone or in person?

Is an installment agreement feasible?

Matter

What is the status of the matter?

Has there been any action adverse to our client?

Have we caused any adverse action to have been taken against our client?

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What services did we provide?

What results did we obtain?

How did the client benefit from our services?

Is there any basis for a claim against us for legal malpractice or breach of fiduciary duty?

Is there any basis for a claim that we engaged in a conflict of interest?

Client

Is this a long-standing or regular client that gives us substantial business?

Is this a client that we want to keep in hopes of receiving future business?

Do we represent this client (or its parent corporation or subsidiaries) in other pending matters?

Is this the only matter in which the client has not paid the fees owed?

Why is the client not paying the fees owed?

Dissatisfied with the outcome?

Dissatisfied with us?

Fees are more than client expected?

Unable to pay?

What are the chances that we will be able to collect any judgment obtained against the client?

Is the client likely to file a counterclaim or sue for malpractice?

Has the client sued lawyers or other professionals?

Is the client generally litigious?

Is there a risk of adverse publicity if we sue this client for fees?

Cost/Benefit Analysis

What is the outstanding balance?

What is the likelihood of prevailing in a suit for fees?

What will be the cost in legal fees and expenses?

Are the fees and expenses recoverable from the client?

What is the recoverable amount after payment of income tax?

If there is a counterclaim (even frivolous) what is the insurance deductible?

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