

FINANCIAL HEALTH AND BILLING

Could Payment Process Tweaks Buoy Realization Rates?

Simple, effective billing and tracking methods can usher in a new era of firm profitability.

BY ERIN BRERETON

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As the calendar year begins to draw to a close in December, some law firms start urging attorneys to issue and collect payment for as many invoices as possible to boost annual firm revenue.

Partners are often responsive because their draw is dependent on what they accumulate, says Jonathan San Solo, director at business advisory and accounting services provider Citrin Cooperman.

"They're going to beg, borrow and steal to get as much cash in the door as they can," San Solo says. "We see that in pretty much all the law firms we work with — and those range from $10 million in revenue to $500 million into the Am Law 100. It's certainly a common practice we recommend against."

An end-of-the-year push for payment can strain attorneys' time, he says, resulting in invoicing mistakes. Clients may feel agreeing to pay by December 31 gives them the bargaining power to negotiate a 10 to 20% discount, costing the firm money.

Other tensions could also arise, according to Brooke Lively, founder of law firm consultancy Scaling Law and fractional CFO service provider CathCap. Lively suggests law firms instead institute processes to ensure they receive consistent payment year-round.

"There is not a client on Earth who wants to get hit with a big bill at Christmas," she says. "Any privately held company, there is an owner [saying], 'Man, that's a big bill from an attorney; that can cut into what I can spend on my family.' That doesn't do anything good for your relationship with them."

Supporting Seamless Payment

To align expectations, numerous law firms outline specific billing payment terms in their client engagement letters, according to Rocco Marotti, partner and leader of accounting firm CohnReznick's law firm practice.

"Sending an invoice on November 30th and expecting it to be paid 30 days later is, in today's economic environment, very hard for clients to swallow," Marotti says.

Some firms, to maximize their realization rate, have invested in finance and accounting talent and enterprise resource planning (ERP) systems that enable procedures such as batch billing, according to San Solo.

"Systems now can generate bills effortlessly," he says. "It's not just one [administrator] doing all the billing for the entire firm. On a set day every month, bills are created and pushed out to clients, as opposed to all different times of the month."

Wire transfers, law firm banking software cash processing capabilities and credit card processing, San Solo says, can further facilitate payment.

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Clients should provide both credit card and bank account information so firms have a backup; the fee agreement might say the firm is authorized to charge clients' preferred payment method if they haven't disputed their bill within 10 days of receiving it, according to Lively.

"Our clients send invoices on the first [of the month]," Lively says. "They charge their clients' credit cards on the tenth. All the money is in the bank on the twelfth."

Averting Unexpected Losses

Large firms with robust practice management software can use it to easily cull metrics — such as how many days items are outstanding and whether fees or expenses are involved — for weekly or biweekly client payment tracking. Some smaller firms, Marotti says, utilize tools such as QuickBooks and print their accounts receivable ledger once a month for the managing partner to review.

If sending invoices and monitoring payment status is a time-consuming struggle for firm members, obtaining upfront retainers might help.



"From a cash flow and collections perspective, they are better off doing that type of agreement than due-upon-receipt invoicing," Marotti says. "Smaller firms usually don't do batch billing; the accounting software they typically are using doesn't have that capability."

For flat fee arrangements, Lively suggests collecting roughly 60% up front and preventing the payment plan from extending beyond the engagement's end date.

In a billable hour retainer clause, firms may want to ask for an amount that's equal to the anticipated first three months of work — and a separate evergreen retainer for subsequent work, which can potentially be smaller, Lively says.

Clients often assume they have 30 days to pay, she says. Even if your fee agreement says payments are due on the tenth of the month, they won't think the initial invoice they received at the beginning of the second month is overdue until the third month.

"That's how long it takes to figure out if you've got a 'deadbeat' client," Lively says. "[And] just because they paid you for the first three months, it does not mean they're going to pay you forever. Clients stop paying for all kinds of reasons. It rarely has anything to do with you; it almost always has to do with something going on in their life."

Proactive Realization Rate Moves

To protect themselves if a client's payments become egregiously late, law firms should include a policy in their fee agreement that dictates when they'll stop work — and enforce it, Lively says, using methods such as a cautionary red rubber band wrapped around a folder or electronically locking employees out of the file.

Firms may benefit from financially motivating partners to follow up on unpaid bills before they reach that point — particularly if the firm is running at a loss and operating off a line of credit, San Solo says. Receiving payment could help enhance cash flow and reduce debt costs.

"By [offering] incentives for collecting earlier in the year, instead of paying that to a third-party lender, you're giving it to your partners," he says. "You're boosting morale — and avoiding potentially drawing down as much on a line of credit facility."

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Even if firms are able to get paid consistently each month and keep their receivables down, finding a way to raise overall revenue higher can still be an enticing proposition at the end of the year.

Securing payment by December 31, however, doesn't need to involve a frantic rush. To build some breathing room into the process, Marotti suggests firms encourage attorneys to wrap invoices and pre-bills up long before clients start to trickle out of the office and companies shut down for the holidays.

"I've seen a lot of firms billing prior to Thanksgiving," he says. "The attorneys can then bill for the work that's been completed to that point — with a six-week period to issue invoices and collect by year-end."

ABOUT THE AUTHOR



Erin Brereton is the Owner of Chicago Journalist Media, and a freelance writer, editor and content strategist who has written about the legal industry, business, technology and other topics for 20 years.

Website

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