



## Week of **September 8, 2009**

### "Trust Me, I'm Good for It"

I recently received an inquiry asking whether I could suggest ways to "guarantee" payment from individual clients other than requiring that the money be paid up-front. My response was that a number of ways for doing this are at least feasible:

- Have the client identify a "co-signer" like a friend or family member who would be responsible for paying if the client cannot
- Help the client establish a line of credit with your bank
- Secure a lien on the individual's real property (or personal property such as a securities account), provided that your jurisdiction's rules hold such encumbrances/liens to be valid
- Keep a close watch on the client's account receivable so that the debt doesn't rise too far, too fast and you can request payment when danger signals flash

The first loss is always the only good loss, and this loss should always be small. Most lawyers get into trouble when they ignore the increasing indebtedness, or when they're fooled by the client into thinking payment is forthcoming. The client may say, "You can trust me, I'm good for the money," but no one is "good for the money" if they haven't honored the terms of the engagement agreement. I would stop work, "fire" the client (after providing adequate notice that the engagement will end because of non-payment, consistent with the ABA's Code of Professional Conduct, Rule 1.16), and focus my energy on getting new clients. That is the better way to spend your time rather than to work for someone



**Collecting  
Your Fee:**  
Getting Paid from  
Intake to Invoice

By Edward Poll

(6x9", 143 pages + with CD of forms soft cover, ISBN: 1-59031-153-1, Published by American Bar Association, 2003)

The CD contains forms for intake, engagement letters, status report, budget, sample bills and collection letters, accounts receivable aging reports and more.

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who fails to honor their commitments.

We've observed many times that it is a fundamental business and professional necessity for lawyers to have a signed engagement with a new client, stating the terms and responsibilities for payment. Clients who cannot or will not discuss or agree on fees, or who will not sign a fee agreement or pay a retainer, or who want to start now and pay later, should all be suspect. If the client takes offense at such detailing, you can respond by saying that other clients of yours find it acceptable, but you can understand this client's feeling and that this client should find other counsel because the requirement to pay is not negotiable..

Going through this process of detailing and negotiating to prepare the engagement letter enables you to avoid a client with unrealistic expectations or demands and who believes that your estimates, whether of time or outcome or costs, are guarantees instead of informed estimates. Discussing engagement terms will frequently uncover the client that will in the future express irritation with delay, who will chronically complain about everything, who will demand constant or instant attention, or who expects unrealistic or abnormal hand-holding. Legal practice in this economy is difficult enough without such distractions.

## Personal Commentary

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"The book offers lots of good advice on engagement letters, detailed bills, fee agreements and intake forms. Plus it's

Best wishes,

Ed Poll

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