



Suing a Client For Fees

You don't need to visit the [Oregon Office of Economic Analysis](#) to know that Oregon has been hit hard by the recession. While [modest job growth](#) is expected over the next ten years, [Oregon's unemployment rate](#) is stubbornly holding at 11.3%.

How is the current economy affecting your firm? You've probably noticed it's gotten tougher to collect fees. If you never considered suing a client before, you may be giving it serious thought now.

As you might expect, the [Professional Liability Fund](#) advises lawyers to avoid suing clients if at all possible. Many legal malpractice suits result from counterclaims in response to a lawyer's action to recover fees.

Before you sue, consider the following:

- Do you stand to gain or lose a substantial amount of money?
- Was a good result obtained in the underlying case?
- Has an uninvolved, experienced lawyer reviewed the file for possible malpractice?
- Are there any grounds on which the client can credibly dispute the debt or any part of it?
- Have you ruled out client dissatisfaction as a reason for non-payment or slow payment?
- Have you offered to arbitrate or compromise?
- Will a judgment be collectible if obtained?
- Will a lawsuit result in bad publicity reflecting negatively on you or your law firm?

Keep in mind that collection efforts could potentially affect your PLF coverage. See [The Ethical Oregon Lawyer](#) §15.17 Fee Disputes and Suits for Fees (Oregon State Bar 2006) and Roger Westendorf, "Fee Disputes and Binding Arbitration – Impact on PLF Coverage," *In Brief*, no. 108 (June 2009) available online at the [PLF Web site](#). Select *In Brief*, then June 2009.

Collection efforts can bring even more aggravation if the lawyer violates the Truth in Lending Act or state and federal debt collection statutes. For an excellent discussion of these topics, see the [Fee Agreement Compendium](#) Ch 3 The Truth in Lending Act and Attorney Fee Retainers (Oregon State Bar 2007) and [Consumer Law in Oregon](#) (Oregon State Bar 1996 & Supp 2005). Both are included in [BarBooks](#), the Oregon State Bar's online library of legal resources.

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