

Popular Threads on Solosez

Suing a Client For Fees

Here is an update on suing a client for fees (getting past the debate on whether it is good or bad):

The client insisted we go to trial, which we did. What I thought would take about 1 hour, turned into 3 hours because the client defendant made every mistake in the book and the judge was making sure that he didn't make an error. The judge did a great job. We returned a week later for the judgment. Judge returned a verdict for nearly everything I asked for (including costs and attorney fees) just under \$5000.

I sent the client a demand letter to pay the judgment in 10 days or be subject to citation proceedings (remember, this is small claims, which is immediately enforceable and there was no motion to stay the judgment, etc.) The client sends me a letter indicating he intends to appeal the judgment (this client thrives on litigation; the matter in which I helped him with had been pending in one form or another for nearly 30 years - appeals, etc.).

Appeal? A \$5000 judgment after a trial? On attorney fees??

So, my plan is to (a) go forward with citation proceedings; and (b) ignore the petition for appeal, because he is likely to screw that up and fail to post a bond. Even if he gets the form of the appeal right, I doubt an appellate court is going to grant an appeal on a \$5000 judgment for attorney fees.

What says we? That you NEVER sue a client for fees.
NeverAbsolutely never.

Alan S. Fanger, Massachusetts

Here the appeal is of right? Does small claim appeal go to the Appllate courts or to a court of general jurisdiction?

How much more time are you going to spend on the matter?

Ted A. Waggoner, Indiana

Obviously your client never read Bleak House!

In Illinois there is a right to appeal a small claims judgment. Unusual, but it happens. Personally, I'd go for the citation proceedings if you don't have a notice of appeal in your hands.

FWIW, I give you a lot of credit for going after this guy. And I hope you have made a note to self - anyone who has been litigating the same matter for more than 2 years is probably trouble.

Laura McFarland-Taylor, Illinois

It is not an appeal of right because it is a civil matter. In Illinois, even final judgments are not automatic appeals. The appellate court has the right to turn it down. It goes from our Circuit Court small claims to our appellate courts by notice. I don't plan to file anything in the appeal - if for some bizarre reason they accept the appeal, I'll let the appellate court decide without my brief, etc.

I do intend to spend another hour or so on citation proceedings because the client is technically a corporation, but I suspect that I may be able to pierce the corporate veil if necessary and also to pursue a claim of fraudulent transfers, which allows for punitives and attorney fees.

You must understand, at this point, since I've gone this far, giving up on \$5000 is too difficult for me. It's a lot of money and 2008 was a rough year and I'm just ticked off that a client thinks he can use my services and not pay for them. [And everyone can stop saying "don't sue your clients for fees" because we're past that argument].

Under normal circumstances I would agree that you shouldn't sue a client for fees. Here in MA, we can do fee mediation instead of a lawsuit. However, since the whole world is upside down right now...I agree that \$5000 is a lot of money and you are right to be ticked off. You provided an invaluable service and therefore you shouldn't be paid handsomely for all your hard work.

I wouldn't spend more than another hour on the case though. Just do the citation and see where the dice rolls. At some point, if you keep pursuing this, it will reach a point of negative returns.

Good luck.

Gabriel Cheon, Massachusetts

I'd go forward with your citation, until you receive a notice of appeal, then demand a bond, for 1 1/2 times the amount. I would not ignore the appeal but I'd make your response rather simple.

I sued a client several years ago and won at each level. She threatened to take it to the Supreme Court and I said fine, at 9% interest I had no problem with that. She finally paid the bill, but not without trying many angles to get out of it. Today I do not let billing get out of hand like I did then.

I have on too many occasions spent more time on something than it is worth but I put that down as CLE (without credit but for my own maintenance of skills). If he has the money, you will get more in post judgment interest than you can get in a mutual fund investment.

Lynne R. Ostfeld, Illinois

Good for you! Let us know how it turns out.

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All the best,

Norman Solberg, Japan

I am going to have agree that it is important that you get your fees - even if it means you need to sue. Although some fear an eventual bar complaint, it sends a bad rep for you throughout the community when the

next client comes along and tries to stiff you. And in my opinion, whether you sue or not, you are still going to get a bar complaint - might as well get your money.

Michael D.J. Eisenberg, District of Columbia

I have never really sued for fees owed to me, but I have been really been stiffed for \$5,000 either. Starting today I am doing fixed flat fees on everything. For Bankruptcy I always required the full amount for a 7 anyway so no change here. Chapter 13 I always required a deposit before I file and the deposit always depended on the monthly plan payment.

My divorce and family law cases is where I will see the most change. I am looking into signing up for an online virtual terminal for credit card and check payments and all clients wanting to pay over time will have to agree to recurring billing on a monthly basis or pay everything up front. My new representation agreement states if they cancel the recurring billing agreement or a payment does not go through, all remaining fees become due or I withdraw.

We will see how it works out.

Robert Louque

I'd rather not sue but I do ask the client if they would keep working if the boss said that he didn't feel like paying them for their work. Or if they'd drive off from the gas pump?

I did keep my first resolution. CASH UP FRONT. The full amount I quote period.

Only Wimpy gets to pay Tuesday for a hamburger today.
<snip>

John Davidson, Pennsylvania

You quote and get the full amount up front? What kind of work do you do?

Lynne R. Ostfeld, Illinois

The RETAINER quote.

John Davidson, Pennsylvania