

Collecting from Deadbeat Lawyer

I covered for an attorney 90 days ago. Four invoices later and she still hasn't paid me. I'm going to send her a letter threatening ethical action in 15 days, but I'd also like to get paid. Is the best course of action an attorney's lien or a small claims suit?

Thanks!

You should check to make sure that your action does not violate the rules of ethics in your jurisdiction (i.e., threatening to bring an ethical violation to obtain a result). Have you considered serving a demand letter under your jurisdiction's consumer protection statute?

Very truly yours,

Bill

William M. Driscoll, Massachusetts

Also, at least in Mass., not paying a bill is not an ethical violation, per se. It's just scuzzy.

Brian J. Hughes, Massachusetts

Treat it as a collection matter would be my approach. While there is a potential for disciplinary action, and people do go down that road on occasion, I would not. I would also do a cost/benefit analysis whether to pursue or just treat it as a learning experience.

Darrell G. Stewart, Texas

So it's like one or two billable hours? Keep perspective. How much time is it going to cost you to try and collect through bar complaints, demand letters, etc.?

I'd start with those who really run the law firm--the paralegals and secretaries. I'd send a kind email to the paralegal or secretary, or maybe a phone call, stating that you sent the bill but haven't been paid. This is abridged version, but my email would say something like this:

"I'd like to get paid because I'm running a business. Was so-and-so lawyer satisfied with the work? Is there any reason you can share with me why the bill has not been paid? Is there anything I can do to help the situation?"

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That works every time. Just be prepared to be a wee bit flexible.

This is what I would do for a small bill like an appearance.

Joshua Smith, Idaho

I doubt there's an action under the consumer protection laws. The relationship is not merchant-consumer, but business-business. The ethical concern is a major red flag, as Bill pointed out. I would be exceedingly leery of making any sort of ethical complaint. Research the rules on in that area carefully.

Send a demand letter once you decide what to do (I have a letter for those cases in which I intend to sue o/b/o my client, and one when I know the client has no intention on filing suit. Let me know if you'd like either or both). I don't need to know how much she owes you but, make sure its worth suing over. A couple of hundred bucks isn't worth the hassle. I know its an emotional issue, and I understand those emotions because I've been stiffed by law firms and lawyers. Nonetheless, make sure its worth it. Unless you do small claims already, you will spend your time making sure you do all those little things correctly. You will spend more of your time than the claim is worth. And then there are filing fees, showing up to Court, etc. And you probably cannot get attorney's fees.

Without excusing her failure to pay, there may be a situation which prevents her from paying. She may want to pay you, but just doesn't have the \$\$ to do so. If there is room in your heart and head to reach out to her, you might want to consider doing that. Perhaps there's a payment arrangement to which you can each agree. But if the compassion ship has sailed, or when it sails AND if you decide to file suit, go for the jugular.

Good luck!

Barry Kaufman, Florida

I had a non-paying attorney a couple of months ago. I usually send my invoices by email, but I sent several emailed invoices and I was getting no response. So, I sent an invoice via snail mail with a self-addressed envelope, and the attorney paid within a couple of days. Attys, esp solos, are busy people and sometimes writing a check and addressing an envelope is daunting. LOL

Tracia Y. Lee, Texas

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Maybe she's having a hard time with bills so I would send a letter offering a payment plan if that would help. You're probably not the only one she hasn't paid.

Or, it might be worth writing it off as tuition in the school of life and next time requiring a retainer. The time and effort it will take to maybe get paid is probably not worth it. The same energy can be applied to growing your own practice and working on your current cases.

Thank you,

Elliott Malone, New Jersey

Even if there is an ethics violation, the complaint may entail lots of your time. I'd do a depth charge. Haven't done in a while, but think it still works. FedEx has a pickup service. Sent notice to debtor that you will have carrier pickup your check on (date certain). Arrange for FedEx pick up. Will cost a bit, but probably cheap as a one-shot.

That fails, learn your lesson OR--as I did once--spot the bastard at a bar meeting. Wait until he's with a group. Break in, say **WHEN ARE YOU GOING TO PAY MY BILL**. All will understand, doubt any will think less of you.

John Page, Florida
