



Fee Suit
Decision Tree

Fee Suit Decision Tree

The odds are one in four that your client will file a counterclaim for malpractice if you sue for fees, and those odds increase to 40% if you practice in family law or real estate. In light of this, there are several questions you should consider before bringing a fee suit:

1. How well will your performance stand up against a malpractice counterclaim? Assess your odds of winning and adjust the amount you are seeking to recover accordingly: if they are 80%, reduce by 20% and re-evaluate whether it is worth pursuing.
2. If you believe it is still worth pursuing, re-evaluate the reasonableness of the fees you are seeking to recover. You cannot recover excessive fees. Reduce the amount accordingly.
3. Still worth it? Deduct legal fees and the value of your time that will be consumed in pursuing the action and defending a counterclaim.
4. Still want to sue? If you are seeking to recover fees and not expenses, deduct 30-40% for taxes.
5. Still want to sue? Deduct damage to public relations and goodwill.
6. Still want to sue? Reduce the amount of fees you're seeking by the amount that is likely to be uncollectible. Often, the reason the client has not paid is because the client cannot pay.

If at this point the "adjusted" outstanding balance is still large enough to prompt you to file suit, then you should re-evaluate your billing and collection procedures to avoid such situations in the future. Different timekeeping policies and better billing practices may have avoided the problem. Be sure that you understand your rights and obligations with respect to withdrawal from an engagement prior to conclusion of a matter, and then in the future consider withdrawing before the outstanding balance gets so large.

This document should be treated as a starting point and is not a substitute for professional legal analysis. It is included with the understanding and agreement that the author is not engaged in rendering legal or other professional services. The services of a competent professional should be sought if legal or other expert assistance is required. The reader assumes all responsibilities and obligations with respect to any decisions or advice made or given as a result of the use of this document and for its selection to achieve the reader's intended results.



APPLICATION FOR LAWYERS PROFESSIONAL LIABILITY INSURANCE

FEE SUITS SUPPLEMENT

Firm Name:	
Policy Number:	
Effective Date:	

1. How many clients has the firm handled in the past two years? _____

2. A. How many fee suits have you filed in the past five years? _____
- B. How many of the clients that the firm has sued paid the balances due after the suit? _____
- C. How many suits are still open? _____

3. Does the firm's engagement and retainer letters clearly show payment schedules? Yes No

4. A. Does the firm handle the collection of unpaid fees? Yes No
- B. If no, does the firm refer the collection of unpaid fees to a collection attorney? Yes No

5. Please indicate low, high, and average dollar values of unpaid fees?

Low: \$ _____
 Average: \$ _____
 High: \$ _____

6. A. Have steps been taken to avoid a possible counter suit? Yes No
- B. Please provide details: _____

7. A. Have steps been taken to prevent fee suits in the future? Yes No
- B. Please provide details: _____

8. For which of the following areas of practice has the firm filed fee suits?

<input type="checkbox"/> Admiralty / Marine - Defense <input type="checkbox"/> Admiralty / Marine - Plaintiff <input type="checkbox"/> Anti-Trust / Trade Regulation <input type="checkbox"/> Banking / Financial Institutions <input type="checkbox"/> Business Transaction-Commercial Law <input type="checkbox"/> Civil / Commercial Litigation-Defense <input type="checkbox"/> Civil / Commercial Litigation-Plaintiff <input type="checkbox"/> Civil Rights / Discrimination <input type="checkbox"/> Collection and Bankruptcy <input type="checkbox"/> Construction (building contracts) <input type="checkbox"/> Consumer Claims <input type="checkbox"/> Corporate Business Organization <input type="checkbox"/> Criminal <input type="checkbox"/> Environmental <input type="checkbox"/> Family Law <input type="checkbox"/> Government Contracts / Claims <input type="checkbox"/> Immigration / Naturalization	<input type="checkbox"/> Intellectual Property – Copyright/Trademark <input type="checkbox"/> Intellectual Property - Patent <input type="checkbox"/> International Law <input type="checkbox"/> Labor Management Representation <input type="checkbox"/> Labor Union Representation <input type="checkbox"/> Local Government <input type="checkbox"/> Natural Resources / Oil & Gas <input type="checkbox"/> Personal Injury/Property Dam - Defense <input type="checkbox"/> Personal Injury/Property Dam - Plaintiff <input type="checkbox"/> Real Estate / Title – Commercial <input type="checkbox"/> Real Estate / Title - Residential <input type="checkbox"/> Securities (S.E.C.) <input type="checkbox"/> Taxation <input type="checkbox"/> Wills, Estate, Trust and Probate <input type="checkbox"/> Workers Compensation - Defense <input type="checkbox"/> Workers Compensation - Plaintiff <input type="checkbox"/> Other (please describe below)
--	---