Fee disputes are more often than not a trigger for a professional negligence claim brought against practitioners. Typically, the practitioner sues the client for unpaid fees and is then met with a claim/general allegation of professional negligence.

In order to avoid a fees dispute/general claim brought against practitioners, the following tips may assist in billing and collecting fees for your legal services:

- **Ask yourself at the initial stage before agreeing to take the client on whether the firm will get paid?**
  - Is the client financially sound? Does the client have resources to fund the matter? Does the client pay their bills, including yours? What is the firm’s potential exposure on this job, for example, amount and time frame, recovery or enforcement difficulties?
  - Will the firm make an acceptable profit on the job? Who in your firm makes this assessment? Does the client accept and sign off on the firm’s fees and terms?

  All of the above questions are inter-related. The point is to assess upfront the risks of being paid or not. If the answer is no or otherwise qualified, you may want to reassess whether you still want to take the matter on. Similarly, if your client is overly concerned about fees you may wish to consider whether to actually take the client on at the initial stage.

- **Written fee agreements/letter of retainer/engagement**
  - Each engagement letter or Contingency Fee Agreement should contain a clear explanation of the legal fees that will be charged for the work to be performed. In addition, be specific regarding the types of out of pocket expenses for which the client will be responsible.

- **Don’t allow unpaid fees to grow**
  - Bill on a regular basis unless some other arrangement has been entered into with the client. Often billing takes place at the completion of the matter and if this agreement has been reached, ensure the client has been given an estimate and updated estimate regarding the total cost of representation in advance. The key is to collect your fees on a frequent basis, if possible, in order to avoid large unexpected bills and to ensure the client will not be surprised by a large, unexpected bill at the end of a matter.

- **Detailed bill**
  - Provide detailed billing statements that describe the work performed by each practitioner on a daily basis and how long it took. Of course, practitioners’ file records with time entries should correlate with the entries in the billing statements.

- **Review all tax invoices/bills provided to clients**
  - The practitioner responsible for the case or matter should review each and every bill for errors before it is sent to the client.

- **Copy the client on all correspondence and other materials relating to the client’s matter**
  - The client who hasn’t received a single sheet of paper from his/her practitioner in three months or has had no communication whatsoever may query whether there is a need to pay for the bill.

- **Take prompt action on bills in arrears**
  - Deal with the client without delay regarding outstanding fees. The practitioner responsible for a matter in arrears should contact the client and schedule a face-to-face meeting. At that time, the client should be informed that the firm may withdraw from the matter if the fee issue is not resolved promptly. Beware of clients who promise you money ‘next month’. Often, it may not materialise. You may need to consider terminating their representation and cut your losses rather than to wait and later sue the client for a significantly greater amount.

- **Suing for fees**
  - Law Claims’ experience shows that those practitioners who sue for fees are met with a counterclaim for professional negligence which often seeks an amount far in excess of the legal fees in dispute. Also bear in mind that whatever you reasonably can expect to recover will be dwarfed by the time and expenses of defending the claim.

Meaningful, detailed billing can be a valuable document for both client and practitioner and, hopefully a communications vehicle enhancing the client/lawyer relationship. B

For any queries about this or other Risk Management Services offered by Law Claims, please contact the PII Risk Manager, Gianna Di Stefano on 8410 7677.