Maximizing Cash Flow and Collections

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague, Russell Burger. We're both attorneys at Offit Kurman. And today, we are talking about getting dollars in the door, right?

I mean, That's an important thing for pretty much every business, I would feel comfortable saying that that's an important thing. Cash flow obviously makes a huge difference, no matter how big or small you are. Obviously at a smaller size it might make even more of an impact, but ultimately, cash flow matters.

You have to make sure the dollars are getting in the door, you're getting paid, you're paying the people you need to pay. And sometimes the dollars trickle in when really they are, overdue and they should be paid, and there's a lot of different ways to approach that and try to figure out what to do to improve your cash flow and limit your accounts receivable.

But Russell, what are some things that, business owners should be thinking about as it relates to cash flow, getting [00:01:00] dollars in the door, and making sure you're getting paid promptly?

Russell Berger: Yeah. Yeah. So, from a starting point, it's obviously a business imperative that you have good cash flow management and are on top of your receivables.

And it should be approached as a business issue, not a legal issue, as a starting point, right? So there's things like, client selection and credit review and managing your AR, and, all that should happen as a normal kind of administrative business function.

But, there are things that are, legal issues that are kinda tied into that, that, I think are also important. That starts with contracting, and again, it depends on kind of the nature of your business and, its structure. But if you're signing contracts and people are paying you over time or pursuant to a contract, then you wanna have the right contract in place.

You wanna be clear about the payment terms, what happens when payments aren't made, what your remedies are what kind of additional burdens, such as interest and fee shifting might be applied if payments aren't made when they're supposed to be made and give you [00:02:00] leverage to go after them.

We talk here a lot about kind of the boilerplate in the contract actually mattering and being important, and while not huge, it makes a difference. So things like forum selection can be really important and venue jurisdiction can be really important, too. So making sure you've got the right contracts in place.

And then, as a downstream aspect of this, and I think it's really important to have a process that identifies matters that are, "Hey, this has gone too long. This has sat too long. We've gotta do something about this." And again, depending on your business and your industry how are you going about collecting that?

How are you using legal as a potential leverage point to try to get payment? We understand you don't wanna spend a whole bunch of time and money in a litigation process, but, sometimes that's what you need to show, and you have to be willing to do it to convince the other side to pay your bill without a whole lot of fight.

Sarah Sawyer: That's also true, obviously, of recurring customers, those who are maybe someone who you might be doing business with long [00:03:00] term or related customers or people who might see that you're taking that seriously. There's also economies of scale sometimes for these things, right? So if you have a strategy so if you're in an industry where you have a lot of collection issues and maybe your customers are slow to pay or, it's just the type of industry that that happens.

They're waiting to pay you till they get paid, and then y- it's causing you to get caught up with issues. Sometimes you can have a good overall strategy from start to finish, starting with that contract at the beginning that you mentioned, Russell, and then saying "All right, well now we have this contract.

We have an attorney who is familiar with our contract, and we've done this before as far as having to litigate for collections and having to take this through," and having almost like a smooth-oiled machine on how you collect what amount threshold you want to do that for, what ones you just wanna send a demand letter.

So if you have high volume collection issues, which is common sometimes for a lot of different industries even, and it's just part of doing business, even if you are as [00:04:00] proactive as possible on the business end as far as your client selection and your contracts, then you can actually create a system, and that might be part of your business, is a collection cycle, is that legal cycle of having a blueprint of here's how we handle our collections and here's how we vet what the collectibility is, whether it's worthwhile, and here's the factors that we have.

So you can automate that process a little bit. It'll never be completely perfect 'cause it's not a one-size-fits-all ever, but there is definitely a way to do it strategically if it's something that's common in your business.

Russell Berger: Yeah. Yeah and when we start talking about things that are common and repeat and process, we also have to start talking about how AI might fit into that process and how you might be able to leverage that.

And, referring back to one of our recent episodes about legal and doing legal work through AI that doesn't constitute privilege. But, there are ways to leverage the tools to become more efficient, repeat process type stuff.

But ultimately at the end of the day, like you wanna have the right documents in place. You wanna have a process, whatever [00:05:00] that might be. And you should be able to leverage that process to, get as many dollars paid to you as quickly as possible. That's the name of the game at the end of the day.

Sarah Sawyer: Yeah, and one thing, we're always about being proactive, and so I'll mention that here as well. Being proactive on these things, really knowing if you've got a collection issue and you've got an AR issue it makes good business sense, but it makes good legal sense too.

You don't wanna waive any rights you might have as it relates to your collections and just sit on these things, especially if it happens often. So definitely an area to be proactive, like many other areas we talk about.

Russell Berger: That's right.

Sarah Sawyer: Well, thanks Russell. We'll see you next time.

Russell Berger: Thanks, Sarah.