

ASK DR. CARL / ATTORNEY

Question: About 6 months ago I placed a four unit bridge on a patient. The patient paid \$1000 at delivery and agreed to pay the balance over six months. I have yet to see a payment. Can I sue him for the balance?

Answer: You may sue the patient to collect the fee. In Michigan and Illinois there is a forum created to address money disputes of a relatively small amount. The forum is Small Claims Court and it is an excellent tool for the dentist to have in the collection arsenal. While it is not the exclusive answer, it can often result in the collection of fees that seem to be unrecoverable. Since the process can be completed by a staff member, doctor time away from the office is minimized.

In Michigan you can sue for up to \$3,000 while Illinois has a \$10,000 threshold. In Michigan the plaintiff, suing party, can waive any excess above the \$3,000 threshold and sue for up to \$3,000. How does the process work? You start by obtaining the proper forms from the court house. Sometime the forms are available online. The forms must be completed and filed in the county where the defendant lives or works. There is a small fee for the filing. The forms must be delivered to the defendant to serve notice that they are required to be present for the trial. The court will serve the notice by certified mail or you may have to hire a process server to deliver the notice.

In Michigan, when Small Claims Court is used, the parties agree to waive three basic rights. Participants waive their right to a jury trial, the right to attorney representation and the right to an appeal. By having no attorneys involved the costs to the parties is very low and the process is very rapid. Most matters are completed within about one half hour. The hearing or trial is conducted on an informal basis. You don't have to memorize the court rules that Attorneys must follow. The plaintiff will present evidence first and the defendant will be allowed to cross examine the presenter. The process is reversed and the defendant will present evidence and the plaintiff will be allowed to cross examine. The judge will decide and deliver the judgment immediately or it will be mailed to the parties. Either party may appeal to district court within 7 days. If appealed the appealing party can be liable for court costs and attorney fees. The process is designed to discourage appeals. In Illinois attorneys are involved in the process and the loser can be liable for court costs. Illinois' process is not quite as simple as the Michigan process.

What happens when you win? You can only collect if the patient has money or assets. The burden is on you to determine that fact prior to starting the process. Once you get a judgment, you have three options. You can obtain a garnishment, which attaches money generated from an employer or a bank account. You can get an execution on personal property owned by the defendant. As a last resort you can start a discovery hearing, which will require the defendant to produce financial records in the court.

In Michigan there is a small learning curve as well as a small intimidation factor to the process. Both of these will be gone once you experience how simple the process is. Here are some tips to make the process run smoothly. Be on time. If you are late the magistrate will dismiss the case. Bring all your evidence including witnesses and documents. Plan your chain of evidence so that it proves that the procedure was completed. Present your treatment plan, progress notes, and any finished radiographs. Show what collection measures have been taken. Be courteous to the judge and respectful to the defendant. If you have provided a quality service, the judge will almost always find in your favor and the collection of the delinquent fee is almost as satisfying as the knowledge that the process works for you.

By: Michael J. Carl, D.D.S., J.D.

Dr. Carl/JD is a practicing general dentist and attorney, who divides his time between dentistry and legal matters of practice buyouts, corporate matters and disciplinary proceeding with healthcare, and he is a client of Heritage Dental Lab! Please send any legal questions that you may have for the next issue, or e-mail him at mjc@transitionworks.com