E-90-4 Interest charges on delinquent accounts

Question

May a lawyer or law firm include in its fee agreements or engagement letters the following: “Our invoices for services are due and payable within 30 days from the invoice date. Failure to pay those charges within that time will result in an interest charge of 1-1/2 percent on the unpaid balance per month thereafter.” All billing statements would include similar language.

Opinion

Yes. The proposed conduct conforms with SCR 20:1.5(b): “When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.” The proposed conduct is such a communication. Because an interest charge would be a factor “directly involved in [the] computation” of a fee for legal services, such charge should be part of the understanding with a client at the inception of the attorney-client relationship. SCR 20:1.5, Comment, “Basis on Rate of Fee.” See also Committee on Professional Ethics Formal Opinion E-75-1 (1975).

Caveat: This opinion does not purport to cover questions relating to the application of state or federal law regulating the charging of interest. See generally “Charging Interest on Delinquent Accounts: The Dilemma and Possible Solutions,” 55 Wis. B. Bull. 10 (Aug. 1982).