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Collections 101 for Campaign Professionals.

The elections are over. You won some. Maybe, you lost some. Many campaign professionals are satisfied by their clients' successes, but they get stiffed after the campaign is over. They are the clear losers in the process. Sometimes, the hometown staff convinces the candidate that the campaign professional's services were insignificant. Often, there was a disagreement during the heat of the election campaign. But, if you are going to remain a campaign professional, you need to treat your work as a business and treat the politicians as business customers.

Some of your customers aren't paying you what they promised. If you can bring your enforcement action in the District of Columbia, you might be in luck. You can bring your case in the District of Columbia if your contract says you can, if the responsible parties in the campaign work or live in DC, or if they can be found and served within the District of Columbia. This area of the law is complicated, and there are many exceptions that could allow a poorly drafted contract to be enforced in DC, so don't despair until you have reviewed the facts with a competent lawyer. District of Columbia law favors campaign professionals in three significant ways, and it is best to try extra to bring your case in DC.

First, in the District of Columbia, unincorporated associations don't exist and cannot be sued. Most campaigns are unincorporated associations. To laypeople, that would seem bad. Your contract is with an entity that doesn't exist. But, "the law abhors a forfeiture," and a contract with a non-entity is a contract with the person or people who signed the contract. Often, contracts with campaign professionals are signed by the candidates, themselves, or by a high level campaign worker. In the District of Columbia, if they signed it, it is their contract and they are responsible for the cost.

Second, the District of Columbia doesn't give special immunity to campaigns and other unincorporated associations. Some states, like Maryland, partially or completely undercut contractual liability by immunizing associations. The objective of these statutes is to encourage community participation in civic, educational and political endeavors by protecting the participants from legal claims. The best argument in states with an association immunity statute is to argue that the campaign is a business venture. The campaign then becomes a partnership instead of an association, and the statutory immunity doesn't apply. But, an association immunity statute can be a problem where the signer did not personally benefit from the contract. In the District of Columbia, there is no association immunity statute. A contract with an unincorporated association or campaign is a contract with the signer of that contract.

Third, the District of Columbia recognizes that the candidate who benefits from the work should pay, even if the contract was signed by a campaign manager or a volunteer in the campaign. In some states, such as Virginia, it is extremely difficult to hold a party who did not sign a contract liable for the contractual fees due. These states are hesitant to bind a party to a contract they did not sign it. In states like that, the candidate could be immune from a lawsuit for the campaign debts. In DC, the candidate is responsible for the debt if they sign the contract, and they are just as responsible even if they don't sign. In legalese, the term for this is third-party beneficiary liability, and it is a bit more complicated in states which protect candidates who haven't signed their campaign contracts. Sometime, it is possible to collect against the candidate even if they didn't sign even under more restrictive rules, as in Virginia. But, in DC, it is straight-forward and easy, and the

cases specifically protect campaign professionals. In the District of Columbia, both the signer of the contract and the beneficiary of a contract are liable for the contract.

District of Columbia law has grown through the years to protect campaign professionals. The roots of that protection arise from non-political cases and, like all DC law, follow early Maryland law sources going back to the Revolutionary War. The precedents are well established without regard to the large number of campaign organizations based in the area. But, the presence of campaign professionals in large numbers in the District has made the special issues of campaign professional rights familiar to the judges. If you can make your claim in DC, you have a much better chance of collecting your unpaid fees. Further, if the other side calls the major party offices in the District of Columbia for referrals to defense counsel, the same defense attorney names come up often, and they are aware that they have the losing side of the case once they know you can't be bluffed.

Now that the campaign is over and you haven't been paid, you can evaluate your unpaid campaign contracts for enforceability. Here's how:

1. **Look through your papers to see if you have a written contract.** An oral contract is enforceable, but it is going to be much harder and present a number of specific problems. The best is an express, written contract, but written contracts can arise from many types of documents. Are there letters or emails between you and the campaign discussing what you will do and how you will be paid? Did you receive written directions that acknowledge your working relationship with the campaign?
2. **Identify the parties to the contract.** This is easiest when you have a formal, written agreement, but it can arise from correspondence, too. Is the campaign incorporated? Is the corporation identified as the signer of the contract? If the campaign is like almost all campaigns, it is an unincorporated association. Its name will be something like "Campaign Committee," or "John Q. Candidate Campaign," or "Campaign for Candidate." It is more likely that the campaign is incorporated if its name includes words like Incorporated, Corporation, Limited, or their abbreviations, Inc., Corp., and Ltd. If the contract specifies law in a state with special laws shielding unincorporated associations, you would prefer that the campaign be incorporated or be treated as a business partnership. If you can claim jurisdiction in the District of Columbia, you'd rather deal with an unincorporated entity. After all, many campaigns are broke once the campaign is over. You'd rather sue the candidate or the sugar daddies of the campaign.
3. **Determine which law controls your contract and where your suit can be filed.** This can be a difficult and complicated matter, and you are best to leave it to a lawyer who knows litigation as well as contract law. There are things to check, though. Does the contract say it is entered in the District of Columbia? Was the work performed in DC? Was the contract signed in DC by one or both parties? Did the candidate or other key staff have meetings under the contract in the District of Columbia? Are the candidate and/or the signers of the contract living or about to live in DC. List all of the connections between the contract and the District of Columbia.

If you have a DC contract, you have a decent claim and a good possibility of settlement, especially if the candidate retains competent counsel. Even if you cannot make your claim in the District, it is worth a few hours of research to determine whether you can pursue the claim. At least, you might learn how to write a contract to reduce your chances of getting stiffed during the

next election cycle. You should contact competent counsel yourself promptly before the statute of limitations expires.

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