The Business of Practice

3 Tips to Help Lawyers Keep Their Pockets Full

by Edward Poll

If lawyers can’t take care of themselves, they obviously aren’t going to do a very good job of taking care of their clients. This list of tips will acquaint attorneys with some effective business techniques to apply to their practices.

Write a business plan. If you already have one, review and update it. It is imperative that you know what your goals are. Then, the road to achievement of your goals often becomes self-evident. The business plan should be logical, consistent, and well-thought-out.

Develop a cash flow statement. The cash flow statement is your business budget; a statement of cash, or forecast, whatever name you are comfortable with, is the statement that you need to concern yourself with at least once a week, if not more often. It is the single most important tool for the success of any business activity.

Reduce variable expenses. Many office expense items cannot be controlled or reduced once set in place. Some items can be reduced, and if you know when to anticipate low and high cash-flow periods, you can postpone or advance equipment purchases.

Increase the size of retainers to improve cash flow. Most clients come to an attorney because of a specific recommendation by a friend or colleague. They are concerned about the cost of the legal services. But they are usually not very price-sensitive that a modest increase in the size of the retainer will chase them away.

Stay ahead of the client. To improve your assurance of being paid fees and when billed, you should always retain a sufficient retainer in the client’s trust account to bill against.

Increase your hourly rate, a small amount at a time, until you are at least at the “market rate” — the rate your colleagues in the local area are charging.

Consider flat fee billing as opposed to hourly billing. In a flat fee billing, the entire amount of the fee can be deposited into the general account upon receipt.

Prevent contingency fees. Most cases are settled without trial. Under these circumstances, the status of your present cases is known, the likely time and amount of settlement can be estimated, and the flow of future work can be projected based on your previous experience.

Change your billing cycle. Bill one-fourth of the alphabet each week. In this manner, you will receive money from clients on a regular basis, probably weekly, rather than once per month.

Shorten your billing cycle. If you remain on the monthly billing cycle, be sure your clients receive your statements on or before the first day of the following month. To do this, your billing cycle must end on or about the 25th of the month. The theory is that most people pay their bills on or before the first of the month.

Hire someone to help collect. If you are having little success collecting your accounts receivable, or if you believe that the salesperson (you) should not be on the person collecting the bills, then hire someone (e.g., a part-time accounts receivable clerk from a local college or a retired bookkeeper) to do only this task.

Maintain a high average daily balance. Most banks today calculate the “average daily balance” in your bank account. This is one of the most significant bits of information with which a bank works in analyzing your account. This can be done by keeping a large sum of money in your bank or by keeping limited funds in the account for a longer period of time. One can keep funds in the account longer by depositing reverse immediately upon receipt and spreading the payment of bills throughout the month. Do not pay your bills all at once; this will cause an unappropriated dip in your account balance rather than provide an even flow of funds.

Don’t wait to deposit checks. The first rule of cash flow management is not to accumulate checks for deposit until the end of the week. The client may not be aware of what the client needs, for whatever reason, stop payment on the check. The check may reach your client’s bank at a time where the check is overdue.

Reconcile your bank statements immediately upon receipt so that any bank mistakes can be corrected right away and before any embarrassment with the bank or your payable results.

Be sure that you sign all checks. Do not delegate this authority. You must know the present status of your “business” at all times.

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one day in your receiving payment.

Deposit all checks from clients even if the amount received does not match the amount due per the statement. Make a photocopy of the check. After making the deposit, call the client. You will ultimately reconcile the amount paid with the amount due; however, in the meantime, you will have deposited the amount sent and receive the benefits of that deposit.

Use special electronic devices to monitor facsimile and photocopy machines, and bill clients reasonable amounts for these costs. Recapturing these costs is expected by clients today.

Use a frequent-copier card at public libraries.

Charge for the time of “paralegals” and “legal assistants.” “Legal assistant” has been defined by the American Bar Association as “a person, qualified through education, training or work experience, who is employed or retained by a lawyer, law office, governmental agency, or other entity in a capacity of function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically delegated substantive legal work, which work, for the most part, requires a sufficient knowledge of legal concepts that, absent such assistant, the attorney would perform the task.”

The charge is not for secretarial work, but for creative, legal work such as meeting with clients, meeting with court personnel, deposition summaries, drafting pleadings, contracts, etc., investigations, and generally assuring that deadlines are set and met.

Know when to say “no” to a client. First, say “no” to a prospective client when he/she has two or more lawyers before you on the same matter.

There is trouble, usually with the client. Also, when your best advice is ignored by the client, usually without telling you in advance that your advice will not be followed, you have lost “client control” and respect of the client; it is time to withdraw from the case. When you say “no” to a prospect or client, be sure you put it in writing.

Create/develop a policy manual for office procedures in writing for everyone (including temporary or replacement secretaries) to know, to follow, and to be measured against. It should be created at time goes on, containing form documents such as “thank you” letters for referrals, retention agreements, opening letters to clients, format of billing statements to clients, and similar letters and forms standardized for your office. The forms are easy to pull together in one location, either on a computer or in a file.

Don’t lower your fees. Attorneys take more cases than appropriate when they are temporarily not busy or when a client tells a tale of woe. Under those circumstances, attorneys even lower their fees. Guard against this inclination. Begin to upgrade the matters you take into your office. You can do this by beginning to raise your fee; clients will not balk at a modest fee increase. Clients generally do not appreciate, even sometimes do not know, that you are lowering the fee.

Consider the telephone a friend; the best and least expensive marketing tool available. Return all telephone calls ... especially when client deadlines have not been met. Be realistic in setting time constraints and discuss these with clients in advance. When a client picks up the telephone to call you, even for just a status report, the client is already in stress. If the receptionist is rude or unsympathetic, or if you do not return the client’s call, the stress level of the client rises substantially. It is a client in this emotional state that will cause you problems.

Remember, you are in business; the business is the practice of law. Unless you recognize that as a fact, you will do things that will be contrary to the Canons of Ethics and Rules of Professional Conduct ... as well as destroy your ability to earn a reasonable fee for your efforts.

You can delegate authority. You cannot delegate responsibility. You are responsible for the effective and efficient operation of your office. You must take these steps necessary to accomplish this. And, coincidentally, these efforts usually improve the delivery of your legal services.

Edward Poll, J.D., M.B.A., is a law practice management consultant who advises attorneys and law firms on ways to improve the operations of their offices and their bottom line. His specialties include profitability analysis, strategic planning, practice evaluations, in-house education, retreats and management workshops. He is the author of the new book, The Business of Law: Strategies for Law Firm Survival and Growth, published by the American Bar Association. For ordering information or to make suggestions or comments about this article, call (800) 873-5880.

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