

# Practicing in Troubled Times – How to Make Smart Business Decisions That Will Improve Your Bottom Line

By

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In tough economic times it is more important than ever for you to understand your finances and watch your bottom line. Where are your billings and receipts coming from, and what are you spending money on? How can you analyze the business aspects of your legal practice and gain insights on your firm's cash flow, lawyer productivity, billing realization rates and other measures and use this information to improve revenue, increase efficiency, decrease costs and, ultimately, help you make more money. These suggestions are especially useful during the current economic downturn.

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# Practicing in Troubled Times

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## ***Introduction***

Managing cash flow is a fine art. Especially in these tough times, you have to carefully watch the flow of cash in and out of your practice. Good cash management assures the life of your practice; you will have the cash on hand when you need it. However easy to state, it is difficult in application, as we have seen with so many businesses tottering on the edge of bankruptcy. Accordingly, this session is aimed at getting at the basics of cash flow management for a small practice.

If you don't already have an accountant to act as an advisor and a part-time bookkeeper to keep your financial records in good shape, I would recommend that you shop around and find one of each that are recommended by other lawyers who have successful small practices. I have seen many lawyers try to keep their financial records and postings themselves; the (relatively) small amount of money that you spend on a part-time bookkeeper familiar with your accounting system and your practice will be money well spent. They will keep you on top of deadlines and draw potential problems to your attention before they become big problems. Furthermore they will free you to do what you do best - practice law - while they do what they do best - keep your financial books in proper form.

I am asked many times by lawyers to advise them on the cheapest accounting system they can buy. Oftentimes, I spend an hour explaining to them that a proper integrated (general, trust and practice management) legal accounting system will pay for itself many times over in just the first year by allowing them to not only report on required historical results but also allow you to forecast your goals in financial terms and track your progress in real time. That kind of power is invaluable and can make the difference between being successful and just getting by.

What can a proper financial system tell you? Greater detail is in the full article, but a good system can provide you with the ability to:

- Set a budget (which is a forecast of your income and expenses) and track your progress towards meeting your goals of keeping expenses in line and achieving your income expectations.
- Determine your cost of providing an hour's worth of services. We all know what hourly rates lawyers are charging; without any analysis of what it costs you to render an hour's worth of services you have no idea of where your break-even point is on a file – and whether or not you can benefit by moving to fixed-fee quotes.
- Determine if your timekeepers are recording their time accurately, writing off excessive amounts of time or achieving a businesslike and acceptable realization rate.
- See if your accounts receivable are ballooning and if so, why.
- Create a good 'dashboard report' that allows you to see the financial workings of your firm and in particular, how the finances of the firm are matching your expectations (see the full article for a suggested dashboard report). Early warning of a problem(s) can allow you to take action – now – before you are facing a financial crises.

## ***The Basics of Cash Flow Management***

The objective of good cash flow management is to be able to pay yourself your expected draw (and any bonus in good times), on time and in the amount expected while maintaining all salaries, payables, government remittances and other cash needs of your practice. This is not easy - while salaries and remittances are regular and predicable, there are always unexpected expenses. Many times these can be taken in stride provided the practice has maintained a 'cushion' in their general bank account to cover unexpected expenses. However, in our experience many practices manage cash flow by the cheque book method - so long as there is cash in the bank, they draw it out - leaving the practice continually undercapitalized and vulnerable.

## **What are your Financial Goals?**

The first objective is to know what it is that you expect by way of a draw from your practice. Or as we are fond of saying, pay yourself first, since no one else will..

Of course we all know that expenses have to be paid in a timely fashion; however if you don't plan to pay yourself your draw, you end up in the position of paying yourself what is left in the bank account after everyone else is paid. And that results in putting yourself last. We think proper financial/cash management can turn that around....

So take a bit of time and plan out what you want from the practice. One way to do this is to work backwards - take your expected Income and multiply it by 2 to 2.5 ...that roughly anticipates the overhead of your practice. Now divide that number by your desired hourly rate - that will give you a rough idea of the number of billable hours you must put into your practice in a year. If this is satisfactory - great. If not - go back and adjust as necessary. This is the first step to scoping out your income, anticipated expenses, draw and what you must do to get there.

## **Write a Business Plan:**

A business plan is your forecast (or stated goals) of your practice. As well as your budget, you outline what services you wish to market, how you will market those services, how to distinguish your services from the competition, and how to operate your business.

A business plan:

- Is the only way to measure progress – by having a written statement that summarizes the goals of your practice and allows you to design the financial reports that will measure your progress.
- Refocuses and revitalizes your practice, particularly if you are feeling lost or adrift. The process of thinking about and crafting your business plan allows you to start thinking of how you can change your practice and move it from where it is to where you would like it to be...
- Organized explanation of how to start and manage your practice. Particularly if you are just settling up in practice, your business plan will be your assessment of your strengths, weaknesses, your competition and the environment in which you will be practicing. How can you maximize your strengths and differentiate yourself from the competition?

## **The Budget: Where it all begins...**

A budget is a forecast or plan of your future financial performance. It's the financial piece of your business plan. Without a budget you are flying blind... and as the expression goes, "failing to plan is planning to fail." Many lawyers, in our experience, budget by the cheque book method - the look at the balance showing in the cheque book - look at the proposed expense and decide whether to spend the money based on the balance in the account. However, this is equivalent to flying blind - you haven't contemplated the expenses that aré

already coming your way when you decide to spend a fair whack of your available cash. And that can lead to cash flow problems down the road!

A budget will provide you with insight into your expenses (a fair whack of the fixed expenses can be determined in advance). Variable expenses – those that ride with the volume of business... can be guesstimated by the expected revenues you will receive.

You should prepare a detailed, month-by-month budget for at least the initial 12 month period. Include all known or anticipated expenses, and when they will come due. Factor in an additional amount (anywhere from ten to twenty per cent is a safe bet) for unexpected expenses, since it is Murphy's Law that costs will always be greater than you expect, particularly as the volume of work increases. Build in marketing time and expenses, too, and don't forget to include your draw. After all, if you don't look after yourself, no one else will!

If you already have an earnings track record, look back for historical data to spot trends and seasonal fluctuations. If you're just starting out, you can still make an educated estimate based on your marketing plan. Use a conservative estimate of how much business you will initially attract. Then, compare your estimated income and outgo on a month by month basis. If you show negative cash flow for several months in a row, do you have the funds on hand to meet that need? If not, where will those funds come from?

Once you have set out well-defined income and expense targets, you will be able to judge for yourself whether you are meeting, exceeding or falling behind your goals. Review the goals you have set on an ongoing and regular basis and, if you find yourself failing to hit your target, take corrective action by cutting unnecessary expenses and thinking strategically about potential new business – before it's too late.

The care and forethought you put into correctly anticipating your future income and expenses can spell the difference between success and failure for your practice. If you ignore the initial signs of trouble, you may find that you are quickly out of business, and possibly facing even greater debts than when you started. With a budget you are on the first step to taking control of your financial future - by anticipating cash flow needs well in advance.

In any case, you are far better off with a simple budget document that you revise than not having one at all. You can find a budget for a law firm at:

In building your budget, you will need to think about two different types of cash needs:

1. Your initial capital needs for setting up your practice.
2. Your ongoing capital needs to finance the running of your practice - known as your working capital.

In most practices, 70% or so of a firm's overhead can be allocated to rent, salaries and technology. Technology falls into both initial needs as well as working capital needs as you upgrade, replace and add to your technological infrastructure. Having to suddenly replace a computer or printer/scanner can throw a wrench into your cash flow planning, which is why it isn't a bad idea to build in the regular replacement of your technology right into your budget. Rent and salaries can be anticipated and they fall into the working capital needs.

## **The Income Statement (Profit and Loss)**

The Income Statement reports on how the revenue of the practice before expenses, is transformed into net income (or loss) after all expenses have been accounted for over a set period of time, typically a month or a year. Comparative income statements, showing totals from one period to the next, highlights changes--both good and bad.

However, recognize that the income statement, if it is prepared on the accrual method, may not actually reflect your cash position for the stated period. The reason is that for accounting purposes, income could reflect bills rendered (but not yet paid) and expenses may include such items as depreciation (which is a gradual write-down of assets which depreciate over time). This isn't to say that an income statement should not be reviewed; exactly the opposite. However, you should recognize that it is not prepared for the purposes of managing cash.

We recommend that you review an income statement comparing the current month to the same month last year. Then look at the current year to date totals, compared to the prior year to date totals. While the figures will rarely be the same, try to understand the fluctuations. If you understand why revenues are down, or why certain expenses are up, you can work to improve the situation. Look at your income statement compared to your budgeted income and expenses. Work on the differences, as discussed earlier in the section on budgeting.

## **The Balance Sheet**

Whereas the Income statement looked at the practice over a stated period of time, the Balance Sheet captures the financial position of the firm at a fixed point in time.

It is a snapshot of the:

- Assets - things of value owned by the firm;
- Liabilities - amounts owed by the firm or obligations of the firm;
- Equity or Capital - the owner's interest in the firm - the excess of the total assets over total liabilities.

From a cash management perspective, the balance sheet is of very limited usefulness.

## **The Statement of Changes in Financial Position (Statement of Cash Flows):**

This is a financial report that is particularly relevant if you run your accounting system on the 'accrual' system (as most law practices and businesses in Canada do), rather than the 'cash' system. It reports the amount of cash at the start of the period, adds in all cash received by the practice and deducts the amount of cash going out to arrive at the net total of cash remaining at the end of the period. In short, it explains the net change in cash in the business over a specified time period (typically a month). It also provides information on how the cash was used in the business over the stated period of time: whether it was used for operating, financing or investing activities.

It is relevant in an accrual system since:

- The accrual system has its strengths -but one weakness is the misalignment between income, expenses and 'cash'.
- It brings everything back to 'cash' – ie Real Money!
- It accounts for all cash receipts and expenditures for a given period, allowing you to see a true indication of the cash available to you for that period.

Accordingly, this one statement should be prepared regularly and given the attention it deserves.

## **Reconciling your Bank Statement(s)**

Reconciling the bank statement(s) on a timely basis is not only critical to the success of your business, it is a required task by legal regulators. But it shouldn't be done simply because it must; equally important are reading and reviewing the bank reconciliation(s)--and knowing what to look for. Lawyers cannot delegate this responsibility--particularly for the trust account. Some one in the office needs to follow up on:

- outstanding trust deposits--when did the funds get deposited into the trust account and why the delay?;
- uncorrected bank errors--notify the bank in writing for correction to be made before the end of the following month;
- state dated trust cheques--contact the client (payee) and reissue;
- unchanged trust balances --is there a reasonable explanation?; and
- negative trust balances--funds must be replaced in trust immediately!

In my work as a practice management advisor, I have taken calls from many lawyers who have had funds sitting in their trust account for literally *years* and who now want to send these funds to the Law Society to get them off their hands. However, if they had reviewed their trust account reconciliations regularly in the past, they would have realized years ago that these funds were just sitting in their trust account. It does not look good for the lawyer to say: "I guess I should have noticed and having noticed, done something about these trust funds years ago." Furthermore, they now have to justify to the Law Society why these funds have just been sitting in their trust account for all this time: Typically the Law Society will ask: "Didn't you notice these funds just sitting there in your review of the monthly trust account listing?". Do yourself a favour - regularly review your trust account reconciliations (along with your monthly trust account report) and take action where funds appear to be sitting in your trust account getting stale.

## Unbilled Fees & Disbursements:

Time (and disbursements) do not benefit you just sitting in your accounting system. It is best if they are billed and turned into an account receivable (\*and then into a paid account\*) as soon as possible (and there is a measure of this called 'velocity'). Accordingly it is important to track your unbilled time and disbursements by file, by client and area of practice see how long they have been sitting unbilled. You would be looking for amounts sharply out of line in order to then closely look at those files, clients or lawyers in order to stop the bleeding...

## Managing Your Receivables

Dave and I both have the pleasure of working with people from different law firms every day. We see, and understand, the various challenges small law firms face. One of the common challenges is managing your receivables. The next section is designed to make that job easier--to use features in PCLaw to keep the cash flowing into your business with little additional work

### *Work from trust retainers whenever possible*

Most law firms require clients to provide a trust retainer before starting work on a file. However, once the initial retainer is gone, getting paid for the ongoing work often becomes the problem. If, instead, we require clients to agree to keep a minimum retainer balance on the file, we can effectively eliminate the receivable.

We realize this is an over-simplification, and will not work in all circumstances. But when this type of trust retainer agreement is appropriate, we can adjust the settings in PCLaw so that it reminds clients of their agreement when a bill is rendered. If the trust balance needs to be replenished, a note similar to the following can be set to print automatically on the invoice:

"The minimum trust retainer balance for this matter is:	\$XXX
PLEASE REMIT IN TRUST	<u>\$XXX</u>

to maintain your minimum trust retainer balance.”

Fortunately, PCLaw will do the math (see *Appendix A—PCLaw Minimum Trust Retainer*)

### ***Advise clients of interest charged on overdue accounts***

We all know it's not the interest income we are after. We really just want our invoices paid. But we want to give clients incentive to pay our invoices faster.

Regulations often stipulate the maximum interest rate lawyers can charge a client on overdue accounts. For example, in Ontario, the maximum interest rate is the prejudgment interest rate set by the Ministry of the Attorney General. This rate is subject to change quarterly. These rates can be found at the Ministry of the Attorney General website:

<http://www.attorneygeneral.jus.gov.on.ca/english/courts/interestrates.asp>).

You are well advised to check for the rates of interest that may be charged in your jurisdiction.

In addition, the Law Society of Upper Canada requires that the applicable interest rate, and your terms, be shown on the invoice delivered to your client. Make sure your billing template is customized to include the information stipulated in your jurisdiction. The Canada Interest Act requires the interest rate to be stated in an annual rate (and you can choose to also provide it on a monthly rate). Again the legislation in your jurisdiction should be checked for not only the rates of interest that can be charged but also how that interest is to be shown on the statements and invoices going to the client.

### ***Follow up on unpaid accounts***

Following up on unpaid accounts can be a time consuming task. It must be done; but, there are a thousand competing demands on your time. So, you need to find an easy and efficient way of reminding clients that you expect to be paid.

PCLaw "Past Due Notices" are an easy way to send a reminder. These Notices work well because all the information is already in PCLaw. Interest can be set to calculate in accordance with the prescribed prejudgment interest rates discussed in the previous section. And unique phrases can be added to print on the Notices depending on whether the account is over 30, 60 or 90 days. These Notices can

be e-mailed or customized to mail in window envelopes (*see Appendix B—PCLaw Past Due Notices*).

It is important to note that interest charged on these Notices is not added as income to the practice unless it is received. No entries are made to the client ledger as a result of running Past Due Notices.

### ***Improve your collection realization:***

Your collection realization rate is the percentage of your billed fees which is actually collected. Collection realization rates are often overstated because attorneys tend to leave uncollectible receivables on the books for extended periods of time, sometimes years, rather than admit they will never be collected.

To determine how the firm is doing, the firm has to acknowledge that there are only a few possible outcomes when billing:

- 1) WIP is partially written-off of time before billing since the stated time is acknowledged to be too steep;
- 2) The bill is rendered and collected;
- 3) The bill is partial collected with the balance written off; or
- 4) The entire bill is written off.

According to statistics from the Commercial Law League, receivables in excess of 1 year have only a 28.4% chance of being collected. Receivables in excess of 2 years have only a 12.5% chance of being collected. Read about the 'curve of gratitude' noted below.

Evaluate your receivables using these statistics to calculate the likelihood of bad debt, and then compare what you have collected and what remains as collectible in your receivables against what you billed. Also compare these numbers to benchmark data. This is another area which can yield tremendous additional profit for the firm, without putting in longer hours, simply by tightening up or implementing good receivable management practices. Write-off the acknowledged bad debts - if you should ever recover them, then you can always reinstate the bill. But by writing off the bad debts, you get to also deduct the GST that you remitted on those bad-debts against the GST that you are remitting - thereby at

least putting \*some\* cash back into your pocket! (see *Appendix C—PCLaw Provisional Write Offs*)

### ***Keep track of the collection status***

Someone in the firm must stay on top of the accounts receivable. You may ask someone in your firm to be responsible for the task of following up on overing accounts. But you still want to be kept up to date on the collection status.

One of the lesser known features in PCLaw is the use of "Collection Notes". These notes are easy to enter in the Matter Manager section of PCLaw. However, they can be set to show on the receivables report. Now as you review your receivables report, you can see the collection status. (see *Appendix D--Collection Notes*)

On the "Receivables by Client" Report, change the "Layout" to "Default with (coll memos)". Your information will print right on the receivables report.

### ***Shorten your billing turnover rate:***

Your billing turnover rate is the length of time, on average, that it takes for a bill to be sent to the client after the work has been done. The figure is determined by dividing your year-end work in progress (WIP) figure by the average amount you have billed monthly during the preceding 12 months. For example, if a single lawyer averages billing \$20,000 per month and has \$60,000 worth of unbilled work (WIP) on the books at the end of the year, his billing turnover rate would be 3 months ( $\$60,000 \div \$20,000 = 3$  months).

Some types of work are customarily billed only at the end of the matter, and this can throw the numbers off. Clearly, though, the lower this number, the better off you are financially. Clients can't pay your bill until you send it, and the sooner they get it, the greater chance it'll be paid.

## **Managing Your Credit**

If you run your own practice, then your personal credit and your business credit are oftentimes entwined. Most small business owners use their credit cards for office purchases, typically to earn travel and vacation points but also since credit cards can be a short-term

interest-free loan if they are paid in full and on time. The problem is if you use them to finance an office expense only to find that the expected receivables that you had counted on to pay the credit card balance - evaporated. Now you are in a triple-bind - the credit card is due, your personal credit record stands to take a hit, and you have less credit available to you than before. This situation can be the tipping point for a practice that is on the edge. Accordingly, don't neglect your personal finances and as we have stated, aim to 'pay yourself first' in that you plan to have sufficient cash at all times to meet your draws as well as the expenses of the practice.

We recommend using a separate credit card for business purchases. Avoid intermingling business and personal expenses on the same credit card statement. Your bookkeeper will thank you, and you will save yourself time and grief if you are audited by CRA.

There is one rule to be followed: No matter what the organizational structure of your firm, owner compensation should always be made from profits. When you borrow money to pay firm owners, you are actually withdrawing capital, which is necessary for growth and sustenance, from the firm. You are also weakening the financial foundation of the firm.

If you don't have a cash reserve – build one. Examine your monthly cash requirements and compare this to the average balance in your general account. Now accumulate cash to 2, 3 or even 4 times your average balance (place it in an account on which you can earn some interest but where it is easily accessible) to serve as a 'nest egg'. The alternatives to not having sufficient cash if receivables take a hard hit – namely going to the bank for further debt or taking drastic measures such as laying off staff – may not be possible or may have their own price in terms of reduced capacity.

## ***Financial Analysis - Ratios***

In this part of the paper we look at some of the more common financial ratios that are used to evaluate law firm finances:

### **What is your gross profit margin?**

Your income statement (also known as a profit and loss statement, or P&L) will show revenues, expenses and gross profit or loss (before taxes and draws). This is your most granular of profitability statements.

Your gross profit margin is your gross profit divided by your total revenues. For example, assume as a solo that your profits were \$250,000 on revenues of \$500,000. Your gross profit margin is  $\$250,000 \div 500,000 = 50\%$ . According to the Altman Weil 2005 Small Firm Economic Survey, looking at average income and expenses per lawyer in firms with one to 15 lawyers, lawyer income was 57% of revenues, with all other expense categories consuming the remaining 43% of gross revenues.

If your gross profit margin is substantially lower than this figure, then you should be taking steps to increase your profitability – now!

### **What is your debt-to-asset ratio?**

Your financial software can produce your Balance Sheet – that shows your assets, liabilities and equities. Take just your assets and liabilities for a moment...and divide your total debt by your assets. Rather than looking at this for just one year ...compare how this has changed over time....is the ratio getting larger (indicating that your debt is increasing relative to your assets) or is it dropping (indicating that your debt is decreasing relative to the growth of your business).

### **What is the breakdown of your A/R?**

While your total accounts receivable tells you the total amount owed to you by your clients, your accounts receivable report should also be aged 30, 60 and 90+ days.

Here it is useful to look at trends over time... how has the over 90+ category changed? Has it gone up? Growth in your accounts receivable, and particularly in your over 90 days category, can indicate poor client selection, poor collection practices, too much billable time put into a file relative to its worth, or a combination of all three.

Regardless, growth in your over 90 days category should be examined closely to see if there is a cash flow crisis down the road (*see Appendix E—PCLaw Aged Receivables Report*)

## **What are your cash flow needs?**

Most practices live and die by their cash flow. Accordingly, it is vitally important that a firm be able to forecast not only their expected cash revenues but also their cash needs – and to determine if there will be a shortfall.

Your budget is the starting place here – it will tell you your expected expenses and their timing. Next look at your work in progress (WIP) and what can be billed in the next 30 days. Of those short-term billings, how much can reasonably be expected to be collected? Will that amount be sufficient to meet your cash flow needs? If not, how will you make up the difference?

Delaying or deferring expenses can only be done for so long. Eventually you will lose your credit with one supplier, then all suppliers and, lastly, with your bank.

Cash Flow Management is more than just checking your bank balance. If you are using PCLaw, check out the "Cash Flow Planner" report. This snapshot report summarizes totals for cash on hand, accounts payable by due date, aged accounts receivable, aged WIP, bills sent month to date and cash in month to date. (*see Appendix F—PCLaw Cash Flow Planner*)

## **What is your WIP over 180 days/ total WIP?**

Work in progress (WIP) represents an investment by the firm in client files. However, it is a short-term investment – it should be converted into paid billings as soon as possible to avoid the investment reducing in value. We all know that the longer WIP sits unbilled, the lower the chances of collection. Accordingly this ratio looks at the percentage of WIP that is over 180 days old as compared to total WIP. By tracking this over time, you can determine if your WIP is aging too long..and that may indicate a problem in file selection (\*problem clients are oftentimes not billed to avoid antagonizing the client\*) or a problem lawyer (procrastination) or a too-great dependence on contingency files. Either way, it bears investigation when it starts trending the wrong way (*see Appendix G--PCLaw Aged WIP Report*).

## **What is your Lawyers Income as a percentage of paid billings?**

Lawyers constantly ask if their overhead is too high. The typical benchmark is that (gross) income should lie between 60-65% of paid billings (these days it may be trending towards 40-60%). Of course, practices vary and so do staffing levels and office rent (since staff and office rent are the two biggest components in overhead). But, if your income is too low, then you should be looking at your office efficiency and effectiveness, your daily billable hourly targets (they may be too low), and seeing if you can move to lower cost office space.

## **What is your Total Debt/Net Fixed Assets?**

To what degree are you financing yourself through debt (line of credit etc.)? Increasing debt is a good way to increase your productivity – but only up to a point and only if that debt obligation is put back into the practice to increase capacity. If you have been borrowing to pay draws and other non-productive items, then you have a growing problem on your hands....as the debt will become due and you have not increased your income producing capacity to handle it. By tracking this ratio over time, you can see if you are maintaining an equilibrium or sliding further into debt.

## **What is your Realization Rate?**

Virtually every firm carries bad debt on their books. But how much is too much? A firm that does hourly rate billing should aim to achieve a 95% realization rate – collecting all but \$0.05 of every dollar they bill. Unfortunately, most firms lie between an 80-90% realization rate for hourly-rate work. However, if you are a contingency fee biller, then your realization rate should be 150% - to make up for the fact that some contingency files do not result in any payoff. A low realization rate typically indicates a poor client-intake and selection process – you can tighten up your client intake, improve your realization rate and work easier too (*see Appendix H—PCLaw Billing Realization Report*).

## **What are your Annual Billable Time Expectations?**

Every lawyer in private practice should have a billable hour goal – even if they only work on contingency work. There are many reasons for so doing ..but perhaps the best is that without the time put into a file, any analysis as to profitability is all but impossible.

Furthermore, law firm budgets are based on lawyers achieving a certain annual billable target (say \$400,000)– divide that by 231 (the typical number of work days/year) to arrive at your daily billable expectation ( $400,000/231 = \$1,732.00$ ). Divide that by your standard hourly billable amount (say \$250) to arrive at you daily billable time expectation ( $\$1,732/250 = 7$  billable hours/day. Now you can track your daily time and see if you are meeting, falling behind or exceeding budget (see *Appendix I—PCLaw Time Summary*).

## **What is your Effective Hourly Rate?**

Once you know the billable time put into a file: divide the fees collected on a file by the total time put into a file (which should be at least the time billed), and you arrive at your effective hourly rate. Now – here is where it gets interesting: compare your EHR to your quoted billable hourly rate – are you below, equal or above your quoted billable hourly rate? (see *Appendix H—PCLaw Billing Realization Report*).

## **What are your Associates Salaries as a percentage of their Billings?**

By now if you have gathered that setting financial targets is a theme in this article, you are correct. Accordingly, associates should be expected to bill (not collect, as most firms allow partners to write-off associate time and that should not impact this calculation) at least 3 times their annual salaries. If their numbers are actually closer to 4 times their annual salary, then it may be time to think about a raise...(see *Appendix J—PCLaw Billing by Lawyer*).

## **Financing Your Asset Purchases**

Every firm must take its cash and spend it either in operations, investing or financing the practice (or in draws!). Initially the financing to set-up a practice typically comes from the lawyer's own pocket book.

## **How you can Grow yourself into Financial Difficulty**

There is a well-known Lag in being paid on new work while you are still financing ongoing client disbursements and office expenses. The typical lag is 105 days; however if you are incurring client expenses, typically these are due in 30 days. Accordingly, you have to be

careful from a cash flow management perspective if you are rapidly growing, as you can actually grow yourself into a financial mess as your payables outstrip your cash in the bank.

## **Where is your business coming from?**

Knowing where your business is coming from is valuable information. This information helps us spend our advertising and promotion dollars--and time--more effectively. How much business actually came from the yellow pages? the advertisement in the local paper? or the seminar you held? Who is referring business to you?

A lot of valuable marketing information can be gathered when a file is opened. Make it a standard practice to find out how clients got your name. Track this information. If you are using PCLaw, require the "Referral Type" field to be completed for all files. The referral type may be a contact within PCLaw (a specific person). Or a referrals source, such as the firm website or a specific group you are a member of. The options are customizable for your tracking purposes.

How do you get this information out? Under "Reports", "Clients", "List of Clients", click on the "Other" tab. Click on "Summarize by" and "Referral Type". Within this report, you can select the date range you are interested in. (*see Appendix K--Referral Types*)

## **What business are you in?**

Businesses evolve over time. Preferred areas of practice change with experience and market conditions. What areas of law within your practice are growing? What areas of law are more profitable? Where should you focus your efforts?

Every file opened in PCLaw requires the "Type of Law" field to be completed. But instead of opening all real estate files with one law type (i.e. real estate), use this field to specify the type of real estate work (i.e. residential purchase, refinance, sale, private mortgage, commercial). The types of law can be customized for your practice. It does not take any extra work, and the reporting options by law type are extensive. Most productivity reports can be sorted by law type. The more detailed the input, the more valuable the results (*see Appendix L—PCLaw Type of Law*).

## Productivity Reports

The reporting options in PCLaw are extensive. Here are a few favourites we suggest you review regularly to help ensure the long term stability of your firm:

### **1. Lawyer WIP, Billing and Collection Summary:**

The beauty of this report is that it allows monthly comparisons, by fee credit lawyer, of:

- a. time worked;
- b. fees billed;
- c. fees collected; and
- d. fees written off.

To keep your cash flow consistent, each of these totals should be consistent. If any one area falls too far behind, your cash flow could be in jeopardy. For example, if you work but don't bill....or bill but don't collect....or collect but don't work....Any one of these totals out of whack could be a warning sign (*see Appendix M-PCLaw Lawyer WIP, Billing and Collection Summary*).

### **2. Productivity by Client:**

This report shows client balances sorted in descending order by a number of criteria. You can specify the date range to see your top 10 (to top 100) clients by fees paid (maybe due a "thank you"), unbilled disbursements (maybe time to bill and recover your cash paid out), total receivables (maybe the focus of your collection work) or unbilled fees (maybe time to bill!) (*see Appendix N--Productivity by Client*).

### **3. Client Summary:**

This report provides file by file summary totals for all account balances--billed and unbilled time, billed and unbilled disbursements, receivables, trust, date last billed and last entry date. Given it covers lots of file balances, it can be run to:

- a. decide which files to bill by reviewing unbilled totals and date last billed;
- b. list files with no docketed activity since a specified date (i.e. why--is there a need to review the file); or

- c. list files with negative unbilled disbursements or general retainer balances--both "no-no's" requiring corrective action (*see Appendix O—PCLaw Client Summary*).

## ***Financial Tips***

Here are a collection of tips to help you manage your finances and cash flow.

### **Look at your Compensation System:**

Look carefully at your compensation system. Are you rewarding those efforts that will ensure the long and short-term viability of the firm? What are you rewarding? The Lexis 2007 Managing Partner Forum Survey ranked the most and least important factors in partner compensation.

The results are as follows:

1. The top factor in partner compensation is working attorney fees received (at 30%).
2. In second place is origination credit (at 29%) .
3. Billable hours is in third spot (at 13%).

The bottom three factors (from the bottom up) are:

1. Recruiting, mentoring and training associates (1%),
2. Role in Firm governance (1%) and
3. Teamwork and firm citizenship (3%).

Interesting, the survey found that Cross-Selling services was not taken into account at all in terms of partner compensation. Now - in a tough economy, cross-selling services to existing clients is low-hanging fruit! Ask yourself why wouldn't you reward lawyers for cross-selling!

### **Look at your suppliers:**

While doing business with dependable suppliers is to be commended, you may be paying too high a price. Look around to see who else you can use and whether they are hungry enough to cut you better deals than the ones that you have at present. Alternatively you can approach your current suppliers and try to negotiate better deals while still remaining loyal.

## **Get familiar with the “line of gratitude” and bill accordingly:**

There are several versions of this, but the general idea behind it is that there are points during the representation when clients are more psychologically ready and willing to pay for legal services. For example, at the first appointment the client is likely to be extremely anxious about the matter and willing to sign a fee agreement. If you put drafting and presenting the fee agreement off until the work is well under way, the client has less incentive to sign – you’re already working on the matter without it, after all.

The same is true for sending your bill. The sooner after the case has concluded that the bill is sent, the better your chances are of getting paid. The longer you wait to send the bill, the more ephemeral your services, and the benefit of them, will seem to the client.

## **Send bills electronically:**

This is a multiple benefit: one, you reduce your expenditure on paper, envelopes and stamps (also enhancing sustainability!); two, your bills arrive faster, thereby (theoretically) increasing the velocity of cash into your office; three, you can direct the invoice directly into the inbox of the right person in the organization and avoid any possible delays by your invoice being shuffled in the office. Recognize that according to the LexisNexis 2007 Law Firm Economic Survey, top quartile firms have a Total Cash Flow Cycle Time (days to bill + days to collect) of 155 days. Bottom quartile firms take 170 days. Tightening this up is in everyone's benefit - especially if you are starting to face cash flow issues.

## **Bill Regularly:**

Billing regularly allows your client to plan. Your cash flow is a lot more predictable if you bill on a regular basis. Some firms find themselves billing when they need cash, and that kind of crisis management is very problematic. The more regularly you bill, the more manageable your work in progress will be.

## **Spread Your Billing Out:**

Get rid of the old “batch file” mentality – there is no good reason to bill everyone once a month, all at the same time. There are a lot of advantages to spreading it out a little. Consider billing A-L the first week of the month and M-Z the last half of the month. Your billing person will not be so pressured to make the once a month billing thing happen.

The additional benefit of billing this way is that it creates a better flow of cash receipts throughout the month

## **Time Your Bills to Your Client’s Payment Cycle:**

Ask your clients how they wish to be billed - they may have particular requests which, if met, will speed up the payment of your bills. Furthermore, if you find out a client pays their bills the 3rd of every month, make sure your bill is in their hands a week before that. Timing is everything!

## **Draft Bills Clients Rush to Pay:**

You don’t get paid unless you bill – and the sooner you bill, the more likely you are to get paid. Remember, bills are a communication tool. Read How to Draft Bills Clients Rush to Pay - <http://www.abanet.org/abastore/index.cfm?section=Main&fm=Product.AddToCart&pid=5110495>

## **Charge interest on past due invoices – and give discounts for early payment:**

Many attorneys include the ability to charge interest on past due invoices in their engagement agreements, but then fail to do so. Typically, an attorney will wait until an invoice is two years past due, and then, in exasperation, send an invoice for retroactive interest. That has no effect on payment, but can sometimes make the attorney feel better briefly! If you really want to make sure clients pay promptly, you should notify your clients that you will by including an appropriate, and conspicuous, provision in your fee agreement, point it out to the client when going over the agreement, and then set your time and billing program to automatically apply interest charges as soon as the invoice is past due. (Note: In Canada in order to charge clients interest you must notify them in advance (prior to sending the invoice)

of your intention to do so, and state the amount to be charged as an annual percentage rate.)

Some innovative firms even give discounts for early payment. Most clients will ride you for about 30 days, particularly if you do not include a due date on the invoice. By offering a small discount (such as 2% if payment is received in 10 days) you can encourage your clients to benefit themselves by paying you sooner.

### **Allow clients to pay by credit card:**

It used to be an expensive proposition to take credit cards. The merchant account provider took hefty percentages, and you had to purchase or rent expensive hardware and software. That's not the case anymore. Fees are very low, and virtually all transactions can be completed by telephone or online.

Even corporate clients who can afford to pay immediately often prefer to pay by credit card in order to accumulate rewards like frequent flyer miles. And clients who may be too embarrassed to admit they cannot pay your bill in full, and feel they cannot send an "on account" payment, can pay you in full and then pay off the credit card balance as their cash flow permits. Collection then becomes the credit card company's problem, not yours.

If you do decide to begin to accept credit cards, be sure to review your state's rules of professional conduct. Rules regarding the acceptance of payment by credit card differ from state to state.

### **Client satisfaction drives all financial metrics:**

If we haven't said it before, client satisfaction is the ultimate key to profitability in the law firm. The only way to create a consistent and sufficient flow of revenue is to have a sufficient and consistent pool of clients who are willing to hire the firm, pay their bills on time, and recommend the firm to friends and colleagues in need of legal assistance who will do the same.

- Some keys to creating this pool of clients are:
- Perform adequate intake
- Strive to understand the client's objectives (emotional and legal)
- Adequately explain the legal process

- Create realistic expectations (and eliminate unrealistic ones)
- Keep your clients informed
- Stress client service among staff
- Seek feedback about your services and implement client suggestions

### **Institute procedures to protect your bank accounts:**

If an employee is determined to steal from you they will probably succeed. Nonetheless, you can greatly cut down on the temptation by instituting procedures to protect your bank accounts – both firm and trust. Hopefully you will not have to go thru what Bennett Jones in Calgary went thru when a trusted employee was found to have embezzled hundreds of thousands of dollars. Here are steps that you can take to protect your bank accounts:

- (a) Insist that all firm bank statements be delivered to a designated firm member (partner, shareholder) without being opened.
- (b) Review each deposit ticket and check, including signatures and endorsements, for unusual erasures or corrections before you allow the statement to be reconciled, and make sure that all staff members know you are doing this. This will greatly cut down on staff temptation to “borrow,” even temporarily, from your accounts.
- (c) Always reconcile bank statements within two days of arrival in the office. Again, make sure the staff knows this is being done.
- (d) If you don’t reconcile the statement yourself, always carefully review the reconciliation within a day or two. (Remember that a trust account must always balance in two ways. First, the amount in the trust account must balance with the amount in the bank. Second, the amounts held for all clients (including any firm monies deposited to cover bank charges) must equal exactly the balance in the account.)
- (e) Once the account has been reconciled, place the statement and canceled checks in secure storage where staff cannot gain access to them.
- (f) Conduct spot audits of your trust account, including individual client ledgers. The total of all client ledgers should match the total in the trust account at any given time.
- (g) Always use only sequentially numbered pre-printed checks. Periodically review your supply of checks to make sure that you don’t run out. Never, no matter what happens, use temporary checks or counter checks or make ATM withdrawals. Never allow wire transfers out of a trust account. If you must wire funds to a client or to make sure that a mortgage payoff is received by a certain date, make sure that the bank will allow only one lawyer/partner/shareholder to authorize wire transfers. Employees should never be

able to authorize wire transfers. If you have a real estate closing practice, maintain a separate trust account for these transactions and do not run closings through your regular client trust account.

(h) Never allow “cash back” from trust account deposits. If a client brings you a paycheck or other third party check as a retainer or for payment of a fee due, deposit the full amount in the trust account and then write the client a check for the difference due to him or her.

(i) Always carefully review everything you sign, especially checks, and require that the appropriate documentation, such as settlement statements or bills, be presented with the checks or other documents for your signature. Don’t fall into the habit of unquestioningly signing anything a trusted employee puts in front of you. If you’re too busy to review now, make the staffer come back later or set aside a special time each day to sign checks.

(j) Keep a running list of all outstanding checks and review it monthly. No check should ever remain outstanding for more than two months with out investigation and resolution.

(k) Give all employees who have responsibility for handling funds in your office at least two weeks of vacation every year and make sure that they take it all, preferably all at one time. This can be hard on a solo practitioner or very small firm, but it will almost always ensure that if there are any problems with bank accounts they will have time to surface. This is how banks protect themselves.

(l) If you allow employees to handle funds, always do a criminal background check before hiring, check references carefully, and obtain a fidelity bond from your local insurance agent

## **Remember cost-free methods to reward employees:**

According to Maslow’s Hierarchy of Needs, only the first two levels of need involve material goods. Physical and security needs require money to be met, but the other needs – social, ego, and self-actualization – are capable of being met without any expenditure of funds. This is a fancy way of saying that you can often provide the greatest rewards to your employees without spending a dime.

Remember that, often more than anything else, your staff members just want to be appreciated and to have a feeling of being a valuable member of the team. Be generous with your praise, and when a staff member goes above and beyond the call of duty, as often happens in the busy law office, write a brief note of thanks, take them with you for the post-

trial celebrations, or just send them home a half hour early. Rewards like these are worth their weight in gold, and they don't cost you a thing but a few minutes of your time and consideration.

### **Fire unprofitable clients:**

Once you've determined your effective hourly rate (EHR) for particular clients and practice areas, you will know which are profitable and which are not (you should have *already* fired clients who didn't pay their bills on time!). Rather than invest your billable hours on clients and matters which are unprofitable, you should, instead, spend your time on the work of more profitable clients – or free up time to market your services to better quality clients. That means that you will need to periodically select some clients to fire.

Make that decision based strictly on the numbers – not emotions. When it's purely a business decision, and not personal, it's much easier to look the client in the eye and explain why you can no longer assist them. You may be pleasantly surprised to find out that they would rather face a rate increase than switch attorneys; sometimes they know better than you what a bargain your services are!

### **Conclusions**

Now – once your financial technology and systems are in place, here is a “Readers Digest” list of the top 10 ways to focus your practice and achieve a greater financial return based on focusing on the financial performance of your firm:

1. Determine your overall Profit and Loss for last year.
2. Compare your Profit and Loss against your forecasted Budget (\*or draw a budget for this year if you don't already have one\*).
3. Find out your Profit or Loss on a File by File, Client by Client and Practice Area by Practice Area basis for the last year.
4. Crunch the numbers and determine your 5 most profitable (and least profitable ) Files, Clients and Practice Areas. Think about how to strategically move your firm away from the least-profitable areas.
5. Set your Strategic Direction, Vision and marketing plans to pursue the most profitable Files, Clients and Practice Areas (and drop the 5 least profitable ones from your business plan

and from your marketing. After all, you have already shown that your time results in a greater return in other areas).

6. Set up your annual Budget for next year– targeting your Annual Income after expenses, your total expenses and your target gross income. Build in \$\$ and time to pursue your target market!

7. Determine if alternative billing arrangements can be used to your advantage and structure your systems accordingly.

8. Tweak your Compensation/Measurement System so that it supports your strategic plan (and isn't eat what you kill...).

9. Be ruthless on dropping clients and files that do not meet their financial obligations on a continual basis (according to your new written fee agreement).

10. Bill – regularly and often.

The numbers that underlie a law practice are just as important as rendering good service to the client. They ensure that your law practice continues as a business and meets your personal and professional needs in the same way that your services meet the needs of your clients.

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# Resources

## Appendix 1 - PCLaw Details:

- **Appendix A--Minimum Trust Retainer**– Under Matter Manager, Billing tab, select “Ask For Retainer Kept In”; select “Trust” from the dropdown box; and enter the agreed minimum trust retainer beside “Minimum Amount”. Ensure the billing template supports this feature (try the default “DETAIL.RBF” template)

The screenshot shows the 'Matter Manager' window for matter 06-7458.037. The 'Billing' tab is active, and the 'DETAIL' billing template is selected. The 'Ask For Retainer Kept In' option is checked, and the 'Trust' dropdown is selected. The 'Minimum Balance' is set to 5000.00. Other options include 'Auto Allocate Time/Fees to Working Lawyers', 'Bill Only Disbursements When Mass Billing', 'Automatically Transfer From Trust at Billing', 'Apply Trust Transfer to Existing Invoices', and 'Override Bill Selection'. The 'Fees' section includes 'Use Task Based Billing', 'Apply Discount to Fees', and 'Quoted Type' (No Quote). The 'Disbursements' section includes 'Automatically Create Disbursements at Billing' and 'One Time Amount'.

**Matter Manager**

Use this feature to handle your cases in PCLaw™. Open the Matter Manager every morning to access all the tools you'll need to manage matters for the rest of the day.

With the matter manager, you can:

- View a quick summary of a matter.
- Work with appointments.
- Work with Notes.
- Work with the Client Ledger.
- Work with time entries.
- Work with Contacts.
- Work with other matters with the same client nickname.
- Access other PCLaw™ features with quick access buttons.

The screenshot shows the 'Matter Manager' window for matter 06-7458.037. The 'Billing' tab is active, and the 'DETAIL' billing template is selected. The 'Apply Trust Transfer to Existing Invoices' option is checked, and the 'Trust' dropdown is selected. The 'Minimum Balance' is set to 5000.00. Other options include 'Auto Allocate Time/Fees to Working Lawyers', 'Bill Only Disbursements When Mass Billing', 'Automatically Transfer From Trust at Billing', and 'Override Bill Selection'. The 'Fees' section includes 'Use Task Based Billing', 'Apply Discount to Fees', and 'Quoted Type' (No Quote). The 'Disbursements' section includes 'Automatically Create Disbursements at Billing' and 'One Time Amount'.

**Matter Manager**

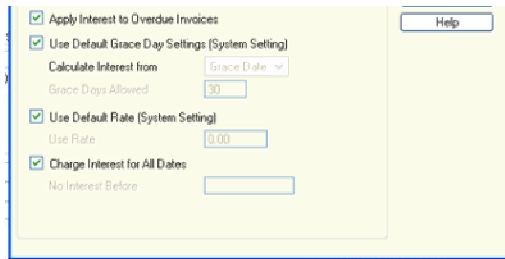
Use this feature to handle your cases in PCLaw™. Open the Matter Manager every morning to access all the tools you'll need to manage matters for the rest of the day.

With the matter manager, you can:

- View a quick summary of a matter.
- Work with appointments.
- Work with Notes.
- Work with the Client Ledger.
- Work with time entries.
- Work with Contacts.
- Work with other matters with the same client nickname.
- Access other PCLaw™ features with quick access buttons.

- **Appendix B--Past Due Notice** - Under System Settings, Past Due/Interest, set the interest rate calculation option. Click on the setting "Use Rate Table"; click on the button "Set Rates"; insert the quarterly prejudgment interest rates set by the Ministry of the Attorney General.

- Under Matter Manager, Billing Tab, set the interest options for the file.



The screenshot shows a software interface for setting interest options. It features a yellow background and a 'Help' button in the top right corner. The settings are as follows:

- Apply Interest to Overdue Invoices**
- Use Default Grace Day Settings (System Setting)**
  - Calculate Interest from:
  - Grace Days Allowed:
- Use Default Rate (System Setting)**
  - Use Rate:
- Charge Interest for All Dates**
  - No Interest Before:

Issue Past Due Notices on Overdue Invoices

Past Due Template

Apply Interest to Overdue Invoices

Use Default Grace Day Settings (System Setting)

Calculate Interest from

Grace Days Allowed

Use Default Rate (System Setting)

Use Rate

Charge Interest for All Dates

Charge Interest Before

- **Appendix C--Provisional Write Offs** – Under Billing, Provisional Write Off Bill – Use this option if you are unsure about the collectability of an account. In accounting terms, it is similar to setting up an allowance for doubtful accounts. A provisional write off affects only the general ledger and the GST journal. The difference in the general ledger posting from a regular write off, is that instead of crediting the Accounts Receivable, the provisional write off is posted as a credit to “Provision for Bad Debt”. A provisional write off discounts the entire outstanding amount of an invoice; you cannot create a partial provisional write off. The amount will still show as unpaid on all reports, but for tax and GST purposes it has been reversed.
- **Appendix D--Collection Memos** – Under Matter Manager, Summary Tab, Collection Memos, enter notes about the current collection status.

Matter 06-7458.037 Client U37 - Baxter, Therelius Re Baxter v. A. Jenkins Engineering L Refresh

Main \ Billing \ Settings \ **Summary** \ Events \ Notes \ Calls \ Time \ All \ Contacts \ Related \ Openin

**Balances**

Unbd Disb	0.00	Unbd Fees	0.00	Unbd Hrs	0.00	Last Billed
Total Trust	0.00	Gen Rtnr	0.00	Rtnr Due	5000.00	Last Entry
Trust Bal	0.00 1					Last Trust
A/R Bal	824.75	Int Paid	10.00	Int Due	0.00	Total Due

Memos \ **Collection Memos** \ Bill Memos \ Pre-Bill Memos

Client to drop off payment Friday, May 8, 2009

Matter 06-7458.037 Client 037 - Baxter, Therelius Re Baxter v. A. Jenkins Engineering L Refresh Load Last Client Totals Label

Main \ Billing \ Settings \ **Summary** \ Events \ Notes \ Calls \ Time \ All \ Contacts \ Related \ Opening Balances \ Ledger \ Add Table

**Balances**

Unbd Disb	0.00	Unbd Fees	0.00	Unbd Hrs	0.00	Last Billed	4/11/2009
Total Trust	0.00	Gen Rtnr	0.00	Rtnr Due	5000.00	Last Entry	4/11/2009
Trust Bal	0.00 1					Last Trust	4/11/2009
A/R Bal	824.75	Int Paid	10.00	Int Due	0.00	Total Due	824.75

Memos \ **Collection Memos** \ Bill Memos \ Pre-Bill Memos

Client to drop off payment Friday, May 8, 2009

Insert Date  
Cut  
Copy  
Paste  
Spell  
Print

Under Reports, Accounts Receivable, Receivables by Client, change the layout to "Default with (coll memos)" from the drop down box.

Matters Other

Client: <all> Resp Lawyer: <all>

End Date: 4/11/2009 Receipts Up To: 4/11/2009

Output:

- Printer
- Screen
- E-mail
- Editor

Matter Totals

Totals Only

Client Totals Only

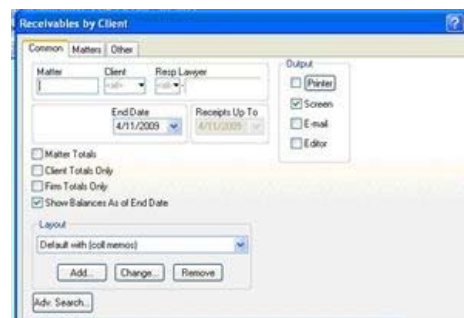
Firm Totals Only

Show Balances As of End Date

Layout: Default with (coll memos)

Buttons: Add, Change, Remove

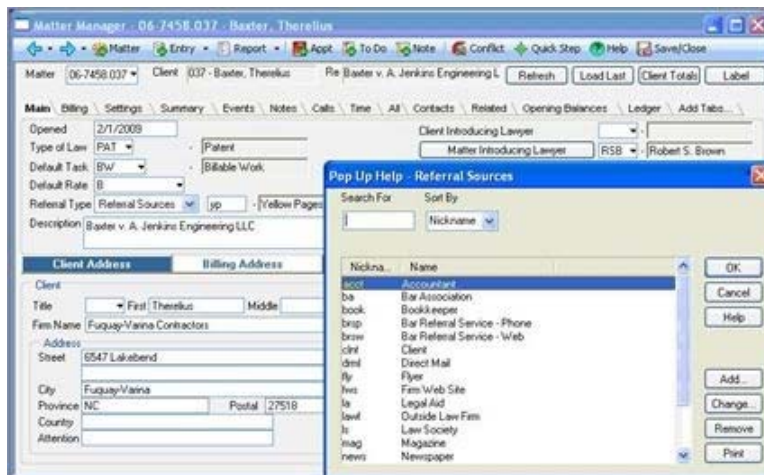
Adv Search



Your Collection notes will now print on the receivables report.

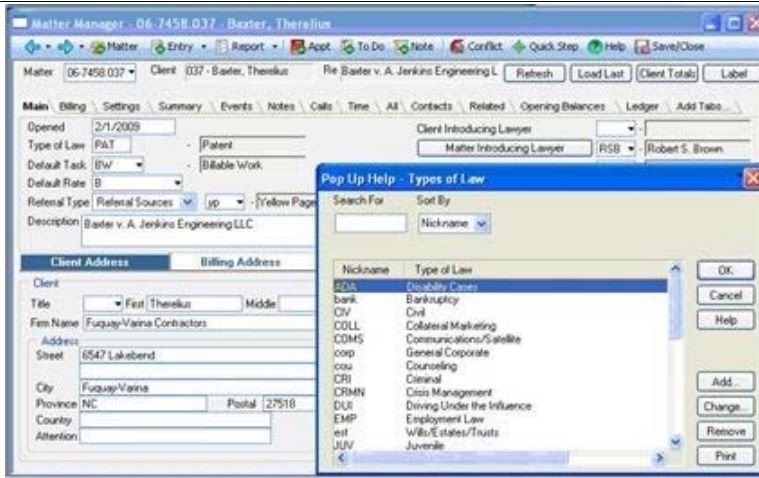
- **Appendix E--Aged Receivables Report** – Under Reports, Receivables, Receivables by Client.
- **Appendix F--Cash Flow Planner** – Under Reports, Cash Flow Planner.
- **Appendix G--Aged WIP Report** – Under Reports, Clients, Work In Progress (request details or totals only).
- **Appendix H-- Billing Realization Report** – Under Reports, Productivity, Billing Realization.

- **Appendix I--Time Summary** – Under Reports, Productivity, Time Summary, enter the date range you are interested in.
- **Appendix J--Billing by Lawyer** – Under Reports, Productivity, Billing by Lawyer
- **Appendix K--Referral Type**– Under Matter Manager, Main Tab, click the drop down box beside “Referral Type”. Select “Contact” if the referral is from someone in your PCLaw contact data base. Select “Referral Sources”, and double click the box beside it to open the Referral Sources pop up help. Select a referral source or add sources to customize to your needs.

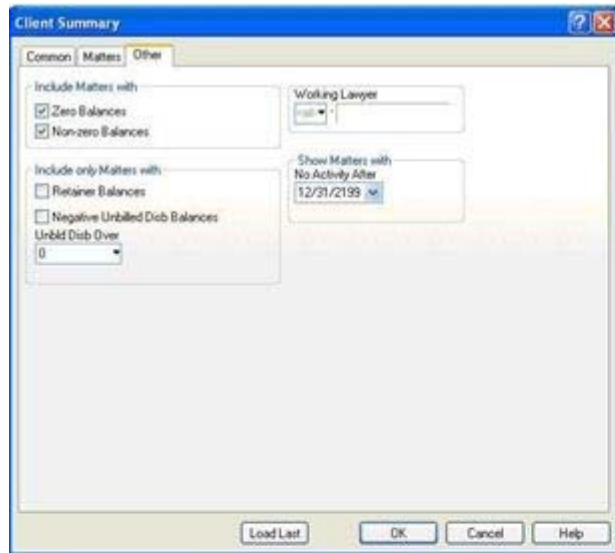


Extract the information under Reports, Client, List of Clients, Other tab, Summarize by, Referral Type.

- **Appendix L--Type of Law** – Under Matter Manager, Main Tab, Type of Law. Double click to open the Pop Up Help and customize your list.



- **Appendix M--Lawyer WIP, Billing and Collection Summary -** Under Reports, Productivity, Lawyer WIP, Billing and Collection.
- **Appendix N--Productivity by Client** – Under Reports, Productivity, Productivity by Client.
- **Appendix O--Client Summary**–Under Reports, Client, Summary. Select the “Other” tab to print reports including only Retainer Balances (general), Negative Unbilled Disbursements, or files with no activity after a specified date.



## Appendix 2 - Web sites and Resources

- Law firm finance resources on the LawPro.ca web site:  
<http://www.practicepro.ca/information/default.asp?ename=PF#PF>
- LawPro magazine - particularly the last issue on Surviving the Slide:  
<http://www.practicepro.ca/LawPROmag/default.asp>
- Law Society of Upper Canada practice management resources, particularly the Lawyer Bookkeeping Guide and the Paralegal Bookkeeping Guide:  
<http://rc.lsuc.on.ca/jsp/home/practiceResourcesHome.jsp>
- Ministry of the Attorney General prejudgment interest rates  
<http://www.attorneygeneral.jus.gov.on.ca>

## Appendix 3 - 50 Financial Tips To Help You and Your Firm Survive and Thrive In A Down Economy

Materials originally prepared for a presentation for the ABA Center for CLE in 2009. Used with Permission.

By:

1. George Leloudis, Moderator: Firm Administrator, *McGuire, Wood & Bissette, PA*, Asheville, NC
2. Rodney Dowell, Director, *Law Office Management Assistance Program*, Boston, MA
3. Arthur Greene, Principal, *Boyer, Greene, LLC*, Bedford, NH
4. Edward Poll, *Edward Poll & Associates, Inc*, Venice, CA

Start out on the right foot

1. Retainers, Retainers, Retainers: The best way to ensure cash flow and financial security is to get a retainer before starting any work. The amount of any retainer should reflect the total anticipated fee and to seek to determine the client's ability to pay for future services. If you advance payment by obtaining retainers you will increase revenues. (RD)
2. Adjust your rates – up or down: This is a time to be flexible in your rates and adjust rates down where you need to be competitive. However, you should also watch for opportunities to charge premium rates for specialized services where you hold a competitive advantage. (RD)
3. Know your bottom line: You cannot know where to set your rates unless you are looking at your financial data. You must know what your breakeven point is to determine how low you can afford to take your rates and still accomplish your profit goals, maintain cash flow, but still retain quality clients. (RD)
4. Value billing for appropriate cases and clients: Where you know the cost of doing business and you have a sophisticated client and you have a trusting relationship, you can provide for value billing ... This can be in one of many forms including flat fee, contingency fee or variations of the hourly fee with a bonus (or subtraction) for good/poor service and/or results. If we can build

the Empire State Building on a fixed fee contract, we can do the same even with complex litigation. (EP)

5. Increase client communication: Failed client expectations lead to an uneasy relationship between the lawyer and client which results in less aggressive billing, write-downs, and write-offs. When the client is unhappy with the lawyer, the opportunity for achieving full value for the lawyer's services is compromised. Communication is the key to managing client expectations and avoiding failed expectations. (AG)
6. Be receptive to special arrangements for long-standing clients: Your clients may be facing difficult economic times and you need to take the long view and not discard them in an effort to get receivables paid. Set up a meeting and work with the good clients to get through these troubled times with the relationship intact. Properly handled, you will buy a lifetime of loyalty. (AG)
7. Know when to say no: When the competence level isn't sufficient, when the client is one that you don't want to serve, when the client has already seen 3 or 4 attorneys before you, when you are already too busy to take on another matter, when you have negotiated a fee that is too low and you do so only because you want the money, that is the time to say no to the client. Failure to do so will bring resentment, ill-will and quite possibly an error subject to a malpractice claim. (EP)

#### Work smart

8. Record time on a daily basis: When times get tough, lawyers with bad habits need to improve how they manage their practice. Lawyers who do not record time on a daily basis lose substantial dollars. Lawyers who wait until the end of the week to construct their time sheets may miss out on 30 – 50% of their billable time. (AG)
9. Expand role of paralegals: Paralegals are an important aspect of the delivery of legal services in successful firms. The increased use of paralegals is particularly appropriate under current circumstances. Qualified paralegals assist lawyers in offering better client service at a lower cost, while returning a profit to the firm. (AG)
10. Prevent lawyers from slowing down the work: Work expands to fill available time, which gives many lawyers the impression of being busy when they are not. In a slow down, it is important for lawyers to process work at normal speed and use the extra time on other productive matters, such as marketing or bringing increased efficiency to their practices. (AG)

11. Outsource appropriate jobs: Solo and small firms must follow the lead of large firms and more aggressively outsource jobs that can be done at a lower cost by outside vendors. Solo and small firms would be well served to outsource, among others, bookkeeping, IT work, transcription of dictation, or document review. This free time should be used by attorneys to do paid legal work and to market their services to obtain new high quality clients. (RD)

#### Bills to be paid

12. Change your billing cycle: Be sure to bill no less than monthly. But, the billing need not be on the last day of the month. It could be on the 15<sup>th</sup> or any other day of the month ... Having different billing cycles (e.g., weekly) for portions of your practice (e.g. one-fourth) will have the impact of evening out your cash flow intake. (EP)

13. Shorten your billing cycle: You need not wait for one month. You can bill twice a month or even weekly ... or bill after a particularly good event occurs and the client is more favorably disposed to pay sooner than later because of the glow of victory. (EP)

14. Send statements after a particularly beneficial psychological event: See 13 (EP)

#### Collect, collect, collect

15. "Age" your account receivable once a week: Be sure you keep track of how much each client owes you ... With weekly updates, you can thank the client who has paid and gently nudge the client who hasn't ... and you can withdraw when you don't get either money or the right answer from the client as to when he will pay. (EP)

16. Stop work! Stop work when you don't get paid. Your first loss is your best loss ... and your smallest loss ... don't keep working until huge sums are owed and the client will find it even more difficult to pay (EP)

17. Hire someone to help collect: The attorney is both the salesman and the line man ... in other words, the attorney both makes the sale and gets the client as well as the one who does the work. Adding the collection function not only is not the attorney's highest and best use of time, it also confuses the client. The client will not know the exact reason for the call. It may be to collect; after all, the client knows he didn't pay the bill. Or, it may be that the attorney needed information. Because the client isn't sure, we'll see an entirely different dynamic between the attorney and client and not one that is conducive to good attorney-client relations. (EP) 40

18. Develop a system to address overdue bills and assign an administrative person to manage it: Lawyers wait too long to address problematic receivables. By waiting until a bill gets 90 days old before taking action, the lawyer has “trained” the client to not worry about the timeliness of payment. Once a bill is that old, getting movement from the client is particularly difficult. At 30 days the client should get a letter with the message that nonpayment is not acceptable and within 45 days the client should receive a call with an invitation to meet with the lawyer if immediate payment cannot be made. (AG)
19. Act on accounts receivable, but observe ethics and court rules: Do not allow yourself to extend so much credit to a client that you believe that you cannot quit working, or that you must sue the client for payment. However, remember that in most jurisdictions the courts and most administrative forums require you to file appropriate motions and obtain permission before withdrawing. Until the motion is allowed, you must still provide sufficient representation to prevent prejudice to the client. In some cases courts may even require you to represent the client in trial. Prevent those types of burdens by acting early to withdraw so you do not get stuck in bad cases. (RD)
20. Utilize credit cards: When dealing with consumer clients, make credit card payments after 30 days part of the standard process and part of your fee agreement. Credit card companies are in the business of financing all kinds of expenses. That should not be a service provided by lawyers. (AG)
21. Offer discounts on old receivables: In a situation where you will be doing no further work with a client, offer to discount an old bill for immediate payment. Do not provide this offer to ongoing clients as it may provide the wrong incentive. (AG)
22. Offer discounts on bills paid within 10 days: This is a technique that works well for other businesses and will work for lawyers. Bills with time sensitive discounts go to the top of the pile. (AG)
23. Offer discount for clients who maintain adequate fee deposits: Another technique is to offer a discount on hourly rate bills to clients that maintain a fee deposit so that bills can be paid shortly after they are issued. (AG)
24. Use remittance envelopes: Include a stamped, self-addressed envelope for a check by return mail. Reduce or eliminate all the constraints to writing and mailing a check to you .. from the client. (EP)

## Take it to the bank

25. Don't wait to deposit checks: Don't accumulate checks. Any single check merits getting deposited into the bank. Too many bad things could happen. The client could stop payment on the check. Someone could have sued the client and attached his bank account, wiping out the funds needed to pay your check. (EP)
26. Deposit all checks from clients: Even if there is a dispute, deposit the check ... if you know of a dispute, place into your clients trust account so the funds are blocked away and be applied to client billings once the dispute is resolved. (EP)
27. Negotiate immediate access to deposits: That way you can use your money right away rather than wait 48 or 72 hours (EP)
28. Consider an automatic bank sweep: Set minimums for your checking account. At the end of the day, everything above this amount will automatically get switched from the checking account to the money market account where your money will earn interest. (EP)

## Check the temperature

29. Focus on client satisfaction: Remember that clients are simply individuals who often do not communicate about unmet expectations. They often will not tell you about a bad experience or unmet expectations; they will simply quit coming back. The only way to prevent the loss of clients that result from unmet expectations is to learn of the disappointment and fix it if possible, make amends if you cannot fix it, and prevent it from happening in the future. Depending on the client, ask personally, have someone in your firm ask, or, at a minimum, seek to have a client survey completed. (RD)
30. Change practice methods to eliminate failed client expectations: Failed client expectations are the single most cause of lost revenue from existing work. Improve client intake. Make sure clients have realistic expectations as to how the case or matter will proceed, how long it will take, the range of possible results and the cost. Stay in communication so you can manage them through any change. Never surprise a client with the amount of a bill. (AG)
31. Monitor and evaluate productivity using the standard financial reports available to you: Make sure the firm's accounting system provides adequate financial reports. Make sure you can track billable hours, aged work-in-process, billings, billing realization, billing turnover rates, receipts, collection realization, aged accounts receivables, collection turnover rates, and the volume/price

analysis. Financial data can be firm wide, but also sorted by practice group and/or individual lawyer. (AG)

## Evolve

32. Restructure partner compensation system to reward desired behaviors: Many partner compensations systems fail to reward desired behaviors. Take a look at your firm's system and make sure that the system isn't rewarding the wrong behaviors. The partner compensations system should fairly divide profits, but it also needs to serve the firm as a management tool. (AG)
33. Restructure associate and paralegal compensation systems to reward desired behaviors: Associates and paralegals can be incentivized by money. Make sure the firm is sending the right message to its associates and paralegals and that those messages are reinforced by the compensation system. (AG)
34. Adjust partner compensation and benefits to reflect current and future value: Not only should compensation reflect desired behaviors, but partnership compensation must be seen as fair by each partner. For smaller firms, I believe this requires flexible compensation agreements that can accommodate many variables including the number of billable hours the attorney can work now, the number the firm may expect in the future (for example – when an attorney returns from a family leave), whether the attorney offers a premium service that drives demand for the firm and results in higher rates now or is expected to in the future. (RD)
35. Evaluate practice area trends and reallocate resources: Most practice areas have lifecycles. Learn how the lifecycles work and be forward looking in predicting changes and adjusting the firm's allocation of resources. (AG)
36. Plan strategically: Many firms, especially solo practitioners, go on automatic pilot after several years, but now they must plan strategically to use each firm member's greatest skills, to sustain practice areas that continue to generate appropriate rates, develop new practice areas that provide premium rates, move away from practice areas that are becoming a commodity, or determine if the commodity service can become a profit center with a volume practice. Only after this analysis has been done can the attorney and/or firm plan to make those changes that allow continued growth in the future. (RD)
37. Innovate to gain clients: Try to think beyond your current service areas and fee models. Consider how you can solve client's need to be able to have a firm budget for legal expenses. As

discussed above, this includes considering “flat fee” agreements, and may include providing services pursuant to a “classic retainer” agreement. You should expand your role with a client to become a trusted advisor, a business consultant, compliance expert, or, if you see opportunities, create separate non-legal ventures, following ethical guidelines separating the businesses, to provide premium services that your clients need. (RD)

#### Stay ahead of the curve

38. Remind your attorneys that the law is a profession: But it’s also a business and all attorneys must act in a business-like way in order to succeed. (EP)
39. Make strategic cuts: I am talking about making strategic cuts in both personnel and expenses. Consider if it time for your firm to layoff unproductive personnel, individuals who are not team players, and use technology to ensure that you do not need to replace a retired staffer. Firms should consider reducing real estate costs by allowing attorneys and legal assistants to work from home and share office space. In addition, reduce research cost by using free case law research tools provided by your state or local bar association. (RD)
40. Identify opportunities to upgrade: Consider hiring in this down economy to bring in attorneys, legal assistants, and staff that will increase the quality of your personnel. Look for attorneys that have left sophisticated practices that can upgrade the services you provide. Also, look for the attorneys providing premium services that may be future stars in their practice areas. (RD)
41. Eliminate clients that are not paying: Do not tolerate the financial drag caused by transient clients who simply fail to meet their payment obligations. While good longstanding clients should be accommodated to the extent possible in these troubled times, you cannot afford to apply that level of generosity to all clients. (AG)
42. Change your governance model to speed up decision making: Many traditional law firms engage in over-deliberative governance models, which result in a very slow decision making effort. In these changing times, firms need to evaluate their decision making process and make sure it meets the needs of the fast paced world in which the firm operates. (AG)
43. Make practice group leaders responsible for group revenue and profitability: In most firms, practice group leaders took on responsibility for leading the group and in managing the substantive issues of the practice area. As the role of practice group leader evolved, it has become necessary for the practice group leader to have responsibility for revenue and expense

budgets, as well as the profitability of the work performed by the lawyers in the practice group.  
(AG)

#### Carpe diem

44. Market to existing clients and ask for referrals: The easiest client to get is the client you already have. These clients trust you and know that you provide a good service. Now, tell those clients other services that you and your firm do well. Also, ask them to tell their peers that you are a recommended service provider. There is no greater selling point than to have a real endorsement from a client. (RD)
45. Blog, write articles, speak: Remember that clients prefer to hire reputable experts in a given area of the law because they want to know that they are in good hands. One means of providing reassurance to potential clients is to write articles, blogs and speak about the areas of the law that you know well. Not only does it provide an excellent marketing opportunity, but it also allows you to show your knowledge in a given area. (RD)
46. Internet social networking: I don't know if we will be talking about internet social networking tools ten years from now, but today it is the place to be. The growth in these services is astounding. Social networking tools such as LinkedIn, Facebook, and Tweeter allow you to build communities that provide support, referrals and mentors, and, on occasion, even a client. Attorneys use these tools to also demonstrate knowledge and expertise, and like all marketing, if well done, it will pay dividends. (RD)

#### Leverage

47. Develop a cash-flow statement: The single most important financial statement. It will project when you will need to borrow money, to hustle for more business, or to increase collection efforts. It will also tell you when you will have sufficient reserves to make the capital investment you've wanted or to increase your own draw. (EP)
48. Reduce variable expenses: Most expenses are variable, not fixed, and will increase or decrease based on the revenue flow. Keep the fixed expenses to a minimum and then reduce the variable expenses when things get tight ... this will help get you through the rough spots. (EP)

49. Analyze accounts payable and long-term debt to identify inadequate ROI: Firms take on many different expenses as they mature. These include such things as the print libraries, on-line research tools, the real estate lease, employee benefits, telephone and cell-phone charges, internet access and equipment leases. If you have not reviewed these expenses in the last year it is time to do so. Ask yourself if you are still receiving a good return on your investment. For example, is anyone reading the library books, do you need the electronic research libraries, can you reduce your real estate expense, or document storage fees. (RD)

50. Restructure personal and business debt load: Many attorneys are so busy worrying about billable hours and the client's needs that they have not looked at their personal and business debt to determine if they are getting the best terms. Talk to your mortgage broker and see if you can lock in existing lower mortgage rates and if you use a revolving line of credit for your firm, see if low rates can be locked in. (RD)

#### Bonus round...

51. Increase your monitor landscape: Looking for increased efficiency for you and your staff, consider giving everyone a new monitor. Studies indicate that using either two 18 inch (or bigger) monitors or one really large monitor, at least 24 inches, can increase word processing productivity by 40% and spreadsheet productivity by 50%. The efficiency benefits result from the ability to have critical data open side by side so you don't have to open and close windows to complete tasks. (RD)

52. Turn off email pop-ups: This applies not only to emails, but telephone calls, tweets, and other actions that interrupt you when you are working on tasks. One Microsoft study found that each time an individual reacted to an email notification, visual or sound, that on average it took 16 minutes to get back on task. If you react to four notifications during a day, you will lose over an hour of productivity. (RD)