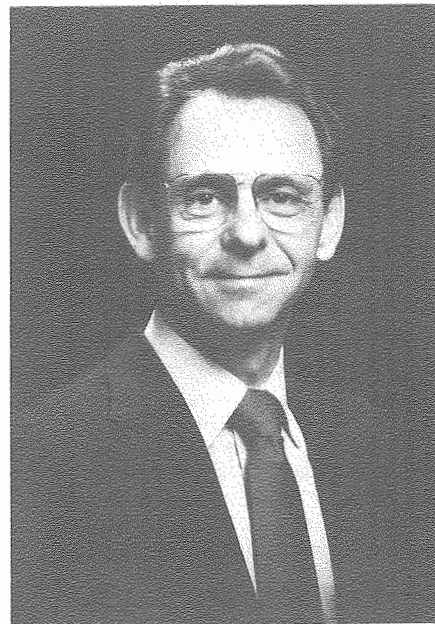


# The Business of Practice

## 33 Tips to Help Lawyers Keep Their Pockets Full

by Edward Poll



Some lawyers believe that they are not in business; that is why they went into the practice of law. However, *the practice of law is a business.* And the main reason that small to medium-sized firms or sole practitioners get into trouble — with the state bar or with their own cash flow — is due to an inability to efficiently run the business of the practice.

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 achieve 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, cash flow budget, a statement of cash, or a forecast, whatever name you are comfortable with, is the statement that you need to concern yourself with at least on a weekly, if not daily, basis. 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 so 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 as 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.

**Project 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.

**Send statements after a particularly beneficial psychological event,** even if somewhat before or beyond the normal billing date. For example, after you have won a motion in court, prepared a draft of an important contract with which your client is pleased, or closed the negotiation on a deal which favors your client. This will place the client on the peak of the "client satisfaction curve" the time of least resistance for payment of fees.

**"Age" your accounts receivable once a week.** Do not ignore clients who do not pay in accordance with their agreement. Forgetting or ignoring "old" clients results in forgetting or ignoring the accounts receivable. You will be able to pursue collection with regular, weekly reminders that money is owed to you.

**Stop work!** If, based on the aging information, you are aware that a client is delinquent in the payment of fees, stop further work for that client. Go to the beach; spend more time with the family; expand your marketing efforts for new clients. But, under no circumstances should you do any further work for the client. Before stopping work, however, be sure the client knows that you will do no further work until payment is made. If the matter involves litigation, make the appropriate motion before the court to be relieved. The client will know that you are serious, that you protect your own interests, and, therefore, will do all in your power to protect the interests of your client.

**Hire someone to help collect.** If you are having little success in collecting your accounts receivable, or if you believe that the salesperson (you) should not be 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 a loan request. This can be done either by keeping a large sum of money in the 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 revenue immediately upon receipt and spreading the payment of bills throughout the month. Do not pay your bills all at one time; this will cause an exaggerated 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 do not accumulate checks for deposit until the end of the week! The client may, for whatever reason, stop payment on the check. The check may reach your client's bank at a time when the account is overdrawn. The client may have been named as a defendant in a lawsuit for which attachment procedures are available and the client's bank account has been attached and "marked" for a sum which is large enough to cause the presentation of the check you are holding to be rejected.

**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 payee 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.

**Do not commingle trust funds with general funds.**

**Consider an automatic bank sweep.** Banks today provide for an "automatic sweep" on a daily basis. Establish a minimum amount of money to remain in your general account, such as \$2,500. The exact sum depends on the amount of checks and deposits that pass through your bank account each month. Then, instruct the bank to segregate all funds in excess of this amount at the end of each day and "sweep" or transfer those "excess" funds into a money market (interest bearing) account until needed. Likewise, the bank can be instructed to transfer funds automatically back into the general account from the money market account in the event the balance goes below the established minimum amount. The better approach, however, is to request the bank to call you on any day during which the balance of your account goes below the minimum amount, established by you. This latter approach, as contracted with the automatic sweep into the money market account, forces the one responsible for these activities to know rather than guess the status of the cash balances at every given moment.

**Make bank deposits personally** until you know the bank personnel. Know the manager of the branch; know the loan committee personnel; know the operations personnel. These are the people who can help you the most when you have a need at the bank.

**Negotiate immediate access to deposits.** Some banks place a "hold" on funds deposited with them until the funds have cleared through the banking system. This may be as long as seven days. However, you can negotiate with the bank so that you have immediate access to your deposited funds.

**Use remittance envelopes,** pre-addressed and stamped, and mail them with your statements. This saves the client time and effort in mailing your payment and frequently saves at least



LEGAL MESSENGERS  
**RUSH SPECIALISTS**

**947-1221**  
WALNUT CREEK - NATIONWIDE

• LEGAL COURIERS	• PROCESS SERVICE
• LOCATIONS	• WRITS

**D & T SERVICES LTD.**

**APPELLATE ATTORNEY**

John T. Schreiber  
961 Ygnacio Valley Road  
Walnut Creek, CA 94596

- Law & Motion
- Research
- Flexible Range of Services
- Flexible Rates

**(510) 938-2460**

**Concord Auction Studio**

ESTATES PURCHASED  
**689-4884**

AUCTIONEER      WILLIAM DRISCOLL      APPRAISER  
2350 Willow Pass Road, Concord

Continued from previous page

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.

*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 Laws: 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.*

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 as time goes on, containing form documents such as "thank you" letters for referrals, retainer 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. ★

**\$25,000 to \$250,000+**

## Changing Careers?

If you're thinking about changing careers or industries, then you should probably give us a call. We are experts at helping people explore moves into exciting new areas. These include moves from government to business... and from traditional industries to growth industries. With the right professional assistance... many people can advance their responsibilities while changing to new and more exciting industries.

Our professional staff has more than 50 years of experience, and we have the resources for helping you on a local, regional or national basis. If you'd like our advice on what might be available to you, send a resume or call for private appointment. We'll be happy to see if we can help. We have affiliated offices nationwide.

**Call Tom Smith  
(510) 830-8800**

**Princeton/Masters**

5000 Executive Parkway, Suite 550  
San Ramon, CA 94583

San Francisco • San Mateo • Walnut Creek • Santa Clara  
Sacramento • Houston • Denver • Los Angeles

## A FAST COPY

**LEGAL PHOTOCOPYING  
SERVICES**

**SUBPOENA PREPARATION  
& SERVICE**

**ON-SITE MICROFILMING**

**ORDER BY FAX 510-846-6184**

**462-9191**

397 RAY ST. PLEASANTON