

Chapter 10

The Economics of Consumer Law Practice: Knowing Your Numbers

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Understanding, and coping with, the economics of practicing law is not a course taught in law school. It is only learned in the practicum of real life.

Know Your Business Weakness: You Are Not a Business Person

The first step in understanding the economics of practicing Consumer Law is to realize that you are an attorney. Unless you have a business background (not a business law background), law school did not likely better your understanding of how to run a business.

You, as an attorney, are far better off trying to hire someone (as soon as you can) to run your business, as a business, and then getting out of their way and let them do their job. If you can't afford to hire someone, then find a relative or close friend who has enough "business savvy" to handle the job and who you trust with your life, business or otherwise.

The best thing you can do is stay out of the business end of your practice and do what you were trained to do: be a lawyer.

Until you can afford to hire a business manager, there are still less costly alternatives to running your business. Since 1964 S.C.O.R.E. has been offering low-cost and no-cost business counseling for all types of businesses. Their web site is score.org. With nearly 400 offices around the country, and operating "online" and "in person," literally thousands of volunteers from the business world offer their years of experience, education and training to people from all walks of life who are just starting out in the business world.

They have formed alliances with over a hundred other business organizations for the express purpose of providing services and resources to young businessmen or businesswomen who need their help. Their web site also has plenty of model business forms that you can adapt to your law practice.

Second, recognize that profitability is key to your survival. The profession of law is still, in large part, a business. One of the hardest things for a young attorney to do is to treat their law business like a business. Not only are we not

trained that way, but no one in law school told us how to run a business either.

If you have overdue bills (at home or at the office), then you aren't running your business like a business. Unfortunately, perhaps, we have to be a business person first and a lawyer second. That means you need to know and constantly analyze your profit and loss numbers. If you can't turn a profit, just adding more personnel and cases is not likely to improve your p/l ratio — it will just mean bigger numbers running in the same directions.

Being inattentive to your p/l is stupid, risky, wasteful and won't succeed in the long run. After all, Melvin Belli, the King of Torts, had lots of associates and lots of big cases — and filed for bankruptcy, too.

If you don't have a budget, get one. If you don't have the fortitude to live by your budget, then put someone else in charge of the business and let them force you to live by the budget. That may be hard to do, but it is key to survival. You may feel that, with all your college degrees, you should be able to run a business, but if you don't recognize your weaknesses for what they are, those weaknesses can drive you right into bankruptcy. Confessing to business inadequacy is far better than standing up as the debtor in a Chapter 11 hearing, especially for an attorney.

If you are making a satisfactory living but still want more, if you are working long hours and want less hours, then it's time to figure out how to carefully run your practice so that you make more money but begin to work less hours, too. Budgeting is a critical part of that process.

Most attorneys think in weekly or monthly terms of “money comes in, bills get paid out, what's left over is mine”. Wrong! Remember: your income is usually sporadic and can fluctuate wildly. Remember: the practice of law is a business and has to be run like one.

Plan everything. Calculate the amount of income needed each month/week/day for your firm to “break even” (salaries, overhead, taxes, etc., i.e., how much money does your office spend in an average month/week/day?). A common rule of some businesses is that a “good day” is when you had more money coming in that day than you had going out. The goal is to first make every day a good day, then to improve your practice so that the good days get larger!

Know Your Numbers

Do not just “pick” an hourly rate to charge clients. Analyze your budget numbers to determine what your hourly rate should be.

What are your Income Generating Numbers? There is a formula you can use.

First, how many billable hours exist (i.e., are available for billing purposes) in your firm? Here, include every billable person, i.e., Attorney, clerk, secretary, etc., and be sure to round all numbers off in a downward direction, to be as conservative as possible.

What are the billable rates for each (i.e., for one attorney and one law clerk and one secretary --- 3 people --- there is a hypothetical total of 120 hours of available billable time; don't include "overtime" --- it happens, yes, but including it will only make it a necessary part of your budget calculations and, then, a necessary part of your life)? Include "lost" time that is unbilled (and ask yourself why there is such a thing, too).

The next step is to attach a "weight" to each billable hour. Obviously the billable rate for an attorney should be higher than that of a law clerk or legal secretary. You have to determine what the weight will be, according to your own marketplace numbers, which will vary from one locale to another.

Each non-attorney time keeper will bill at a fraction of the attorney's hourly rate. Obviously, 40 attorney hours billed at \$200 per hour does not equal 40 law clerk hours billed at \$100 per hour or 40 secretary hours billed at \$50 per hour. Since, under that example, it would take 4 secretary hours to equal the amount of one attorney hour, each secretarial billable hour is worth 1/4 the attorney hour.

Thus, even if the secretary bills out every hour of time, you still only end up with 50 billable hours at \$200 each in a week. It is this type of weighting in the calculation that can trip up your budget numbers if you aren't careful. The hourly rate can vary and it does not matter; what matters is the fractional proportion of each non-attorney time keeper. As long as you have that calculation correct, your "break even" hourly rate result will be meaningful.

Next, how many billable hours actually occur (i.e., are actually billed out in an average billing cycle)? Here you need to calculate it for each billable employee. If you multiply each person's total available billable hours number by each person's billable hourly rate, you should get the actual average billable income generated by each person. If you tally it all up, you should have the total average office income. That is a nice number to know, but it is only part of the equation.

Next, determine your office's Expense Generating Numbers by calculating your costs of operation. Include *every* bill you pay out, no matter what it is for. Even if you bill some of your "costs" out to the client (such as copy and fax

charges), include them in your expense calculations as though they are absorbed as part of your overhead (if the client pays the bill, you will only be further ahead; if it goes unpaid, your hourly calculations will not suffer).

All of this data should easily be found in your office budget. Be sure the numbers you use are “real, actual hard” numbers. And always round expenses upward, so the result is conservative.

When you divide your total expense number by your total available billable hours number, you will learn what your “break even” hourly rate should be.

The “Break Even” Hourly Rate Calculation: Divide your total expense number by your total billable hour number and you learn what your “break even” hourly rate should be.

Example:

Let’s suppose the Sample Law Office’s weekly expenses are \$6,000.00, the Attorney’s hourly rate is twice the Litigation Assistant’s hourly rate (a 2-to-1 ratio, i.e., the Litigation Assistant has to turn in two hours of time just to equal what the Attorney generates in one hour of time) and is four times the Legal Assistant’s hourly rate (a 4-to-1 ratio).

If the Litigation Assistant is paid for the time turned in, then all the time counts but is divided in half (20 hours/week has the same income generating worth of 10 hours at the Attorney’s rate). Since the Legal Assistant handles many “administrative” (i.e., non-billable) tasks and is only able to turn in 16 billable hours, then it is divided by 4 (using the 4-to-1 ratio).

In other words, the Sample Law Office generates 54 hours of billable time (at the “full” Attorney hourly rate) in an average week.

We know the average weekly expenses are \$6,000.00, so we divide that by 54 and now know that the minimum billable hourly rate “just to pay the bills” is \$111.12.

To be conservative (and safer), figure that your numbers are 25% off and increase the hourly rate by another \$27.78, to a total of \$138.90. After all, not all clients will pay their bill on time and some will end up not paying at all.

But then again, \$138.90 is an odd number, so round it up to an even \$140.00. In this setting, that should be the *minimum* hourly rate for the

Attorney.

The result is that any case the Sample Law Office handles which does not generate at least \$140.00 per billable hour for the time spent on the case is a “loser” (economically speaking anyway).

Know Your Numbers: Some Guidelines

Consider using creative pay approaches like paying new employees on a “billable hours” approach instead of an hourly or salary approach.

Everyone should write time. The goal is have each employee write enough time to “pay their own way” (i.e., cover their own part of the overhead of the operation). It obviously helps to recapture “lost” time and to avoid “lost” time in the first place. This approach also guarantees you a “profit” on each employee.

Now that you know what the numbers are, and what they mean, you must decide if working on a pure contingency fee is a viable business model (instead of a combination reduced hourly-reduced contingency fee, or some other attorney fee basis).

Once you know the numbers, then “tweak” the numbers. If you want to work less hours, then where do the numbers have to go up, in order to allow your own numbers to go down? Then ask yourself, where can you increase support staffing in the most cost-effective way?