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LawBiz® TIPS – Week of July 5, 2011

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As I write this note, I am in some of the most beautiful country. We're just outside of Joseph, Oregon at Wallalo. The lake is big and gorgeous; the weather is cool and pleasant, not its expected hot and humid norm.

We drove up Idaho's highways 129 and Oregon's 3. The hairpin turns were severe with signs that suggested you drive no more than 20 to 25 mph. It took us 3 hours to drive only 90 miles. But the scenery was spectacular. My wife held her breath most of the way, choosing not to look down the side of the cliffs, but I was glad that we took this route.

What I'm experiencing is a chance of a lifetime, to see the beauty of this country, to visit with lawyers in cities both large and small, and to truly understand what makes up the backbone of our nation. Thanks to y'all who've given me this opporunity.

We will be leaving for Baker City, OR for an Airstream rally of more than 100 rigs to celebrate the 100th anniversary of the birth of the creator of this "cult." Then, after the holiday, we're on the road again, going to Denver, Cheyenne, Oklahoma City and points east. Watch our calendar at lawbiz.com/roadshow and Facebook (facebook.com/lawbiztour) to join us or to request that we swing by your community. Our next presentations:

Fri, July 8 - Denver, CO

11:30am-1pm: [The Metrics of Financial Performance](#)
(Colorado Bar Association)

Mon, July 11 - Cheyenne, WY

3-5pm: [Managing Client Expectations and Collecting Fees](#)
(Cheyenne Holiday Inn)

I hope your holiday was safe and enjoyable. And, again, thank you for this opportunity to connect with you.

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In this issue:

[Making Alternative Fee Arrangements Work in Litigation](#)

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Featured Video:



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What Clients Are Saying:

Making Alternative Fee Arrangements Work in Litigation

Lawyers and Clients Share the Risk

In the alternative billing philosophy that increasingly is embraced by Corporate America and its law firms, lawyers become partners along with their clients in the resolution of each specific matter. The sharing of the risk is based on the outcome. And that is based on communication right from the start, on appropriate early case assessment and budgeting. When this is approached successfully, lawyer and client have a mutual success goal. The risk for the lawyer is in not meeting the goal and possible impact on billing; the reward is in meeting or even exceeding the goal and perhaps a bonus billing.

Start with Case Assessment

Litigation provides a good framework for analysis, starting with case assessment. Corporate clients should have in mind how much money they want to spend to resolve a problem, just as they know what they want to spend on a piece of equipment. In either case, a higher initial cost may be acceptable if the long-term return on investment justifies it. Sometimes a legal problem is large enough that spending big sums on it is justified. Most issues, however, involve everyday costs of doing business. It makes no sense to budget spending \$2 million to try a case if a \$100,000 settlement will meet the client's objectives.

Set Goals and Expectations

Budgeting presents a similar challenge. It begins, or should begin, by getting as much information as possible from the client about goals and expectations. Information should cover parties, claims, anticipated strategies and desired outcomes. "Winning" may not be one of them. A client may wish to delay the final outcome for political or financial reasons, believing that a continued threat of litigation may bring a settlement. Understanding the client's objectives is the prerequisite of the budgeting process. The key is not just preparing the budget, but involving the client in the preparation. The client should also formally approve the final budget. Without client buy-in, the process is meaningless.

Establish Budget Milestones

When budgeting for the entire litigation in a risk-sharing arrangement, there should be different budget milestones tied to success. The budget can be for the entire case, or just to that point in the litigation where, if appropriate after a certain amount of discovery, it is decided that a motion for summary judgment has a good chance for success. The engagement goal is tied to that probability, as a success bonus can be if the firm has stayed within budget to get to that milestone. Different parameters define different success outcomes. Client and lawyer work as a team to achieve them and both parties benefit: for example, if the summary judgment motion is a success (even though the full case was budgeted), the client gets out of the lawsuit and the firm gets a success bonus. It is a win-win situation for both the client and the law firm.

Collecting Your Fee: Getting Paid, From Intake to Invoice

"Ed Poll has done it again. He's created a down-to-earth guide for lawyers to collect

"Ed educated me on how to implement a plan for the management of my law offices, which I have set up in Santa Monica. With his help, I was able to conceive and put into effect a business plan which promises not only to simplify my business, but to make it more profitable as well. He readily pinpointed my needs and offered sage advice on what I could do to rectify the problems that I have been facing. For this, I am forever grateful and will highly recommend him to anyone who asks."

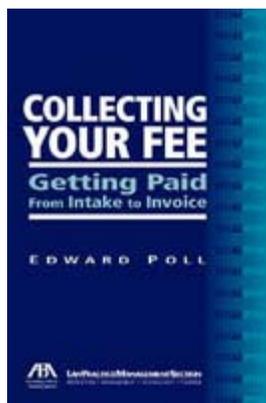
MG, Santa Monica, CA

"I decided to "go solo" and start my own practice after being a senior associate at a large national law firm. I started in temporary office space with a secretary and one associate attorney. I retained Ed Poll to provide comprehensive consulting and guidance in establishing my permanent office. He knew from day one how to re-shape my thinking from being a day-to-day lawyer into being in charge of a business. Ed knew the right questions to make me answer. Ed has taught me virtually everything I know about formation, planning, and now management of a successful law firm. I would enthusiastically recommend Ed Poll for retention as a consultant in connection with any aspect of law practice management."

RJM, Los Angeles, CA

their unpaid bills. The book is full of practical advice such as 'if you don't create a collection policy, your clients will create one for you.'"

The book offers lots of good advice on engagement letters, detailed bills, fee agreements, and intake forms. Plus it's loaded with useful forms. The CD contains forms for status reports, budgets, sample bills, collection letters. [Learn more.](#)



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