

# Oregon Law Practice Management

Practice Management Tips for Oregon Lawyers



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## Managing Your Firm's Cash Flow

By Beverly Michaelis, Professional Liability Fund Practice Management Advisor

According to the [American Psychological Association](#) almost three-quarters of adults report that money is a “very significant” source of stress. Add the pressure of running your own law practice, and financial worries can quickly spiral out of control.

How can you get on track? Meet your goals? Create a vision for the future? It starts with planning and a little number-crunching.

### Creating a Business Plan

Every solo or small firm practitioner should have a written business plan. If you are applying for a loan or line of credit, the bank will require it. But it isn't just an exercise for new lawyers or those seeking financing. Your business plan serves as a roadmap for the future. It describes your reason for going into business, why you are entering into a particular type of practice, your projected income and expenses, how you will market yourself, and how your business will be structured. It requires research, organization, and soul-searching to prepare. But don't be intimidated. The [Small Business Administration](#) is a great place to start.

If you're looking for tools specific to the legal profession, try these free resources from the [Law Society of British Columbia](#), [FindLaw](#), and [Whittier Legal](#). The [American Bar Association](#) (ABA) offers [The Lawyer's Guide to Creating a Business Plan](#), a step-by-step software package with self-calculating worksheets, detailed financial plans, and preformatted documents. [Creating a Business Plan](#), excerpted from *Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer* is a bargain at \$19.95. With over 300 products geared to law practice management, you're bound to find many useful materials on the [ABA's Web site](#). All ABA Web store products may be ordered through the [Professional Liability Fund](#) (PLF) at a discount. From the [PLF Web site](#), select ABA Products, and note the PLF promotional code.

## Your Mission Statement

A professional mission statement is an important, but daunting, component of your written business plan. How can you express your talents, passion, and values in a concise paragraph or two? The answer lies in [four simple exercises](#) that take 30 minutes to complete. (See How to Create a Professional Mission Statement mid-way through the blog [post](#).) I give all the credit to Seattle attorneys [Terry Leahy](#) and [Joseph Shaub](#), who developed and shared this approach.

## Using a Budget

Every law office should have a budget. Without one, it's easy to overspend and hard to plan for future purchases. Knowing your overhead costs will help you decide how much money you need to make and how much you need to charge to make that amount. Failure to budget can cause financial problems. Lawyers with financial problems may take on new clients who have money in hand, leaving the work for existing clients unfinished. This soon turns into a vicious cycle and leads to disciplinary complaints from clients whose work is not completed.

If you have accounting software, you should be able to create a budget and run budget reports and graphs which compare actual to budgeted income and expenses by category. Both [Quicken](#) and [QuickBooks](#) have this feature. These programs can also create a budget automatically from actual income and expenses you've previously entered.

If you don't have accounting software, you can use online resources like [Mint](#) or [Wesabe](#). Both are free and allow you to budget, manage investments, set spending alerts, and generate reports. Additionally, [Mint](#) offers a free [iPhone app](#) to track expenses on-the-go.

If you want to focus specifically on what your hourly rate should be, try [Freelance Switch](#), an easy to use hourly rate calculator.

[Mint](#), [Wesabe](#), and [Freelance Switch](#) are secure sites. No personal identifying information is entered in order to generate budgets, calculate rates, or set alerts. But if the idea of going online still makes you uneasy, the PLF offers budget forms and cash flow worksheets. From the [PLF Web site](#), select Practice Aids and Forms, then Financial Management.

## Industry Specific Data for the Legal Profession

Every five years, the Oregon State Bar sends out an Economic Survey to a random sample of the bar membership. The most recent survey was conducted in 2007, and is available for [download](#) on the bar's Web site. Information on billing practices begins on page 26. Hourly rate data can be evaluated by geographic location, total years admitted to practice, and areas of private practice. The following bar sections participated in a [supplemental hourly rates survey in 2008](#): Antitrust, Business Law,

Business Litigation, Civil Rights, Construction Law, Consumer Law, Energy Law, Environmental, Intellectual Property, International, and Litigation.

Use this data, in conjunction with your budget or calculations from [Mint](#), [Wesabe](#), and [Freelance Switch](#), to decide how much you should charge.

### **Avoid Common Pitfalls that Lead to Non Paying Clients**

The most stressful part of a law practice is usually getting paid. Unfortunately, it's easy to sabotage yourself before you've even started, if you don't consider some common pitfalls and how to avoid them:

- Discuss fees at the outset. Carefully screen new clients to minimize the number who don't pay for your services because they can't afford your fees.
- Avoid clients with unrealistic expectations. The client who frequently complains or needs constant hand-holding is often the client who is unhappy with your bill.
- Review billing practices. Make sure clients understand time will be billed in tenths of an hour, statements will be issued monthly, and payment is expected within 30 days. Always include a due date on your bill.
- Use written fee agreements to prevent misunderstandings and communicate what will happen if the client does not pay.
- Monitor account receivables closely and establish a collection procedure *now*. Assuming you generate bills on the first of the month and clients are expected to pay by the 30<sup>th</sup> of the month, your procedure might be:
  - On Day 31, past due clients automatically receive a second billing notice
  - On Day 40, past due clients receive a phone call
  - On Day 50, past due clients receive a (form) letter, and so on.

The idea is to establish specific steps that follow a timeline. Remember, these situations rarely get better. If you need to withdraw, comply with the [Rules of Professional Conduct](#). See [How to Fire a Client – Dos and Don'ts When Ending Representation](#).

- Offer incentives, such as a discounted hourly rate or flat fee, if the client establishes a retainer or pays your fee up front. Comply with [OSB Formal Opinion 2005-151](#) if you intend to charge a fixed fee earned upon receipt.
- Consider an early-payment discount. If the client pays your outstanding bill within 10 days, rather than 30, give the client a percentage discount off the total amount due.
- Accept credit cards. [Avoid bookkeeping hassles](#) by using a private credit card processor who will take merchant fees only from your business account. Be sure to read and comply with [OSB Formal Opinion 2005-172](#).
- Collect last month's rent. Require that the client pay a security deposit to be held in the lawyer trust account. Invoice the client as usual. At the end of the case, the security deposit is used to pay the client's final bill. Alternatively, the funds may also be used if the client fails to pay a monthly invoice. Put this arrangement in writing. Keep in mind that if the client's funds can earn net interest, you are required to establish a separate interest-bearing account for the client or obtain a waiver of the client's right to interest. See [OSB Formal Opinion 2005-117](#) for additional details.

- Use evergreen retainers. In this type of arrangement, the client agrees to maintain a specified retainer balance at all times. Your bill should reflect the beginning retainer balance, fees and costs incurred during the month, total funds disbursed from the client's retainer, any balance remaining, and the amount needed to replenish the retainer to the required amount.
- Consider interest charges carefully. Unless you and the client have entered into an enforceable written agreement to charge interest at a higher rate, you may only charge the statutory rate of 9% on a past-due account. See [OSB Formal Opinion No. 2005-97](#).
- Resist the temptation to modify your fee agreement. [OSB Formal Opinion 2005-97](#) also stands for the proposition that modification of a fee agreement in the lawyer's favor requires client consent preceded by an explanation of the reason for the change and its effect on the client. In addition, any modification must be objectively fair. Meeting this standard isn't impossible, but it isn't easy either. If you discover you have made a bad bargain, the best course is to learn from experience and change your fee agreement *prospectively* with future clients. Otherwise, you may find yourself in the middle of a fee dispute, even if your client initially agrees to the modification.
- Think twice before suing a client for fees. The decision is yours, and I certainly understand why lawyers who have never resorted to suing clients before are considering it now. Economic pressures are hard to ignore. Before you take this ultimate step, be sure you've [considered all the issues](#), including the possible effect on your PLF coverage.

Follow the author on Twitter at <http://twitter.com/OreLawPracMgmt>. Her blog may be found at <http://oregonlawpracticemanagement.wordpress.com/>.

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Originally submitted for publication to the [Oregon State Bar Sole and Small Firm Practitioners Section](#) under the title *Financial Management 101*. February 3, 2010.

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