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A LOOK AT WAYS THAT A TRIAL LAW FIRM CAN MANAGE COSTS WITHOUT SACRIFICING THE QUALITY OF ITS LEGAL REPRESENTATION

Running a trial law firm anywhere in the country, especially in a large city like Los Angeles, San Diego, or San Francisco, can get expensive very quickly. Overhead is at a premium, and the expense of technology, case costs, staffing, and more all add up.

There are ways to control costs though, and it mostly involves being creative, flexible, and willing to take a hard look at every aspect of firm financials. While most trial lawyers simply want to try cases, running a firm involves much more.

This is often an uncomfortable job for any managing partner or executive team, because, in the end the difficult decisions fall on the shoulders of these people. An attorney may believe that a certain mediator or arbitrator gives them the best chance for success, but if these costs are excessive and lead to spending far more money than is necessary, the managing partner may need to suggest an alternative. Any of these changes should be handled with care, especially at a larger firm, as people become accustomed to a certain way of doing business.

The big picture is this: Never get stung by the sunk-cost fallacy. This is the phenomenon where we are reluctant to abandon a strategy or course of action because we have already invested heavily in it – or in poker terms, you are pot committed! Technology and new opportunities might make certain ways of doing things obsolete, even if they've worked in the past. To control costs, a trial law firm must be willing to change with the times and put aside emotional attachments whenever possible. Saying

“I’m wrong” is extremely hard, but sometimes admitting defeat can save you thousands, even millions of dollars.

Basic budgeting

The first question you have to ask yourself (as well as your partnership and your head of administration) is how tight your budget is. Counting every paper clip might seem pointless, but when you witness firm expenses get out of control quickly, you see why some firms are so focused on keeping costs low. At the end of every year, any trial firm should sit down and go over the year’s financials as well as project the following year’s budget. This should be done as conservatively as possible with no “pie in the sky” thinking. Projecting a budget based on one good year, even a series of good years, or basing it on a particular case or set of cases “likely to settle in the next six months” is setting yourself and the firm up for failure. The one case that’s “likely to settle” could quickly turn into a white whale and create the temptation to settle for less than it is worth.

Your budget will need to consist of obvious items like rent, bar dues, and malpractice insurance, as well as less obvious expenses such as coffee and snacks for the break room. This budget should be reviewed on a regular basis, perhaps monthly or quarterly, to make sure costs are in line with revenue.

The true price of rent

While COVID-19 lockdowns were traumatic, they did shine a bright light on exactly how important rent is to a firm. Having a big attractive office by the beach, giant floor-to-ceiling windows with a view, or a huge “impressive” conference room that no one uses just isn’t worth it anymore. Vanity is the enemy of success, and the type of offices your firm leases could be based more on desire than on necessity.

Rent is one of the biggest contributors to a firm’s overhead, often taking up a significant portion of a firm’s budget. But with the state of current

technology, remote work, a rotating work schedule, and other options make rent far less necessary than in the past.

There are creative options to deal with an office lease. The first is to look at the terms of your lease to see if they can be renegotiated, or if it’s possible to sublet office space to other attorneys looking for space. This may also open an opportunity for referral relationships.

You may not need to move your firm’s location, but finding a lease that fits your budget will contribute to the long-term financial health of your firm.

Negotiating insurance

Any trial firm will likely have a few different types of insurance, from business interruption insurance to disability, but the biggest price tag will come in the form of legal malpractice insurance. Attorneys can pay anywhere from \$500 to many thousands of dollars per month per attorney in malpractice insurance, and often simply accept the terms. But shopping around to find good rates from quality insurance companies could lead to serious savings. In addition, many insurance carriers offer “good client” discounts either for a significant period of time with no claims or longer-term relationships. (*Editor’s note:* Don’t ignore the reference to “quality” insurers here. Not all malpractice insurers provide the same level of service.)

At the end of the day, it never hurts to ask, and every firm bookkeeper should be tasked with finding the best insurance for the best price. The same goes for every other insurance cost a firm might have.

Litigation insurance

In addition to your time and the cost of your staff, one of the risks associated with handling a case on a contingency basis are the case costs such as expert fees, depositions, etc. The good news is that for a minimal cost (7% of the amount you wish to insure), you can have an insurance company pay you back the costs involved in taking a case from inception through trial. There is a catch though – you would need to lose in trial in order to

recover your costs. In other words, if you lose the case on a motion for a summary judgment, or you get a verdict but the amount of the verdict is too low to cover your costs, you would not be able to recover the cost through the purchased insurance. Nevertheless, it is still a great tool to minimize the risks associated with certain cases.

Legal technology

Legal tech takes up a significant portion of any firm’s budget, but odds are that any trial firm has added technology without doing a full assessment of its continuing purpose, or whether new tech has made old tech obsolete.

A law firm’s technology needs are broken up into a few different areas – IT departments, case management software, research subscriptions and the like. Having a full assessment of what your firm’s needs are as well as what you’re paying for can begin the process of finding ways to cut costs. Looking into outsourcing, effective use of cloud storage, and the possibility of AI-based software are all ways to lower expenses.

In addition, talk to your attorneys to find out if the case management software you have is doing its job or if it’s time to shop around for new providers. This could potentially give you leverage in negotiating new deals.

Reining in mediation and arbitration fees

Every trial lawyer has their favorite firm or set of mediators. But that can be an easy way to get stuck paying hefty mediation fees. With so many providers, comparing costs and finding the best option might make the most sense for the case and the client.

There are also ways to use your preferred mediator(s) and still cut costs. Using virtual and remote mediation can get the same results while lowering overall fees.

Lowering deposition costs

Depositions are necessary, and they’re expensive. Trial attorneys bear

the weight of prepping for depositions, taking them, and analysis after the fact. There can be expert fees, witness fees, travel fees, booking space if necessary, and then court-reporter fees, which (like everything else) have increased over the years.

An easy way to lower fees on depositions is to do some analysis on the process and see if there are ways to lower the overall expense without making major changes. Asking questions like:

- Can the witness/expert be interviewed remotely?
- Can we handle the deposition in our own conference room?
- Are we wasting time asking questions that don't help the case?

There are other options to explore and experiment with, such as doing contingency-fee depositions or asking the court reporting company to carry the cost until the resolution of the case. These creative approaches can help with managing risk and lowering upfront fees, making the end result more profitable to the firm.

How expensive are your focus groups?

Focus groups are a great way to try your case out before a live audience. While they're necessary for any successful trial attorney, they need not be expensive. For example, is it necessary to use a 12-person mock jury in a focus group, or can that number be cut down? Fewer

people means less money for wages, fewer mouths to feed, and more time to get feedback from those who attend. That said, you should definitely conduct focus groups for your cases.

Staffing

Alongside rent and legal tech, staffing is a huge expense. And it's the most difficult to navigate because people can be complicated. Managing younger people versus senior employees is an art form, as generational changes have caused law firms nationwide to reconsider their entire approach to human resources. When it comes to controlling costs, the biggest question any firm has to ask is: Do we need this person in this position?

That's a hard, complicated, and sometimes emotional question to ask. Separating personality from the needs of the firm is hard for anyone, and those needs can often shift. Core staff members are absolutely necessary, but other positions, roles, and duties can often be outsourced. If you are starting your own firm, my rule of thumb would be to begin hiring or outsourcing responsibilities as your time becomes limited. When you get too busy, you hand off certain responsibilities to free yourself up to do something you are uniquely qualified to handle.

Part of analyzing a budget is also seeing how personnel fit within the firm's dynamic, needs, and expenses. Replacing a legal tech vendor is a lot easier than

replacing or removing an employee, so making wise choices when hiring (or when considering the need to hire) can avoid headaches and financial pitfalls.

Part of lowering the cost of staffing is having honest conversations with partners and the firm's executive director about how employees are working and how productive they are. Measuring value with people is difficult, but using productivity markers is the easiest way to navigate the firm's way through potentially emotional issues.

For all these challenges, it may be wise to hire a consultant who can help sort through every one of these areas to see if changes can be made to help with the bottom line.

Ultimately, there is no one way to lower costs. This is a blessing and a curse because analyzing the best way requires time spent. For managing partners and firm leadership, the more time you spend now examining how to lower expenses, the easier it will be in the long term and the more profitable the firm will become.

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