



Scott J. Corwin

## Budgeting, financial and banking issues in the solo or small practice

Get control of your finances! Practical suggestions on how to create a financial budget and set reasonable goals

Eighteen years ago I passed the bar. Before I was even admitted, I made a decision that I wanted to work for myself. I had no clients, no money and a mountain of debt from law school. I decided to hang out my own shingle seven days after I was admitted. I would never have predicted that my practice would have grown into what it is today. Nor would I have predicted that I would have as fulfilling a professional life as I do today. The path to getting from there to here has been both challenging and rewarding. And the single most important factor in my practice and personal success has been planning ahead and thinking about the future. Setting goals and sticking to a budget are essential keys to my success and the success of anyone who wants to be in a profitable practice.

### Establishing a budget

I knew I wanted to open my own practice, but I didn't know how to go about and do it from a financial perspective. I sat down with a friend of mine, Mitch Feinstein, at Junior's Deli on Pico Boulevard in West Los Angeles for breakfast. I told him what I wanted to do. Mitch had been a practicing attorney for about 20 years at the time. He also launched his own real estate and consumer lending company and was a whiz at financing and banking.

Mitch started talking with me about preparing a strategic plan and a budget for my proposed law firm though I was not being sworn in as an attorney for several more weeks. Mitch handed me a pen and instructed me to take notes on the back of a napkin. He asked me to put down how much I would like to earn my first year in practice. I said I would be happy with \$60,000 – my previous income earned, working 240 plus hours per month as a law clerk. "OK," he said, that means you need \$5,000 per month in profit."

Then we wrote down the estimated costs for a small office lease, telephone, fax, supplies, publications, professional fees, MCLE, malpractice insurance, parking, photocopy, as well as an allotted amount for costs of investigation and litigation of my (at the time non-existent) cases. Mitch then had me project an amount for a part-time and then full-time secretary. Of course, at the time I had no need for a secretary since I had no clients.

Mitch told me he would give me about 50 hours per month of legal work on his real estate and business cases and would pay me \$75 per hour. I had clerked for personal-injury attorneys for all three years of law school so I knew I wanted to be a consumer lawyer fighting for the little guy. We estimated how many small personal-injury cases I would need to meet my budgets. Once we had broken down the budget for both expenses and income, and the volume of cases I would need, the task of opening my own law firm from a financial perspective no longer seemed daunting.

Mitch told me to put away "the napkin" and open it up at the end of the year. He assured me that if I stuck to the plan I would make more than what I had projected by the end of the year. Mitch was right – I far exceeded my goal in that first 12 months. I typed up the notes from the napkin and saved it in my computer. Today, nearly 20 years later, I still make budgets and review my firm's financial data. Every so often, I open up the computer file and review "The Plan on a Napkin" and remember where I started, how far I have come, and most importantly how I got here.

### Set reasonable goals

My good friend and successful practitioner Garo Mardirossian and I talked about this article. I told him the story

about Mitch, Junior's and the Napkin. Garo liked what I said and pointed out to me that the most important thing I had stated was that the goals were reasonable and attainable. After creating your budget and plan, that is the second most important factor to being successful financially. Don't shoot for the stratosphere. If you set a reasonable goal, it is something that can be achieved. Then you can set the target higher and move ahead. If your goal is too high then you are setting yourself up for failure. This is the lesson that Mitch taught me 18 years ago and Garo reminded me of just a couple months ago.

### Stick to the budget and the plan

Mitch told me to stick to my budget. Don't blow money on unnecessary luxuries in the office. I pay all my own bills and write all my own checks. Every month I review a profit and loss statement and a balance sheet for my practice. I am able to do the bill paying and generate these reports with just a couple of key strokes thanks to a software program called QuickBooks. More about that later. At the end of every year I prepare an annual profit and loss statement and meet with my certified public accountant, and we review the year. We look for where there are areas for improvement. The review also helps me with year-end planning in terms of income and expenses as my accountant runs an estimated tax projection. Again, QuickBooks software makes this incredibly easy. We write more than 1,000 checks per year, and I have never used a bookkeeper. I do all my own bill paying, bookkeeping and client trust accounting. I spend five hours per month on these tasks.

You must have a net positive cash flow if you want your practice to survive. The cash coming in must exceed the money

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going out – otherwise you are out of business. Budgeting allows you to prioritize your expenses and makes you think about how much money it takes to run your practice. Review your actual income and expenses versus your projections made in your budget. Make revisions to your budget where necessary. Plan ahead.

### **Financing your law firm**

It was 1992 and I decided to hang out my own shingle. I had passed the bar and was waiting to be sworn in. I had my “Plan on a Napkin” along with a budget. Mitch was going to give me some hourly work to start. Another personal-injury lawyer I knew offered to refer me a dozen of his personal injury cases – because they were small or difficult or both. I had no money and a mountain of law school debt. How was I going to pay for all the things I needed in my napkin budget? The answer for me was my wife and rich relatives!

### **Your spouse or rich relatives**

My wife and I had been married a little over one year, and she had her own thriving entertainment public-relations firm. She earned enough money to cover our personal expenses, but insufficient to cover the start-up costs for my new law firm as well as its ongoing expenses. The hourly fees I would earn from Mitch would help but were insufficient to meet my new firm’s financial needs. So we approached my wife’s parents. They agreed to provide us with a small (\$10,000) low interest (four percent) loan to be paid back over a period of two years. They told me if we needed another \$10,000 they would provide that to me as well. A combination of hard work, skill and a little luck (while sticking to my “Napkin Plan”) – and we never needed the second \$10,000 advance. We paid back the first \$10,000 to my in-laws in just under eight months.

### **Traditional financing – Getting a bank loan or line of credit**

If you are not fortunate enough to be married to an income earner or have wealthy and generous relatives (or friends) that can help, then a business line of credit is essential. If you have a good

income and job history, then getting a reasonable loan or line of credit should be possible. If you have a relationship with a bank and banker (see below) that can be helpful. Even with the economic reality of tight credit today, money is still available. I know attorneys that have successfully financed their law firms on credit cards using the introductory teaser rates. (Watch out for the higher rates when they kick in – they can be oppressive). Another alternative for homeowners is to get a home equity line of credit. These types of loans are much easier to qualify for and usually have very low interest rates. In order to apply for a loan or line of credit with a financial institution you will generally need two years’ tax returns, three months of your bank and savings account statements, and a good job history. If you have your own firm and need to establish a line of credit, being able to generate a profit and loss statement and balance sheet is a must. Having a relative or friend co-sign or guarantee your loan may be necessary.

### **Non-traditional financing – Attorney lenders & case sharing with established firms**

There are many companies that exist today whose sole purpose is to provide financing to law firms. These companies provide non-recourse financing to clients against their potential personal injury cases. Some of these companies also provide non-traditional financing to attorneys based on their caseload and expected attorneys’ fees. These loans will generally carry higher rates than traditional financing but are a viable alternative for those who cannot qualify for traditional financing. Many of these companies also will make loans to attorneys specifically to cover investigation and litigation costs on a case-by-case basis. A number of these companies have been exhibitors at our convention for years.

Another method of financing for the new solo or small firm is sharing cases and costs with other well-established firms. In my first year in practice I used this method of financing several times. I joined CAALA (then known as LATLA) just a few months after I opened my firm, in October 1992. I met Ray Boucher at a

CAALA event. Little did I know how much CAALA would change my life and help me throughout my career. The attorney who gave me the dozen or so cases when I first started my practice continued to refer cases to me. One such case turned into a reasonably large case with a potential six-figure outcome. I realized I would need more than \$40,000 in costs to properly work up the case. I approached Ray Boucher, and he agreed to help me with the case and cover the costs. Together we resolved the case.

Over the course of my early years in practice I had several cases that I joint-ventured with established attorneys including Ray Boucher, Garo Mardirossian, Joe Barrett and more recently, Mike Alder. Working with Ray, Garo, Joe and Mike has led to long-term friendships and my immersion in CAALA.

### **Banking for the solo and small firm**

Selecting a bank is a critical decision for the solo practitioner or small firm. When I first opened my doors back in 1992, I had been an established customer of Wells Fargo for a number of years. The local branch manager knew me, but when it came to getting a line of credit for my new firm, the answer was a resounding “no.” I felt like a small fish in a very big pond. It just so happened that a branch of Santa Monica Bank, a small 11-branch business bank, was located on the ground floor of the building in which I had just signed a lease for my new office. The branch manager was pleasant and happy to help. She gave me a reasonable line of credit that in conjunction with my in-laws loan gave me a sufficient amount of financing to open my new law firm.

### **Picking a bank and banker**

Some banks will go out of their way to accommodate new lawyers and new businesses. Banks want deposit accounts. They especially like business accounts that generally don’t pay interest. Banks also like attorney-client trust accounts as they also don’t pay interest to the attorney and pay relatively low interest to the State Bar. Sit down with the branch manager and tell him you want to establish a banking

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relationship. Do this with several different banks in your area. Get references from your friends, business associates, your accountant, do research on the Internet. See which of the banks will give you the most for your deposits. What services will they provide? Will they charge for those services? Will they extend you a line of credit or loan? Will they give you free checks? Do they have online banking services? Does the bank have the ability to interface with QuickBooks? Pick a bank and open your accounts. Keep your business accounts separate from your personal accounts.

### **General business or operating account**

Every law firm needs a general business or operating account. This account must be a checking account. Generally it pays no interest. Use this account to pay all of the expenses related to your law firm. Deposit your law firm income to this account. Generally, for most of us that handle contingency fee matters, it will be a check written from your Attorney-Client Trust Account to your firm. You can have your spouse or staff member sign on this account if you want. Although this matters less in today's low-interest environment, most attorneys will keep minimal funds in the General Business Account because it pays no interest. Just retain enough to cover expenses for a couple months. The rest of your firm's money can be kept in a separate interest-bearing savings or money market account. Transfers can be made between the General Account and the interest-bearing account as needed. Keep more of your money in the interest-bearing account so your money is working for you — one percent or two percent earnings is better than zero.

### **Attorney-Client Trust Account**

This account is for client money. You should never use it for your money. No person other than you should be able to sign on this account. You should not allow your spouse or an employee or even another lawyer to sign on this account. There are serious penalties for failure to maintain proper record keeping.

The California Rules of Professional Conduct require that attorneys maintain at least four separate items for each client whose funds have been deposited into the Attorney-Client Trust Account: (1) a written ledger for each client showing funds received and disbursed; (2) a written journal for each bank account; (3) all bank statements and canceled checks for each Attorney-Client Trust Account; (4) monthly reconciliation of the Attorney-Client Trust Account and Client Ledgers. The rules require that the above records above must be retained for a period of five years from the last disbursement of the funds on each client matter.

Your Attorney-Client Trust Account responsibilities are of the highest fiduciary standards and are non-delegable. Regardless of who in your office handles your trust account, you remain ultimately responsible. That is why you should handle it personally. Under California Rules you are required to balance and reconcile your Attorney-Client Trust Account and the funds maintained for each individual client monthly. Written records of these reconciliations must be maintained for a period of at least five years.

Finally, every attorney running his or her own practice should obtain and read from cover to cover The State Bar of California 2009 edition of the Handbook on Client Trust Accounting for California Attorneys. It is available online from the State Bar in electronic form and can be downloaded as a PDF for free.

### **Banking & accounting software — QuickBooks**

For years I did my banking with handwritten checks. Reconciliations were slow and took lots of time. I tracked expenses in WordPerfect for DOS, then later in Excel which was a substantial improvement. About eight years ago I was turned on to QuickBooks, an amazing yet easy-to-use software program.

Suppose you get a call from a State Bar Investigator because your bank has notified it that an Attorney-Client Trust check has been returned for insufficient funds. What if you receive a call from a client who wants a complete accounting for their funds long after the case has

settled? Do you have the ability to easily produce the records? Are you in compliance with the State Bar requirements for Attorney-Client Trust Account record keeping? With the advent of programs like QuickBooks the answer to all of the above questions is a resounding "yes."

QuickBooks can be easily tailored in just a matter of minutes to set up and keep track of every Attorney-Client Trust Account transaction, produce reports required by the State Bar and perform monthly bank reconciliations for all of your accounts in just a few keystrokes. Keeping the records in your computer and having them properly backed up assures that this vital information will be available to you for the required period of time and can be reproduced on paper in minutes.

QuickBooks will save you time because most information such as payees and sources of client funds are entered only once. The next time you write a check to a payee you used previously, the name, address, and all other information pops up automatically with just the initial keystrokes. QuickBooks can print mailing labels. QuickBooks allows you to write checks and record deposits directly into the software program and at the same time record all other related data for the transaction.

Assuming you have properly set up QuickBooks initially, you can generate current Client Trust Ledgers, do bank reconciliation reports, profit and loss statements and balance sheets in an instant. I had my computer consultant and accountant have a two-hour meeting in my office and set up QuickBooks in another 30 minutes. I can generate that file for my account in just a few keystrokes as well. I used to spend dozens of hours preparing my financial data for my accountant to do my tax returns. Now it takes me just a few minutes. When combined with Online Banking which nearly every bank offers today, you can catch any errors you (or your bank) make when you perform your account reconciliations using QuickBooks. The program has an edit/split feature allowing the details of the transactions to be entered.

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You can set up Accounts Receivables, Accounts Payable, Petty Cash Accounts and Credit Card Accounts. Using the online banking feature, I can download all of my credit card charges directly into the program so that those expenses can be categorized and used in generating tax returns.

QuickBooks is a must for the solo practitioner or small firm. It has streamlined the financial and bookkeeping side of my practice, and gives me complete

knowledge and control of my finances at my fingertips.

*Scott J. Corwin is a sole practitioner in West Los Angeles where he practices exclusively plaintiff's personal injury litigation, with an emphasis on motor vehicle and premises liability cases. He is a member of the Board of Governors of CAALA on which he has served from 2005 to the present. He also serves as a member of the Board of Governors of CAOC*

*since 2006. He received the CAALA Presidential Award of Merit for outstanding service to the organization in 2005, 2006 and 2007. He has also been named a Southern California SuperLawyer from 2007 to the present. Moreover, he is an active supporter of many charities most notably the Vista Inspire Program of Vista Del Mar, working with children with developmental disabilities. He has also performed pro bono work as an advocate for children with special needs.*