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Managing cash-flow

As a new firm, cash-flow is your lifeblood – learn how to project the income and manage the expenses

By **DANNY ABIR**

In February 2014, my law partner Alex Cohen and I sat at a desk in his office. Alex explained his vision to me of what he wished for his firm, Alexander Cohen & Associates. At the time, Alex had already been practicing in the area of insurance bad faith for over 14 years. His wish was to build a powerhouse Southern California plaintiffs' law firm focused on insurance bad faith.

It was a tall order. After all, Southern California is one of the most competitive legal markets in the United States – especially on the plaintiffs' side. It is full of entrepreneurial plaintiffs' firms and larger-than-life plaintiffs' lawyers with multimillion-dollar advertising and marketing budgets.

Alex and I were eager to bring our vision to life. In October of that year, my other two law partners, Boris Treyzon and Renata Salo, joined us as we put our heads down and got to work on a document that would serve as the linchpin for the success of that firm and its successor firm, ACTS Law. Today, ACTS Law has 22 lawyers, over 50 employees, and handles approximately 450 complex cases a year with not only a robust bad-faith practice, but full-service plaintiffs'-only practice that handles construction defect, catastrophic personal injuries, product liability, business litigation and judgment-enforcement matters.

So, what was this pivotal document? A script for a television ad? A plan for creating a series of viral social media videos? A list of our core values and guiding principles? No, it was none of these. Instead, it was a modest

spreadsheet forecasting our cash flow and budgeting our expenses for the next six months.

Cash flow is the lifeblood of all law firms

Why in the world did we prioritize forecasting our cash flow and budgeting our expenses over the innumerable other tasks that must be completed in order to get a plaintiffs' firm off the ground?

Because cash flow is the lifeblood of all businesses, especially law firms. Without cash, you cannot pay yourself and feed your family. You cannot hire and pay associates, paralegals, and other staff members. You cannot purchase advertising, technology, or infrastructure. You cannot fund your cases.

Simply put, without cash, your law firm will go nowhere in a hurry.

For plaintiffs' firms that rely on contingency fees, managing and predicting cash flow can be daunting. Unlike our peers who collect retainers from clients and bill by the hour or employ flat fees, plaintiffs' lawyers relying on contingency fees will wait months, if not years, for their fees to be paid. At ACTS Law, the average lifespan for a litigated personal-injury case is 24 months. For non-litigated cases, the average lifespan dips to around nine months.

This delay poses challenges for plaintiffs' law firms of all sizes, especially new solo practices and small firms. Even the most aggressive rainmaking solos and small firm plaintiffs' lawyers will wait months for their fees. And when solos and small firms determine it is time to hire or invest in advertising, additional infrastructure, or pursuing complex cases, they'll have to figure out how they

can afford to do so given the cash they have on hand at that moment and the fees they expect to earn in the coming weeks, months, and even years. These expenses are separate and apart from their personal and household expenses they will need to account for during this time.

Unfortunately, plaintiffs' lawyers are unlikely to learn during law school how to manage cash flow within a contingency practice. That's a shame considering how vital that skill is to running and building a successful firm. On the other hand, by the time plaintiffs' lawyers learn lessons on cash flow management from the School of Hard Knocks, their law firms could already be approaching the eve of their demise.

My partners and I have learned many lessons through the years about managing cash flow in a plaintiffs' contingency practice. Those lessons play a large role in our firm's continued growth.

I share some of those lessons here, hoping those of you running relatively new solo or small plaintiffs' contingency firms will avoid the mistakes made by many of us gray-haired lawyers earlier in our careers. I divided the lessons into two categories: controlling expenses and creating and maintaining accurate financial reporting and planning documents.

Controlling expenses

Managing your firm's cash flow begins with managing your firm's expenses. The less cash flowing out of your firm, the more cash you have to pay yourself and your colleagues or reinvest back in it. Infrastructure, labor,



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marketing, and case costs are frequently the four largest sources of expenses at a plaintiffs' firm. Here are some tips for keeping those expenses in check.

Think twice about spending big money on your firm's infrastructure

In the wake of the COVID-19 pandemic, we now know most law firms can service their clients from anywhere in the world with a reliable Wi-Fi or cellular connection. While you may not want to or be able to practice law from a tiki hut in the Caribbean, the fact is that you can minimize the money you spend monthly on your law firm's infrastructure and thus boost your cash flow without sacrificing the quality of your legal counsel.

For one, you can work from home or a co-working space. If you choose the former, you may receive a tax deduction. If you choose either, you avoid signing a long-term lease for office space that brings with it a bevy of hidden costs, such as utilities, taxes, furniture, and supplies, to name a few.

Worried about where to meet clients if you are working from home? Rent a conference room at office-space providers like Regus. The funny thing is, your clients may not even want to meet you in person. They may be perfectly content with emails, and phone and video calls.

When it comes to technology, you can run a million-dollar law firm from a laptop. Long gone are the days of law firms having to host servers within the four walls of their offices. Every piece of software you will need to run your firm is now offered as a cloud-based Software as a Service (or "SaaS") product. You won't need more than a handful of monthly subscriptions to tackle everything from word processing and email, to law firm practice management, to accounting, to a CRM (Customer Relationship Management) tool. But be wary of signing up for too many services and forgetting to cancel them when it is clear they will be of no use to your firm. They can quickly add up and cause a drag on your monthly cash flow.

At ACTS Law, while working remotely during the pandemic, we signed up over three dozen complex cases. Obviously, we weren't the only plaintiffs' firm to sign up new clients during the pandemic. Our success, and that of our peer firms, shows that you can run a plaintiffs' firm remotely. Doing so can improve your cash flow.

Know when it is time to hire (Hint: It probably isn't when you launch your firm)

At many law firms, labor is the biggest expense (edging out infrastructure). Bringing on employees and freelancers before your firm is ready to make those investments can cause a serious cash-flow crunch. I recommend you only begin hiring when the opportunity costs of you completing certain tasks become higher than what you would pay an employee or freelancer to complete them.

If you're like most plaintiffs' lawyers, when you launch your own firm, you will at first likely handle the majority of the tasks that come with running that firm. That includes performing legal work for clients, sorting mail, scanning and copying documents, etc. And that's perfectly fine if you only have two hours of client work each day and other high-value tasks, such as marketing, do not fill up the rest of your time.

But as your days get busier with high-value tasks related to serving your clients and growing your firm that only you can do, such as negotiating settlements and meeting with potential new referral sources, you will need to delegate those administrative tasks that were once your responsibility. When working on these administrative tasks begins to consistently take you away from those high-value tasks, it is time to consider hiring help.

When it is time to hire, consider hiring lawyers and staff on a contract, part-time basis. If you are still experiencing peaks and valleys with both the cases you're handling and your revenues, part-time help can keep your

recurring expenses low. There are plenty of qualified lawyers and law firm staff members looking to contribute their knowledge and expertise to a law firm on a less-than-full-time basis. Today, it is easier than ever to find these people and bring them into your law firm. And as your firm grows and you develop a need for ongoing, full-time employees and staff, you will have a candidate pool to pull from, full of people who are already familiar with your firm who may be ready to transition to full-time employment.

Engage in inexpensive, DIY referral marketing

New plaintiffs' firms must market themselves to attract clients and bring in revenue. The challenge, of course, is that law-firm marketing is not cheap. In virtually every United States market, new plaintiffs' firms have to compete with giants in the market who spend millions of dollars a month on advertising and marketing.

So, how can new plaintiffs' firms without a lot of revenue and who want to minimize their monthly expenses compete for clients with firms that throw money at advertising and marketing? They adopt low-cost or no-cost referral marketing strategies.

A foundational first step is getting to know other lawyers, especially plaintiffs' lawyers, through the course of building a referral network. Yes, it will take some time, and those coffees, meals, and drinks will add up. But by putting yourself out there and finding more seasoned lawyers who will inevitably want to refer out cases that are too low in value to justify those lawyers' firms litigating them, lawyers at new plaintiffs' firms can bring in cases without investing in expensive advertising campaigns.

These relationships will also come in handy when larger law firms decide to stop taking certain kinds of cases because of a change in their business strategy. Those firms will be happy to send these no-longer-wanted cases to firms that have



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developed a track record of promptly securing exceptional recoveries for clients in referred cases.

Along those same lines, lawyers in new law firms can niche down and develop practices in areas they believe are being ignored or avoided by lawyers in the market. They can then get the word out inexpensively about their focus on these practices through their referral networks. For example, if few local lawyers seem willing to take on sex abuse cases because they would prefer to avoid the emotional nature of litigating these cases, there may be an opportunity for a new plaintiffs' firm to build a practice around those cases.

Of course, at a certain point in a growing plaintiffs' firm's life cycle, the firm will need to invest in advertising and marketing to continue its growth. But when just starting out and needing to keep expenses low, fledgling plaintiffs' firms can market themselves in ways that will bring cases in the door without breaking the bank.

Use referral relationships to minimize case costs

While the first three tips have focused on keeping administrative expenses in check, this last tip focuses on expenses that many new plaintiffs' lawyers fail to account for but that are directly related to their substantive work: case costs.

High-value cases frequently require an upfront investment in resources that will play a pivotal role in securing a favorable result for a client, such as investigators, expert witnesses, and outside consultants. Large law firms may not have much of a problem financing dozens of cases and thus keeping millions of dollars "on the street."

But newer firms that neither have the cash on hand nor a line of credit from their bank available to finance these costs will struggle to float these costs themselves. They could literally go bankrupt doing so. They may be tempted to forgo those expenses, but doing so will

suppress the value of a case and could open their firms up to malpractice claims. And while litigation funding might seem like an alternative, funders will not have the ability (substantively or ethically) to advise those firms' lawyers on how to most effectively prosecute those cases.

Fledgling plaintiffs' firms with potential high-value cases can keep their case costs in check by partnering with larger law firms that have the balance sheet and/or lines of credit, the personnel, the knowledge, the experience, and the credibility to unlock the value of these cases. (As to that last item, unfortunately, insurance companies know new or small plaintiffs' firms cannot afford to shoulder significant case costs and will employ litigation strategies that exploit that weakness.)

Yes, obviously, in jurisdictions like California where referral fees are permitted and encouraged, solo and small plaintiffs' firms will give up a portion of the fees they recover in a matter when they partner with a larger firm to prosecute that matter. But it is always better to get a sizable percentage of a large number than 100% of a tiny number. Most plaintiffs' lawyers would prefer to receive 33% of a 40% contingency fee in a \$1 million settlement instead of 100% of a 40% fee in a \$100,000 settlement. Most importantly, this is a better outcome for your client.

Financial reporting and planning documents

Controlling your firm's expenses is just the first step in managing its cash flow. Creating and maintaining accurate financial reporting and planning documents are the next steps in that process. These steps are vital if you want to grow and scale your plaintiffs' contingency firm. Two documents I recommend you create and rely heavily on are a firm budget and financial projections.

Budget

Creating and abiding by a budget

will help you manage your cash flow by knowing what money you can expect to come into your firm and what money you can expect will leave your firm. Accurate budgeting will, of course, help you determine which expenses you can take on now and which you can defer until later.

But it will also help you determine which cases to take on. Your budget may steer you toward taking on cases that aren't sexy but have shorter life spans that will allow your clients to recover damages more quickly – and your firm to receive its fees more quickly. Your budget could also help you understand the return on investment for certain activities, such as membership in lawyer organizations, wining and dining referral sources, and paid advertising. For example, learning that the money you spent in three months on Google Ads yielded a 10x return within twelve months can help you decide whether to continue making that investment.

Creating a budget for your firm could also help you manage your personal or household budget. By determining what you can pay yourself over the course of a few months or a year, you can determine what your personal budget may need to look like over that same period based on your expected personal income.

For the most part, creating a budget is straightforward. You log your actual and expected revenue and expenses to determine how much cash you have to pay yourself and your colleagues, or reinvest into the firm. Your budget will tell you whether you have enough revenue coming in to support both your firm's and your personal expected expenses, and how long your expected cash on hand will last you and your firm.

Determining your past revenue and expenses is cut and dry. So too is determining your expected administrative expenses. But how do you determine expected revenue and case-related expenses? With a financial projections document.



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Financial projections

Your financial projections document should contain all the active cases in your firm sorted by the date you expect them to be resolved. You should also include the projected amounts they'll resolve for, what your projected fees will be from each case, and what you can expect in case-related costs over that period. It is best to be conservative with your projections for your recoveries and expenses, as well as the projected timetables for those recoveries and expenses. Irrational exuberance can be fatal to financial projections.

This endeavor may seem daunting at first. You will inevitably get your projections wrong when you first begin making them. Rest assured that the titans of the local bar got their projections wrong too when they first launched their firms (and to some extent, probably still do).

Remember, these projections are going to be fluid as you develop the facts of each case and suffer wins and losses once the case is in suit. So, your projections today could easily look different month to month.

Over time, through a combination of your increasing amount of experience and wisdom, feedback and guidance from your peers, mentors, and co-counsel regarding new fact patterns you haven't encountered before, and information available to you through organizations like CAALA (and its fantastic listservs), your financial projections will improve. You'll have a better sense of how to value cases at various stages, such as after you defeat a demurrer or a motion for summary judgment. You'll have a better sense of the value of a case at settlement versus after a jury verdict. You'll have a better sense of how the avoidance of punitive damages are priced into settlement demands. You'll have a better sense of what it will cost to resolve certain kinds of cases. And you'll have a better sense of how long it will take to resolve those cases.

Regarding that increasing amount of experience and wisdom I mentioned

in the last paragraph, I strongly recommend you keep track of the factors that influence your cases' values and resolution times. After every matter resolves, document the type of case, the alleged misconduct, the alleged damages, the venue, the judge, the opposing counsel, the predicted value and expenses, the actual value and expenses, the predicted duration of the matter, the actual duration of the matter, and any other factors you deem influential. As you work on more cases, you will see patterns develop that will allow you to create more informed projections.

You should always look back at your projections for a matter after you resolve it. Were they accurate? If not, how far off were they? Why? Can you account for this factor or factors in future matters? Taking time to reflect on the accuracy of your projections will help you uncover additional factors that may influence future projections. The more robust your database of prior case results, the more accurate these projections are likely to be.

Manage your firm's cash flow for your sanity – and your firm's longevity

Taken together, your budget and your financial projections will allow you to manage your firm's cash flow today, next week, next month, and even next year. You'll know how much revenue you'll need to bring in each month. You'll see how many expenses you can afford to take on each month until your matters resolve and pay out fees. You'll discover the minimum amount of cash you'll need on hand each month. And if you won't have that cash on hand, you'll have an early warning system that will provide you with notice so that you can figure out how to close that gap.

Keeping your firm's expenses low, budgeting for those expenses, and accurately projecting how much and when revenue will come into your firm

will help you grow your firm while maintaining your sanity. When you know how much cash your firm has available on its balance sheet today, and how much it could have in the coming months and years, you can make strategic investments without worrying about whether you can afford them. Deciding whether you can afford to hire a new paralegal, associate, or digital marketing agency, or whether you can afford to float hundreds of thousands of dollars in costs for a single case, will no longer be a guessing game. This knowledge can help you sleep better at night (though when you own a law firm, there are plenty of things to lose sleep over).

But managing your firm's cash flow isn't just good for your sanity. It can help improve your firm's longevity. Law firms that do not actively and effectively manage their cash flow can only grow so much until they crumble. They either won't be able to afford to do the things they need to grow, or they won't be able to sustain the growth or expansion that they've undertaken. The firms that manage their cash flow can fund their growth regardless of whether that growth comes during a boom cycle or a bust cycle.

Be ready for competition

Equally important, the firms that actively and effectively manage their cash flow will be in position to fend off new competitors into their markets. Those new competitors will be flush with cash. Whether those competitors are large national personal injury firms or, sooner than you might realize, non-lawyer-owned law firms flush with corporate and/or private equity cash, those competitors will flood their new markets with aggressive advertising and referral marketing campaigns that will drive up the cost of those campaigns for everyone else and could easily put some local stalwart firms out of business. Likewise, these new competitors' war chests will allow them to take chances on funding big cases that could lead to transformative



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fee awards which will, in turn, allow them to do even more aggressive advertising and marketing.

If you are the owner of a fledgling plaintiffs' firm, growing your firm and fending off competition might seem like abstract ideas that are years away from being concerns. But when you apply the lessons in this article about managing cash flow, and other lessons you learn as you develop your legal and management

skills, before you know it, your firm could grow to employ many lawyers and even more staff. All because you successfully managed your firm's cash flow from the very beginning.

Just like my law partners and I did seven years ago – and continue to do to this day.

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