



HOW ARE YOU GOING TO PAY ME?

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It's a simple question. Just seven words that can dramatically change your bottom line when spoken at the inception of every potential matter. Why are lawyers so uncomfortable asking this basic question?

Most lawyers are just uncomfortable having any conversation about billing, rates, or terms. Typically, lawyers look down at their desk when they must have this part of the discussion at the intake meeting with the prospect.

Part of this discomfort stems from the "I'm not worthy" insecurity many attorneys feel. I only recently learned this behavior is identified by psychologists as "Impostor Syndrome." (Thanks to Pittsburgh solo attorney Norma Chase for sending me an article on it.) If you're curious, look it up on Google.

Some discomfort stems from former unpleasant experiences, when prospects objected to or rejected proposed representation costs. You tend to internalize their dismay as guilt.

And depending on the area of law, your inner compassion for someone facing a rocky and expensive road, which you sense they are unprepared or unable to endure, may make you want to take on the representation pro bono. I frequently hear attorneys expressing regret when they call me because they can't pay the bills or pay themselves: "I was just too soft-hearted."

Let me share a big secret with you. You know that colleague you think has a heart of stone? He or she is probably just a big softie with a rough countenance. I know that because most of you are. It's not just you. And in today's marketplace, you're paying dearly for that softness.

I don't care how large or small your firm; you should have a budget for pro bono. Determine before each new year how many of your hours you are willing to commit, in order to feel good about yourself. This is not something you should do "on the fly."

Create some guidelines as to who should benefit from your generosity. Track the time as you spend it, and keep a running tally. When you've reached your limit, look the next prospect squarely in the eye, and say you have already invested the

maximum amount of time budgeted for pro bono work. If they can't pay, pass them on to a young colleague who will be grateful for lower-return work. You will free yourself from regret and guilt.

Are credit cards enough to answer the question as to how you'll get paid? I've been encouraging firms to accept payment by credit card since the days when it was an expensive option. Nowadays, there are a number of very affordable merchant account providers, no or extremely low minimums, and no special hardware or software to purchase. Credit card acceptance improves timely payment. And even clients that can afford to write a check often prefer to use their credit card, because they earn "stuff" by doing so. Mileage, points, and cash rebates are all benefits of paying by credit card.

You're probably thinking that the vendor – you for example -- ultimately suffers, by absorbing the merchant account fees. Hardly. With a national receivable write-off rate of 7% on **current** receivables at law firms, every dollar you can quickly collect and not leave at risk increases your collection realization (bottom line profit margin) and costs as little as 3%^{+/-}. Consider also that the collection write-off rises to 28% when receivables reach the 90 day age. The conclusion that absorbing the credit card fee in order to avoid that additional 20% loss is inescapable.

For many years I have also advocated mandatory use of credit card for certain areas of law, such as family law. [For a copy of my resource on use of credit cards, send an email request to lawpractice@pabar.org.] It's ok to do so in PA, but not in NJ or NY. So in PA you can specify in your engagement agreement that if the client's balance exceeds a certain number of days and/or dollar threshold, it will be charged to the client's credit card. In this case, the credit authorization form should be completed and returned along with the signed engagement agreement.

Your remaining obligation is to send the client an invoice, and allow reasonable time to raise any objections. Absent objection, you can process the charge. I recommend as a best practice a courtesy call or email giving the client a heads-up 24 hours before the charge is processed. The firm should also have their bank recheck the card's remaining available credit before entering a particularly active phase of representation.

So does the acceptance of a credit card answer the payment question all the time? Not likely. There are individuals and businesses which don't have or want credit cards. There are people who may not have sufficient credit available on the card. There are some who can't use a card without a spouse seeing the charges.



And in some rare instances, a person may not yet have established their own credit rating. So what other options may exist?

At a recent bench bar conference I was approached by an attorney with a unique question. At an initial meeting with a prospective client, he asked the essential question: how are you going to pay me for the work I do? The client's answer surprised him. The prospect informed the attorney that he recently made an emergency visit to the dentist. After the dentist examined him and provided a quote, he provided the client with a credit application from a lender who he worked closely with. He explained that he could not guarantee the client would get approved for the loan, but if approved, he would happily do the work.

The client's loan was approved, and the dentist was able to do work that otherwise might not have been done. And get paid in full. The attorney asked me whether he could do the same with clients. I must admit that the question left me speechless, which is rare. I have spent much time considering it since. The steady stream of hotline calls from unpaid PBA members underscores the significance of this seemingly simple question.

The obvious question, from my perspective, is why no one has asked me this before? I turned to one of PBA's most valuable benefits: the Ethics Hotline. Victoria White was also shocked that she has never been asked this question before. The concept intrigued her.

I cannot utilize the services of the Ethics Hotline. I am neither an attorney nor a PBA member. If you find this concept intriguing, and are a PBA member, contact Victoria White to find out whether or not you can do this.

Regardless of whether the Ethics Hotline answer provides another means to get paid or not, don't stop asking the essential question at the initial meeting with every prospect: how are you going to pay me? Asking doesn't make you a heartless mercenary. Asking doesn't have to make you feel guilty. You can do it. Saying these seven words while looking the client squarely in the eye can dramatically improve your bottom line.

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