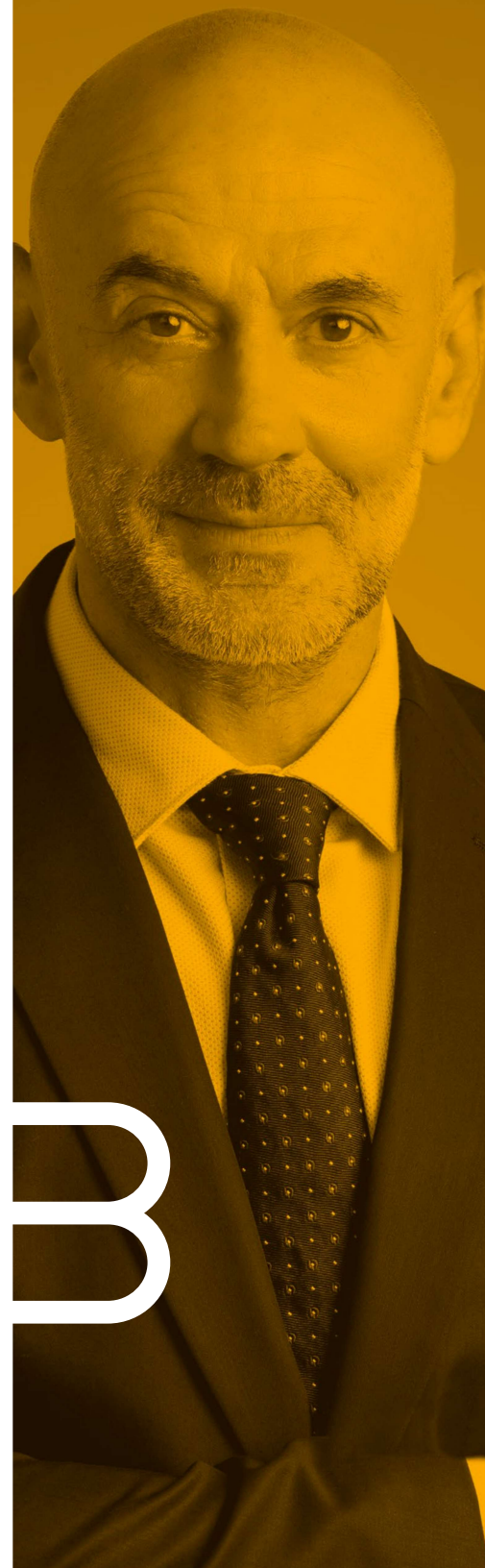




eBook

Five Bold Strategies to Grow Your Contingency Fee Law Firm Post-Pandemic



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Moving from recession to *rebound*

It should be no surprise that a once-in-a-century pandemic created unique circumstances for contingency law firms. Unlike past recessions – where most Americans still went to work, companies stayed open and other sectors of the economy continued to operate – the COVID-19 health crisis brought government mandated business closures and stay at home orders, court closures and resulting delays, as well as a reduction in plaintiffs seeking treatment.

But now, the stage is set for the pendulum to swing back (and swing higher) as a result of pent-up demand from individuals who put off resolving their legal problems during the pandemic. At the same time, the volume of employment litigation is expected to rise; this is stemming from an increase in disputes related to everything from shut-down orders and layoff disputes to bankruptcies and more.

This is a critical inflection point for contingency firms; they can either catch the wave and **position themselves to be better off than they were pre-pandemic**, or watch as other firms step up and eat their lunch.



Where are the “smart money” contingency firms investing?

Esquire Bank specializes in supporting some of America’s top contingency law firms with financing, technology and consultative services. We’re also strategic partners and active participants in some of the industry’s preeminent professional associations. This gives us a rare perspective on what high-performing firms from across the country are doing to capitalize on market opportunities and emerge from the pandemic more resilient and poised for sustainable growth.

In this eBook, our experts have surfaced **five areas of strategic focus and actionable best practices** across the entire contingency business workflow – from lead generation and intake to client experience, litigation and accounting.

Read on to discover where smart money firms are investing their energy and their resources to boldly achieve post-pandemic success...





1. Marketing

Build your brand and drive online demand

The law firms that have thrived during the downturn and will continue to do so as we emerge from the pandemic are investing in their marketing message and an enhanced digital presence to raise awareness and drive prospective clients to call them. In marketing terminology, this is called investing in an integrated **brand** and **demand** strategy.



Define your brand

When many people think of a “brand,” they think of a logo. And yes, those are elements of a brand. But a brand is also much more than that. A company’s brand comprises all the ways that a customer can *experience* that organization. What customers see, what they hear, what they feel, how they interact with a brand.

Brands exist to help consumers make choices. If you want a plaintiff to choose your firm, your brand needs to:

- 1 ensure you are memorable/differentiated from your competitors**
- 2 make a relevant promise that compels clients to choose you, with real reasons to believe that promise**

There are many ways to create memorable differentiation. Some firms create catchy taglines or jingles for their advertising. Others do philanthropic work or are active participants in their communities, building relationships and creating goodwill.

The most important aspect of your brand differentiation, though, is the unique selling proposition you create – your brand’s promise.

Ask yourself: what is it about my firm that I can deliver clients that they will benefit the most from, and that is most different from what competitors may offer? As a few examples:

- Some firms lead with their successful track record – how much money they’ve won for their clients
- Some focus on empathy and allyship – being a trusted resource for plaintiffs who are seeking justice in the face of a trauma or wrongdoing
- Others point to their scale and depth of experience – to some clients, size matters and demonstrates reliability and probability of positive outcomes

Whatever you choose, own that promise and use it to inform all of your marketing. Consistency is key to effective marketing.

Double down on digital

Successful firms are increasingly re-allocating their marketing dollars away from billboards and going digital with Google pay-per-click ads, search engine optimization, digital display advertising, and paid ads on Facebook and other social media sites.

The reasons why are simple: traditional broad advertising channels like television and outdoor can be expensive and imprecise. (Not to mention that throughout the various stages of pandemic lockdown, the average number of times an outdoor billboard was viewed dropped by between 35-80%, depending on location.) Digital channels allow you to be much more targeted and efficient in your ad spend. Digital also enables you to more accurately track attribution (where your prospective clients came from), so that you can optimize your investment over time and focus on what's most successful. Digital marketing channels also provide you lower-cost alternative to referrals, on a cost-per-lead basis.

Nailing the right brand strategy and digital marketing mix can be a difficult and time-consuming effort, but a critical one. Consider partnering with an experienced digital marketing agency who can guide you through the process, as well as manage your media spend to ensure you maximize the impact of every dollar.

You can also work with agencies to create the kind of digital content that's critical in today's social media world to help build and protect your firm's online reputation. Many firms – independently or with an agency's support – are creating relatable content for consumers, some of which may not even be about the law. At the same time, smart firms are working with partners to manage their ratings and respond to comments on review sites such as Martindale-Hubbell and Yelp.

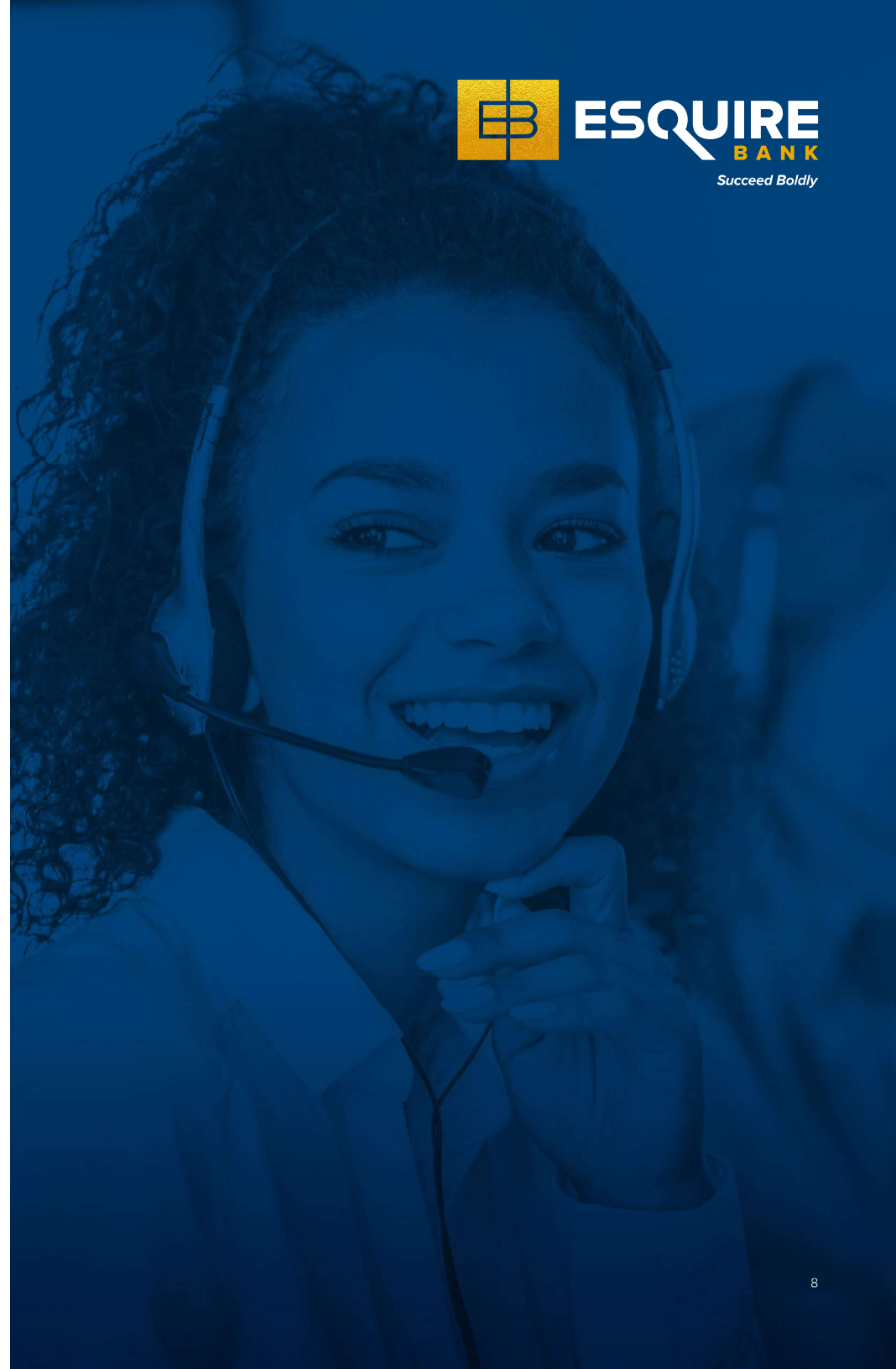
Search engines, social media and review sites are the first places people go for answers. Make sure your firm is findable – and that what people find is helping you generate clients.

Make your first impression count

Brand and client experience are two sides of the same coin.

When someone clicks to your website to contact you or calls you directly, you need to make the experience as easy, comfortable and seamless as possible. That's why smart firms are re-examining and optimizing their intake experience.

Many traditional law firms have historically treated intake like a commercial call center. An intake specialist runs the prospective client through a standard form, and then routes quality leads to attorneys. All too often, it's dispassionately done by rote, without consideration that the person on the other end of the line may have a chronic illness, be injured, or have recently lost a loved one.



As the saying goes, **you never get a second chance to make a first impression.** So here are several ways that you can make that first impression count:



Training and culture

Your intake specialists are your brand's ambassadors, the first people a client speaks with. Make sure they are well trained and that they believe and can deliver your brand's promise to clients. They should be empathetic, good listeners, and empowered to speak confidently on behalf of your firm to meet the needs of prospective clients.



Standardized processes

Arm your intake specialists with scripts, decision trees and support tools to help facilitate conversations. Prospective clients don't want to relive the worst moments of their lives. Help intake specialists get the information they need kindly – and give them the tools to then start a relationship.



Technology- enabled

Today's digital natives and older generations of tech-powered consumers expect to be able to communicate quickly, online and on their terms. Enable your intake specialists and attorneys with secure digital contract and e-signature solutions to facilitate retainer agreements that don't create delays or inconvenient in-person signings. This is even more important now, as some clients may still be wary of live meetings, even as we emerge from the pandemic.



3. Technology

Move forward with tech or get left behind

From online intake forms and payment portals to case management systems and data analytics all the way to animated 3D demonstrations in the courtroom, top firms are embracing digital technologies to create better financial visibility, heighten business efficiency and improve client services.

The industry's digital transformation was underway before the pandemic, but the challenges of remote interactions and operations created by COVID-19 have dramatically accelerated the revolution. Just as today's consumer expects mobile banking or grocery shopping, the digital and remote client expects digital engagement with an attorney and their firm.

Clients are not the only ones more likely to choose a modern, tech-powered firm. As workforce demographics continue to dramatically shift, Millennial and emerging Gen Z attorneys expect to work in a state-of-the-art organization.



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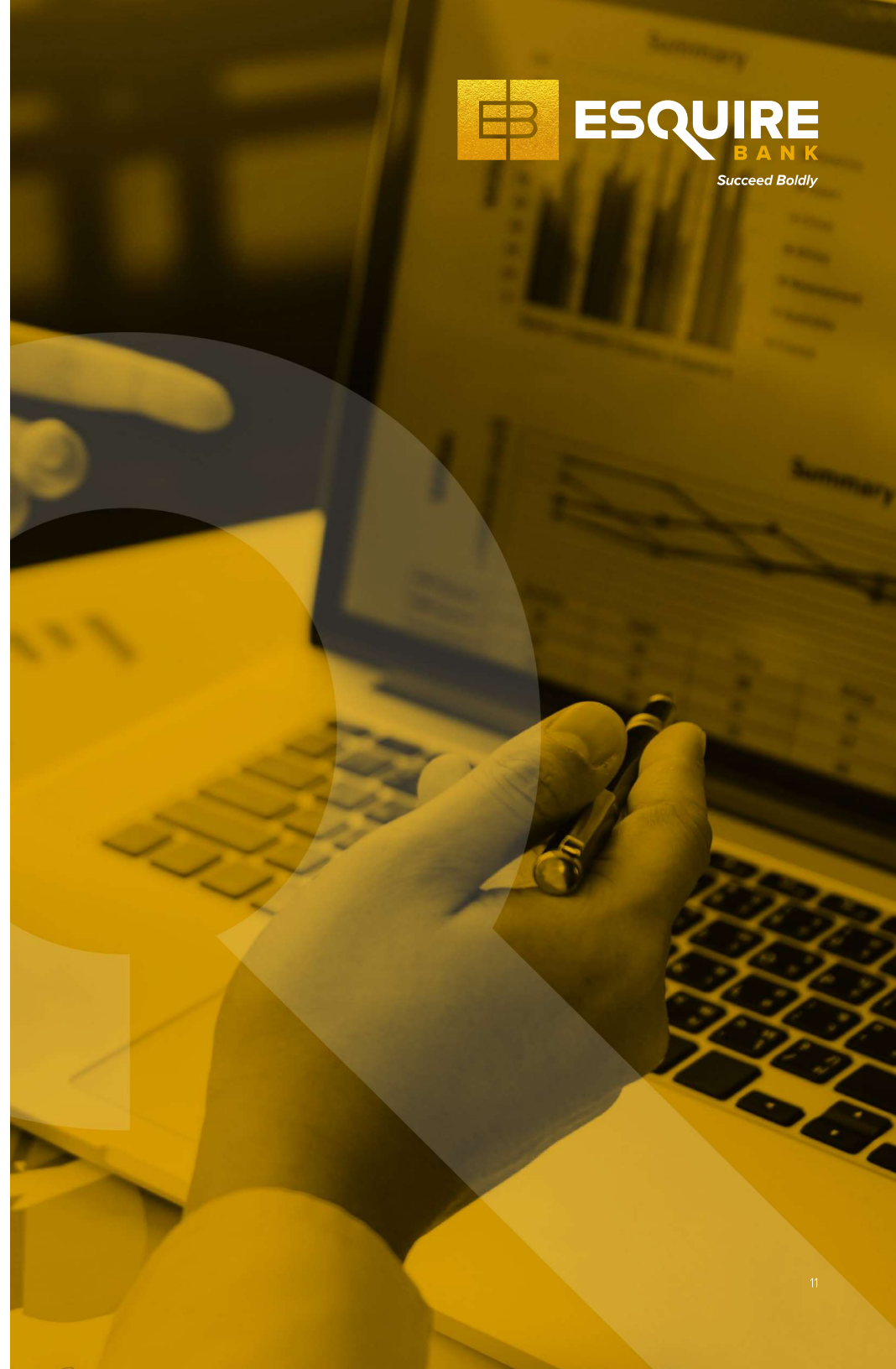
**Outpacing and outperforming
your competitors **demands**
technological innovation.**

Start at the heart of your business: **operations**

The true north for the direction of a firm is its caseload. That's why Esquire recommends that firms ensure that they have cutting-edge case management software at the core of their businesses.

Innovative platforms such as [Litify](#) are purpose built for firms and tailored toward revenue generation, financial forecasting and firmwide collaboration on cases, as well as case intake and monitoring. What's more, practice management solutions like Litify are cloud based, meaning that they do not require any additional hardware or on-premise servers that take up valuable IT closet space.

At the same time, firms should consider e-signature and other digital contract technologies. The days of clients seeing files piled everywhere are over. They want state-of-the-art, digitally-powered representation. Going paperless is better for the client experience – not to mention the environment.



Transformation takes training – and security

The biggest challenge with any digital transformation isn't the technology itself; it's the business change required. For any digital technology to be successful, consider that it will take some time and that you will need to ensure your people are adequately trained and supported. Else, any technology, no matter how effective, will likely fail.

At the same time, data security and privacy need are top of mind for digitally enabled firms. Law firms are an increasingly attractive target for hackers and ransomware attacks, with bad actors seeking confidential information ranging from financial data, personal identity information, sensitive business documents, health records and more.

In fact, an October 2020 [American Bar Association report](#) stated that **29%** of responding firms experienced a security breach (such as a lost/stolen computer or smartphone, hacker, break-in, website exploit), with **more than 1 in 5** saying they weren't sure if there had ever been a breach.

As such, firms can consider several basic measures to help protect critical data, as well as the company's reputation:

- Enable two-factor authentication
- Securely back up all data in secure cloud repositories and carefully vet storage vendors
- Ensure all software remains patched and maintained
- Train employee on security and compliance best practices
- Create and maintain a business continuity and response plan in the event of a data availability issue or a ransomware attack
- Carry a cyber liability insurance policy



4. Accounting

Interrogate your finances for efficiency and savings

Attorneys spend years studying the law, both in the classroom and honing their craft through internships. Yet, despite all the time spent learning case law and strategy, little time is devoted to the knowledge required to run a successful business – let alone one as complex as a law firm.

Managing a typical business with short-term receivables or inventory is hard enough. Managing a contingency fee law firm's peaks and troughs in cash flow is a monumental task that requires focus and expertise. Often, lawyers will have a non-employee accountant managing their books, but what they really need is a full-time business manager with a core competency in accounting or finance.

It's no wonder then that the law firms we've seen best prepared to manage the financial uncertainty and maintain the health of their business through the pandemic have been the ones with accounting or finance departments.



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This could be as simple as a lawyer with a finance background and thinks actively about the firm's finances, or a CFO or finance manager dedicated to the accounting and finance function.

A full-time business manager or financial director will not only maintain your current books and records, but they will proactively manage your business including, but not limited to:

- Continuously managing and updating your case inventory and associated case values
- Tracking and monitoring your case costs at the case level
- Ensuring that each partner's portfolio of cases is updated timely
- Preparing strategic financial forecasts based on quality case-level data
- Managing and measuring current and projected costs, as well as their effective and efficient utilization
- Preparing a strategic forecast and dynamic budget for the firm

From this critical information, a finance lead can assist in advising the firm on strategies to grow the business, invest in resources, and ensure that the firm has proper financing to augment and accomplish those goals. Typically, this concretely comes down to informing the many of the strategies already raised in this eBook, including investing in people, investing in IT, and investing in new cases via your marketing strategy.

Forecast the value and duration of your case inventory

A finance lead or finance team can also help give you visibility of your present and future cash flow – business-critical information you need to mitigate risk and boldly grow your business. Short-term cash-flow analysis and long-term financial forecasting are critical to securing potential financing for your firm and ensuring long-term financial viability.

Now more than ever, it is critical that you forecast the value and duration of your case inventory. This helps prepare you for any future interruption in cash flow and allows you to put proactive measures in place to help your business remain liquid through any downturn or cash flow shortfall. Ultimately, forecasting also gives you the freedom and confidence to expand into areas that will promote growth.

When law firms forecast, average values and costs for cases can vary depending on specialty. A firm that deals primarily with automobile accidents, for example, sees a relatively low cost per case; one that deals with medical malpractice or other complex litigation might observe much higher costs. As a result of changing case costs, case values and case durations, financial forecasting is more of an “art than a science.” However, without this analysis, key decisions on case profitability, case priorities, staffing levels, investment in resources, and even securing bank or non-bank financing becomes nearly impossible. Managing partners too often inform us that their attorneys are unwilling to estimate the value and duration of their cases for fear of being inaccurate.

Our response is simple: isn't it scarier not to know the status of your money – and what you likely need to run your business while successfully litigating on behalf of your clients?

A simple forecasting checklist – and how to create your forecasts more simply

For law firms that deal with a variety of potential outcomes and unexpected durations for any case, the task of financial forecasting can seem altogether daunting – but it can be made simpler.

The first step is to understand what you want to forecast, and the data points needed to get started:

- ✓ The name of the case
- ✓ Attorney assigned to the case
- ✓ The stage of the case
- ✓ The type of case
- ✓ The estimated settlement date of the case
- ✓ The estimated settlement amount/potential insurance coverage for that case
- ✓ The estimated net fee to your firm associated with the case
(for contingent fee law firms this will likely be fixed a calculation based on point 6 above)

With just the simple data points outlined above, law firms can project cash flow for each fiscal year, unlocking the door to financial preparedness and better cash flow management over the long term.

Now, here are six simple steps to do it:

1. Group your case inventory by partner and type of cases
(i.e. auto, medical malpractice)
2. Require the assigned lead partner to ascribe estimated values to each case they manage – a high, low and median values for all cases is optimal*
3. Include the firm's net fee calculation after any fee-sharing arrangement
4. Assign an anticipated settlement date (or duration) to all cases
5. Organize your inventory by type of case and by duration
(i.e. < 12 months, 1–2 years, 2–3 years, 3+ years)*
6. Setup an ongoing process with your attorneys (or their paralegals) to update these required fields at least quarterly

*Note: If you're unsure how long a case might take or what you can expect from a settlement/judgement, use historical statistical information to make informed projections. The more you develop your forecasts and track performance, the more you will be able to better predict duration and outcomes.



5. Financing

Smooth out cash flow, unlock capital and unleash growth


For contingency fee law firms, litigation is a capital-intensive business and it often takes years before there is an outcome. Litigation expenses for any one case can include everything from medical expert witnesses, to an accident reconstructionist, economists, life care planners and document processing, to a whole host of other related expenditures that quickly add up. This places an enormous financial burden on plaintiff law firms and their already irregular cash flow.

For many firms, the cost of financing their caseloads has been a burden assumed by the partners out of their own pockets. And some self-financed lawyers may even wear it as a badge of honor that they've never taken financing. But this school of thought may prevent them from realizing the full growth and revenue potential of their businesses, as it becomes exponentially more expensive as the law firm's case inventory continues to grow and diversify.



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A man with short, light-colored hair and glasses, wearing a dark suit jacket over a light-colored shirt, is seated at a desk. He is looking down at a small object in his hands, possibly a pen or a small cup. A larger coffee cup is on the desk in front of him. The background is a blurred office setting with large windows.

True, self-financing may save a firm from taking on debt, but it is also limiting; the number of new cases a firm can pursue is potentially restricted by the financing that can be self-provided. Further, self-financed law firms are essentially giving their clients interest-free loans in the form of cases costs. To make matters worse, these firms are using their after-tax dollars to provide these interest free loans.

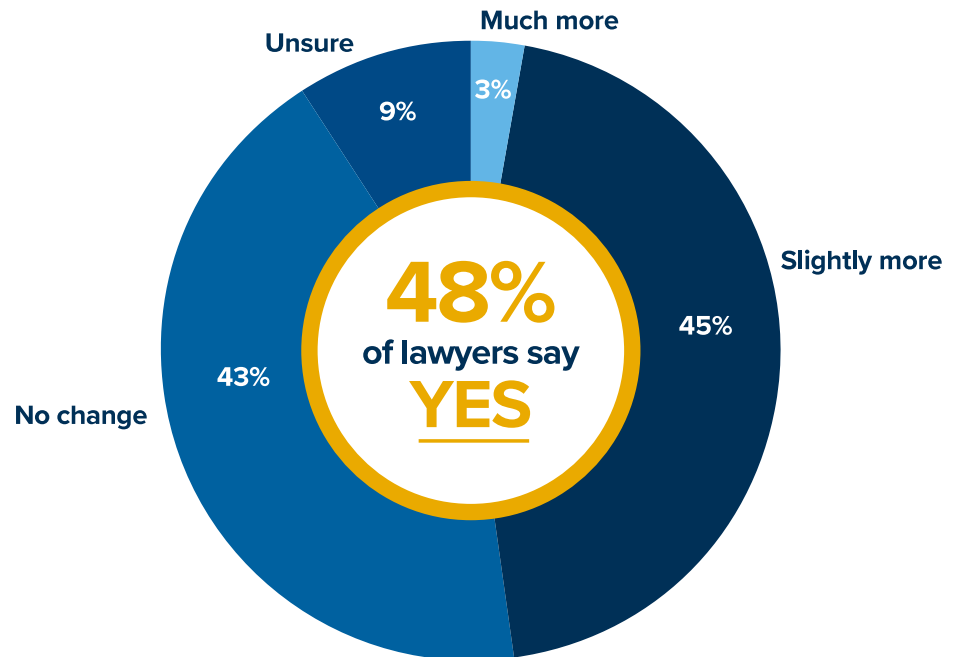
More and more smart firms are financing

Coming out of the COVID-19 pandemic, many self-financed law firms are re-evaluating their financing model and considering using outside capital to facilitate their firm's growth. According to Bloomberg Law's 2020 Law Litigation Finance Survey, nearly half of respondents said they are more likely to seek litigation financing.

Making the switch to this model may seem like a big change or even risky as lawyers may think that by changing their retainer agreements clients may not want to work with them. However, the truth is that lawyers all over the country have been financing their case costs for decades. In fact, the lawyers who finance their costs state that all their clients benefit from it in the form of better tools and experts – which can lead to more lucrative outcomes.

Is your firm more likely to seek litigation financing?

Of lawyers who have previously obtained funding, nearly half report they are more likely to seek litigation financing as a result of the economic downturn.



Bloomberg Law Litigation Finance Survey 2020

Gaining flexibility and a competitive edge

Case cost financing solutions provide a range of options for law firms and their litigation funding needs. By offering a master line of credit specifically for case costs, and providing tools to monitor, track and manage the related financial accounting, all provided with single digit bank rates, case cost financing from a bank provides a tremendous opportunity that derives benefits to law firms looking for greater business agility, growth and client impact.

To better manage hard-earned cash flow, law firms can view case cost financing as a win-win for their business and their clients- essentially allowing law firms access to capital they need to seek out the truth and justice – especially when their clients are typically matched up against some of the biggest and well-funded defendants in America, such as insurance companies, self-insured corporations and public entities.



Firms that finance have options

It is also important to recognize that when establishing a line of credit for case costs, firms have control over the process; they can choose which cases and costs they want to finance (or keep paying for), as well as when to finance the disbursements, so the interest is only paid on the funds that are used.

The best financing partners typically offer two methods of case cost financing:

1. Case disbursement line of credit with case-level support

Like having a credit card for each and every case it chooses to finance, this option enables the firm to draw down funds up to an approved amount and only accrue interest on each individual disbursement. The firm then only passes through interest costs to the client on each disbursement as well. At the same time, the law firm “outsources” record keeping and management of the funds to the lender for simplified accounting and lower administrative burden for the firm.

2. Case disbursement line of credit

In this option, the law firm takes a lump sum loan for all case costs.

The firm keeps account of how it disburses the funds across its caseload and how/when it passes through interest costs. Interest charges are assessed based on the loan in its entirety and charges from the lender begin on that sum from the time the loan is funded.

Firms that finance have options

An additional consideration

Most traditional banks do not have specific expertise within the legal industry and are unwilling to lend against a contingency fee practice, or they may lend based on their financial history rather than their projected fees. Also, if they do extend credit, they often require pledges of the personal assets of partners as collateral. For law firms that are in a growth mode, this is especially problematic. It is important for contingent fee lawyers to explore alternate financing alternatives that can bring new capital to the firm and chart a course for long-term success.





Case study

Silberstein, Awad, & Miklos

Boldly Succeeding with Case Cost Financing

Silberstein, Awad, & Miklos (SAM), a New York based law firm, have utilized case cost financing to double in size, client base and revenue. The expansion came via improved access to capital and cash flow to run their operations.



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Joseph Miklos
Senior Partner at SAM



You've got to put the client's needs first.

So, whenever we need to spend money on a case for an expert or whatever the need is, we finance.

Previously, we were reaching into our own pocket. I was the bank. Getting that monkey off my back has been fantastic. Now we can use that money for other things. You can always find something to do with the cash you free up.



Boldly grow, but don't go it alone

As you've seen in this eBook, there are many strategies firms are employing to drive growth across their businesses. The smart money is on marketing, intake, technology, accounting and financing. If you don't begin to invest in these areas, you run the risk of being left behind the surge of firms accelerating their way out of the pandemic. The good news is that you've got plenty of help available to you.

There is an entire industry of service companies dedicated to supporting the specialized needs of trial lawyers, partners who truly understand your business, its requirements and its unique quirks. Count on these marketing, technology and financial services experts to help you benefit from their solutions and expertise. They often have a deep appreciation for the business of being a contingency fee law firm and can meet your specific financial, regulatory, and process needs.



While most partners and vendors don't understand plaintiff law firms, it's important to keep in mind that some do. Their experience can be relied upon to power your bold strategies – so that you can feel confident to boldly succeed.

Want to boldly learn more?

Book a complimentary consult with the experts at Esquire.

The experts at Esquire Bank can help you implement any of the strategies outlined in this eBook, from exploring breakthrough technologies to increase efficiency to exploring finance options to better manage cash flow and fuel your firm's growth.

Give us fifteen minutes — and we'll give you solutions to help you boldly succeed post-pandemic.

Book your free consultation now at EsquireBank.com/grow



About Esquire Bank

Esquire Bank, National Association, is a full-service commercial bank dedicated to serving the financial needs of the legal industry and small businesses nationally, as well as commercial and retail customers in the New York metropolitan area. The bank offers tailored products and solutions to the legal community and their clients as well as dynamic and flexible payment processing solutions to small business owners.

For more information, visit www.esquirebank.com

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