

# Keeping the lid on

What steps you can take to minimize legal costs

**L**egal services never get less expensive, but it's not impossible to keep them within a budget.

"I believe costs should be a concern for every client in every case," says Abbey Kaplan, a founding member of the law firm Kluger, Peretz, Kaplan & Berlin P.L. "Litigation has become extremely costly, even for the wealthy. The last thing any client wants is a bill that exceeds expectations — and, truthfully, that's the last thing any lawyer wants, too."

*Smart Business* spoke with Kaplan about ways to control legal costs.

## What drives legal expense?

Several things:

- The nature of the client or issue. The more money at stake, the higher the expenses; the more aggressive the parties, the larger the fees.

- Goal of the opposing party. 'Save-the-company' relief costs will be greater.

- The court in which the case is tried. Federal courts are usually far more expensive than other courts or arbitration.

- The presiding judge, who can affect how long a litigation lasts. Some cases last longer and cost far more than those where the judge speeds the case along.

- The legal team assembled for the case. For instance, senior lawyers must be present at some depositions, but junior lawyers can handle others.

- The extent of discoverable electronic evidence. Without adequate document retention and destruction policies in place prior to litigation, recent e-discovery requirements make litigation more costly.

- Unreasonable expectations. 'Principle' is very expensive.

**Can a client depend on lawyers to keep costs down, or does the legal process have to be closely monitored?**



**Abbey Kaplan**

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With good law firms that are providing all-star service, the client has less oversight and needs to worry less. However, the litigation process remains almost a partnership. The client should pay attention to keep the expenses under control — not because the lawyer will act indifferently toward the client's pocketbook, but because situations that occur can result in certain expenditures that the client may not have expected.

## How can a business owner/CEO reduce costs?

The key to keeping fees to a reasonable level is for business owners, CEOs and in-house counsel to set and understand their goals, starting at the first meeting with outside legal counsel. Goals should then be evaluated regularly to stay on track.

Choosing the correct dispute resolution procedure is vital. The location of the case and the court system in which a case is tried can affect cost. If there is a choice, it should be evaluated to see which option will save the client money.

Knowing how the opposing lawyers argue a case can help to prepare and assess costs. Knowing the judge and what he or she will allow in a trial also helps to predict

potential costs, as does using a team approach. Rather than using a single senior partner, the team can consist of an associate and a paralegal under the supervision of a senior lawyer. Using the team approach will save you money and still provide you with excellent legal advice.

If possible, the lawyer should ask for client assistance. This may entail a client providing assistance in the discovery stage. Clients are often more familiar with their business and its processes and therefore are better able to sort through and organize possible evidence. When clients assist, costs are significantly reduced, even with the cost of the lawyer's supervision.

Finally, writing a hybrid fee agreement will allow a client to manage the monthly expenditure of fees as well as to assess future legal fees. The agreement might stipulate a flat rate with a fee at the end if there is a victory in the case, or a cap on hourly fees with a contingency upon recovery.

## Are there certain 'windows' within the litigation process when clients are given choices that directly affect costs?

Yes. The first is during the initial intake when decisions are made on how to prosecute or defend a case, because a lawyer can be more aggressive or less aggressive.

Another window is during the discovery stage. Certain depositions are crucial, others not necessarily as important.

Lawyers also can give a client a choice about how to go about the document review process. Everything must be collected and evaluated at the expense of the parties involved.

Finally, retaining certain experts needs to be monitored by the client, because they can become a significant additional expense.

**ABBEY KAPLAN** is a founding member of the law firm Kluger, Peretz, Kaplan & Berlin P.L. He focuses his practice primarily in resolving or litigating complex business torts involving issues such as fraud, negligence, partnership and corporate breakups, professional liability, contracts or intellectual property. Many of his cases involve high-net-worth individuals or entities in the sports and entertainment industry. Reach him at (305) 379-9000 or [akaplan@kpkb.com](mailto:akaplan@kpkb.com).

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