

LEGAL MANAGEMENT

THE MAGAZINE OF THE ASSOCIATION OF LEGAL ADMINISTRATORS

FM Feature

FINANCIAL MANAGEMENT

Credit Where Credit Is Due

Letting clients pay with plastic

Attorney Ben Luftman once spent hours on a case for a man charged with a felony. Then he discovered that the client's check had bounced.



JUNE D. BELL

Journalist, San Francisco, CA

"I did a ton of work on his case, and I ended up getting stiffed for it," the Columbus, Ohio, lawyer says. "I don't like checks."

He prefers to have clients pay by credit card, and they do. About 80 percent of the payments he takes are made with plastic.

"I don't know how we'd be able to do business if we didn't have credit cards as an option," says Luftman, of Luftman, Heck & Associates. "One of the first things we got was a credit card processing machine."

Less than two decades ago, many lawyers felt there was something distasteful, perhaps mercenary, about accepting payment by Visa, MasterCard, American Express or Discover. They considered checks or cash more genteel ways to pay for legal services. Today, however, an increasing number are eschewing cash and checks to pay for legal services the same way they pay for groceries, clothes and movies: with plastic.

In the past 15 years, law firms have become comfortable with accepting payments by credit card, says Tracy Griffin, an attorney who founded LawCharge, which provides card-processing services to several thousand solo practitioners and law firms across the country.

"Lawyers have grown from being hesitant [about taking credit card payments] to totally accepting," she says.

As credit card payments become the norm, law firm administrators, bookkeepers and accountants must pay special attention to how credit card companies process transaction fees. If they don't handle the payments properly, firms risk running afoul of bar regulations that govern the separation of clients' retainer fees in trust accounts and the firm's operating expenses accounts.

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ALEX OZOLS

Criminal Defense Lawyer, San Diego



MAKING THE COMPLEX MORE SIMPLE

Griffin — an attorney with a background in business and finance — realized that most businesses used card-processing services that created a massive accounting headache for attorneys. When a client paid by credit card, the firm’s card-processing service skimmed its fee from the total. If that payment was earmarked for a client’s trust account, where funds can be spent solely on legal fees, then the firm had to reimburse the client’s account for the card-processing fee using funds from the firm’s operating account.

Griffin’s quest to find a solution led her to launch LawCharge in 2000. Based in Aiken, South Carolina, her business and others that cater to law firms allow them to set up systems that earmark payments for clients’ trust accounts. Card-processing fees are debited monthly from the firm’s operating account. Lawyers can track their processing fees easily and know they won’t violate bar regulations governing how clients’ retainers and funds may be spent.

Retainer payments, held in trust accounts on the clients’ behalf, may not be comingled with accounts used for the firm’s operating expenses. Those operating expenses include costs such as salaries, office supplies and fees related to credit card use, which firms cannot pass on to clients.

The convenience of accepting payments by credit card does come at a cost. Processing fees generally range from less than 2 percent to as much as 4 percent, and there’s also usually a small fee for each transaction. When a credit card is swiped on-site, fees are typically lower than when the card’s numbers are entered manually. Most clients make their credit card payments over the phone, online or by mail, resulting in higher processing fees for attorneys. Cards that offer rewards, such as airline miles or cash back, usually carry higher fees, as do American Express cards.

The use of debit and credit cards has risen among U.S. consumers as check use has dropped, according to a 2013 Federal Reserve [study](#).

WHO USES CREDIT CARDS?

Despite some potential disadvantages, the ease of paying with plastic makes it the preference for younger consumers, for whom cashless transactions are the norm. Christopher Adkins, who runs Adkins Law in a suburb of Charlotte, North Carolina, pegs the divide at around age 50.

"A 20-year-old kid with a traffic ticket, they don't have cash," says Adkins, 33, who handles mostly traffic and family law cases. "Sometimes they don't have checks. All they have is a debit card or credit card. This is how they grew up. Even me, I can't remember the last time I wrote a personal check for anything."

Indeed, the use of debit and credit cards has risen among U.S. consumers as check use has dropped, according to a [2013 Federal Reserve study](#). The number of credit card payments grew at an annual rate of 7.6 percent between 2009 and 2012, the most recent year for which data is available, to 26.2 billion in 2012, the Fed reported. Meanwhile, the number of checks written in 2012 was 18.3 billion — less than half the amount written in 2003.

Adkins estimates that fewer than 5 percent of his clients pay with anything other than a credit card. In part, that's because nearly all of his traffic and driving while intoxicated (DWI) clients hire him during a phone consultation. They pay over the phone with a credit card. Adkins represents them in court and then emails them a disposition letter.

Andrew Legrand of the Spera Law Group in New Orleans says 90 percent of his clients pay with plastic.

"We bill ourselves as new and tech-savvy," he says. "It'd be odd to say, 'Send us a check.'" The 29-year-old lawyer, who provides legal services to small businesses, says he charges flat rates for much of his work and is paid in advance. His goal, he says, is to make it as easy as possible for his clients to give him money.

Patrick T. Sheehan, a Chicago-area attorney, began accepting credit cards about five years ago because he realized his clients lacked easy access to cash. His firm, Patrick T. Sheehan & Associates, represents people in tax cases involving the Internal Revenue Service, which can seize money from bank accounts for unpaid tax bills.

"When clients see me, it's often in an emergency situation," he says. "They're broke."

Sheehan has processed credit card payments of \$50 to \$7,000, sometimes breaking payments into installments so he doesn't exceed the cardholders' credit limits. His firm pays about 3 percent in processing fees, totaling roughly \$10,000 annually.

"It's just the cost of doing business," he says.



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FEES AND FLAT RATES

Sheehan switched last year to a new credit card processor that offered lower fees. He recommends that firms get quotes from several processing services and ask detailed questions about charges,

including fees for transactions and credit card terminal rentals.

“There are a lot of associated fees that can sneak up on you and make it that much more unpleasant,” he says.

Adkins, who runs about 100 credit card payments each month, bought a \$99 card processor last year when he launched his practice. Purchasing it outright was a better deal than renting one for about \$30 a month from a bank, and he wasn’t locked into a contract. The banks he consulted insisted on a three-year contract and had higher per-transaction processing fees, he says.

HIP TO BE SQUARE

San Diego Criminal Defense Lawyer Alex Ozols is happy to accept credit cards, which he processes with a Square reader. The tiny square device that plugs into his cell phone’s port allows him to swipe a credit card or use the Square app to enter credit card information manually. Ozols, 27, doesn’t swipe clients’ credit cards on-site; he prefers to have his clients sign a credit card authorization form and then processes their one-time or monthly payments.

A sole practitioner for two years, he charges flat rates for his criminal defense work. He doesn’t need or use retainers, so he doesn’t have to create trust accounts for clients’ funds.

Ozols knows the 3 percent processing fee — less if the card is swiped on the spot — is on the higher end but he feels loyal to Square. When a client disputed a \$1,000 credit card charge for legal fees that was authorized on a joint account, Square defended Ozols, and the matter was quickly resolved. He says he’s used Square for thousands of transactions and has never had a complaint.

He also appreciates that Square lets him track every payment he receives. Its software generates monthly and year-end reports so he can better analyze his income and cash flow.

“I have to be a business owner,” he says. “I want to be just a lawyer, but part of my job is to run my business. Tech is changing. You can do everything yourself. I can run a credit card on my phone, which is really cool.”



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PAYPAL, QUICKBOOKS AND LAWPAY

At the request of his clients, Sheehan has accepted a handful of payments through PayPal. The service lets users send or receive money through email addresses linked to bank accounts or PayPal accounts. It’s a popular way to pay for merchandise on eBay, which owns PayPal but has announced plans to sell it.

Sheehan says he’s not an enthusiastic user because it takes two or three days to move funds from his PayPal account into his bank account, and he must remember to initiate the move.

Shawn Potter of the two-attorney Wasatch Law Group in Utah briefly processed payments through QuickBooks, but some clients were unhappy that his version of the bookkeeping software didn't accept American Express cards. He then moved to PayPal. Setting up the service took about five minutes online — much quicker and easier than dealing with his bank, which insisted he visit a local branch.

He used Wells Fargo Bank's card-processing services for several years and then, about two years ago, switched to LawPay, an Austin, Texas-based business that, like LawCharge, processes payments for lawyers and firms.

"I'm kind of a geek and like to try new methods," he says.

Potter, who handles commercial and real estate work as well as small business litigation, says about 70 percent of clients pay with company checks, though his younger clients prefer plastic.

Attorneys have tried other, less familiar forms of payment, but they didn't stick. Sheehan participated—"for a very, very short time," he notes with a chuckle — in a system in the late '90s that allowed users to pay each other for services with virtual dollars. He didn't lose any money, but he didn't make any, either.

"It was a novel and interesting idea," he says, "but it failed for a reason."

SAYING YES TO BITCOIN

Bend Law Group advises entrepreneurs and startups as they launch and grow. The three-lawyer firm considers itself to be as innovative as its pioneering clients. So a year ago, when the San Francisco law practice was asked if it would accept a retainer payment in Bitcoin, the *reaction* was: Why not?

Bitcoin is a digital currency traded on an open network and not controlled by any bank or government. It was launched in 2009 as an international exchange that would simplify transactions, allow anonymous purchases and let buyers make digital payments. Bitcoin's price can fluctuate wildly; it peaked in late 2013 at about \$1,240, but early last month (eds: Feb. 2015), a Bitcoin was worth about \$222.

C. Tucker Cottingham, an attorney at Bend Law Group, says the firm didn't initially know much about Bitcoin. But after a little tutelage from San Francisco neighbor Coinbase — a third-party exchange service that lets users buy, spend and store Bitcoin — the lawyers felt confident accepting it for a payment.

"It sounds a little cooler and sexier than it is," Cottingham says. The firm registered with Coinbase, which exchanged the client's Bitcoin payment for equivalent dollars and then sent the funds electronically to the firm. The client paid any transaction fees. "It was no issue at all," Cottingham says. "They paid and we got cash."

Interest in Bitcoin payments has flagged in the past year or so as its value has dipped, he says. But it remains an option for those who want to use it to pay their legal bills.

ABOUT THE AUTHOR

June D. Bell is a San Francisco-based journalist who covers legal issues, law firm management, HR matters and popular culture for such publications as *The National Law Journal*, *The San Francisco Chronicle* and the Society for Human Resource Management (SHRM).

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