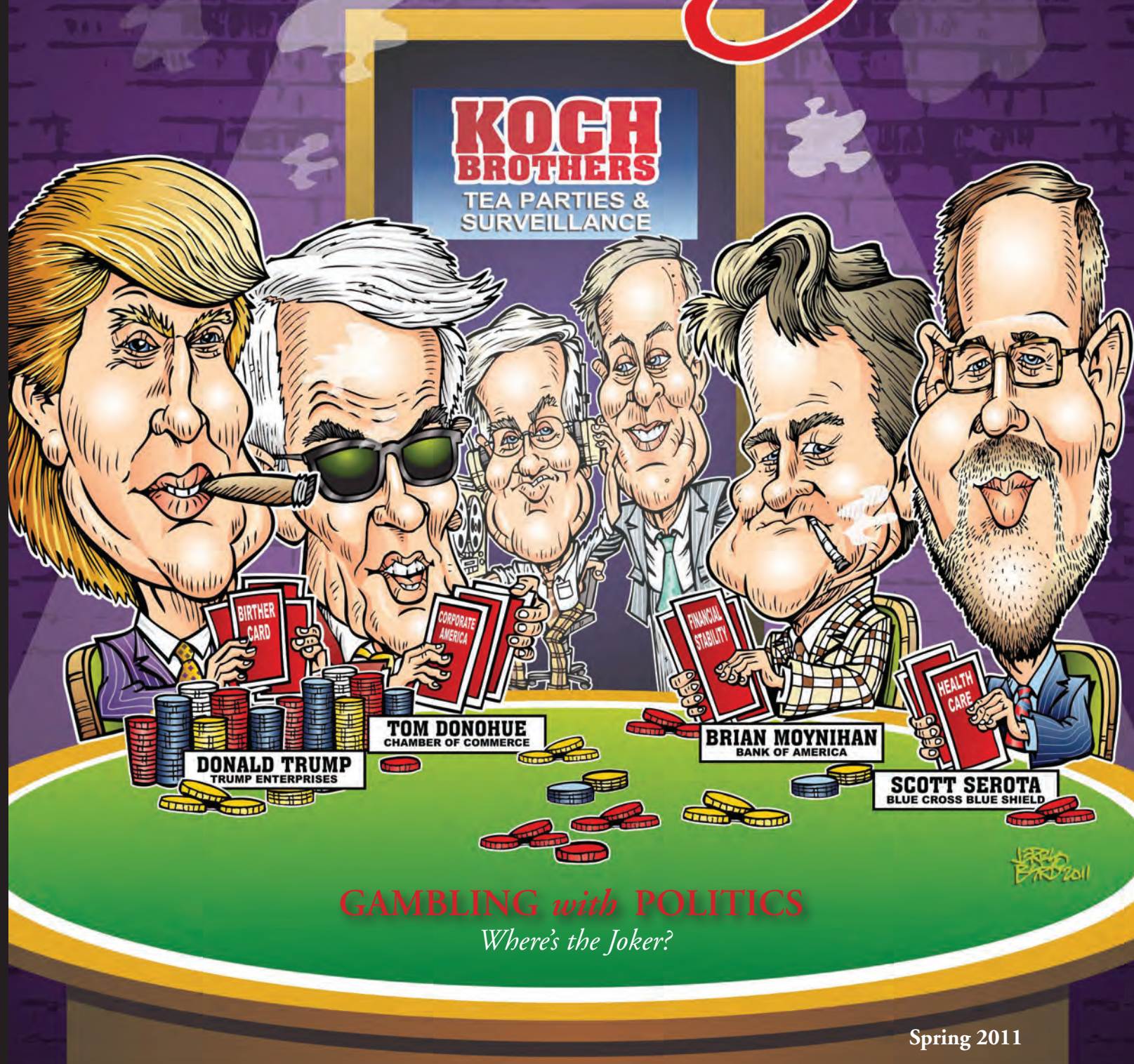


# The Trial Lawyer

A MAGAZINE FOR TRIAL LAWYERS & A VOICE FOR JUSTICE



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# About That Loan...

By Michael J. Swanson

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*Whether you have borrowed money to fund your practice or are considering a loan in the future, here are some issues to consider:*

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## Minimize The Interest You Pay

As a general rule, you should strive to minimize the amount of interest you pay each year by borrowing in a very strategic, controlled way. Here's a good exercise: At the end of each year (or right now!) total up the interest that appears on your income statement from loans at your firm, along with any interest from credit cards that your firm may have. Subtract the interest that you recoup from your cases (if any) and take a look at that number. Ask yourself: What did I get for that money? If you're not sure... there's a problem! Too many firms borrow money for short term needs (advertising, bonuses, etc.) but then never pay it back during the good times. The result is effectively a permanent debt that does nothing but steal profits out of the partners' pockets without giving back much in the way of tangible benefits. If your firm is going to borrow money, especially for case expenses, consider recouping the interest from your cases. It's legal, it's ethical and there are lenders in the marketplace that can track the interest for you on a case-by-case basis to make it easy on your staff.



## Monitor Your Credit Score

Do you know what your credit score is? You should! Set a tickler in your calendar to remind yourself to check your credit score at least once a year. Free services like [freecreditreport.com](http://freecreditreport.com) are available to make it quick, easy and free. You don't want to wait until it's time to apply for a loan or a lease to do this. You may find that your score has dropped due to an error at a reporting agency or by your

bookkeeper. That lower score could result in costly delays or higher rates of interest paid. It could even result in your application being rejected since many banks have been steadily raising their minimum credit score requirements over the past few years.

## Monitor Liens Filed

Do you know what liens are filed on your firm and on you personally? You may be

## LOOK FOR A LENDER WITH A SOLID TRACK RECORD THAT IS NOT DEPENDENT UPON VOLATILE FUNDING SOURCES.

surprised at what is in place. It only takes a few moments to check UCC filings using LexisNexis® or Westlaw®. This is another good annual exercise. Even if you see the UCCs filed that you expect, such as from your current lenders, look closely at the description of collateral in the filings. It is very common for a borrower to think their line of credit is secured by their real estate but for the lender to actually file on the firm's accounts receivable or even all the assets of the firm. Again, this can cause costly delays when applying for or renewing loans or leases and it costs nothing to monitor.

Here are a few recommendations if you are applying for a new loan or line of credit, or negotiating a renewal:

### Get a Term Sheet

Be sure to get a detailed term sheet from the lender. Do not rely upon the verbal commitment of the bank or loan company's representative regarding the important details of the loan. The term sheet should be on the lender's letterhead, should be signed by an officer of the lender and should clearly state in detail: the interest rate, application fees, origination fees, annual fees, documentation fees, collateral description, guarantors (if any), deferred interest, pre-payment penalty (if any), restrictions on the size or timing of funding requests (if any), renewal fees, legal and documentation fees (if any).

### Watch Those Fees!

Lenders love to emphasize a low interest rate and then make up their profits in fees. Example: A line of credit for \$500,000 with a 2% annual fee and an annual interest rate of 5% could really have a much higher effect rate if the line

is not fully used. Assuming an average balance of \$250,000 during the year, annual interest payments would be \$12,500 ( $5\% \times \$250,000$ ). But when you add in the annual fee of \$10,000 ( $2\% \times \$500,000$ ) the actual effective interest rate is not 5%... but 9%! ( $(\$12,500 + \$10,000) / \$250,000 = 9\%$ ). So watch those fees and consider their likely impact on your overall costs when comparing loans or making a decision to borrow.

### Check References

This is less important with a bank line of credit, but if you are considering a loan from a non-bank finance company, you absolutely should get three references from them that you can call and ask questions such as: How long have you had a loan with this lender? Have the rates and fees been what you expected? Have there ever been delays in processing your funding requests? Are you happy with their service? Have there been any hidden fees? Would you do business with them again?

### Ask About Funding Sources

As above, this applies mainly to non-bank lenders. Many law firm borrowers were left high and dry during the 2008–2010 credit crunch when the majority of non-bank lenders found their own funding sources drying up. Many lenders in the market had to freeze their existing borrowers out of new fundings and some had to call in their lines because their funding sources (private equity, equity funds, hedge funds) demanded it. Look for a lender with a solid track record that is not dependent upon volatile funding sources. This can also be discovered when checking references.

### Check Out Your Bank

Banks are required to submit financial data to their regulators on a quarterly basis. This information is available to the public free of charge at [www.fdic.gov/bankfind](http://www.fdic.gov/bankfind). You might not understand everything you see there, but it's informative to see if your bank is operating at a profit or not! You can also see whether they are growing vs. shrinking assets, incurring large losses, etc. If they appear to be having trouble, you may find them being swallowed up by another bank soon.

Lastly, be very careful when borrowing funds for your law firm. Too many excellent lawyers find themselves in trouble because they borrow too much money, borrow at very high interest rates or borrow long term to fund short term projects. The best borrowing is tied to specific cases so that discipline is imposed to pay down the loan principal as cases conclude. Borrowing in this manner can also enable the firm to pass the borrowing costs through to the cases, if tracked properly by the lender. Debt can be a useful tool for a law firm, but it can also be a dangerous trap if not implemented properly.



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