

# HOW TO DEVELOP AND MANAGE YOUR OWN LAW FIRM

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## 1. Resources

- 1.1. American Bar Association
  - 1.1.1. Law Practice Management Section
    - 1.1.1.1. Many excellent publications, including *Law Practice Management* magazine and specialty newsletters
  - 1.1.2. Many "how-to" practice management books available - see <http://www.abanet.org/lpm/catalog/managementbooks.html>
- 1.2. Missouri Bar - many useful resources available at <http://www.mobar.org/a46a405a-655f-4cd8-93a3-c9d32eee3ca0.aspx> including
  - 1.2.1. Law practice management library
  - 1.2.2. "ClientKeeper" forms - many useful forms for client intake and office procedures
  - 1.2.3. Information about Small Firm Internet Group (SFIG), including how to join
    - 1.2.3.1. Award-winning email group of solo and small firm lawyers in Missouri - electronic version of "water cooler gatherings"
    - 1.2.3.2. Covers a wide range of topics, ranging from legal issues to law office management to technology questions
- 1.3. TechnoLawyer
  - 1.3.1. Another email discussion group, primarily relating to technology issues in the law office
  - 1.3.2. To join, go to <http://www.technolawyer.com>
- 1.4. Mentors
  - 1.4.1. Most lawyers are willing to share their knowledge with newcomers
  - 1.4.2. Find one or more experienced lawyers who can answer management, legal and procedural questions
- 1.5. Other organizations
  - 1.5.1. University Extension Business and Industry Specialists, 1012 N. Highway UU, Columbia, MO 65203, telephone, 573-445-9792. Most services are free, but call for an appointment.
  - 1.5.2. Small Business Development Center, 1800 University Place, University of Missouri, Columbia, MO 65211, telephone 573-882-7096. Most services are free, but call for an appointment.
  - 1.5.3. Department of Economic Development, Small Business Assistance First Stop Shop, 301 W. High St., Truman Bldg. Room 720, Jefferson City, MO 65101, telephone 800-523-1434.
  - 1.5.4. Small Business Administration Online - [www.sba.gov](http://www.sba.gov)

## 2. Business Plan

- 2.1. A well thought out business plan is crucial if you expect to seek outside financing to start a law firm.
- 2.2. It is a good idea to prepare at least an informal business plan even if you do not expect to seek outside financing. The exercise will help you think through many issues that can arise when you start your business.
- 2.3. Many of the topics covered in this session would be appropriate to include in a business plan.
- 2.4. Information on preparing business plans is available at [http://www.sba.gov/starting\\_business/index.html](http://www.sba.gov/starting_business/index.html)

## 3. Capitalization

- 3.1. Calculate your start-up expenses, including:
  - 3.1.1. Office space

- 3.1.2. Equipment and software
- 3.1.3. Initial operating expenses including utilities, salaries, and other items mentioned below
- 3.2. Include a cushion equal to a minimum of three months worth of anticipated expenses to allow time for income to start coming in.
- 3.3. Have a backup plan to borrow money if necessary.
- 3.4. If you prepared a good business plan, you should have all the information you need to determine necessary capitalization

#### **4. Business Entity, Name Selection, and Office-Sharing Pitfalls**

- 4.1. Business Entity Overview: Missouri law firms may operate as one of four forms of entities: Sole proprietorship, partnership (either general or limited liability), professional corporation, or limited liability company (LLC).
  - 4.1.1. Sole proprietor
    - 4.1.1.1. A sole proprietorship is not a separate legal entity at all - the term simply refers to ownership of a business by one person. Any person who begins a business without one or more co-owners and without deliberately creating an entity such as a corporation or limited liability company is a sole proprietor by default.
    - 4.1.1.2. The main advantage of a sole proprietorship is simplicity.
    - 4.1.1.3. Primary disadvantages include unlimited personal liability of the owner for business and professional obligations and possible difficulty raising capital.
    - 4.1.1.4. Because there is no separate legal entity, a sole proprietorship does not file a separate income tax return. Rather, the net income (or loss) of the business is reported on the sole proprietor's personal federal and state income tax returns (on Schedule C).
    - 4.1.1.5. However, a sole proprietor may be required to obtain certain tax registrations:
      - 4.1.1.5.1. A federal employer identification number (FEIN) is required if the sole proprietorship has employees. Contact: Internal Revenue Service, Tax Forms, Bloomington, IL, telephone 800-829-3676 (800-TAX-FORM).
      - 4.1.1.5.2. Any business which has employees in Missouri must obtain a Missouri employee withholding tax number. For information and forms, contact: Central Registration, Missouri Department of Revenue, 301 W. High St., Truman Bldg. Room 330, Jefferson City, MO 65102, telephone 573-751-5860.
      - 4.1.1.5.3. Any business which has employees in Missouri must obtain a Missouri unemployment insurance tax number. For information and forms, contact: Missouri Division of Employment Security, 421 E. Dunklin, P.O. Box 59, Jefferson City, MO 65104, telephone 573-751-3215 or 573-751-3340.
      - 4.1.1.5.4. A use tax number is necessary if a business purchases goods from out of state (for example, by mail order or Internet order). However, no tax is due and abbreviated use tax returns may be filed if out-of-state purchases are less than \$2,000 per year. For information and forms, contact: Central Registration, Missouri Department of Revenue, Truman Building, 301 W. High St., Room 330, Jefferson City, MO 65102, telephone 573-751-5860.
  - 4.1.2. General Partnership
    - 4.1.2.1. Co-owners of a law practice who agree to share in the profits and losses of the practice are general partners whether or not they have a written partnership agreement. A written partnership agreement is advisable to avoid disagreements.
    - 4.1.2.2. All partners in a partnership are individually liable for all obligations of the partnership, even if those obligations were created by the actions of only one of the partners. This includes professional malpractice liabilities.
    - 4.1.2.3. Given these consequences, prospective partners should draw up a partnership agreement which can modify some of the statutory rules that would

otherwise govern the partnership. They should also consider registering as a limited liability partnership (see 4.1.3.).

**4.1.2.4.** Partnerships themselves do not pay income tax. However, they are required to file informational tax returns which allocate their profit (or loss) to the partners based on the partners' respective ownership percentages. The partners then report the income (or loss) on their personal federal and state income tax returns.

**4.1.2.4.1.** Note: Partners do not receive "salaries" in the traditional sense. Rather, they take "draws" from the partnership, which are not subject to withholding taxes. They must then make estimated tax payments four times per year to the IRS and Missouri Department of Revenue. Failure to make sufficient estimated tax payments can result in substantial penalties.

**4.1.2.5.** A general partnership must obtain a FEIN for information return purposes, even if it has no employees (the partners themselves are not considered employees). A general partnership may be required to obtain certain other tax registrations, particularly if it has employees - see 4.1.1.5. above.

**4.1.2.6.** Fringe benefits

**4.1.2.6.1.** Benefits such as life insurance, health and accident insurance, medical reimbursements and the like are treated as expenses of the owners. The costs are not tax deductible, with the exception of health insurance, the cost of which this year is 60% deductible.

**4.1.2.6.2.** Retirement programs are comparable to those available for corporations.

**4.1.3.** Limited Liability Partnership

**4.1.3.1.** Many former law firm general partnerships have taken advantage of this relatively new type of partnership.

**4.1.3.2.** In a limited liability partnership, individual partners are shielded from individual liability for partnership obligations that were caused by another partner's or employee's misconduct. However, a partner's liability is not limited for obligations undertaken by the partnership as an entity or for his or her own misconduct or misconduct that took place under his or her supervision or control.

**4.1.3.3.** To become a limited liability partnership, a general partnership must file a registration with the Missouri Secretary of State and renew that registration annually. Filing fees based on the number of partners are required for the initial and renewal registrations.

**4.1.3.4.** No written partnership agreement is required for a limited liability partnership, but, again, an agreement is strongly recommended.

**4.1.3.5.** The tax rules and fringe benefits considerations relating to limited liability partnerships are the same as those for general partnerships.

**4.1.4.** Professional Corporation

**4.1.4.1.** If a law firm wishes to organize as a corporation, it must do so as a professional corporation.

**4.1.4.2.** Only lawyers may be stockholders of a professional corporation organized for the practice of law. A certificate from the Missouri Supreme Court Clerk attesting that each prospective stockholder is licensed to practice law in Missouri must be submitted to the Secretary of State along with the Articles of Incorporation.

**4.1.4.3.** Potential benefits:

**4.1.4.3.1.** Payroll deductions from stockholders' salaries instead of paying estimated taxes.

**4.1.4.3.2.** Fringe benefits

**4.1.4.3.2.1.** A corporation which does not elect Subchapter S tax treatment can provide stockholder employees with benefits that are not taxable to them and which are deductible by the corporation, such as health insurance, life insurance, etc.

**4.1.4.3.2.2.** Pension plans and deferred compensation plans are now treated

the same as for partnerships.

- 4.1.4.3.3.** If a lawyer in a professional corporation owns the firm's office space, the lawyer can receive rent from the corporation which will not be subject to withholding taxes but will necessitate estimated income tax payments.
- 4.1.4.3.4.** Insulation from personal financial liability (but not from malpractice liability if directly involved or a supervising attorney).
- 4.1.4.4.** Disadvantages:
  - 4.1.4.4.1.** Changing the name of the corporation when adding and subtracting stockholders requires an amendment of articles of incorporation, which also requires a new certificate from the Missouri Supreme Court that all current stockholders are licensed Missouri attorneys.
  - 4.1.4.4.2.** Annual maintenance - filing of annual registration report (\$45) and documenting at least annual meetings of stockholders and directors.
  - 4.1.4.5.** If corporation is profitable, its stockholders can receive a return on their investment through the payment of dividends. Dividends must be approved by the board of directors and are taxable to the stockholders as ordinary income.
  - 4.1.4.6.** Dividends are not the only way stockholders can receive money from a corporation. Additional possibilities include:
    - 4.1.4.6.1.** A stockholder can be paid a salary if employed by the corporation. If the salary is reasonable, it will be a deductible expense in its entirety for the corporation. Of course, the salary will be taxable to the stockholder.
    - 4.1.4.6.2.** If a stockholder has loaned money to the corporation (as distinct from purchasing stock), the corporation's principal repayments will be non-taxable to the stockholder while the interest payments will be taxable. The corporation can deduct the interest payments but not the principal payments.
    - 4.1.4.6.3.** If a stockholder leases real or personal property to the corporation, the rent payments will be deductible for the corporation and taxable to the stockholder.
  - 4.1.4.7.** Unless a corporation elects special tax treatment under Subchapter S of the Internal Revenue Code, the corporation's net income is subject to taxation at rates sometimes higher than those applying to individuals. This raises the possibility of double taxation of dividends - the money is taxed once at the corporate level and again at the personal level when reported on stockholders' personal tax returns.
    - 4.1.4.7.1.** To avoid this consequence, many lawyers in professional corporations which have not elected Subchapter S treatment ensure that all net income is paid out to the lawyer-stockholders in the form of dividends, bonuses or salary before the end of the year. Then, if necessary, the lawyer-stockholders can loan money back to the corporation at the beginning of the next calendar year to provide necessary operating capital; these loans can be paid off during the year as money becomes available.
    - 4.1.4.7.2.** Another way to avoid the double-taxation effect, subject to certain restrictions, is to elect corporate tax treatment under Subchapter S of the Internal Revenue Code. If this election is made, the corporation is treated virtually the same as a partnership for tax purposes. Although the corporation must file an informational return with the IRS, its net income is not taxed at the corporate level but rather is "passed through" to the stockholders for reporting on their personal returns. Corporate losses can also pass through and be taken as losses on the stockholders' personal returns. If a corporation elects Subchapter S, health insurance and other benefits will be taxable to stockholders and not deductible by the corporation. Consultation with an accountant is highly recommended before deciding whether to elect Subchapter S.
  - 4.1.4.8.** Tax I.D. numbers

- 4.1.4.8.1. A corporation will need to obtain the tax registration numbers mentioned in 4.1.1.5. above.
  - 4.1.4.8.2. In addition, the corporation will need to obtain a Missouri corporate income tax number. After a corporate charter and corporation number have been issued, for information and forms contact: Central Registration, Missouri Department of Revenue, Truman Building, 301 W. High St., Room 330, Jefferson City, MO 65102, telephone 573-751-4541.
- 4.1.5. Limited Liability Company**
- 4.1.5.1. A limited liability company (LLC) is a relatively new form of business organization allowed in Missouri.
  - 4.1.5.2. In concept, an LLC functions much like a partnership, but it has most of the advantages of a corporation in terms of limiting the individual liability of its owners for business obligations.
  - 4.1.5.3. An LLC is formed by filing relatively simple Articles of Organization with the Secretary of State. The owners of the LLC, who are called members, manage the company unless they agree in the Articles of Organization to provide for centralized management by one or more managers. The statutes also require the members of an LLC to adopt an Operating Agreement. The Operating Agreement covers such matters as governance, capital contributions, sharing of profits and losses, admission of new members, and buy-outs of existing members.
  - 4.1.5.4. Some advantages of an LLC as compared with a corporation are:
    - 4.1.5.4.1. Income distribution need not be proportional to ownership interests. This is in contrast to partnerships, where tax rules require allocation of profits and losses in proportion to ownership interests, and corporations, where corporate law requires dividends to be paid in proportion to stock ownership (although corporations can pay varying amounts of salary to stockholder-owners).
    - 4.1.5.4.2. Many of the on-going formalities required in a corporation are not required of an LLC. There are no requirements for annual registration or formal documentation of company decisions.
    - 4.1.5.4.3. An LLC can elect in its Articles of Organization to be treated much like a partnership for tax purposes, whereas a corporation must file a special Subchapter S election with the Internal Revenue Service to achieve similar tax treatment. An LLC which elects partnership tax treatment does not pay tax itself, but reports its income (or loss) on an informational tax return which also allocates the income or loss to the owners. The owners then report the income or loss on their personal tax returns. If an LLC has elected to be taxed as a partnership, fringe benefits are treated the same way as they are for partnerships (see 4.1.2.6.)
      - 4.1.5.4.3.1. Note: An LLC also can elect to be taxed as if it were a corporation, but this is a rare occurrence. For benefit treatment in this circumstance, see 4.1.4.3.2.
  - 4.1.5.5. Some disadvantages of LLCs as compared with corporations are:
    - 4.1.5.5.1. An LLC can be more expensive and time-consuming to set up initially. This is because the higher degree of flexibility in organizing an LLC requires a more complicated organizational document (Operating Agreement), which must be tailored to meet the organizers' particular desires.
    - 4.1.5.5.2. Because LLCs are a relatively new phenomenon, there are some unresolved questions about how particular legal issues will be resolved by the courts when they arise through litigation. In particular, there are a few lingering questions about how much individual liability insulation an LLC gives to its owners. However, most practitioners now believe that issues not yet addressed by appellate decisions will be resolved in general accordance with the body of law governing corporations.

- 4.1.5.5.3. An LLC may not be perceived by clients as having as much "prestige" as a professional corporation.
- 4.1.5.6. Tax I.D. numbers
  - 4.1.5.6.1. An LLC will need to obtain the tax registration numbers mentioned in 4.1.1.5. above.
  - 4.1.5.6.2. In addition, an LLC will need to obtain a Missouri corporate income tax number. After Articles of Organization have been filed and an LLC number has been issued, for information and forms contact: Central Registration, Missouri Department of Revenue, Truman Building, 301 W. High St., Room 330, Jefferson City, MO 65102, telephone 573-751-4541.
- 4.1.6. Caveat: Personal guarantees
  - 4.1.6.1. As noted above, stockholders in a corporation and members of an LLC are generally shielded from entity-level obligations.
  - 4.1.6.2. However, corporate stockholders and LLC members are commonly required to give personal guarantees for such obligations as leases or loans, but that will occur by agreement and not by operation of law.
- 4.2. Name selection
  - 4.2.1. Before selecting a firm name, carefully review Rule 7.5 of the Rules of Professional Conduct (Missouri Supreme Court Rule 4).
    - 4.2.1.1. Rule 7.5(a) states that a firm name shall not violate Rule 7.1, which generally prohibits false or misleading communications about a lawyer or the lawyer's services.
    - 4.2.1.2. Rule 7.5(b) says that a lawyer's firm name "shall include the name of the lawyer, the name of another lawyer in the firm or the name of a deceased or retired member of the firm in a continuing line of succession." But see the comments.
    - 4.2.1.3. Rule 7.5(c) says that a lawyer's firm name "shall not include the name of any person other than a present member of the firm or a deceased or retire member of the firm in a continuing line of succession."
    - 4.2.1.4. Rule 7.5(d) says that a law firm having offices in another state may use the same name in both states, but its letterhead must show the jurisdictional limitations of any listed attorneys who are not licensed to practice in Missouri.
    - 4.2.1.5. Rule 7.5(e) says that the name of a lawyer holding public office shall not be used in the law firm's name during any substantial period when the lawyer is not actively and regularly practicing with the firm.
    - 4.2.1.6. Finally, Rule 7.5(f) says that lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.
  - 4.2.2. Old ethical opinions stated that the word "firm" could not be used in the firm name of a solo practitioner. Several years ago an informal advisory opinion issued by the Office of the Chief Disciplinary Counsel reversed this position.
  - 4.2.3. A general partnership can simply use the names of its partners, e.g., Jones and Smith.
  - 4.2.4. A limited liability partnership is required to use LLP or "limited liability partnership" as part of its name, e.g., Jones and Smith, LLP. The name cannot be "confusingly similar" to any other entity name registered with the Secretary of State.
  - 4.2.5. A professional corporation must use P.C. or "professional corporation" as part of its name, e.g., Jones and Smith, P.C. The name cannot be "confusingly similar" to any other entity name registered with the Secretary of State.
  - 4.2.6. An LLC must use "limited company," "limited liability company," LC, or LLC as part of its name, e.g., Jones and Smith, LLC. The name cannot be "confusingly similar" to any other entity name registered with the Secretary of State.
- 4.3. Office-sharing pitfalls
  - 4.3.1. Attorneys sharing office space and resources within the office should take pains to make it clear to clients and prospective clients that they are **not** partners. Signs, letterheads, pleadings, business cards, advertising, web sites, email addresses, and other forms of public communication should be designed with this in mind. If these

precautions are not taken, lawyers sharing offices/resources could find themselves being treated as partners for malpractice liability purposes.

- 4.3.2. Office-sharing lawyers should also take care to preserve client confidentiality.
  - 4.3.2.1. If possible, there should be separate waiting areas and secretaries/receptionists.
  - 4.3.2.2. Each attorney should have lockable file cabinets or offices and carefully segregate his or her client files from those of other lawyers in the office.
  - 4.3.2.3. Computer networks should be set up to allow each attorney (and his or her support staff) exclusive access to computer files relating to his or her clients, with common access being allowed only for such things as common form files (with client-identifying information omitted) and legal research materials.
  - 4.3.2.4. Care should be taken to preserve confidentiality when using common resources such as copiers and the law library.
  - 4.3.2.5. Given that office equipment prices have plummeted in recent years, it makes sense for each attorney to purchase his or her own computers, printers, fax machines, and possibly even copiers.
- 4.3.3. Failure to preserve complete separation of practices among lawyers sharing office space can have adverse effects beyond the malpractice liability consideration mentioned above. The lawyers may not be able to represent opposing clients, and a conflict of interest of one lawyer may be a conflict of interest for all other lawyers sharing the office.
- 4.3.4. Consideration also should be given to the types of practices engaged in by lawyers sharing office space. A lawyer who specializes in estate planning, for instance, should consider the effect on his clients of sharing an office with a lawyer who regularly sees criminal defendants.

## 5. Office Space

- 5.1. Office space is typically the single most expensive item of overhead cost for a law firm other than personnel expenses, so careful decision-making is required. Do not commit to an expense you cannot afford over the long haul.
- 5.2. Three main options: Rental, purchase, or home office
  - 5.2.1. Rental
    - 5.2.1.1. Carefully review the landlord's lease.
    - 5.2.1.2. Try not to commit to a too-lengthy lease term. Try to give yourself some flexibility by seeking a shorter lease term with renewal options. Be aware, however, that commercial leases are typically for longer terms than residential leases. A three-year minimum is common.
    - 5.2.1.3. An increasingly available option in larger cities is the "office suite" concept. A landlord will aggregate a large number of small private offices around common facilities such as a reception area, conference rooms, and photocopying facilities. This is usually less expensive than renting stand-alone space, but may involve trade-offs such as not always having a conference room available and waiting in line to use a copier. Client confidentiality must be carefully guarded if this office space solution is used.
  - 5.2.2. Purchase
    - 5.2.2.1. Consider whether you want a stand-alone building or a condo in a multi-unit building.
    - 5.2.2.2. You may find it advantageous to purchase more space than you need and rent out the excess - providing there is a market for the space.
  - 5.2.3. Home office
    - 5.2.3.1. This appears to be a growing trend among lawyers, perhaps spurred by technological developments which make it easier to stay connected and by falling prices for necessary equipment.
    - 5.2.3.2. Two basic types of home offices:
      - 5.2.3.2.1. One type mimics the traditional downtown office. The lawyer not only works from home, but also sees clients there.

**5.2.3.2.2.** The other main situation is where the lawyer works at home but meets clients elsewhere.

**5.2.3.3.** Starting out with a home office may be more difficult than moving to a home office after having already established a practice.

### **5.3. Location considerations**

**5.3.1.** Traditionally, lawyers' offices tended to be downtown in close proximity to the courthouse. Depending on the community, parking may or may not be a problem with a downtown location.

**5.3.2.** Increasingly, lawyers are locating offices outside downtown areas, in locations more convenient to clients, with ample on-site parking.

**5.3.3.** It is not clear that location has a significant effect on obtaining clients (except possibly that large corporate clients may prefer its law firm to be located in a prestigious office building). Factors such as referrals, fees and perceived abilities are much more important.

**5.3.4.** Probably the most important consideration in office location is the ease with which prospective clients can locate the office.

### **5.4. Arrange for utilities once the office space has been located.**

**5.4.1.** Electricity

**5.4.2.** Water

**5.4.3.** Natural gas

**5.4.4.** Telephone lines

### **5.5. Zoning, subdivision regulations, covenants**

**5.5.1.** Before committing to an office location, check with city or county officials to determine if the proper zoning exists for law office use and whether there are any subdivision regulations that will affect the proposed use.

**5.5.2.** Check real estate records, or have a title company do it, to determine if there are any restrictive covenants on file that would prohibit or adversely affect your use of the property for a law office.

**5.5.3.** Checking these issues is particularly crucial for a proposed home office. Many cities have zoning ordinances which either prohibit home offices or regulate them in various ways. Regulations may include limitations on employing people from outside the home and restricting visits by clients.

## **6. Equipment**

### **6.1. Computers**

**6.1.1.** Basic choice is between PCs and Macs.

**6.1.1.1.** More legal-specific and general software packages are available for PCs.

**6.1.1.2.** Adequate software is available for Macs, however, and there is a strong minority of law firms using Macs.

**6.1.1.3.** In the final analysis, you are probably best off using the type of computer you already know.

**6.1.2.** Operating system is an important consideration.

**6.1.2.1.** If using a Mac, you have little choice but to use what Apple provides.

**6.1.2.2.** Windows 95, 98, 98SE and ME are familiar and much used, but can be unstable and have memory resource problems, which translate to decreased productivity.

**6.1.2.3.** Windows NT and Windows 2000 are much more stable and do not have memory resource problems, but are somewhat more difficult to learn. They make an excellent platform for law offices. Windows 2000 is still available for purchase.

**6.1.2.4.** Windows XP has been available for several years now and is pre-loaded on almost all new computers (except that some vendors are still selling Windows 2000 computers for business use). XP is based on Windows NT and Windows 2000, and it has been around long enough now to recommend it for use in the law office setting.

**6.1.2.5.** Linux (and other flavors of Unix) is another possibility. The operating system is highly stable, and there is an adequate number of general-purpose

productivity software packages available, but there are very few legal-specific programs available.

- 6.1.3.** Suggested minimum configuration:
  - 6.1.3.1.** 120 GB hard drive (bigger is better)
  - 6.1.3.2.** 1 GB of RAM (more would be desirable for the impending Windows Vista)
  - 6.1.3.3.** 17" CRT monitor or 15" flat-panel display
  - 6.1.3.4.** CD-ROM to load programs
  - 6.1.3.5.** Some means of backup, such as tape drive, ZIP drive, CD-burner, DVD burner, or external hard drive
- 6.1.4.** In the Internet age, anti-virus, anti-spyware and firewall protection are absolute necessities. Many good software packages are available for these functions. Hardware firewalls (built into most routers today) are also desirable and relatively inexpensive.
- 6.1.5.** Backup of data is critical. Some form of off-site backup is highly desirable because if your office burns or is flooded, your data is toast. On-site backup is also important because hard disks do not last forever and will eventually crash, and your data can become corrupted by unpredictable operating system problems or even viruses.
  - 6.1.5.1.** Backup options include:
    - 6.1.5.1.1.** Tape drives.
    - 6.1.5.1.2.** CD-burners and DVD-burners.
    - 6.1.5.1.3.** High-capacity floppy formats such as ZIP drives.
    - 6.1.5.1.4.** Portable hard drives (which typically connect to a USB or Firewire port). Make sure your computer has a USB 2.0 or Firewire port for adequate speed. An expansion card can be purchased to add such a port for under \$40.
      - 6.1.5.1.4.1.** Caution: Portable hard drives will not work with most backup programs which create a single large backup file unless they are formatted with the NTFS file system rather than the FAT32 file system. This is because FAT32 imposes a maximum file size of 4GB, and most backup files will be larger than 4GB.
      - 6.1.5.1.4.2.** If you have an NT, Windows 2000 or Windows XP computer, your operating system will allow you to reformat a portable hard drive to use the NTFS file system and then use it successfully with most backup programs.
    - 6.1.5.1.5.** Additional hard drive in main computer. (Note: The same caution about needing to format the disk with the NTFS file system applies here.)
    - 6.1.5.1.6.** Network server hard drive(s) or hard drives on other networked computers.
    - 6.1.5.1.7.** Internet backup to a remote server if you have a fast Internet connection. Many such services are available and can be located with a simple Internet search. Your own ISP may also offer such a service. But beware of confidentiality issues.
  - 6.1.5.2.** Simple data backup vs. full drive images
    - 6.1.5.2.1.** Only backing up your firm's important data (client files, accounting data, etc.) is simpler and does not require as much space on backup media, but has the downside that if your hard drive fails or is damaged by casualty, you will also have to re-load your operating system and software programs. That means you need secure storage, preferably off-site, for your operating system and software disks.
    - 6.1.5.2.2.** Programs are available to create a complete "image" of your entire hard drive. This requires more room on the backup media, but allows easy reinstallation of all programs and data. An image backup to a portable hard drive typically takes less than 30 minutes.
    - 6.1.5.2.3.** Some combination of data-only backup and drive-imaging may

be the best approach. Do daily backups of data and a weekly drive-image.

**6.1.5.3.** If you have a computer network, be sure to consider whether it is necessary to back up all workstations. The best practice is to keep all crucial data on one computer (which can be designated as the "server" even in a peer-to-peer network) so it can be easily accessed by your staff, which means there is only one computer that needs regular data backup. However, creating drive-images of workstations to avoid having to reinstall programs one-by-one makes sense.

**6.1.6.** If you have at least one employee, you will probably want a network, which will allow you to share files, use internal email, and share an Internet connection.

**6.1.6.1.** Ethernet is the most popular solution because it is a mature technology, easy to install and use, and has more than adequate speed. Use a switch rather than a hub to improve network performance.

**6.1.6.2.** If you use a wireless network, implement appropriate security measures including:

**6.1.6.2.1.** Turning off the broadcast of your network identifier

**6.1.6.2.2.** Changing the default password for your wireless router

**6.1.6.2.3.** Giving your network a unique name not easily guessed by outsiders

**6.1.6.2.4.** Implementing the highest level of encryption available with your router

**6.1.7.** If you have an Internet connection, particularly cable or DSL, use a hardware and software firewalls to prevent intrusions.

## **6.2. Printers**

**6.2.1.** Black-and-white laser printers are the workhorses in most law offices. An adequate laser printer can now be purchased for as little as \$150, though you may be better off purchasing a somewhat more expensive one with more paper-handling options including a convenient envelope-feeding system.

**6.2.2.** Color laser printers can now be purchased for under \$200 (far less than black-and-white laser printers cost 15 years ago), but the toner cartridges are expensive.

**6.2.3.** Ink-jet printers are inexpensive but much slower than laser printers (except that very expensive ink-jets approach the speed of low-end laser printers). The slower printing speed makes them unsuitable for routine printing needs in a law office. Also, consumables can be expensive. Print quality is good but not quite equal to laser printers. Because they are inexpensive, it may be worth buying one for occasional color printing needs and as a backup printer when your laser printer needs repair.

**6.2.4.** Consider specialty printers:

**6.2.4.1.** A label printer lets you prepare address labels, file folder labels, client information labels, exhibit labels, etc. without using a typewriter. In conjunction with an Internet connection and the appropriate on-line service, a label printer can even be used to generate postage labels, which may be a better solution for a small office than a stand-alone postage meter. The primary manufacturers of label printers are Seiko and Dymo.

**6.2.4.2.** A stand-alone envelope printer may be useful if your office has a high volume of mail, such as in a collection practice.

## **6.3. Fax machines**

**6.3.1.** Heat-sensitive printing technology is inexpensive, but very few such fax machines are being made any more. The technology uses rolls of heat-sensitive paper. Disadvantages are that the paper tends to curl and is slick and unpleasant to the touch, and the image tends to degrade over time, particularly if the paper is exposed to light. Not recommended.

**6.3.2.** A somewhat newer technology uses what are essentially continuous rolls of carbon paper to create an image on plain paper. These machines tend to be the least expensive on the market today (some under \$100), but the replacement imaging rolls can be expensive over the long haul.

**6.3.3.** An inkjet-based fax machine which creates images on plain paper is probably the

best choice for most small law offices. In this category, it is worth considering a multi-function machine which can also serve as a backup color printer and color copier because the cost of a dedicated inkjet-based fax machine is not much less than the cost of a multi-function device. These machines are available in the range of \$100 to \$300 or more.

**6.3.4.** Laser-based fax machines use laser printer technology to create images on plain paper. They are typically the most expensive fax machines and do an excellent job, but they may be overkill for a small office. Some such machines also double as laser printers and even sheet-fed copiers, but they are slower and not as flexible for these purposes as stand-alone printers and copiers. The longevity and cost of replacement laser toner cartridges varies widely among available models, so check out the costs before buying this type. These machines typically start at a minimum of \$150 and can cost as much as \$600. Also available are multi-function laser printers which also provide fax, scanning and copying functions.

#### **6.4. Photocopiers**

**6.4.1.** There is a category of photocopiers called "personal copiers" available these days at the likes of Office Depot, Staples and Office Max which are quite adequate for the needs of a small law office. They start as low as \$300 and generally top out around \$1,000.

**6.4.2.** These machines, unlike more traditional office copiers, do not require you to pour messy toner into a toner bin. Rather, they use toner cartridges similar to those used in laser printers. In fact, their copying engines are based on the same technology as laser printers.

**6.4.2.1.** Some copiers, notably those from Canon, use an all-in-one cartridge which includes both toner and a new imaging drum. These cartridges tend to be more expensive, resulting in a higher per-copy cost, but refilled cartridges are often available at half or less the cost of new cartridges.

**6.4.2.2.** Other copiers, such as those from Xerox and Sharp, use separate cartridges for toner and for the imaging drum. The toner cartridges are less expensive than for single-cartridge systems, but the availability of refilled toner cartridges is spotty at this time. The imaging drums need to be replaced much less frequently (about every four or five times the toner cartridge is replaced) and must be purchased from the manufacturer. In general, the double-cartridge systems have lower per-page costs.

**6.4.3.** Do not settle for a copying speed of less than about 12 pages per minute (but more speed costs more money).

**6.4.4.** Pick a unit which has an automatic document feeder (ADF). It will save tons of time when copying multi-page documents.

**6.4.5.** Be aware of the difference between analog and digital copiers (most new copiers today are digital).

**6.4.5.1.** An analog copier must scan the original for each copy made -- i.e., two copies requires two scans, etc. Such copiers are generally a bit slower. If they have an ADF, it is typically more complicated and heavier because the originals must be fed onto and then removed from the glass platen.

**6.4.5.2.** A digital copier scans an original one time, holds the image in memory, and makes as many copies as you want without rescanning. An ADF on a digital copier is less complicated and lighter-weight because it works by keeping the scan-head stationary and rolling the original document past the scan head, meaning that the original does not feed onto the glass platen.

**6.4.5.2.1.** Many digital copiers also have the ability to collate copying jobs "in memory" when using the ADF - a very valuable feature.

**6.4.5.2.2.** Many digital copiers also can serve as laser printers, though probably they are best suited as backup printers because their paper-handling features, envelope-handling and print speed cannot match the features of a good laser printer.

#### **6.5. Telephone systems**

- 6.5.1.** The number of voice lines you will need depends on the number of personnel. If you need multiple lines, they do not have to be in consecutive numerical order because you can order a "roll-over" feature on your main phone number which will automatically ring your additional numbers in a pre-selected order if your main number is busy.
- 6.5.2.** Get a separate fax line so you can send and receive faxes while your voice lines are in use. Some offices like to have a fax number which is very close to their main phone number. Other offices find that having similar voice and fax numbers causes a number of mistaken voice calls to the fax number.
- 6.5.3.** If you access the Internet via modem, a separate line for that purpose is also desirable to avoid tying up your voice or fax lines.
- 6.5.4.** Beware of duplexed lines. They can prevent you from using a high-speed modem (faster than 28.8K) or DSL.
- 6.5.5.** A small office with a limited number of personnel may be able to use a simple multi-line phone system that does not require a PBX (private branch exchange) switch box. A PBX can be expensive (\$1,000 and up for the smaller systems).
  - 6.5.5.1.** For a monthly fee, most phone companies can provide PBX-like services to a small office without your having to buy an in-house PBX.
- 6.5.6.** Another option now available is a cordless multi-line phone system in which the base station acts like a PBX and allows a number of internal "extensions" by purchasing additional cordless handheld units. These systems generally include digital voice mail.
- 6.5.7.** If you plan to use cordless phones, make sure they use scrambling technology between the handheld units and the base station(s) to maintain client confidentiality (scanners that can intercept broadcasts from cordless phones are readily available).
- 6.5.8.** A speaker phone may be desirable, particularly if you anticipate letting a client or someone else in your office participate in a telephone call or expect to do any telephone depositions.
- 6.5.9.** You will need either an answering machine (get a digital one for improved clarity) or a voice mail service. For a small firm, at least initially, using the phone company's voice mail service and paying the monthly fee is probably the most sensible option. In-house voice mail systems typically require a PBX and are fairly expensive. There are also computer-based voice mail systems, which would probably work best for a solo practitioner with minimal or no support staff.
- 6.5.10.** Cell phones can be very useful, but beware the client confidentiality issue.
- 6.6. Postage meters**
  - 6.6.1.** Under Postal Service regulations, postage meters must be rented - they cannot be purchased.
  - 6.6.2.** A postage meter may be worthwhile in terms of saving time and avoiding hassles if your monthly postage outlay exceeds \$100. Many small law offices continue to use stamps well beyond that level, however.
  - 6.6.3.** Internet-based postage services are now available. Advance deposits are made to cover postage. Some systems allow printing the postage directly on envelopes from a laser printer at the same time as addresses are printed (but you have to know how much postage to apply before printing the envelope). Other systems use a separate label printer to print postage labels.
- 6.7. Safety equipment**
  - 6.7.1.** Get sufficient smoke detectors to cover all areas of your office space.
  - 6.7.2.** One or more fire extinguishers should be purchased, depending on the size of the office.
- 6.8. Furniture**
  - 6.8.1.** When starting out, do not over-buy furniture in terms of quality and/or quantity.
  - 6.8.2.** Good used office furniture is often available.
  - 6.8.3.** Relatively inexpensive new furniture can be purchased from Staples, Office Depot, etc., but be aware that some assembly may be required.

## **7. Word-Processing Software**

**7.1.** Word-processing software will be the "workhouse" software in any law office

**7.2.** Main options:

**7.2.1.** Microsoft Word

**7.2.1.1.** Word is the leading word-processor in terms of overall market share

**7.2.1.2.** Word is increasingly being used in law firms. Probably the majority of large firms now use it, though its market share seems to be smaller in small law firms.

**7.2.1.3.** Many firms have adopted Word to enhance their ability to share documents with clients and other persons outside the firm.

**7.2.2.** WordPerfect

**7.2.2.1.** WordPerfect was the long-time favorite in law offices, but has been losing ground in recent years.

**7.2.2.2.** Still, many law offices use WordPerfect, and it is more than capable of creating the documents a law office needs to produce.

**7.2.3.** Microsoft Works - comes pre-installed on many computers

**7.2.3.1.** This package is simple and inexpensive, but not really suitable for production work in a law office setting. Other people will have trouble converting/reading files in the Works word processor format.

**7.3.** Recommendations:

**7.3.1.** For your primary word-processing program, use Word or WordPerfect -- whatever you are more comfortable with.

**7.3.2.** Learn your primary word-processing program well. Productivity can be greatly enhanced by learning to use macros, templates, automatic formatting, and other features.

**7.3.3.** Be aware that conversions between Word and WordPerfect can be problematic because of the very different formatting paradigms and file formats used by the two programs.

**7.3.3.1.** WordPerfect 9, 10, 11, 12 and X3 do a fairly decent job of converting to and from Word, particularly some older versions of Word.

**7.3.3.2.** Word can directly open and convert WordPerfect files if the WordPerfect conversion filters are installed.

**7.3.3.3.** There are also third-party conversion programs such as Conversions Plus, but they often do no better than the conversion routines built into Word and WordPerfect.

**7.3.3.4.** Features such as automatic paragraph numbering and page numbering often do not translate well during conversions.

**7.3.3.5.** Particularly problematic is the practice of "round-tripping" a document - that is, starting with a document in Word, converting it to WordPerfect, and then converting it back to Word (or vice versa). This can result in poorly formatted or even totally corrupted documents.

**7.3.3.6.** Another conversion problem is that Microsoft has changed the file format used by Word almost every time it has upgraded Word, whereas WordPerfect has maintained the same file format (which is more than adequate) for many versions.

**7.3.3.7.** The cleanest conversions are done by saving files as raw text and then reapplying desired formatting in the other program.

**7.3.4.** Because of these conversion problems, the best advice is to become "word-processing ambidextrous" - get both Word and WordPerfect so you can easily deal with documents you receive in either format.

**7.3.5.** Consider using add-on document assembly programs such as HotDocs to automate the production of repetitious documents. These programs can run rings around the merge features of your word-processor, but it takes a substantial time commitment to create forms.

**7.4.** Use the spell-checking feature of your word-processor, but be aware of its limitations.

**7.4.1.** A spell-checker will often catch potentially embarrassing misspellings that proof-

reading might miss.

- 7.4.2. The problem is that using your spell-checker is not a substitute for careful proof-reading because all the program really does is check the word you have typed against its built-in dictionary. Example, "does not" and "doe snot" are equally acceptable to your spell-checker.

## **8. Other Useful Software**

- 8.1. Spreadsheet programs can be useful for record-keeping and computations, including such things as Form 14s.
  - 8.1.1. Microsoft Excel is the most popular program
  - 8.1.2. Corel's Quattro Pro is also a good program and can read and write in Excel format
- 8.2. Presentation programs may be helpful in preparing demonstrations for trials.
  - 8.2.1. Microsoft Power Point is the most popular.
  - 8.2.2. Corel's Presentations can do the same thing.
- 8.3. Database programs can help organize and retrieve large amounts of data.
  - 8.3.1. Microsoft Access is the most popular.
  - 8.3.2. Corel's Paradox is also good.
  - 8.3.3. Probably the easiest to learn and use is FileMaker, which started out on the Mac platform and is also available for PCs.
  - 8.3.4. One use for a database program is to keep track of client files (see "Filing Systems" below).
- 8.4. Financial computation programs (e.g., TimeValue)
- 8.5. Practice-specific programs such as case managers (TimeMatters, Abacus, Amicus, etc.)
- 8.6. Information managers (e.g., Microsoft Outlook, PhoneSlips, etc.)
- 8.7. Adobe Acrobat (or at least Acrobat Reader)
  - 8.7.1. Adobe Acrobat allows both creating and reading PDF (portable document format) files, which have become ubiquitous on the Internet
  - 8.7.2. Acrobat Reader, which is a free download, allows you to at least read PDF files.
- 8.8. Litigation support software
- 8.9. Outlining software (e.g., this outline was prepared with the NoteMap program from CaseSoft - see [www.casesoft.com](http://www.casesoft.com))
- 8.10. Graphics software
- 8.11. Utility software, including anti-virus

## **9. Office Supplies**

- 9.1. The best prices are at stores such as Office Depot and Staples, but the selection is limited compared to traditional office supply companies. To save money, buy what you can from the discount office supply stores and special order hard-to-find items from traditional suppliers.
- 9.2. While it is possible to print return addresses on envelopes from your laser printer when you print addressees' addresses, formatting options may be limited, so you may want to invest in pre-printed letterhead envelopes from a commercial printer.
- 9.3. Many law firms no longer use pre-printed letterhead stationery, opting instead to design and print a letterhead on a laser printer along with the letter. A letterhead template can be set up in your word-processor to insert the letterhead and then allow you or your secretary to start typing the letter. If you do buy pre-printed letterhead, make sure that you specify to the printer that the letterheads will be fed through a laser printer, which heats the paper to set the toner, so heat-resistant inks are necessary. (Some inexpensive pre-printed letterhead uses plastic-based inks, which melts in a laser printer.)
- 9.4. Consider whether it is worthwhile purchasing cotton-content bond paper for correspondence, pleadings, and legal documents. More and more law offices are buying high quality 20-pound general purpose paper for all uses, which is less expensive and avoids paper changes in printers that do not have multiple paper trays.
- 9.5. You will need both #10 envelopes for general correspondence and a selection of larger envelopes for bulky mailings. You may also want #9 return envelopes to send with bills or

correspondence in which you are asking for something to be returned to you (#9 envelopes will fit in #10 envelopes but are large enough to return letter-size pages).

**9.6. Other miscellaneous supplies possibly needed:**

- 9.6.1. Legal pads.
- 9.6.2. File folders.
- 9.6.3. Pens, pencils and highlighters.
- 9.6.4. Tape and tape dispensers.
- 9.6.5. Post-It notes.
- 9.6.6. Paper clips.
- 9.6.7. Staplers and staples.
- 9.6.8. Rubber bands.
- 9.6.9. White-out (believe it or not, you may still need it occasionally, even in this computer age).
- 9.6.10. Consumables for your office equipment (ink jet cartridges, toner cartridges, etc.).
- 9.6.11. Phone message slips or books (unless you use internal email for this purpose).
- 9.6.12. Receipt book (for use when clients or others pay cash).

**10. Law Library**

**10.1.** A relatively well-stocked traditional law library consisting of case books, digests, form books, legal encyclopedia and treatises can easily cost \$20,000 to \$30,000 to set up initially and incur annual maintenance expenses of \$10,000 to \$15,000.

**10.2.** Luckily, less-expensive alternatives are available in the electronic age.

**10.2.1.** A variety of legal materials are available on CD-ROM.

**10.2.1.1.** West has a variety of materials available on CD-ROM, including Missouri cases, the Missouri Practice Series, Am.Jur.2d, pleading and practice forms, etc.

**10.2.1.2.** LOIS has the Missouri Bar handbooks on CD-ROM - can be ordered through the Missouri Bar.

**10.2.1.3.** Other legal publishers also have lots of CD-ROM material available - subscribe to *Law Office Computing* ([www.lawofficecomputing.com](http://www.lawofficecomputing.com)) magazine to find numerous ads.

**10.2.1.4.** CD-ROMs are very compact - you can have the equivalent of a good law firm library on a few disks.

**10.2.1.5.** However, CD-ROM titles are typically updated only quarterly.

**10.2.2.** A staggering amount of legal research material is available on the Internet - some free, some fee-based.

**10.2.2.1.** A fast Internet connection (cable or DSL) is recommended to make most effective use of these resources.

**10.2.2.2.** An advantage is that Internet sources are updated more frequently (often daily) than CD-ROMS.

**10.2.2.3.** LOIS has a fee-based on-line service that includes all the materials available on CD-ROM and more.

**10.2.2.4.** Lexis and Westlaw now have special programs for small firm lawyers which typically include unlimited access to Missouri materials and selected national materials for \$150 to \$400 per month (depending on what materials are selected). This is very inexpensive compared to the cost of maintaining a good book-based private law library.

**10.2.2.4.1.** Note: Westlaw now prices its on-line services at about the same level as CD-ROM services, so it becomes practical to ditch CD-ROMs if you have a fast Internet connection.

**10.2.2.5.** Services such as [www.fastcase.com](http://www.fastcase.com) and [www.versuslaw.com](http://www.versuslaw.com) provide "budget" versions of the same kinds of research materials available from Westlaw and Lexis.

**10.2.2.6.** Among the many free legal resources on the web are the following:

**10.2.2.6.1.** Missouri

**10.2.2.6.1.1.** The Missouri Bar: <http://www.mobar.org>

**10.2.2.6.1.2.** Court System Home Page: <http://www.courts.mo.gov/>

- (Supreme Court rules are available here)
- 10.2.2.6.1.3. Missouri Case.Net:  
<http://www.courts.mo.gov/casenet/base/welcome.do>
  - 10.2.2.6.1.4. Statutes: <http://www.moga.state.mo.us/homestat.htm>
  - 10.2.2.6.1.5. Code of State Regulations:  
<http://www.sos.mo.gov/adrules/csr/csr.asp>
  - 10.2.2.6.1.6. State Government Home Page: <http://www.state.mo.us>
  - 10.2.2.6.1.7. Missouri Lawyers Weekly: [www.molawyersweekly.com](http://www.molawyersweekly.com)
  - 10.2.2.6.1.8. UMC Law Library: <http://www.law.missouri.edu/library>
  - 10.2.2.6.2. Federal/National
    - 10.2.2.6.2.1. FindLaw: [www.findlaw.com](http://www.findlaw.com)
    - 10.2.2.6.2.2. ABA legal links:  
<http://www.abanet.org/tech/ltrc/lawlink/home.html>
    - 10.2.2.6.2.3. ABA: <http://www.abanet.org/>
    - 10.2.2.6.2.4. National directory of court web sites:  
[http://www.ncsconline.org/d\\_kis/info\\_court\\_web\\_sites.html](http://www.ncsconline.org/d_kis/info_court_web_sites.html)
    - 10.2.2.6.2.5. Martindale-Hubbell: <http://www.martindale.com>
    - 10.2.2.6.2.6. U.S. Supreme Court: <http://www.supremecourtus.gov>
    - 10.2.2.6.2.7. 8<sup>th</sup> Circuit Court of Appeals:  
<http://www.ca8.uscourts.gov/index.html>
    - 10.2.2.6.2.8. U.S. District Court, W.D. Mo.:  
<http://www.mow.uscourts.gov>
    - 10.2.2.6.2.9. U.S. District Court, E.D. Mo.:  
<http://www.moed.uscourts.gov>
    - 10.2.2.6.2.10. U.S. Code: <http://www4.law.cornell.edu/uscode>
    - 10.2.2.6.2.11. Federal Register & CFR: [www.archives.gov](http://www.archives.gov)
    - 10.2.2.6.2.12. FRCP:  
<http://www.law.cornell.edu/rules/frcp/overview.htm>
    - 10.2.2.6.2.13. Federal Evidence Rules:  
<http://www.law.cornell.edu/rules/fre/overview.html>
    - 10.2.2.6.2.14. IRS: <http://www.irs.ustreas.gov>

## 11. Personnel

### 11.1. Hiring

- 11.1.1. Many resources are available on how to hire good employees. This section will discuss some of the more important considerations.
- 11.1.2. As a general proposition, you get good employees by offering a decent place to work at a decent salary.
- 11.1.3. Do not "over-hire." Consider your needs carefully. If a part-time employee will meet your needs, do not hire a full-time employee. If you are solo and do any of your own typing, you probably may find it difficult to keep a secretary busy full-time, at least when starting your practice.
- 11.1.4. Before starting the hiring process, prepare a job description and a profile of the ideal employee to fill the job. This will help guide your thinking in advertising the position and interviewing candidates.
- 11.1.5. Develop a job application form that seeks information dovetailing with your job description. Do not ask questions that run afoul of anti-discrimination laws.
- 11.1.6. During interviews, try to ask open-ended questions that invite narrative answers from applicants. You will not get much information if you ask questions that can be answered "yes" or "no."
- 11.1.7. Listen carefully to what applicants say and observe their mannerisms. Often the most important information comes out "between the lines."
- 11.1.8. Check with references and listen carefully to what they say. Some references may be reluctant to come right out and say negative things, but they usually have a way of letting you know they have reservations if you listen carefully.
- 11.1.9. Hire based on qualifications and not on appearance (although a tattooed biker

may not be appropriate as a receptionist).

**11.2. Retention**

**11.2.1.** Retention of good employees hinges on many factors. One of the most important is morale, which is directly related to how you treat employees, both individually and collectively.

**11.2.2.** Another important factor in retaining good employees is offering decent benefits which provide real value.

**11.2.3.** If health insurance and retirement plans such as a SEP (Simple Employee Pension) are beyond your means, consider at least making such benefits less expensive to obtain. One way to do this is through a "cafeteria plan."

**11.2.3.1.** These plans allow bona fide employees, full or part-time, to pay for health insurance, day care, medical and dental expenses, and other benefits with a pre-tax deduction from their salaries. As a result, the actual cost of those benefits to your employees will be less, and your payroll taxes and other employee costs will be reduced as well.

**11.2.3.2.** Cafeteria plans may be available through an insurer at no additional cost if you and your employees carry insurance with the company. Otherwise, you will have to organize the plan through an independent provider for a fee (some accounting firms provide this service).

**11.2.3.3.** If a spouse is a bona fide employee, such plans also enable the spouse to pay for health insurance and medical expenses for himself or herself and your children, pre-tax. Your health insurance expenses may also be payable through your spouse's enrollment in the plan.

**12. Client Intake**

**12.1. Intake sheet.**

**12.1.1.** A good client intake sheet is important. Develop a standard form and use it consistently. Have prospective clients fill it out when they first meet with you.

**12.1.2.** The Missouri Bar "ClientKeeper" forms at <http://www.mobar.org/bef032af-349c-4473-aaf3-3bcfcc8de2f4.aspx> (available in Word and WordPerfect formats) include a sample client intake form.

**12.2. Check conflicts.**

**12.2.1.** Before you agree to represent a prospective client, check for potential conflicts of interest.

**12.2.2.** Information obtained on the client intake form will facilitate this process.

**12.2.3.** Do not rely on memory. Check your list or database of open and closed files for possible conflicts.

**12.3. Avoid clients who will not or cannot pay.**

**12.3.1.** A certain number of clients simply will not pay you all or part of what they owe. Divining who these clients are is an acquired skill, and you likely will be burned a number of times before you learn to weed out most of them. Probably the worst in this category is the "know-it-all" client who really believes that he should be able to handle the legal problem on his own and only grudgingly seeks a lawyer. When the work is done, this client will convince himself that he really did not need a lawyer after all and therefore should not have to pay.

**12.3.2.** Another client from whom you may have difficulty collecting is the one who discharged his previous lawyer(s) and now wants you to handle his case. This client may or may not discharge you, too, but he will almost certainly resist paying your full bill. (Granted, there are occasions when a client is well justified in changing lawyers. The point is, when you encounter this situation, investigate as fully as you can and think long and hard before taking the case.)

**12.3.3.** Clients who cannot pay are fairly easy to identify. With these clients, you simply have to decide how much pro bono work you can afford to do.

**12.4. Engagement letters and representation contracts**

**12.4.1.** Engagement letters and representation contracts are strongly recommended for all new clients and are a good idea when existing or former clients bring in new

matters.

**12.4.2.** Some situations require a written fee agreement, e.g., contingency fees.

**12.4.3.** Sample engagement letters and representation contracts are included in the "ClientKeeper" forms at <http://www.mobar.org/bef032af-349c-4473-aaf3-3bcfcc8de2f4.aspx>

**12.4.4.** Excellent sample attorney-client contracts are available at <http://www.mobar.org/48c8f115-cce2-4d17-b98b-39164eca5558.aspx>

**12.5.** Retainers

**12.5.1.** Protect yourself whenever possible by requesting a retainer to cover anticipated legal fees and expenses.

**12.5.2.** Retainers should be deposited to your trust account.

**12.5.3.** The ethics gurus say that when you wish to bill against the retainer, you should send a statement to the client indicating that specified fees and expenses will be deducted from the retainer on a specified date unless the client objects before then.

### **13. Filing Systems**

**13.1.** Paper files

**13.1.1.** Even in this electronic age, most law firms still maintain all or most of their client files in paper form. On average, a reasonably busy lawyer will generate 100 to 300 or more closed files per year, depending on the type of practice.

**13.1.2.** Recommendations:

**13.1.2.1.** Use letter-size folders. They are less expensive and take much less storage space. Very few legal-length documents are produced any more. Effective January 1, 2002, real estate documents larger than letter-size are penalized with an extra fee when recorded, so the last remaining excuse for using legal-length folders has disappeared.

**13.1.2.2.** Use straight-cut file folders and always place the labels at one end or the other according to your preference. This avoids the mess of multi-tabbed folders.

**13.1.2.3.** Don't be afraid to open new files. It is better to open a file that has just a few pages in it and be able to locate the information than avoid opening a file and not be able to find the information.

**13.1.2.3.1.** However, here is an option for one-shot matters or consultations: Label a set of folders A through XYZ and file the one-shot documents or consultation notes in these folders alphabetically by client name.

**13.1.2.4.** In a small office, it is not necessary to assign file numbers to files before they are closed. Rather, maintain the files in alphabetical categories by client name. Use alphabetical dividers to quickly locate files. It usually is not necessary to alphabetize files within an alphabetical category because there will be a relatively small number to flip through to find the one you want.

**13.1.2.4.1.** Some offices assign a file number when a file is opened, file the folder by the number, and then try to use the same number as the closed file number. This system creates unnecessary difficulty locating open files (because the file number must be looked up first). It also creates a terrible mess when files are closed because files never close in the same order they open.

**13.1.2.4.2.** In a small office, the system that seems to work best is to maintain open files in the personal office of the attorney handling the file. This avoids the delays involved in getting a file every time it needs to be worked on. The file can be temporarily given to secretaries or law clerks when they need to work on it.

**13.1.2.5.** To facilitate conflict-checking, when a file is opened, a database record should be made. Several methods exist:

**13.1.2.5.1.** The old-fashioned method is to use index cards. Multiple cards could be used for cross-referencing purposes - i.e., one card filed by client name, one card filed by opponent name, one card filed by matter, one card filed by type of law, one card filed by responsible attorney, etc. This method

very quickly becomes cumbersome. Also, there is a constant risk of index cards being misfiled or lost altogether.

- 13.1.2.5.2.** The new-fangled method is to make a computer record.
    - 13.1.2.5.2.1.** At the very least, a word-processing document should be maintained which includes the client name, opponent name, matter description, type of law, and responsible attorney of each file. This document can then be searched using the search function of the word-processor.
    - 13.1.2.5.2.2.** A better solution is to enter the information in a spreadsheet program, which allows the data to be sorted in various ways to locate information.
    - 13.1.2.5.2.3.** The best solution is to create a simple database to hold the information. The database can be set up to easily find all records matching particular search criteria. You can make the database as simple or complex as you want, but the suggested minimum fields are:
      - 13.1.2.5.2.3.1.** Date opened
      - 13.1.2.5.2.3.2.** Client name
      - 13.1.2.5.2.3.3.** Matter description
      - 13.1.2.5.2.3.4.** Opponent name
      - 13.1.2.5.2.3.5.** Responsible attorney
      - 13.1.2.5.2.3.6.** Opposing attorney
      - 13.1.2.5.2.3.7.** Type of law
      - 13.1.2.5.2.3.8.** Addresses (not strictly necessary, but helpful to later contact clients without pulling old files, such as when you want to notify estate-planning clients of legal changes that may affect their estate plans)
      - 13.1.2.5.2.3.9.** Date closed
      - 13.1.2.5.2.3.10.** Closed file number
  - 13.1.2.6.** When a file is closed, assign a closed file number to it. Start with 0001 to allow for 9,999 numbers or 00001 to allow for 99,999 numbers. Place the closed files in numerical order by the assigned closed file number. Add the closed file number to the database record for the file that you made when the file was opened. Then you can retrieve the closed file, if necessary, by looking up the closed file number.
  - 13.1.2.7.** To paraphrase a now politically incorrect expression, "The only good file is a closed file." The idea is that the sooner you finish the work and get the file closed, the sooner you get paid. However, beware of closing a file too soon. It is often the case that additional items come in that need to be placed in a file for several months after the matter is theoretically completed. If you have the active filing space, wait at least three months after the work has been completed before closing a file. Otherwise, you will find yourself constantly having to locate closed files to put additional materials in them.
- 13.2.** Form files
    - 13.2.1.** In the past, many attorneys maintained form files in file folders labeled with the type of document or in labeled three-ring binders.
    - 13.2.2.** Now, many forms are maintained on computer. For organizational suggestions, see 13.3.2.4.
  - 13.3.** Managing computer files
    - 13.3.1.** Document management software is one solution, but can be expensive to implement in terms of both software cost and staff training
      - 13.3.1.1.** Document management systems categorize documents by information typed into pre-defined fields when the document is saved. Some of them also create an searchable index of the text contained in documents.
      - 13.3.1.2.** Documents can then be retrieved by querying the document database.
      - 13.3.1.3.** Most document management systems assign actual computer file names as what appears to be a random a number-and-letter combination and control the

physical and logical location of the file on the hard disk. This can make it difficult to locate documents if the document database becomes corrupt.

**13.3.2.** For a small firm, using a system of pre-defined directories (folders) and the long-filename feature of modern operating systems may be a better solution.

**13.3.2.1.** To facilitate sharing of files on a shared hard drive, first create a top-level directory and name it something like "ALL." You can then map this directory to a drive letter on network work stations.

**13.3.2.2.** Under the ALL directory, create another directory named "CLIENTS."

**13.3.2.2.1.** Under the CLIENTS directory, create 26 directories named "A" through "Z"

**13.3.2.2.2.** When a new client-matter is opened, create a directory for it under the appropriate alphabetical directory according to the client's name. Then store all documents relating to that client-matter in that directory.

**13.3.2.2.3.** You can create macros in your word-processor to quickly switch to an alphabetical directory so you can easily open the appropriate client-matter directory. In WordPerfect, such a macro would look like this:

**13.3.2.2.4.** Application (A1;"WordPerfect";Default;"EN")

**13.3.2.2.5.** Directory="c:\all\client\a"

**13.3.2.2.6.** FileChangeDir (directory)

**13.3.2.2.7.** FileOpenDlg ()

**13.3.2.2.8.** A WordPerfect macro to save a file would look like this:

**13.3.2.2.9.** Application (WordPerfect; "WordPerfect"; Default!; "EN")

**13.3.2.2.10.** FileSave("c:\all\client\a\";;Prompt!)

**13.3.2.3.** For archiving client-matter computer files when a case is closed, create a directory under each alphabetical client directory named "\_ARCHIVE" (the underscore is necessary so this new directory will always appear first in directory listings).

**13.3.2.3.1.** Then simply move inactive client directories to the appropriate \_ARCHIVE directory. This way they will be readily accessible if you need to look at something in an inactive client directory.

**13.3.2.3.2.** Alternatively, to save disk space, you can compress inactive client directories in ZIP format and move the ZIP file to the appropriate \_ARCHIVE directory. However, this makes it more difficult to access closed computer files and is less necessary with today's very large hard disks.

**13.3.2.4.** Form files can be handled in a somewhat similar fashion by creating a directory under ALL named "FORMS" and then creating appropriate subdirectories under that for various types of forms. The form subdirectories can have further subdirectories - e.g., the "Contracts" directory could have subdirectories for "Employment," "Real Estate," etc.

**13.3.2.5.** Computerized research files on various topics can also be organized in this general fashion by creating a "RESEARCH" subdirectory under "ALL" and then creating appropriate subdirectories under RESEARCH to contain files relating to particular legal topics.

**13.3.2.6.** If such a system is adopted, one person should be responsible for defining the main directories to be used, and that person should document how the system is to be used.

**13.3.2.7.** Using the long-filename feature judiciously will help locate files. Develop guidelines for how filenames should be entered.

**13.4.** Paperless office

**13.4.1.** Some steps are being made toward paperless offices, but we are not there yet.

**13.4.2.** Legal technology consultants are advocating an approach which allows many, but not all, documents to be stored electronically.

- 13.4.3. An example of what can be done with a fairly inexpensive scanner and the appropriate software is the Visioneer scanner with automatic document feeder and the accompanying Paperport software from ScanSoft.
- 13.4.3.1. With this scanner and software, it is possible to scan most important documents coming into an office and then file the images electronically on your hard drive, using the same general principles mentioned above in 13.3.
- 13.4.3.2. The accompanying software also allows doing optical character recognition (OCR) on documents such that they are converted to editable text rather than just images.
- 13.4.4. As long as courts, clients and others insist on having paper documents, some paper files will be with us.

## **14. Calendar/Docket**

- 14.1. General guidelines:
  - 14.1.1. Your malpractice insurance carrier will want information about your calendar/docket systems for underwriting purposes because missed deadlines are a leading cause of malpractice claims.
  - 14.1.2. In general, you should have your calendar/docket information recorded in at least two places so it can be accessed if one source is lost or destroyed.
    - 14.1.2.1. This can be paper calendars maintained by both you and your secretary.
    - 14.1.2.2. It can be individual tickler reminders for each event in conjunction with a paper calendar.
    - 14.1.2.3. It could even be an electronic calendar on a computer with a backup copy, or another copy synchronized to a handheld computer.
  - 14.1.3. Your calendar/docket system should include the following at a minimum:
    - 14.1.3.1. Appointments (and preparation for them).
    - 14.1.3.2. Court and deposition appearances (and preparation for them).
    - 14.1.3.3. Statutes of limitations applicable to a case.
    - 14.1.3.4. Procedural deadlines.
    - 14.1.3.5. Review of legal publications.
    - 14.1.3.6. File review frequency.
- 14.2. To-do lists and tickler file
  - 14.2.1. Rather than working from a pile of papers and folders on your desk, you should work from a prioritized to-do list and keep the papers in folders and the folders filed in their normal resting places. The only folder on your desk should be the one you are working on. Cross off items on your to-do list as you complete them. The next day prepare a new prioritized to-do list, carrying forward the items not done from the previous day's list.
  - 14.2.2. Even with the availability of computers, a paper tickler file is still very helpful.
    - 14.2.2.1. Use hanging file folders (Pendaflex or similar).
    - 14.2.2.2. Label the folders 1-31, January-December, and future years.
    - 14.2.2.3. For a particular month, place paper reminders in the appropriate numeric files for the date of the month.
    - 14.2.2.4. For things to be done in a future month, place paper reminders in the file for the appropriate month.
    - 14.2.2.5. First thing each morning, pull the paper reminders out of the numeric file for the current date and prepare your to-do list. If you can't get to everything and some items will keep, move them forward to another appropriate date.
    - 14.2.2.6. At the end of each month, pull the items from the file for the next month and distribute them into the appropriate numeric files for the days of the next month.
    - 14.2.2.7. At the end of each year, pull the items from the future years folder that apply to the coming year and distribute them into the appropriate folders for the coming year.
    - 14.2.2.8. Whenever you generate a document of any kind that requires any future action on your part (letter, pleading, discovery request, etc.), make or have your

secretary make an extra copy for the tickler file (or at least a copy of the first page or so if the document is lengthy). Mark the document with a "T" (for tickler) for "R" (for "reminder") and place it in the appropriate tickler folder for future action. Do the same with incoming documents that require future action. Whenever you think of something that needs to be done, jot a note and put it in your tickler file.

**14.3. Paper calendars**

**14.3.1.** If you use a paper calendar, pick a style that is comfortable for you and allows enough space to write down your upcoming events.

**14.3.2.** Many lawyers find it helpful to use a monthly format calendar that allows them to easily look ahead to upcoming events.

**14.4. Computer calendars**

**14.4.1.** A variety of computerized calendars are available.

**14.4.2.** Microsoft Outlook includes a good calendar and comes with many new computer systems.

**14.4.3.** Another good option for small law firms is PHONEslips - see [www.telexis.com](http://www.telexis.com)

**14.4.4.** If you have staff members, use a computerized calendar that allows your staff to view and make entries on your calendar.

**14.5. Practice Management software**

**14.5.1.** Examples are TimeMatters, Abacus and Amicus

**14.5.2.** These programs combine a number of functions including:

**14.5.2.1.** Calendar/docket

**14.5.2.2.** To-do lists

**14.5.2.3.** Contact management (names, addresses, etc.)

**14.5.2.4.** Matter management (all notes and computer documents relating to a particular matter can be accessed in one location, if appropriate entries are made as the matter progresses)

**14.5.2.5.** Internal office email and phone messages (and sometimes Internet email)

**14.5.2.6.** Document production using merge information from the practice management program

**14.5.2.7.** Synchronization with handheld computers

## **15. Accounting and Taxes**

**15.1.** So far as possible, run all transactions through bank accounts to provide backup information and audit trails.

**15.1.1.** Avoid use of petty cash. It is difficult to keep track of and is often "lost."

**15.1.2.** Rather, you and your staff members should pay for petty items and obtain reimbursement by check from the firm. Small petty expenditures can be accumulated until reimbursement is sensible.

**15.2. Recommended bank accounts:**

**15.2.1.** General account. Use this to pay law firm bills including net payroll. Most firms also use this account to deposit their income.

**15.2.2.** Trust account. Use this to hold funds that do not belong to the law firm, such as pending settlement monies, escrowed funds for real estate transactions, and unearned retainer fees.

**15.2.3.** Tax account. Whenever you do a payroll, write a check from your general account and deposit it to your tax account to cover the withholding tax liabilities as well as accruals for unemployment taxes. Write checks on the tax account when you need to make tax payments. (Some firms simply hold the tax monies in their general account, but this requires constant vigilance to maintain a sufficient balance to pay your taxes, and there is a temptation to dip into the money for other purposes, leaving you short when it comes time to pay taxes.)

**15.2.4.** Deposit account. Some firms also use an interest-bearing deposit account into which they deposit all income. This may make it easier to track income. The only withdrawals from this account would be transfers to the general account to pay bills.

Using such an account may be overkill for a new firm just starting out, but should be considered when the firm grows.

- 15.3.** Accounting system
  - 15.3.1.** Can be a traditional paper ledger system
  - 15.3.2.** More common today is a computerized system
    - 15.3.2.1.** Quickbooks is a good general accounting program used by many law firms.
    - 15.3.2.2.** Quicken is also used by some law firms, particularly small firms.
    - 15.3.2.3.** PCLaw is a legal-specific accounting program that includes general ledger, trust accounting, and time and billing, among other features.
    - 15.3.2.4.** A number of other generic and legal-specific accounting programs are available, but most are more expensive than those listed.
  - 15.3.3.** Whatever system is used, the chart of accounts should include:
    - 15.3.3.1.** Assets
    - 15.3.3.2.** Liabilities
    - 15.3.3.3.** Income, including fee income collected by each lawyer and other income categories
    - 15.3.3.4.** Expenses, categorized by type of expense
  - 15.3.4.** The assistance of an accountant is recommended to set up an appropriate chart of accounts, particularly if you are using accounting software.
- 15.4.** Taxes
  - 15.4.1.** Applications for tax I.D. numbers
    - 15.4.1.1.** Any firm which has employees must apply for:
      - 15.4.1.1.1.** Federal Employer Identification Number (FEIN), which is used for reporting employee withholding, entity-level tax returns, and federal unemployment tax.
      - 15.4.1.1.2.** Missouri withholding tax number.
      - 15.4.1.1.3.** Missouri unemployment tax number.
    - 15.4.1.2.** A partnership, corporation or LLC must obtain:
      - 15.4.1.2.1.** A FEIN for entity-level tax reporting (even if there are no employees)
      - 15.4.1.2.2.** A Missouri partnership or corporate tax number for entity-level tax reporting (even if there are no employees)
    - 15.4.1.3.** Any firm which purchases goods from out of state must obtain a use tax number.
  - 15.4.2.** Income tax - federal and state
    - 15.4.2.1.** A sole proprietor does not file a separate income tax return for his or her law practice. Rather, the income, expenses and net profit or loss are reported on Schedule C to the individual tax return, and the net profit or loss is included on the face of the tax return. A sole proprietor will be required to make estimated tax payments to the IRS and MoDoR four times per year.
    - 15.4.2.2.** A partnership files an informational return with the IRS and MoDoR. The net profit or loss of the partnership is allocated to the partners, who report their shares of the profit or loss on their respective individual income tax returns. Partners are required to make estimated tax payments to the IRS and MoDoR four times per year.
    - 15.4.2.3.** A corporation which has not elected Subchapter S treatment files a corporate tax return with the IRS and MoDoR and pays tax on any net income. A Subchapter S corporation files an informational return with the IRS and MoDoR on which the net profit or loss of the corporation is allocated to the stockholders, who report their shares of the profit or loss on their respective individual income tax returns. In both cases, however, salaries paid to stockholders are subject to withholding, so estimated tax payments are not generally necessary (at least for their law firm income).
    - 15.4.2.4.** An LLC which has elected partnership tax treatment is subject to the same rules as a partnership. An LLC which has elected corporate tax treatment

is subject to the same rules as a corporation which has not elected Subchapter S.

- 15.4.2.5.** NOTE: The IRS takes the position that expenses which a law firm advances on behalf of its clients are not deductible expenses for income tax purposes, but rather constitute loans to the clients. As a result, the proper procedure is not to claim client expenses as deductions, but also do not include reimbursements that you receive from clients as income. The only time you can deduct a client expense is as a "bad debt" when it is clear the client is not going to reimburse you.
- 15.4.3. Payroll taxes**
  - 15.4.3.1.** When a law firm obtains an FEIN and a state withholding number, it will be sent withholding instruction booklets by the IRS and MoDoR.
  - 15.4.3.2.** Each employee must fill out an employee withholding certificate to specify the number of withholding exemptions (if any)
    - 15.4.3.2.1.** Federal Form W-4
    - 15.4.3.2.2.** Missouri Form MO W-4
  - 15.4.3.3.** The booklets explain how much withholding is required from employees' paychecks:
    - 15.4.3.3.1.** The federal and state income tax withholding is based on the frequency of the payroll, the gross amount of the employee's pay, and the number of withholding exemptions claimed by the employee.
    - 15.4.3.3.2.** The Social Security tax is 12.4% of the employee's gross pay. Of this amount, 6.2% is withheld from the employee's pay, and the other 6.2% is paid by the employer. In 2004, Social Security tax is payable only on an employee's first \$87,900 in gross earnings.
    - 15.4.3.3.3.** The Medicare tax is 2.9% of the employee's gross pay. Of this amount, 1.45% is withheld from the employee's pay, and the other 1.45% is paid by the employer. There is no cap on wages subject to the Medicare tax.
  - 15.4.3.4.** For small law firms, federal withholding deposits are made monthly (due by the 15th of the following month). They include federal income tax withholding, the employees' and employer's Social Security taxes, and the employees' and employer's Medicare taxes. The IRS will provide coupons to be filled out to submit the withholding deposits to your bank.
    - 15.4.3.4.1.** Within 30 days after the end of each quarter, you must file a 941 tax return with the IRS which summarizes withholding taxes for the quarter.
  - 15.4.3.5.** Small law firms are required to make quarterly deposits of state income tax withholding. These deposits are mailed to MoDoR using a coupon provided by MoDoR.
    - 15.4.3.5.1.** A year-end summary return of Missouri withholding taxes must be filed on a form provided by MoDoR.
  - 15.4.3.6.** W-2 forms must be provided to employees by January 31. Copies are also sent to the Social Security Administration and MoDoR.
  - 15.4.3.7.** Keep a separate payroll record for each employee for each paycheck issued which shows the gross pay, all deductions, and the net pay.
- 15.4.4. Federal unemployment tax (FUTA)**
  - 15.4.4.1.** FUTA is not deducted from employees' pay. It is a tax directly paid by the employer. It is paid only on the first \$7,000 paid to each employee. The tax rate (if you also pay SUTA) is .8% (.008).
  - 15.4.4.2.** Quarterly FUTA tax deposits are required. This can be done at your bank using coupons provided by the IRS.
  - 15.4.4.3.** An annual 940 return is required to report FUTA taxes to the IRS.
- 15.4.5. State unemployment tax (SUTA)**
  - 15.4.5.1.** SUTA is not deducted from employees' pay. It is a tax directly paid by the employer. As of 2006, It is paid only on the first \$11,000 paid to each employee. The tax rate will vary depending on your unemployment claim experience. Starting out, the rate is likely to be about 3.5%, but if you have no claims, it will

decrease in future years.

**15.4.5.2.** The Missouri Division of Employment Security will send you a quarterly SUTA return form which is due by the end of the month following the end of each quarter. You use this form to compute the tax and send the tax payments to the Division.

**15.4.6. Use tax**

**15.4.6.1.** If your firm purchases goods from outside of Missouri (e.g., Internet purchases or mail order), you must apply for a use tax registration.

**15.4.6.2.** MoDoR will send you a quarterly use tax return form.

**15.4.6.3.** No use tax is owed until total purchases during a calendar year equal or exceed \$2,000. Until that occurs, you simply check a box on the return form stating that your out-of-state purchases are less than \$2,000 and send in the form.

**15.4.6.4.** If your out-of-state purchases equal or exceed \$2,000, on the next quarterly return you must report the total of such purchases, compute the use tax, and send in the payment with the form. Additional purchases during the year must also be reported and the tax paid on them.

**15.5.** Receivables are monies owed to your law firm. They are covered in 16.

**15.6. Payables**

**15.6.1.** Payables are bills owed by your firm, such as rent, utilities, postage, law library expenses, etc.

**15.6.2.** Keep a running list of your payables and keep enough money on hand to pay them in timely fashion.

**15.6.3.** Many accounting programs include an accounts payable function which can track payables and print checks to appropriate payees when you instruct.

**15.7. Manage your overhead**

**15.7.1.** If you have been sensible in your startup expenses, have not hired staff members until you can afford them, and are keeping busy with your practice, you will probably find that you are making money.

**15.7.2.** But it is imperative to review your financial information at regular intervals to determine if problems are developing, such as too many expenses and too little income. If so, you must be prepared to make adjustments quickly.

## **16. Billing and Collection**

**16.1.** Imagine that you have a 6-foot length of 3-inch-diameter plastic pipe and several boxes of Kleenex. If you start stuffing Kleenexes into one end of the pipe, eventually the pipe will fill up and tissues will begin dropping out of the other end. However, if you slow down or stop putting more Kleenexes in, then the number of tissues coming out the other end will slow down or stop. This is the analogy given to me by my first senior partner when I began practicing law to describe the generation and collection of legal fees.

**16.1.1.** What he meant was that it takes some time to start generating and collecting legal fees when you start practicing law.

**16.1.2.** Further, if you slow down in your practice, then, inevitably, your collections will eventually drop off, too, though the effect may not be immediate.

**16.1.3.** Whenever I start feeling a bit lazy, I think about the plastic pipe and the Kleenex, and I start cranking again.

**16.2.** Billing is generally based on time at an hourly rate (usually recorded and billed in 1/10 hour increments), flat fees for particular services, or contingency fees.

**16.2.1.** You should informally contact other attorneys in the area where you will start your practice to get some feel for the rates being charged in that area and then set your fees accordingly. But beware of antitrust implications.

**16.2.2.** Much has been written about moving away from the time billing system, but many firms still use it for much of their work. Various publications about billing systems are available from the ABA Law Practice Management Section.

**16.3.** Whether you use time, a flat fee or a contingency fee for a particular matter, you need some method of recording the time or fee (as well as client expenses) and sending

out bills.

**16.3.1.** The traditional method used when I started practice was to record time, flat fees, and client expenses on paper time slips. The information from these time slips was then typed onto statement forms and sent to clients. It was a very time-consuming, labor-intensive process.

**16.3.2.** Starting about 20 years ago, most large law firms began using computerized systems to record time, flat fees and client expenses.

**16.3.3.** About 15 years ago, such programs became available at a reasonable cost for smaller law firms.

**16.3.3.1.** One of the first was Timeslips, which is still a very popular program and does an excellent job of recording data, printing bills, and tracking receivables. The downside of Timeslips is that it does not always interface well with accounting programs and therefore may require some double entry of accounting information. You must also be careful to review your checkbooks to ensure that all client expenses have been recorded in Timeslips before you bill clients.

**16.3.3.2.** Another program which has been around for a number of years is PCLaw and PCLaw Pro (the latter being more expensive and intended for large firms). PCLaw has the advantage of being a complete law office accounting program with a "one-write" data entry paradigm, which also happens to include a very good time, fee and client expense recording and billing system. It includes general ledger and trust accounting and maintains a client ledger showing all transactions on each client-matter. Like Timeslips, time can be recorded with a timer in a window which mimics an old-fashioned paper time slip.

**16.3.3.3.** Other programs are available but are generally more expensive or not as capable.

**16.4.** Billing strategy

**16.4.1.** Send out bills at least once a month - twice a month if you are ambitious.

**16.4.2.** Aim to have bills in your clients' hands somewhat before the end of each month because individuals and businesses tend to pay bills either at the end of a month or the beginning of a month.

**16.4.3.** Whether you use manually typed bills or computer-generated bills, the address should be printed where it will show through the window of a #10 window envelope for mailing.

**16.4.4.** Law firms traditionally did not supply return envelopes to their clients. However, you will find that you will collect your bills much better if you include return envelopes. A #9 return envelope with your pre-printed address will fit nicely inside a #10 window envelope along with the bill. The #9 size is adequate for returning large business-style checks. (Note: You can also provide the #9 return envelopes to your clients and others for return of documents.)

**16.4.5.** Stay on top of your receivables. Review them carefully every time you do a regular billing. If you're using a computer program, it should be able to give you a comprehensive report of receivables in various aging categories (e.g., 30 days overdue, 60 days overdue, etc.). Establish a policy of sending out reminder bills on unpaid accounts as part of your monthly billing process. When a bill gets to be 60 days overdue, start sending letters with increasing force along with the reminder bills. Threatening collection action is appropriate when a bill is 120 days past due.

**16.5.** If it becomes clear that a client is not going to pay, and you can do so without violating ethical rules, do not hesitate to withdraw - cut your losses!

**16.6.** Attorneys can use a collection agency, but review the agency's program carefully before engaging it to ensure that its activities will not violate lawyer ethics rules and will comply with the Fair Debt Collection Practices Act.

**16.7.** Use caution in suing clients for unpaid fees. Such suits often result in malpractice counterclaims.

## **17. Firm Manual**

**17.1.** The purpose of developing a firm manual is to set policies and establish

procedures that will keep your office operating efficiently and productively and to provide a training and reference resource for new personnel.

- 17.2. Topics that should be covered include:
  - 17.2.1. Organization of the law firm
  - 17.2.2. Functions of support personnel
  - 17.2.3. Personnel policies
  - 17.2.4. Procedures for preparation of correspondence, memoranda and legal documents, including style guidelines
  - 17.2.5. Office security and emergency procedures
  - 17.2.6. Financial management
  - 17.2.7. Filing systems
  - 17.2.8. Technology
  - 17.2.9. Communication systems
  - 17.2.10. Duplicating services
  - 17.2.11. Equipment, maintenance and supplies
  - 17.2.12. Library
  - 17.2.13. Travel
  - 17.2.14. Messenger and delivery services
- 17.3. You do not have to reinvent the wheel to write a firm manual. The ABA Law Practice Management Section publishes two excellent books that can serve as a framework to draft your own firm manual. Both books come with the text on floppy disk so you can revise it to suit your own circumstances.
  - 17.3.1. *Law Office Procedures Manual for Solos and Small Firms, Second Edition*, by Demetrious Dimitriou
  - 17.3.2. *Law Office Policy and Procedures Manual, 4th Edition*, by Robert C. Wert and Howard I. Hatoff

## 18. Insurance

- 18.1. Premises Liability: You need this insurance to protect you from claims if people are injured on your premises.
- 18.2. Business Casualty: This insurance protects your equipment and furnishings from casualty loss and can also cover business interruption damages.
- 18.3. Malpractice: Just do it. Check rates. You'll probably find the best rates from The Bar Plan Mutual Insurance Company.
- 18.4. Fidelity bonds: You may wish to seek this protection against theft by employees who handle money.
- 18.5. Worker's compensation: If you have five or more employees, Missouri law requires that you carry worker's compensation insurance. You can opt-in to worker's compensation with fewer employees if you wish. Partners can be considered as employees at their option and covered by such insurance. General corporation employees are considered employees for purposes of worker's compensation; corporate officers including stockholders who are employees can opt-in to this coverage if desired.

## 19. Marketing

- 19.1. Speaking engagements
- 19.2. Business cards
  - 19.2.1. Attorney name
  - 19.2.2. Firm name
  - 19.2.3. Address
  - 19.2.4. Phone numbers
    - 19.2.4.1. Business
    - 19.2.4.2. Home (maybe)
    - 19.2.4.3. Fax
    - 19.2.4.4. Cell (maybe)
  - 19.2.5. Email address
  - 19.2.6. Web site address

- 19.2.7.** Practice areas - not often done, but can be a good idea
- 19.3.** Law directories are possible sources for referrals from other lawyers, for the most part (not much good for contacts from the general public).
  - 19.3.1.** Martindale-Hubbell.
  - 19.3.2.** Missouri Legal Directory.
  - 19.3.3.** Specialty directories.
- 19.4.** Internet directories
  - 19.4.1.** Martindale-Hubbell
  - 19.4.2.** West Legal Directory
  - 19.4.3.** AttorneyFind
  - 19.4.4.** Many others
- 19.5.** Advertising
  - 19.5.1.** Newspaper.
  - 19.5.2.** Radio.
  - 19.5.3.** TV.
- 19.6.** Yellow Pages
- 19.7.** Web site
- 19.8.** Networking
- 19.9.** Referrals from clients or other attorneys
- 19.10.** Legal referral services
- 19.11.** Civic activities
- 19.12.** Newsletters
- 19.13.** Nitch Practice