



New Lawyers Training:

Professionalism, Client Funds & Law Office Management

Tuesday, December 18, 2018





Cincinnati Bar
ASSOCIATION

New Lawyers Training December 18, 2018

Agenda

1 p.m. **Law Office Management** **TAB A**
Peggy Gruenke, *CPN Legal*

2 p.m. **The Ins & Outs of Client Funds Management** **TAB B**
Jonathan E. Coughlan, Esq.

3 p.m. **Break**

3:15 p.m. **Professionalism: Giving & Growing Through Pro Bono Service** **TAB C**

Moderator: Martha Asseff, Esq., *Commission on Professionalism*
Panelists: Erin Childs, Esq., *Pro Bono Partnership of Ohio*
Kimberly Helfrich, Esq., *Director, Guardian ad Litem Division,*
Hamilton County Public Defender's Office
Paul Hunt, Esq., *ProKids*
Anne Lucas, Esq., *Volunteer Lawyers for the Poor*

4:15 p.m. **Adjourn to the Lawyer to Lawyer Give Back to Justice Networking Reception**
Sponsored by the Supreme Court of Ohio's Lawyer to Lawyer Mentoring Program
Network with colleagues, old and new, while you learn about opportunities to use your legal skills to give back and promote access to justice.

TAB A



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ASSOCIATION

**New Lawyers Training:
Professionalism,
Client Funds
& Law Office Management**

Tuesday, December 18, 2018

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Law Office Management The Business of Law

Peggy Gruenke | peggy@cpn-legal.com
 Law Firm Management Consultant
 Clio Gold Level Certified Consultant
 Law Firm Bookkeeping Specialist

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Managing Your Risk

- What is Risk Management
- Procedures for Managing Your Risk
- How to Avoid a Potential Malpractice Claim

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Managing Your Finances

- Law Firm Finances
- How you will make money
- Tips for a more profitable business
- Tips for Billing and Getting Paid



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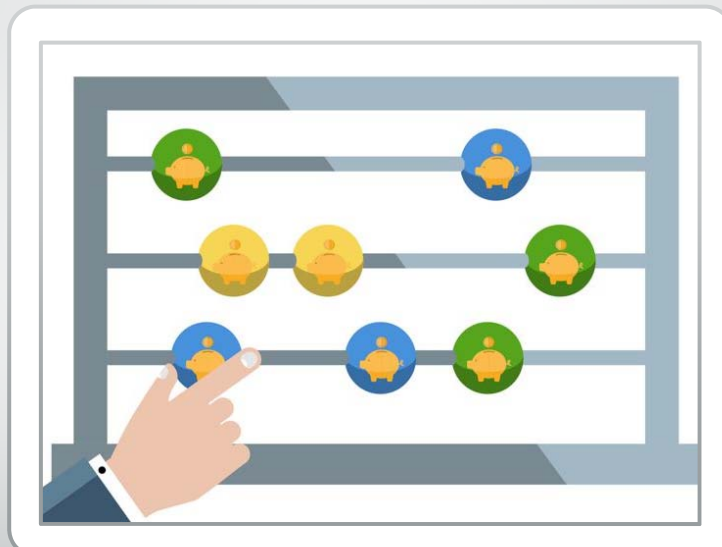
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Law Firm Finances

- Your Billing Rate
- Your Billable Hours Captured
- Your Billing Realization Rate
- Your Collection Realization Rate
- Collecting the Money



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How Much Money Will You or Can You Make in this Business

SCENARIO #1					
How Much Money Can you Make					
85% Collection Realization					
90% Billing Realization					
Desired Compensation	\$	75,000.00			
Payroll Taxes	\$	9,000.00	12%		
Total overhead expenses (no salary)	\$	48,000.00	\$4000/mn		
Emergency Fund (4mns x 4,000)	\$	16,000.00			
Desired Profit	\$	20,000.00			
TOTAL REQUIRED REVENUE:	\$	168,000.00			
Revenue Collected - From Below	\$	275,400.00			
Billing Realization Rate: (% of hours recorded that end up on the invoice)		90%	Effectuated by discounts at time of billing		
Collection Realization Rate: (% of fees billed that are collected)		85%	Effectuated by writing off fees after billing (AF		
Gross Fees Collected (85% collection rate)	\$275,400.00				
Total Hours Billed	1440	48 wks, 30 hrs/wk			
Current Hourly Rate	\$250				
Total Fees Billed (assume 90% billing realization rate)	\$324,000.00				
Total Fees Collected	\$275,400.00	On a 85% Collection Realization Rate			

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Your Effective Hourly Rate vs. Your Billable Hourly Rate

$$\frac{\text{Fees Received}}{\text{Hours Billed}} = \text{EHR}$$



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Flat Fees and Law Firm Economics What Do You Measure?



Exam historical data

- Billing data
- Collections history
- Number of flat fee cases
- Cost per flat fee matter
- Revenue per flat fee matter
- Profit per Flat Fee Matter

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Tips for a More Profitable Business

A chalkboard with the words 'THINK PR%FIT' written in white chalk. The text is centered on a black background, which is framed by a red border. The letters are thick and have a slightly rough, hand-drawn appearance.

THINK
PR%FIT

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Tips for Billing and Getting Paid



Invoices Include Accounting Record Of Trust Funds

Duty to notify client

- A favorite Clio feature for any lawyer concerned with following trust accounting rules.

Type	Date	Amount	Description	Quantity	Rate	Total
Service	07/15/2014	00	Consultation in Person	0.50	\$225.00	\$112.50
			Disbursement Fee			
Quantity Subtotal				0.5		
					Subtotal	\$112.50
Quantity Total				2.5		
					Subtotal	\$5,112.50
					Total	\$5,112.50
From Client Trust Funds					Payment 07/20/2014	\$500.00

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Managing Your Documents and Client Communications

- Documents are your life
- File Retention Policies
- Close File Checklist, as a sample
- Emails and Attachments
- Texting



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Create and Use Checklists (or automate these into tasks)

- Closing Files
- Conflict Checks
- New Client Setup
- Preparing Estate Planning Documents
- Setting up an LLC
- So many more opportunities

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Managing Your Office's Technology

- Embracing the Cloud
- Law Practice Management Software Options

Technology
Practice
Tips

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Office Equipment for Increased Productivity

- Fujitsu ScanSnap: Scanner/Copier and simply the best thing you will ever buy
- Need a fax line – Try MyFax
- Desktop Printers – Don't ignore speed to save money
 - Brother
 - Hewlett Packer
- Laptops and Docking Stations
- Multiple Monitors – and Big Monitors

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Software, Storage and Email Options

- Office 365
 - Get everything you need in one product
- Google GSuite for Business
- PDF Software
 - Why? Because you work in documents all day long
 - Edit PDFs, Convert PDFs to Word/Excel, Create Forms, Scrub Metadata, Bates Stamp
 - Nuance PDF – one price and no monthly recurring expense
 - Adobe - \$14.95/mn

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Cloud Based Practice Management Software

Look for features important to you and the way your work

- Clio
- Rocket Matter
- Practice Panther
- CasePeer for personal injury lawyers
- CosmoLex
- ActionStep (has full accounting)
- Leap
- MyCase
- And many more

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Accounting Software

Whatever you choose needs to interface with your time and billing software

- QuickBooks Online
- Xero
- FreshBooks

Payment Solutions

Needs to handle Operating and Trust Deposits

- LawPay
- HeadNote
- PayPal
- Square
- MidWest Processing – a local business

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20 Tips for New Lawyers



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COMMUNICATE, COMMUNICATE, COMMUNICATE

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Legal Document Management Software Keeps Your Firm Organized.

- Access
- Search
- Create
- Merge
- Assemble
- Share
- Store

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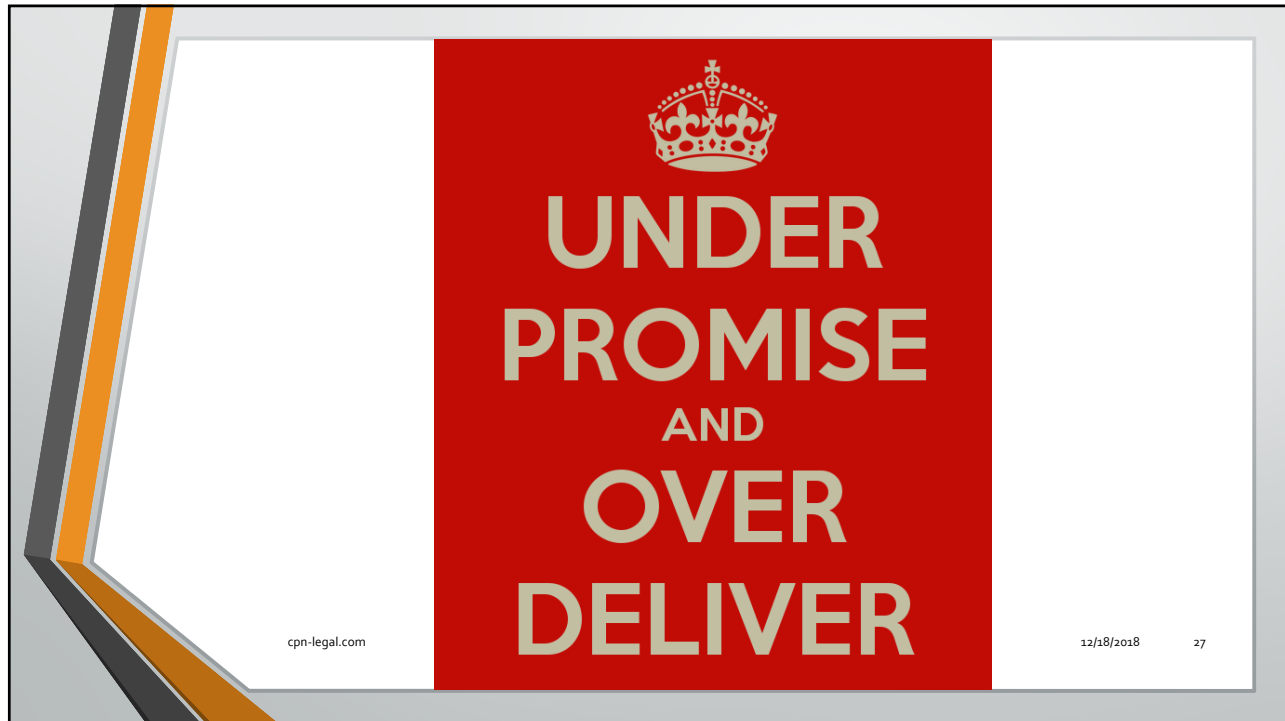
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Thank you – it
was my pleasure!

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Managing Your Risk and Your Clients

Dealing with malpractice claims can bring your practice to a standstill. Most attorneys today cannot afford to expend the time and energy required to deal with such claims regardless of the validity of the claim. Instead, spend the time proactively doing your best to insure your practice from the risk of malpractice. There are also new risks in the form of social media, risks associated with a virtual practice and safeguarding client data.

A. What does Risk Management Entail

1. Procedures for Client Intake and Selection
 - a. Conflicts of Interest Check Procedures
 - b. Creating Client Intake Sheets
2. Procedures for Initial Client Meetings
3. Using Engagement Letters
 - a. Engagement letters
 - b. Non-Engagement Letters
 - c. Disengagement Letters
 - d. End of Representation or Thank you Letters



• **Tech Tip:** Create templates and merge data. Send electronically.

4. Using Fee Agreements
 - a. Hourly Fee Agreements
 - b. Flat Fee Agreements
 - c. Contingent Fee Agreements
 - d. Pro Bono Agreements
5. Procedures for Docketing Court Dates
 - a. CourtRules www.calendarrulesforoutlook.com
 - b. Clio
 - c. LawToolBox
6. Procedures for Storing Client Data and Managing Documents
 - a. Email Management
 - i. Getting your emails related to a Matter all in one place
 - ii. Dealing with Attachments
 - iii. Secure email options
 - b. Client Documents
 - i. Cloud Based storage options
 - ii. Securing data stored on laptops/mobile devices
 - c. Backup and Data Recovery
7. Procedures for Closing Files

8. Procedures for Managing IOLTA Funds

B. How to Avoid Legal Malpractice

1. Communication, communication and more communication
2. Know your clients
3. Use your calendar and set up a system for managing statute of limitations
4. Beware of potential conflicts of interest
5. Set fees and document your time
 - a. Apps for capturing time
6. Maintain good client relations
 - a. Be nice, empathetic and courteous
7. Confirm all important questions and decisions in writing
8. Triple check all outgoing documents and files
9. Do adequate research and consult experts
10. Stay up-to-date on technology and ethics related to online marketing.
 - a. Under revised ABA Model Rules of Professional Conduct (08/2102 from the Ethics 20/20 Task Force)
 - b. Lawyers Have Duty to maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.

Managing Your Finances: You are in business to make money

A. Review “Will You Make Money” handout

Law firms are simple businesses

The effect of hourly rates, billing realization rates and collection realization rates

B. Finance Tips to Help Ensure a More Profitable Business

1. Develop a weekly financial dashboard showing:
 - a. Current Bank Balance
 - b. Weekly Expenses
 - c. Work in Process (WIP)
 - d. Accounts Receivable
 - e. Projected Revenue
2. Enter time electronically and contemporaneously. Use your time and billing software.
Lawyers who capture more time make more money.
3. Send your bills out on a regular schedule and send out electronically.
4. Take credit cards.
5. Get retainers up front and do not work for free.
6. Know your monthly NUT – what revenue do you need to bring in monthly to cover monthly expenses
7. Manage your time and use daily checklists. At the end of each day, plan for the following day.
8. Retain control over your payables. Review vendors’ bills and statements once a month. In your accounting system, enter your vendor bills as they are received so you always have a snapshot of what expenses are due.
9. Send out past due reminders monthly.
10. Consider setting up different billing cycles so you are billing something every week.
11. Don’t work for clients who won’t pay.
12. Build a relationship with your bank. Meet the branch manager.
13. Make your bills client-friendly.
14. Look at your accounts receivable weekly so you stay on top of how much each client owes you. With weekly updates you can thank the client who recently paid gently nudge the client who has not.
15. Create a business plan – even if it is just one page. Treat your law practice like a real business.
16. Do nice things for your clients – random acts of kindness.
17. Make sure your paralegal is billing for their time. Be sure to include them and their rates in your engagement letters.
18. Put your software to use for you. It can save you time and money.
19. Hire a good bookkeeper who understand law firm finances and trust accounting.
20. Enjoy what you do. Clients notice this.

C. Tips for Creating Bills that Clients Understand and Pay

One of the most common complaints I hear from clients and why lawyers do not get paid in a timely fashion is because the clients do not understand the bills or they are not receiving them on a regular basis. Here are 10 tips for writing bills that clients will understand and hopefully pay.

1. Keep your time each day. Write it down somewhere and with today's cloud based practice management tools, you have no reason not to be tracking and entering time.
2. The entries that show up on your bills should be descriptive of your activities, accurate, understandable.
 - a. Billing statements are the most useful communication tools lawyers have to keep client informed. Billing statements serve as a chronology for the representation.
 - b. Billing statements are a marketing and promotional opportunity for the firm. Advertise upcoming events or seminars in the footer of your bills.
3. Bill monthly at a set time period. Train your clients to expect your bills the first week of the month. Be sure your bills include past due balances
4. Include "No Charge" entries.
5. Recording time entries and descriptions of activities. At its essence, lawyers and paralegals perform 4 typical categories of tasks. It's important to develop consistent language when preparing time entries related to these tasks. For example, in Clio, use Activity Descriptions.
 - a. They communicate
 - b. They review or prepare documents
 - c. They perform legal and factual research
 - d. They prepare and attend trials
6. Take the time to use complete sentences and do not abbreviate. Acronyms, abbreviations and short time entries only cause confusion, not payment.
7. Proofread and spellcheck. Do not be sloppy.
8. Do not block bill or use excessive minimum units. In other words, do not combine multiple tasks on one day into one time entry.
9. Keep track of time for contingent and flat fee matters. Why?
 - a. For contingent, it is crucial to keep time records if the court asks for detailed time records or if you are asked to show proof of the "reasonable value of services" if a claim is made disputing your fees.
 - b. For flat fee, to track that the flat fee fully reflects the actual time spent on matters. Use this metric to reassess flat fee rates.
 - i. Track your profitability on flat fee matters
10. Always identify whether the money is coming from trust or owed.
 - a. Billing statements must identify whether client money will be coming out of trust to pay the invoice or whether the client must pay the invoice.
 - b. If a client has paid an advance fee retainer, and part of this retainer will be applied to the bill, the invoice needs to show how much will be applied and how much is left in trust.

11. Make sure your billing invoice template is professional looking, includes a firm logo, full address, website and phone numbers. Invite your client to call regarding the bill if they have questions and list a contact person that, preferably, is not you but your office manager or bookkeeper.

Managing Your Documents

A. File Retention/Destruction Policies

Every law firm must have a file retention and file destruction policy. It must be in writing. It must be followed. How long do you need to maintain client files upon conclusion of the representation? For Ohio and Rule 1.15, files involving IOLTA account funds or client trust account funds, or where a lawyer has safeguarded other client property, records must be preserved for a period of seven years after termination of representation, or the appropriate disbursement of such funds or property, whichever comes first.

This 7-year requirement provides some guidance regarding retention of client files but the rule does not prohibit a lesser time period.

B. Close File Procedure and Checklist

1. A file cannot be closed until all outstanding fees are paid or discharged.
2. A file cannot be closed until there is a final distribution and accounting of all trust account balances relating to the file.
3. Determine the Appropriate Retention Period for the Matter
 - Tax Records
 - Probate/Estate Records
 - Property Records
 - Litigation files
 - Divorce Files
4. Purge Files of Certain Non-Essential Documents
 - Depositions
 - Non-Original Records Obtained From Third-Parties
 - Public Records
5. Return Original Client Documents
 - Retain Confirmation of Such Return
 - Obtain Signed Receipt for the Records
 - Retain Copies for Your Own Protection
6. Advise Client in Writing of His/Her Opportunity to Obtain Copies
7. Advise Client of Anticipated Destruction Date
8. Maintain Firm File of Such "Closing Letters"
9. Store Files so as to Protect Client Confidences
10. Destroy Files in a Manner Designed to Protect Client Confidences.

Managing Your Office/Technology

If you're going to remain competitive, sooner or later you will be using technology in your law practice. Here are some things to consider for new lawyers starting out.

Embrace the Cloud – it's a good thing for law firms who want to focus on efficiency and productivity.

Myth #1: "The cloud is more expensive than old-school technology."

With most cloud-based applications, the user pays a monthly or yearly license fee. This scales by number of users. The more users you have, the more license seats you buy. This is great for starting a new firm or looking at growth for an existing firm. Most applications have robust customer service teams to better deploy the system without having to hire IT support. Additionally, updates typically occur without any needed changes to computing hardware. Since everything runs off of the Internet, the type of device you use to gain access to content, edit documents or other data is of lesser consequence.

Compared to traditional methods of IT investment, where the law firm buys a server (typically several thousand dollars) and pays thousands for a software package. Here, the firm has more upfront costs and typically will need an IT person (whether on-site or outsourced) to help train and maintain the software and server. Updates are not rolled out as frequently and often cost additional money. If those updates exceed the law firm's current hardware capacities, computers and servers need to be upgraded as well.

Myth #2: "The cloud is less secure than storing documents in paper form."

First, not all cloud-based applications are created equally. Security will fall in different priority levels for different providers. Companies that provide cloud and mobile solutions for lawyers and law firms must understand that security is incredibly important. If they don't, the chances are they will not last long in the industry. If it is not clear how data is protected, ask.

With the amendment to the comments to ABA Model Rule 1.1 regarding competency, it now falls on the lawyers to understand the "risks and benefits of technology" as applied to delivering legal services. If you cannot figure out the security issue on your own, get help from other lawyers, technology consultants or your bar association.

With the right platform, there is a strong argument that your data is more secure on the cloud, as opposed to paper form or on your own devices.

Myth #3: "If I put my data in the cloud, I may never get it back."

Look to the validity of the company providing the service. Do they have reasonable periods of time to retrieve data if you terminate your relationship? How strong is the company, in general? What is the reputation of the management? Are they properly funded? Look at the terms of service for answers here.

Law practice management software

Practice and Case Management Software

Practice and case management software provides attorneys with a convenient method of effectively managing client and case information, including contacts, calendaring, tasks, documents, and other specifics by facilitating automation in law practices.

A Few Tools for Your Law Practice

1. Snagit for Screen Capture! (Above screen image captured using Snagit) <http://www.techsmith.com/snagit.html>
2. ScanSnap: If you buy it and don't love it – I'll buy it from you! <http://scansnapcommunity.com/>
3. PDF Software – look at Nuance PDF. One time price – no monthly, recurring charges

20 Tips for New Lawyers

1. The number one cause of malpractice complaints is failure to communicate. Send your clients an email any time something happens on their case and attach every document that goes into their files.
2. Possession is nine-tenths of the law, and retrieval is nine tenths of your practice. Although paper and pen is convenient up front, you'll kill yourself retrieving hand written information. Go digital. You'll be glad you did.
3. Don't be afraid to charge what you are worth and be sure the client agrees that you are worth what you charge.
4. Don't let your website be a billboard in the desert. Put it on a superhighway and drive traffic to it through search engines and law portals.
5. To be successful, you need to get out of your comfort zone. Take action within your comfort zone to reinforce your confidence and build your skills by doing what you can do naturally well. Keep track of your efforts by noting every time you reach out to a person, either by phone, email or letter.
6. Avoid costly errors and wasted staff time typing information into forms that you've already got on your computer. Your practice management software will have this feature – if not get a new practice management software.
7. Track every lead from every source so you can know which of your marketing is working and which isn't. It's just a couple of extra bits of information with the right practice management software and marketing approach.
8. Manage prospects. Don't lose this business. Look at Lexicata, Client Sherpa, Zula
9. The best 'brand' is you. Build it one satisfied client at a time. Keep it real, make it personal. If you can make every client feel as though they are the only one that matters, you'll be a true superstar.
10. Don't risk delivering documents with "leftovers" from prior clients. Document assembly combines your practice management data with your word processor template to produce better documents while protecting your firm from potential malpractice.
11. Using legal terminology-Latin phrases from centuries ago don't belong in this century. The more plainly you speak and write, the more your audience will understand and appreciate you.
12. Your website content is the pollen that attracts honeybees. Over 90% of those looking for legal help on the Internet will become someone's client.
13. The rules have changed. Don't risk being blindsided by discovery you should have found. New technology can find or rule out the smoking gun. Use it or risk being surprised by what your opposition finds.
14. Unchain yourself from your desk. With the right technology you can conduct business from anywhere. Delight clients by taking their calls and handling matters while you easily bill for hours of extra time when you're out of the office.
15. In our fast-paced high-tech society, clients seek instant gratification. If you don't take the opportunity to be the first lawyer to talk with a prospect, your competitor will, and there's better than a 90% chance that prospect will become his client.
16. Under-promise and over-deliver.
17. There are people around you who know more than you do. Let them help you. Contrary to your every instinct, you do not have to know the answer to everything.
18. Return phone calls promptly – really.

19. Before beginning the work, ask your client or supervisor what success will look like. Don't just guess. You'll probably be wrong.
20. It's time to clean up your act online. Potential clients know how to use Google just like you. So do employers, colleagues, reporters and everyone else. Make sure you look (mostly) professional or you'll be your own worst enemy.
21. Take notes. It helps you remember, and it shows people that you believe what they are saying is important enough to write down.
22. Say "Thank You" to stand out. Thank your referral source, your client, your networking contacts, an attorney that helped you out.
23. Offer to help and volunteer in your community. You are in a profession that is built upon helping others.
24. You are responsible for getting all the facts. Even if people don't want to give them to you.
25. Try, in everything you do, to teach as well as talk. When a client needs an attorney, they are scared and have no idea how the legal system works. Teach them along the way.
26. Know your local court rules. Many "primary law" resources are becoming available on the Internet. In addition to your local court Web sites, here are some of the best sites to bookmark for free copies of Ohio court rules, recent cases and opinions, codes, legislative information, administrative agency information and more.

Will you Make Money?

SCENERIO #1

How Much Money Can you Make		85% Collection Realization	
		90% Billing Realization	
Desired Compensation	\$	75,000.00	
Payroll Taxes	\$	9,000.00	12%
Total overhead expenses (no salary)	\$	48,000.00	\$4000/mn
Emergency Fund (4mns x 4,000)	\$	16,000.00	
Desired Profit	\$	20,000.00	
TOTAL REQUIRED REVENUE:	\$	168,000.00	
Revenue Collected - From Below	\$	275,400.00	
Billing Realization Rate: (% of hours recorded that end up on the invoice)			
		90% Effected by discounts at time of billing	
Collection Realization Rate: (% of fees billed that are collected)		85%	Effected by writing off fees after billing (AR)
Gross Fees Collected (85% collection rate)	\$275,400.00		
Total Hours Billed	1440	48 wks, 30 hrs/wk	
Current Hourly Rate	\$250		
Total Fees Billed (assume 90% billing realization rate)	\$324,000.00		
Total Fees Collected	\$275,400.00	On a 85% Collection Realization Rate	
SCENERIO #2			
How Much Money Can you Make		80% Collection Realization	
		90% Billing Realization	
Desired Compensation	\$	75,000.00	
Payroll Taxes	\$	9,000.00	12%
Total overhead expenses (no salary)	\$	48,000.00	\$4000/mn
Emergency Fund (4mns x 4,000)	\$	16,000.00	
Desired Profit	\$	20,000.00	
TOTAL REQUIRED REVENUE:	\$	168,000.00	
Revenue Collected - From Below	\$	259,200.00	
Billing Realization Rate: (% of hours recorded that end up on the invoice)			
		90% Effected by discounts at time of billing	
Collection Realization Rate: (% of fees billed that are collected)		80%	Effected by writing off fees after billing (AR)
Gross Fees Collected (80% collection rate)	\$259,200.00		
Total Hours Billed	1440	1440 48 wks, 30 hrs/wk	
Current Hourly Rate	\$250		
Total Fees Billed (assume 90% billing realization rate)	\$324,000.00		
Total Fees Collected	\$259,200.00	On a 80% Collection Realization Rate	

Will you Make Money?

SCENERIO #3

How Much Money Can you Make		80% Collection Realization 85% Billing Realization	
Desired Compensation	\$	75,000.00	
Total overhead expenses (no salary)	\$	48,000.00	\$4000/mn
Emergency Fund (4mns x 4,000)	\$	16,000.00	
Desired Profit	\$	20,000.00	
TOTAL REQUIRED REVENUE:	\$	159,000.00	
Billing Realization Rate: (% of hours recorded that end up on the invoice)		85% Effected by discounts at time of billing	
Collection Realization Rate: (% of fees billed that are collected)		80% Effected by writing off fees after billing (AR)	
Gross Fees Collected (80% collection rate)		\$244,800.00	
Total Hours Billed		1440	1440 48 wks, 30 hrs/wk
Current Hourly Rate		\$250	
Total Fees Billed (assume 85% billing realization rate)		\$306,000.00	
Total Fees Collected		\$244,800.00 On a 80% Collection Realization Rate	

Financial Effect of Not Recording Time				
Billing rate	\$250.00	Per Minute	\$4.17	
If you lose 18 minutes per day			\$75.00	Per day
	5 days per week		\$375.00	Per week
	48 weeks		\$18,000.00	Per year

This self-audit should be reviewed in order to fully assess the strengths and weaknesses of your practice. This is the first step in strategic planning for your managing your law practice. This is only a sample and does not include all areas that should be audited or considered.

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed with dates for follow up
Client Selection					
Do you generally accept most prospective clients that contact you?					
Before accepting representation, do you have a client screening process?					
Declining Representation					
If you decline to represent the prospective client, do you send a non-engagement letter?					
Does your non-engagement letter state clearly: a. That no lawyer-client relationship exists?					
b. Warn about statutes of limitations?					
c. Suggest that they seek other counsel?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
Client Acceptance					
After accepting representation:					
a. Do you use a client intake form to record all the necessary information for this client's matter? Do you store this information in a database for easy access?					
b. Do you give your new clients the time and opportunity to ask questions about your arrangements or their case?					
c. Do you ask for an advanced payment on fees?					
d. Do you introduce your new client to your staff?					
e. Do you thoroughly explain your telephone and email policies to your new clients?					
Client Relationships					
Do you or a member of your staff return phone calls and/or emails within at least 24 hours?					
Do you regularly keep clients informed of the status of their case?					
Do you confirm all major decisions with clients in writing?					
If the client rejects your advice, do you document it in writing?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
If you're requesting an advanced payment on fees, do you a. Clearly explain what the payment is for? b. What, if any, of the fee will be refunded?					
Do you provide clients with copies of all relevant documents concerning their matter?					
Do you discuss with clients alternative courses of action?					
Do you bill your clients at least monthly?					
Do you provide a detailed billing statement clearly outlining the work performed?					
Do you train your staff how to respectfully handle clients in person and on the phone?					
Do you clearly explain confidences regarding family members who may be acting in a support capacity or paying your fees?					
When a client's matter has concluded, do you solicit feedback in the form of a survey or otherwise?					
Do you notify clients promptly in writing that you're withdrawing from their case/matter because of unpaid bills, lack of cooperation or personality difficulties in accordance with court rules so as to not leave the client in the lurch?					
Do you use a task reminder or "to-do" list for administrative and legal work?					

Office Management: Systems, Policies and Procedures					
Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
Do you securely store client documents?					
Do you maintain a separate trust account for client funds?					
Do you reconcile your trust account bank statements each month?					
When you reconcile your trust account, do you make sure that the balance totals the grand total of your individual clients' trust balances? A 3-Way Match.					
Have you ever used funds from your trust account for a short-term to meet payroll or other expenses?					
Do have a system in place to record appointments, court dates, etc. made outside the office to be sure they are logged on your master calendar? App on cell phone.					
Do you have a docket control system include all important dates? Such as: a. Administrative hearing dates? b. Court appearances? c. Pleading and discovery dates?					
Does your file management system include: a. Procedures for opening and closing files? Procedure for maintaining files?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
When closing files, do you: a. Send clients letters notifying them that you are not representing them any longer on this particular matter?					
Do you have a system to easily retrieve stored files?					
Do you have a written disaster plan?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
Office Sharing					
If you share office space with someone other than a partner or employee, do you engage in any of the following:					
a. Share stationary with your office mate's name on it?					
b. Advertise as a full service law firm?					
c. Advertise as an association of attorneys?					
d. Place the attorneys' names on the office door or other signage as if the office mates are partners or members of the firm?					
e. Refer to each other as partners?					

Technology					
Have you taken the time to learn how to use technology in your practice? New ABA Model Rules requirements					
Do you regularly back up your computer system?					
Is a current copy of your computer back up stored off site in a secure location or in secure cloud storage?					
Do you routinely check if your back up is viable?					
Are laptop computers, tablets, or smart phones sufficiently secured to protect confidential information in case of lost or theft? Password protected.					
When working in a public place, do you use your own secure network to access the internet?					
Conflicts of Interest					
Do you engage in any of the following practices: <ul style="list-style-type: none"> a. Act as both counsel and an officer or director for a corporation? b. Engage in any direct business transactions with a client? c. Have a financial interest (other than fees) in a client matter? 					
Do you have either a comprehensive electronic system to check for conflicts that is available to all attorneys and staff in the firm?					
Do you request detailed information from prospective clients (i.e., former names, adverse parties, etc.) to discover conflicts?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
Fees, Billing and Collections					
Do you keep accurate time records that are promptly recorded?					
Do you keep details of work performed for billing purposes?					
Do you accept credit cards from clients for payment?					
Do you review all client billings before they're sent to clients?					
Do you bill your clients on a regular basis (i.e. monthly)?					
If applicable, do you require clients to keep a reasonable amount on deposit in your trust account as an advanced payment on fees?					
When concluding a matter where you've been hired on a contingency basis, do you provide a detailed accounting of fees and expenses?					
On contingency fee arrangements, do you provide regular billing statements about expenses even though there are no fees due?					
Do you regularly continue to work for clients who are seriously delinquent?					
Do you emphasize verbally and in your fee agreements that the failure to pay timely may result in you withdrawing from their case?					
If you charge a late fee, is it clearly outlined in your written fee agreement and discussed with the client?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
Do you send a final billing statement immediately after the client's matter has concluded rather than waiting for the regular billing cycle?					
Do you sue clients for past due fees?					
Do you write off a substantial amount of unpaid billings each year?					
Do you tell clients "not to worry about the fees" right now?					
Financial Management					
Do you have at least a basic understanding of accounting principals?					
Do you regularly schedule time to review your firm financials? Do you produce a set of financial reports monthly?					
Do you frequently have cash flow problems?					
Do you have an electronic accounting system?					
Do you have safeguards in place to avoid and detect employee theft?					

Inquiry	Yes	No	N/A	Notes/Comments	Identify Improvements Needed
Marketing Your Firm					
Are you attracting new, quality clients to your firm?					
Are you retaining quality clients?					
Do you have a written marketing plan that you follow to attract new clients or maintain current clients?					
When you close a file, do you survey or at least ask your clients about their experience with your firm?					
Do you ask new clients what brought them to your firm?					
Do you call or write to thank other attorneys or clients who refer new clients?					
Do you set aside time each week to market your firm (client lunches, contacts with other lawyers who might refer you business, etc.)?					
Do you understand how to use social media and internet marketing and adhere to ethics rules?					

TAB B



Cincinnati Bar
ASSOCIATION



1

Pop Quiz

- Test your Trust Account knowledge
- Mark your answers (true or false)
- We'll review answers at the end

A large, 3D red button with the word "QUIZ" in white capital letters. The button has a metallic base and a shadow underneath.

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2

Trust Account Requirements

- Lawyer shall hold client or third-person property:
 - In connection with a representation
 - Separate from lawyer's property
- Duty to Safeguard

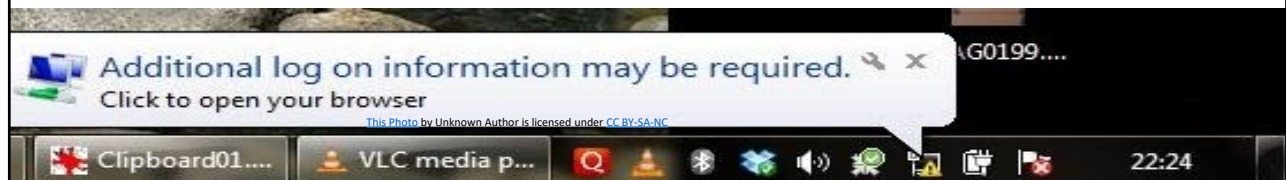


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3

AND.....

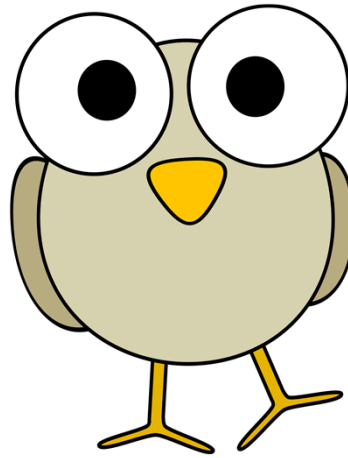
- Prompt notification
- Prompt delivery
- Full accounting upon request
- Identify and label
- Maintain complete records



4

What Funds Belong in Trust Account?

- Funds belonging to client
- Funds belonging partly to client and partly or potentially to lawyer (i.e. settlement proceeds)
- Funds belonging to third party related to handling of case (medical bills payment)



5

What Does NOT Belong in Trust Account?

- Funds belonging totally to the lawyer
- Funds not related to the representation of a client



6

Rule 1.15: Safekeeping Property

- A lawyer may deposit his/her own funds in a client trust account for the sole purpose of:
 - Paying bank service charges
 - Obtaining a waiver of bank service charges
 - Only in the amount necessary for that purpose



7

Types of Trust Accounts

- IOLTA
- Client Trust Account
- See Comment 3A to Rule 1.15



8

Retainers: Avoid Creating a Fish with Feathers

- Where should it be deposited?
- Is it an advance against fees?
- Is it for costs?
- Is it an amount paid solely for your availability whether you work or not?



9

Whom Does it Belong To Once Received by Lawyer?



10



Hint!

- Is there a retainer agreement or engagement letter that specifies to whom the retainer belongs and how it will be used?

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Classic Retainer

- True “earned upon receipt” retainer
 - Classic or General Retainer
- If truly earned upon receipt:
 - No agreement to represent on a specific matter
 - Agreement to be available for client in the future
 - Forego clients with conflicts



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Special Retainers

- Specified fee in exchange for specified services
- True advance on fees
- If time exceeds advance, additional \$ due from client
- No right to keep \$ not earned
 - Client entitled to a refund



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Hybrid – General/Special Retainer

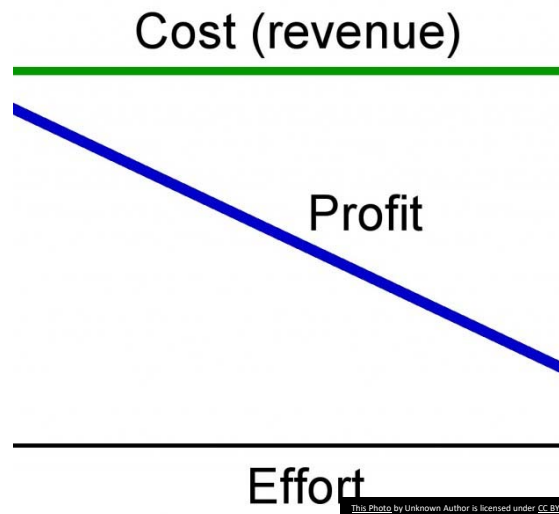
- Set retainer to be billed against that is also for attorney's availability and is nonrefundable
- Burden is on the attorney to establish retainer is classic/general and not special



14

Flat/Fixed Fee

- Board Opinion #2016-01
- Flat/Fixed Fees are allowed
- The fee agreement must comport with the Rules (1.5)



15

Where do you
put the
money?

- Classic/General Retainer (Earned Upon Receipt)
 - Operating account
- Special Retainer (Billed Against)
 - Into trust account until earned
- Fixed/Flat Fee
 - Trust Account, UNLESS.....
- ALL are subject to reimbursement

16

Fee Review

All fees are subject to review under the Rule 1.5 standards of what is a clearly excessive fee



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Rule 1.15: Safekeeping Property

- Rule requires all **records of client funds** and property be maintained for 7 years
- Rule specifies exactly what trust account records must be maintained for 7 years



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Rule 1.15: Safekeeping Property

- All fee agreements
- Record for each client's funds
 - Date, amount and source of funds
 - Date, amount, payee and purpose of each disbursement
- Current balance



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Rule 1.15: Safekeeping Property

Record for each bank account

- Name of account, date, amount, and client affected by each credit and debit
- Balance in the account
- All bank statements, deposit slips, and canceled checks (if provided)
- Monthly reconciliation

20

Reconciliation

- Individual client record
- Bank account record
- Bank statement



21

Rule 1.15: Safekeeping Property

- Upon dissolution of a law firm, partners shall arrange for one or more of them to account for client funds and to maintain all records generated under this rule.



22

Rule 1.15

- Advances on costs go into trust account
- Costs
 - Travel expenses, deposition costs, photocopies
 - Only actual cost to be billed
 - No surcharge may be added



23

ABA Opinion 93-379

- “The lawyer’s stock in trade is the sale of legal services, not photocopy paper, tuna fish sandwiches, computer time or messenger services.”



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Rule 1.15: Safekeeping Property

- Comment 2
 - Account expenses that may be deducted from account proceeds and those that may not
- Comment 3A
 - When to use IOLTA and when to use an individual client trust account



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Common Errors

- Bank fees and check printing charges debited from trust account without offsetting funds
- Failure to verify collection of deposits into trust account
- Failure to deposit funds prior to issuing trust account checks
- Improper or lack of endorsements, resulting in returned checks



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Common Violations in Maintenance of Trust Account Records

- Failure to maintain individual client records or equivalent
- Failure to maintain duplicate deposit slips
- Failure to reconcile individual client records to bank statements and the general trust account record
- Failure to maintain records after completion of the lawyer's fiduciary duty



27

Common Violations in the Use of Trust Accounts

- Improper transaction processed through the trust account
- Using the trust account as an operating account
- Using the trust account for family, associations and non-client-related transactions
- Depositing earned fees into the trust account

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Common Violations in the Use of Trust Accounts

- Assuming the bank's decision to grant immediate credit on deposited item is the equivalent of the funds actually being collected
- Failing to withdraw earned fees from the trust account
- Maintaining a large balance of lawyer or law firm funds in the trust account



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When Do I Deposit Funds?

As quickly as possible because you have a duty to safeguard them

30

When Do I Transfer Earned Fees?

- Within a reasonable time after they're earned
- Once earned, fees do not belong in a trust account
- You can't spend your money UNTIL it is moved from trust account to operating account



31

Staff Assistance

- Staff may assist
 - Employees must be competent and properly supervised
- Internal controls must be adequate to safeguard client funds and property
- ODC v. Ball; Rule 5.3


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Regular Review of Records

- Lawyer most familiar with client matters:
 - Most likely to spot errors
 - i.e. wrong amount recorded to wrong client
 - Knows to safeguard amounts that need special attention (those involving unresolved disputes)



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Can Non-Lawyers Be Signers on Trust Account?

- Technically, yes.
- Management considerations:
 - Since attorney is responsible, is it worth the risk?
 - Is it necessary?

35



Credit cards

- Use of credit card payments
 - See Board Opinion #2007-3
- Distribution of funds when the identity or whereabouts of the owner of the funds is unknown
 - See Board Opinion #2008-3

36

Pop Quiz!



37

Thank You!

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"Yes, but what are your goals?"

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TAB C



Cincinnati Bar
ASSOCIATION

STATEMENT REGARDING THE PROVISION OF PRO BONO LEGAL SERVICES BY OHIO LAWYERS

Each day, Ohioans require legal assistance to secure basic needs such as housing, education, employment, health care, and personal and family safety. Many persons of limited means are unable to afford such assistance, and legal aid programs must concentrate limited resources on those matters where the needs are most critical. The result is that many Ohioans who are facing significant legal problems do not have access to affordable legal services. These persons are forced to confront landlord-tenant issues, have questions involving employment rights, or seek protection against domestic violence without the assistance of a legal advocate.

In 1997, this Court issued a *Statement on Professionalism* that recognizes each lawyer's obligation to engage in activities that promote the common good, including the provision of and support for pro bono representation to indigent clients. In 2007, in the *Preamble to the Ohio Rules of Professional Conduct*, the Court reemphasized the importance of this obligation by stating:

A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for those who because of economic or social barriers cannot afford or secure legal counsel.

Lawyers, law firms, bar associations, and legal services organizations, such as the Ohio Legal Assistance Foundation, have done and continue to do much to address unmet civil legal needs through the organization of, support for, and participation in pro bono legal services programs. Although these programs have increased both in number and scope in recent years, there remains an urgent need for more pro bono services.

This Court strongly encourages each Ohio lawyer to ensure access to justice for all Ohioans by participating in pro bono activities. There are pro bono programs available throughout Ohio that are sponsored by bar associations, legal aid programs, churches and civic associations. Many

programs offer a variety of free legal services, while others concentrate on specific legal needs. Lawyers also may choose to participate in programs that focus on the needs of specific individuals such as senior citizens, the disabled, families

of military personnel or immigrants. The Web site www.ohioprobono.org contains a complete, searchable listing of pro bono programs and opportunities in Ohio. A lawyer may fulfill this professional commitment by providing legal counsel to charitable organizations that may not be able to afford to pay for legal services or by making a financial contribution to an organization that provides legal services to persons of limited means.

This Court strongly encourages each Ohio lawyer to ensure access to justice for all Ohioans ...

The Court recognizes that many Ohio lawyers honor their professional commitment by regularly providing pro bono legal services or financial support to pro bono programs. Moreover, the Court encourages lawyers to respond to this call by seeking to engage in new or additional pro bono opportunities. To document the efforts and commitment of the legal profession to ensure equal access to justice, the Court, in conjunction with the Ohio Legal Assistance Foundation, will develop a means by which Ohio lawyers may report voluntarily and anonymously their pro bono activities and financial support for legal aid programs. The information regarding pro bono efforts will not only underscore the commitment of the legal profession to serving the public good but also will serve as a constant reminder to the bar of the importance of pro bono service.

ISSUED BY THE SUPREME COURT OF OHIO
SEPTEMBER 20, 2007



VOLUNTEER LAWYERS STRENGTHENING NONPROFITS & OUR COMMUNITIES

Pro Bono Partnership of Ohio provides business and transactional legal services to Cincinnati and Dayton nonprofit organizations that serve the disadvantaged or enhance the quality of life in our neighborhoods.

We do this by recruiting hundreds of attorneys from major corporations and law firms who donate their time and expertise on behalf of our nonprofit clients, enhancing the ability of these organizations to achieve their missions and help the people and communities they serve.

WHAT WE DO



PBPO offers volunteer opportunities structured to suit the legal talents and availability of busy in-house and law firm attorneys specializing in non-litigation practice areas. Matters are discrete, manageable, and generally not subject to short time deadlines. They typically address areas such as:

- Corporate Structure and Governance
- Contracts
- Employment
- Environmental Law
- Fundraising
- Intellectual Property
- Lobbying
- Merger, Bankruptcy and Dissolution
- Real Estate
- Insurance and Risk Management
- Conflicts of Interest
- HIPAA and Privacy

We make it easy for attorneys to volunteer their legal expertise and provide real value to nonprofits.

WHO WE SERVE



PBPO assists qualifying 501(c)(3) nonprofit organizations in Cincinnati and Dayton that serve the disadvantaged or otherwise enhance the quality of life in our communities.

HOW WE HELP NONPROFITS

Direct Legal Services: We match qualifying nonprofit organizations with volunteer attorneys who have the appropriate legal expertise to handle their specific projects. PBPO legal staff also may assist.

Workshops: Legal staff and volunteer attorneys provide workshops and webinars focused on helping nonprofit executives and directors identify and address important legal obligations, adopt best practices and avoid risk.

Publications: Publications and legal alerts on issues impacting nonprofits are available on our website for easy access by nonprofits and attorneys.

Nonprofits receive quality legal advice to strengthen their organizations, at no cost.

REPRESENTATIVE CLIENTS

4C FOR CHILDREN | BIG BROTHERS BIG SISTERS OF BUTLER COUNTY | CIRCLE TAIL
DESIGN IMPACT | MAY WE HELP | MELODIC CONNECTIONS | MERCY NEIGHBORHOOD MINISTRIES
PRICE HILL WILL | PROKIDS | SANTA MARIA COMMUNITY SERVICES | TENDER MERCIES | UPSPRING

"Pro Bono Partnership has been critical in the past year in helping us develop a solid structure on which we can now stand. PBP allowed us to continue to place funding priority on programming while developing strong policies, procedures and contracts that will help us maintain our quality of services in the future!"
Betsey Zenk Nuseibeh, Executive Director | Melodic Connections

"Volunteering with PBPO provides me with the opportunity to use my expertise as a labor and employment lawyer to help organizations in our community that are doing really important work. All of the clients I have worked with have been extremely appreciative of the advice and counsel they've received through the PBP."
Audrey Adams Mondock | GE Aviation

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VISIT WWW.PBPOHIO.ORG TO LEARN MORE, REQUEST LEGAL ASSISTANCE, OR FIND VOLUNTEER OPPORTUNITIES!

Pro Bono Partnership of Ohio | 255 East Fifth Street, Suite 1900, Cincinnati, Ohio 45202 | info@pbpohio.org or (513) 977-0304



FAQs for Attorneys

Question: How do I get involved with Pro Bono Partnership of Ohio?

Answer: Complete the *New Volunteer Information Sheet* and email it to info@pbpohio.org.

Question: What type of matters would I get to work on?

Answer: We handle a wide range of transactional legal matters including: tax, corporate, real estate, contracts, intellectual property, and employment.

Question: What is the process I go through as a volunteer attorney?

Answer: Once you are on our mailing list, you will receive monthly e-mailed Volunteer Opportunities. If you are interested in one of the listed matters, reply to the e-mail. If you are matched with a matter, we will send you some basic information about the client so you can run a conflicts check. Then, you will contact us with days and times you will be available for the initial meeting or conference call. After that, let us know if you need assistance in any way and keep us updated with the progress of your matter. When the matter is complete, please contact us. We will then send a closing letter to the client.

Question: What is the scope of my representation?

Answer: You are only expected to handle the specific matter for which you initially volunteered. If the nonprofit needs assistance with additional legal matters, ask the client to contact us directly.

Question: What is the level of commitment expected of me?

Answer: You may volunteer for matters as often or as little as you like. All that we ask is that you complete any matter for which you volunteer. If you are unable to complete a matter for any reason, please contact us as soon as possible, and we will find another volunteer.

Question: Will my work be covered by malpractice insurance?

Answer: Yes. All of our volunteer attorneys are covered through our malpractice insurance policy.

Question: Can paralegals volunteer?

Answer: Paralegals are welcome to volunteer for Pro Bono Partnership projects, but they should first find an attorney from their firm or legal department to actively supervise the project.

Question: Will I receive Ohio CLE credit for the work I do for the Partnership?

Answer: Yes. We have been recognized by the Ohio Supreme Court as an organization providing pro bono programs as set forth in Gov. Bar R. X, Sec. 5(H)(5). Attorneys who volunteer with us may receive one hour of CLE credit for every six hours spent on a legal matter.



VOLUNTEER GUIDELINES

The Pro Bono Partnership of Ohio greatly appreciates your interest in our volunteer opportunities. We ask that you review the following guidelines before taking a project.

1. Make sure that you will have no conflicts of interest.
2. Treat the client with the same dignity and respect that you would accord any other client.
3. Conduct all legal work in a timely manner and with the same degree of professionalism that you would accord any other client. A Partnership staff member will contact you periodically to see how the matter is progressing. *If you find that you are unexpectedly not able to devote sufficient attention to the pro bono matter, please contact the Partnership immediately.*
4. Keep track of the amount of time you work on the matter, and when the matter is completed, please let us know the time commitment involved.
5. In order to assist the Pro Bono Partnership in leveraging the impact of services provided by volunteers, we ask that you send us copies of significant memoranda or other documents prepared in the course of your representation that could be helpful for other clients.
6. Inform the Partnership when the matter is complete.
7. In the course of providing assistance, you may determine that this is the type of project that could benefit from an additional partnership with a private law firm or in-house counsel. Factors to consider include the complexity of the matter, the amount of work involved, the need for additional expertise, and/or deadlines. Please let us know if you feel that partnering with other counsel would be helpful for your project.
8. The Partnership strives to offer volunteers discrete and manageable pro bono projects. Accordingly, we inform our clients that you are helping with this particular matter only, and that all subsequent requests for assistance must come through our office. Should the client contact you directly in the future with other matters, please ask them to contact the Partnership.

If any problems or questions arise in the course of representing your pro bono client, please contact the Pro Bono Partnership of Ohio immediately.

VOLUNTEER APPLICATION

Thank you for your interest in volunteering! Please provide us with the following information:

1. Name: _____
 Title: _____
 Company: _____
 E-mail: _____
 Alternate e-mail: _____
 Work Phone: _____
 Work Address: _____

 Billing Rate: \$ _____ / hour (**we use this to value our Volunteer's time*)

2. Ohio Bar Registration Number: _____
 Are you in good standing with the Ohio Supreme Court? ☐ Yes ☐ No
 Do you have Corporate Counsel Status? ☐ Yes ☐ No
 Kentucky Bar Registration Number: _____
 Are you in good standing with the Kentucky Supreme Court? ☐ Yes ☐ No
 Other state(s) in which you are admitted: _____

3. In which of the following areas do you practice or have previous experience?

- | | |
|--|--|
| <input type="checkbox"/> Bankruptcy | <input type="checkbox"/> Incorporation and Tax-Exempt Applications |
| <input type="checkbox"/> Bylaws Review | <input type="checkbox"/> Insurance |
| <input type="checkbox"/> Contracts | <input type="checkbox"/> Intellectual Property |
| <input type="checkbox"/> Corporate | <input type="checkbox"/> Lending/Finance |
| <input type="checkbox"/> Corporate Governance/Compliance | <input type="checkbox"/> Litigation |
| <input type="checkbox"/> E-commerce/Internet | <input type="checkbox"/> Nonprofit |
| <input type="checkbox"/> Employee Benefits | <input type="checkbox"/> Privacy |
| <input type="checkbox"/> Employment/Labor | <input type="checkbox"/> Real Estate |
| <input type="checkbox"/> Environmental/Land Use | <input type="checkbox"/> Tax |
| <input type="checkbox"/> HIPAA | <input type="checkbox"/> Trusts and Estates |
| <input type="checkbox"/> Immigration | <input type="checkbox"/> Other _____ |
| | _____ |

4. Please list any specific volunteer interests: _____

RELEASE: I hereby give Pro Bono Partnership of Ohio permission to use the following for marketing and/or release to the media: my name, photograph, recorded voice and/or video image to recognize your volunteer efforts and to promote and publicize PBPO. Please initial here if you do **not** wish us to publically recognize you: _____

Date: _____ Signature: _____

Please e-mail completed volunteer applications to info@pbpohio.org or fax to (513) 977-8141.
 Application forms are also available on our website: pbpohio.org/for-attorneys/.

VOLUNTEER GUIDELINES

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1. Make sure that you will have no conflicts of interest.
2. Treat the client with the same dignity and respect that you would accord any other client.
3. Conduct all legal work in a timely manner and with the same degree of professionalism that you would accord any other client. A PBPO staff member will contact you periodically to see how the matter is progressing. *If you find that you are unexpectedly not able to devote sufficient attention to the pro bono matter, please contact the Partnership immediately.*
4. Keep track of the amount of time you work on the matter, and when the matter is completed, please let us know the time commitment involved.
5. In order to assist PBPO in leveraging the impact of services provided by volunteers, we ask that you send us copies of significant memoranda or other documents prepared in the course of your representation that could be helpful for other clients.
6. Inform PBPO when the matter is complete.
7. In the course of providing assistance, you may determine that this is the type of project that could benefit from an additional partnership with a private law firm or in-house counsel. Factors to consider include the complexity of the matter, the amount of work involved, the need for additional expertise, and/or deadlines. Please let us know if you feel that partnering with other counsel would be helpful for your project.
8. PBPO strives to offer volunteers discrete and manageable pro bono projects. Accordingly, we inform our clients that you are helping with this particular matter only, and that all subsequent requests for assistance must come through our office. Should the client contact you directly in the future with other matters, please ask them to contact PBPO.

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