

Mississippi Solo and Small Firm Practitioner Handbook

A Practical Guide About the Business of Practicing Law

Published by the Young Lawyers Division of The Mississippi Bar

Foreword

This publication was designed by professionals to provide general information about basic topics useful to solo and small firm practitioners. It is provided with the understanding that the publisher, editors, and authors are not engaged in rendering legal, accounting, or other professional services or advice. Although prepared by professionals, this publication should not be utilized as a substitute for professional service and advice in specific situations. If legal advice or other expert assistance is required, the service of a professional should be sought.

The authors, editors, and publishers, specifically disclaim any liability, loss or risk incurred as a result of the use and application of, either directly or indirectly, any advice or information presented in this Handbook. All procedures and forms are suggestions only, and changes must be made depending upon the specific circumstances of each case.

Preface

This Handbook represents a major undertaking by the Young Lawyers Division of The Mississippi Bar to use the resources of our legal community to help Bar members in their day-to-day practice of law.

Recognition must be given to the Hawaii State Bar Association/ Young Lawyers Division for their manual entitled “What You Need To Know If You Decide To Go Out On Your Own,” of which a large portion of this manual has been incorporated herein with permission.

This Handbook was originally envisioned to address only the needs of solo practitioners, particularly those considering or in the process of going out on their own. As the project progressed, it became clear that much of the information was equally useful to lawyers who had already started their solo practices, and to lawyers either starting or already practicing in Mississippi’s many small firms.

Regardless of whether you are just starting out or have been in practice for many years, and regardless of whether you are practicing solo or in a small firm, virtually every article in the Handbook will have something of value to you. The efforts made by the contributing authors, with their wealth of experience and expertise, illustrates the ability of Bar members to help one another improve their practices, their lives and their service to the public. We commend this volume to you to read, and to keep handy for reference in the future. In addition, we encourage you to use The Mississippi Bar resources described in Chapter 17. The Mississippi Bar has dedicated substantial resources to

making the lives of its members easier and more productive, but they can only benefit you if you use them!

Appreciation is to be extended to Fox-Everett, Inc. for its financial assistance in publishing this Handbook.

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CHAPTER ONE

SHOULD I GO SOLO?

Going solo is one of the great dreams luring people to the practice of law. Almost any lawyer you meet will tell you that they have thought about it at one time or another. The lure of being your own boss, setting your own schedule, and not having to put up with the office politics, bureaucratic burdens, and administrative hassles of someone else's system are a great enticement. But if you are tired of your present situation and are thinking of making the switch to solo practice, be aware: Going solo is not the universal solution, and the grass is not necessarily greener on that side of the fence - it is only different. When you go solo, you are trading one set of problems and responsibilities for another, and whether you will be happier with the problems and responsibilities of a solo practitioner than you were with your previous situation depends primarily on who you are and what you want.

The benefits of being solo are easy to describe. But each benefit comes with its own burden - sometimes more than one. The biggest benefit is that you are your own boss; you answer to no one but yourself, you get to make all the decisions, and you get all the credit. But you also have no one to rely on but yourself, you have to make all the decisions, and if you make too many bad ones, you have no one to blame but yourself. As a solo, you can set your own hours, spend your own money and run your own office any way you want, and take (or turn down) any case you want. It can eliminate a lot of stresses, but it can also create a lot of different stresses.

Since going solo does not work for everyone, here are some considerations to help determine whether it might be right for you:

AM I SELF-RELIANT AND SELF-CONTAINED?

One of the hardest parts of going solo is being alone. Sure, you will have other people in the office - your secretary, maybe a paralegal or associate or two, and maybe even other attorneys with whom you share the decisions you make, and no matter how good a network of other attorneys and friends you may develop to brainstorm ideas, celebrate successes and commiserate failures, you are alone with that responsibility. If this scares you more than it excites you, you might want to think twice before making the jump.

DO I ENJOY HANDLING ADMINISTRATIVE DETAILS?

If you revel in the "pure" practice of law and disdain administrative matters, get ready for a big shock: Administrative tasks will take up much of your time. Some take the position you can delegate these tasks or ignore them, and for some matters you can; but for the most part, you have to know how to handle it yourself, and either handle it or closely supervise the person to whom you have delegated it. Most of the disciplinary and financial troubles that befall solo practitioners come from neglect or mishandling of administrative details. You have to know how to compute payroll taxes, when they are due, who to pay them to and what happens if you don't. You have to know how to hire

and fire people, what Department of Labor forms must be filled out and when, what insurances are required, and a myriad of other employee-related matters. You have to know how a bookkeeping system is set up, and what kinds of safeguards are necessary to prevent mistakes. You have to know how to rent an office, select the equipment for it, and set it up. In short, you have to be about half small business person and half lawyer. You can hire staff and outside consultants to help you, but ultimately it is your responsibility to make sure everything is done right and done efficiently. Remember that the cost of the mistakes come right out of your pocket. If you think running a small business might be fun, solo practice might be for you; but if you resent anything that takes your attention from the “pure” practice of law, you probably will not be happy as a solo.

DO I HAVE GOOD “STREET SMARTS” AND COMMON SENSE?

Being a good lawyer will not automatically make you a good solo practitioner. You need to have the street smarts and common sense to know what cases and clients will benefit your business, and which ones will hurt it. The fact that someone may ask you to represent them and take them on as a client may be flattering. However, if they are a bad credit risk and you do not have the common sense to spot it, you may end up doing a lot of work for free, and not being able to pay the bills. You also need to be able to spot trends in the marketplace that may affect your business. For example, if you plan on setting up a plaintiffs' personal injury or workers' compensation practice, what is the risk that a tort reform measure may put you out of business? If you are going to engage in real estate transaction work, what will happen when the market nosedives?

If your practice is going to be heavily dependent on one "sugar daddy" client, what will happen if that client takes its business elsewhere, or suffers a business failure? As a solo practitioner, it is not easy to jump from one practice area to another; building up new client bases and referral sources for a different type of work can deplete your cash and ability to grow.

CAN I SELL MYSELF?

Some lawyers are natural "rainmakers" to whom clients seem to flock; others, who may be equally talented, do not feel comfortable promoting themselves. There was a time when just doing good work might have been enough to guarantee a solo practitioner sufficient referral work from other lawyers to assure a successful practice. But the legal marketplace is rapidly becoming more competitive, and as a solo practitioner, selling yourself is more and more essential to survival. There are lots of different ways to market yourself, from television ads to doing technical seminars in your area of expertise. However, unless you are comfortable with the idea of selling yourself and your services, solo practice is going to be difficult for you.

DO I HAVE PATIENCE, PERSEVERANCE AND A HIGH TOLERANCE FOR RISK?

As a solo practitioner, you have to live with every aspect of your practice, 24 hours a day, 365 days a year. There will be times when things are not going well, when there is not enough money to pay the bills. But after making the investment of going solo, it is not so easy to just quit and go get a "real" job. Not only do clients depend on you, but there are

often long-term financial commitments on office space and equipment leases. When things are down, you need the fortitude to keep on going, and the objectivity to evaluate your situation realistically, determine whether changes are needed, and then implement them and hang on until they take effect. If the thought of losing everything you own brings on a state of panic that forecloses all rational thought, you will probably find it difficult to handle the inevitable business crises that face every solo practitioner. But if you handle adversity well, you will be able to weather the bad months and quarters, and keep on going to enjoy the good times that make being a solo practitioner so rewarding.

CHAPTER TWO

WHAT FORM SHOULD MY BUSINESS BE?

SOLE PRACTITIONER: SOLE PROPRIETORSHIP VS. PROFESSIONAL CORPORATION VS. PLLC

As a sole practitioner, you have three choices for the form of your practice. You may be unincorporated (a sole proprietorship), you may form a professional corporation pursuant to Miss. Code Ann. 79-9-1 et seq. (Supp. 1994), or you may form a professional limited liability corporation (PLLC) pursuant to Miss. Code Ann. 79-29-901 seq. (Supp. 1994). A lawyer may practice law as a solo proprietorship (only 1 lawyer), in a partnership (2 or more lawyers), in a professional corporation (1 or more lawyers), or a professional limited liability company (1 or more lawyers). You should note that the Mississippi Legislature is considering legislation that would authorize limited liability partnerships (LLP).

Each form of entity involves special considerations concerning the organizational structure, number of attorneys, liability, and taxation. It should be noted that a large number of large law firms and accounting firms have recently reorganized their businesses as PLLCs and LLPs. A variety of publications and seminars are available to assist a lawyer analyze these options.

A few considerations are discussed below:

A sole proprietorship is a business conducted by one owner. A sole proprietor may have employees, but not someone else who shares in profits or losses. Being a sole proprietor means that every creditor, whether personal or professional, has unlimited access to all of your assets. This is the traditional form of practice for a solo practitioner, and the only form available before the Mississippi Professional Corporation Law became in affect.

A professional corporation may be a one-person corporation. That is, one person may be the sole shareholder, sole director and sole officer. In any event, the shareholders, all directors, and all officers of the professional corporation must be lawyers. A professional corporation has no effect on your professional liability. In this regard, it is different from a business corporation. A professional corporation may serve to limit your personal liability to ordinary creditors, if businesses will extend credit to you without a personal guarantee. In some states, courts have held that a professional corporation provides no protection from personal liability, even from ordinary trade creditors.

A professional limited liability company seems to be the entity of choice, since the recent legislation makes this entity available in Mississippi. One or more lawyers may establish this type of entity with a Certificate of Formation filed with the Secretary of State and the adoption of an Operating Agreement. This entity allows flexibility (as opposed to the inflexible corporate structure) and allows members to avoid the double taxation associated with a corporation. The most appealing attribute is the protection of limited liability, which is outlined in the statute; however, this aspect does not generally benefit the sole practitioner to the same degree as it does for multi-member firms.

SMALL FIRM ORGANIZATIONS PROFESSIONAL CORPORATION VS. PARTNERSHIP

If you practice with another person, you have three choices of business organization. They are a professional corporation, a partnership, or a professional limited liability company. If the firm consists of a small number of lawyers and chooses to organize a professional corporation, each attorney will be a shareholder. There can be only one president, but any number of vice presidents. The shareholders should agree in a shareholders' agreement upon how the president will be chosen or how the shareholders will rotate into the office.

Many lawyers practicing with other lawyers form partnerships. The partnerships are almost always general partnerships. A partnership may consist of individuals, professional corporations or a mixture of individuals and professional corporations. Professional limited liability companies are discussed in the preceding section.

Whether the agreement among lawyers is a partnership agreement, a shareholders' agreement, or an operating agreement, it should be carefully drafted. It should clearly state the financial terms - how expenses are paid, how profits or losses are shared, what capital contributions are required, what retirement arrangements will be made, how capital and income are paid upon withdrawal, etc. Other things to consider are the number of billable hours expected, how administrative work will be shared, what the vacation and leave policy will be, etc.

Many lawyers really practice together under office and expense sharing arrangements. Whether your arrangement is that or a sharing of profits, the terms should be spelled out very carefully. Law partnership form books are available at the Supreme Court Library. The Mississippi Law Institute has published course handbooks on law office management, some of which are directed at the solo and small office practitioner. The Mississippi Uniform Partnership Act, Miss. Code Ann. 79-12-1 et seq. (Supp. 1994) provides specific rules (especially in Section 79-1235) governing the relationship among partners, unless they have an agreement to the contrary.

The persons drafting a partnership agreement should assure that the agreement adopts or refutes the rules established by the Mississippi Uniform Partnership Act. The provisions should be as precise as the drafters can make them. Most partnership agreements provide for arbitration of disputes, for reasons of confidentiality, as well as for sharing expenses. Any partnership, shareholders, or operating agreement should have specific provisions for termination of the joint practice. The agreement should provide the details which should protect each party against the actions or negligence of the other after the relationship has ended.

Whatever form of business entity you select, the key is to make a conscious determination on the form of your business and to document its details before starting your new practice. Only in that way can a myriad of future potential problems be avoided.

Finally, you should consult with the accountant or tax advisor to make sure your decisions are well informed, based on current tax laws.

CHAPTER THREE

WHERE SHOULD I SET UP SHOP?

There are many considerations in determining where to establish an office. Some of those considerations are the cost, the nature of practice, the access potential clients will have to your office, the amenities which are important to you, your employees and clientele, and the plans, however vague they may be, concerning the nature of your practice in the future. The following is a discussion of these factors. While by no means comprehensive or exhaustive, this discussion describes some of the considerations important in establishing your practice.

COSTS

The obvious primary consideration that should be taken into account is that of cost. It would be the enactment of a dream as a new solo practitioner to go to one of your city's prestigious office buildings and lease plenty of space for you, your secretary and your dreamed of future staff, partners and associates. This will not happen in reality. A new solo practitioner's primary concern in the operation of business must be overhead, especially recurring monthly expenses such as rent, utilities and employee expenses. A new solo practitioner must keep fixed costs at a minimum while at the same time making sure that he or she is capable of providing the best service to clients. The ambience of a nice office in town may be impractical at first and lead to a quick and fatal financial disaster.

A new solo practitioner will often begin practice with no, or very few, clients. Thus, an alternative must be found to the outlay of a large amount of cash each month, so that the new solo practitioner can set up an office in a nice location.

SUBLEASING

One option a solo practitioner should consider is subleasing space from another attorney or a larger law firm. In exchange for the space provided, the solo practitioner may promise to provide the one resource he or she will probably have the most of - time. That is, he or she may offer time and services or a combination of cash and services in consideration for office space. For example, he or she may offer to do research and drafting of appellate briefs that the landlord needs to have done, plus some lesser amount of cash. This is ideal for a new solo practitioner whose inflow of cash is at its minimum. In addition, this fits the solo practitioner's situation of having a lot of time, but little cash and few clients. Finally, it is not unusual for more than one attorney who is engaged in a solo practice to share office space and even clerical employees, as this immediately cuts overhead and recurring monthly expenses.

NATURE OF PRACTICE AND LOCATION

Another consideration for the new solo practitioner is the image he or she wishes to project to potential clients. This means that the solo practitioner may not want to sublease a space in the corner of an entire floor of a building that has been leased out by a larger law firm, and then have clients find it difficult to, first, locate him or her, and then secondly, identify him or her as their attorney, as opposed to this larger group of attorneys with whom he or she is physically associated. A new solo practitioner should want not only to survive financially, but, at the same time, to make his or her name known in the community as an independent creditable provider of legal services. This should always be a consideration whether sharing office space or subleasing space from another firm.

Another consideration in determining the location of your office is your type of practice. If the new solo practitioner's practice is based primarily upon business transactions or other matters for which court appearances are infrequently necessary, the solo practitioner may want to look at commercial space outside of the "high rent" downtown financial or business district.

A newly started solo practitioner must, however, be willing to perform a wide range of legal services for a wide range of clients. New solo practitioners cannot afford to be picky about new business. Because of this, the nature of the solo practitioner's practice, as it evolves, may influence the location of the office.

For example, a solo practitioner who performed contracting and transaction work for a larger law firm in the past, and believes that his or her practice as a solo practitioner will remain primarily the same, may initially lease an office space away from the downtown area. However, as the practice grows, those business clients may not only want him or her to continue to do the transaction work, but also their collection work which will necessitate frequent appearances in court. Thus, this practice gradually changes from a non-litigation practice to a litigation practice.

What must be done to accommodate the changing nature of one's practice is, if at all possible, to enter into leases or subleases that are between one to three years in duration. This provides flexibility to relocate the office as the nature of the practice changes. Another advantage to avoiding a long term lease is that physical facilities will need to change as the practice requires the hiring of additional staff, associates or entering into partnership agreements with other attorneys. If two solo practitioners are interested in combining their practices, but they are both obligated to be where they are for a considerable period of time in the future, this presents another problem to be faced among the myriad of challenges facing a new partnership.

AMENITIES

Another consideration in selecting your new office as a solo practitioner is the amenities it provides to you, your staff and your clientele. Among these amenities, of course, are such things as parking, access to your office from the bus line and access to the building during non-business days.

Most downtown office buildings that have parking, allocate spaces according to the amount of office floor space rented. Usually this will mean that the new solo practitioner or small partnership will have one or two spaces at best. Administrative personnel will

thus need to find parking elsewhere. Downtown parking for clients, often unfamiliar with the downtown area, can be frustrating and expensive. On the other hand, an office away from downtown usually provides parking for free or at a minimal charge. If you are not located in a big city, parking will not usually be a problem or concern. In most small towns in Mississippi, the courthouse will be in an old section of town with many vacant buildings or offices where rent will be naturally lower. People in small towns are more accustomed to attorneys being located within a few blocks of the courthouse. While location will influence practice in some instances, most of the time new clients will call first to set up an appointment and ask where the office is located. It would be unusual for a client not to come to an office simply because of its location. Some attorneys do not accept walk-in clients.

The information discussed in this section is by no means intended to guarantee a successful decision or even that the dough will rise. Every person's practice is as individual as his or her own hopes or aspirations. Each new solo practitioner will have to come to an office decision based on his or her own individual circumstances.

CHAPTER FOUR

FINANCING MY BUSINESS

Just about any new business, including a law practice, burns cash at an alarming rate in its early stages. Just for starters, there may be equipment to buy, a telephone system to install, stationery to purchase, and staff to hire. The list of preopening investments can be a long one. Once open, most businesses discover that operating expenses exceed revenues by a sizeable margin until the business matures and attains a break-even cash flow. All too often, a business that would otherwise succeed becomes a "money-pit" because the owner runs out of cash prior to the maturity of the business. Simply put, many businesses fail because they lack sufficient cash reserves to last through the early growth stages.

How can you avoid this fate? A forecast of expected cash inflows and cash outflows can be extremely useful in avoiding problems associated with an under funding of capital. A well thought out cash flow model based on conservative assumptions shows you how much cash reserve you must have before you can open up for business.

A cash flow forecast is best done after the development of a sound business plan. Your business plan does not have to be formal. It can be a collection of notes and financial data in a paper folder. However, your plan should address the following areas:

Services to be offered:

- What legal concentrations will be available?
- To what market(s)? Individuals? Governments? Corporations?
- How will fees be charged? Contingency? Hourly? For services rendered?
- Will retainers be required?
- How long will it take to collect fees?

Resources required:

- Offices and support equipment.
- Staff. How many? At what salaries? What benefits?
- Personal expenses: What will you and your family need to live on?
- Other items necessary for business success.

Armed with answers to these and other questions, you can construct a cash flow model. Illustrations of three different cash flow models and an initial cost accumulation form are attached as addenda to this article.

PROJECTING REVENUE

In a law practice that charges by the hour or by the service, fee revenue is a function of the fee per hour or service and the number of times service is delivered to the clients. It is possible that different rates will be charged for different categories of service. To begin constructing a cash flow model, determine the expected number of hours per month for each different category of services you intend to provide to your clients. Then plot the number of hours or services per month and the respective fee rates over 18 or more months. In most situations, a new business takes a while to build up volume. Your business may follow the usual pattern: a few hours in the first month gradually increasing in each succeeding month. When you are happy with this projection, simply multiply the projected hours or services by the respective fee rates. This will give you your expected monthly professional fee revenues.

Attorneys operating on a contingent fee basis are on less solid ground when attempting to predict revenues. Ultimate success, as well as the timing of collection, are not reliably predictable.

COLLECTIONS

It is important to recognize that revenues do not equal cash inflows. Unless you can obtain a sizeable retainer in every instance, you will also have to project your revenue collection. In the best of times, and depending on the quality of your billing system, hourly and fee per service based revenues can take between 30 to 75 days to collect. To continue building your cash flow model, stagger the cash received to show the amount of time expected to collect it. If you expect a 30 day collection period, show revenue billed at the end of the first month as being received during the third month of operations. If you expect a longer collection period, adjust the model accordingly.

EXPENSES

Every law practice has general expenses you must pay for whether you are serving clients or not. Control of these items is important. Businesses just starting up incur unusually high expenses in the pre-opening stage due to investments such as furniture and equipment, stationery, rent deposits, a telephone system, supplies and planning consultation. After you have listed your pre-opening items, estimate their costs and note the total of these costs on your cash flow model in your first month column. Indicate your expected monthly expenses for each of the following items, and any others pertinent to your practice, in each monthly column:

Personal living expenses

Staff salaries and benefits
Rent and utilities
Accounting and computer services
Income taxes
Telephone and messenger services
Supplies
Professional dues and licenses
Professional training
Insurance premiums
Postage &, freight
Travel
Contingencies

To get a good grasp of the actual amount of your personal living expenses, review your checkbook and credit card activity for the past 12 months or so. Take note of your infrequent or once a year expenditures as well as your monthly costs. Infrequent expenses can include insurance premiums, vacations, and school tuition.

CALCULATING CASH FLOW

Having plotted the expected revenues and expenses of your new business, you are now in a position to calculate the monthly net cash flows and determine the amount of cash you should have when you start out. In the early months you will likely project significant decreases in your cash reserves.

The cash flow illustrations accompanying this article each assume a different scenario:
a sole practitioner operating out of his/her home;
a sole practitioner with a secretary sharing office space; and
a sole practitioner with a secretary renting space.

Each scenario indicates a different level of initial minimum cash reserves necessary to avoid a cash deficit. Greater cash reserves would provide for unexpected contingencies. The amount of extra reserve you need depends on how your practice is constructed. Generally, it is wise to have two or three months of expenses in reserve at all times. If you have to use your reserve to pay bills, you should seriously consider the likelihood of your success in your current configuration. Perhaps only a few costs need to be reduced. On the other hand, it is possible that the market will not support your business.

SECURING THE CAPITAL

The investment necessary to open your practice, if you haven't already accumulated it in your savings account, can probably be borrowed from a bank as long as you can show success as an attorney, and several years income tax returns to confirm your success. You may also need collateral such as substantial equity in real estate. Using your own funds is of course preferable, because borrowing your start-up capital will add interest expense and principal repayment to your already high cash requirements.

BUDGETING

You can also use your cash flow forecast as a budgeting tool. At the conclusion of each month, analyze all of your cash receipts and your cash payments, total them by category and update the forecast to show the actual results for the latest month. Do this every month. This will help you stay focused on keeping costs low, and will alert you to unavoidable expenses you did not include in your forecast.

ADDITIONAL GUIDANCE

Additional useful materials in planning a business are available from the Small Business Administration, the Chamber of Commerce and the State of Mississippi's Department of Business, Economic Development and Tourism. Your accountant can also provide helpful guidance before you open your doors and as you grow. Monthly magazines provide valuable information for the day to day management of your new business. Whatever level of commitment you choose to make to your practice, it is always advisable to plan your approach carefully, plot the expected cash flows and have your cash reserves in the bank before opening up for business.

Lease deposit	_____
Remodeling	_____
Furniture & Equipment	_____
Utilities & Telephone	_____
(deposits & installation)	_____
Stationery & Supplies	_____
Accounting & Planning Services	_____
Promotion &, Advertising	_____
Contingencies	_____
TOTAL	_____

JOHN B. STARTINOUT
Attorney at Law

Scenario: At Home

Month	1	2	3	4	5	6	7	8	9	10	11	12
Billable Hours	60	70	80	90	100	150	150	150	150	150	150	150
Hourly Rate	125	125	125	125	125	125	125	125	125	125	125	125
Gross Billings	7500	8750	10000	11250	18750	18750	18750	18750	18750	18750	18750	
Cash Collections		7500	8750	10000	11250	12500	18750	18750	18750	18750	18750	
Draw	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000
Employee Benefit	1200	1200	1200	1200	1200	1200	1200	1200	1200	1200	1200	1200
Telephone/ Utilities	2000	500	500	500	500	500	500	500	500	500	500	500
Supplies & Equipment	5000	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Photocopying	500	500	500	500	500	500	500	500	500	500	500	500
Books & Periodicals	6000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
Professional Fees	400	400	400	400	400	400	400	400	400	400	400	400
Misc.	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300
Postage	100	100	100	100	100	100	100	100	100	100	100	100
Insurance	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500
Total Cash Expenses	24000	14400	14400	14400	14400	14400	14400	14400	14400	14400	14400	14400
Net Cash	-24000	-14400	-6900	-5650	-4400	-3150	-1900	4350	4350	4350	4350	4350
Cash Investment	60000											
Balance	36000	21600	14700	9050	4650	1500	-400	3950	8300	12650	17000	21350

JOHN B. STARTINOUT
Attorney at Law

Scenario: Sole Practitioner with Secretary sharing office space

Month	1	2	3	4	5	6	7	8	9	10	11	12
Billable Hours	60	70	80	90	100	150	150	170	180	190	200	200
Hourly Rate	125	125	125	125	125	125	125	125	125	125	125	125
Gross Billings	7500	8750	10000	11250	12500	18750	18750	21500	22500	23750	25000	25000
Cash Collections		7500	8750	10000	11250	12500	18750	18750	21500	22500	23750	25000
Draw	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000
Secretary	2500	2500	2500	2500	2500	2500	2500	2500	2500	2500	2500	2500
Employee Benefit	1700	1700	1700	1700	1700	1700	1700	1700	1700	1700	1700	1700
Rent & Sec. Dep.	3000	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500
Parking	150	150	150	150	150	150	150	150	150	150	150	150
Furn. & Equip.	15000											
Telephone/ Utilities	2000	500	500	500	500	500	500	500	500	500	500	500
Supplies & Equipment	5000	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Photocopying	500	500	500	500	500	500	500	500	500	500	500	500
Books & Periodicals	6000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
Professional Fees	400	400	400	400	400	400	400	400	400	400	400	400
Misc.	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300
Postage	100	100	100	100	100	100	100	100	100	100	100	100
Insurance	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500
Total Cash Expenses	45150	19050	19050	19050	19050	19050	19050	19050	19050	19050	19050	19050
Net Cash	-45150	-19050	-11500	-10300	-9050	-7800	-6550	-300	-300	2200	3450	4700
Cash Investment	110000											
Balance	64850	45800	34250	23950	14900	7100	550	250	50	2150	5600	103000

JOHN B. STARTINOUT
Attorney at Law

Scenario: Sole Practitioner with Secretary in His/Her Own Office

Month	1	2	3	4	5	6	7	8	9	10	11	12
Billable Hours	60	70	80	90	100	150	150	170	180	190	200	200
Hourly Rate	125	125	125	125	125	125	125	125	125	125	125	125
Gross Billings	7500	8750	10000	11250	12500	18750	18750	21500	22500	23750	25000	25000
Cash Collections		7500	8750	10000	11250	12500	18750	18750	21500	22500	23750	25000
Draw	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000	6000
Secretary	2500	2500	2500	2500	2500	2500	2500	2500	2500	2500	2500	2500
Employee Benefit	1700	1700	1700	1700	1700	1700	1700	1700	1700	1700	1700	1700
Rent & Sec. Dep.	3000	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500
Parking	300	300	300	300	300	300	300	300	300	300	300	300
Furn. & Equip.	15000											
Telephone/ Utilities	4000	500	500	500	500	500	500	500	500	500	500	500
Supplies & Equipment	5000	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Photocopying	500	500	500	500	500	500	500	500	500	500	500	500
Books & Periodicals	6000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
Professional Fees	400	400	400	400	400	400	400	400	400	400	400	400
Misc.	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300	1300
Postage	100	100	100	100	100	100	100	100	100	100	100	100
Insurance	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500	1500
Total Cash Expenses	50300	20700	20700	20700	20700	20700	20700	20700	20700	20700	20700	20700
Net Cash	-50300	-20700	-13200	-11950	-10700	-9450	-8200	-1950	-1950	550	1800	3050
Cash Investment	130000											
Balance	79700	59000	45800	33850	23150	13700	5500	3550	1600	2150	3950	7000

CHAPTER FIVE

SETTING UP MY BOOKS

This section deals with organizing accounting records to simplify retrieving information for billings to clients and for the preparation of financial reports and tax filings. This is an important task because it is the foundation from which all information and reports are

generated. This activity also helps you, the practitioner, understand the interrelationship between each type of transaction and its corresponding book of record.

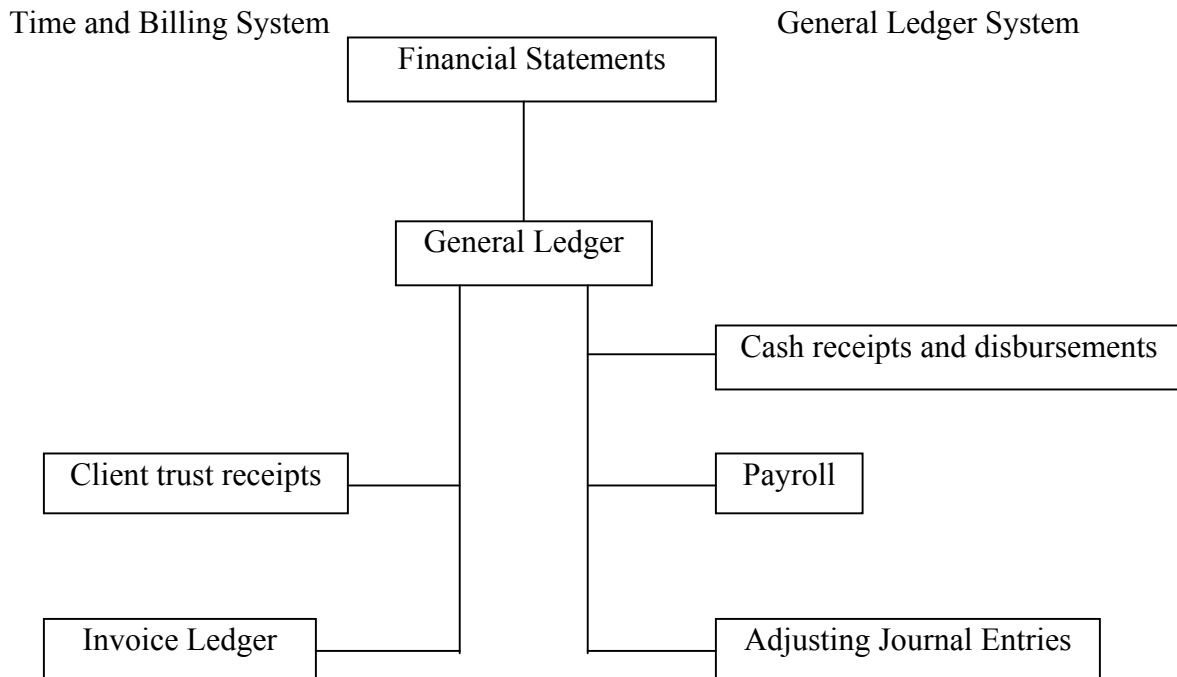
TIME & BILLING SYSTEM

The accounting for all client-related transactions is called the Time & Billing System. This includes the recordation of time worked, costs advanced, invoices issued, cash received (for payment of invoices issued) and all trust or escrow related transactions. These transactions are segregated and recorded into multiple books or journals.

GENERAL LEDGER SYSTEM

The General Ledger System includes information from Time &, Billing and other transactions not part of Time & Billing. For example, at month-end, the invoices issued during the month are summarized and the totals are posted to the general ledger in the appropriate account categories. Similarly, cash disbursements for expenses such as rent, payroll, etc. are also summarized and posted to the general ledger. This record, the general ledger, is a summary of all transactions and is the basis from which financial statements are created. All other books of record are subsidiary to the general ledger.

ACCOUNTING SYSTEM FLOWCHART



RECORDING TRANSACTIONS

As your practice grows, your practice will require cash and its receipt and disbursement. Additionally, you will have certain non-cash transactions which you must also account for.

Cash transactions are defined as any transaction requiring cash, either disbursing or receiving. Cash disbursements include payments for rent, payroll and related taxes, communications, insurance, library, office operating costs, professional activities, costs

advanced for clients, etc. Cash receipts is generally from clients for work performed and costs advanced.

Certain non-cash transactions require recordation despite the lack of cash being transacted. These include accounts receivable (an invoice is rendered to a client), depreciation (amortization of a capitalized asset), and certain other situations.

BASIC BOOKS

The following is a brief description of a simple set of books used in a law practice:

1. Client Ledger (Time & Billing). One Ledger card for each client is required to record all transactions for the client. This includes fees billed and received, costs advanced and recovered, and trust funds deposited and disbursed.
2. Cash Receipts and Disbursements (Time & Billing and General Ledger). This book contains a record of all cash receipts and disbursements excluding trust related transactions. It is also an easy way to determine the bank balance. Disbursements chargeable to clients (e.g. filing fees) must also be recorded on the client's ledger card so that future invoices to the client can include these advances. Similarly, to note that an outstanding invoice has been paid, receipts from clients must also be recorded on the client's ledger card.
3. Trust Account Cash Receipts and Disbursements (Time & Billing). The Mississippi Supreme Court has imposed certain requirements for client funds held in trust. Because of the sensitivity of trust monies, a separate bank account should be maintained for these funds. Attorneys should not have an interest bearing trust account, except when the account is a special, segregated interest bearing account, set up with the client's consent. Another exception is a trust account set up pursuant to the provisions of Mississippi's Interest on Lawyers Trust Accounts Program (IOLTA). This program allows an attorney to place clients' trust account funds in an interest bearing trust account, which is governed by the rules and procedures established by the Mississippi Supreme Court, with the interest being payable to the Mississippi Bar Foundation, Inc. If you do not want to participate in the IOLTA Program, attorneys may opt out, but he or she must comply with the Notice of Election Form. This book records all trust account cash receipts and disbursements and reflects the bank account balance at all times. Whenever an entry is recorded here, the client's ledger card must also be updated to reflect its current trust account balance.
4. Chargeable Time System (Time & Billing). Generally, a log is maintained each day which records the lawyer's billable and non-billable work performed. Each entry contains information recording the name of the client, the amount of time spent and a description of the work performed. This system is useful to record non-billable activities because it can isolate either non-income producing work or time invested in potential clients. Billable time is also recorded on the client's ledger card as a convenience and simplifies the billing process. At the time of billing, all relevant information is included on the client's ledger card and an invoice can be easily generated.
5. Invoice Ledger (Time & Billing). This is a listing of all invoices rendered to clients and is chronologically maintained by date or invoice number. It includes the client's name, date of invoice, invoice number, value of time and costs, and billing period. The invoice, created from the information on the client ledger card, is posted here.

6. General Ledger. As mentioned previously, certain noncash transactions, and all cash transactions are posted to the general ledger. At the end of the month, each ledger is totaled and the sums posted to the general ledger.

TYPICAL LAW OFFICE ACCOUNTING OPERATION

An illustration of a typical law office accounting operation follows:

1. Contribution of Capital. This is a cash contribution to fund the business and is primarily used as working capital. It is deposited to the operating bank account.
2. Payment of Office Rent. Disbursement is made from the operating bank account and recorded as an expense.
3. Client Engagement. A client is engaged and a letter specifying the scope of work to be performed is signed by the client.
4. Retainer Received. The client pays an agreed upon amount to the attorney as a retainer for work to be performed. This amount is deposited into a special clients' trust account which is also noted on the client's ledger.
5. Work Performed. A daily log of worked performed is maintained and identical entries are recorded to each client ledger card.
6. Costs Advanced. Filing fees are required to be paid for certain matters. This disbursement is made from the operating bank account or the client's trust account and is also noted on the client ledger.
7. Preparation of invoice. At the end of the month or other agreed upon billing period, an invoice is prepared for the client. Since the client ledger card contains all information regarding unbilled amounts, an invoice is prepared including all unbilled time and costs advanced. The billing is also recorded on the invoice ledger.
8. Receipt of Payment. When the client makes payment on an invoice, the funds are deposited in the operating bank account. Receipt of payment is made on the client's ledger card.

The set of books described here is one example of many variations. It is important that the mechanics of the accounting process is understood because of the need, at times, to prepare invoices with little advance notice. Generally, an experienced accountant can make a significant contribution not only to set-up the books, but also to assist in the preparation of financial statements, tax filings and payroll. It is obvious that the more work the accountant performs, the more expenses will be incurred.

This accounting set-up should be given enough time and attention because the system which you develop will be carried forward into the future. Any inherent problems or weaknesses will be accentuated as the law practice increases in its volume and complexity.

ACCOUNTING UPDATE FOR MISSISSIPPI ATTORNEYS

The solo or small firm practitioner in Mississippi is encumbered with substantial responsibilities in office administration and accounting for the law practice.

Understanding specific terminology and record keeping requirements will by Greg Anderson, CPA mean the difference between accurate financial reporting and unusable numbers. The information presented below represents an update on accounting in a law firm, and the foundation for complete tax and financial reporting for your firm.

Accounting Records to Keep Maintaining a complete accounting system requires maintaining complete documentation of transactions, time and billing records, and journal entries. This helps ensure questions can be more easily answered about transactions recorded in the books and provides the necessary documentation to support your tax deductions or answer client billing inquiries.

1. Timekeeping and Billing:

Time slips and copies of client billings should be maintained on file to support time entries and to answer client questions about the nature of work performed or outstanding bills.

2. Cash Receipts:

Copies of client checks in payment of fees are important to support client payments and to answer client inquiries about payments made on your billings.

3. Cash Disbursements:

Check stubs are important to identify your cash disbursements, but this information should be supplemented by the original vendor's invoice. This information is required to support deductions in an examination by the Internal Revenue Service.

4. Financing:

Copies of loan agreements for working capital loans and copies of invoices for financed purchases (e.g., copier, phone system) are important to substantiate loan information and the cost of property acquired.

5. Journal Entries:

Equally as important as supporting cash transactions, journal entries made to adjust general ledger accounts should be well documented to explain the nature and purpose of the entry.

6. Payroll:

Employee personal information, time cards, expense reimbursement forms and payroll calculations should be maintained on file to support payroll amounts and to document performance issues. Also essential for personnel files are the withholding forms prepared by the employees for Federal and Mississippi income tax withholding purposes.

One-Write Systems

Accounting supply companies market pegboard systems for timekeeping and cash receipt and disbursement functions, often called "One-Write Systems." These consist of carbonless checks and time slips in pegboard sheets which permit simultaneous posting to an attached ledger sheet. These systems are relatively inexpensive and give you a simple alternative to posting ledger cards and cash journals.

Chart of Accounts

The classification of income and expenses in the general ledger is accomplished by a set of categories established to identify the nature of the transaction. As each transaction is posted to the books, it is identified by the category established in a chart of accounts. A typical chart of accounts for a law firm is designed to separately identify transactions into such categories as legal fee revenues and office, professional and client expenses.

The American Bar Association publishes A Model Chart Of Accounts which contains a listing of accounts appropriate for a law firm, with definitions of the transactions normally included in the accounts. While charts of accounts may differ greatly between

law firms, the basic concept remains the same: assets, liabilities, revenues and expenses are all separately classified to facilitate tax and financial reporting.

Cash Versus Accrual Basis of Accounting

Two basic forms of accounting exist in a law firm: cash and accrual. Under the cash basis, only transactions affecting or requiring cash are recorded on the books. The accrual basis records revenue when earned, not as collected; expenses are recorded when incurred, rather than when paid. Although the accrual method more properly reflects the results of the law firm's operation, the cash basis is generally the more preferential method for income tax purposes, because income and expenses are based upon actual cash in and out.

Work-In-Process

Fees and expenses for work on behalf of clients are accumulated by file to provide details of items to be billed and recovered. These unbilled fees and expenses comprise Work-In-Process, and represent the fruits of the work by the attorneys and other billable staff. Work-In-Process often represents a tool for measuring the amount of work performed by the firm which has not yet been billed to clients; too much in this account may signal forgotten time and expenses not yet billed to clients or unusual delays in preparing bills.

Accounts Receivable

Mississippi attorneys are becoming more sophisticated in understanding and managing accounts receivable, which is the total of client billings prepared and submitted to clients, but for which payment has not yet been received. High levels of accounts receivable, or balances outstanding for long periods of time, signal difficult collections or poorly managed accounts receivable balances.

Accounting for Client Advances

The Internal Revenue Service has prescribed training methods for its own employees in the examination of law firms on a national level. The IRS instructs its agents that expenses paid on behalf of clients or client advances represent loans to clients and should not be deducted as an operating expense of the firm. This results in cash outlays in some firms which may not be recovered from the client until settlement after several years of litigation. The IRS states that these outlays should not be deducted in the year paid; rather, excluded from income from the settlement in the year eventually received. Accounting for client advances as loans requires you to separately identify client advances in the chart of accounts and to devise a system for posting the disbursement and recovery of client advances separately from expense transactions.

Depreciation and Amortization

Office equipment and other long-lived assets acquired by a law firm are often more appropriately identified as depreciable property, with the cost of the property written off over a period of time prescribed by the IRS. This results in the deduction of an asset's cost deducted over several years, as opposed to a full deduction in the year of purchase. This write-off of the cost of a law firm's asset is identified as depreciation or amortization, depending upon the nature of the asset. Your CPA can recommend

appropriate depreciation methods and periods, and compute the annual amount of depreciation or amortization.

Accounting for Employee

Payroll In hiring and compensating employees, accounting for payroll has certain inherent complexities not commonly found in other accounting transactions, mainly because of the presence of payroll taxes withheld and matched by the law firm To ensure proper accounting to Federal taxing authorities, as well as the Mississippi State Tax Commission and Mississippi Employment Security Commission, professional advice should be considered before compensating employees.

When accounting for the disbursement of funds for payroll and payroll taxes, employee compensation should be reported at the gross amount in the salary expense classification of the general ledger, while payroll tax liability amounts require separate accounts. Payroll taxes paid by the firm, such as FICA and Medicare matching, should be posted to the payroll tax expense of the firm.

CHAPTER SIX

INFORMATION TECHNOLOGY FOR SOLO PRACTITIONERS

The practice of law is an information business. An information business depends upon the daily and strategic use of the combination of computers and telecommunications, which are collectively called "information technology." Whether it is meetings, case management, loan documentation, or accounting, every task of attorneys and their support staff can be made more productive through information technology. Most attorneys agree that information technology is essential, but those same advocates, especially the attorneys who wrestle with paying for it, are usually bewildered about what, when and how much technology to buy. This article discusses a solo practitioner's basic needs for information technology, outlines the formulation of a plan for acquiring such technology, and describes new technologies useful to the solo practitioner. If you would like a "one-size fits all" prescription for information technology, here it is: a PC, WordPerfect, a laser printer, a fax machine, a modem, two phone lines, a two-line phone with a conferencing feature, and a voice/fax/modem electronic switch on the second phone line. A PC, WordPerfect, and a laser printer are the lowest common denominator. With "Smart Call" services on both lines, you can easily set up a five-person conference call. It is similar to having a single line rotary-dial phone system as opposed to a multi-line smart phone. What about time and billing, accounting, and scheduling software? What about managing (that is, backing up, classifying, retrieving for reuse and adapting) the documents you produce every day so well that five years from now you can quickly retrieve and modify a lease or pleading you drafted today? What about faxing documents without having to print them first, or converting received faxes into word processing documents? Is Windows worth the additional expense and complexity it requires? Is a "peer -to-peer" local area network ("LAN") suitable for a small law office, or should your first LAN use a file server? For that matter, what is a peer-to-peer LAN or a file server? How do you develop a plan to navigate the information technology jungle of acronyms and techno-babble?

WHAT ALL SOLOS NEED

Solo practitioners compete against larger firms with substantial investments in office technology. Yet, a solo's work product has to look as good and be as timely, or better, than that of the larger competitors. The implication: You will soon have to decide whether to install a local area network, scanning and optical character recognition (OCR), document management, and other technologies... even if you remain a one-person shop. The bright side? It is far easier for a solo practitioner to adopt a new technology than for a large firm, so one of your best competitive weapons is higher productivity through earlier adoption and intelligent use of new technologies. As you add employees, be it a staff person or another attorney, what seemed optional before, like a fax server or a CD-ROM player, becomes essential. In fact, you may find WESTLAW and Lexis to be a necessary tool. An information technology plan enables a reasoned investment in the constant flux of information technology. Assuming you have chosen your word processing software, the plan begins with what all solos must have: time and billing, accounting, and personal information manager software, a second computer (probably a notebook computer), and tape backup hardware.

TIME AND BILLING

The most popular time and billing software is Timeslips and TABS, Jr. There are, of course, many commercial and "shareware" time and billing packages. (Shareware is software that can be downloaded from a bulletin board system by using a modem and communications software, then registered with the software publisher for a small fee, typically \$20 to \$50.) The choice of time and billing software is influenced most strongly by whether you find it easy to use and by the degree to which it interfaces with your accounting software. Many time and billing packages, including Timeslips, publish a companion program that links the time and billing data to popular accounting packages.

ACCOUNTING

Good, general purpose accounting software is entirely suitable for small law practices. The features of accounting software tailored to law firms may be of use to large law firms, but it's the accounting, or "back office," function that must be satisfied, not the "front office" function of law practice. For that reason, many large firms don't use accounting packages published by legal software publishers.

Many of the major general accounting software publishers, such as Macola, Solomon, and Peachtree, have less expensive, "entry level" systems that are adequate for solos. Some very good accounting packages, like Dace-Easy, are only available in entry level versions that cost about \$200.00 per module. If you haven't had training in double entry accounting and the tax code, you'll need help in setting up your chart of accounts and in conforming with the tax codes. Once you've made it through the first year, you'll find using the accounting software fairly routine. If you anticipate growth, you may wish to consider buying a medium level accounting package. Many entry-level packages have limitations on how easily your data can be converted for use in a higher level accounting package. In other words, some software publishers reduce functionality to release a lower-priced product. Ease of upgrading to a higher-level package is often one of the functions that is compromised.

PERSONAL INFORMATION MANAGER

Typically, a personal information manager (PIM) provides basic database management, scheduling, and reporting functions. Some PIMS have additional features, such as project management (tasks, workers assigned to those tasks, and deadlines), auto dialers (dials on your telephone the phone number highlighted on the PC screen), multiple databases (e.g., phone books, notes), multiple calendars (e.g., personal, meeting room, long term tasks), timers, outliners, mail-merge (e.g., print envelopes and labels) and calculator. Using a PIM consolidates in one place the records of the many commitments of future time and resources that you make every day. Different attorneys and support staff may use different features of a PIM in different ways, but all users can share LAN-based PIM files designated for common use, such as calendars, notes, and phone books. Unfortunately, no single PIM has all the features mentioned above, so selection of a PIM is a matter of preference. On a more positive note, if a firm adopts a single PIM for use, users soon begin teaching each other tips on using the various functions and thereby promote wider adoption of the functions. There are many PIM products on the market. Infoselect, Instant Recall, and PackRat are available in standalone and LAN versions; Agenda, Ascend, and GrandView is very strong in outlining, but also much weaker in scheduling. There are, of course, many software packages that provide just one feature also found in a PIM, e.g., Abacus, a scheduling program tailored to law practice, and LegalBase, a database tailored to litigation support.

THE SECOND COMPUTER; TAPE BACKUP

A solo practitioner with a single computer is out of business if that computer fails or if relevant computer files are damaged or lost. Therefore, all law practices should have at least two computers, and a means of backing up the files on both computers. These backups should be regular and reliable. The best backup device for solos is a tape drive that attaches to a computer's parallel port. Colorado Memory Systems and Irwin, among others, make such devices. By attaching to the parallel port, these devices have eliminated the need for an adapter card, and can therefore attach to notebook computers (which do not accept traditional adapter cards). There are compelling arguments for buying a notebook computer as a solo's second computer. The most persuasive argument is more billable hours. A notebook computer (one weighing between 3 and 6 pounds, including battery) can have all the power of most desktop computers; you can run normal word processing, time and billing, accounting, and PIM software on a notebook, and you can do so anywhere ... on a plane, in a hotel room, waiting in lobby. Billable hours from work done on a notebook computer count just as much as those performed at a desk. Moreover, if your desktop computer fails, the notebook computer can temporarily become your main computer. Finally, the portability of a notebook allows a solo the one luxury they seldom have a chance to enjoy - getting away from the office.

BEYOND THE BASICS

The gap between realizing the need for a plan and having a plan can be bridged by you alone, or through the help of friends, or with the help of consultants and vendors of hardware and software. If your firm or your circle of friends is short on computer mavens, the following advice may help: (1) Read this chapter and the technology articles

in *The Mississippi Lawyer*, listing topics appropriate to your firm and including any special concerns your firm may have; (2) based on that list, draft a letter requesting proposals, at no charge to you, from vendors; the letter should generally state your present computing environment (e.g., two 486 machines with WordPerfect and a Laserjet II on a print sharer) and request the vendors to prioritize the strategic acquisitions that they recommend your firm make; (3) discuss timing and price options with the top three proposers; and (4) condense the vendors' recommendations and your conclusions into an outline of computer acquisition pricing and timing that fits your firm's needs and budget. Keep in mind what training the vendors' offer in addition to mere on-site delivery of the hardware and software. You have now developed a strategic plan for information technology for your firm, you know where to obtain such equipment, and at what prices.

Some of the more advanced technologies you should consider; a LOCAL AREA NETWORK, especially if two or more persons work in an office. Using the parallel port back-up device discussed above becomes very time-consuming when it must be attached and detached from every computer in an office on a daily basis. With a local area network, your firm's data can be backed up in seconds if you use Mirrored drivers, or in minutes if you use backup devices attached to the LAN file server(s). Secondly, when you install your network, always install a few guest accounts. If you have a sudden increase in case load, rent some PCs with network cards, hire some temps, and let them work away indexing and digesting documents, doing edits, revising loan documents, etc. SCANNING AND OCR is the capture of a document image (scanning) and optical character recognition (OCR) of the scanned image to produce a word processing document. One of the best values in scanner/OCR combinations today is the Hewlett-Packard Scanjet II with document feeder, and Caire Omni-Page Pro 2.x OCR software. Scanning can save literally hours of recreating documents by re-typing.

The time and trouble of trying to find a single, important document "lost" on the network could pay for DOCUMENT MANAGEMENT software. Good document management software forces users to properly name and index new documents as they are created. Thereafter, the document management software keeps track of revisions and of who accessed the documents, and enables rapid searching for documents based on variable criteria. To save the time and effort of printing out pages, loading the printout into a fax machine, and standing guard to detect jams, out-of-sequence feeds, and double-page feeds, you should consider FAX SOFTWARE that converts the file to fax format and sends it, at a given time in any page length, to an unlimited distribution list. Think of fax software as a paperless fax machine: its input and output are computer files. Some fax software can automatically convert received faxes to word processing files. Although more powerful PCs are required to run MICROSOFT WINDOWS 3.1 and Windows applications as fast as DOS applications run, Windows requires less user training than DOS. Moreover, many new applications and some upgrades of older applications are being released only in Windows versions. Windows also permits customized links to be established between Windows applications, in effect enabling you to build the perfect PIM for your law practice. If you have any interest in becoming one of the surfer's on the Internet or World Wide Web, Windows is highly recommended. WINDOWS 95 will require even more speed and memory from your computer, so you should consult with your computer advisor before opting for this system.

CONCLUSION

Small law offices usually have tighter budgets and, consequently, less room for error in the acquisition of office technology. To make every dollar count, solo practitioners should consider a basic complement of software and hardware. The importance of formulating a strategic plan for acquisitions beyond the basics cannot be underestimated.

CHAPTER SEVEN

EQUIPMENT AND SUPPLY CHECKLIST

Setting up a law office can be an exciting and rewarding endeavor; however, there are lots of things that can easily be overlooked in the rush to meet opening day deadlines. Here is a list of essential furniture, equipment, and supplies for setting up your new law office.

In using these lists, please remember that everyone has his or her own special needs that may not be adequately addressed in a general list. Furthermore, your computer hardware and software may allow you to delete some items, such as billing cards or client cards. Of course, cost is always a factor, but the lack of adequate equipment can affect your efficiency and the image you give your client.

FURNITURE AND EQUIPMENT

For Each Lawyer: Library Conference Room:

- executive deskbookcases
- legal-size lateral
- conference table
- file cabinet
- chairs
- three client chairs
- telephone with speaker
- telephone
- phone
- executive chair
- chair mat
- wastebasket
- dictation machine

For Each Secretary/ For Each Clerk/Intern:

- Paralegal-desk
- telephone
- chair
- desk
- chair mat
- chair
- wastebasket

calculator
telephone
computer
desktop file holder
chair mat
Reception Area
four chairs
file cabinet
coffee or end table
dictation transcriber
coat rack

Other:

separate printer for each secretary
standard typewriter for pre-printed forms
answering machine
legal-size fire-resistant file cabinet
copier with reduction capability
fax machine
Mississippi Code
Business cards
Portable dictation equipment

SUPPLIES

office checkbook
daybook
deposit slips
stapler
trust account checkbook
pencil sharpener
& deposit slips
postage stamps
cash receipt book
letter scale
letterhead and second letter opener
sheets
stamp pad
letterhead envelopes
rubber stamps
plain envelopes
Post-it Notes
statement envelopes
ledgers
business cards
Will envelopes
pleading paper

Will backs
statement cards
Will paper
client cards
manila envelopes
file folders
dictation tapes
staple remover
message pins
paper clips and holder
Rolodex
file pins
pens and pencils
file labels
legal tablets
hole punch
announcements
container for client cards
plain paper tablets
container for billing cards
expandable files

CHAPTER EIGHT

WHAT ABOUT MALPRACTICE INSURANCE?

Every business needs insurance, and lawyers and law firms are no exception. Many insurance coverages are mandated by law or required by lease or loan agreements. In Mississippi, mandatory coverages include workers compensation insurance (if you employ five (5) or more workers) and unemployment insurance. In addition, property and liability insurance is generally required by banks and property owners.

You should be aware, however, that none of these policies provide coverage for what might be considered an attorney's largest exposure, a professional error or omission. The probability that a lawyer will be sued for malpractice is greater today than ever before. The frequency and severity of legal malpractice claims has steadily increased over the last decade. With this in mind, a lawyer setting up a new practice should secure a professional liability insurance policy, in addition to other insurance coverages required by law.

SELECTING AN AGENT

The first step in the process is the selection of an insurance professional. Sure, you have an insurance agent. You buy homeowners and automobile insurance. But does your agent have the qualifications and the markets to place all of your exposure and the expertise to handle your professional liability insurance as well? As with any profession, no one has all of the answers. Before you make a decision about your professional liability insurance, we encourage you to ask your insurance professional the following questions:

How are you qualified to handle my insurance needs? Do you insure other professionals? How long have you been handling professional liability? How many insurers do you represent? The Mississippi Bar Insurance Committee, or other attorneys who have already purchased professional liability insurance, can recommend knowledgeable insurance agents to assist you in securing the coverage you need.

PICKING A CARRIER

One of the many services provided by The Mississippi Bar is the arrangement the Bar has for obtaining professional liability insurance through Fox-Everett, Inc. To utilize this service and receive some information on securing professional liability insurance, call FoxEverett at (601) 364-5200. A bar member is not required to purchase insurance through Fox-Everett, Inc., as there are several other companies writing this type of coverage in Mississippi.

SCOPE OF COVERAGE

What is the scope of coverage? Is it on a claims-made basis or an occurrence basis? Most professional liability insurance is written on a claims-made basis. You should obtain coverage or a rider for prior acts and/or liability from work with former firms. Also, you should inquire about any extended reporting periods. Does the deductible apply to defense, as well as indemnity costs? Is it a per claim or annual aggregate deductible? Do defense costs reduce the available limit of liability? Are there any particular exclusions, which remove coverage for areas in which you actively practice? Can these exclusions be bought back? How does your policy handle claims that might arise against future or former employees? The bottom line is that you need to become familiar with your policy terms, conditions, and exclusions.

LIMITS AND DEDUCTIBLES

Are adequate limits of liability and deductibles available? A quality program should offer a variety of options for limits of liability and deductibles. Consider these options and look for a reasonable balance between price and coverage. Is a higher deductible worth the savings? What limits of liability are appropriate for your profession? Underwriting guidelines will usually require a minimum deductible of \$1,000 per attorney and a maximum limit of \$1,000,000 per attorney.

LOSS PREVENTION COUNSELING

Does the insurance company provide educational assistance such as seminars, brochures, video presentations or other materials in the area of loss prevention? The availability of loss prevention instruction and information is a reflection of the agent's and insurance company's commitment toward helping reduce lawsuits against you. Be certain such assistance is available.

COST OF COVERAGE

What factors influence the cost of coverage? Most insurance companies use similar methods of calculating their premium. The following are some of the items insurers consider:

1. Area of Practice. Claim frequency and severity will vary based on area of practice and this is reflected in the cost of insurance. For example, personal injury attorneys have a higher claim frequency than criminal defense attorneys and generally pay a higher rate. Securities attorneys have potential for policy limits claims and, therefore, pay more for coverage.
2. Size of Firm. Although some discounts for size are common, most insurance carriers calculate a cost per attorney and multiply the result by the number of attorneys shown on the application.
3. Claims History. Firms with no losses will be treated differently than those who have had claims. This can be handled in two ways; discounts to the firms with no losses or surcharges for adverse claims experience. Increasing the minimum deductible is a method used by carriers to underwrite firms with unfavorable experience.
4. Prior Acts Coverage. New attorneys do not need prior acts coverage because they have no prior acts to insure. A "No Prior Acts" policy will be less expensive than one which provides coverage for work prior to the effective date of the policy. As you have more years of experience in the private practice of law, you should expect your premium to increase. As an example, a new attorney may pay one-third the premium that an attorney with ten years experience might pay.

CONCLUSION

Once you have purchased malpractice insurance, the best method to assure it remains affordable is to practice law intelligently. Stay current on changes in the law and use loss prevention techniques recommended by your carrier and The Mississippi Bar. Your malpractice policy is your last line of defense. Above all, study and know the opinions pertaining to the ethic rules set forth in the Mississippi Rules of Professional Conduct (MRPC) and Rules of Discipline for The Mississippi Bar. These ethic rules and opinions are updated frequently and are published in The Mississippi Lawyer, which all active members of the Bar receive.

CHAPTER NINE

PRACTICAL RECRUITING

In these days of a tight labor market, good, experienced help is hard to find, especially in the legal community. Much effort must be made to hire the best possible candidate for your position opening.

DETERMINING MY STAFFING NEEDS

First of all, if you are a solo practitioner or small firm, you need to determine the duties of the position. You may want to create a job description and provide a copy to each candidate you interview. Part-time help should be used whenever possible. Also, lower paid employees should be used to answer the phone and tend to the mail. Some things you must consider are:

1. Will this person be expected to handle multiple duties?
2. Should I hire one person who is able to handle two or more jobs?

3. What skill or experience level is needed to complete the job efficiently and effectively?
4. What is my budget and what am I willing to pay this person, but hire the best legal secretary possible to help with your actual legal work?

You may want to call around town to ask other solo practitioners and small law firms what their pay ranges are, to get a general idea of what you can expect to offer your candidate or what you may need to offer to lure an experienced secretary or paralegal to your practice.

Solo practitioners and small firms may often find that they need to pay a higher monthly salary for a number of reasons: the employee is expected to handle multiple duties and wear many hats; large firms may offer more benefits, and therefore, the solo practitioner or small firm needs to pay a more attractive monthly salary to attract qualified, experienced employees.

Be sure your salary level will attract the skill and experience level that your practice requires. If you are an attorney without much experience, you should consider hiring an experienced legal secretary or legal assistant. Their experience with the important day-to-day, practical matters such as filing documents and dealing with the court systems will prove to be valuable to your practice and may help you avoid malpractice.

ADVERTISING/ HELP WANTED

Placing an ad in the daily paper is a good way to spread the word that you are looking for a legal secretary, legal assistant or executive secretary. The size of your advertisement (display ad versus line ad) does not matter; however, provide enough specifics about the job and the qualifications you are seeking. If your schedule allows, it is a good idea to include your phone number, so that applicants can call and ask questions. You can use this opportunity to pre-screen applicants and schedule appointments with the promising candidates. Sometimes you may even "weed out" some candidates, who are looking around for a high salary that you cannot afford.

Do not forget word-of-mouth recruiting. Contact the local community colleges or universities, especially for part-time positions, and ask them to place a "help wanted" ad for you on their student employment board, even if the position requires experience.

Local Universities and Community Colleges may have graduate databases for those seeking positions in the legal field and contact those on their database to inform them of job opportunities. Also, remember to check a potential employee's references, especially those whom they worked for recently, but did not list as a reference.

Also, you may advertise any job opening that you may have in *The Mississippi Lawyer*.

RECRUITING/ EMPLOYMENT AGENCIES

If you can afford the service, you may wish to employ a recruiting firm or employment agency to assist you in your search. Fees vary from agency to agency, so it is wise to shop around for a reputable employment agency. Check the terms of your agreement with the service to make sure you understand if you or the potential employee is expected to pay the fee. Often, the employee will expect you to pay all or part of this fee. You should not engage the services of an employment agency for lower, entry-level positions.

When considering an employment agency, be sure you have a current fee schedule, including the written guarantee for the position you are recruiting. An advantage that an agency can offer you is that you will have the opportunity to interview candidates, who otherwise may not have considered employment with your firm. Remember, shop around for a reputable employment agency with an affordable fee schedule.

REVIEWING THE RESUME AND WHAT TO LOOK FOR AND LOOK OUT FOR

Whenever you review a written application or resume, always look for neatness, conciseness and completeness of the resume. A resume, along with a handwritten application, can give you some insight into the applicant's attention to detail. If a person does not completely fill out an application (e.g., applicant leaves out information when it is requested or provides minimum information), it provides you with some insight regarding the applicant's attention to detail and diligence to complete a task. Some people also believe that a person's handwriting can give you additional insight on the employee's potential. Do not allow an applicant to take an application to be returned later. There is no way to determine if the application was actually prepared by the applicant in such a case.

Always look for accuracy of dates of employment and information that may be omitted from the resume or application. People may exclude information which may affect your decision, especially if a person was fired for misconduct or theft. Look especially for gaps in employment. Ask the applicant if there is a reason why he or she was not employed for that period of time.

CONDUCTING THE INTERVIEW

There are many Federal and State labor laws, which you must be aware of before conducting an interview. You should familiarize yourself with what you can and cannot ask at an interview. The Americans with Disabilities Act requires employers with 15 or more employees to comply with specific guidelines on reasonable accommodations for the handicapped. Be sure that you keep abreast of the latest employment laws.

Always greet each applicant cordially and conduct your interview as scheduled in a quiet atmosphere. Slowly ease the applicant into answering questions about employment history, their hometown, future plans, need to work. The more your applicant is comfortable with you, the more he or she will share with you about his or her background. You should look for people who are polite, friendly, and courteous.

During your interview, ask the applicant about what their current salary is and what he or she would like to earn, if accepting an employment offer from your firm. This may determine whether you may want to even consider the applicant any further. Additional topics to cover are vacation, time-off, sick leave, and insurance.

TESTING

It is a good idea to conduct some skill for all positions. Whether psychological testing is permissible under the American with Disabilities Act is open to question. You should not conduct psychological testing without seeking advise from legal counsel. Good tests are available through various companies, including the Mississippi Employment Security Commission. Although testing provides an insight on a person's ability, employment

verification always provides the best avenue for determination of a person's ability and probability of success for your position. Also, be aware that certain tests are considered illegal and discriminatory. If you do decide to test, you may want to seek out testing materials from reputable testing companies.

In the past, when the typewriter was the fastest means of getting the job done, employers tested for typing speed. This type of testing is outdated as many people can type at greater speeds on a computer keyboard. Secretaries also use the various features on their word processors to increase their productivity. The best way to ascertain a person's speed and productivity is to call former employers.

REFERENCE CHECKING

Reference checking is always a must. Invest time in getting as much information as you can from the prospective candidate's former employers.

It is essential to have the prospective candidate sign a release form, so that you may call all references listed on the application form. Be sure to call each employment reference and ask who, what, when, where, and how questions such as:

1. How familiar were you with his/her work?
2. How long did he/she work for you?
3. What he/she does at your office?
4. How satisfied were you with his/her work?
5. How often was he/she absent, late, or sick?
6. How much responsibility did you give him/her?
7. How comfortable were you in giving him/her confidential information?
8. What was his/her attitude around the office?
9. What were his/her strong points, weak points?
10. If I hire him/her, what problems should I look for?

You will find that many employers are willing to assist you as long as you will maintain confidentiality and that you are serious about filling an important position. However, you will find that many employers will only provide you with dates of employment and position only verification. If you experience employers unwilling to provide qualitative information even with a release, ask the employer whether the applicant is subject to rehire. Employers will often answer this question, and a "no" to this question is frequently all you, as a prospective employer, need to know.

SALARY AND EMPLOYMENT OFFER

Before making the employment offer to your top candidate, you should consider whether the person's personality and flexibility will fit in with your current office staff and daily operations. Because of the size of your staff, each person's contribution is especially critical. Does it appear that this person can get along with the rest of your staff? Is his or her schedule flexible to accommodate emergencies or special needs that will likely happen?

After your interview process and reference checking are completed, you probably have a good idea of who is your top candidate. Before writing off all the other candidates, be sure to contact your top candidate and offer him or her the position. In the event your top

candidate declines your offer (for whatever reason), you should be ready to counteroffer (if your budget allows), especially if he or she received a number of other employment offers. If your top candidate still declines your offer, you have the opportunity to consider the other candidates without them knowing that they were not your first choice or you could start your interview process over again.

OTHER ALTERNATIVES

Another route which you may want to consider, if your budget allows, is to call a temporary service agency and ask them to fill your position. Many agencies will allow you to hire their temporary employee after about six to eight weeks on the agency's payroll. An advantage of this method is that you are able to evaluate the person's work performance and determine whether the person will fit in with the rest of your staff and daily operations. You also do not have to deal with the interviewing process or personnel matters (if the person is not performing well, all you need to do is contact the agency and let them handle any disciplinary action), and you don't have to pay the person any benefits until he or she is on your payroll. It is a good idea to shop around for the best hourly rates from various temporary service agencies.

If you have the patience and knowledge to train someone, you may want to consider hiring someone with an administrative assistant or executive secretarial background.

There are many people who would like to enter the legal field, but many positions require legal experience. If you practice in the real estate area, you may even consider someone who has banking or savings and loan experience (especially in mortgage loan processing or servicing) or real estate office experience.

Various Mississippi universities and colleges also offer classes to those wishing to pursue a legal assistant or paralegal degree. The classes train students to assist attorneys with legal research and document drafting. Seminars offering practical advice for legal secretaries are a good way for inexperienced secretaries to gain valuable legal knowledge.

CHAPTER TEN

BASIC EMPLOYMENT ISSUES

HIRING OF EMPLOYEES

The hiring of employees is a crucial part of any business. It is also a process that can present problems for employers. The hiring process begins well before you start to interview prospective employees. Your advertisements for employees and the employment application form that interested persons fill out are important parts of the hiring process, and the employment discrimination laws apply to these areas of the hiring process as well. Therefore, careful thought should be given before beginning the hiring process.

Under the various federal discrimination laws, it is an unlawful employment practice for an employer to fail, or refuse to hire any individual because of that individual's race, color, religion, sex, national origin, disability, or age. These discrimination laws only apply to employers who employed 15 or more employees for 20 or more calendar weeks in the preceding year. Partners are not counted in this calculation. Although the

discrimination laws may not apply to your workplace because of your size, keep in mind that you may be missing out on good qualified individuals if you set out to discriminate on the basis of an individual's race, color, religion, sex, national origin, disability, or age. An employer is also not allowed to discriminate on the basis of an individual's citizenship under the Immigration Reform and Control Act. IRCA applies to all employers who employ three or more individuals.

Violations of the employment discrimination laws may occur through advertisements of available positions, by virtue of the questions asked on application forms or in interviews, or as a result of the actual selections made. For example, advertisements seeking employees who are young, between the ages of 25-35, college students, recent college graduates or girls will in all likelihood be found to violate the laws against age or sex discrimination. Further, application forms which inquire about an applicant's marital status, nationality, race or religion would violate discrimination laws.

The Department of Labor publishes a "Guide for Applications and Interviews." While the Guide is not the definitive answer on the types of questions that can or cannot be asked, it does provide employers with a useful and quick reference on the basic problem areas employers are likely to encounter. As the Guide points out, the laws were never intended to prohibit employers from obtaining necessary information about a prospective employee, as long as the questions do not elicit information that can or may be used for an unlawful discriminatory purpose.

In addition to concerns of discrimination, employers must also be careful not to make promises or give assurances which they do not intend to keep. Until recently, unless an employee had a written employment contract, an employment relationship for no fixed duration could be terminated at the will of either the employer or the employee for any reason or no reason at all. However, that is no longer entirely true. Where an employer makes representations or promises or gives its employees assurances of specific treatment which the employees justifiably rely on, then the employer may be bound to those representations or assurances, whether orally or in writing.

REQUIRED BENEFITS UNDER MISSISSIPPI LAW

1. Health Care. Mississippi does not require employers to provide group health insurance; however, if such is offered, there are restrictions on limitations, such as pre-existing condition clauses, exclusions for certain illnesses, etc. You should ensure that all offered insurance meets these requirements. As part of The Mississippi Bar's Membership Services, a lawyer can contact Fox Everett, Inc. at (601) 364-5200 to obtain information about group life, disability, and major medical coverage. Also, a local insurance agent may have insurance programs that could be used to compare for cost, coverage, and reliability.

An employer who provides health care coverage is not required to pay the premiums to cover an employee, an employee's spouse or family, although most employers generally choose to pay a portion or all of the employee's premium.

Under the Federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), employers or administrators of group health insurance plans must provide employees and their qualified beneficiaries notice of the opportunity to continue health care coverage at group rates when group health insurance coverages are subject to termination. COBRA provisions apply to all employers who employed 20 or more

individuals for 20 or more calendar weeks during the preceding year and who maintained a group health insurance plan. Partners may be counted in this calculation.

2. Workers' Compensation. Every employer of five or more employees is required to provide workers' compensation for its employees, who have suffered work-related injuries or illnesses. There is no minimum number of hours that an employee must work before workers' compensation coverage must be provided, and the employee cannot be required to contribute to the cost of the workers' compensation benefits.

An employer may provide self-insured coverage subject to the approval of the Mississippi Workers' Compensation Commission or purchase workers' compensation insurance to secure the compensation benefits required by law.

Generally, under workers' compensation laws, an injury or illness is compensable if the injury or illness arose out of and in the course of employment or the injury or illness was caused by or resulted from the nature of the employment.

3. Unemployment Insurance. While it is technically not insurance like prepaid health care or workers' compensation, each employer of one or more employees must pay unemployment taxes, which in turn are used to fund unemployment insurance benefits.

When employment is terminated, the employer is not required to notify the Unemployment Insurance Division of the termination. A form will be generated by the Division only if the terminated employee seeks unemployment insurance benefits.

The unemployment insurance tax is paid solely by the employer and is not deducted from employee wages. The amount of the unemployment tax an employer must contribute is based upon the wages paid by the employer for each quarter and the employer's contribution rate. That contribution rate is determined in accordance with the employer's actual experience in the payment of contributions and the benefits charged against the employer's account.

Each employer is also required to file a quarterly contribution report. The information is submitted on Form UC-B6, Company's Contribution/ Reimbursable Report. This report is sent to each employer approximately 15 days prior to the end of each quarter. The completed report along with the payment due should be filed before the last day of the month following the close of the calendar quarter. You should determine whether your accountant will file this form for you.

SEXUAL HARASSMENT POLICY

While each employer should have a written policy of equal employment and nondiscrimination in employment, each employer should also have a specific policy addressing sexual harassment, along with a specific procedure for handling such complaints. The procedure should be one that permits employees to bring complaints to specific persons in the firm and which also permits employees to avoid having to go through their immediate supervisors, where the complaint is against such a supervisor. To the extent possible the procedures should provide both a male and female manager or employee who can be contacted if an employee has a sexual harassment complaint.

IMMIGRATION REFORM AND CONTROL ACT

The Immigration Reform And Control Act (IRCA) requires employers to verify the identity and eligibility of an individual for employment and IRCA imposes sanctions for an employer's noncompliance. Under IRCA it is unlawful for any employer to knowingly

hire an alien who is unauthorized to work. However, the requirements of verification and record keeping apply to all employees hired after November 6, 1986.

An employer should contact the Immigration and Naturalization Service for the various forms and instructions for compliance with IRCA.

WAGES AND HOURS OF EMPLOYEES

Under Federal law, employees must be paid overtime at a rate of 1 1/2 times the employee's basic rate for all hours worked in excess of 40 hours in a work week. Although an employee may be paid for holidays, sick leave, or vacation time, such non-worked hours need not be included in the determination of whether an employee has worked more than 40 hours in a given week. However, in determining the number of hours worked by an employee, employers should include all the time during which an employee is actually working or required to be on duty and rest periods. Thus, an employee who is permitted to continue to work after normal work hours must be paid for the hours worked and those additional hours must be counted in calculating whether any overtime should be paid. This time must be paid even if the overtime was unauthorized. If an employee works unauthorized overtime, the employee can be appropriately disciplined; however, the time must be paid.

The Federal law does provide certain exemptions from the minimum wage and overtime requirements, including, but not limited to, exemptions for executive, administrative and professional employees as well as outside sales persons.

Typically, secretaries will not fall within an exemption and must be paid overtime, even if they are paid a salary. Paralegals may be exempt depending on the level of their work and independence. Be sure to seek competent legal counsel prior to determining that paralegals are exempt personnel. Also, keep in mind that titles do not determine whether an employee is exempt. The crucial issue is the nature of the duties and responsibilities performed by the employee.

OCCUPATIONAL SAFETY AND HEALTH

Under the Federal Occupational Safety and Health laws, employers are required to provide their employees with a safe place to work and employers are required to comply with the various occupational safety and health rules and regulations. The particular rules and regulations an employer must comply with will depend upon the nature of its business. You may contact OSHA for information regarding the rules and regulations that may apply to your business.

POSTING OF NOTICES

Various Mississippi laws require the posting of notices which inform employees of their statutory rights regarding benefits and compensation. When starting your practice, contact for information regarding notices required by the State:

Mississippi Workers' Compensation Commission
1418 Lakeland Drive
Jackson, MS 39216
(601) 987-4200

For Federal employment notices contact:

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
100 West Capitol Street
Jackson, MS 39269
(601) 965-4347

Equal Employment Opportunity Commission
207 West Amite Street
Jackson, MS 39201
(601) 965-4537

PROFESSIONAL AND EDUCATIONAL DEVELOPMENT

You should consider supporting local, state, and national legal secretary associations by paying dues and other expenses of participating. The materials published by these organizations are very good. You could also offer tuition assistance for your staff to take night courses at local universities or community colleges. Courses, such as paralegal studies, English, and business courses, should be encouraged.

CONCLUSION

Keep in mind that this outline only provides a brief description of some of the primary labor and employment laws that apply in Mississippi. It is impossible to cover all of the various labor and employment problems and questions that an employer may encounter. However, it is hoped that this outline will help you better understand your rights and obligations as an employer. You are encouraged to contact the various government agencies whenever labor and employment questions arise and hopefully before the question becomes a problem.

CHAPTER ELEVEN

OFFICE POLICIES

Even if you have only one employee, some policies or office guidelines need to be established and understood by both the employer and employee. These guidelines can be formal, written and published in a handbook or manual, or they can be informal, orally discussed as part of the hiring process. Regardless of how it is done, office guidelines are something that should not be overlooked when establishing a new law practice. If you decide to use an employee handbook, be sure to reserve your right to terminate the employment at will and state that the manual is not intended to create contractual obligations, unless you wish for it to do so. It is also a good idea to have the employee sign a statement that he has read the manual and understands that it is not intended to create contractual obligations.

As firms get bigger more standards should be included in a formal policy manual. Any written policy manual should clearly state that the employment relationship is "at-will" and that the manual does not create a contract of employment in any way.

For solos and small firm practitioners, the following is a suggested list of subjects that should be addressed when establishing office guidelines:

TERMS OF EMPLOYMENT

When a new person is hired it is very important to define their employment status and classification, so the employee completely understands his or her rights and benefits. Many employers use a 90-day introductory period. Such terms should be avoided. Unless explicitly desired, employers should clearly state that the employment is at will, meaning that the employer and employee can terminate the relationship at any time, for good reason, bad reason, or no reason at all. Terms such as probation can be considered to imply that the employment is not longer "at will" at the end of such period.

The subject of termination may seem to be inappropriate during a new hire discussion; on the contrary, it is very appropriate and vitally important that it is understood, and that both the employer and employee know where they stand.

It is also important that the employee's classification be established because the statutory benefits that an employer must provide are based on the following employment classifications:

RFT - Regular full time

RPT - Regular part time

Temporary

REGULAR WORKING HOURS

The number of working hours required per day must be established. The required hours will be used to define whether an employee is RFT or RPT.

Law firms in Mississippi generally require their personnel to work seven to eight hours per day, as RFT employees. Depending upon the number of required hours, standard start and stop times should be established. Once the required daily hours are established, the standard work week should be set and will be the basis for determining overtime compensation. For example, if eight hours per day are required, then a standard week will be forty hours. Any hours worked in excess of forty hours during a set seven-day period would require overtime compensation. Holidays that fall in a standard work week do not count as part of the forty required hours in meeting the overtime test. This concept seems to be misunderstood by employees and therefore deserves attention, as it relates to hours worked, not hours paid. Work performed on a normally paid holiday is not treated differently from any other work day when determining the amount of hours worked. Furthermore, the law does not require an employer to pay extra for this time worked, although many employers do offer something as an incentive. Other employers allow the employee to take off another day with pay when the employee works on a normally paid holiday.

COMPENSATION

Besides the agreed upon amount of compensation, a number of other related issues should be discussed: Will pay be weekly, biweekly, bimonthly, or monthly?

Most Mississippi firms conduct annual proficiency and compensation reviews. These reviews are either based on the employee hire date or on one set date established by the employer for all employees.

STATUTORY BENEFITS

Workers' Compensation Insurance should be carried by all employers having five or more employees and information on claim procedures must be available and posted in a well lighted area for all persons to see.

HOLIDAYS

A list of holidays that are recognized as days off should be established. Mississippi firms vary greatly in that some give only federal holidays, while others give federal and state holidays, plus extra days like the day after Thanksgiving, Christmas Eve, and New Year's Eve. You should consider your client's needs and schedules before making decisions about holidays.

VACATION POLICY

Paid vacations have become a benefit that employees have come to expect and demand. Therefore, the policy should be established and understood by new employees. There is no standard practice in Mississippi and varies depending on the locality. You should find out what the local practice is and follow it. Whether or not vacation days can be accumulated and carried forward to future years or if vacation days can be converted to pay are items that need to be addressed. Mississippi firms vary on these issues.

SICK DAYS

The number of paid sick days allowed per year needs to be established. Mississippi law firms have many varied policies from a few days to unlimited paid sick leave per year. Some firms allow accumulation and carry over to future years. Because the absence of even one employee in a small firm can be very disruptive, procedures need to be established on what is expected regarding notification to the office that the employee is sick and will not be at work.

OFFICE SECURITY AND CONFIDENTIALITY

Although these seem like obvious subjects, it is important that employees understand the importance of these topics. Also, procedures for securing the office need to be addressed and understood. A register of who has building keys should be considered.

ATTIRE

The requirement for proper dress in a law office would seem to be apparent; however, the lack of any guidelines to new employees has caused an assortment of problems. Make sure that what is considered proper and acceptable dress is understood by the employees. It is usually a good idea to give examples of what is and what is not acceptable.

SMOKING

Smoking is another subject that is best addressed up front. The current trend in Mississippi among law firms is establishing a stricter policy regarding smoking in the work place. Some firms allow unlimited smoking while others ban it entirely. Most firms now impose at least some space or time restrictions on smoking. Many office buildings are now also dictating smoking policies by allowing smoking in only designated areas.

OTHER ITEMS

The following additional topics may apply to your office and therefore should be discussed with employees:

- 1 . Pension Plans
2. Employee Assistance programs
3. Credit Associations
4. Life Insurance Plan
5. Long Term Disability Plan
6. Dental Plan
7. Parking
8. Leave of Absence
9. Maternity Leave
10. Funeral Leave

This article is intended as a reference guideline for solo and small firm practitioners. It may not address specific needs or meet all regulatory requirements. For this reason, any formal employee handbook used by an employer should be reviewed by an attorney familiar with the details of labor, employment and employee benefits law.

CHAPTER TWELVE

HOW DO I GET AND KEEP CLIENTS?

Attracting clients is an imprecise science. If you ask ten different attorneys for advice on marketing, you are likely to receive ten completely different answers. As a result, some attorneys might conclude that it is impossible to develop an effective marketing strategy. If you hold this opinion, hopefully this section will convince you to reconsider.

In developing a marketing strategy, every attorney must develop their own style.

Depending upon your area of practice, your personality, your level of experience and your budget, certain attorneys are comfortable running large ads in the yellow pages. Other attorneys are more comfortable wining and dining clients at expensive restaurants. Still other attorneys would prefer to rely on referrals from other attorneys. Each of these methods can be effective, but the key to successful marketing usually requires a more comprehensive approach.

This article sets forth suggested methods for attracting clients. In order to effectively implement some or all of these suggestions, you should carefully formulate a plan rather than proceeding haphazardly.

THE BASICS

Before formulating any marketing strategy, you should ask yourself the following question: "What type of client am I attempting to attract?" The answer to this question should help to focus your marketing efforts.

If you are attempting to attract business clients, then a large yellow page ad may not be effective. If you are attempting to establish a plaintiff's personal injury practice, then attending Chamber of Commerce meetings may not be appropriate. The bottom line is that you can avoid wasting precious time by making a conscious decision regarding the audience you are attempting to reach.

The next item to consider is your budget. If you have limited funds to spend on marketing, then focus your efforts on providing high quality services to your existing clients, networking with business and professional groups, gaining recognition within the profession and the community and developing a viable niche. If you have funds to spend on advertising, then scrutinize the ads to make sure that they convey the message that you desire. You should consult with non-attorneys regarding your ads to get feedback from those individuals you intend to target.

CLIENT SERVICE

Attorneys must never forget that they are in a service business, and that clients are looking for quality service when they seek legal advice. Referrals from previous satisfied clients is one of the cheapest and easiest ways to attract new business, and consequently, attorneys should not neglect their current clients as they attempt to bring in new business. Client service involves competence, communication and common sense. While competence is a subject beyond the scope of this section, it goes without saying that everyone wants to be serviced by a knowledgeable professional, who can solve their problems. Client service, however, extends beyond mere competence.

As members of a service industry, attorneys must be prepared to communicate with their clients. Communication includes promptly returning telephone calls from clients and keeping them posted on the status of their case. Attorneys should develop an office procedure to keep in touch with active clients on at least a quarterly basis. This procedure can involve in-person visits, telephone calls or written reports.

Any of these techniques allows clients to monitor the progress of their legal matters and to understand the work performed by the attorney. Informed clients are generally more satisfied with their attorneys, and they are more likely to refer their friends and colleagues as new clients.

NETWORKING

Networking is an inexpensive and productive way of attracting new business.

Networking falls into two broad categories: (1) within the profession; and (2) outside the profession.

Within the profession, attorneys should attempt to join legal groups and organizations, such as the various Mississippi Bar's practice sections, which include practitioners in their areas of interest. These groups and organizations provide valuable educational support, as well as the opportunity to meet attorneys, who may become referral sources. As a solo or small firm practitioner, you can often serve as a referral source for an attorney who has a conflict or too much business.

Outside the profession, there are numerous groups which serve a networking function. These groups include civic organizations, such as the Chamber of Commerce, service organizations, like the Rotary Club, Kiwanis Club, and industry organizations, such as the Homebuilders Association and Road and Construction Association. Organizations of

this type provide an excellent opportunity to meet individuals who may require legal representation.

POSITIVE NAME RECOGNITION

As a solo or small firm practitioner, it is important to gain positive name recognition in the legal community, as well as in the community as a whole. It is impossible to provide an exhaustive list of how to achieve this goal, but some general rules do exist.

If you become involved with professional or community organizations, strive for leadership, but make sure you can fulfill your obligations. Achieving a leadership role will allow you to demonstrate your capabilities, but failing to satisfy your commitments will damage your reputation. Accordingly, you should think about your ability to perform quality work, before volunteering your time.

In attempting to create positive name recognition, you should attempt to publicize your legal expertise. Look for opportunities to participate in seminars or to contribute to newsletters or other publications. These activities will bolster the impression that you are an expert.

CARE AND FEEDING OF CLIENTS

If possible, get to know your clients on a personal level. A client who becomes your friend is much more likely to return with future business and to refer friends and colleagues. There is no set method for achieving this result, but your personality and pocketbook will provide you with guidance in this area. The time-honored tradition of client lunches and dinners still provides an excellent opportunity to get to know your clients. In addition, you should try to determine mutual areas of interest, and look for opportunities to socialize outside the business setting.

At the present time, it is not ethical for an attorney to make a personal loan or a cash advance to a client, while waiting on a settlement.

If your client has a business, then make an effort to visit that business, meet the employees and gain some understanding of the operations. Clients are usually delighted when an attorney demonstrates a personal interest in their business, and seeing the operation first hand will often allow you to provide better legal advice.

ADVERTISING

Before spending significant amounts of money on advertising, you should carefully consider the type of client you are attempting to reach. If you are attempting to attract estate planning clients, then look for advertising that will reach the elderly. If you are attempting to attract clients in a particular geographic area, then look for advertising that will target those areas.

Once you begin advertising, develop a method for determining the effectiveness of your ads. Ask new clients how and why they decided to utilize your services. Based on this type of information, you can determine which advertising methods are cost effective. Any advertising must comply with Rule 7 of the Mississippi Rules of Professional Conduct.

CHAPTER THIRTEEN

HOW DO I ORGANIZE MY WORK?

The busy life of a lawyer places many demands on his or her time. One has to keep track of court appearances, depositions, deadlines, telephone calls, and other assorted demands. Without a system to organize all these demands, life can become hectic and disorganized quite easily. There is little time left to do your personal errands and spend time with your family and friends. Effective organization can help you gain time for yourself and keep all your work organized and flowing. To do this, you need a good calendaring system, a good organization of your files, and sequencing of your work in priority. Finally, you have to discipline yourself to use the system and stick to it.

TYPES OF CALENDARING SYSTEMS

You should first set up a list of your cases and update the list periodically. There are a number of different daily planners available, both in stationery stores and through outside commercial vendors. Additionally, there are daily planners that can be used in computers. It is important to have one main calendar with all matters docketed by date and time. The Young Lawyers Division publishes a Calendar for just such a purpose. You also need to have a tickler notice in advance of the due date, so you can prepare prior to your deadline. In multi-attorney offices, it is helpful to have a centralized calendar docket, so that all the individual items for each attorney are listed and circulated on a periodic basis. There is always the difficulty of where to keep the calendar, so that both you and your secretary share the information. This is not any problem, if the information is on a computer. If it is manually entered, it is advisable to provide a copy to whomever needs the information, as it is updated.

Another form of calendaring system is a tickler system using index cards or another information form and listing them in chronological sequence in an index box. The information on the tickler then needs to be entered on the calendar and brought to the attorney's attention.

Additionally, you should keep a list of items "To Do" on a calendar. This can be next to your schedule calendar, so you can fit "To Do" items into your schedule.

Although one calendar should be the main calendar containing all the information, it is helpful to have a redundant calendar in the form of an office calendar or a particular calendar within a file. The important thing is to get a system that works for you and to use it. It may take some adjustment and refinement but once implemented, it should be followed.

FILE ORGANIZATION

Your files should be organized by functional categories. A suggestion is to segregate correspondence, notes, billings and memos. Pleadings should be kept separately. Each file should have a permanent location where it is returned after use.

Each file should have a flow chart listing the important deadlines in sequence. If trial has been set, the trial date should be listed and all other deadlines should be listed in sequence. These deadlines should then be put on your calendars.

The front of the file should also contain a list of names, addresses, phone numbers, and fax numbers of the client and all important contacts.

The file should be broken down functionally by subject, so that matters can easily be filed and found quickly. As the file becomes more complicated, each segment should be separated and broken down. Examples are discovery files for interrogatories, admissions and production of documents. A separate file should be set up for each potential witness in a case for use during discovery.

Once the files are set up, it is important to ensure that a new matter is filed promptly after you review it. Nothing is worse than trying to find an unfiled pleading or letter.

Remember the cardinal rule: after using a file, put it back where it belongs.

ORGANIZING WORK IN SEQUENCE

Your work should be organized by placing the work in sequence and then following that sequence. The sequence should be reviewed each day and new matters inserted by priority.

The same organization applies to telephone calls which should be similarly organized.

Calls should also be responded to by priority.

This organization will make sure that vital matters are given the priority they deserve and are handled in a timely fashion. Always allow some time each day or week, however, for routine matters, so that you will not ultimately be delayed with a backlog of tasks.

USE YOUR SYSTEM

No system is fool-proof and all systems require review and attention. In order to make your system work, you must review the calendars on a daily basis. You must plan in advance and anticipate things that are coming up.

For telephone calls, those should be prioritized and returned shortly after they are received. You would be surprised at the number of disciplinary complaints filed each year by disgruntled clients aggrieved because lawyers failed to return telephone calls. To avoid this problem, calls should be returned within twenty-four (24) hours. Most importantly, remember that the best system is of no help, unless you follow through on it.

CHAPTER FOURTEEN

THE BOTTOM LINE: HOW DO I COLLECT MY FEES?

Billings and collections is a noxious, but vital, part of any law practice. Unfortunately, lawyers tend to be more philosophic, than economic, and often encounter serious difficulties, because of their failure to pay attention to the billing and collection process. As problem solvers, lawyers tend to focus on the controversy the client might bring, instead of how their work will be paid. If you do not place a value on your time, your client will not value your time either. Care must be taken at each of four critical stages: (1) the retainer stage; (2) the billing stage; (3) the collection stage; and (4) the termination stage.

THE RETAINER AGREEMENT

A written retainer agreement is not always required in Mississippi; however, it is generally a good practice to have a retainer agreement. A retainer agreement avoids future misunderstandings with the client. If you will be paid by a contingency fee, you have a written agreement, which sets forth how the fee is to be determined. Any written agreement should be sufficiently detailed to completely cover the understanding between the attorney and client. At least twelve items should be considered:

1. The identity of the client. Is the client a corporation or is he a principal officer of the corporation, who has authority to hire you? Is the Client the mother of an injured minor or the guardian of the injured minor? Is it more than one person or entity? Identifying who your client is will help you avoid future conflicts.
2. The scope of the work. Be specific; for example state; "I will defend you in Civil Action No. 91-0120," or "I will prepare the necessary real estate documentation with respect to your sale of Black acre." If the nature of your work expands confirm it in writing.
3. The fees that will be charged. So long as the fee is "reasonable" and not "clearly excessive," wide latitude exists. See MRPC 1.5. However, clients are usually billed in the following ways:
 - a. Flat fee. A flat fee may be provided by statute, such as in probate matters or you may agree to do a particular service, for example draft a trust agreement for a pre-set amount.
 - b. Contingency Fee. A contingency fee is permissible except in criminal cases and in domestic matters. See MRPC 1. 5. Most plaintiffs personal injury is done on this basis, where the lawyer is paid a fixed percentage of any recovery, plus costs. The attorney takes a risk of recovering a fee based on the outcome of the case. Because of the risk you are taking, it is crucial to critically evaluate your client's claim. Do not merely rely on what your client tells you. Check other sources before you commit yourself. Rule 11 of the Mississippi Rules of Civil Procedure and of the Federal Rules of Civil Procedure require that you make a reasonable inquiry into the facts and legal basis of your client's claim before filing suit. Your economic well being should also compel you to do so.
 - c. Hourly Fee. Most lawyers bill clients for the time expended on their behalf. The lawyer is paid a certain fee for the time spent on the matter. Hourly billing is best suited for attorneys when it is difficult to predict the amount of time necessary for a project. When paid by the hour, a lawyer is paid regardless of the outcome. The client bears the risk of loss. When billing by the hour, attorneys have less incentive to work efficiently. However, due to the current competitive environment in the legal profession with clients "shopping" for lawyers, attorneys may lose a client who does not receive "value" for the services he pays for.
 - d. Value billing. Value billing is a term of art in current legal economics circles. The client is charged for the value of your services. Generally, this means billing by a flat rate, after completion of the task based upon what has been achieved for the client. Value billing is advantageous for tasks you have repeatedly performed. In those instances, you know the average amount of time required for the project and you will not be paid less, the more efficient you become completing the task.
 - e. Who performs the services. Will the work be done by you alone, by you and your partner, or by you and other members of your firm? Remember that you may divide a fee with a lawyer in another firm only with the consent of the client, and then only if the

attorney receives a division of proceeds in proportion to the services he or she performs. MRPC 1.5(c).

f. Payment of costs. An attorney may advance costs but the client must remain ultimately liable, subject to limited exceptions recently adopted as to representation of indigent clients and in certain contingency cases. See MRPC 1.8. The retainer agreement must specify whether the costs will be paid periodically, out of the retainer deposit, or out of the ultimate recovery in the suit.

g. Retainer deposit. Generally, you should obtain a retainer from your client. If your client is unwilling to pay a retainer, he has demonstrated that he has little commitment to his claim. He has also demonstrated his unwillingness to pay you in the future. You should not make a commitment to someone who is unwilling to demonstrate any financial commitment to his case. If you have a contingent fee agreement and the retainer will pay expenses, assess what your client can pay in the initial interview. The client should be willing to pay a retainer within his means. If a retainer for fees or costs is desired, the amount should be specified. It should also be made clear that additional retainers may be required and that the initial retainer does not necessarily constitute the entire fee. Unless it is clearly agreed in writing, that the deposit is nonrefundable, a retainer for fees must be placed in a segregated trust account and applied to bills only when incurred.

h. Frequency of billings. Specify when the client will be billed. Contingency fees and value billing can typically be issued only at the end of the case. Hourly cases should be billed as frequently as practical, monthly if at all possible. The sooner you bill your client, the sooner you will learn about his intent to pay his bill. Billing early and frequently also sends your client a message that you expect to be paid promptly. Flat fee cases can be billed in one lump sum or in installments.

i. Responsibility for payment. Make clear who will pay. Is the client responsible, or is some third person? If a third party guarantees payment, the guarantee should be part of the retainer agreement.

j. Terms of payment. Specify when payment is due, i.e., upon receipt or within 30 days of the date of billing. If interest is charged, the rate and terms should be agreed to by the client in advance, in writing. If a discount is allowed for prompt payment, that should also be stated.

k. Termination of services. If you wish to reserve the right to withdraw for nonpayment of fees, non-cooperation of the client, or for other reasons, you should so state in the retainer agreement.

l. Disclosure of potential conflicts. If a potential conflict of interest exists, it should be disclosed in the retainer agreement. Absent "the consent of [the] client after full disclosure," a lawyer may not accept employment in a conflict situation. See MRPC 1.7.

There is one important final caution. Do not begin work until the retainer agreement has been signed and the retainer paid. Otherwise, you may find yourself in a case without an understanding with the client as to what work will be done and what fees will be paid.

BILLING THE CLIENT

The key to success is to bill regularly and in accordance with the retainer agreement. The sooner you bill your client, the sooner you will learn about his intent to pay you. Billing early also sends your client a message that you expect to be paid promptly.

Surveys conducted by the American Bar Association demonstrate that lawyers who keep accurate contemporaneous time records have more income. It is easier to keep track of how much work you are actually performing, and it is easier to produce bills from accurate time records. It is difficult to remember what you did if you try to reconstruct your time records from memory, especially if you work on numerous files during the day. An example of a time slip is attached.

Regular billing is vital because the client is kept advised as to what you are doing. Bills are easier to take in small lumps, rather than large doses. Most importantly, regular billing insures that you have an opportunity to withdraw from representation of a client before the outstanding balance becomes too large.

Be descriptive and precise. Tell the client exactly what you have done. For example: Drafting a quitclaim deed and grant of easement concerning Blackacre in favor of Jones; Prepare for and attend hearing before Judge X on plaintiffs motion for partial summary judgment; or Conference by telephone with client to discuss settlement options. Indicate the exact time expended for each task. Your client cannot evaluate the reasonableness of your charges unless you do so.

You should also clearly indicate how your fee was computed. For example: Progress payment due on X date representing agreed one-quarter of flat fee of Y or Ten hours of legal work at \$ 100.00 per hour. Other items, such as expenses should be separately described. An example of a statement is attached.

Reiterate the terms of payment, indicating a discounted amount if payment is made before a specified date. State the due date for regular payment, and indicate whether interest will accrue if the bill is not paid by that date.

Billings should be reviewed carefully to eliminate errors before mailing to the client. Clients lose trust in lawyers who do not accurately bill in accordance with the retainer agreement. Even small errors in a bill can undermine a client's confidence, because the client will question the quality of your work.

Never send a bill by itself. In litigation matters, forward the bill with a status report indicating what has occurred in the litigation and what events you next expect. Even with a simple matter like, the preparation of a deed of trust, the bill should accompany the document. Other-wise, the client has nothing but your bill to contemplate.

Be available to answer questions about billings. Errors should be corrected immediately, and without question. However, proper bills should be defended with confidence. Never hesitate to explain a bill and never act perturbed about a client's inquiry. It is important to keep your client happy and assured that your billings are proper.

COLLECTING YOUR BILLS

If you have a clear specific retainer agreement and bill promptly and accurately, the collection process should not be difficult. Nevertheless, busy lawyers often neglect review of their outstanding billings, and the longer a bill remains unpaid, the more difficult it becomes to collect.

Institute a regular system to review your outstanding bills at least once a month. Gentle, but polite, reminders should be sent to clients, so that they will know you expect to be paid on time. There is an unfortunate perception in the business community that lawyers' bills can be paid last. Let the client know right from the first bill that you expect to be paid in accordance with the signed retainer agreement.

Regular follow-up on your billings will also reveal clients who may be unhappy with your work but are reluctant to call you to complain. You should work out any client dissatisfaction or billing problems immediately. If the bill is reasonably subject to dispute, do not hesitate to resolve it with the client. The key is to resolve fee disputes before they get out of hand.

If the bill remains unsatisfied, despite gentle reminders and discussions with the client, you must become more firm in your position. Remind the client in writing of the obligation assumed in the retainer agreement, and insist that payment be made.

TERMINATION OF THE REPRESENTATION

Termination of the representation is important and frequently overlooked. In the no problems case, this should be a simple item. A final bill should be sent promptly when the matter is completed, indicating that upon payment, the client has no further financial obligations to you. Any unused retainer should be returned with this final bill. Most importantly, the letter forwarding the final bill should thank the client for permitting you to be of service. A thank you means a great deal to clients. Also, ask a client about the services your firm provided.

Termination in the problem case is not so easy. When a client does not pay your bills, refuses to cooperate with you, or becomes dissatisfied with your services, you may withdraw from employment. Generally, consent of the client or approval of the court is necessary for withdrawal, and reasonable steps must be taken to protect the client's interest. See MRPC 1.16(b)(4) and (d). A precipitous withdrawal may not only result in disciplinary action but may also give rise to liability for malpractice. If the client will not consent, a motion should be filed with the court. In a problem case, withdrawal often leaves uncollected bills in its wake. Every effort should be made to settle this matter amicably with the client.

TAKING ACTION TO COLLECT YOUR FEE

A suit to recover your fees should be the absolute last resort. All collection efforts must comply with the Federal Fair Debt Collection Act 15 U.S.C. 1692, et seq. An amicable agreement with the client, mediation by The Mississippi Bar, or a private arbitrator are all preferable alternatives.

Even if these mechanisms fail, you should carefully consider whether it is worth your time and effort to institute a collection action. It may be wiser to write off the account and resolve never to represent that client again, than to spend your own time or pay a collection attorney to chase a fee that may not be recoverable. Suing a client for a fee may even result in a disciplinary complaint or a counterclaim for malpractice. The Mississippi Bar has a Resolution of Fee Dispute Committee which allows the committee to receive and mitigate fee disputes between attorneys and clients. This committee can be reached through The Mississippi Bar, (601) 948-4471.

If you are determined to bring an action to collect your fee, you should utilize Mississippi's open account statute. See Miss. Code Ann. 11-53-81 (Supp. 1995). This statute allows for an award of attorneys fees for a successful plaintiff. The statute also provides for attorneys fees if the defendant is successful. According to Section 11-53-81, you should send a written demand, attach a copy of your invoice to the notice, indicate owed and state it must be paid within thirty days, and that failure to make payments may result in an award of the balance owed, pre-judgment interest, and attorneys fees. In order to make sure you are in compliance with the Fair Debt Collections Act 15 U.S.C. 1692 et seq., you should also state the following:

Unless you dispute the validity of the debt, or any portion thereof, within thirty days of receipt of this letter, I will assume that the debt is valid. If you notify me, in writing, within the thirty day period that the debt, or any portion thereof, is disputed, you may obtain verification of the debt, and I will mail you a copy. This law firm is attempting to collect this debt and any information obtained will be used for that purpose.

ATTORNEY'S LIENS

If your client attempts to avoid paying you by discharging you and then settling his claim, you can assert a lien against the settlement proceeds to collect your fee. You may be required to intervene, pursuant to Rule 24 of the Mississippi and Federal Rules of Civil Procedure, in the action before the settlement funds are disbursed. You should provide notice to the party paying the settlement funds of your interest in the settlement money. Remember, you cannot prevent your client from settling his claim, he has a right to do so. However, he does not have the right to disregard his contractual obligation to pay your fee. Accordingly, the claimed a lien can attach to the settlement proceeds. If, for example, the defendant pays settlement money, without paying you or investigating your lien, the defendant could be liable to you for interference with the attorney-client contract or for conversion of your interest in the settlement proceeds which arose by virtue of the attorney's lien. See *Liston v. Home Insurance Company*, 659 F. Supp. 276 (S.D. Miss 1986).

An attorney's lien, long recognized by Mississippi law, attaches to judgments, settlements, and the proceeds thereof. See *Indianola Tractor Co. v. Tankersly*, 337 So. 2d 705 (Miss. 1976), *Chattanooga Service Pipe Works v. Dumler*, 153 Miss 276, 120 So. 450, 453, (1929), *Collins v. Schneider*, 187 Miss. 192, So. 20, 22 (1934). If you have a contingency fee agreement, you do not have a right to collect your fee and assert a lien until a final judgment or a settlement has been reached. *Tyson v. Moore*, 613 So. 2d 817, 826 (Miss. 1992). An attorney's lien cannot attach to your client's real property. *Pollard v. Joseph*, 50 So. 2d 546, 548 (Miss. 199 1).

A retaining lien is a possessory lien on files, client documents, and money in the control of the attorney. The lien is only as good as the client's need for the papers that lawyer is holding or if the attorney actually possesses funds. *Federal Land Bank of Jackson in Receivership v. Federal Immediate Credit Bank of Jackson*, 127 FRD 473, aff d in part 128 FRD 182.

CONCLUSION

If you faithfully follow basic billing and collection procedures, you have a chance to succeed in your practice. If you do not, you will surely fail. Even if you carefully watch

your accounts, your revenue may still be insufficient. You must then undertake a further analysis and look for ways to improve your situation by increasing billings, reduce costs, or improving collections. You should also review the profitability of the types of cases that you handle. Upon examination, you may find that certain types of matters are regular money losers. These cases should be eliminated from your practice, so that you can concentrate on those types of matters that earn your keep.

CHARGEABLE TIME SLIP (3 examples)

EXHIBIT B

Jim Smith
 800 Main Street
 Corinth, MS 38197

April 1, 1994

Professional Services	Hrs/Rate	Amount
03/01/94	Initial conference with client to review facts regarding separation, assets and liabilities, status of negotiations with spouse, his desire to file for divorce immediately, his understanding of what wife wants, his intention to leave area and need to file prior to departure for jurisdictional reasons. 1.50	315.00
	210.00/hr	
03/02/94	Draft divorce complaint, statistical form; phone conference with client to obtain additional information for same. 1.15	241.50
	210.00/hr	
03/03/94	Letter to client with draft complaint and statistical form; prepare summons. .20	42.00
	210.00/hr	
03/04/94	Phone conference with client re changes in divorce complaint and discuss options re getting services on wife; finalize complaint and statistical form; phone call to process server to arrange for pickup; conference with client to sign and notarize complaint. .75	157.50
	210.00/hr	
03/05/94	File divorce complaint and travel to and from court. .65	29.25
	45.00/hr	

03/20/94 Phone conference with wife's lawyer re whether she received divorce complaint, documents they want from Phil, documents we want from her, timetable for turnover of documents, general discussion of what she wants, set tentative date for four-way meeting; letter to client with list of documents to assemble and outlining issues for discussion. 2.00 420-00
210.00/hr

For professional services rendered 6.75 \$1,310.25

Balance Due (Net Due 30 Days) \$1,310.25

We accept payment by Visa and MasterCard.

CHAPTER FIFTEEN

WHAT ABOUT MY VACATION?

You are a sole practitioner, but like other attorneys, you will want to and should take vacations. Taking occasional vacations is vital to your health. Vacations, if properly planned, can alleviate the build up of stress, so common in the practice of law. Getting away will give you a different perspective of your work, will help avoid burn out, and will keep your life in balance. After all, good lawyers do not just crank out the legal work; they also spend quality time with their families, friends, community and themselves.

Taking a lengthy vacation requires adequate planning and preparation. In a larger firm, there may be at least one other attorney who is familiar with and has responsibility for an attorney's cases. If one attorney is away, the other can step in. As a sole practitioner, you do not have this luxury. What follows are some tips to make it easier to take a vacation:

PLAN AHEAD

Before going on vacation, you should try to take care of things anticipated to come up during your vacation, or try to postpone them until after you return. Consider not only your legal work, but your administrative, bar association, and other work as well. If you are planning a lengthy vacation, block out sufficient time immediately prior to and after the vacation, since crises can and usually do come up. It is a good idea to allow more time than you anticipate since there may be more crises which take longer to resolve than expected. Additionally, weather conditions, illness, labor strikes or other things may delay your return.

You should also consider letting opposing counsel know in advance when you will be on vacation, so that depositions and hearings can be avoided while you are away. Many attorneys (but not all) will try to accommodate you, probably because they want the same courtesy when they go on vacation. However, some lawyers may try to take advantage of your absence. If you have given sufficient notice, you are probably more likely to be able to get a continuance by stipulation or by court order, if necessary. However, you cannot

always count on obtaining a continuance. If you are unable to take a lengthy vacation, consider taking several shorter ones. If you are unable to even do this, at least take adequate holiday and weekend time off.

KEEP UP TO DATE, NOTE ALL IMPORTANT DATES AND DOCUMENT ALL FILES

Good practice requires organization of files and regular documentation of the file with memoranda regarding all conferences, telephone calls and other work done or to be done. Statutes of limitations, deadlines and other important dates should be prominently noted. This will not only help you, but it will make it easier for others, including staff and substitute counsel, to determine what has occurred in the case, what has to be done, and when it has to be done.

Your staff should carefully monitor all pleadings, notices, correspondence and other incoming information. These may contain or trigger important dates or deadlines. Some incoming information may trigger deadlines which are not readily apparent to your staff or even a substitute attorney. Thus, it would be wise to maintain contact with your office periodically to find out what has come in.

It will also be easier for you to go on vacation if your cases are kept current and clients are kept up to date with detailed billing statements and status reports. If you have done so, it will be easier for clients to wait for you to return. On the other hand, if you are already behind or clients do not know what is happening in their case, some clients may become unhappy or frustrated if they know they have to wait a few weeks for you to return. Thus, if you have not treated them well, they may not wait for you. Before going on vacation, consider contacting clients in cases where something is likely to come up or where you have not spent as much time with the client as you would have liked to. This can minimize calls to you or substitute counsel while you are away. Let them know what attorney will be covering your files during your absence and get their consent for that attorney to work on their case if necessary while you are away.

HANDLING CASES BY TELEPHONE WHILE ON VACATION

It is critical to have good support staff, since your staff can handle many of the things that come up while you are on vacation. For example, correspondence, decisions, and other documents which your office receives and normally sends to clients can continue to be sent while you are away. If requests for answers to interrogatories or for production of documents are served while you are away, your staff can send these to clients with an instruction letter so that clients can begin working on them. Provide written instructions to your staff as to how they should respond to phone calls, letters, pleadings, and other incoming communications. You may wish to provide drafts of letters to be sent to clients, opposing lawyers, and others who contact your office while you are away.

However, there are limits on what even the best support staff can do, as they must avoid the unauthorized practice of law. If something comes up which the attorney wants to handle personally, or the staff cannot handle it, some solo practitioners prefer that they be contacted while on vacation. This is especially so where there is a potential client shopping for a lawyer or where the problem can be handled quickly by telephone or fax. Handling emergencies by telephone may provide better continuity, since the attorney is already familiar with the case. It may take time for substitute counsel to become

sufficiently familiar with the case to handle the problem. Thus, it may also be cheaper economically for either the client or the lawyer. Additionally, some clients may not want substitute counsel.

If your staff needs to consult with you, a well-trained staff can gather critical information and relay it to you. Even if you prefer not to be disturbed on vacation, you should always let your office know where you can be reached by telephone and fax in the event of an emergency. To maximize their availability, some attorneys take a beeper, cellular telephone and/or portable computer and modem or facsimile machine with them while they are away from the office. Check out the latest technology to stay in touch with your office. You may also wish to take a list of the phone numbers of clients or others whom you may need to reach while you are away.

TEMPORARY SUBSTITUTE COUNSEL

Some sole practitioners do not want to be disturbed or cannot be reached while on vacation. These attorneys prefer to rely on temporary substitute counsel, when their staff cannot handle problems that arise. Even if you plan to handle your cases by telephone, you need to make some arrangements for competent substitute counsel. There may be hearings, depositions, or conferences where the appearance of an attorney is required, or there may be a pleading which requires an attorney's signature. Several potential substitute attorneys should be available, since a particular attorney may not be free when necessary, there may be a conflict of interest, or the client may not want to use a particular attorney. These arrangements should be made well in advance of your vacation.

If you know or expect something to come up, a detailed written status report and instructions to your staff, substitute counsel and/or the client will be helpful. Some matters may require extensive preparation and meetings with the client or substitute counsel with your presence and input. These should be taken care of before you leave. The consent of the client should be obtained before using other counsel. Care should be used to ensure compliance with the Rules of Professional Conduct. MRPC 1.6, Preservation of Confidences and Secrets of a Client, prohibits a lawyer from knowingly revealing a confidence or secret of a client without the client's consent except in certain limited situations. Therefore, an attorney and the staff should not discuss or turn over client files to substitute counsel without the client's consent.

With regard to payment of the substitute counsel, MRPC 1.5(e), Division of Fees Among Lawyers, must be complied with. Under MRPC 1.5(e), a lawyer cannot divide a fee with another lawyer who is not a partner or associate of the lawyer's law firm or law office unless the client consents to employment of the other lawyer after a full disclosure that a division of fees will be made. The division of fees must always be made in proportion to the services performed and responsibility assumed by each attorney, MRPC 1.5(e), and the total charge may not exceed "reasonable compensation" for all services rendered, MRPC 1.5(a).

CONCLUSION

Even the best planning and preparation is not always sufficient. Your staff should always know how to reach you and the circumstances under which you should be contacted. The

staff should not be afraid to contact you if something comes up or if there are any questions. Additionally, you should periodically check in to see what is happening. If you anticipate working while on vacation, you may wish to take a portable dictating unit with you so that you can dictate memos to your file. Of course, do not forget to take along some billing sheets so that if you have to work you can at least charge for it. And be sure to leave sufficient work and instructions for your staff so that they can be productive while you are gone.

CHAPTER SIXTEEN

DO THE RIGHT THING!

The personal, professional, financial and general office conditions attendant to the solo and small law firm practice are unique within the legal profession. Such conditions directly influence the attorney's business operations and may ultimately affect his or her decisions regarding the strategy in a given case. For example, the press of too many cases, the lack of sufficient support staff, or the absence of a case management and conflicts checking system may create a very real crisis for the small firm practitioner. Thus, the primary ethical considerations relevant to such practice (which are, to some extent, prioritized) are discussed below.

HOW DO I AVOID NEGLIGENCE OF CLIENT MATTERS?

The majority of claims filed in Mississippi against solo practitioners (roughly 35% of all disciplinary complaints) are based upon the client's perception of the attorney's neglect of his or her legal matter. Such a perception may result from the attorney's failure to: (a) communicate with or timely return a client's phone calls; (b) keep appointments; (c) meet filing deadlines; (d) timely return a client's file; (e) timely obtain a trial date; or (f) generate detailed billing statements.

Attorney neglect may also result from the lack of adequate case preparation or from the attorney's failure to recognize that he or she is not competent in a certain area of the law. The explanations often proffered by attorneys charged with neglect include case overload, daily court appearances, pressing personal matters, and employee error. None of these are proper justifications for one's neglect of a legal matter. Thus, the attorney must, at the very least, prepare each case adequately, maintain open lines of communication with each client, and be sensitive to the foregoing "sins of omission" which give rise to charges of neglect.

WHAT IF I NEED HELP IN A CASE?

Attorneys have an ethical obligation to handle their clients' matters competently. The clerk or an attorney experienced in that area of practice are good resources for making sure a matter is handled competently. Also, The Mississippi Bar's Silent Partner program can be utilized to accomplish this goal. The term "competence" is generally defined as including:

1. knowledge of well-settled legal principles applicable to a client's problem, as well as the rules of court before which the lawyer practices;
2. possession of the requisite skills for performing the various drafting, record keeping, administrative, negotiating, and adversarial tasks required in the particular client's matter;
3. thoroughness of analysis and inquiry into the factual and legal elements of a problem; and
4. adequate preparation as required by the scope and consequences of the matter.

WHAT ARE GOOD BUSINESS PRACTICES?

It is a fact of life that attorneys receive no training in the business aspects of a law practice. There are no law school courses in bookkeeping, trust accounting, staffing, office management, and employee relations. Consequently, client monies may be commingled, fee disputes are common, and attorneys are unable to provide their clients with detailed accountings (of their time and services rendered) upon request. To avoid these negative consequences, it is incumbent upon the practitioner to enroll in continuing legal education courses to learn the basic skills of maintaining an accurate ledger, bookkeeping and accounting systems; acquiring case management skills; and developing personnel and employee guidelines consistent with effective business practices.

HOW DO I AVOID CONFLICTS OF INTEREST?

The solo attorney should be acutely aware of two primary situations which may give rise to a conflict of interest:

1. In the situation involving the representation of a client whose interests are (or may be) adverse to those of a former client, the attorney must examine whether the subject matter of the present case is the same as, or similar to, that of the former case. If so, there is a rebuttable presumption that the attorney obtained confidential information which may be utilized for the benefit of one client (or a third person) and to the disadvantage of the other client. If not, the attorney must still analyze whether any confidences and secrets were actually obtained which may be used for the benefit of one client (or a third person), or to the detriment of the other client. In either case, the attorney should decline the representation if such confidential information was obtained; and
2. The simultaneous representation of two clients with adverse interest is generally unethical unless the attorney; (1) determines that it is obvious that he or she can adequately represent the interest of each client; (2) makes full disclosure to each client regarding the possible consequences of such multiple representation; and (3) obtains the consent, preferably written, of each client.

To assist in screening conflict of interest situations, each attorney must maintain a comprehensive record of all telephone inquiries, prospective clients, and those clients who actually retain the attorney. In addition, the attorney should make a conflicts check prior to obtaining confidential information from each new (or prospective) client. Finally, the attorney must always consider whether his or her own financial, business, property, or personal interest will (or reasonably may) affect his or her independent professional judgment on behalf of the client.

WHAT IS FALSE AND MISLEADING ADVERTISING?

With the plethora of recent television, newspaper, yellow pages, and letter advertisements published by attorneys within the past few years, it is well to remember that the main purpose or motivation for such advertising is to benefit the public in its awareness of legal problems and to aid in the selection of the most appropriate counsel. The key to ethical conduct in this area is to avoid the preparation or use of any form of public communication that would tend to mislead a lay person about the attorney's qualifications, experience, or the potential outcome of a particular case.

Although the Supreme Court of Mississippi has adopted new guidelines regulating attorney advertising, various court challenges to the constitutionality of these rules are ongoing.

WHEN (AND HOW) IS THE WITHDRAWAL FROM REPRESENTATION APPROPRIATE?

The acceptable reasons for the decision to withdraw from the client's representation are listed under the headings of "Mandatory Withdrawal" and "Permissive Withdrawal" in MRPC 1.16, respectively. More importantly, however, an attorney must request the court's permission to withdraw, if such permission is required by the rules of court. Further, reasonable steps must be taken to avoid foreseeable prejudice to the rights of the client, including due notice to the client, allowance of time for employment of other counsel, and delivery to the client of all papers and property to which the client is entitled. In situations where the client has not paid the balance of the attorney's fee, it is not appropriate to hold the client's file pending payment. MRPC 1.15(c) and See Mississippi Bar Ethics Opinion 144.

NINE TIPS FROM THE BENCH

The following tips (reprinted from a "Bridge - The Gap" seminar on November 21, 1985 with permission from Judge Daniel Heely and Pacific Law Institute) may help alleviate some of the problems faced by solo practitioners and new admittees.

1. Always refer to the Mississippi Rules of Professional Conduct in identifying and resolving ethical dilemmas. [Ask the General Counsel's office of The Mississippi Bar (601)948-4471, for assistance or guidance if an ethics problem seems unsolvable.]
2. Do not attempt to handle legal matters beyond your competence. Consult other attorneys for advice or assistance.
3. Be careful about taking too many court-appointed criminal or Family Court cases, as they are often time consuming and emotionally draining. Read all of the respective Administrative Judge's relevant memos before appearing in court.
4. Be courteous to court clerks and court reporters. They work very hard for you and deserve your respect. Offending a clerk or a reporter means offending a judge. And, do not blame your secretary for your mistakes or problems.
5. Cultivate and respect your relationship with your clients. Keep them informed and involved in your handling of their legal matters. Buy a stamp that says: "Client's Copy." Send a copy of every court document and every important letter to the client.
6. Be prepared. Know the facts and the law. Preparation is more important than eloquence. Regularly review Mississippi Supreme Court and Intermediate Court of

Appeals advance sheets and new legislative enactments. Also, The Mississippi Lawyer is a good source to find recent changes to various court rules and procedures.

7. Take the time to visit courtrooms and observe various judges presiding over trials and motions. Become familiar with different judicial styles and temperaments, and how each judge expects you to present your case.

8. Your reputation is made very early and very quickly. Be honest, forthright, fair and reasonable in all of your dealings with the court and other lawyers. One deceitful word or act could seriously and permanently damage your credibility among the bench and bar.

9. Do not forget to take vacations and spend time with your family. The practice of law can be addictive and overwhelming. Seek a comfortable balance between the law and your personal life.

Always do the right thing. It will gratify some people And astonish the rest."

-Mark Twain.

CHAPTER SEVENTEEN

WHERE CAN I FIND HELP?

The Mississippi Bar

MEMBER SERVICES/ BENEFITS

Discount Programs

Airborne Express
LDDS Discount Program
LEXIS Membership Group Program
Pennywise Office Supplies Program
Jos. A. Bank Corporate Discount
ABA Retirement Plan
Bar Admissions Ceremony

Services for your practice

Law Office Consultant
Lawyers and Judges Assistance Program
Professional Liability Insurance
Group Life, Disability & Major
Medical Insurance Programs
Bar Center Meeting Facilities
Silent Partner Program
MS Rules Annotated
Legal Form Manuals
Attorney Relocation Service
Desk Calendar

Informational and Educational Services

Mississippi Lawyer Magazine
Membership Directory
Advisory Ethics Opinions
Annual & Mid-Year Meetings
Bar-sponsored CLE-Programs
MS Lawyer Classified Advertising
Membership Records

Opportunities for involvement

Sections
Committees
Young Lawyers Division
Local Bar Associations
Law-Related Education Programs
MS Pro Bono Project

Law Practice Management

Resource Center

DISCOUNT PROGRAMS

[Airborne Express](#)

[1-800-443-5228](#)

Reliable overnight delivery. By leveraging the buying power of the Bar, individual lawyers and small law firms can save 40% to 50% on air express shipping costs. To receive further information or to open your account with Airborne Express, call and mention Association #N72.

LDDS Association Savers Program

1-800-SERVICE

Group discount on LDDS. Already low long distance service. Call and mention MS Bar Association Savers Program.

LEXIS Membership Group Program

1-800-356-6548

The world's largest computer assistance legal research service, available to small firms and solo practitioners. Lower monthly subscription fee and usage costs. Mention MS Bar Membership Group Program.

Penneywise Office Supplies Program

1-800-942-3311

Office supplies at discounted prices. Call for a free color catalog. Order by phone, fax, mail or computer. Mention MS Bar Members Only program.

Jos. A. Bank Corporate Discount Program

601-948-4471

As a member of The MS Bar, you are entitled to the greater discount of either 20% off regular priced merchandise or an additional 10% off the savings of sale items. Corporate cards are available by calling The MS Bar and asking for the Bar Services Dept.

ABA Retirement Plan

1-800-826-8901

The American Bar Association has an excellent retirement plan, but only 45% of The MS Bar's members are also members of the ABA. The MS Bar has entered into an agreement with the ABA so that any member of The MS Bar can participate in the ABA plan.

SERVICES FOR YOUR PRACTICE

Law Office Consultant Program

901-521-1554

The Bar has arranged reduced rates for the independent consulting Services of Jerry Schwartz of Legal Management Services of Memphis. Services offered include Administrative/ Financial Analysis, Profit Improvement Analysis and Practice Management/ Strategic Planning/ Marketing Analysis. Mention that you are a MS Bar member to receive reduced rates.

Lawyers and Judges Assistance Program

601-960-9573 OR 1-800-593-9777

Confidential assistance for lawyers and judges who experience substance abuse and/or emotional problems. The program helps lawyers and judges through confidential intake, assessment and referral to appropriate professionals. If you or someone you know needs assistance, call today. All communications are confidential.

Professional Liability Insurance

601-364-5200

For information on obtaining professional liability insurance for yourself or your firm, call FoxEverett. Mention that you are a MS Bar member.

Group Life, Disability & Major Medical Insurance Programs 601-364-5212

Health, life and disability insurance. For information on obtaining insurance for yourself or your employees, call Fox-Everett. Mention that you are a MS Bar member.

Bar Center Meeting Facilities 601-948-4471 OR 1-800-682-6423

Do you need a conference room for a deposition? A meeting room for a pretrial conference? You're welcome to reserve space at the Bar Center. The MS Bar Center contains conference rooms and a multi-purpose room. Whenever space is available, use of the facility is free to Bar members and Bar-related organizations. Call to reserve space.

Silent Partner Program 601-948-4471 OR 1-800-682-6423

This program is a service of the Young Lawyers Division and is provided at no charge. It is available to attorneys who are in need of guidance in an area of law unfamiliar to them. The program provides quick access by telephone to attorneys throughout the state who have experience with your particular problem. Ask for the Programs Department.

Mississippi Rules Annotated 601-948-4471 OR 1-800-682-6423

The Mississippi Rules Annotated book is published by the Litigation/ General Practice Section of the Bar. It contains rules, committee comments, up-to-date rule changes and all annotations. For costs, contact the Bar Services Department.

Legal Form Manuals 601-948-4471 OR 1-800-682-6423

Comprehensive legal form manuals in the areas of Domestic Relations, Real Estate and Probate were developed by the Young Lawyers Division. Soon to be on computer disks. For costs and availability, call the Programs Department.

Attorney Relocation Service 601-948-4471 OR 1-800-682-6423

The service accepts resumes from MS Bar members at no charge, and distributes to law firms, corporations and/or government agencies seeking applicants. Resumes are mailed with a letter stating the confidentiality of the matter. The employer reviews the resumes and contacts the attorney directly to set up an interview. Call the Programs Department.

Desk Calendar 601-948-4471 OR 1-800-682-6423

The calendar is published annually each fall by the Young Lawyers Division. Contents include County, Circuit, Chancery and Supreme Court Judges, U.C.C. Filing fees, Federal and MS Real Estate taxes and more. For information or to purchase a calendar, call the Programs Department.

INFORMATIONAL AND EDUCATIONAL SERVICES

The Mississippi Lawyer 601-948-4471 OR 1-800-682-6423

All active Bar Members receive a subscription to The Mississippi Lawyer, a bimonthly magazine containing substantive law articles, columns and news items important to all legal professionals. Additional subscriptions are available for \$21/year. For more information, call the Programs Department.

Membership Directory

601-948-4471 OR 1-800-682-6423

In January every other year, the Bar publishes the Membership Directory which is funded by Deposit Guaranty National Bank. It contains names, addresses and phone numbers of all attorneys admitted to practice in MS. It is distributed at no charge to all active members of the Bar. Additional copies are available for a nominal cost.

Advisory Ethics Opinions

601-948-4471 OR 1-800-682-6423

To help lawyers answer ethics questions that arise in their practices everyday, the Bar has an active Ethics Committee. The committee issues opinions interpreting the Rules of Professional Conduct. To request the Ethics Committee to render an Opinion, ask for an Ethics Opinion form from the General Counsel's office. To request a copy of a published opinion, call the Bar's General Counsel's office with either the Ethics Opinion number or topic.

Annual Meeting

601-948-4471 OR 1-800-682-6423

A wide variety of seminars on current topics facing the legal profession, awards presented to outstanding Bar members, and social receptions are highlights of The MS Bar Annual Meeting. Vendors are also on hand to demonstrate diverse services and equipment for the legal community. To register or ask specific questions, call the Bar Services Office.

Bar-Sponsored CLE Programs

601-948-4471 OR 1-800-682-6423

The Mississippi Bar offers comprehensive courses at reasonable costs to help attorneys improve their knowledge and skills in substantive law, law office management and legal ethics. Solo and Small Firm Practitioner Seminars, Ethics Seminar and Regional Bar Meetings are presented at convenient locations throughout the state. Even if you miss a program, you may still be able to obtain the related written materials of the Bar-sponsored seminar.

Bar Admissions Ceremony

601-948-4471 OR 1-800-682-6423

Two Bar Admission Ceremonies are held each year by the Young Lawyers Division. It enables new attorneys to be admitted to practice in all state trial courts, the Mississippi Supreme Court, the U.S. District Courts for the Northern and Southern Districts of MS and the U.S. Court of Appeals for the Fifth Circuit.

The Mississippi Lawyer

601 -948-4471

Classified Advertising Discount

1-800-682-6423

Members of the Bar are entitled to receive a 20% discount when placing a classified ad in The Mississippi Lawyer magazine. Mention being a Bar member to receive your discount.

Membership Records

601-948-4471 OR 1-800-682-6423

The Bar responds to over 500 calls per month seeking confirmation of membership and business addresses of MS Bar Members. To obtain up-to-date membership information, contact the Bar Services Department.

OPPORTUNITIES FOR INVOLVEMENT

Sections

601-948-4471 OR 1-800-682-6423

The 12 Sections of The Mississippi Bar offer a wide selection of professional activities, CLE seminars and newsletters. For the seasoned practitioner or the new attorney, Sections provide a myriad of opportunities to advance an individual's specialized interests. Use the check-off on your annual enrollment fees to join a MS Bar Section or call the Bar Services office.

Administrative Law &, Workers' Compensation
Health Law
Labor &, Employment Law
Business Law Litigation/ General Practice
Estates &, Trust
Natural Resources, Energy &, Environmental Law
Family Law
Gaming Law
Real Property
Government Law
Taxation

Committees

601-948-4471 OR 1-800-682-6423

Responsibilities for project- and issue-oriented activities of the Bar are primarily those of committees which are either standing or ad hoc. Appointments to committees are reviewed and made annually by the President of the Bar. Interested members may submit their names for appointment consideration in the spring.

Young Lawyers Division

601-948-4471 OR 1-800-682-6423

Young Lawyers Division members include Bar members under the age of 37, as well as those who have been admitted to the Bar for less than 3 years. The YLD has nineteen committees which oversee projects for the elderly, homeless, women, and youth in our state and which provide services to the Bar members through a Solo and Small Firm Practitioner Seminar, Bar Admissions Ceremony, Silent Partner Program, Legal Form Manuals and Desk Calendar. You can become involved by contacting the Young Lawyers Division President or the Bar's Programs Department.

Local Bar Associations

601-948-4471 OR 1-800-682-6423

The Bar supports the county bar associations by providing speakers for local bar programs, assisting Local Bars during Law Week, providing mailing labels and sponsoring the Annual Local Bar Leadership Conference. Grants are made available each year by the Mississippi Bar Foundation to local bars to implement a People's Law School. For more information on programs for Local Bars and how you can become involved, contact the Bar Services Office at the Bar.

Law-Related Education Programs

601-960-9572 OR 1-800-682-6423

The Mississippi Law-Related Education Center is a program of the Young Lawyers Division which conducts programs in law and citizenship education. Mississippi Bar members can become involved in law-related education by coaching or judging the High School Mock Trial Competition; by visiting local schools during the Lawyer in a Classroom Program each May; or, by volunteering to serve as a Mentor to a jr. high or high school classroom. Other ways to become involved in law-related education include attending the Annual Statewide Conference or Regional Workshops or by requesting to receive the Law-Related Education Update Newsletter.

Mississippi Pro Bono Project

601-960-9577 OR 1-800-682-0047

The Mississippi Pro Bono Project enables lawyers to fulfill their pro bono obligation by accepting cases in various areas of civil law either individually or by firm participation. This joint venture of The MS Bar and the six Legal Services programs in our state assist over 6,000 citizens each year.

LAW PRACTICE MANAGEMENT RESOURCE CENTER

Assisting lawyers in firms of all sizes in law office management
Over 200 volumes of books, manuals, videos and articles to choose from
No cost to Mississippi Bar members - only pay for postage & handling
Information shipped immediately
Newest membership service offered by The Mississippi Bar

Whether You Are:
wanting to automate your law office
selecting time and billing software
opening your own law office
educating your staff about client relations
purchasing a new computer

Finding the Answers ...

Have you ever wished for a source that could help you find answers to questions and address concerns regarding operating your law office? We can help. The Mississippi Bar's Law Practice Management Resource Center is now available.

Whether or not you intended to go into business when you went to law school, practicing law is a business as well as a profession. Along with the demands of running a successful law practice comes the demand of being a business management professional. These demands can be overwhelming.

Assistance and information are available in all areas of law office management for all types of practices. For the asking, a member of the Bar Services staff will assist you with your request and guide you to resources that may help you. The Resource Center contains a wide range of topics from automation to personnel to client development to time management.

Sources of Information

The Bar's Law Practice Management Resource Center contains a collection of periodicals, books, video tapes and other sources of information to assist you with the task of managing your law office.

Books

Some popular publications from the Law Practice Management Section of the American Bar Association are available for check-out through the Resource Center.

Titles include:

- Flying Solo - A Survival Guide
- How to Start and Build a Law Practice
- How to Get and Keep Good Clients
- Winning With Computers
- Through the Clients' Eyes
- How to Draft Bills Clients Rush to Pay

Videos

Video tapes can bring a seminar to you at the office or at home at a time convenient to you. Videos have been proven to be an excellent way to learn or refresh skills.

The Law Practice Management Resource Center has a collection of video tapes that are available on a loaner basis. The tapes are produced by the ABA, The Wisconsin Bar, and the American Law Institute. Topics are varied from stress management to marketing your law firm to client relations.

Articles

Articles on various law office management topics are continuously copied, updated and filed in all topic areas of the Resource Center. Sources include the ABA Journal, Bar Leader, The Lawyers PC, Law Office Technology Review and The Perfect Lawyer.

Assistance

We are just a phone call away...

(601) 948-4471

Or just a fax away...

(601) 355-8635

Or you may write to:

- The Mississippi Bar
- Law Office Resource Center
- P. O. Box 2168
- Jackson, MS 39225-2168

Rates

The only cost that a member of The Mississippi Bar incurs is for postage and handling. A credit card security deposit is required on all books and video tapes.

Location

The Mississippi Bar Center

643 North State Street
Jackson, MS

Hours of Operation Monday - Friday 8:00 a.m. to 5:00 p.m.

The Law Practice Management Resource Center is a membership service of The Mississippi Bar. Special recognition and thanks are extended to Fox-Everett Insurance for its financial support.

LAW OFFICE RESOURCE CENTER TOPICS

LAW PRACTICE ORGANIZATION

Forms, checklists and systems
Files: organization, maintenance, systems, retention and destruction
Fraud/ embezzlement precautions
Future of law practice
Management techniques, management consultants
Practice development, growth, long-range planning
Telephone etiquette, teleconferencing
Time management techniques

FINANCIAL MANAGEMENT

Accounting and bookkeeping
Budgeting and profit planning
Compensation (for attorneys), income distribution
Fee setting, arrangements and disputes
Financial planning, forecasting, capitalization
Insurance
Time keeping and billing practices, fee collections (manual)
Trust accounting, escrow accounts
Valuation of a law practice

CLIENTELE/ CLIENT RELATIONS

Advertising, marketing, public relations
Client letters
Client relations
Firm brochures and newsletters
Image of attorney, professionalism
Malpractice avoidance, legal ethics

PERSONNEL

Career planning
Employee benefits, pension planning
Hiring strategies, general tips
Hiring strategies support staff
Job descriptions, staff manuals, office policies and procedures

Paralegals, legal assistants
Personnel administration
Productivity, motivation, morale
Retirement, death, turnover
Salaries (support staff)
Salaries lawyers
Secretaries, clerical staff
Stress
Substance abuse
Supervision techniques, employee evaluations
Training, continuing education
Women in the law, maternity benefits, family and career

FORM OF PRACTICE

Professional corporations, incorporating, large law firms
Solo practice, opening law office
Small firms
Specialization
Limited liability

AUTOMATION CONSIDERATIONS

Consultants
Planning for automation, applications
Safety procedures and security
Supplies
Training
Trends
Upgrading your systems

COMPUTER HARDWARE

Modems
Networks
Operating systems: OS/2, IBM, Mac, Unix
Optical disks, CD-ROM, retrieval systems
PC/ Microcomputers
Portable/laptop computer selection tips and survey results

COMPUTER SOFTWARE

Accounting, finance and taxes
Conflict of interest
Database management
Desktop organizers, personal information managers
Docket control, calendaring, scheduling
Document drafting, document comparisons, outlining
Electronic mail, communications
General software selection tips

Integrated law office management
Litigation management, case management, information management
On-line legal research and information services
Timekeeping and billing
Utilities
Word processing

OFFICE EQUIPMENT AND SERVICES

Dictation equipment
Equipment leasing
Facsimile (fax) machines
Mailroom equipment, services and systems
Micrographics, microfilm, microfiche
Optical character readers (OCR), scanners
PC-fax
Photocopiers and supplies
Printers, supplies and add-on features
Supplies, business forms, paper
Telephone system selection, long distance companies, voice mail
Long distance service

LAW OFFICE DESIGN AND BUILDING CONSIDERATIONS

Design, layout space
Ergonomics: lighting, VDT's cooling, ventilation
Moving considerations, site selection