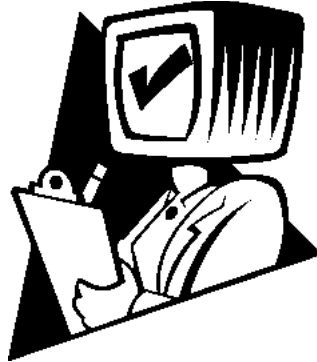


Going Solo? Here's Help To Get You Started

by Dawn Chase



Whether you're a seasoned practitioner or you're just out of law school, hanging your own shingle presents special challenges. The following resources can get you started:

1. "Checklist for Opening Your First Law Office," published by the Virginia State Bar, gives guidance on the many aspects of setting up shop. Available for free at www.vsb.org/publications/brochure/firstlaw.html or by calling (804) 775-0586.
2. The *New Lawyers' Survival Guide*, distributed by the Virginia Bar Association. This fifty-plus page booklet was developed by young lawyers in North Carolina to steer newbies through the basics. Available for free at www.vba.org/news.htm.
3. *How To Start and Build a Law Practice*, by Los Angeles attorney Jay G. Foonberg, is a comprehensive manual highly lauded by law-office management gurus. The book costs \$69.95 and can be purchased through Foonberg's Web site, www.foonberglaw.com.
4. *Lawyers and Other People's Money*, which addresses trust account management, is published by Virginia CLE. (800) 979-8253. Cost: \$35 plus tax and shipping.
5. Software such as Quicken and QuickBooks have online tutorials that helpfully guide you through the process of office accounting.
6. *Marketing for the Small Law Firm: Inexpensive Ways To Keep Up with the Big Guys*, is a large three-ring binder chock full of suggestions from Richmond lawyer John C. Shea. Published by the Virginia Trial Lawyers Association, it can be purchased for \$75 by calling (804) 343-1143.
7. The American Law Institute's *Restatement of the Law Governing Lawyers*, part of the ALI's Restatement Third series, looks at common law applicable to the legal profession, in such areas as liability, confidentiality, financial relationships and conflicts of interest. \$195 for hardbound (two volumes) and \$75 for softbound (one volume, complete). Available from www.ali.org/ali/A252.htm.
8. The Virginia Trial Lawyers Association's annual "Solo & Small Firm Conference" offers a menu of forty continuing legal education classes to choose from, with topics on law-firm management and practice tips. This year's is October 21 and 22 at the Omni Charlottesville Hotel. Cost for walk-ins: \$100 for Thursday and \$165 for Friday, for up to nine CLE credits. Information: (804) 343-1143.
9. Many of Virginia's statewide and local voluntary bar associations, as well as the VSB, sponsor continuing education courses, newsletters and list serves aimed at office management. Your legal malpractice liability insurance carrier might be another source of information or practice audits.
10. The VSB's Ethics Hotline (804) 775-0564 provides free consultations by a staff attorney.
11. The VSB's risk managers, John Brandt and Janean S. Johnston, advise law firms on practice issues by telephone at no cost. Johnston also performs on-site confidential law-firm audits for \$150. Brandt can be reached at (800) 215-7854 and Johnston at (703) 567-0088.

RISK MANAGEMENT CORNER

The Most Important Thing . . .

by Janean S. Johnston, J.D.

Since beginning my risk management work with law firms seventeen years ago, the most frequently asked question from attorney clients has been, "What is the most important thing I can do to stay out of trouble?" Usually this translates into the underlying question of what can the lawyer or firm do to avoid problems in their office procedures or with clients in order to eliminate malpractice claims or ethics complaints.

Over the years my response has changed, to my surprise. In the beginning, my focus was on practice areas and the related American Bar Association malpractice statistics. For example, if you practiced personal injury law, your likelihood of being sued for malpractice was much greater than if you were drafting trusts and wills. However, it did not take very long to learn that having good client relations was even more important in protecting a lawyer from problems than the type of law he or she practiced.

Sometimes we talk about client relations as though it were a public relations problem, and believe that if we follow the simple formula of returning all client phone calls within twenty-four hours or copying our clients on all significant documents, the client will think we are doing a great job and we will have insulated ourselves from any difficulty in the attorney/client relationship. If only it were that easy! Rarely in a discussion listing all the factors involved in managing client relations do I hear "relationship" stressed as part of that equation.

The most problem-free and successful lawyers and firms with whom I have worked have learned that paying attention to clients and building a trusting relationship with them pays important dividends. It takes time and effort to build a good relationship. Time is not just something we bill for, it is our most valuable asset and in limited supply. When you give someone your time, you are giving him or her a portion of your life that you will never get back. So choose your clients wisely and spend the necessary time to build a relationship in order to represent them well.

Ask the following questions: Do we spend adequate time listening to our clients (not interrupting, not always being in a hurry)? Do our clients feel respected and assured that we understand their issues? Or do we schedule too much and take on too many clients in order to maintain our standard of living, thereby shortchanging our ability to build relationships with our clients? Being too busy not only threatens the relationship but also often causes problems within our practice—notes not written down, phone calls not returned, deadlines not met, etc. When we do not take the time to build and maintain the relationship, we are more likely to have malpractice claims, a loss of clients and possibly worse—frustration and the kind of bitterness or depression that can lead to alcohol or drug dependency. If we have neither the time nor the inclination to take on a new client (whether due to a difficult personality or stated goal that we can-

not support) how much better it would be to refer this individual to someone who can wholeheartedly support his or her goals or who has the necessary time to build the kind of relationship that leads to superb representation.



I have observed that if we spend the time to focus our attention and efforts on our clients and their problems, they will not only let others know how well we knew the law and resolved their issues, but, more importantly, how well we treated them. This then inevitably leads to further referrals. What better way to build up our legal profession and reputation than by trying daily to remember to act as if each and every client was a dear friend coming to us for help and advice. Having this kind of respectful, caring and professional relationship does not guarantee that you will stay out of trouble and never be sued by a client or receive an ethics complaint, but it is far and away "the most important thing" I can recommend to ensure you will have a rewarding career as a lawyer, counselor and compassionate human being.

So You Think Your Firm Is Safe

by Patsy T. Epperson, MCSE

Firm safety is about more than your personal office security. There is a security factor that probably does not immediately come to mind: How safe is your data?

“Ninety-three percent of companies that lost their data center for ten days or more to a disaster filed for bankruptcy within one year of the disaster. Fifty percent of businesses that found themselves without data management for this same time period filed for bankruptcy,” according to the National Archives & Records Administration in Washington

A fire in your building could totally destroy not only your physical files but your computer systems and electronic data as well. Without adequate backups stored off-site or in a fire-resistant safe, how would your firm survive? Manual reconstruction of every case, every file, every pleading would be a financial disaster.

Fires and flooding are not the only causes of data loss. Forty-four percent of all data loss is caused by hardware or system malfunction. The second leading cause, at 32 percent, is human error with software failures coming in third at 14 percent. Falling a distant fourth at 7 percent, viruses have certainly caused their share of disruption. Although viruses can be irritating and require down time to clean up, they normally doesn't cause true damage. However, some virus strains and several worms will reformat a local disk. The anti-virus software companies, such as Symantec, Trend Micro and McAfee work hard to stay on top of the “newest” viruses, which come out almost daily.

Software failures can take many forms. For example, a corrupted file that cannot be opened can be caused by the failure of a software program such as Word or WordPerfect. However, a computer that will not boot up or freezes and will not respond may be experiencing failure of the operating system. On an individual PC, the data lost would be anything saved on that specific hard drive, and in some instances it can be recovered. A software

failure on a server, however, is a much bigger issue. Here, a solid backup system is essential and saves your office from disaster.

So how do you protect your firm? A huge step forward is to back up your digitized information to a tape, a CD/DVD or an external hard drive. But don't store these backups in a file cabinet or desk—either remove the backup from the premises or store it in a fireproof lockbox.

With an appropriate backup scheme, you should never hear your office administrator say, “Our server just crashed and we lost everything. But it's worse—the last good backup we have is from December 2003.” That means reconstruct everything from January 1, 2004, forward. And although you never want to hear these words at all, wouldn't you rather be told, “Our server just crashed, we lost everything. But the good news is, our backups are in great condition and we can restore everything through last night.”?

What can make the difference between the bad news and the good news? The following list provides some examples of what can cause problems even if you are running backups every night:

- Damaged/broken media
- Overwritten data
- Media errors
- Incomplete backups
- Reformatted/erased media
- Malicious damage
- Flood/fire damage

A backup is only good if you can restore the information from it. The backup scheme will not be complete if you are not certain your media is good and the backup jobs are running correctly. This requires a test restoration, which should be done on a regular basis.

To condense this to four major points:

- Set a schedule for backups. Daily, weekly and monthly backups will give

you the most protection—and make certain they take place on this schedule without fail. The nightly backup should include a verification procedure to confirm the integrity of the backup.

- Store backup media off-site. And even better, make certain that the off-site location is a safe place, that the media is in a fireproof container and out of danger of flood.
- Replace your media annually. This is more important than most people realize. Media wears out and can develop bad sectors. A bad or damaged tape, CD or external hard drive will not produce an acceptable data restoration. But don't go strictly by one year. Watch your backup reports. If the media shows bad sectors replace it immediately, regardless of the age.
- And last but not least, test that your data can be restored. If it can't be restored, it is of no use to you. Sometimes a test restoration is the only way to determine if there is a problem with your backups.

Take the time to review your backup scheme. If it falls short, then do whatever it takes to implement a good backup system. It can't be better said than a quote from the CIO Magazine: “Data is a valuable corporate asset and should be managed as such, like cash, facilities or any other corporate asset.”

Patsy T. Epperson is a client relationship consultant with Aegis Computer Services Inc. and a former legal consultant. She can be reached at (850) 422-2661 or eppersonp@aegiscomputer.com.