Basic Training & Beyond

Day-One:

Is this right for me?

Getting started.

The business of the small firm.

Managing risk.

Day-Two

Client relations.

Productivity & technology.

Marketing.

1,352,027 US licensed attorneys

182,296 in New York State

170,117 in California

110,090 in the DC Bar

91,244 in Texas

78,448 in Florida

Is small firm law for me?

It’s a profoundly challenged economy

It’s a tough profession

Competition is intense

Expect an abundance of challenge & adventure

The public's perception of lawyers

Please tell me how you would rate the honesty and ethical standards of people in these different fields -- very high, high, average, low or very low? How about -- [RANDOM ORDER]?

	Very high	High	Average	Low	Very low	No opinion
	%	%	%	%	%	%
Nurses	31	54	14	*	1	*
Engineers	17	49	31	2	1	1
Medical doctors	20	45	28	4	2	*
Pharmacists	15	49	28	5	3	*
Dentists	13	48	33	4	2	*
Police officers	17	37	31	9	5	*
College teachers	12	37	34	10	7	1
Psychiatrists	10	33	43	10	2	2
Chiropractors	6	35	47	9	2	1
Clergy	10	30	42	10	5	4
Journalists	5	23	34	20	17	1
Bankers	3	25	52	15	5	*
Labor union leaders	4	20	48	20	7	1
Lawyers	4	18	49	19	9	*
Business executives	2	18	50	22	8	1
State governors	4	16	52	21	6	*
Stockbrokers	2	12	55	22	8	2
Advertising practitioners	2	11	44	30	10	2
Insurance salespeople	2	11	52	26	9	*
Senators	2	11	42	32	13	1
Members of Congress	3	9	33	34	21	1
Car salespeople	1	8	47	30	13	*

Dec 2-15, 2019

Historical view 1976 - 2019

9th most dishonest in this MoneyWise survey

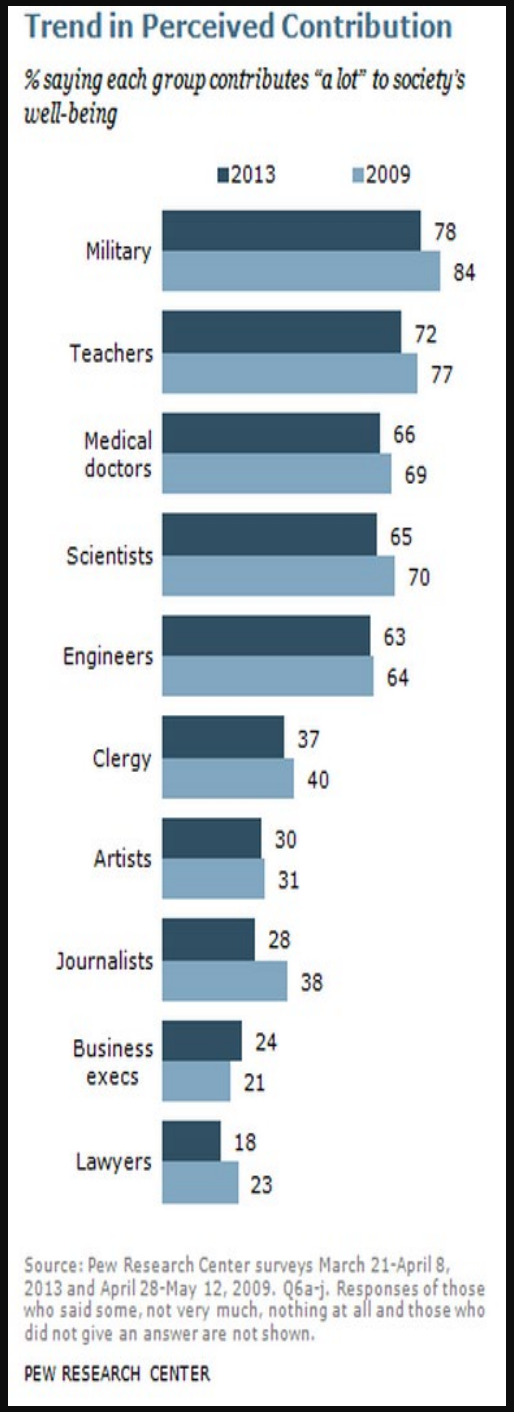
Lawyers

	Very high	High	Average	Low	Very low	No opinion	Very high/High
	%	%	%	%	%	%	%
2019 Dec 2-15	4	18	49	19	9	*	22
2018 Dec 3-12	3	16	51	21	7	1	19
2017 Dec 4-11	4	14	53	19	9	1	18
2016 Dec 7-11	3	15	45	26	11	1	18
2015 Dec 2-6	4	17	44	25	9	1	21
2014 Dec 8-11	5	16	45	22	12	1	21
2013 Dec 5-8	3	17	45	23	12	1	20
2012 Nov 26-29	4	15	42	28	10	1	19
2011 Nov 28-Dec 1	3	16	43	27	10	1	19
2010 Nov 19-21	4	13	47	24	11	1	17
2009 Nov 20-22	3	10	45	28	12	1	13
2008 Nov 7-9	3	15	45	25	12	1	18
2007 Nov 30-Dec 2	2	13	49	25	10	1	15
2006 Dec 8-10	3	15	42	27	11	2	18
2005 Nov 17-20	3	15	46	25	10	1	18
2004 Nov 19-21	4	14	45	24	11	2	18
2003 Nov 14-16	3	13	47	25	11	1	16
2002 Nov 22-24	2	16	45	25	10	2	18
2001 Nov 26-27	4	14	50	23	8	1	18
2000 Nov 13-15	3	14	42	29	11	1	17
1999 Nov 4-7	1	12	45	28	13	1	13
1998 Oct 23-25	3	11	44	29	12	1	14
1997 Nov 6-9	3	12	41	31	10	3	15
1996 Dec 9-11	3	14	39	27	14	3	17
1995 Oct 19-22	4	12	36	29	17	2	16
1994 Sep 23-25	3	14	36	31	15	1	17
1993 Jul 19-21	3	13	41	28	13	2	16
1992 Jun 26-Jul 1	3	15	43	25	11	3	18
1991 May 16-19	4	18	44	21	10	5	22
1990 Feb 8-11	4	18	43	22	9	4	22
1988 Sep 23-26	3	15	45	23	10	4	18
1985 Jul 12-15	6	21	40	21	9	3	27
1983 May 20-23	5	19	43	18	9	6	24
1981 Jul 24-27	4	25	41	19	8	7	25
1977 Jul 22-25	5	21	44	19	8	4	26
1976 Jun 11-14	6	19	48	18	8	1	25

GALLUP

Contribution to society's well-being

We are last ->



Did you know a pro bono lawyer uncovered the robo-signing scam during the mortgage crisis?

The pressures on the profession

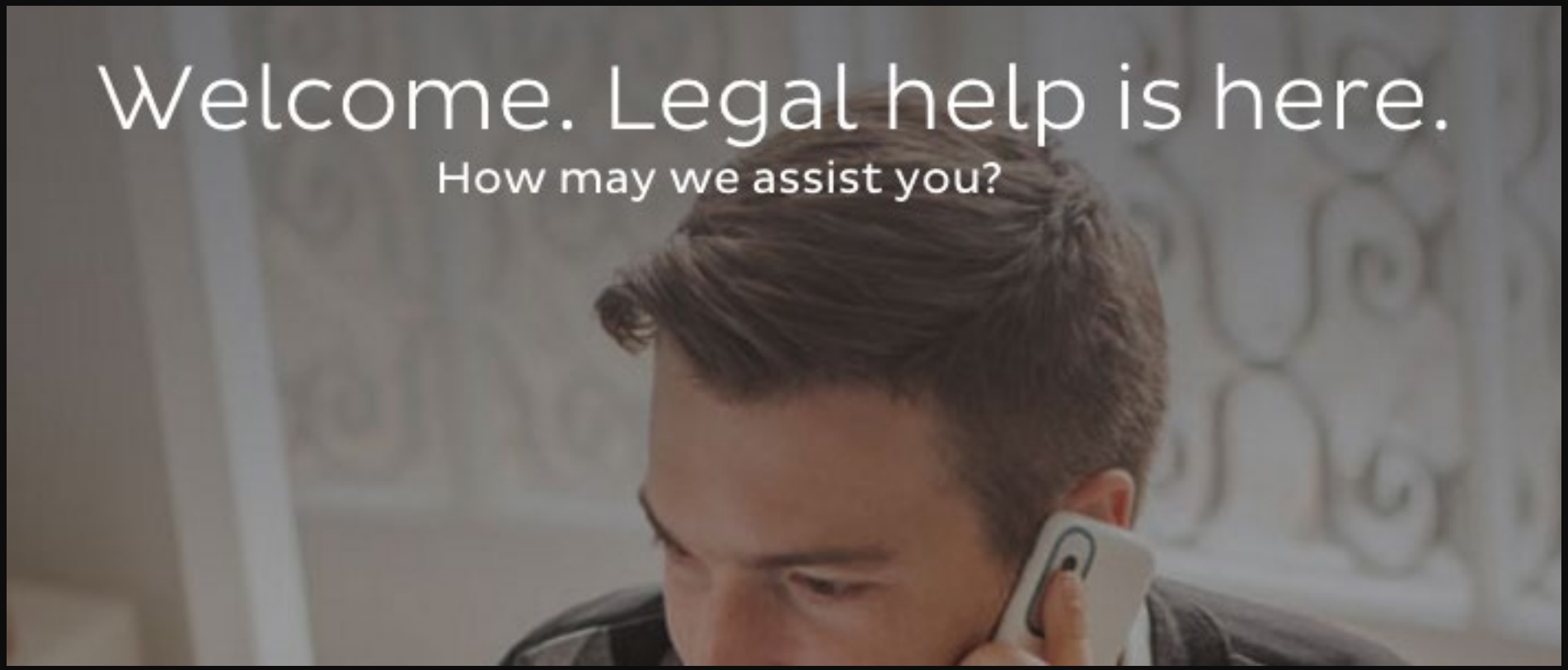
Client pressures

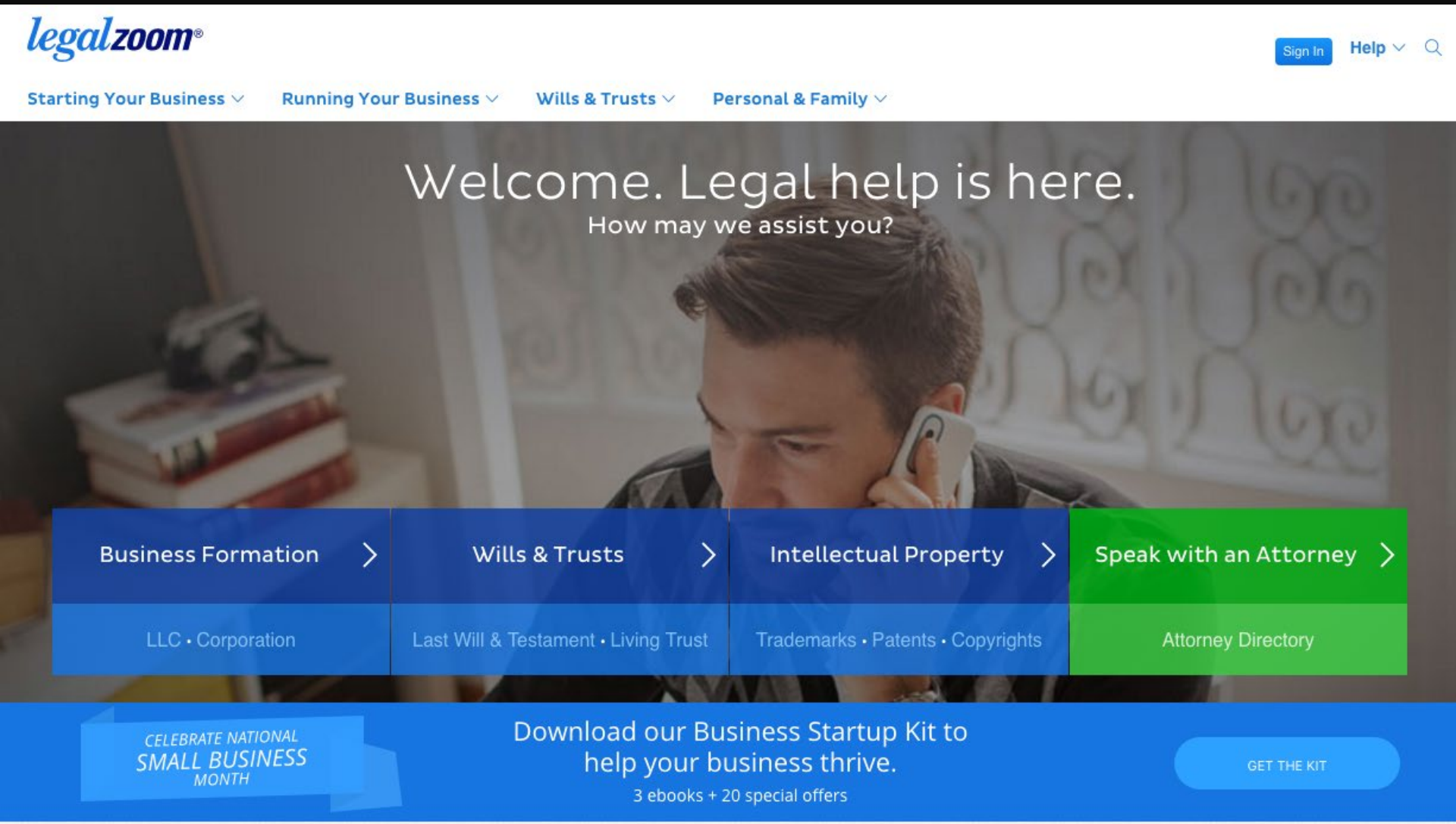
to be more efficient & affordable

The Legal Tech Assessment

Market pressures in competition for our clients

LegalZoom


Welcome. Legal help is here.
How may we assist you?


legalzoom®
Sign In
Help
Starting Your Business
Running Your Business
Wills & Trusts
Personal & Family
Welcome. Legal help is here.
How may we assist you?
Business Formation
LLC • Corporation
Wills & Trusts
Last Will & Testament • Living Trust
Intellectual Property
Trademarks • Patents • Copyrights
Speak with an Attorney
Attorney Directory
CELEBRATE NATIONAL
SMALL BUSINESS
MONTH
Download our Business Startup Kit to
help your business thrive.
3 ebooks + 20 special offers
GET THE KIT

Rough week for lawyers

Sixty Minutes exposes the dark side of Rule 1.6:

ABA responds by attacking the messenger:

Then says we have a drinking problem:

So the public has to wonder: "Is my lawyer a crook, a drunk, or a drunk crook."

AT&T 4:57 AM 97%



Cat Moon
@inspiredcat

"In a breakdown of loneliness and social support rates by profession, legal practice was the loneliest kind of work . . . [t]his is perhaps not surprising, given the known high prevalence of depression among lawyers."



America's Loneliest Workers, According to Research
hbr.org

Tweet your reply

America's Loneliest Workers



But lawyers can be happy when:

We are autonomous

We are masters of our world

We are connected and have a sense of belonging

Demand for small firm services is and will be at an all time high

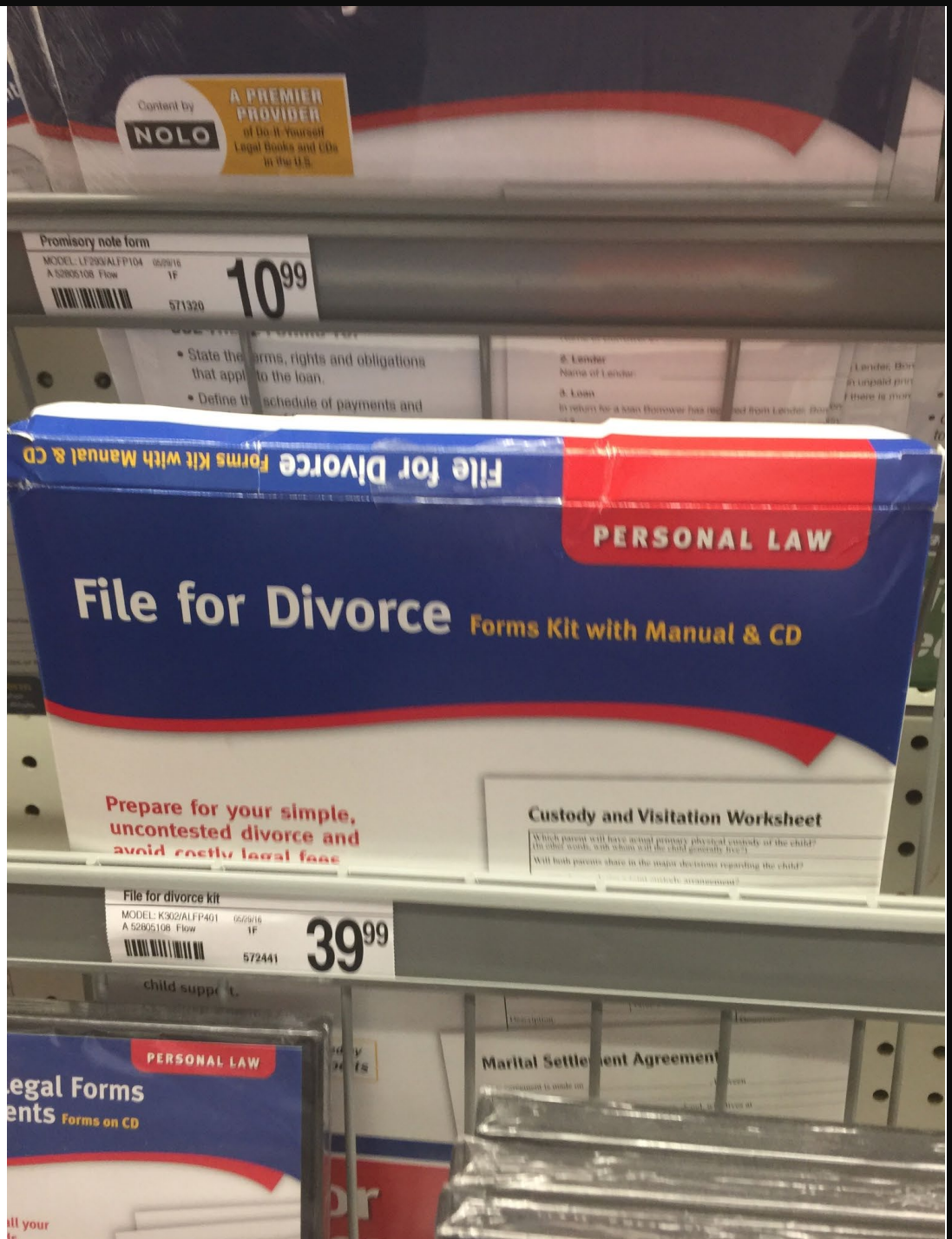
The challenge for the small firm lawyer is to:

Find the right problems

&

Get paid for solving them

How do you respond to a prospective client who shows up with this?



The time we are in

Clio's COVID-19 Impact Research Briefing: May 4

Clio's first briefing on the impact of COVID-19 indicates that legal professionals have been significantly affected by social restrictions and that—despite the ongoing need for legal services—many firms are seeing reduced client demand.

Clio Legal Trends Report 2019

Justice for Me

An affordable legal fee payment plan.

The lender's fee is like that charged by a credit card processor.

But is this a Rule 5.4(a) issue?

Here is the Ben Glass response to LegalZoom



Characteristics

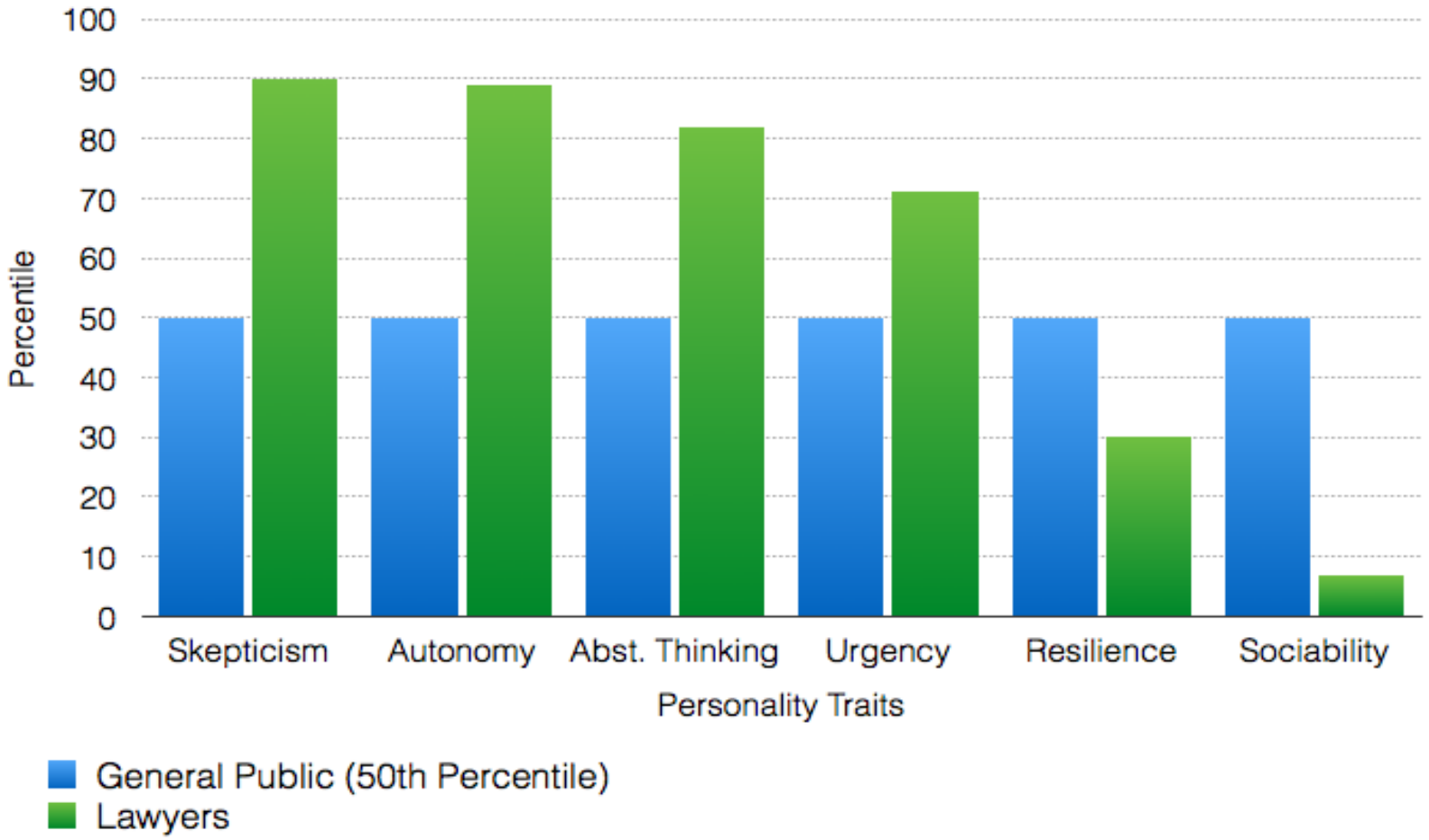
Are you empathetic?

Can you listen & observe?

Can you make the complex understandable?

Can you maintain boundaries?

The 6 Predominant Lawyer Personality Traits



From the research of Larry Richard, Ph.D.

Dr. Larry Richard / LawyerBrain.com

Small firm lawyers need high EQ (emotional intelligence)

What does high EQ look like?

High EQ Qualities

You are optimistic.

You are not a perfectionist.

You can balance work and play.

You embrace change.

You are not easily distracted.

You are empathetic.

You know your strengths & weaknesses.

You are self-motivated.

You don't dwell in the past.

You take care of yourself.

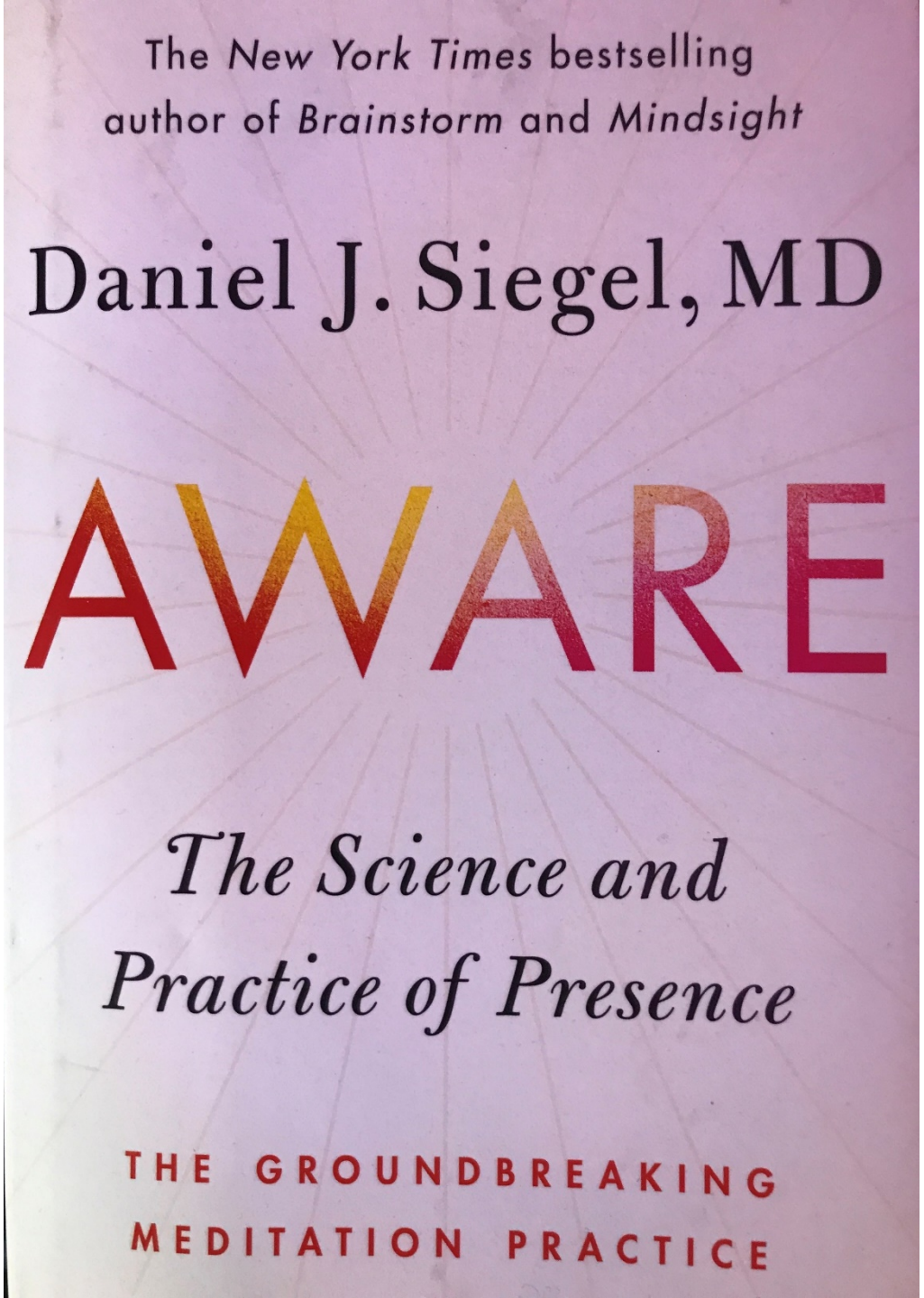
You set boundaries.

A person with EQ understands this truth:

You cannot impact a feeling with a fact.

You can only impact a feeling with another feeling.

A great resource to develop good decision making



Characteristics of the successful small firm lawyer

Are you an *idea* person & a *detail* person?

Can you work a room? Can you close?

Can you screen & talk about money?

Can you be selective about clients & cases?

Are you a life-long learner?

Empathy vs Sympathy

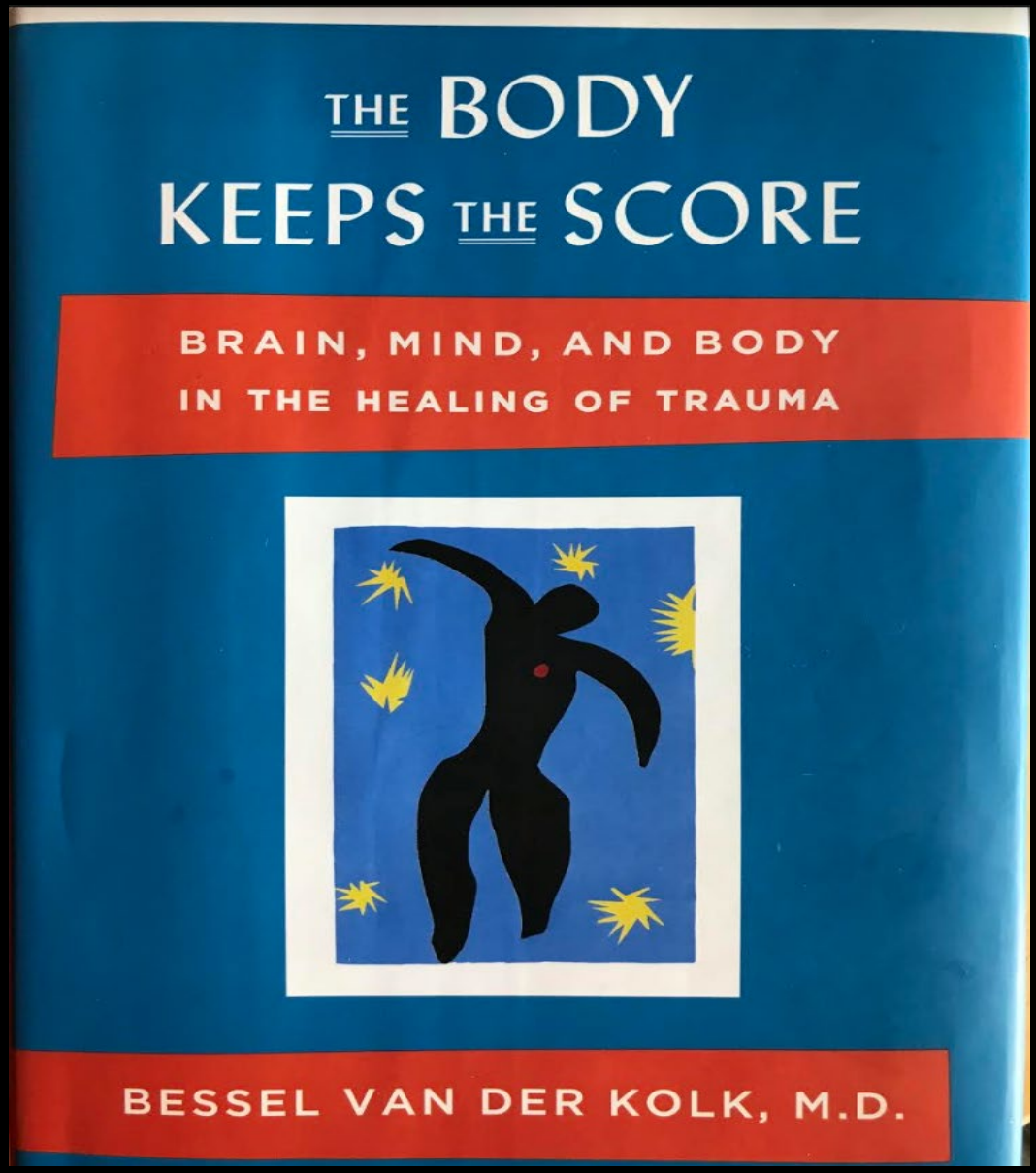
This video of Brene Brown explains the difference.

https://www.youtube.com/watch?v=1Evwgu369Jw

An empathetic person
is not afraid to be vulnerable

Here's a talk by Brene Brown on the
power of vulnerability

If you have clients who have suffered trauma, this is a resource to understand how trauma affects a person



Play to your strengths

https://www.gallupstrengthscenter.com/

http://www.viacharacter.org/www/

https://www.authentichappiness.sas.upenn.edu/

The small firm focus

When we are licensed to solve the problems of others,
it is best that our focus be narrow.

There is less challenge and risk
in a narrowly focused small firm.

We are expert & efficient at solving our client's problem.

Our marketing initiative is better directed and more successful.


WHAT YOU LOVE
HAPPY BUT POOR
JUST A DREAM
#WIN
WHAT YOU'RE GOOD AT
RICH BUT BORED
WHAT PAYS WELL

Necessary skills

Active listener

Ability to negotiate

Effective writer

Good speaker

Ability to adapt

Quick study

Solution oriented

We are regulated

We must comply with the DC Rules of Professional Conduct;

And the rules of any other jurisdiction where we are barred;

And other codes, regulations and court rules;

And not become paralyzed by regulation.

Click here for free, confidential, informal ethics advice

We are DC Rule focused here

If you practice in another jurisdiction,

it may be different there.

For example:

DC Rule 7.1 & 7.5 – marketing

DC Rule 1.8(d)(1) & (2) – client financial help

DC Rule 5.4(b) – non-lawyer equity partner

DC Rule 1.6 – confidences & secrets

Getting started

What's the problem you solve?

Why should a prospective client bring you into their life?

What is the skill set you need to attract and solve the problem of your ideal client?

Is it the same skill set?

76 words in a 30 second spot

Because that is what people remember

Less can be more

The words you speak become the house you live in.

- Hafiz

Firm name

Rule 7.5 & 7.1

Avoid implying that you are more than you are

Using *Firm* is acceptable Ethics Opinion 332

Be cautious of and test drive the unique name

Unique name example: *Ipseity Law*

Ipseity, from the Latin word *ipse,* meaning “itself”

“Ipseity reminds me of my core self,

the me beneath all layers of adaptation & personality,

and that’s why I choose Ipseity Law for the

name of my small firm.”

The entity question

Know why you need an entity

Here are resources on forming a business in DC

Here is information from DCRA

Sole proprietor is an option

See *Choosing the Business Entity* at 29 of the e-Manual

Sole proprietors, partners & self employed persons pay estimated taxes

Your firm will need an EIN

Apply to the IRS for an employer id number

You will need an EIN to open your firm's business checking account

Avoid putting your SSN on a 1099 form

See page 31 in the e-Manual

IRS Employee vs Contractor Guidelines

Doing business in DC

Law firms do not need a business license from DCRA

You may need to file the FR 500 (p. 31, e-Manual)

More information about the FR500 is here

Do you need an office in DC?

DC Rules do not require it

Be careful about an office in a jurisdiction where you are not barred

See e-Manual, page 35, for more information

The office should be client-focused

Is client data safe & secure?

Avoiding UPL

Rule 5.5 bars a DC Bar member from the unauthorized practice of law in another jurisdiction

Every jurisdiction has its own UPL rule, regulation or code provision

e-Manual, Avoiding the Unauthorized Practice of Law, page 16

When emails from Colorado became UPL in Minnesota

CARR / WORKPLACES DC Metro

Bethesda
4800 Hampden Lane
Suite 200
Bethesda, MD

Capitol Hill
300 New Jersey Ave NW
Suite 900
Washington, DC

City Center
1325 G Street NW
Suite 500
Washington, DC

Clarendon
3033 Wilson Boulevard
Suite 700
Arlington, VA

Duke Street
1765 Duke Street
Alexandria, VA

Dupont
1101 Connecticut Ave NW
Suite 450
Washington, DC

Friendship Heights
5425 Wisconsin Avenue
Suite 600
Chevy Chase, MD

Georgetown
1050 30th Street NW
Washington, DC

King Street Station
1800 Diagonal Road
Suite 600
Alexandria, VA

K Street
1717 K Street NW
Suite 900
Washington, DC

Old Town
500 Montgomery Street
Suite 400
Alexandria, VA

Pennsylvania Avenue
1701 Pennsylvania Ave NW
Suite 200
Washington, DC

Reston Town Center
1818 Library Street
Suite 500
Reston, VA

Rosslyn
1001 19th Street North
Suite 1200
Arlington, VA

Tysons Boulevard
1750 Tysons Boulevard
Suite 1500
McLean, VA

The Willard Offices
1455 Pennsylvania Ave NW
Suite 400
Washington, DC

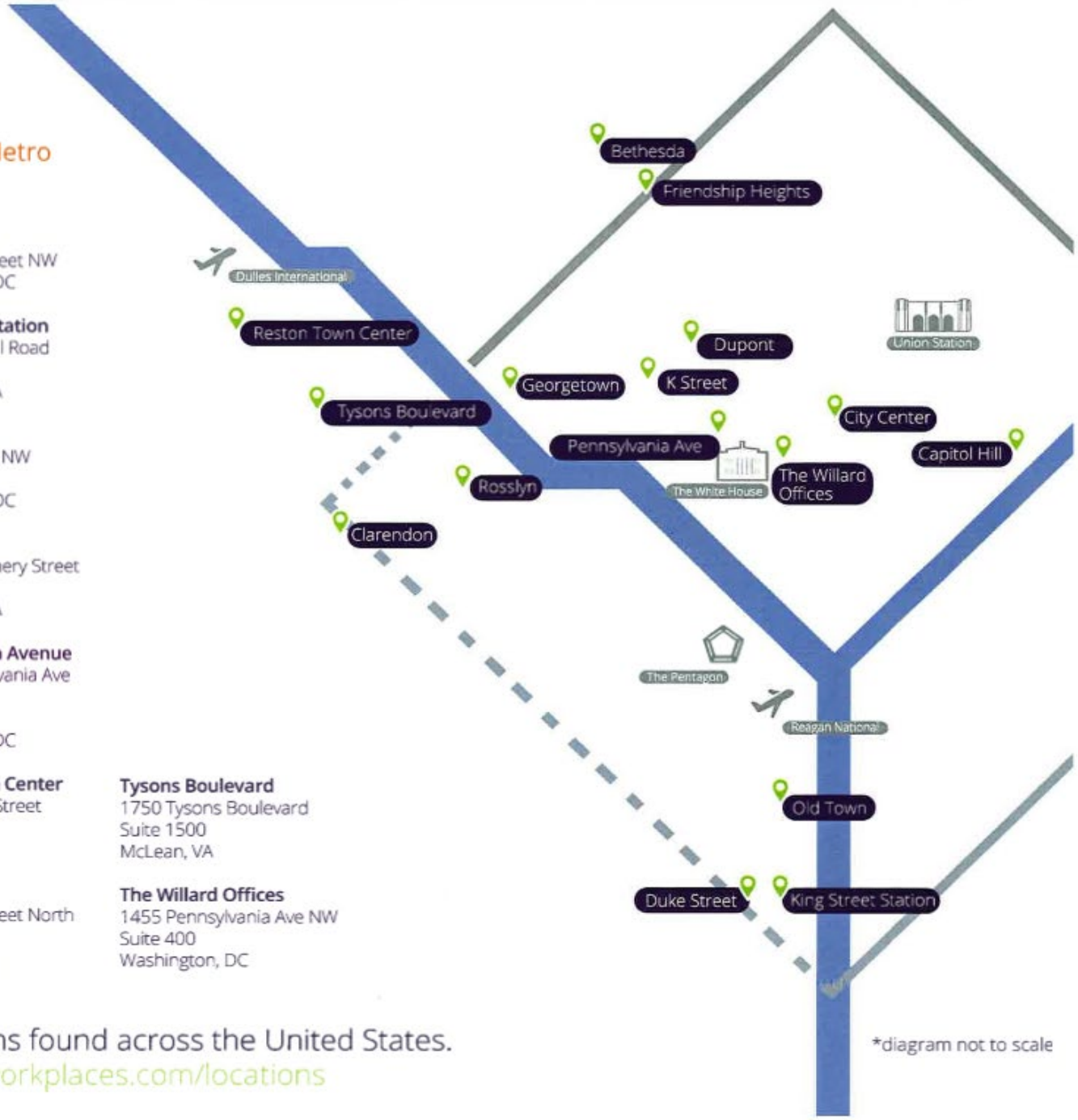


*diagram not to scale

Plus 10 additional locations found across the United States.
Learn more at www.carrworkplaces.com/locations

DC Bar Member Benefits

Carr WorkPlaces

Clio, MyCase, Zola

Fastcase

USI Affinity

OSI

Office Services Inc.
1629 K Street NW Suite 300
Washington, DC
20006

The law firm business plan

Planning gives your focus, control, & direction

You will have an edge over the competition

You will think about your law enterprise as a system

Planning reduces risk & increases reward

See the e-Manual, page 25

Request the plan template, workbook & spreadsheets:

PMAS@dcbar.org

Here is why the plan is essential

It raises issues you will not have considered

It helps you to think like an entrepreneur

It puts you in your ideal client's problem recognition process

Build your network

Small firm support systems are important

Networking events & groups are vital

Mentoring can result

Referral networks are created

Resources are located

Informal groups, voluntary bars & Communities

are some of the possibilities

Networking Opportunities

Law is a relationship business

July 16 at DC Bar – Finding Your Footing: How to Stay Sane When Working from Home, with Niki Irish. Register here.

2nd Friday at Alto Fumo, 2909 Wilson Blvd. (Clarendon Metro) in Arlington at 12:30 pm. RSVP to steven@stevenkriegerlaw.com

Last Friday at *Barrel & Crow*, 4867 Cordell Avenue, Bethesda at Noon. RSVP to mark@markdelbianco.com

The business of the small firm

Fees & getting paid

Handling money

Management

Getting help

Handling client data

Fees

How will you price your service?

Rule 1.5 says it must be *reasonable*

So you can profit, know what a productive hour is worth – page 41 of the e-Manual

Ask for the 168 hour time management spreadsheet

Time & effort are not necessarily value.

The client values the result.

Productive hour calculation

Monthly expenses X 12

$5k professional, $5k personal X 12 = $120,000.00

$120k / 50 weeks = $2400.00

$2400 / 5 days = $480.00

$480 / 3 productive hours each day = $160.00

(/ = divide)

Incorporating profit

$160.00 + $90 profit = $250.00 hourly rate

$250.00 X 3 productive hours a day = $750.00

$750.00 X 5 days = $3750.00

$3750.00 X 50 weeks = $187,500.00

$187,500 - $120,000 = $67,500.00 profit

Lawyerist

Hourly rate calculator

Revenue – Expense = Profit

When the small firm does not intend to profit,
it is simply surfing cash flow.
Here is how to know when you are profiting:

Total Fixed Cost / (Matter Price – Cost) = Matters needed to break even

$5000 Fixed Cost (month) / ($1000 - $750) = 20 matters a month to break even

Revenue – Expense = Profit

Compare to a firm with more margin in the formula

$5000 Fixed Cost (month) / ($2500 - $750) = 3 matters a month to break even

How do you know the market?

Rule 1.5(a)(3)

Bar associations cannot tell you

Experienced lawyers are the best source

The USAO's Laffey Matrix is here

NLJ Billing Rates

DC US Attorney's Office Laffey Matrix 2018-19
Years / Hourly Rate
https://www.justice.gov/usao-dc/page/file/1189846/download

USAO ATTORNEY'S FEES MATRIX — 2015-2020

Revised Methodology starting with 2015-2016 Year

Years (Hourly Rate for June 1 – May 31, based on change in PPI-OL since January 2011)

Experience	2015-16	2016-17	2017-18	2018-19	2019-20
31+ years	568	581	602	613	637
21-30 years	530	543	563	572	595
16-20 years	504	516	536	544	566
11-15 years	455	465	483	491	510
8-10 years	386	395	410	417	433
6-7 years	332	339	352	358	372
4-5 years	325	332	346	351	365
2-3 years	315	322	334	340	353
Less than 2 years	284	291	302	307	319
Paralegals & Law Clerks	154	157	164	166	173

DC US Attorney's Office Laffey Matrix

LAFFEY MATRIX -- 2003-2014
(2009-10 rates were unchanged from 2008-09 rates)

Experience	Years (Rate for June 1 - May 31, based on prior year's CPI-U)										
	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
20+ years	380	390	405	425	440	465	465	475	495	505	510
11-19 years	335	345	360	375	390	410	410	420	435	445	450
8-10 years	270	280	290	305	315	330	330	335	350	355	360
4-7 years	220	225	235	245	255	270	270	275	285	290	295
1-3 years	180	185	195	205	215	225	225	230	240	245	250
Paralegals & Law Clerks	105	110	115	120	125	130	130	135	140	145	145

The best business model for getting paid



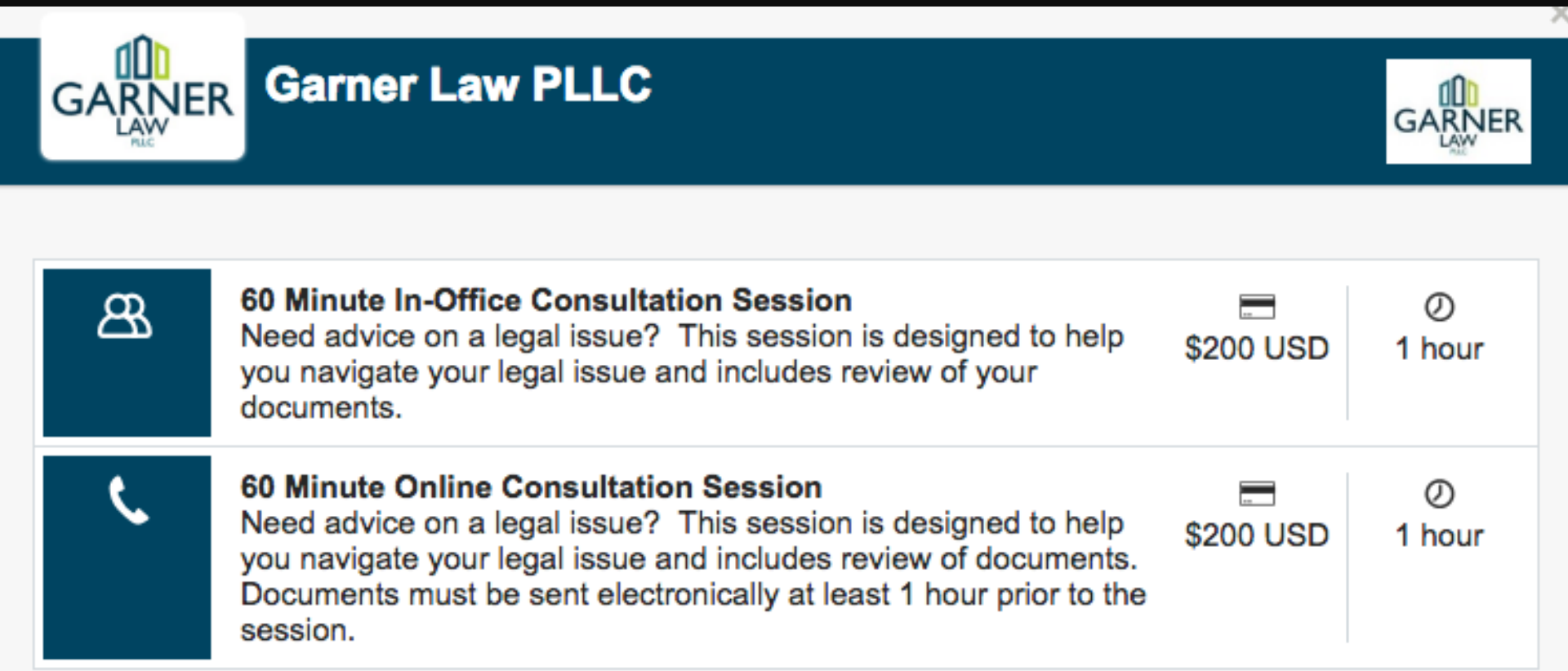
The Zips model works for the small firm

No inventory

Nothing perishable

Get paid up front

Charging for the initial consultation



Garner Law PLLC

The fee agreement

A plan for solving your client's problem

A plan for getting paid

Rule 1.5(b) requires a writing covering the scope, fee & expenses

A contingent fee "agreement" is required as is a written statement of the outcome - Rule 1.5(c)

The best practice

Create a client-friendly contract that complies with Rule 1.5 and Rule 1.15 (when necessary)

Address other important issues like how you will communicate, what is expected of the client & what happens to the file

e-Manual, Chapter 4, page 50, covers other terms

Request sample forms at PMAS@dcbar.org

Limited Scope Opportunity

D.C. Superior Court has issued Admin Order 14-10 allowing limited appearances in these divisions:

Civil

Probate

Tax

Family

Domestic Violence

RPC 1.2 has been amended.

See page 56 in the e-Manual for forms.

Bar Complaint Form

It asks this question regardless of the nature of the complaint:

D. Do you have a written retainer agreement with the attorney? If yes, please attach a copy.

There is no exception in Rule 1.5 for a client who is pro bono, court appointed,

friend or family

Small firm bank accounts

The firm's business account (operating account)

DC IOLTA, assuming there are IOLTA eligible funds

Trust Account for a single client or case, assuming the need exists

What goes where?

If you have done the work and earned the money, it goes into the business or operating account.

When it is an advance fee, when you are paid before you have done the work, when you have not yet earned the money, it goes into the IOLTA, assuming it is nominal in amount or going to be held for a short time.

Elements of good trust account management:

A ledger for each account;

Advance fees (flat, fixed or hourly) are entrusted (DC IOLTA);

Keep a client ledger for each client's money held in trust;

Include a summary of a client's trust funds in the invoice;

Use the three-way trust account reconciliation spreadsheet.

e-Manual, Chapter 5, Trust Accounting

Use the DC IOLTA Registration Form to open an IOLTA at an IOLTA compliant bank

Most advance fees are IOLTA eligible because they will not earn net interest for the client

Name your IOLTA properly (Rule 1.15(b)) Example:

Daniel M. Mills Lawyer DC IOLTA, or

The Mills Firm DC IOLTA

IOLTA Exceptions / Rule 1.15

". . . when the lawyer is otherwise compliant with the contrary mandates of a tribunal . . ."

If you are licensed, principally practice & are IOLTA compliant in another jurisdiction. Rule 1.15(b)

". . . unless the client gives informed consent to a different arrangement." Rule 1.15(e)

The problem with "informed consent to a different arrangement"

The Rules don't explain it

There is no case that sets out the elements

After In Re Mance, Disciplinary Counsel is waiting on the right set of facts to establish the elements

Waiver of entrustment is high risk conduct

What we think we know about informed consent to waiver of entrustment

Orally & in writing the client agrees that:

1. Advance fees are normally entrusted;
2. Un-entrusted fees are treated as the lawyer's property;
3. Lawyer must explain the service & do the work to earn the fee;
4. Unearned fee must be returned to the client;
5. Un-entrusted fees are subject to the lawyer's creditors.

Credit Card Payments

Be certain the payment goes into the right law firm account

LawPay is a new DC Bar member benefit for credit card processing

LEO 348 Accepting Credit Cards for Payment of Legal Fees

The charge back risk & credit card provisions for fee agreements: request at PMAS@dcbar.org

Bank account record keeping

Maintain complete records for tax purposes;

Maintain complete records for trust account purposes (Rule 1.15(a);

"Complete records" tell the full story of how the lawyer handled the money and whether the lawyer followed the Rules – *In Re Clower, 831 A. 2d 1030, DCCA 2003*

Include supporting data

The law firm bank statement

Should only be opened or accessible by you;

Should be examined regularly;

Never delegate this task regardless of how big, busy & successful you become;

Only delegate financial duties after your thorough review of the bank statement;

Reconcile the bank statement with your trust account ledger & client ledgers.

Trust account scams

It typically begins with a remote “client”;

It will involve a check to deposit into your trust account and fees for you;

The scammer will want funds wired to another account (usually off-shore)’

Never wire funds until the check has cleared’

To be safe, send the check for “collection” (UCC 4-501).



LEGAL COUNSEL NEEDED!!!

Paris Jun

August 18, 2015, 11:46 PM

Dear Counsel,

My name is Paris Jun. I am contacting your firm in regards to a divorce settlement with my ex husband (Michael Jun) who resides in your jurisdiction. I am currently on assignment in Japan. We had a court agreement for him to pay $578,000.00 plus legal fees. He has only paid me $78,000.00USD since.

I am hereby seeking your firm to represent me in collecting the balance from him. He has agreed already to pay me the balance but it is my belief that a Law firm like yours is needed to help me collect this payment from my ex-husband or litigate this matter if he fails to pay as promised.

Sincerely,
Paris Jun

IOLTA eligible funds . . .

- Must be held in an approved IOLTA bank;
- Are funds that are nominal in amount, or,
- Held for a short period of time;
- Such that effort to administer "consumes" interest income.
- Example of an account name: *Daniel M. Mills DC IOLTA Account;*
- Interest goes to the DC Bar Foundation for pro bono legal services.

Trust Account Records

- **What are you required to keep? *Complete records* - Rule 1.15(a);**
- **How long? *. . . for a period of five years after termination of the representation.* Rule 1.15(a);**
- **But is it ever safe to destroy trust account records when there is no statute of limitation on a disciplinary complaint?**

Complete records?

- **What are complete records of a trust account transaction?**
- **If Bar Counsel cannot figure it out from your records, then your records are not complete.**
- ***In re Donald A. Clower*, 831 A.2d 1030, DCCA 2003.**

- **“Complete records” tell the full story of how the lawyer handled the money and whether the lawyer followed the Rules;**
- **If the records show what happened and that you complied with the Rules, then they are complete;**
- **“The reason for requiring complete records is so that any audit of the attorney’s handling of clients funds by Bar Counsel can be completed even if the attorney or the client, or both, are not available.” *In re Clower* at 1034.**

What is ODC's expectation for complete records in a contingency fee matter?

ODC wants to see the underlying documentation for every entry on the recovered fund (settlement) distribution sheet.

Managing Money





IOLTA



Operating

So where does the money go?

If the Fee is an …



Advance Fee/Expense
or Settlement



It goes in your…

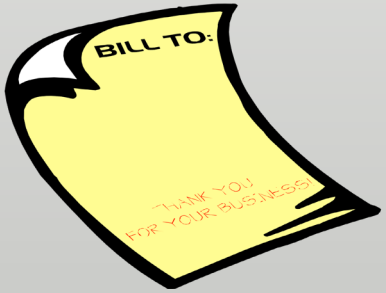
IOLTA Account

With the advance fee in the IOLTA,

then you….



Perform the work



Send invoice

And then…

Recovered funds in a contingency fee matter

- Check is deposited into the firm's IOLTA
- Wait for the check to clear
- When funds are available, distribute according to the fee agreement and claims of valid third parties

Transfer the attorney fee pursuant to your fee agreement …

From



To



IOLTA

Operating

These separate accounts can be at the same bank or different banks

What if you get paid after the work is performed?



Then you deposit straight to…



Operating Account

NEVER



Advance Fee



Operating Account

UNLESS…..

You obtain the client's "Informed Consent" to deposit their money into your operating account - Rule 1.15(e).

Best Practice Tip: Don't Do This!



NEVER

Law firm Money



IOLTA Account

Except….

You can only put law firm money into an IOLTA Account pursuant to D.C. Rule 1.15(f) which says…

Nothing in this rule shall prohibit a lawyer from placing a small amount of the lawyer's funds into a trust account for the sole purpose of defraying bank charges that may be made against that account.

In Re Mance
980 A.2d 1196 (D.C. 2009)

- A flat fee is now an advance fee when it is paid before work begins
- Rule 1.15(e) applies - it must be entrusted
- Advance flat fees go into the IOLTA
- The fee agreement determines how and when you earn the fee
- A lawyer cannot earn a fee for doing nothing. *In re Sather,* 3 P.3d at 414

When does a flat fee go into the operating account?

- When the work is done and the fee is earned.
- If a flat fee is paid after the work is performed,

it goes into the operating account.

Availability - What's that?

- **Flat fee is generally not an *engagement retainer*** (classic definition)
- **Engagement retainer refers to availability, if required**
- **Flat fee for a task-based matter may cover all the work to be done**
- **LEO 355 - Flat Fees & Trust Accounts**
- **Availability gigs are rare and unique**

Rule 1.15(e) informed consent - what is needed?

- Flat fees normally are entrusted
- Un-entrusted fee will be treated as the lawyer's property
- Lawyer must work for the fee to keep it
- Lawyer must explain the benefit or service
- Lawyer must refund any fee not earned
- Fee is subject to the lawyer's creditors

What is the message sent by this?

IN RE KENNETH A. MARTIN

NO. 11-BG-775 DCCA February 13, 2014

- **If a client, *with reasonable promptness,* disputes a lawyer's fee after it has been withdrawn from the trust account, the lawyer must return the disputed sum to the trust account;**
- **Unearned fees that must be returned to the client under Rule 1.16(d) include an arbitration award in favor of the client.**

Ethics Help

From the DC Bar, it is free & confidential

- **Hope Todd, Saul Singer, Nakia Matthews & Erika Stillabower;**
- **202-737-4700 / ext. 1010**
- **ethics@dcbar.org**

Practice management help

We are free and confidential too

Dan Mills / 202-780-2762 / dmills@dcbar.org

Rochelle Washington / 202-780-2764 / rwashington@dcbar.org

Managing the small firm

A system for the paper & digital data

A system for time & dates

Invoicing & handling money

Work flows & procedures in your office

e-Manual, Chapter 8, Office Management

Tracking your work

Whether you charge for time or results, you need to know what you are doing & where you are spending your time

Useful tools: time59.com Timeslips Clio Timesolv

Clio is a DC Bar member benefit

Ask for the 168 hour time management spreadsheet at PMAS@dcbar.org

Invoicing

It starts in your initial consultation

It should be described in the fee agreement

It should be tied to value

It should involve a highly functional system in your law office

Invoices that show progress get paid

e-Manual, Chapter 6, Billing Practices

Project management

Keeping track of every prospective client, engaged client, administrative & marketing initiative in your law firm

Start with the Case & Action Manager spreadsheet; request from PMAS@dcbar.org

Migrate to Clio

Is it really possible to manage time?

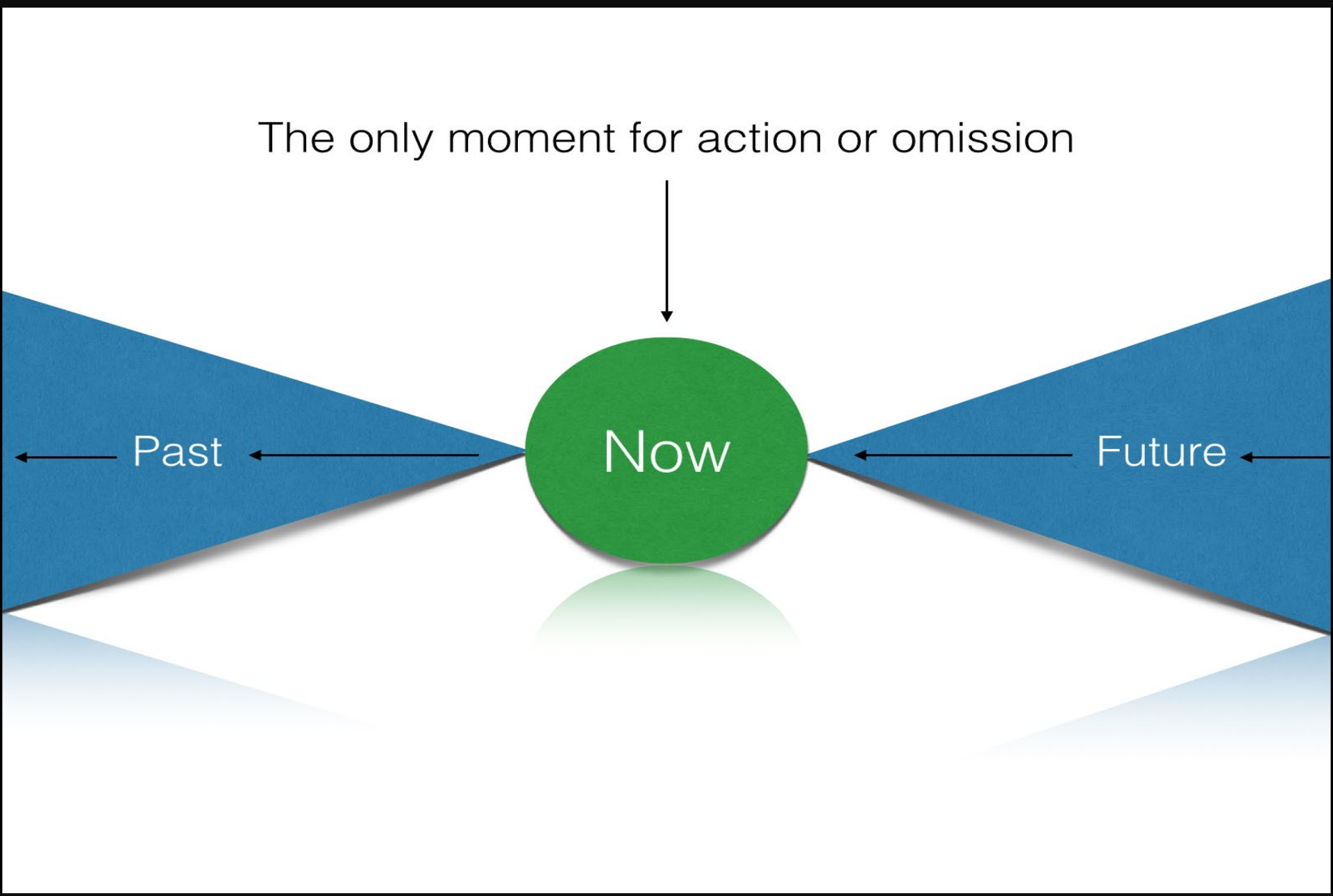
When people & projects compete for your time:

Works in blocks of time with a single goal

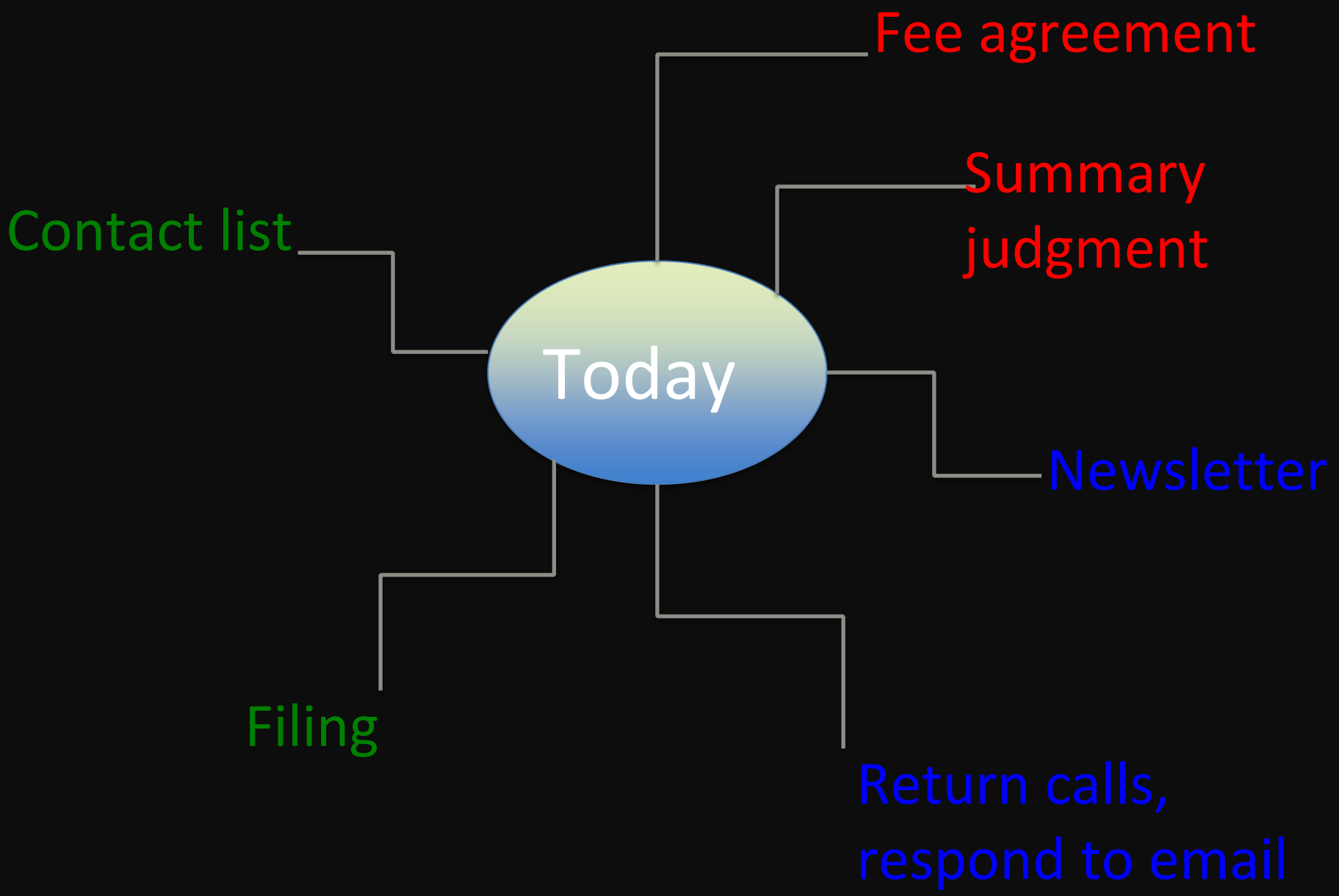
Employ self-discipline & focus

Avoid *chronic reaction syndrome*

Avoid *Distractions of Doom*


The only moment for action or omission
Past
Now
Future

A concept map for the next three hours



Backup systems for the small firm

Backup your data either to a safe, encrypted external hard drive, and/or

Backblaze Mozy or similar service.

To be really safe, clone your hard drive.

Glyph are best.

Get a backup for yourself; avoid DC App. R. XI, Section 15(a); comply with R. 1.3, Comment 5

Use *Being Prepared*, e-Manual, page 26

Ask for the *Agreement for Emergency Backup Services* from PMAS@DCBar.org

When you need help

The *Of Counsel* arrangement; requires a close & ongoing relationship between the lawyer & firm;

Rule 1.10: the conflicts of the *of counsel* lawyer and of the firm are imputed to each other;

Washington Lawyer, Speaking of Ethics, Of Counsel

Getting help on a contract basis

Lawclerk.legal

Montage Legal Group

Lawyer Exchange

CuroLegal

UpWork

Where to find virtual staff?

- upwork.com (My personal favorite)
- freelancer.com (general VAs - all categories)
- fiverr.com (everything from powerpoint to logos to research and article writing for $5)
- atlasvirtualparalegal.com
- 99designs.com (logo and graphics)
- guru.com (great pool of admin and paralegal support)
- virtualparalegalservices.com
- thevirtualparalegal.com
- starrparalegals.com (bankruptcy specialty)
- flex-counsel.com/
- equivityva.com
- Off-line options:
  - local colleges
  - former places of employment/courthouse clerks
  - social media

Managing client data

Whether you are paper oriented, paperless or a combination, the process starts with:

Rule 1.6 Confidentiality of Information

Know where the data is & that it is secure.

Should it be password protected & encrypted?

Who has access to the data?

Maintaining client data

Should the client be asked before data is stored in the cloud?

What is your duty to protect electronic communications?

Cloud ethics opinions

Some data should not be exposed to the internet

D.C. has a data breach statute applicable to lawyers: DC Code Section 28-3851

Legal Cloud Computing Association

USI Affinity offers cyber insurance

LEO 283 Disposition of Closed Client Files

LEO 333 What makes up the client's file

Managing the risk

While the DC Rules do not require malpractice insurance, it is best to be covered

An entity will not protect you

Rule 1.8(g) bars a prospective limitation on a lawyer's liability for malpractice

e-Manual, Malpractice & Insurance, page 31

USI Affinity, DC Bar Member Benefit

The disciplinary system in DC

This is a consumer oriented disciplinary culture

Small firms are 10% of the DC Bar & generate nearly 50% of the docketed bar complaints

ODC statistics tell us to manage & communicate to avoid bar complaints

Evaluating your enterprise

Record what you learn as a part of your business plan

Get client feedback on their experience with your firm

Get a free, confidential assessment of your firm's operation from the

Practice Management Advisory Service

Here’s what to ask

- What should we keep doing?
- What should we stop doing?
- What did we not do that we should do?

How do small firms increase revenue?

- By adding clients
- By increasing fees
- By selling more services to current clients

Clio Legal Trends Report

Unique data on why small firms grow

What's the solution for too many lawyers & not enough clients who can afford them?

Lead generators? Caveat emptor!

www.justanswer.com

www.legalzoom.com

www.rocketlawyer.com

www.nolo.com

www.totalattorneys.com

www.legalmatch.com

Resources from the DC Bar

Free and confidential ethics guidance

Help with business issues from the Practice Management Advisory Service

Help with stress, addiction & personal issues from the Lawyer Assistance Program

Fee dispute resolution with the Attorney Client Arbitration Board

Upcoming events

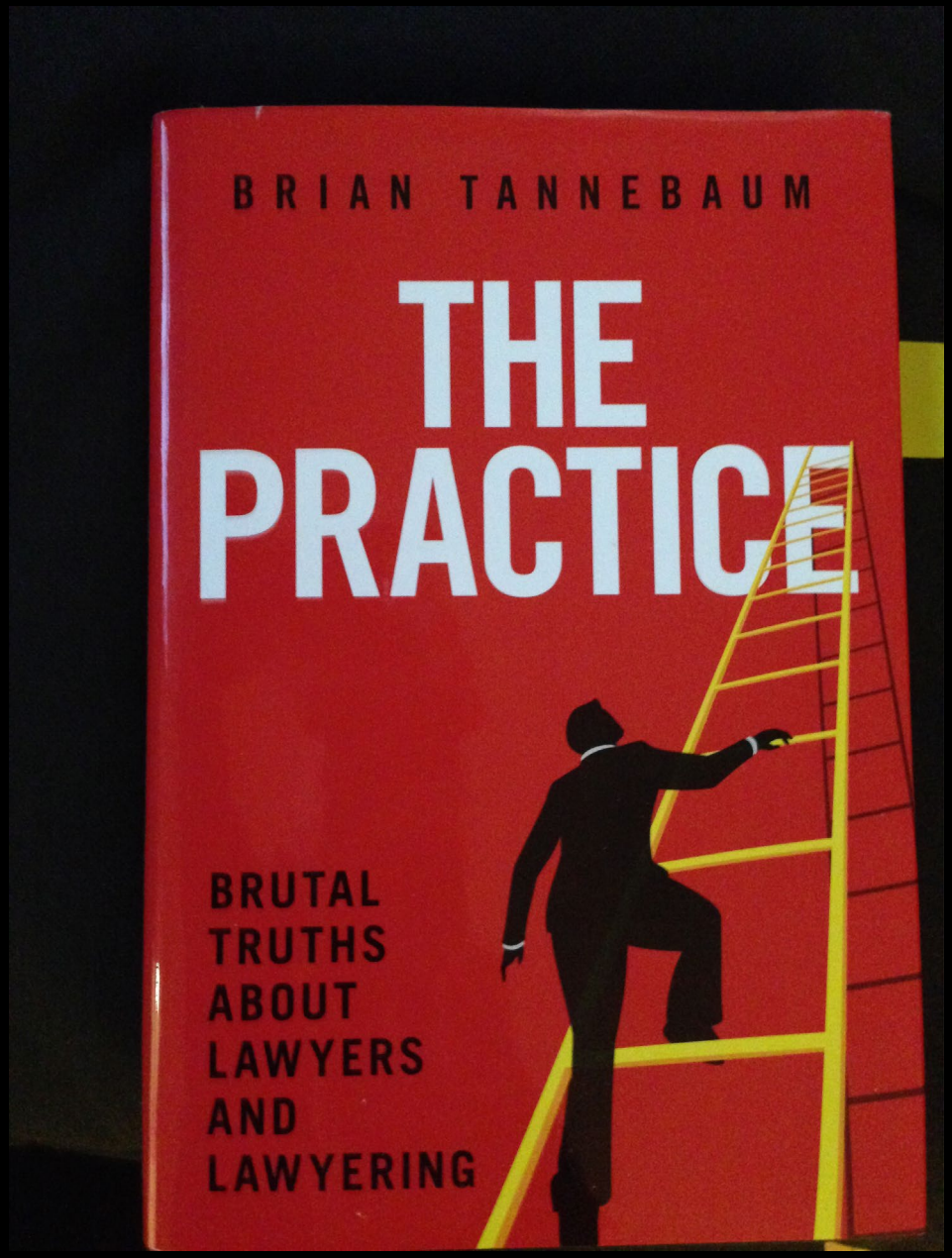
Basic Training & Beyond, day-two, July 22, 2020, 9:15 a.m. - 4:30 p.m.

Finding Your Footing: How to Stay Sane When Working from Home, July 16, Noon.

Conducting Video Depositions Using Zoom, July 30, Noon.

DC Bar Lunch & Learn

Our Newsletter



The Practice, amazon.com

. . . from Brian Tannebaum

How Did I Build My Practice?

- Being Present
- Working **on** my practice, not just **in** my practice
- Being Where Others Weren't
- Running Things
- Collecting Mentors

“The best tech a lawyer can have is ears.”

Brian Tannebaum

Misconceptions

- It takes a lot of money
- It’s easy and for everyone
- It’s for those who can’t get a job
- Everyone I know will send me business
- Working two or more practice areas is best
- It’s something to do until I find a job
- You can’t turn anyone away