

Basic Training & Beyond

Wifi: dcbarwifi / 2027374700

April 25, 2020

Is this right for me?

Getting started.

The business of the small firm.

Managing risk.

Afternoon session

Client relations.

Productivity & technology.

Marketing.

1,300,705 US licensed attorneys

172,630 in New York State

165,952 in California

108,080 in the DC Bar

86,494 in Texas

74,258 in Florida

Is small firm law for me?

It's a tough 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	*

Historical view 1976 - 2017

9th most dishonest in
this MoneyWise survey

Lawyers

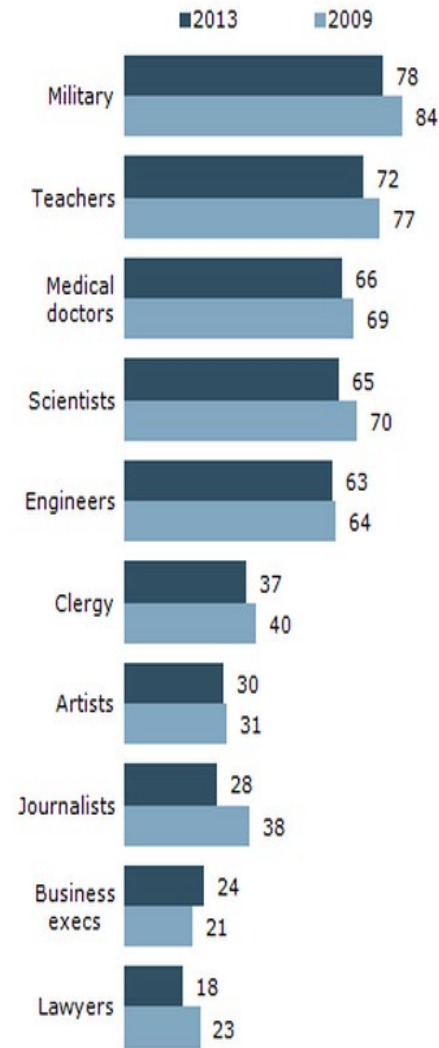
	Very high	High	Average	Low	Very low	No opinion	Very high/High
	%	%	%	%	%	%	%
2019 Dec 2-15	4	18	49	19	9	*	22
2018 Dec 3-12	3	16	51	21	7	1	19
2017 Dec 4-11	4	14	53	19	9	1	18
2016 Dec 7-11	3	15	45	26	11	1	18
2015 Dec 2-6	4	17	44	25	9	1	21
2014 Dec 8-11	5	16	45	22	12	1	21
2013 Dec 5-8	3	17	45	23	12	1	20
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

Contribution to society's well-being

We are last ->

Trend in Perceived Contribution

% saying each group contributes "a lot" to society's well-being





Source: Pew Research Center surveys March 21-April 8, 2013 and April 28-May 12, 2009. Q6a-j. Responses of those who said some, not very much, nothing at all and those who did not give an answer are not shown.

PEW RESEARCH CENTER

A background image showing a man in a suit talking on a white smartphone. He is looking down, and the image is slightly blurred. In the background, there are stacks of books and a decorative wall.

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](#)

Demand for small firm services is at an all time high

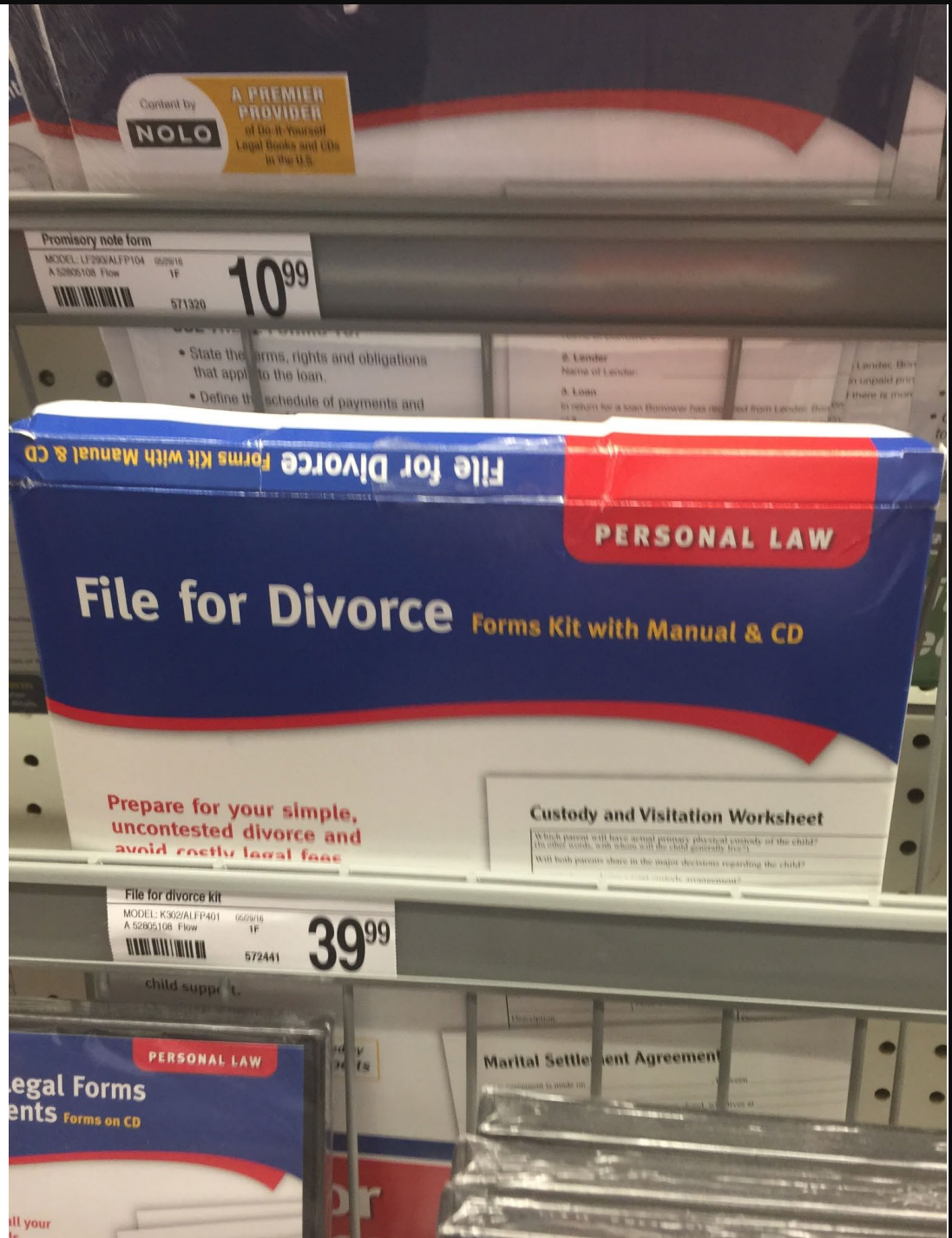
The challenge for the small firm lawyer is to:

Find the right problems

&

Get paid for solving them

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



Here is the Ben Glass response to LegalZoom

intranet x Contact Us - US Tax Law x B BenGlassLaw VIP Program x

benglasslaw.com/reports/benglasslaw-vip-program-for-virginia-residents.cfm?utm_source=newsletter&utm_medium=email&utm_campaign=bgl-newsletter-7-24-2018&inf_contact_key=b161ccac36c496df4626bf4b88fa743faaa87b8d7b9b31e3afdad788bf4669a

BENGLASSLAW™

Call (703) 584-7277

A New Kind of Program Designed for Virginia Residents. Learn More about Ben Glass's VIP Program!

BGL VIP New Intro
Become a BenGlassLaw VIP Member (It's FREE!)

No surprise, many attorneys who hear about BenGlassLaw's VIP program find it too sensational to believe. They ask, "why would you offer all these free benefits, isn't it hurting your law practice." The honest answer is no, because we know that helping people with their small legal issues is just as important as helping them with their big legal issues.

Become A VIP Member Today!

It's been an honor serving this community for over 32 years, and we wanted to give back with a free membership program for our closest friends.

Yes, start now!

No, thanks

LIVE CHAT - ONLINE NOW

Hi, we are here to help if you have questions.

9:22 AM 7/24/2018

Characteristics

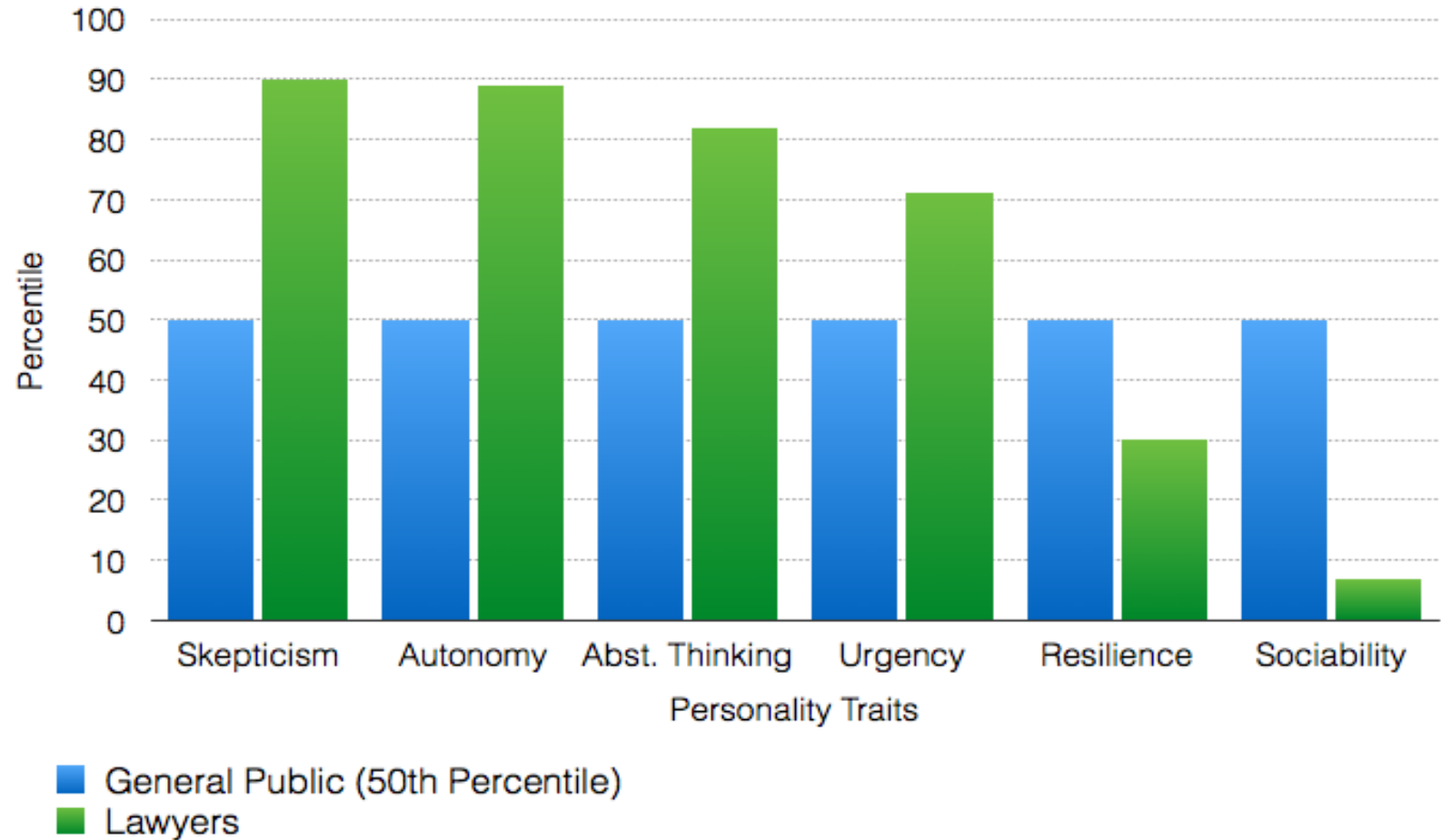
Are you empathetic?

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.

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
understand 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

The *New York Times* bestselling
author of *Brainstorm* and *Mindsight*

Daniel J. Siegel, MD

AWARE

*The Science and
Practice of Presence*

THE GROUNDBREAKING
MEDITATION PRACTICE

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 Brené Brown on
the
power of vulnerability

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?

Firm name

Rule 7.5 & 7.1

Avoid implying that you are more than you are

Using *Firm* is acceptable [Ethics Opinion 332](#)

Test drive the unique name

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



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

*diagram not to scale

Airbnb for office space

Breather.com

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

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

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 / (Market Price – Cost) = Matters
needed to break even

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

$$\text{Revenue} - \text{Expense} = \text{Profit}$$

Compare to a firm with more margin in the formula

$$\begin{aligned} &\$5000 \text{ Fixed Cost (month)} / (\$2500 - \$750) = 3 \\ &\text{matters a month to break even} \end{aligned}$$

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



60 Minute In-Office Consultation Session

Need advice on a legal issue? This session is designed to help you navigate your legal issue and includes review of your documents.



\$200 USD



1 hour



60 Minute Online Consultation Session

Need advice on a legal issue? This session is designed to help you navigate your legal issue and includes review of documents. Documents must be sent electronically at least 1 hour prior to the session.



\$200 USD



1 hour

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

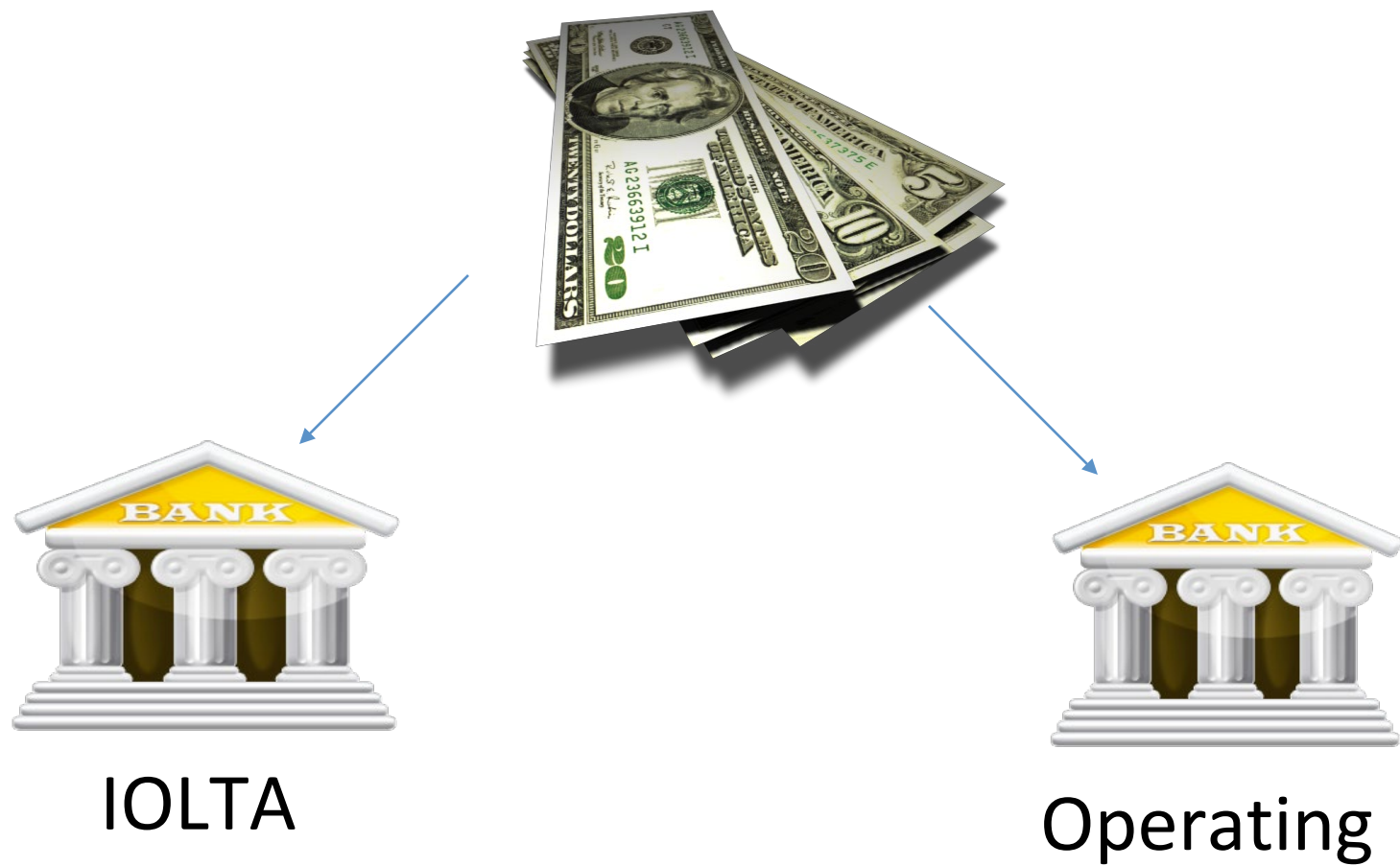
Trust Account for a single client or case,
assuming the need exists

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.

Managing Money



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



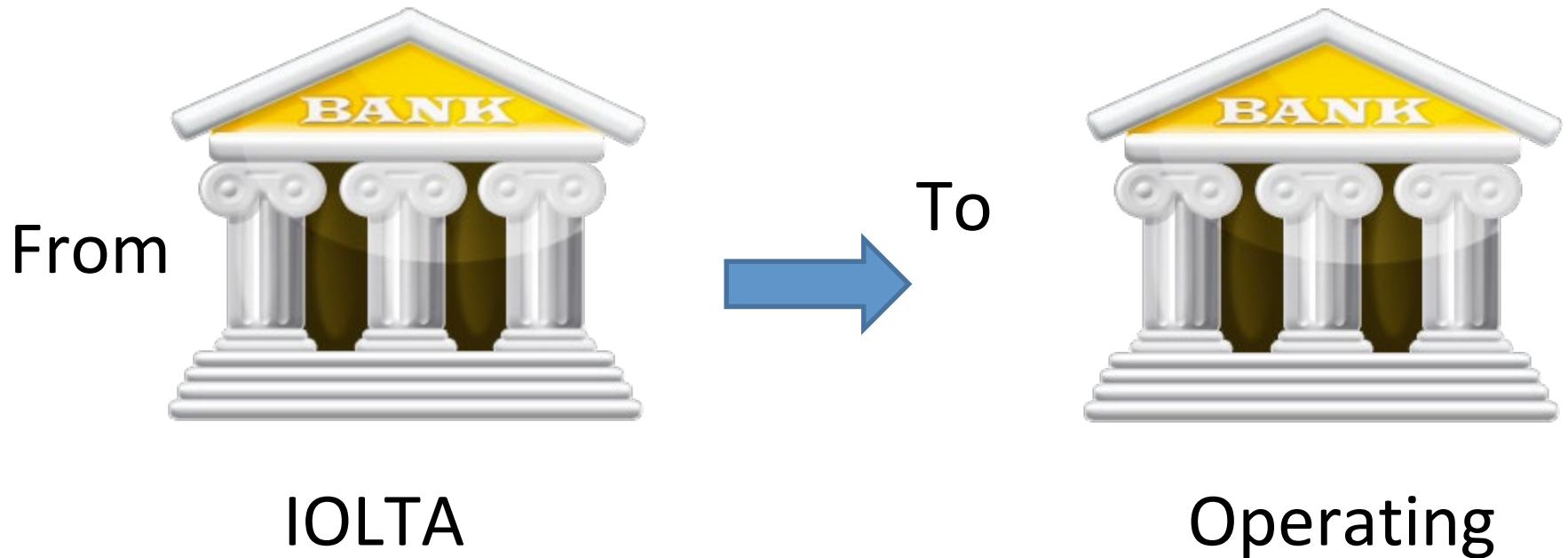
Send invoice

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 ...



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**

Elements of good trust account management:

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.

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](#)

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](#).

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

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?

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

OBC 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

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](#)

DC Bar Member Benefits

Carr WorkPlaces

Clio, MyCase, Zola

CallRuby, Smith.ai

Fastcase

USI Affinity

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