

MANAGING YOUR LAW PRACTICE

Spring Semester 2013

Two credit hours

Purpose of the Course. This course is designed to provide a basic overview of the business and professional issues facing the new law graduate who intends to practice as a solo practitioner or in a small law office. Most of the topics covered also will be relevant for students who intend to practice with larger law firms, government agencies, or corporate law departments.

Course Schedule. The course will meet each Thursday from 8:30am to 10:30am in Room 231.

Eligibility. The course is open to students who have completed Business Associations I. Enrollment is limited to 35 students.

Course Materials. The course will utilize “Materials and Cases on Law Practice Management” (Thomas McKnight Steele, LexisNexis, 2004) and additional materials provided by Dean Simpson. Guest speakers will address several topics during the course.

Class Requirements. The course will be conducted in an informal lecture format. Students will be required to participate meaningfully in class discussions and to complete three written exercises, one of which will be a group project.

Attendance, Preparation, and Class Participation. Class attendance, preparation, and participation are required. Students who are late for class, students who appear in class but have not read the assigned materials for the day, and students who decline to participate meaningfully in classroom discussions will be considered absent from that class.

Grading. Grades in this course will be based on the student’s preparation and classroom participation (10% of the final grade) as well as performance on three assigned exercises. Exercise No.1 (law firm budget) will count for 20% of the grade, Exercise No.2 (partnership agreement) will count for 30%, and Exercise No. 3 (team project: development of a law firm business plan) will count for 40%. If an exercise is turned in late it will be graded down.

Team Project. Students will be assigned at random to teams of three or four students for purposes of Exercise No. 3 (law firm business plan). This exercise is intended to simulate a real-world situation, where several lawyers find themselves working together on a joint project with a single, common goal. The exercise will be graded as a team effort with each member of the team receiving the same grade. Team members will be expected to

assign tasks among themselves so as to apportion work fairly, communicate to be sure that all work is completed on schedule, coordinate work products to achieve consistency of format, review each others' drafts, offer constructive criticism to team members, and resolve in a business-like manner any disputes that may arise during the exercise.

Delivery of Assignments. Completed assignments should be delivered to my assistant Debbie Scott no later than 8:30 am on the due date. If you wish to submit an assignment electronically, please send it to Debbie at dscott2@law.capital.edu. Upon receipt of the email she will print out the assignment and confirm back to you that she has received it.

Each student should receive a Spring Semester final exam number by email during the first week of classes. If you accidentally deleted it, you may contact Debbie and she will provide it to you. Please use your Spring Semester final exam number for identification purposes on all of your graded assignments.

Office Hours. Because of my unpredictable schedule, I am not able to maintain regular office hours for student visits. However, I try to be as accessible to students as possible. You may contact Debbie Scott (236-6383) to set up a convenient time to meet or feel free to stop by anytime without an appointment. I look forward to getting to know you!

Rich Simpson

Richard C. Simpson

Dean and Professor of Law

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MANAGING YOUR LAW PRACTICE

Graded Exercises

1. First Year Budget. Each student will prepare a written budget showing projected revenues and expenses for a two-lawyer firm starting practice in a selected Ohio city. The budget will be approximately 2-3 pages in length, in an appropriate format (sample budgets will be discussed), and in sufficient detail to demonstrate the student's understanding of the typical revenue and expenditure categories for a law firm. To be completed and turned in by Class Session 5. (20% of final grade).
2. Partnership Agreement. Each student will draft a partnership agreement establishing a law partnership among three new lawyers starting a law practice focused on selected fields of practice. The partnership agreement will be 4-6 pages in length and will address the major business issues facing lawyers joining together to form a new law firm. Projects will be graded on format, content (the extent to which the agreement addresses and makes reasonable choices regarding basic business considerations affecting lawyers agreeing to form a new law partnership), and grammatical and stylistic correctness and consistency. To be completed and turned in by Class Session 10. (30% of final grade).
3. Business Plan (Team Project). Students will work in teams of 3 or 4 to prepare a business plan relating to a start-up law practice. The business plan will be approximately 12-15 pages in length and will be in a format intended to support an application for a working capital loan from a commercial bank (sample plans will be discussed). Projects will be graded on format (professional appearance), content (the extent to which the agreement addresses and makes reasonable choices regarding basic business considerations relating to establishment of a new law firm and an application for a working capital loan), and grammatical and stylistic correctness and consistency. Projects will be graded on a team basis; i.e. each member of the team will receive the same grade. To be completed and turned in by Class Session 14. (40% of final grade).

MANAGING YOUR LAW PRACTICE

CLASS SESSION 1

January 10, 2013

Introduction, explanation of goals, what is expected of students, preliminary exercise.

Reading: *Steele, Chapter 1: Sections 1.01 & 1.02.*

1. Introduction to the course.
2. Expectations: attendance, preparation, and participation.
3. Keep a notebook.
4. Format.
5. Readings.
6. Graded exercises
 - a. Budget spreadsheet
 - b. Partnership agreement
 - c. Business plan
7. Discussion
8. In-class exercise: what level of compensation should the new lawyer expect?

[See attachment]

 - a. Top line revenue
 - b. Operating expenses
 - c. Collection time
 - d. Net income
9. Is the practice of law a business or a profession?

First Year Lawyer Compensation Exercise

January 10, 2013

Be Prepared to Discuss in Class:

1. How much compensation do you want to make in your first year of practice as a solo?
2. Let's say you are pretty frugal and you can get by on \$3,000/month (\$36,000 per year) which will cover your basic living expenses (rent, food, health insurance, car, and school loan payments).
3. But you'd like to have a bit left over for entertainment & emergencies, so let's say you would like to make \$40,000.
4. What would your new law practice have to look like in order for you to bring home \$40,000 in your first year?
 - a. How much money would you need to get started?
 - b. How much revenue would you need to produce?
5. Assumptions:
 - a. You will open the doors of your new practice on January 1.
 - b. You find inexpensive office space: 400 sq. ft. (one small office and a small reception/waiting area) at \$10/sq. ft. per year "full service" (which means utilities are included). Your annual rent therefore will be \$4000, or \$333/month.
 - c. Your other business expenses are:
 - i. Computer/printer (you could purchase them for \$2,000) – but you decide to rent at \$100/month.
 - ii. Telephone/internet \$150/month.
 - iii. Bookkeeping & practice management software \$100/month.
 - iv. Furniture rental & office supplies \$50/month.
 - v. Professional liability insurance \$100/month.
 - vi. Library and legal research expense \$250/month.
 - vii. Advertising \$100/month.
 - d. Total Monthly Business Expenses = \$1183 – say \$1200/month.
 - e. **Warning** – *these are not reliable estimates!* You will need to confirm the actual amounts for your first-year budget assignment later in this class!
6. But for purposes of this discussion, let's assume that to cover your living expenses (\$3000/month) and business expenses (\$1200/month) in total you will need to bring in \$4200/month or \$50,400 per year. Let's round this down to \$50,000.
7. Remember that your expenses will start on January 1 and it will take some time to collect that first dollar of fees from your clients, so you will need some start-up money ("working capital") and you will need to have this available starting on January 1. We'll figure out how much you will need in a moment.
8. Let's assume all your clients agree to pay by the hour.
 - a. You decide to charge \$100 per hour.
 - b. You have clients lined up waiting to hire you the day you open your doors!

- c. So you will need to bill and collect 500 hours the first year to generate \$50,000 ($500 \times \$100 = \$50,000$).
 - d. That means you only have to bill and collect 42 hours each month, or about ten hours a week! That sounds pretty good, doesn't it?
9. But don't forget:
- a. You will be sending your bills out at the end of each month.
 - b. So the work that you do in January will not get billed until early February.
 - c. And it is common for clients to pay their bills about 45 days after receiving the bill.
 - d. So you shouldn't count on receiving any revenue until mid-to-late March.
 - e. This means you will need some working capital to cover your expenses during the 2 ½ months until your revenue starts to come in. Better have a little extra just in case the revenue comes in slower than you expect, say enough to cover 4 months of expenses. Four months at \$4200/month is \$16,800. But you have to pay a damage deposit of one month's rent in advance for your office space and you want to be conservative so let's figure on \$20,000 for working capital. Fortunately, you are able to borrow that from your best buddy.
 - f. Unfortunately, but quite predictably, a certain percentage of your clients won't pay their bills. Let's say 9% or 10% of your bills become bad debts that will never be collected.
 - g. So let's say you will actually have to bill \$55,000 in order to collect \$50,000.
 - h. But since you won't be collecting anything during the first 2 ½ months, in order to collect \$50,000 in your first year you will need to receive all of that revenue in the remaining 9 ½ months.
 - i. This means you will have to bill \$55,000 in only 9 ½ months or \$5790/month.
 - j. So you will need to bill about 58 hours each month, not 42 hours. That is still not a very heavy workload!
 - k. Maybe you should plan to work a little more so you can pay your buddy back for the \$20,000 working capital loan!

What do you like about this plan?

What do you find unappealing?

What do you think is unrealistic?

Can you live comfortably on \$3000 per month?

Do you think it is likely you will have clients lined up to hire you on the first day?

How will you go about attracting clients?

Do you think clients will pay a brand new lawyer like you \$100 per hour?

MANAGING YOUR LAW PRACTICE

CLASS SESSION 2

January 17, 2013

What do lawyers do? History of the profession. How the profession is changing today.

Readings: *Wikipedia: Article on "Lawyer"; Simpson handouts*

True, we build no bridges. We raise no towers. We construct no engines. We paint no pictures - unless as amateurs for our own principal amusement. There is little of all that we do which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men's burdens and by our efforts we make possible the peaceful life of men in a peaceful state.

John W. Davis

The world has its fling at lawyers sometimes, but its very denial is an admission. It feels what I believe to be the truth, that of all secular professions this has the highest standards.

Oliver Wendell Holmes, Jr.

The bar does not claim to be the communion of saints. It only claims to be a noble organization of fallible men, in a fallible society. It concedes that all lawyers sometimes blunder in a professional service; that many sometimes sin against professional duty; that some are incompetent and some are vicious. But it asserts its own dignity and integrity, by a greater contempt than the world has for its dunces, by a severer reprobation of its knaves.

Edmund G. Ryan

1. What do lawyers do?
 - a. Lawyers help people and organizations:
 - i. Resolve disputes.
 - ii. Navigate complexity.
 - b. Advisor/counselor.
 - c. Advocate.
 - d. Problem solver.
 - e. "Represent" clients – what does this mean?
2. History of the profession.
 - a. Lawyers in antiquity.
 - b. The English tradition.
 - c. Early American law practice.
 - d. Recent trends.
 - e. The future.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 3

January 24, 2013

The law firm as a business enterprise.

Readings: *Steele, Chapter 2: Sections 2.06 – 2.064; Chapter 6: Sections 6.01, 6.03*

1. Basic business rules apply!
 - a. Revenues & Expenses.
 - b. The billable hour as inventory.
 - c. Work-in-progress & accounts receivable.
 - d. Bad debt.
 - e. Working capital.
 - f. Borrowings.
 - g. Capital accounts.
 - h. Billing & collection.
 - i. Turnover ratio.
 - j. The concept of realization.

2. Accounting and financial reports
 - a. Accuracy
 - b. Transparency
 - c. Internal controls
 - d. Fiscal conservatism
 - e. Cash basis vs. accrual basis
 - f. Draws of profit

3. Budgeting and management
 - a. Administrative functions
 - b. Bottom up planning
 - c. Monitoring and benchmarking

4. The lawyer as owner of the business.
 - a. What are law-firm “profits”?
 - b. Gross revenues.
 - c. Major expense categories.
 - d. Fixed vs. marginal costs.
 - e. Overhead allocations.
 - f. Disbursements.

- g. Net income (to the owners).
- h. It's the revenue stupid!

PASS OUT ASSIGNMENT: PREPARE A FIRST-YEAR BUDGET FOR A TWO-PERSON LAW FIRM. DUE CLASS SESSION 5.

- Students will select a city
- Determine office rental rates in that city
- Find out attorney licensing & registration costs
- Find out professional liability insurance cost
- Find out health insurance cost
- Find out cost of Lexis/Nexis or OSBA on-line research tools
- Find out typical billing rates for new lawyers
- Prepare a budget for one year based on information obtained

DISCUSS SAMPLE BUDGET.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 4

January 31, 2013

Lawyer productivity and compensation.

Readings: *Steele, Chapter 7: Section 7.03; Chapter 9: Sections 9.01 & 9.02*

1. Abraham Lincoln famously said “A lawyer’s time and advice are his stock-in-trade”.
 - a. What does that mean?
 - b. How else might we measure a lawyer’s work?
 - i. Time spent
 - ii. Value added
 - iii. Outcome
 - iv. Difficulty of the task
 - v. Expertise
 - c. Discuss §7.03 “Client Perceptions of Value”
2. Types of client billing arrangements.
 - a. Hourly billing.
 - b. Contingent fees.
 - c. Task-based billing.
 - d. Hybrid system
3. INVOICE EXERCISE [see attachment] Note: you are encouraged to consult with others as you prepare your invoice!
4. Factors to be considered in measuring a lawyer’s productivity: “Finders, grinders, minders, & binders”.
 - a. Business generated.
 - b. Hours billed.
 - c. Revenues collected.
 - d. Administrative tasks performed.
 - e. Intangibles.
5. Compensation systems.
 - a. Formulaic – “eat-what-you-kill”
 - b. Subjective.
 - c. Open vs. closed.
 - d. Multi-tier partnerships
6. Discuss Partnership Compensation Systems

7. What does it mean to be a successful lawyer?
 - a. How would the client define success?
 - b. How would the lawyer define success?
 - c. Finding the right balance between one's professional life and one's personal life.

Invoice Exercise

January 31, 2013

Bring to class an invoice for legal services that you have prepared based on these facts:

- You have been practicing for three years and you and one other lawyer have just started your own law firm
- You are focusing on small businesses; your partner focuses on tax & estate-planning
- Your old college roommate recently developed an idea for a killer smart phone app
- She retained your firm to set up an LLC and protect the intellectual property related to the app
- You did not prepare an engagement letter or discuss the fee in advance, saying only “I won’t charge very much, since we are old buddies!”
- Google found out about the killer app and sued your client for infringing the patent on one of their existing apps
- You negotiated a settlement where all claims were resolved and Google agreed to purchase a 40% ownership interest in the LLC for \$57,000,000 cash
- You spent 500 hours working on this matter over the past two months
- Your time was equally devoted to legal research, preparing pleadings, reviewing interrogatories, conducting depositions, consulting with your client, negotiating with opposing counsel, and drafting the settlement agreement
- Your normal billing rate is \$150 per hour
- Google had 5 lawyers working against you and you heard that their average billing rate is \$675 per hour
- Your background as a computer science major in college helped you establish credibility with the Google lawyers
- You were so wrapped up in this matter that you had no time for any of your other clients and several of them got pretty upset
- Your old college roommate client is very pleased with the outcome and has two more great projects she wants you to help her with
- She just got engaged to marry a brand new partner in the business group at the biggest law firm in town

What factors will you consider in preparing the bill?

How will you describe your services on the bill?

What will you charge for your services?

How will you present the bill to your client?

What will you do differently next time?

MANAGING YOUR LAW PRACTICE

CLASS SESSION 5

February 7, 2013

Guest speakers: "A day in the life of a small firm practitioner".

[Michael Eisenberg, Judy McInturff, Heather Sowald]

Readings: Materials from Simpson.

BUDGET EXERCISE DUE!

Speaker topics for this class session:

1. What does the solo practitioner do?
2. Advantages & disadvantages of a solo practice.
3. Explanation of how the speaker's practice developed.
4. Tips on getting started.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 6

February 14, 2013

Designing the law firm partnership agreement.

Readings: *Steele, Chapter 3: Section 3.01*

1. Do we really need a written agreement? Some firms do without!

2. Drafting principles: remember your contracts class!
 - a. Clarity & consistency.
 - b. Defining the purpose.
 - c. Capital contributions.
 - d. Allocating responsibilities.
 - e. Allocating profits.

3. Periodic review & amendment is useful.

PASS OUT SECOND ASSIGNMENT: DRAFTING OF A LAW FIRM PARTNERSHIP AGREEMENT. DUE CLASS SESSION 10.

DISCUSS SAMPLE AGREEMENT

MANAGING YOUR LAW PRACTICE

CLASS SESSION 7

February 21, 2013

Understanding the Client's expectations; developing the service mindset; cultivating your reputation.

Readings: *Simpson materials; Steele, Chapter 16: Sections 16.01 & 16.02.*

1. Understanding the task; looking at it from the client's perspective.
2. What factors are important to the client?
 - a. Listen carefully! What is the real issue that requires your help?
 - b. The client wants you to solve her problem.
 - c. What does the client think is the right solution?
 - d. Don't suggest your own solution until you are sure you have all the facts!
 - e. Who is the best person to solve the problem? (It may not be you!)
 - f. Is cost an issue? (It almost always is!)
 - g. A Cadillac or a Corolla – keep the problem in perspective!
 - h. What is the time sensitivity?
 - i. Arrive at a meeting of the minds and spell it out – in person and in the engagement letter (and always use engagement letters!)
 - j. Remember: Never minimize the importance of the client's problem. Client problems are always important and complicated!
3. What factors are important to the lawyer?
 - a. Finding a simple solution?
 - b. Getting paid quickly?
 - c. Winning?
 - d. What does it mean to win?
 - e. Pleasing the client?
 - f. Building a practice?
4. Shoulder the load!
 - a. Take full responsibility for the task. Make it your personal commitment.
 - b. Clients don't know or care about the division of labor within your office.
 - c. Clients assume you will take care of every aspect of their problem, not just the things they happen to think about and bring to your attention.
 - d. Clients don't want to worry about whether you have done something or whether you or they have asked the right question.
 - e. Deliver more than expected.

- f. Instill trust – do what you say you are going to do.
 - i. Do not be late.
 - ii. Keep the client informed.
 - g. Follow up.
 - i. Ask for feedback during the project.
 - ii. Check back with the client after the task is completed: was she pleased with your work?
 - iii. How are things going? (may lead to another assignment)
5. Discuss the fees please!
- a. The client wants to know how much it will cost.
 - b. Never be embarrassed or reluctant to talk about your fee.
 - c. Talk candidly about fees in advance.
 - d. Bill promptly (not less frequently than monthly) and describe your services in understandable detail.
 - e. The client should never be surprised about the bill.
 - f. Never apologize for the bill; it suggests you don't value your work.
 - g. If you believe the bill is too high (i.e. you did not deliver value equal to the amount of the bill) then you must reduce the bill. But do not apologize for the bill you present to the client.
6. It is a service business!
- a. A good lawyer is one who has happy clients.
 - b. Learn the client's business; visit the client on your own time.
 - c. Be accessible 24/7 – the client must never have a problem reaching you.
 - d. Don't promise more than you can achieve.
 - e. Keep your commitments.
 - f. CC the client on all emails, letters, documents.
 - g. Make the client look good!
 - h. Make the client's life easy.
 - i. You will make mistakes; acknowledge them and fix them immediately!
 - j. Preserve your reputation.
 - i. Once damaged, it is hard to repair.
 - ii. Always take the high road.
 - iii. Courtesy & civility.
 - iv. Giving back to the profession.
 - v. It is a marathon, not a sprint.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 8

February 28, 2013

Developing your practice in the context of employment at a law firm.

Readings: *Simpson materials.*

1. Who is your “client”?
 - a. Clients of the firm.
 - b. Partners who assign you work.

2. Developing judgment.
 - a. Quality is job one.
 - b. Thinking about the scope of the problem vs. the cost of solving the problem.
 - c. Experience matters.

3. Communication & feedback.

4. Taking the initiative.

5. Looking at the big picture; understanding where your work fits in.

6. Understanding the client’s business & goals.

7. Creating your personal practice development plan.
 - a. Long term career goals.
 - b. Networking plans.
 - c. Skills development.
 - d. Time for your personal life.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 9

March 7, 2013

Marketing and rainmaking: how to attract business.

Guest speaker: Jill Rako, Practice Development Administrator, Bricker & Eckler LLP

Readings: *Steele, Chapter 15: Sections 15.01, 15.03, & 15.04; Simpson handouts.*

1. Anyone can be a rainmaker!

2. Approach business development systematically.

3. Networking.
 - a. Social networks.
 - b. Professional organizations.
 - c. Community organizations.

4. Advertising: how can it help?
 - a. The internet.
 - b. Print & broadcast media.
 - c. Direct mail.
 - d. Other.

5. Maintain your contact list and follow up!

6. Tips:
 - a. Thank you notes
 - b. Reminders
 - c. Family & friends

MANAGING YOUR LAW PRACTICE

CLASS SESSION 10

March 14, 2013

Developing your business plan.

Guest speaker: "What the bank wants to see before lending money to a new law firm."

[Daphne Moehring, Benchmark Bank]

Readings: *Steele, Chapter 5: Section 5.03; Simpson materials*

PASS OUT THIRD ASSIGNMENT: PREPARATION OF A LAW FIRM BUSINESS PLAN.

DUE CLASS SESSION 14.

DISTRIBUTE & DISCUSS SAMPLE BUSINESS PLAN

MANAGING YOUR LAW PRACTICE

CLASS SESSION 11

March 28, 2013

Files, records, accounts, and technology: managing your time and organizing your practice.

Guest speaker: Randy Headley CLM, Firm Administrator, Bailey Cavalieri LLP

Readings: *Steele, Chapter 11: Sections 11.01 – 11.03; Simpson handouts.*

1. Accounts and bookkeeping.
2. Files: managing, organizing, protecting.
3. Managing and recording your time.
4. Setting up your computer system.
5. What hardware and software do you need? How do you learn how to use it?
6. Employees.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 12

April 4, 2013

The importance of professionalism: ethical practice and your reputation; professional liability insurance.

Guest speakers:

Alvin Matthews, James E. Arnold & Associates LPA – Ethical Considerations

Gretchen Mote, Ohio Bar Liability Insurance Corp. – Professional Liability Insurance

Readings: *Steele, Chapter 17: Sections 17.01 – 17.03*

Let no young man choosing the law for a calling for a moment yield to the popular belief -- resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. *Abraham Lincoln.*

1. What does professionalism mean for the small firm practitioner?
2. Confidentiality.
3. The importance of engagement letters.
4. Conflicts and what to do about them.
5. Setting up and maintaining trust accounts.
6. Common mistakes that can affect your career.
7. What insurance will you need?
 - a. How do you get it?
 - b. What will it cost?

MANAGING YOUR LAW PRACTICE

CLASS SESSION 13

April 11, 2013

Learning to be a lawyer: honing your skills, finding information, getting help when you need it, finding a mentor.

Guest speaker: Brad Lagusch, Ohio State Bar Association, Director of Marketing

Readings: *Steele, Chapter 12*

1. Learning to be a lawyer is a life-long journey.
2. Approach it systematically.
 - a. Focus your practice.
 - b. Identify experts, role models, mentors.
 - c. Cultivate relationships with experienced lawyers
 - d. Build your network.
3. Be a joiner! (Note: this is not typical behavior for “millennials”!)
 - a. Join a professional organization (OSBA, CBA, etc.).
 - i. Service Committee.
 - ii. Substantive law committee.
 - b. Join two or more community organizations:
 - i. Church.
 - ii. Charity/non-profit.
 - iii. Hobby/sports/social organization.
 - c. Be an active member!
4. Plan your CLE carefully.
5. Take advantage of CBA & OSBA support services.
6. Read and learn!
 - a. Professional blogs & journals.
 - b. Business and political news.
7. Schedule time for professional development; it is part of your job.

MANAGING YOUR LAW PRACTICE

CLASS SESSION 14

April 18, 2013

Wrap up and review: the lawyer as a productive member of the community.

Readings: *Simpson materials*

BUSINESS PLAN EXERCISE DUE!

1. Practice Tips (based on TEW memo).
2. The role of a lawyer in our society.
3. Planning your career.