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.

A wide-lens look before we get into the weeds

1,352,027 US licensed attorneys

182,296 in New York State

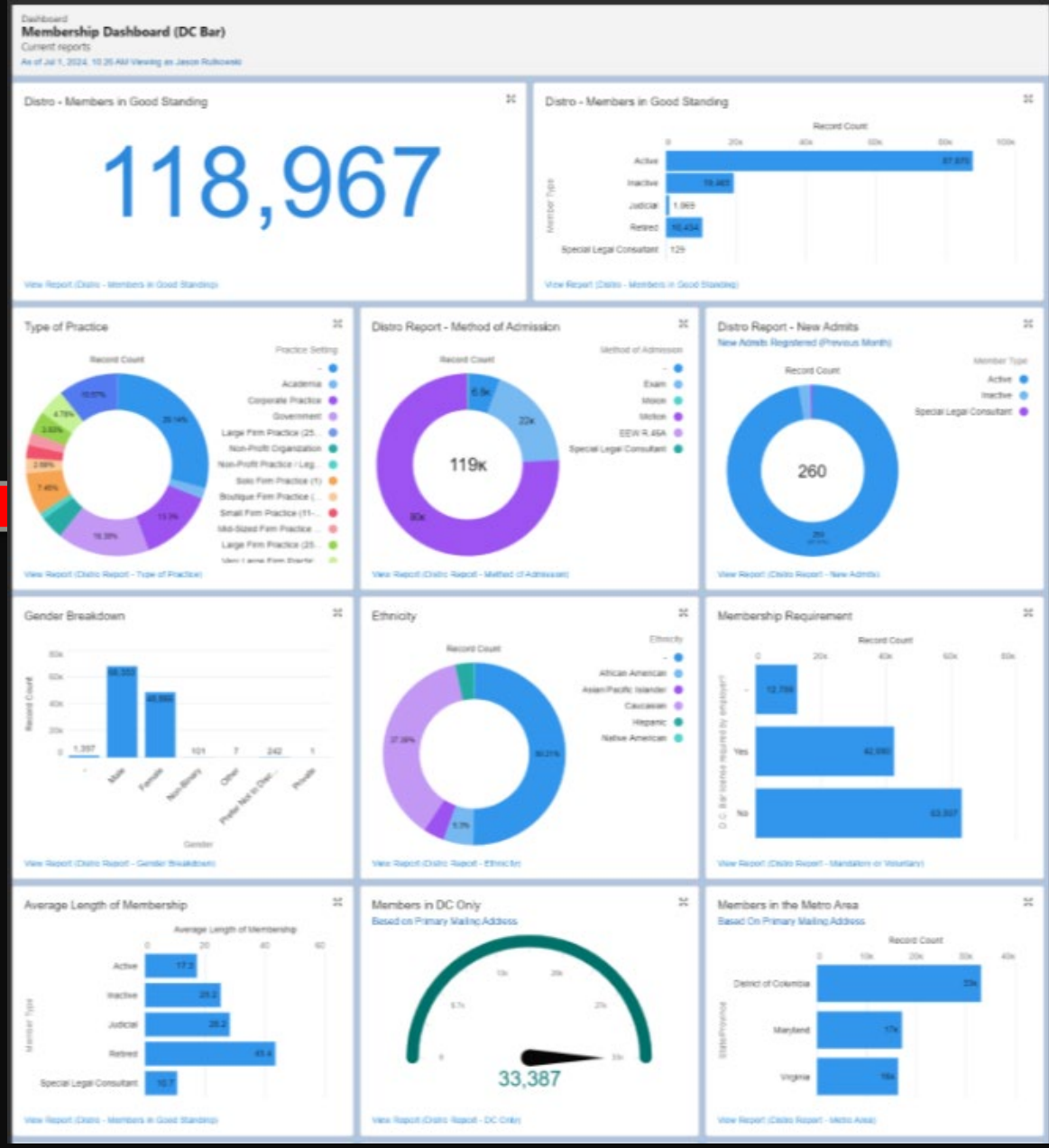
189,532 in California

118,967 in the DC Bar

95,437 in Texas

107,010 in Florida

Type of Practice
Record Count
Practice Setting
29.14%
13.3%
16.39%
7.45%
2.69%
3.93%
4.78%
10.57%
Academia
Corporate Practice
Government
Large Firm Practice (25...
Non-Profit Organization
Non-Profit Practice / Leg...
Solo Firm Practice (1)
Boutique Firm Practice (...
Small Firm Practice (11-...
Mid-Sized Firm Practice ...
Large Firm Practice (25...
View Report (Distro Report - Type of Practice)


Membership Dashboard (DC Bar)
Distro - Members in Good Standing
118,967
Distro - Members in Good Standing
Type of Practice
Distro Report - Method of Admission
119K
Distro Report - New Admits
260
Gender Breakdown
Ethnicity
Membership Requirement
Average Length of Membership
Members in DC Only
33,387
Members in the Metro Area

Small firm lawyers (10-12% of 116,000+ lawyers) have generated nearly half of the docketed bar complaints annually

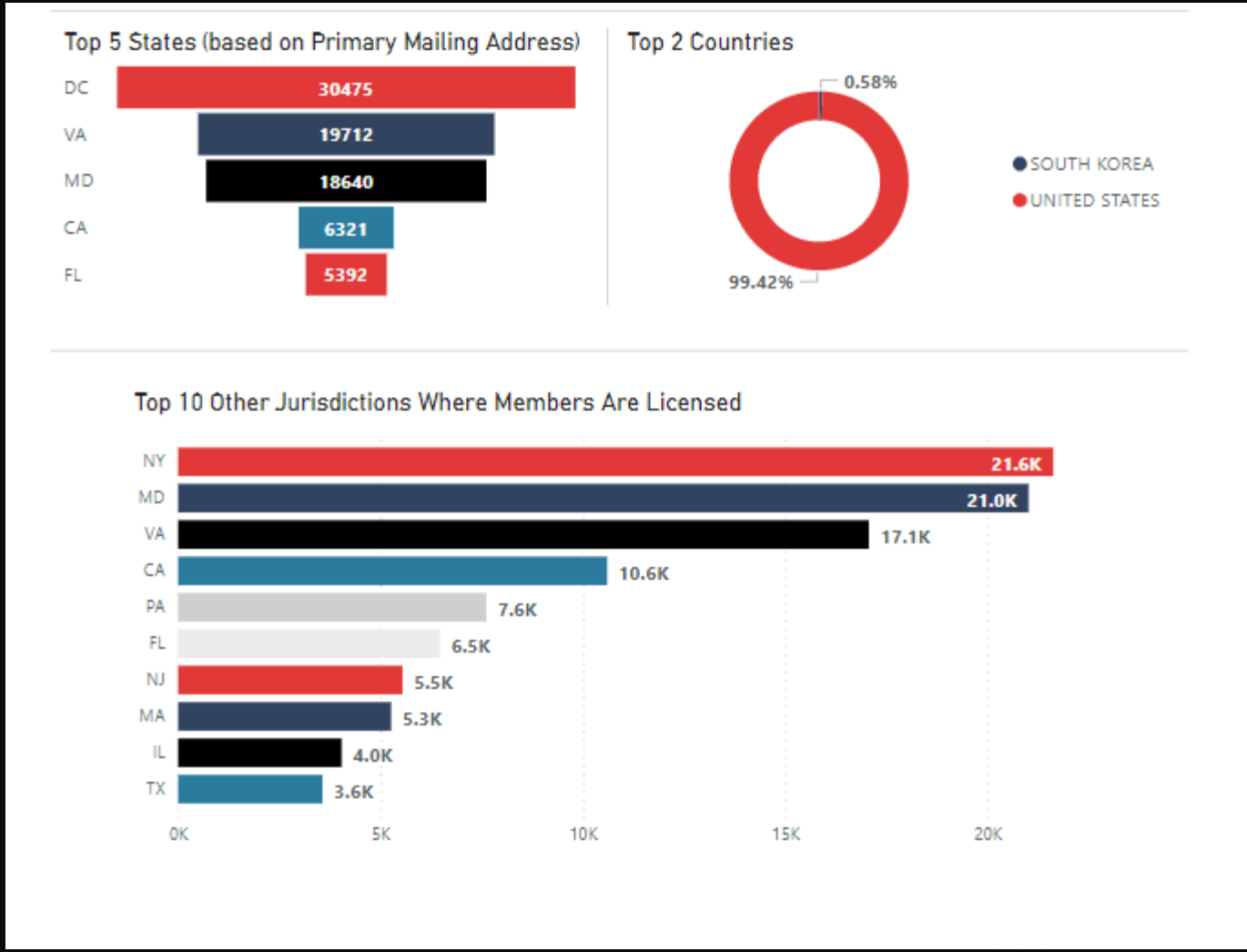
But it dropped to 34% in 2023

Chart V - Type of Practice

Type of Practice	2023	%	2022	%	2021	%	2020	%	2019	%
Firm	68	49%	60	37%	77	45%	88	47%	92	39%
Solo/Small Firm	47	34%	79	49%	72	42%	85	45%	110	47%
In House	4	2.9%	3	1.9%	8	4.7%	7	4%	15	6.4%
Government	7	5%	6	4%	6	4%	4	2%	6	3%
Other	8	5.7%	10	6.2%	6	3.5%	2	1%	8	3.4%
Public Interest	6	4%	3	2%	1	1%	1	0.5%	5	2%

If you are a small firm lawyer in DC, you have a target on your back for a disciplinary complaint

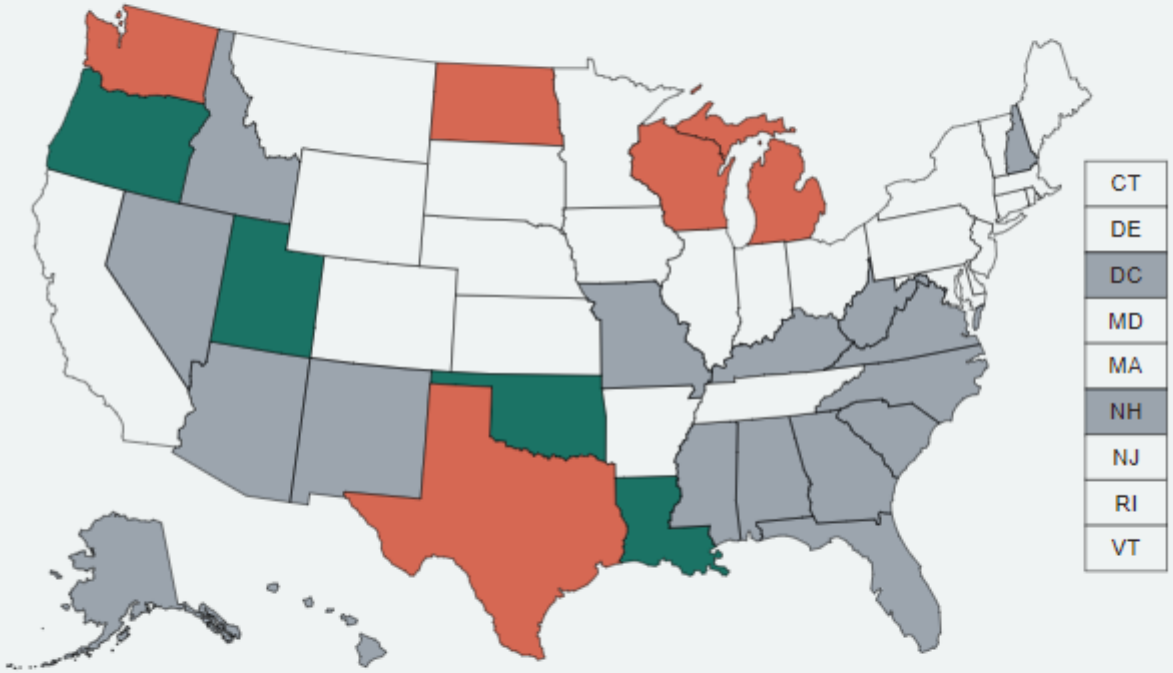
Where DC Bar members are licensed



August 2021

Recent Challenges to Mandatory State Bar Associations

Since the U.S. Supreme Court's 2018 decision in Janus v. AFSCME Council 31, which found that public sector unions could not charge fees to workers without their consent, nine state bar associations around the country have faced challenges to their own mandatory membership and dues requirements.



Click any state to see more information

Open challenges | Closed challenges | Mandatory bar, no challenges | Bar membership not mandatory

Source: Law360 analysis (as of August 2023)

LAW360 | Pulse

Is small firm law for me?

It’s a challenging 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	27	51	18	2	1	1
Veterinarians	15	50	29	4	1	1
Engineers	12	48	35	2	2	1
Dentists	11	48	31	7	3	1
Medical doctors	12	44	30	9	4	*
Pharmacists	10	45	35	7	3	*
Police officers	9	36	37	11	7	*
College teachers	9	33	30	14	13	1
Psychiatrists	5	31	45	11	4	3
Chiropractors	7	26	50	10	4	3
Clergy	6	26	45	14	6	3
Labor union leaders	4	21	46	21	8	1
Bankers	2	17	53	19	8	*
Journalists	3	16	34	26	21	*
Lawyers	2	14	52	22	9	1
State governors	2	14	42	28	14	1
Business executives	1	11	45	30	12	1
Insurance salespeople	2	10	45	28	13	1
Stockbrokers	2	10	51	25	11	2
Advertising practitioners	1	7	41	34	15	2
Car salespeople	2	6	47	31	13	1
Senators	*	8	30	36	25	*
Members of Congress	1	5	24	36	34	1

* Less than 0.5%

Dec. 1-20, 2023

Get the data • Download image

GALLUP

Historical view 1976 - 2020

9th most dishonest in this MoneyWise survey

Lawyers

Page 1 of 2

	Very high	High	Average	Low	Very low	No opinion	Very high/High
	%	%	%	%	%	%	%
2023 Dec 1-20	2	14	52	22	9	1	**16**
2022 Nov 9-Dec 2	3	18	50	19	9	1	**21**
2021 Dec 1-16	3	16	50	21	9	1	**19**
2020 Dec 1-17	3	18	48	24	6	*	**21**
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**

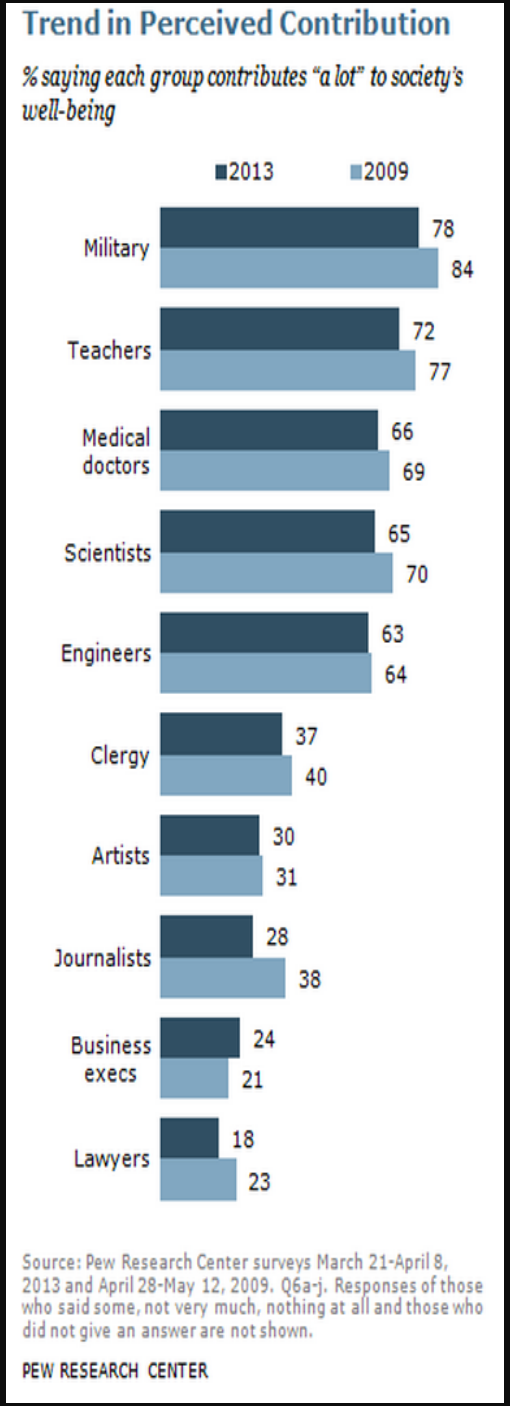
* Less than 0.5%

Get the data • Download image

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

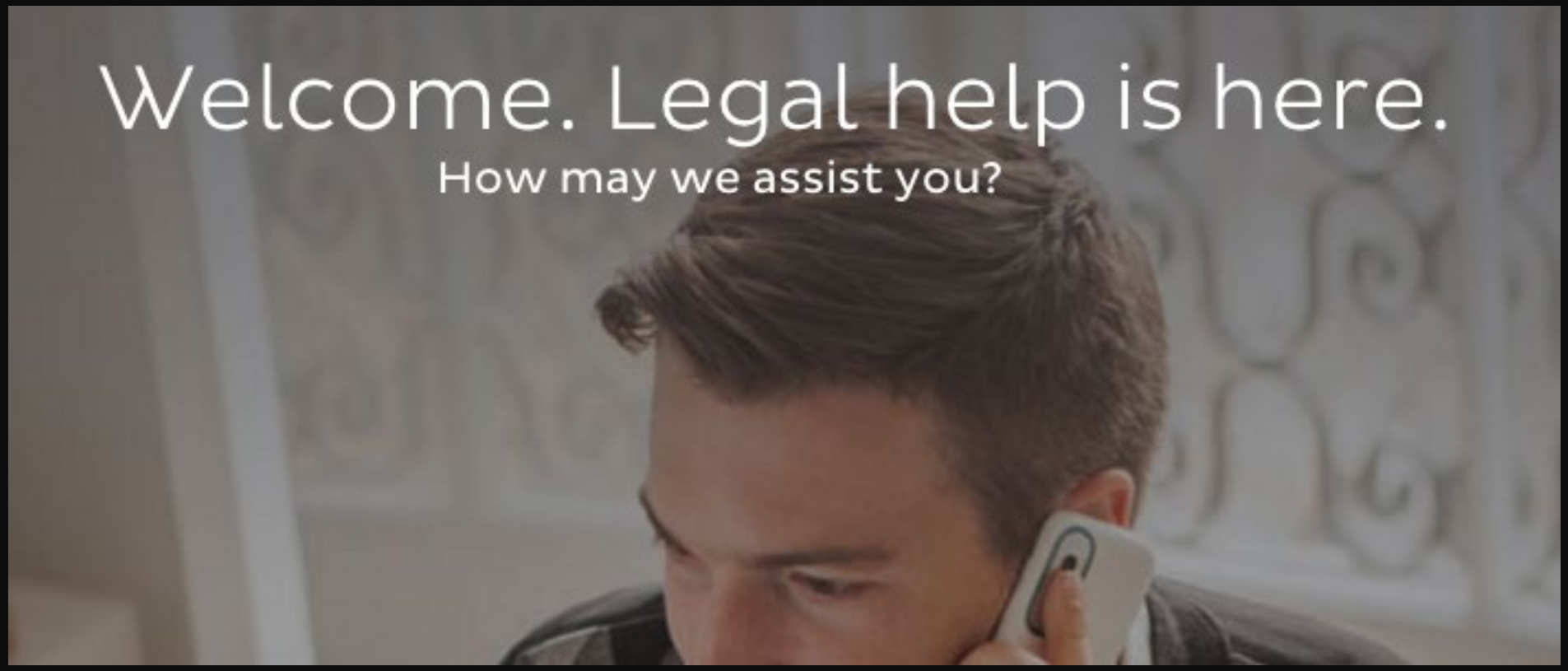
Client pressures

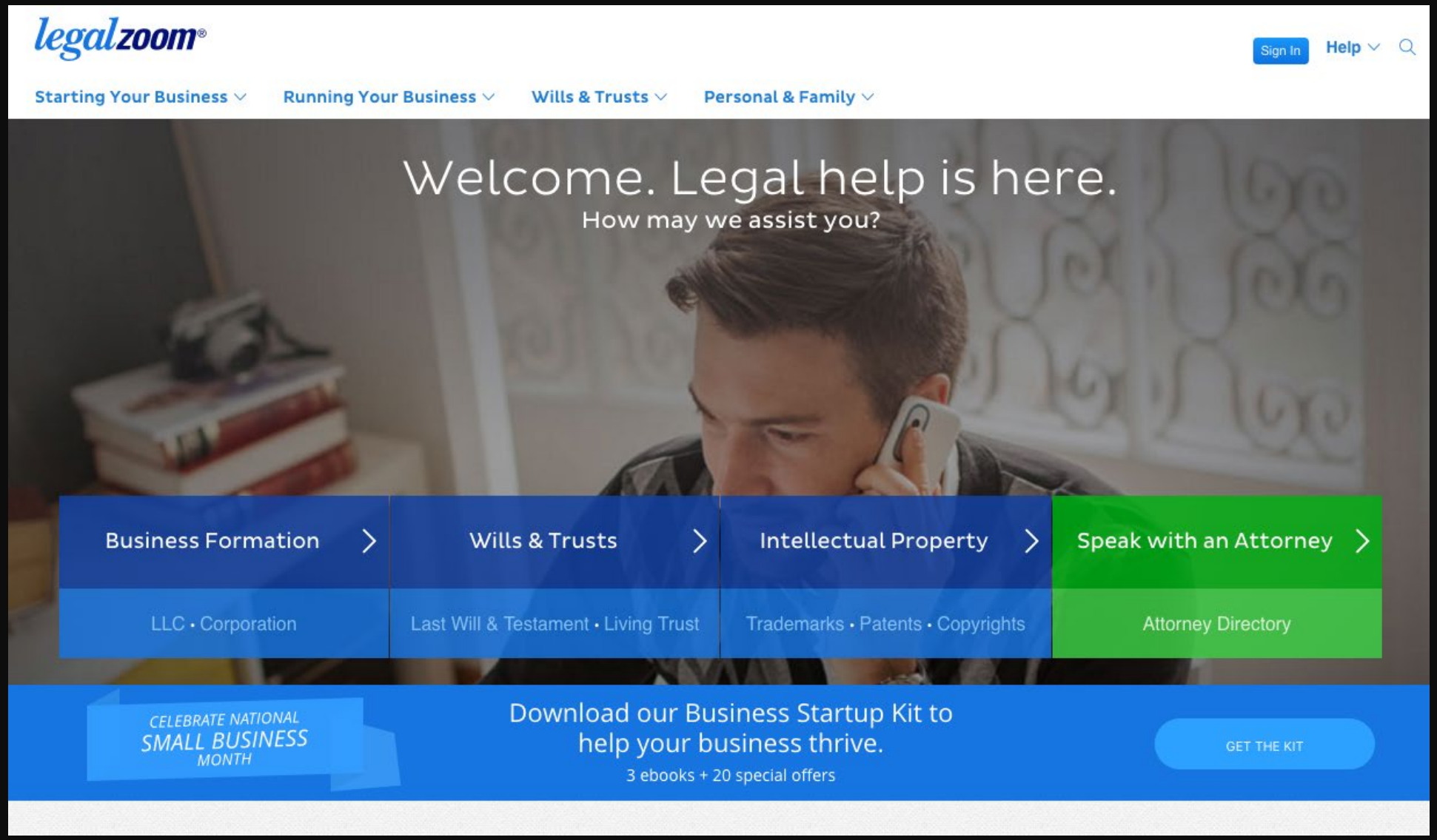
to be more efficient & affordable

Large firm issues

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
Wills & Trusts
Intellectual Property
Speak with an Attorney
LLC • Corporation
Last Will & Testament • Living Trust
Trademarks • Patents • Copyrights
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

Want to know how the legal profession "created" LegalZoom?

Read its S-1 filed June 4, 2021:
https://www.sec.gov/Archives/edgar/data/0001286139/000119312521182939/d146270ds1.htm

As filed with the Securities and Exchange Commission on June 4, 2021.

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

LegalZoom.com, Inc.
(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	7370 (Primary Standard Industrial Classification Code Number)	95-4752856 (I.R.S. Employer Identification Number)

101 North Brand Boulevard, 11th Floor
Glendale, California 91203
(323) 962-8600
(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Dan Wernikoff
Chief Executive Officer
LegalZoom.com, Inc.
101 North Brand Boulevard, 11th Floor
Glendale, California 91203
(323) 962-8600
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

C. Thomas Hopkins Jodie Bourdet Josie Kondracki Cooley LLP 1333 2nd Street, Suite 400 Santa Monica, California 90401 (310) 883-6400	Noel Watson Chief Financial Officer Nicole Miller General Counsel LegalZoom.com, Inc. 101 North Brand Boulevard, 11th Floor Glendale, California 91203 (323) 962-8600	Richard A. Kline Adam J. Gelardi Latham & Watkins LLP 140 Scott Drive Menlo Park, California 94025 (650) 328-4600

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☐
		Emerging growth company	☒

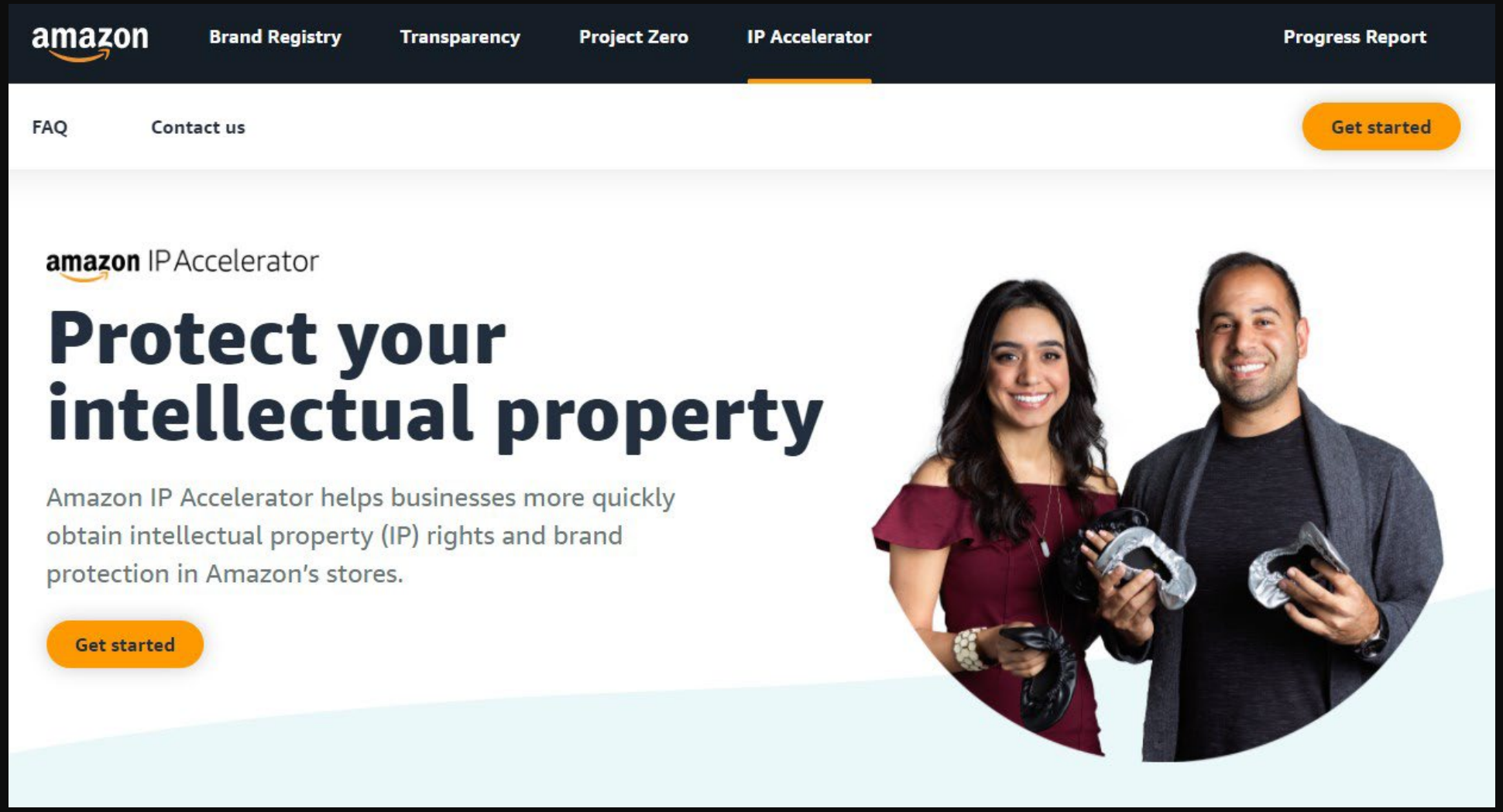
If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

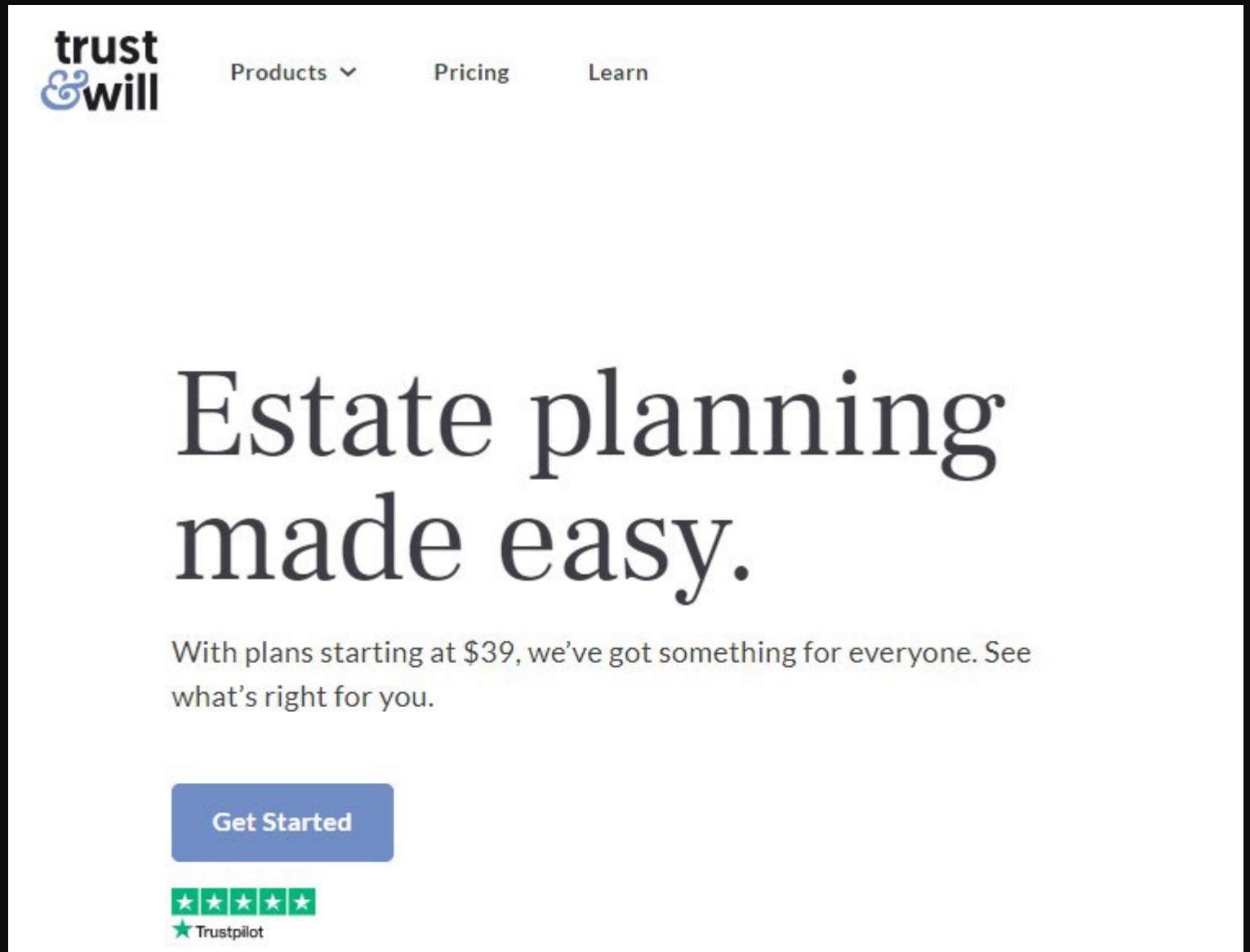
LegalZoom receives ABS status in AZ

Axion opens “reimagined law firm” in AZ

Is Amazon a competitor?



TrustandWill.com



Hello Divorce is coming

DIY Platform 'Hello Divorce' Raises $2M To Fuel National Expansion

Schedule Free Strategy Call CLICK HERE

hellodivorce.

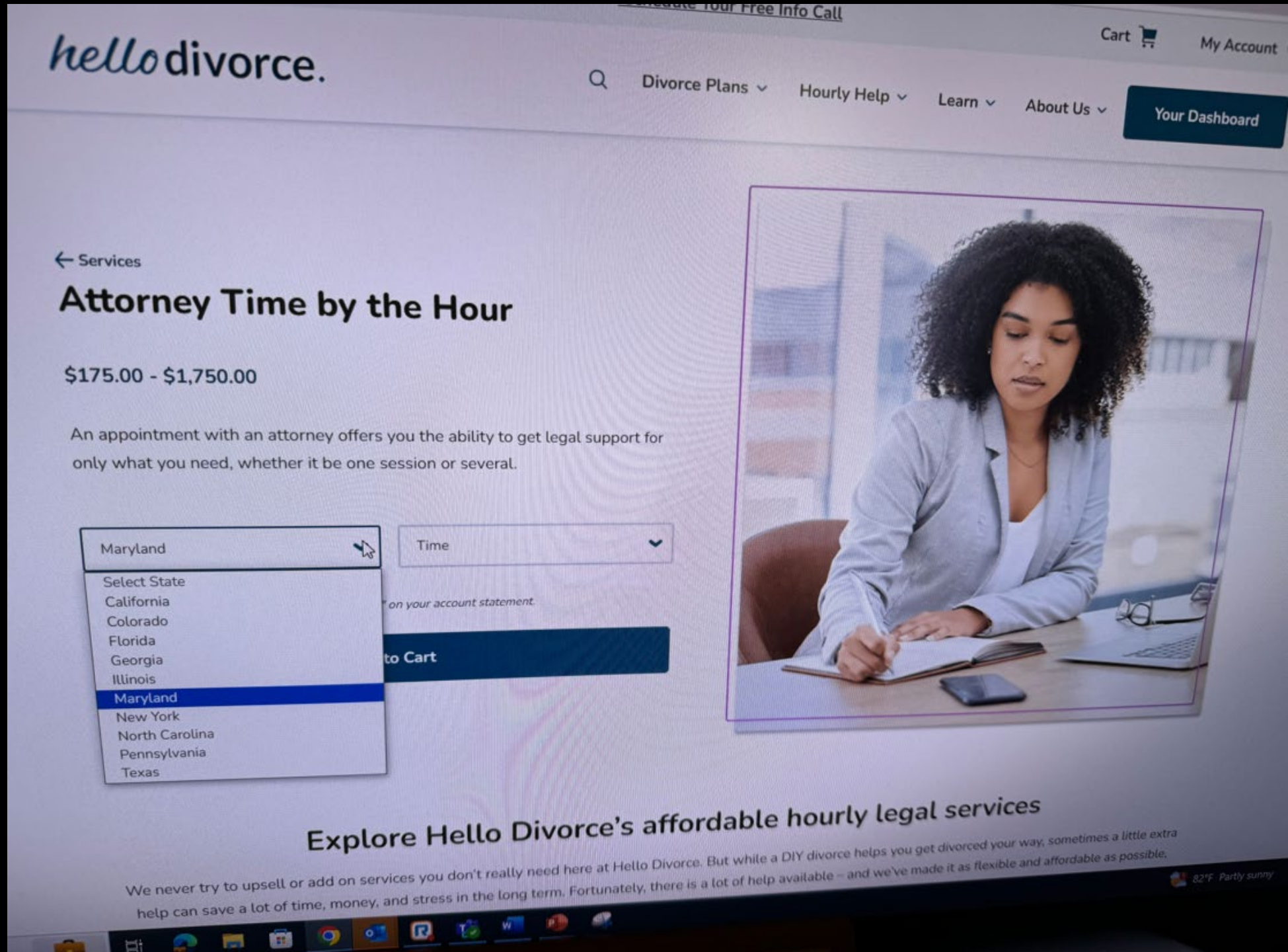
Pricing | How We Work | Legal Help | Resources | Login

Divorce doesn't have to be complicated or expensive.

Get lawyer results – without the lawyer costs. Get started by taking our quiz to find our which service is right for you.

Get Started

Current states where HD appears to be engaged



Utah Law on Call

Utah Law on Call is a service from Northwest that provides instant legal advice over the phone to our new Utah clients. No receptionists. No paralegals. You talk immediately to a real Utah attorney for just $9 a month.

Need a legal matter resolved as well? Our Utah Law on Call clients also get steeply discounted rates for full-blown legal work from our team of licensed Utah attorneys. This includes legal work in the areas of business, end of life planning, real estate, and much more.

Utah legal service innovation

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

Lawyering is the most stressful job in America

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

&

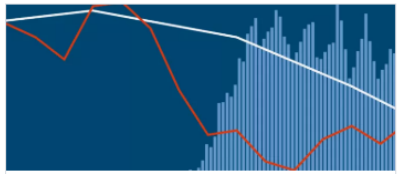
Get paid for solving them

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: July 15

Clio's third briefing on the impact of COVID-19 shows steady recovery in June across most practice areas and states. As coronavirus cases continue to rise in the US, the impact remains uncertain for July.



Clio's COVID-19 Impact Research Briefing: June 17

Clio's second briefing on the impact of COVID-19 shows several weeks of decreased business for law firms, which has affected monthly billing volumes. Initial data in June however shows a sharp increase in new caseloads...

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 2023

Clio Legal Trends Report 2022

Clio Legal Trends Report 2021

Clio Legal Trends Report 2020

Clio Legal Trends Report 2019

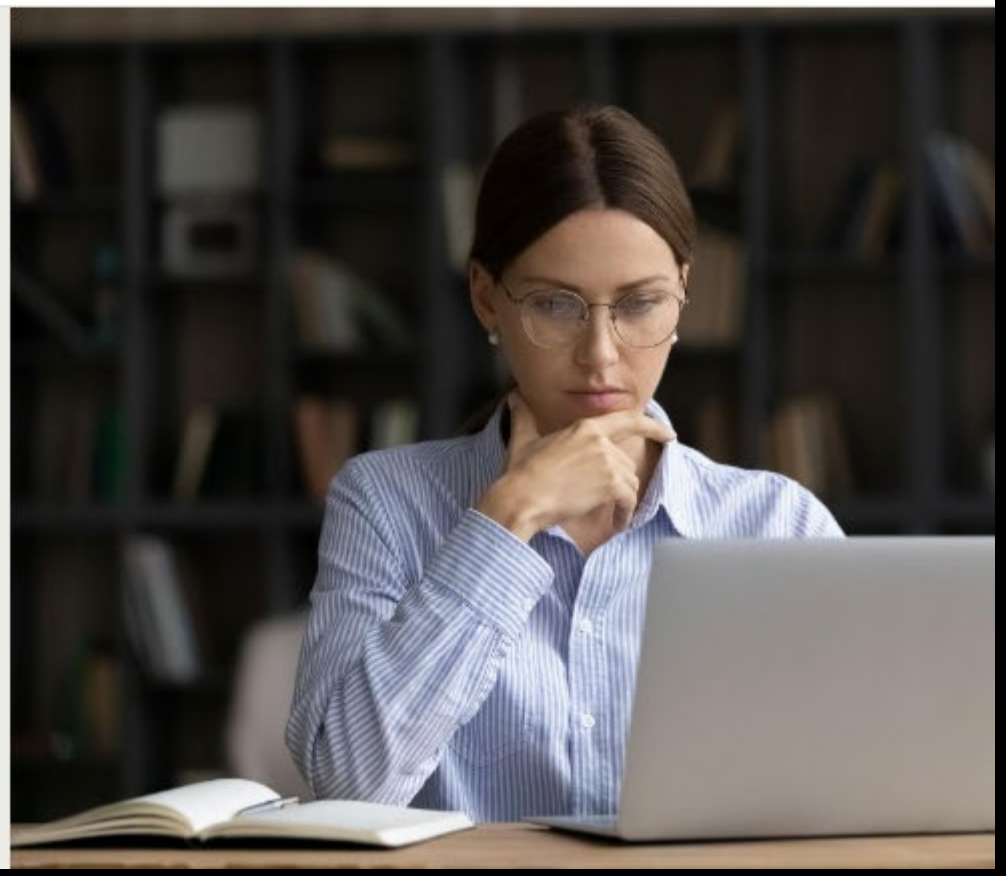
Clio & MyCase are DC Bar member benefits

mycase

Product Firm Type Pricing Why MyCase Resources Support | Login

Benchmark Report: How Work Gets Done in Law Firms

By Nicole Black



MyCase Reports by Nicole Black

Thomson Reuters Institute

2022 State of US Small Law Firms

Cause for cautious optimism

Here is the report

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?

LawPay ClientCredit

LAWPAY
AN AFFINIPAY SOLUTION

866-376-0950 | Schedule a Dem

FEATURES SOLUTIONS INTEGRATIONS MEMBER PROGRAMS SUPPORT ABOUT

CREATE ACCOUNT LOG IN

ClientCredit

ClientCredit is a "Buy Now, Pay Later" (BNPL solution) designed specifically for the legal industry and is exclusively available through LawPay. With ClientCredit, you receive the full invoiced amount at the start of an engagement, while still offering clients the option to pay for their legal fees in installments.

Payment Method

CARD | ECHECK | PAY LATER

CLIENTCREDIT + affirm

For your convenience, we want to offer the latest and most reliable lending option available. Click below to securely complete your payment. It's quick and easy, and you'll get a real-time decision.

Start by entering your full name:

First Name | Last Name

Begin Process

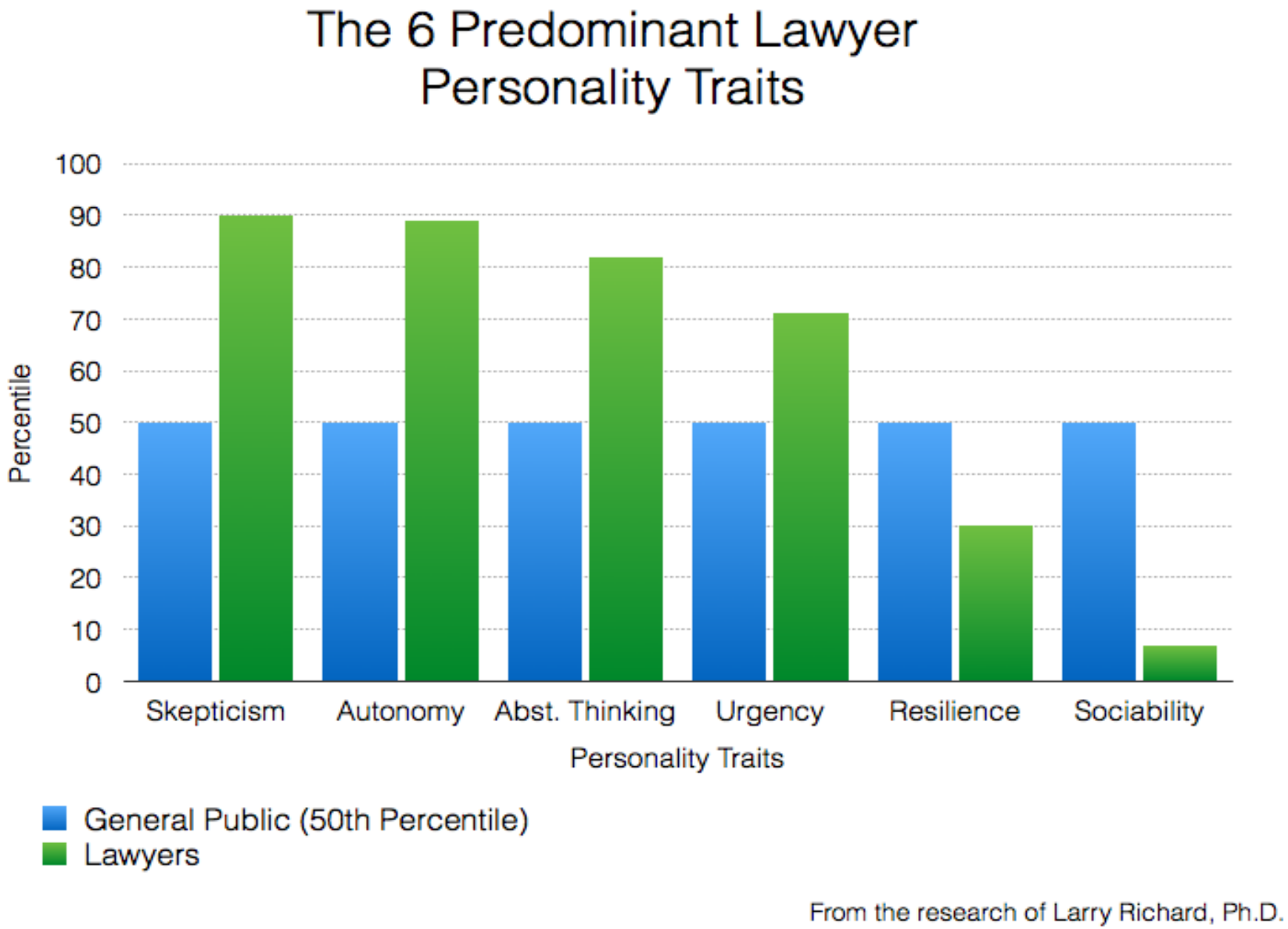
Characteristics

Are you empathetic?

Can you listen & observe?

Can you make the complex understandable?

Can you maintain boundaries?


The 6 Predominant Lawyer Personality Traits
100
90
80
70
60
50
40
30
20
10
0
Percentile
Skepticism
Autonomy
Abst. Thinking
Urgency
Resilience
Sociability
Personality Traits
General Public (50th Percentile)
Lawyers
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.

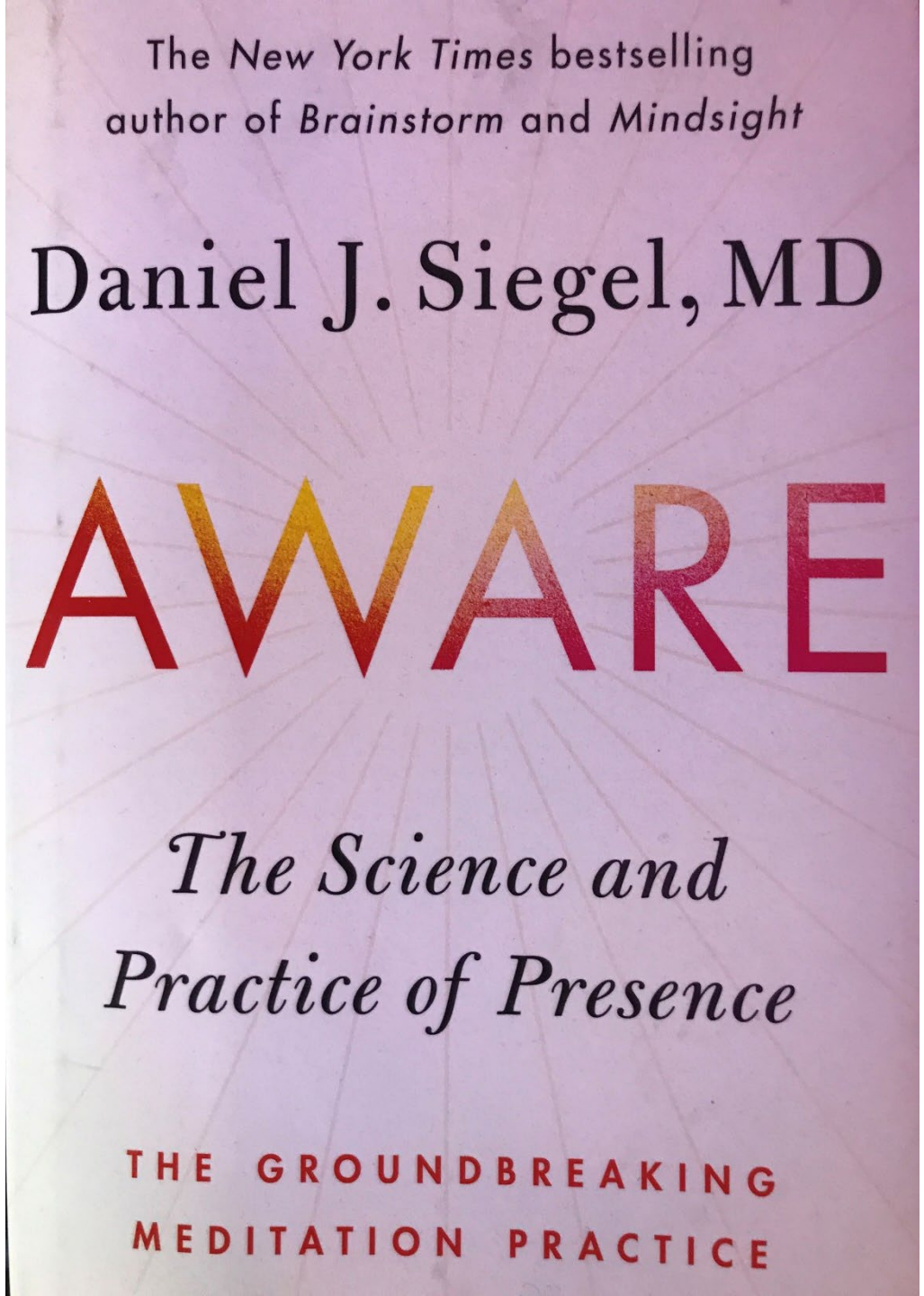
You set boundaries.

A person with EQ 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?

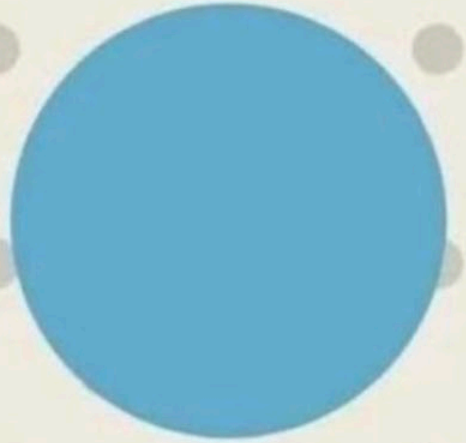
Can you screen & talk about money?

Can you be selective about clients & cases?

Are you a life-long learner?

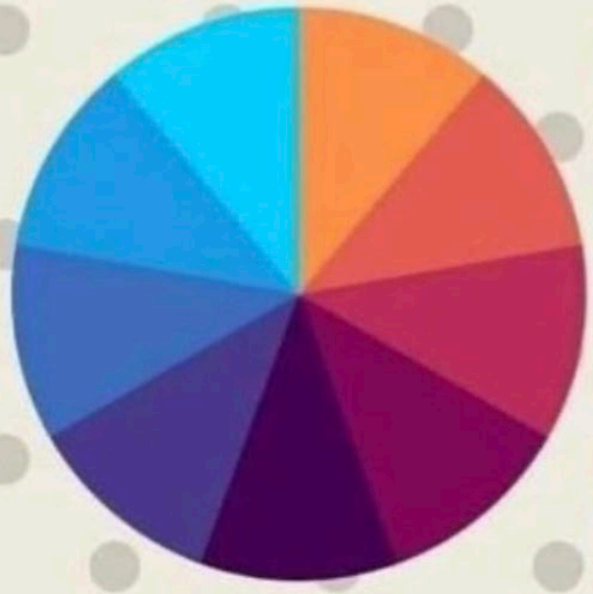
WHAT PEOPLE THINK EMPATHY IS

earthbound madness



Feeling sorry for someone

WHAT EMPATHY ACTUALLY IS



- Sensing other peoples emotions
- Imagining how someone feels
- Imagine what someone is thinking
- Mirroring someone's feelings
- Identify how a person is feeling
- Understanding another person's feelings
- Seeing things from another point of view
- Really listening to what others have to say
- Feeling overwhelmed by others tragedy

Empathy vs Sympathy

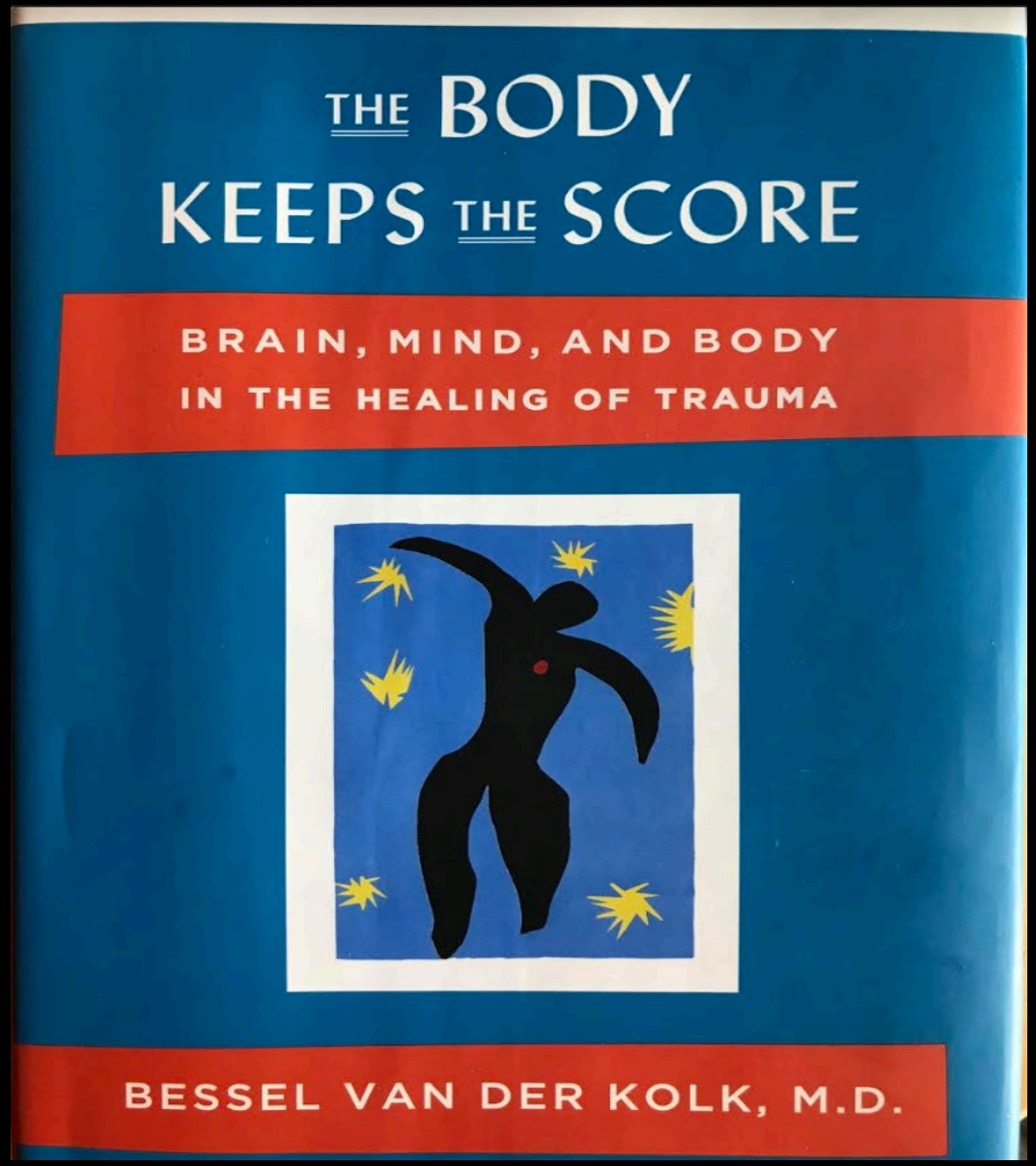
This video of Brene Brown explains the difference.

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



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 are the skill sets you need to *attract* and *solve* the problem of your ideal client?

Are these the same skill sets?

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

Small firm legal structure

Here is information from DC Department of Licensing and Consumer Protection

Sole proprietor is an option

See *Choosing the Business Entity* in the e-Manual

Sole proprietors, partners & self-employed persons pay estimated taxes

DC FAQ on professional entities

What are professional corporations (PCs) & limited liability companies (PLLCs)?
The term "professional service" means any type of personal service to the public which may be lawfully rendered only pursuant to a license and which by law, custom, standards of professional conduct or practice in the District of Columbia, before December 10, 1971, could not be rendered by a corporation, including without limitation the services performed by certified public accountants, attorneys, architects, practitioners of the healing arts, dentists, optometrists, podiatrists, and professional engineers.

Professional Corporations must have "P.C." or "Professional Corporation" or "Chartered" as a part of their name.

Professional LLCs must have "PLLC" or "Professional Limited Liability Company" as a part of their name.

What are acceptable purposes for professional corporations or LLCs?
A professional corporation may be organized solely to render professional services through its shareholders, directors, officers, employees, or agents who are themselves duly licensed to render the particular service and to render service ancillary thereto.

A professional corporation may employ persons, who are not licensed, but such persons shall not perform professional services; and no license shall be required of any person who is employed by a professional corporation to perform services for which no license is otherwise required.

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

More is in the e-Manual

IRS Employee vs Contractor Guidelines

Doing business in DC

Law firms do not need a business license
from DC DLCP

You may need to file the FR 500 (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 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

See e-Manual - Avoiding the Unauthorized Practice of Law

When emails from Colorado became UPL in Minnesota

ABA Legal Ethics Opinion 495
Lawyers Working Remotely - 12/16/20

"The Committee's opinion is that, in the absence of a local jurisdiction's finding that the activity constitutes the unauthorized practice of law, a lawyer may practice the law authorized by the lawyer's licensing jurisdiction for clients of that jurisdiction, while physically located in a jurisdiction where the lawyer is not licensed if the lawyer does not hold out the lawyer's presence or availability to perform legal services in the local jurisdiction or actually provide legal services for matters subject to the local jurisdiction, unless otherwise authorized."

Will a law license some day be like a driver's license?

ABOUT US OUR TEAM PRACTICES

HWG

HARRIS, WILTSHIRE & GRANNIS LLP

Avoiding Unauthorized Practice Of Law In Remote Work

August 05, 2021

Share:

Download

Amy Richardson and Lauren Snyder published the article "Avoiding Unauthorized Practice of Law in Remote Work" in *Law360* today.

Click here to see the full article

Attorney Grievance Commission of MD v. Jackson

UPL: Reconsidering Regulation by Hope Todd, DC Bar Legal Ethics Counsel, November/December *Washington Lawyer*

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

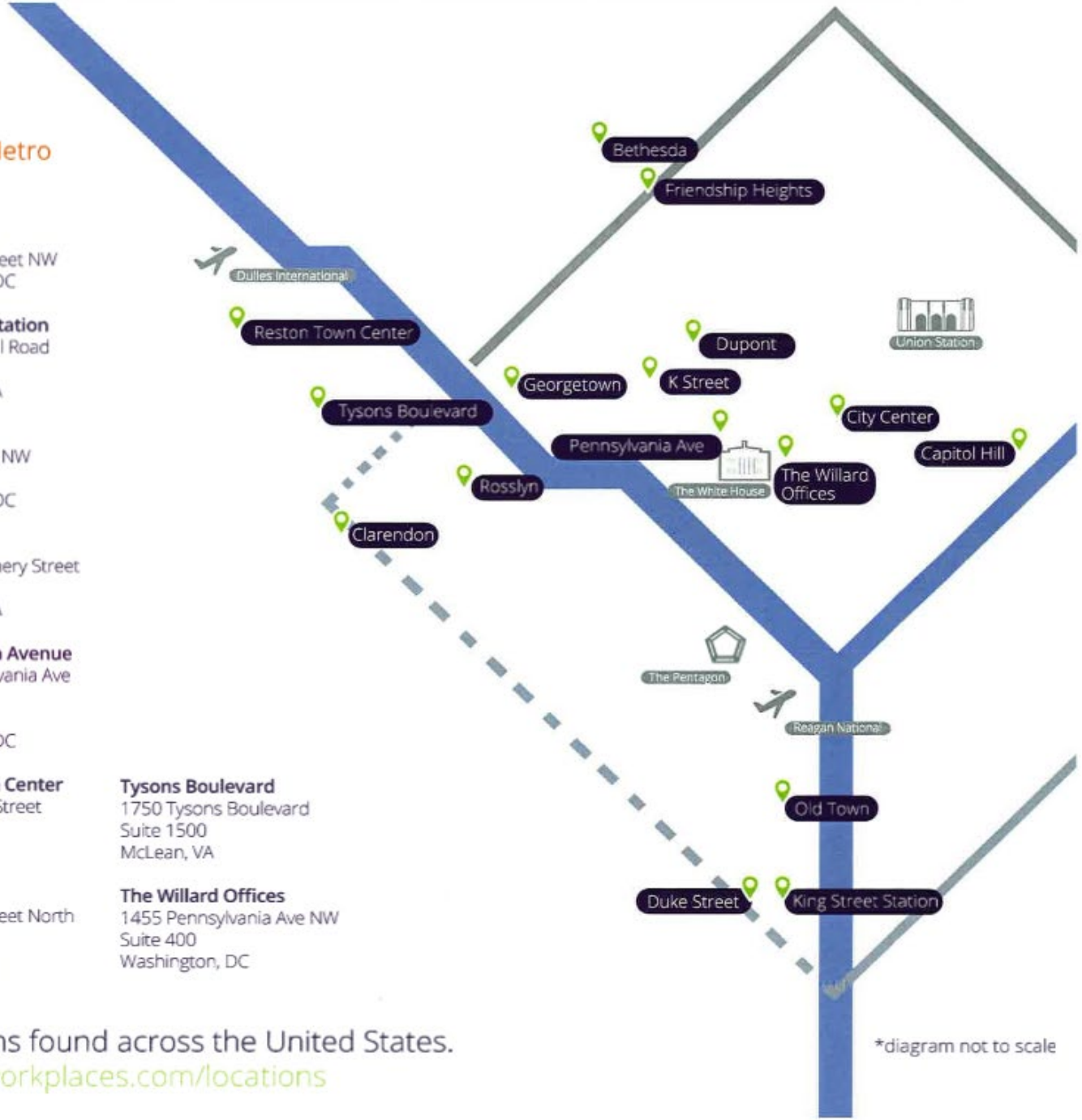
Pennsylvania Avenue
1701 Pennsylvania Ave NW
Suite 200
Washington, DC

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

Google My Business & virtual office issues

Engage with customers on Google for free

With a Google My Business account, you get more than a business listing. Your free Business Profile lets you easily connect with customers across Google Search and Maps.

Google My Business

Google My Business is changing

Things are changing in NY & NJ

The slow death of the NY brick & mortar office for lawyers

DC Bar Member Benefits

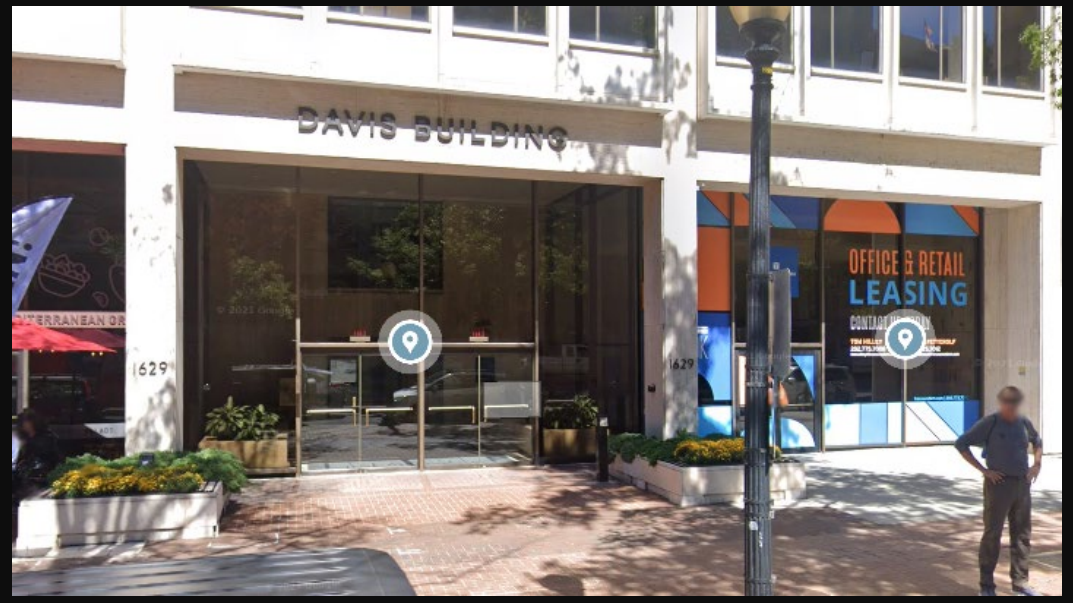
Carr WorkPlaces

Clio, MyCase, Smokeball, Rocket Matter, Cosolex

TimeSolv

Fastcase

USI Affinity



OSI

Office Services Inc.

1629 K Street NW Suite 300

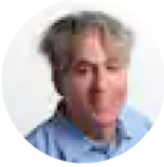
Washington, DC

20006

The Washington Post

Democracy Dies in Darkness

Downtown D.C.'s struggles mount as many workers remain remote



By Paul Schwartzman

January 27, 2023 at 12:22 p.m. EST

It's a buyer's/lessee's market in DC

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 for more information.

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

Write a plan with your prospective partners

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

And social media are some of the possibilities

Networking Opportunities

Law is a relationship business

Register here

July 18, 2024 – Improving Hiring Success with Emotional Intelligence Screening

August 8, 2024 – LinkedIn Lab at D.C. Bar Headquarters with Annette Choti from Law Quill

2nd Friday at Fireworks Pizza, 2350 Clarendon Blvd. (Clarendon Metro) in Arlington at 12:30 pm. RSVP to steven@stevenkriegerlaw.com

First Wednesday at *Casa Oaxaca, 4905 Fairmont Ave.*, 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 –

More in the e-Manual

Ask for the 168 hour time management spreadsheet

Time & effort are not necessarily value.

The client values the result.

Covington's Eric Holder Bills at $2,295 Hourly, New Legal Services Contract Shows

Covington and other firms have long been hired to conduct internal investigations at companies and other institutions, but in many instances the engagement letters, revealing rates and the scope of legal services, are not matters of public record.

By **Mike Scarcella** | April 16, 2021 at 02:19 PM

About

OUR TEAM

SERVICES & ISSUES

LEGAL FEES

CLIENT COMMENTS

IN THE NEWS

Legal Fees

WE TRY TO BE AS AFFORDABLE AS POSSIBLE.

All of our clients start with an **initial phone consultation** with an attorney. During your phone consultation, we will provide you legal advice regarding your tenancy issues in the District of Columbia. If you are interested in a consultation, please contact our office to submit a request. We charge $75 for consultations, for a call of up to 45 minutes.

Our regular hourly rate is $96.60 per hour for all other services, excluding most TOPA cases.

We can discuss with you whether your landlord may be required to pay your legal fees if you are successful with your claims. If you have a strong claim for money damages against your landlord, we may be willing to take your case on contingency.

Call us at (202) 681-6871, or e-mail us at admin [at] dctenants.com, if you think we can be helpful!

D.C. TENANTS' RIGHTS CENTER, 1115 MASSACHUSETTS AVENUE NW SUITE 300, WASHINGTON, DC, 20005, UNITED STATES · (202) 681-6871 · ADMIN@DCTENANTS.COM

Lawyer David Boies bills $1,950 per hour, court filing says

BY DEBRA CASSENS WEISS

JUNE 8, 2022, 8:34 AM CDT

Like 180 Share Tweet Share

David Boies is the chairman and a managing partner at Boies Schiller Flexner. Photo by Kathy Anderson//ABA Journal.

A court filing seeking legal fees in privacy litigation against Google indicates that one of the plaintiffs' lawyers—David Boies—is making $1,950 per hour.

The hourly rate is revealed in a June 3 motion seeking more than $1 million for legal fees and costs incurred by plaintiffs in pursuing a sanctions motion against Google, Reuters reports.

A judge had allowed the plaintiffs to seek fees and costs after concluding that Google committed discovery misconduct, partly by concealing key data and employees from the plaintiffs.

Boies, 81, is the chairman and a managing partner at Boies Schiller Flexner. His hourly rate is still below that of Neal K. Katyal, a partner at Hogan Lovells and a former U.S. acting solicitor general, who bills $2,465 per hour, according to a filing in a bankruptcy case.

Some lawyers at Covington & Burling also make more money, according to a Department of Justice court filing. It shows that senior partners there bill up to $2,500 per hour, Reuters reports in another story.

The privacy suit alleges that Google collected information from internet users when they use its incognito web browsing.

Other plaintiffs firms in the case are Susman Godfrey and Morgan & Morgan.

The case is *Brown v. Google*

Clio Legal Trends Report 2023

HOURLY RATES BY STATE

State	Law Firms	Lawyers	Non-lawyers	State	Law Firms	Lawyers	Non-lawyers
AL	$195	$208	$115	NC	$229	$254	$132
AR	$229	$242	$152	ND	$231	$253	$145
AZ	$242	$266	$154	NE	$217	$218	$212
CA	$313	$344	$186	NH	$230	$248	$145
CO	$236	$261	$142	NJ	$291	$306	$174
CT	$314	$342	$196	NM	$219	$242	$132
DC	$365	$392	$202	NV	$283	$311	$172
DE	$308	$344	$173	NY	$339	$358	$215
FL	$264	$297	$151	OH	$212	$224	$137
GA	$262	$286	$154	OK	$218	$235	$122
IA	$193	$202	$130	OR	$230	$255	$133
ID	$218	$233	$121	PA	$272	$288	$183
IL	$286	$305	$179	RI	$234	$240	$170
IN	$225	$242	$134	SC	$218	$249	$122
KS	$213	$227	$133	SD	$195	$199	$158
KY	$193	$204	$121	TN	$218	$233	$127
LA	$226	$245	$104	TX	$264	$300	$146
MA	$273	$285	$184	UT	$231	$250	$135
MD	$286	$310	$175	VA	$273	$295	$165
ME	$183	$193	$130	VT	$216	$226	$119
MI	$249	$266	$138	WA	$258	$288	$149
MN	$250	$271	$146	WI	$219	$231	$157
MO	$227	$249	$131	WV	$160	$162	$148
MS	$199	$217	$127	WY	$224	$241	$145
MT	$187	$199	$111				

Clio Legal Trends Report 2022

HOURLY RATES BY STATE

State	Law Firms	Lawyers	Non-lawyers	State	Law Firms	Lawyers	Non-lawyers
AL	$196	$211	$108	NC	$237	$262	$136
AR	$233	$248	$140	ND	$245	$268	$154
AZ	$239	$268	$149	NE	$221	$219	$228
CA	$326	$358	$185	NH	$234	$256	$144
CO	$244	$271	$143	NJ	$310	$330	$167
CT	$314	$350	$167	NM	$220	$244	$131
DC	$384	$424	$192	NV	$288	$318	$177
DE	$323	$358	$172	NY	$355	$378	$211
FL	$268	$303	$150	OH	$224	$238	$139
GA	$266	$288	$158	OK	$215	$230	$125
IA	$185	$192	$130	OR	$237	$263	$137
ID	$219	$235	$125	PA	$274	$290	$182
IL	$293	$314	$162	RI	$228	$238	$157
IN	$233	$251	$134	SC	$223	$259	$119
KS	$233	$248	$137	SD	$181	$189	$119
KY	$204	$216	$133	TN	$229	$247	$125
LA	$228	$250	$100	TX	$273	$313	$150
MA	$275	$290	$178	UT	$238	$260	$134
MD	$293	$319	$163	VA	$281	$304	$163
ME	$186	$195	$128	VT	$220	$235	$108
MI	$251	$269	$128	WA	$264	$296	$156
MN	$254	$274	$153	WI	$238	$251	$162
MO	$231	$254	$132	WV	$163	$168	$123
MS	$205	$225	$123	WY	$246	$266	$124
MT	$197	$213	$115				

Clio Legal Trends 2021

HOURLY RATES BY STATE

State	Law Firms	Lawyers	Non-lawyers	State	Law Firms	Lawyers	Non-lawyers
AL	$194	$206	$105	NC	$231	$255	$131
AR	$235	$251	$131	ND	$246	$264	$164
AZ	$233	$260	$142	NE	$223	$224	$218
CA	$319	$352	$172	NH	$219	$239	$141
CO	$242	$267	$138	NJ	$307	$324	$163
CT	$301	$335	$162	NM	$219	$243	$134
DC	$373	$411	$187	NV	$289	$320	$174
DE	$315	$353	$166	NY	$351	$372	$220
FL	$264	$296	$144	OH	$221	$234	$138
GA	$256	$275	$154	OK	$210	$225	$122
IA	$182	$189	$134	OR	$231	$257	$131
ID	$213	$227	$117	PA	$271	$287	$183
IL	$288	$309	$160	RI	$211	$221	$120
IN	$223	$239	$131	SC	$211	$246	$113
KS	$225	$237	$148	SD	$177	$183	$110
KY	$203	$214	$130	TN	$218	$235	$120
LA	$221	$244	$99	TX	$265	$301	$146
MA	$273	$285	$187	UT	$231	$251	$127
MD	$290	$312	$170	VA	$275	$295	$159

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 / (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 & Clio reports are the best sources

The USAO's Fitzpatrick matrix is here

Above the Law accounts

DC US Attorney's Office Fitzpatrick Matrix

https://www.justice.gov/usao-dc/page/file/1504361/download

THE FITZPATRICK MATRIX

Hourly Rates ($) for Legal Fees for Complex Federal Litigation in the District of Columbia

Years Exp. / Billing Yr.	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
35+	535	563	591	619	647	675	703	731	736	760	807
34	534	562	590	618	646	674	702	729	734	758	805
33	532	560	588	616	644	672	700	728	733	757	804
32	530	558	586	614	642	670	698	726	730	754	801
31	527	555	583	611	639	667	695	723	728	752	799
30	524	552	580	608	636	664	692	720	725	749	795
29	521	549	577	605	633	661	689	717	721	745	791
28	517	545	573	601	629	657	685	713	717	741	787
27	512	540	568	596	624	652	680	708	713	736	782
26	508	536	564	592	620	648	676	704	708	731	776
25	502	530	558	586	614	642	670	698	703	726	771
24	497	525	553	581	609	637	665	693	697	720	765
23	491	519	547	575	603	630	658	686	691	714	758
22	484	512	540	568	596	624	652	680	684	707	751
21	477	505	533	561	589	617	645	673	677	699	742
20	470	498	526	553	581	609	637	665	670	692	735
19	462	490	518	546	574	602	630	658	662	684	726
18	453	481	509	537	565	593	621	649	653	675	717
17	445	473	500	528	556	584	612	640	645	666	707
16	435	463	491	519	547	575	603	631	635	656	697
15	426	454	482	510	538	566	593	621	626	647	687
14	416	443	471	499	527	555	583	611	615	635	674
13	405	433	461	489	517	545	573	601	605	625	664
12	394	422	450	478	506	534	562	590	594	614	652
11	382	410	438	466	494	522	550	578	582	601	638
10	371	399	427	455	483	510	538	566	570	589	625
9	358	386	414	442	470	498	526	554	558	576	612
8	345	373	401	429	457	485	513	541	545	563	598
7	332	360	388	416	444	472	500	528	532	550	584
6	319	347	375	403	431	458	486	514	518	535	568
5	305	332	360	388	416	444	472	500	504	521	553
4	290	318	346	374	402	430	458	486	489	505	536
3	275	303	331	359	387	415	443	471	474	490	520
2	260	287	315	343	371	399	427	455	458	473	502
1	244	272	300	328	356	384	412	439	442	457	485
0	227	255	283	311	339	367	395	423	426	440	467
P*	130	140	150	160	169	179	189	199	200	207	220

* = Paralegals/Law Clerks

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

The e-Manual 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 more 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

Screen shot of a portion of the bar complaint form:

B. Attorney Complained Of:

Name: _____
(First) (Initial) (Last)

Address: _____
(Street) (Apt. #)

_____
(City) (State) (Zip)

Telephone No.: _____ Attorney's Bar No., if known: _____

C. Have you filed a complaint about this matter anywhere else? ☐ Yes ☐ No // If yes, please give details.

_____

_____

D. Do you have a written retainer agreement with the attorney? ☐ Yes ☐ No // If yes, please attach a copy.

_____

E. Where applicable, state the name of the court where the underlying case was filed, and the case name and number.

_____

_____

F. Do you have other documents that are relevant? ☐ Yes ☐ No // If yes, please give details and provide copies.

_____

_____

SEE REVERSE SIDE FOR REQUIRED DETAILS & SIGNATURE

G. DETAILS OF COMPLAINT: _____

_____

If you modify a fee agreement during the representation:

Furthermore, District of Columbia courts will scrutinize closely an attorney-client contract which is beneficial to the attorney and executed long after the attorney-client relationship has commenced. *Saul v. Blumenfeld, supra*, 445 A.2d at 614; *Pete v. United Mine Workers of America*, 171 U.S.App.D.C. 1, 17, 517 F.2d 1275, 1291 (1975) (quoting *Spilker v. Hankin*, 88 U.S.App.D.C. 206, 210, 188 F.2d 35, 39 (1951)). Viewing such modifications to be presumptively invalid, the courts place the burden on the attorney to demonstrate the fairness of the contract. *Pete v. United Mine Workers of America, supra*, cited in *Saul v. Blumenfeld, supra.* Chase's fee modifications were proposed at crucial stages of the FCC proceedings, when Chase had significant bargaining power. Having already obligated himself to prosecute GBC's application through the complete FCC proceeding, he attempted to procure an obligation by GBC to pay him an increased fee. Assuming substantial work was involved in addressing the ministers' issue, he was nevertheless bound by the October 6, 1975 agreement to do what was required. *Transatlantic Financing Corporation, supra*, 259 F. Supp. at 728. ***Chase v. Gilbert 499 A.2d 1203***

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

Rule 1.15(e) does not yet setout the element of waiver of entrustment

After In Re Mance, Disciplinary Counsel waited on the right set of facts to clearly establish the elements. It happened in In Re Ponds

DC courts link for In Re Ponds

Waiver of entrustment is high risk conduct

After *Ponds* & *Mance*, here is what we now know about informed consent to waiver of entrustment

Orally & in writing the client agrees that:

1. Advance fees normally go into the IOLTA;
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;
6. If the client does not consent, the advance fee must go into IOLTA

Credit Card Payments

Be certain the payment goes into the right law firm account

LawPay is a 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.

Legal Issues

Staffer from major law firm sentenced to prison for spending $425,000 on designer clothes, candles and other luxuries

He could not explain the impulse behind the fraud during a sentencing hearing Monday.

By Rachel Weiner

NC Paralegal Charged With Stealing $1.5M From Firm's Clients

By **Chart Riggall** · *Listen to article*

Law360 (July 20, 2023, 12:27 PM EDT) -- Federal prosecutors have charged a North Carolina paralegal with embezzling more than $1.5 million from client trust accounts controlled by the law firm where she worked, the U.S. Department of Justice announced Wednesday.

Jennifer Elaine Roarke, 54, was indicted on a single count of wire fraud after prosecutors say she made "hundreds" of wire transfers from firm clients' accounts to her own between 2015 and 2021.

Roarke — also known as Jennifer Claveria and a resident of Hickory, North Carolina — has surrendered to authorities and was expected to have her first appearance hearing Thursday, court records show.

According to the indictment, Roarke spent nearly 15 years with the firm — which was not named in court records — from 2007 to 2021. One of the firm's practice areas was custody of trust accounts for its clients, and Roarke, as a paralegal, was tasked with cashing checks and processing invoices for those accounts.

Useful Tools & Links

Add to Briefcase
Save to PDF & Print
Rights/Reprints
Editorial Contacts

Related Sections

Legal Ethics
North Carolina
White Collar

Case Information

Case Title
USA v. Roarke

Case Number
5:23-cr-00026

Court
North Carolina Western

Nature of Suit

Click here for entire story

Once-prominent disbarred lawyer sues bank for allegedly failing to stop his employee's embezzlement

BY DEBRA CASSENS WEISS

APRIL 13, 2022, 2:18 PM CDT

Like 4 Share Tweet Share

Image from Shutterstock.

A once-prominent lawyer in Washington, D.C., has sued PNC Bank for allegedly ignoring "red flags and serious irregularities" that allowed an employee to embezzle money from him.

The former lawyer, Bernard Grimm, agreed to disbarment last year following an ethics investigation spurred by a bounced check. He claims that his employee embezzled $725,000 from accounts at PNC Bank, and that part of the money was stolen after he put the financial institution on notice of a fraudulent scheme in his accounts.

Reuters and Law.com have coverage of Grimm's April 11 lawsuit.

The suit says some of the money was taken from Grimm's IOLTA account, which holds money in a trust for clients. Money was also taken from two other accounts at PNC Bank.

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).

ABA Journal

BANKING LAW

Wells Fargo didn't have contractual duty to catch scam check that cost law firm nearly $200K, judge rules

BY DEBRA CASSENS WEISS

JULY 21, 2022, 3:27 PM CDT

Like 44 Share Tweet Share

A scammed law firm that wired nearly $200,000 to a Nigerian bank can't recover the money from Wells Fargo, a federal judge in Pennsylvania has ruled.

The decision is a loss for Pennsylvania law firm Perlberger Law Associates and lawyer Hanna Perlberger, who didn't know that the check that she received was forged before depositing it and wiring the funds to a purported client. Wells Fargo

PDF of article here

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.**

DC BAR FOUNDATION
WE INVEST IN JUSTICE
DCBF

IOLTA Program Data
July 2022

Net Interest (gross after service fees): $115,463.56

Average Daily Balance: $527,081,029

Number of approved depositories: 47 (25 remitting)

The top 10 Banks account for 88% of Revenue

Bank	Number of Accounts	Monthly New Revenue
Bank of America	395	24,874.58
Eagle Bank	96	13,596.77
Wells Fargo	478	25,282.81
Citibank	499	12,329.46
Truist Bank	367	10,172.92
United Bank	107	5,252.74
PNC	277	3,235.26
Capital One Bank	188	3,229.9

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.

Read your bank account terms of service

The New York Times https://www.nytimes.com/2023/11/05/business/banks-accounts-close-suddenly.html

Why Banks Are Suddenly Closing Down Customer Accounts

Surprised individuals and small-business owners can't pay rent or make payroll, and no one ever explains what they did wrong.

By Ron Lieber and Tara Siegel Bernard
Ron Lieber and Tara Siegel Bernard have been writing about money together for over 15 years.

Nov. 5, 2023

The reasons vary, but the scene that plays out is almost always the same.

Bank customers get a letter in the mail saying their institution is closing all of their checking and savings accounts. Their debit and credit cards are shuttered, too. The explanation, if there is one, usually lacks any useful detail.

Or maybe the customers don't see the letter, or never get one at all. Instead, they discover that their accounts no longer work while they're at the grocery store, rental car counter or A.T.M. When they call their bank, frantic, representatives show concern at first. "Oh, no, so sorry," they say. "We'll do whatever we can to fix this."

But then comes the telltale pause and shift in tone. "Per your account agreement, we can close your account for any reason at any time," the script often goes.

These situations are what banks refer to as "exiting" or "de-risking." This isn't your standard boot for people who have bounced too many checks. Instead, a vast security apparatus has kicked into gear, starting with regulators in Washington and trickling down to bank security managers and branch staff eyeballing customers. The goal is to crack down on fraud, terrorism, money laundering, human trafficking and other crimes.

In the process, banks are evicting what appear to be an increasing number of individuals, families and small-business owners. Often, they don't have the faintest idea why their banks turned against them.

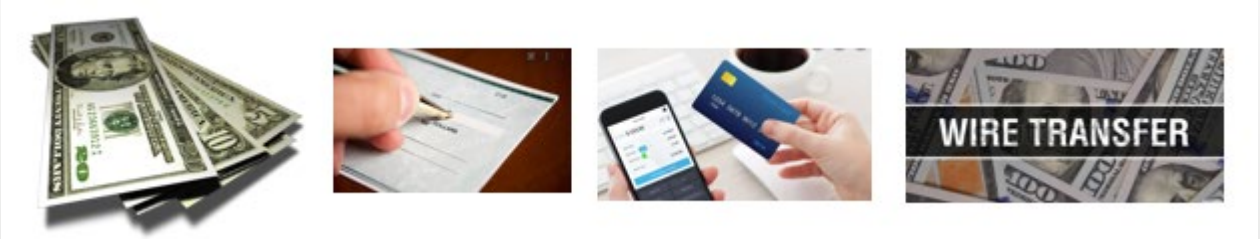
But there are almost always red flags — transactions that appear out of character, for example — that lead to the eviction. The algorithmically generated alerts are reviewed every day by human employees.

Banks generally won't say how often they are closing accounts this way, and they're not tracking how often they get it wrong. But federal data offer clues.

By law, banks must file a "suspicious activity report" when they see transactions or behavior that might violate the law, like unexpectedly large cash transactions or wire transfers with banks in high-risk countries. According to Thomson Reuters, banks filed over 1.8 million SARs in 2022, a 50 percent increase in just two years. This year, the figure is on track to hit nearly two million.

Multiple SARs often — though not always — lead to a customer's eviction. Federal laws have little to say about the trigger for account cancellations.

Managing Money

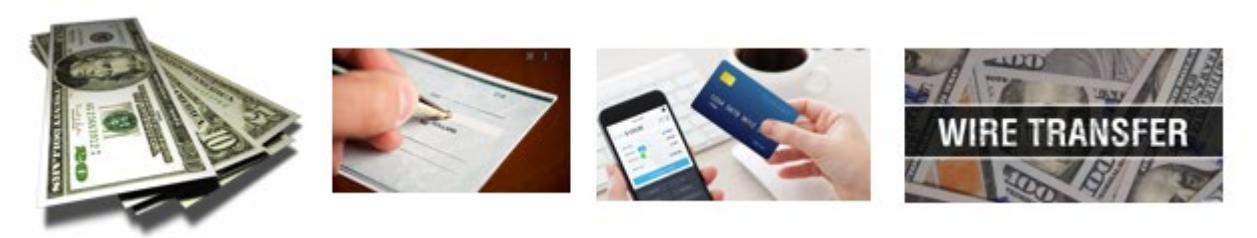


IOLTA

Operating

So where does the money go?

If the Fee is an …



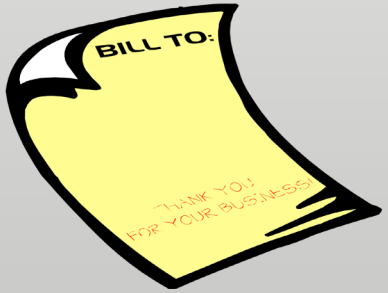
Advance Fee/Expense
or Settlement

It goes in your…

IOLTA Account

With the advance fee in the IOLTA, then you….

Perform the work



Send invoice

And then…

Transfer the attorney fee pursuant to your fee agreement …

From

IOLTA

To

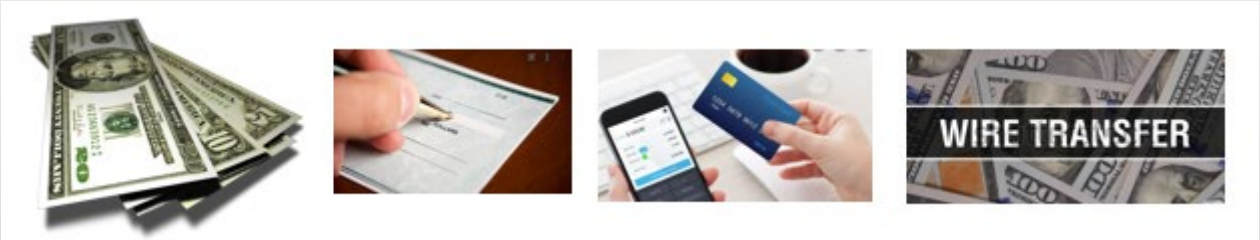
Operating

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

Recovered funds in a contingency fee matter

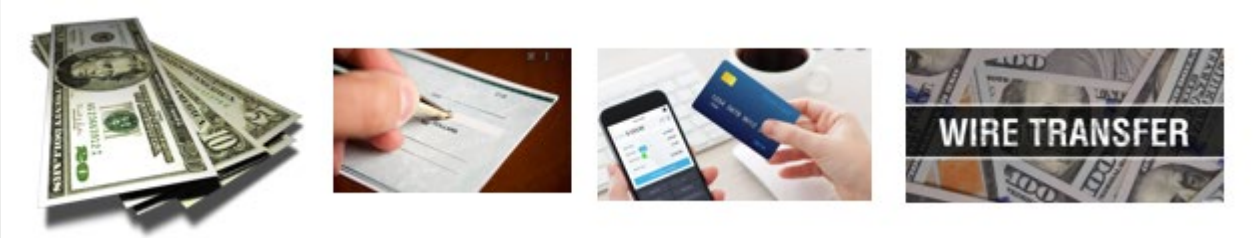
- Check is deposited into the firm’s IOLTA
- Wait for the check to clear
- When funds are available, distribute according to the fee agreement and claims of valid third parties

What if you get paid after the work is performed?



Then you deposit straight to…

Operating Account



NEVER

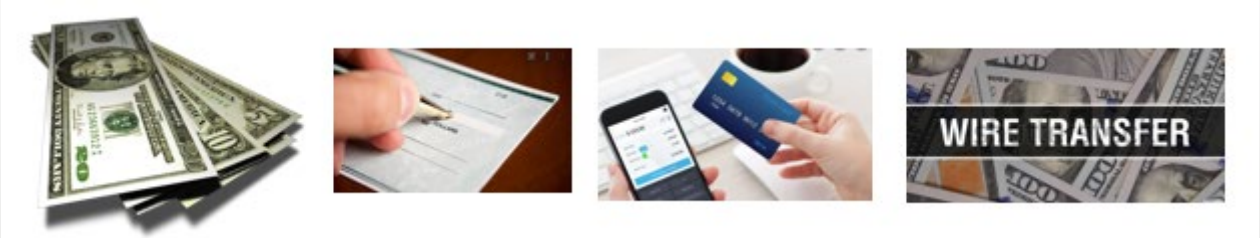
Advance Fee

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.

TrustBooks.
Features
Customers
Pricing
Resources
Simplify your
legal accounting
Accounting software for law firms
• Easy to use and built exclusively for law firms
• Track all activity at the client level
• Stay compliant with simple trust accounting

TrustBooks

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 as impacted by In Re Ponds - 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**

If the client says no to informed consent for waiver, the advance fee must go into IOLTA

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.**

For a good discussion of advance fees read ABA Formal Opinion 505

This opinion is consistent with *In Re Mance*.

A Cautionary Tale About Earning Mechanisms

By Dan Mills

What is an earning mechanism and why should you care?

An earning mechanism refers to a set of specific provisions in a fee agreement describing the conditions under which a lawyer is entitled to earn a fee that has been paid in advance for their services. Essentially, the earning mechanism details the how and when of the fee's transition from advance fee to earned income. The most common earning mechanism is a lawyer's hourly rate, but earning mechanisms for flat or fixed fees must also be established before beginning work for the client.

For example, let's assume you have onboarded a new client and now possess a $10,000 advance fee. Hopefully that sum has been deposited into your IOLTA and you are preparing the fee agreement. For a D.C. Bar member in this situation, regardless of the legal matter, how you negotiate and describe the way in which you will work for the client and earn this sum is crucial. You must do so in conformity with *In re Mance*,[1] but you should also conform to the expectations of the Office of Disciplinary Counsel (ODC), as set forth in a pending disciplinary matter, *In re Michael Alexei*.[2] Otherwise, you might find yourself facing disbarment by the D.C. Court of Appeals, as Alexei did. More about that case in a moment. For now, let's focus on the earning mechanism.

You and your client need to agree upon and document the process through which the $10,000 held in your firm's IOLTA transitions to your ownership once you have performed the legal services — detailing at what point you are entitled to transfer these earned funds into your firm's operating or business checking account.

Mance says you can do this by tying the earning process to stages of the case, passage of time, or any other method that is reasonable in terms of the work performed and amount earned. You can always wait until the entire representation has been accomplished to transfer the funds, but this is not practical for many representations that last for months. Law firms have cash flow needs and often cannot wait until the end of the matter to earn the fee.

The nature of the lawyer's problem-solving is the real driver of the terms. For example, if the lawyer is preparing a certain form for the client who is seeking a particular immigration status, then a reasonable portion of the advance fee can be earned after the lawyer does research, gathers information, examines data, and completes the form for the client's review. Assuming the form is then filed, other stages of earning the fee can be tied to progression of the case, such as responding to the government, meeting with the government and client, and appearing for a hearing.

For the estate planning lawyer, the first earning stage is often obtaining information and then creating the instruments for the client's review. The next stage could be editing and executing the instruments, at which time the entire fee has been earned.

For the criminal defense lawyer, tying the earning mechanism to stages of the case as it progresses though court is often practical, with the final sum being earned upon conclusion of the case, whether by plea agreement or trial. If the matter ends before completion and not all the fee has been earned, *Mance* requires the lawyer to make a refund of any unearned fee to the client.

If the fee agreement does not say when and how an advance fee is going to be earned, and if the lawyer transfers portions of the advance fee into the firm's operating or business account based on the lawyer's belief about what has been earned, the lawyer runs the risk of a disciplinary prosecution. This can happen even if the client is satisfied with the lawyer's work and does not object to the transfer of funds.

ODC argues that Alexei's fee agreement was not *Mance*-compliant because it did not specify when and how the advance fee would be earned. However, the Hearing Committee[3] and the Board on Professional Responsibility[4] determined that Alexei had performed all the work and had earned the advance fee. Neither the Hearing Committee nor the Board on Professional Responsibility found a violation of any D.C. Rule of Professional Conduct. The Board decision recommended a dismissal of the disciplinary charges.

ODC appealed, arguing before the D.C. Court of Appeals in May that Alexei is guilty of misappropriation and urging the court to disbar him. Regardless of the outcome of this particular matter, D.C. lawyers would be wise to embrace ODC's most recent interpretation of *Mance* and include precise earning mechanisms in their fee agreements.

D.C. Bar practice management advisors Dan Mills and Kaitlin McGee can be reached at dmills@dcbar.org and kmcgee@dcbar.org, respectively.

NOTES

1 980 A.2d 1196 (D.C. 2009).

2 D.C.C.A No. 23-BG-591. Oral argument can be viewed at youtube.com/watch?v=JusAT4611c0.

3 Report and Recommendation of Ad Hoc Hearing Committee BDN 20-BD-018 / DDN 2016-D375 / March 7, 2023.

4 Order of the Board on Professional Responsibility 20-BDN-018 / DDN 2016-D375 / June 30, 2023.

For an in-depth lesson on creating an appropriate fee agreement and transferring funds, attend the D.C. Bar's next Managing Money course on September 26. Visit dcbar.org/pmas to register.

Here's the link to the column in the Washington Lawyer

Here's a link to the oral argument on May 14, 2024 Before the DCCA in In Re Alexie (starts at 1:17:32).

The new Managing Money course

Here are the dates in 2024

9 a.m. – 12:30 p.m., at DC Bar Headquarters only

September 26, December 9, 2024

If you are interested in a private session for your firm or organization, email PMAS@dcbar.org with “Managing Money” in the subject line.

The course tracks the earning mechanism in seven types of fee agreements & manages funds in the IOLTA & operating account as representations unfold.

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

Kaitlin McGee / 202-780-2764 / kmcgee@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

An onboarding system for the new client

What do you want the client to know about you?

How do you manage the representation?

How will you communicate?

How does the fee agreement work?

Do you accept electronic payments?

Download the checklist

https://www.gimbalcanada.com/

22 Core Processes You Need in Your Law Firm

Do you have the processes in place to run your firm effectively? Get the checklist and find out!

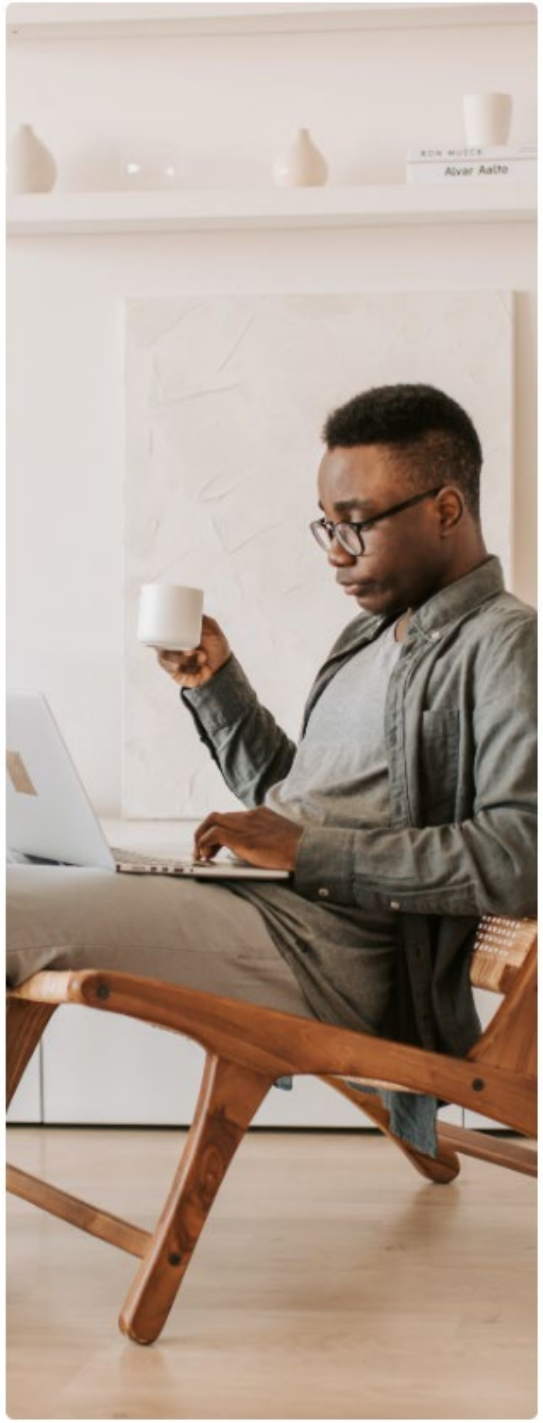
First Name

Email Address

GET THE CHECKLIST NOW!

You consent to receiving the Process Checklist and other information about business efficiency & practice management.

We respect your privacy. Unsubscribe at any time.



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

Consider Asana

Migrate to Clio

Is it really possible to manage time?

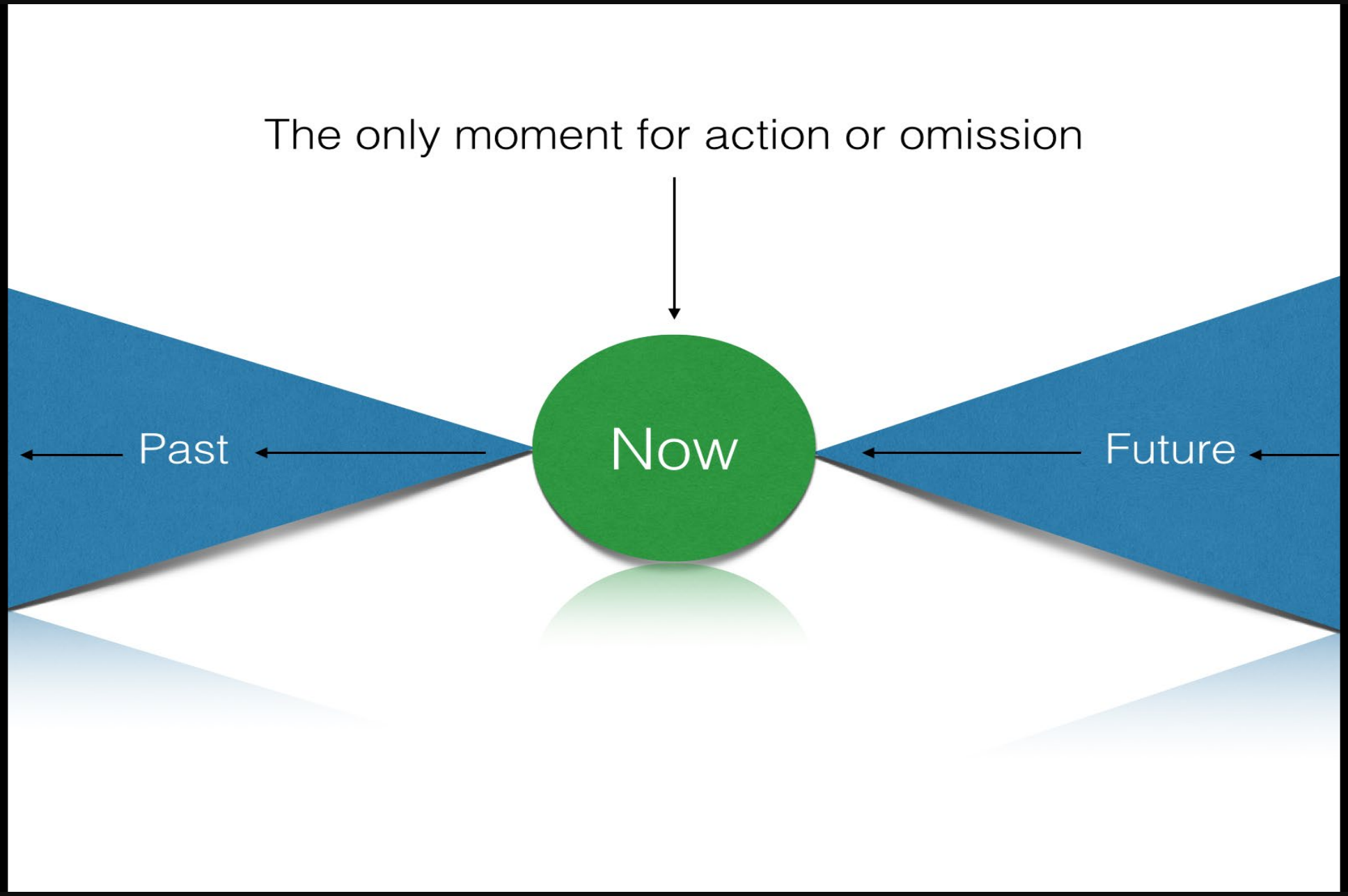
When people & projects compete for your time:

Works in blocks of time with a single goal

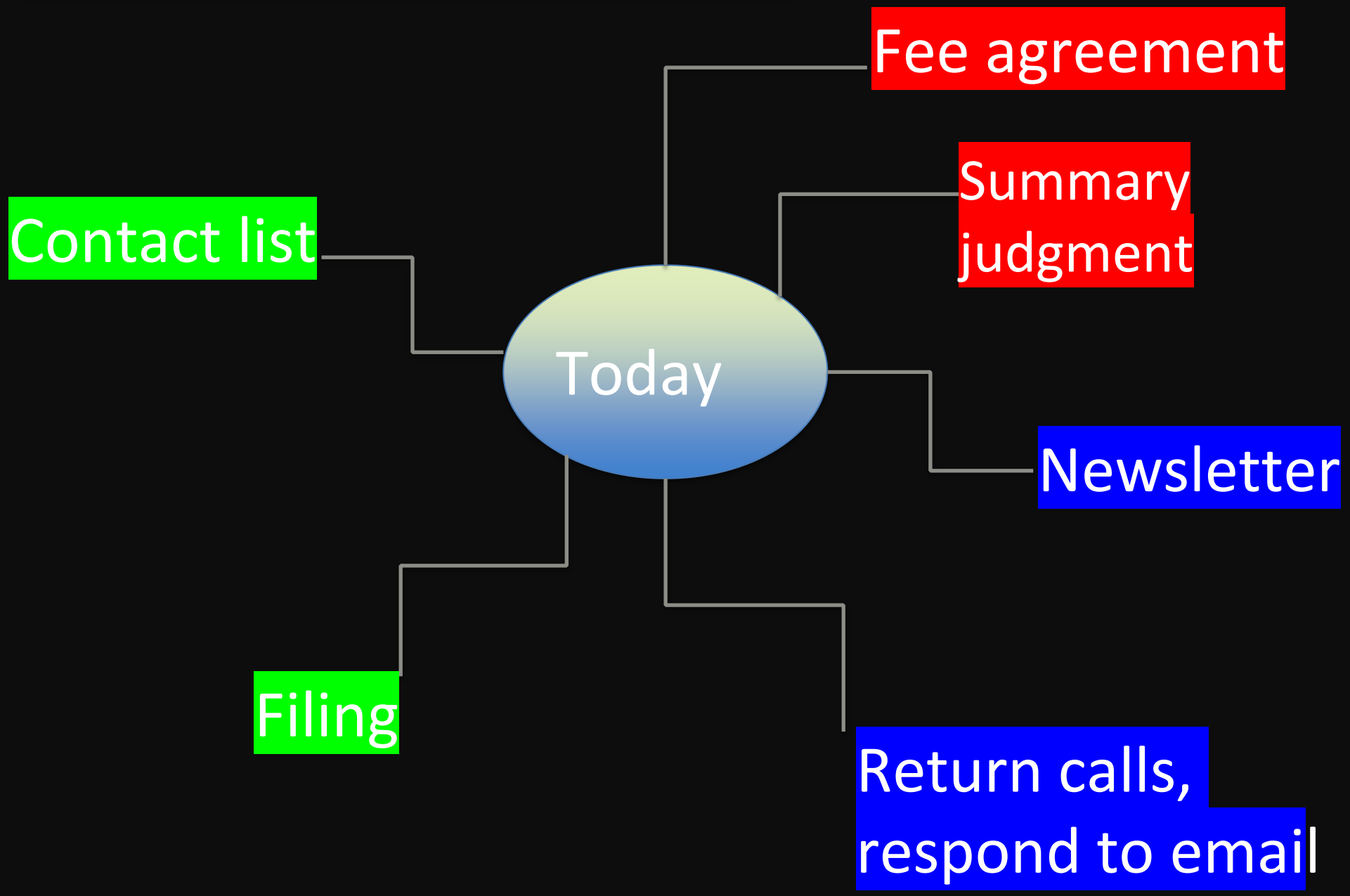
Employ self-discipline & focus

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 Carbonite or similar service.

To be really safe, clone your hard drive.

Glyph are best.

How to Backup Your Computer

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

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

Page 14

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

Tech competence

DCRPC 1.1 and LEO 371 suggest that a lawyer be and remain tech competent.

A proposed amendment to D.C. Rule 1.1, Comment [5] is before the DCCA and says:

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods**, procedures, and technology** meeting the standards of competent practitioners. It also includes adequate preparation and continuing attention to the needs of the representation to assure that there is no neglect of such needs. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more elaborate treatment than matters of lessor consequences.

Practicing internet safety

How to change unsafe passwords in your Google Account

How a Burner Identity Can Provide Safety

A Breach at LastPass has Password Lessons for Us All

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

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
- By adding lawyers to increase bandwidth

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

Lead generators? Caveat emptor!

www.justanswer.com

www.rocketlawyer.com

www.nolo.com

www.legalmatch.com

Read the Terms of Service & ask for references

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 16

9:15 a.m. - 4:30 p.m.

Lunch & Learn Series

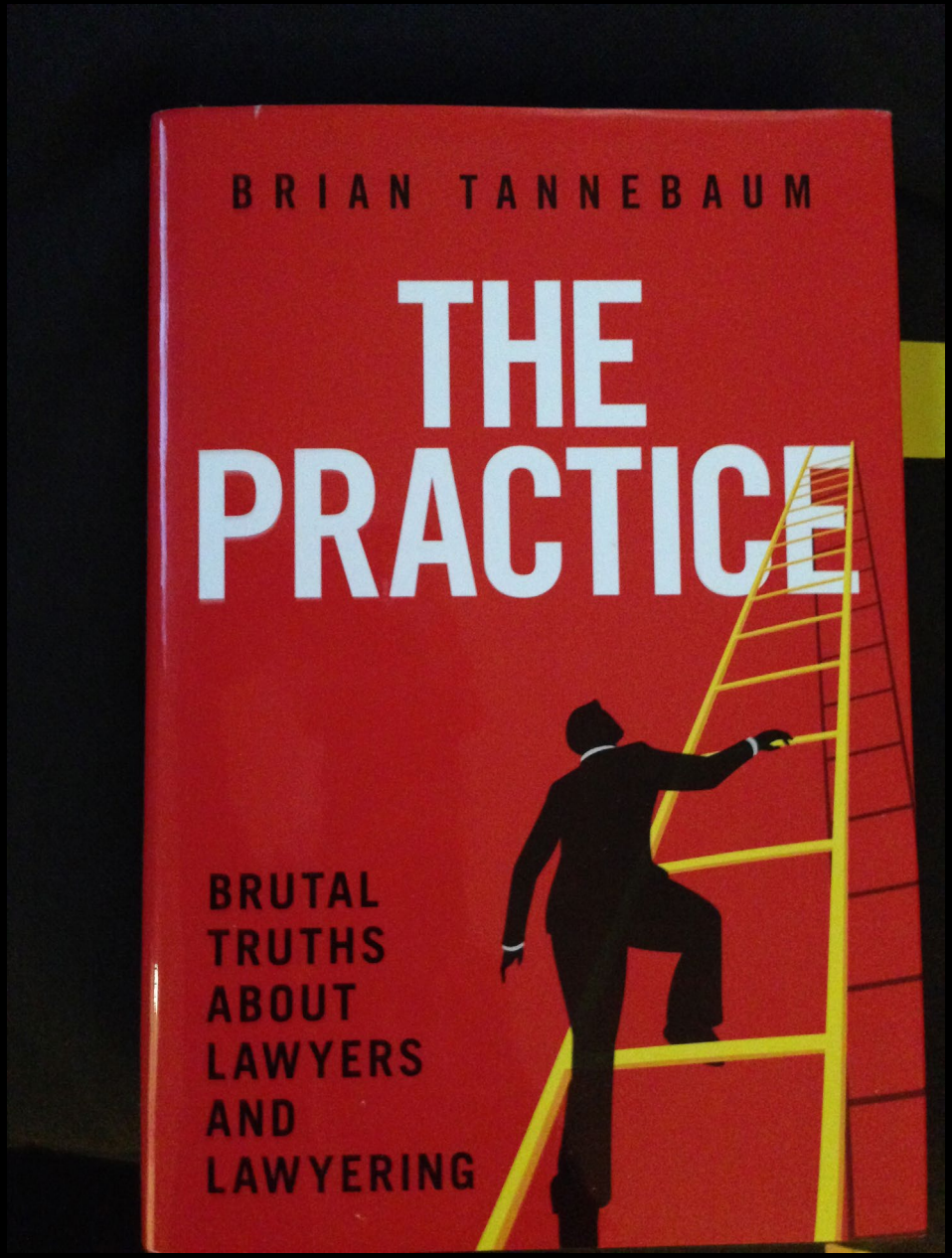
July 18, 2024 – Improving Hiring Success with Emotional Intelligence Screening

August 8, 2024 – LinkedIn Lab at D.C. Bar Headquarters with Annette Choti from Law Quill

Noon on Zoom

DC Bar Lunch & Learn

Our Newsletter



The Practice, amazon.com

Small Law 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

(None of the above are true.)

Practice Management Advisory Service

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