Law Office Management

Law 38645 – Spring, 2013

Visiting Professor of Law, Deana Pollard Sacks
University of Houston Law Center

Classes: Tuesdays and Thursdays 2:30 P.M. – 4:00 P.M.

Office Hours: Tues & Thurs 1:30-2:30 & 4:00 – 6:00 PM & by appointment. (I will also be in my office generally on Wednesday late afternoons/evenings before my torts class).

Professor Contact Information
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Course Materials:

1. Materials and Cases on Law Practice Management by Thomas McKnight Steele (Lexis Nexis 2004).
2. How To Start And Build A Law Practice, by Jay Foonberg (ABA, 5th Ed. 2004).
3. Some law review articles and other articles that are available online are also assigned – see daily assignments.

Suggested Additional Reading – for your benefit, not required.

4. Dale Carnegie, How To Win Friends And Influence People (basic communication strategies for getting what you want without alienating people).
5. Kenneth Blanchard & Spencer Johnson, The One Minute Manager (basic time-management and employer skills).

COURSE DESCRIPTION & OBJECTIVES: Students will be introduced to basic concepts of law firm management, predictable problems, and solutions. Student outcomes include: understanding the business of practicing law and the importance of a very organized and low overhead office; obtaining skills for organizing files, handling finances, and minimizing accounts receivables; knowing how to develop business and to keep good clients; and gaining communication and interpersonal skills to handle employees, clients, and the people involved in the court system. In addition, students are expected to understand how the practice of law has changed over the past century and, in particular, over the past quarter century based on the popularity of the internet and social media.

COURSE GRADING: The final grade is based on: **75% final paper & 25% class participation.**

The final paper will be a business plan or a 5000 word paper on a topic to be authorized by me no later than April 1, 2013. The plan or paper is due on April 25, the last day of class. I prefer you to bring a hard copy to class on the last day of class, but you may also email the final paper to me before the beginning of class on April 25, 2013.

Class participation means offering insightful comments during class demonstrating that you have read and analyzed the assigned materials.

CLASS ATTENDANCE: The ABA requires class attendance, and attendance will be taken daily. Please refrain from entering or exiting the classroom during class time, to the extent possible.

SEATING POLICY: Please decide where you would like to sit during the first few days of class and keep that seat for the semester. This allows me to create a seating chart and learn your names so that proper credit can be given for class participation.

A.D.A. STATEMENT: The University of Houston is A.D.A. compliant. Please submit A.D.A. documentation to the law school administration during the first week of classes or as soon as possible.

READING ASSIGNMENTS[1]

Class date	Reading assignment
January 15:	**No reading assignment. Overview of course materials, grading, and student learning outcome expectations. Introduction to concepts and problems of law practice management.** We will discuss the most common reasons that law firms and partnerships fail. Analysis of primary keys for success in operating a law firm: knowing yourself and your objectives, and controlling your time, your finances, and your files (organizational skills). **Guest speaker: David J. Sacks**, certified appellate lawyer and owner of The Sacks Law Firm in Houston, Texas.

Unit 1: The Business of Law, The Business Plan, The Importance of the Law Office Operations Manual, and Where To Go For Help With Your New Practice

January 17:	**Understanding the business of law and the risks and rewards of opening your own law firm versus finding a job.** Steele, pp. 3-19; Foonberg, pp. 8-24 and 595-599 and

[1] The syllabus is necessarily flexible in this class. You will need to attend class regularly to keep up on exactly where we are with the syllabus, as how quickly we get through the materials depends on the amount of student participation, when guest speakers can be scheduled, and so forth. **You are responsible for keeping up with the reading and being prepared to participate in class, even if we get off-schedule.** You may contact me anytime with any questions concerning the syllabus or assignments.

641-647. We will discuss options for making a living with a law degree and compare working for others with working for yourself. We will consider your goals and how to create the quality of life you want as a lawyer.

January 22: **The business plan. Read** Steele, pp. 155 – 187; Foonberg, pp. 49-53 and 436-439. We will discuss how to conceive a business plan that will meet your individual goals in opening a law firm, the contents of a complete business plan, and how you can use your business plan to get a bank loan for a start-up business.

January 24: **Tips on developing your practice, getting free help from experienced lawyers, and organizing your daily operations. Read** Foonberg pp. 613-616 and "*Sixteen Management Tips to Develop Your Practice,"* by Paul G. Ulrich, available on Westlaw at 53 No. 9 DRIFTD 20 (2011). We will discuss how these tips relate to the last class and course content, how to create a business plan, and how to think about your practice to maximize your success as a lawyer. Google "ABA Solosez" and "ABA General Practice, Solo and Small Firm Division," and come to class prepared to discuss what you found online in terms of ABA help for solo practitioners and small firms. Please obtain "*Law office Staff Manual Policies and Procedures: General Employment Policies for All Staff, Associates, and Partners*," from the ABA General Practice, Solo and Small Firm Division, Vol. 6, No. 3 (Spring, 2010): the last 5 pages of this publication will be our focus.

Unit 2: Start-Up Funds, Choosing an Office Location, and Start Up Necessities

January 29: **Start-up capital, office supplies and office procedures. Read** Foonberg, pp. 89-107 and 291-297 and 505-507 and 626-637 and Steele, pp. 570-572. Please also **read** "*Key Points to Consider When Borrowing Money*," available at http://practice.findlaw.com/law-firm-financing/law-firm-loans/ (There are a number of other articles on this site that you may find useful, please browse the articles for your own benefit). We will discuss how to raise capital to start your firm, how to maximize your chances of getting funding from a bank, and what you will need to start up your law business, both in terms of supplies and procedures and policies for your business.

January 31: **Finding the right office location. Read** Steele, pp. 513-544; Foonberg, pp. 61-85 and 517-518. We will discuss how to analyze the market and set up the right location for your business, as well as options for renting space, virtual offices, and setting up an office in your home. Please note that the market has changed drastically since the publication of our books; we will discuss changes in the real estate market in this regard.

Unit 3: Client Trust Accounts (IOLTA accounts) & Fiduciary Duties

February 5: **Guest speaker**: Bank of America Vice President and Small Business Banker **Dennis Silva.** Mr. Silva is an IOLTA and small business loan expert. Mr. Silva will explain how to set up your IOLTA accounts and give tips for obtaining a small business loan. Contact information for Mr. Silva: dennis.silva@bankofamerica.com.

February 7: **Client trust accounts. Read** Steele, pp. 283-318 and Foonberg, pp. 414-424. Come to class prepared to brief the cases and to discuss the seriousness of a lawyer's fiduciary duties relative to client trust funds: commingling funds and other mistakes with client trust funds are the fast road to *disbarment*.

February 12: **More on client trust accounts. Read** Steele, pp. 319-336 and Foonberg, pp. 576-581 and 588-589.

Unit 4: Marketing Your Business

February 14: **Marketing and advertising your legal services. Read** Steele, pp. 577-618. We will discuss how to develop business through advertising, networking, publishing in trade journals, and speaking at CLEs or conferences, as well as the boundaries of legitimate advertising.

February 19: **Marketing your business, continued, and avoiding conflicts of interest. Read** Foonberg, pp. 205-219 and 150-160.

February 21: **Marketing your business, continued. Read** Margaret Graham Tebo, "*50 Ways To Market Your Practice,"* ABA Journal (October, 2007), available at http://www.abajournal.com/magazine/article/50_ways_to_market_your_practice/. **Read** "*Websites for Attorneys*," produced by HG.org Legal Resources, available online at http://www.hg.org/lawfirm-website-design-tips.html. **Read** "*Marketing your law firm with social media,,"* produced by

	Lawyers USA, available online at http://lawyersusaonline.com/free-white-paper-marketing-your-law-firm-with-social-media/. Please come to class ready to discuss the marketing ideas presented in these articles and also be prepared to discuss how Facebook, Twitter, Linkedin and other websites can help you to grow your law business.
February 26:	**ABA publications concerning listening to your clients, rainmaking, Google tools for lawyers, and using the internet and social media to attract and keep clients. Read** Mary E. Vandenack, "*Building on Key Capital: Your Current Clients*," in the American Bar Association Law Practice Management Magazine Vol. 38, No. 6 (Nov./Dec. 2012) (available online); Read Thames Schoenvogel, "*The Essential Value of client Feedback*," in the American Bar Association Law Practice Management Magazine Vol. 38, No. 6 (Nov./Dec. 2012) (available online); **Read also** one or more of the following short articles to discuss in class. All are from the May/June 2010 Issue of the ABA Law Practice Magazine Section entitled, "*Smart Marketing: Ideas You Can Use To Get Your Firm Back in the Game":* 1) *Marketing Your Practice Today: How to Use Social Media to Network and Build Relationships* by Carolyn Elefant and Nicole Black; 2) *Hot Buttons: Making Your Web Site Visible: How to Find a Good SEO Company* by Sharon Nelson and John Simek; 3) *Legal Web 2.0 Free Productivity Power Tools From Google by Carole Levitt and Mark Rosch*; 4) *Lessons in Rainmaking* (Feature article, no author listed, page 57 of the volume).

Unit 5: <u>Getting and Keeping Good Clients, Avoiding/Firing Bad Clients, Dealing With Being Fired by a Client, and Managing Your Files To Serve Your Clients Well</u>

February 28:	**Guest speakers** from the Law Offices of Marcia Zimmerman, **Marcia Zimmerman** (Univ. of Miami Law School, class of 1979) & **Kristen Black** (U.H. Law School, class of 2006). These family lawyers are here to answer your questions concerning how they have created successful practices, how they handle clients under the stress of divorce and child custody disputes, and any other questions you may have.
March 5:	**Identifying good clients and creating and maintaining good client relationships: communication is key. Read** Steele, pp. 621-662.

March 7: **More on developing business and creating good client relations, avoiding conflicts, and the importance of returning client phone calls (to avoid the #1 bar complaint: failing to return client calls). Read** Foonberg, pp. 161-174 and 190-191 and 220-227 and 344-354.

March 11 – 15: Spring Break.

March 19: **How to keep good clients, avoid or fire bad ones, and deal with getting fired as an attorney.** Read Foonberg, pp. 228-251 and 363-370 and 393-401, 476-481. The initial interview is crucial and we will discuss how to distinguish good clients from bad clients by asking the right questions. We will discuss what to do when you catch a client lying to you or for other reasons you decide to terminate the attorney-client relationship. We will discuss how to handle a client who fires you as his or her attorney.

March 21: **Organizing your firm's practice for handling and maintaining client files, and creating a form file. Read** Foonberg, pp. 448-462 and 482-488 and 593-599. This is really about time-management and staying in control of your files and your caseload. We will emphasize the importance of avoiding time-consuming problems such as finding the right file under pressure. I will likely bring in some law files to show the class what properly-organized files look like, and we will discuss the virtues of a computerized filing system in your office.

Unit 6: Law Firm Accounting, Setting Your Fee, Creating Fee Bills That Get Paid, and Minimizing Client Fee Conflicts and Accounts Receivables

March 26: **The basics of law firm accounting. Read** Steele, Chap. 6, pp. 191-227 and Foonberg, pp. 440-447. Read the cases carefully and be prepared to brief them in class. We will discuss the problem of lawyers becoming too busy to oversee directly law firm accounting, and not knowing why profits are low. We will also discuss the serious problems that can result from a lack of attention to detail and precision in accounting, and the surprisingly common problem of law firm embezzlement.

March 28: **Setting your fee, fee arrangements, and engagement letters. Read** Foonberg, pp. 255-288 & 298-299. We will discuss how to value your work, different types of fee arrangements, the importance of a clear and unambiguous written fee agreement with your clients, and how to get cash up front (a retainer).

April 2: **More on setting fees, managing accounts receivables, and withdrawing from non-paying clients. Read** Foonberg, pp. 321-332 and 606-612 and 617-623. We will discuss common problems with getting clients to pay on time and some strategies for enhancing client loyalty and lowering accounts receivables.

April 4: **Effective attorney time-management, record-keeping and client billing practices. Read** Foonberg, pp. 300-315 and 335-343 and 355-362 and 508-514. Your product is your time, and staying on top of your time with accurate timesheets is critical to making a profit. The strength of your billing practices is directly related to your accounts receivables. The level of detail on the client billing statements is critical, as is tying statements to work product such as filings or hearings. It all starts and ends with time-management and the quality and precision of your recordkeeping. <u>The One Minute Manager</u> is helpful here.

April 9: **Lawyer ethics and avoiding disputes with clients. Read** Foonberg, pp. 523-568. We will learn to recognize types of cases ripe with potential conflicts and ethical problems and discuss strategies for avoiding disputes with clients (which often lead to state bar complaints, meritorious or not). This section does not teach substantive ethical rules, but rather, teaches the student to recognize situations in which conflicts are likely to arise.

<u>Unit 7: How to be a Good Boss: Choosing Good Employees, Keeping Them Happy, and Terminating Them Without Incident</u>

April 11: **Managing employees and creating harmony in the work environment. Read** Steele, pp. 367-393. How to avoid discrimination claims and other legal problems in the hiring process, and how to terminate employees on relatively good terms to avoid legal trouble. Please take a few minutes to go online and take at least one Implicit Association Test, preferably on gender or race. Google “implicit association test” to get to the Harvard test-taking website.

April 16: **Managing employees, continued. Read** Steele, pp. 393-438. This class will focus on creating a positive and successful relationship with your employees, which is mostly about communication and clarifying what you want and expect from your employees. We will discuss how to train and review employees, and continue the discussion concerning how to terminate employees successfully and without burning bridges. The One Minute Manager is helpful here.

Unit 8: Risk Management

April 18: **Risk management and professional liability insurance. Read** Steele, pp. 667-691 and Foonberg, pp. 425-433. We will discuss strategies for reducing the risks inherent in running a law practice and how to determine your insurance needs/what to look for in an insurance policy. It is not a good idea to practice "barefoot" as they say – one malpractice case could devour all of your time, which is your product, if you are not insured. Take a look at http://www.tlie.org/insurance/index.php re: purchasing malpractice liability in Texas, or contact Jason Syesta with questions: 800.252.9332 or jsyesta@tlie.org.

April 23: Guest speaker/TBA. Note that I am in the process of getting a State Bar of Texas guest speaker to discuss common ethical problems and how to stay out of trouble. If I cannot confirm this, we may watch the documentary Hot Coffee (2011), which is an interesting look at some of the effects of tort reform and related topics.

April 25: Last day of class. **Final papers are due at 2:30 PM. There is a full letter grade reduction each day the paper is late (unless excused).** Or you may email the paper to me before the beginning of class. **Guest speaker, Jamie Leigh Jones**, plaintiff in Jones v. Halliburton. She will share her experiences with the court system and help you to understand the serious risks of taking on big businesses in litigation, including bankruptcy of the plaintiff and her counsel.