

FEBRUARY/MARCH 1995

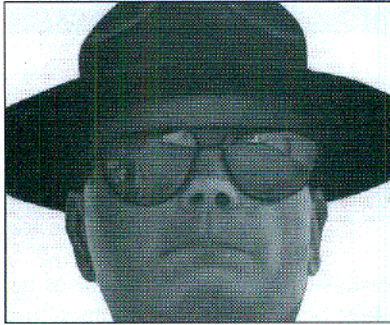
CBA

R E C O R D

Advice to Young Lawyers

*Be brief, be pointed;
let your matter stand;
lucid in order, solid, and at hand;
spend not your words on trifles,
but condense;
strike with the mass of thought,
not drops of sense;
press to the close with vigor,
once begun,
and leave,
(how hard the task!!)
leave off when done...*

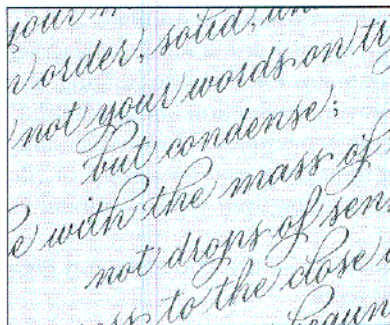
Justice Joseph Story 1779-1845



Page 25



Page 48



Cover design by illuminator Mark Van Stone of Austin, Texas

The **CBA Record** (ISSN 0892-1822) is the official publication of The Chicago Bar Association. Published eight times annually (January, February, April, May, June, September, October, November) for \$10 per year by The Chicago Bar Association, 321 S. Plymouth Ct., Chicago, Illinois 60604, telephone (312) 554-2000. Subscriptions for non-members are \$25 per year. Second-class postage paid at Chicago, Illinois and additional mailing offices. POSTMASTER: Send address changes to **CBA Record**, c/o The Chicago Bar Association, 321 S. Plymouth Ct., Chicago, IL 60604.

Copyright 1994 by The Chicago Bar Association. All rights reserved. Reproduction in whole or in part without permission is prohibited. The opinions and positions stated in signed material are those of the authors and not by the fact of publication necessarily those of the Association or its members. All manuscripts are carefully considered by the Editorial Board. All letters to the editors are subject to editing. Publication of advertisements is not to be deemed an endorsement of any product or service advertised unless otherwise stated.

FEATURES

20 Going Out On Your Own — Starting A Successful Law Practice

By Gary E. Cooke, II

Develop efficient methods for starting your own practice.

25 Just The Ticket — Traffic Practice

By Bonnie McGrath

You'd better have a road map if you're practicing in Traffic Court.

28 It's A Jungle Out There — Bankruptcy Practice

By Cindy M. Johnson

Handling a client with bankruptcy-related issues can drain your reserves.

SPECIAL SECTION: YLS — "LAWYERS WORKING FOR FAMILIES"

32 In A Spirit Of Humane Concern — A Primer On The Juvenile Court Act Of 1987

By Richard Holmgren

This law profoundly affects the lives of thousands and thousands of children.

40 Following The Rules — Student Suspensions And Expulsions

By Maureen Anichini Lemon and Pamela B. Hall

A lesson on the procedural due process rights of students.

44 Assessing Your Client's Case — Child Custody

By Terri Meyers

In domestic relations disputes, the toughest struggles may center around child custody issues.

48 Doing The Right Thing — Divorce Practice

By Jay H. Mittelstead, Jr.

Whether the client's goal is resolution or vindication, divorce litigation can try the lawyer's strength.

DEPARTMENTS

6 Editor's Briefcase

"Art" books every young lawyer should read.

16 President's Page

YLS Chair Linda Rio, at the invitation of President Richard J. Prendergast, tells about the Young Lawyers Section and its leaders.

8 For the Record

11 Bar Notes

52 YLS Section Activities

61 Classified Ads

Going Out On Your Own

Starting A Successful Law Practice

The practice of law is not only a profession, but also is a career and a business. If you are starting your own practice, you will need to develop efficient methods for practicing and achieving your particular growth and advancement goals. A business person prepares a business plan, a lawyer prepares a "practice management plan" — an integrated consideration of key issues affecting your development as an attorney, including practice focus, marketing, operations, successful management, finance and successful lawyering.

While by no means complete, this article provides foundation for further thought and investigation on starting your own practice.

Practice Focus

With what areas of law do you feel most comfortable? What kind of career do you want? Do you want to eventually seek a judgeship or practice forever as a litigator? Are you interested in the fast pace of finance or the personalities of entertainment law or do you want to be a tax code guru? Or maybe you want to be the tax code guru of the stars.

In evaluating your focus and career goals, determine whether you want to practice as a sole practitioner, join others in a firm setting, or work in an established organization. As a sole practitioner, you must learn to survive cash flow fluctuations and collection problems while continually marketing yourself and

Gary E. Cooke, II, is a CBA member and solo practitioner who concentrates his practice in domestic and international business law.



your services. You will be working on a variety of matters and solely responsible for your work. A sole practitioner, however, has direct client contact, develops relationships with clients, and has complete control of management decisions.

In a smaller firm setting, an attorney faces many of the same issues as a sole practitioner, but may have a more stable income. Part of your success will depend on others and management decisions generally are shared.

An attorney working for others will have a stable and steady income and the opportunity to specialize in an area of the law, but may not, initially, have any client contact and limited or no control over

BY GARY E. COOKE,

management decisions.

Before you decide to go out on your own, honestly consider your competence and how to provide services to current and potential cli

Marketing

Marketing means evaluating the need for your services and communicating those needing your services. Questions to ask yourself include: What is the general market for legal services? In what geographic market will I practice?

is my competition? What plan will I follow in client development?

If your practice will be a high volume/low fees practice, then billboards, television and phone book advertising may be the marketing choice. If your practice will be a low volume/high fees practice, then personal networking may be the marketing choice. Seek out opportunities, get involved in organizations and programs. Follow your interests and inclinations. If you enjoy something, whether it is religion, sports, finance, or science, get involved in clubs and groups that offer that kind of activity. Consider the kinds of clients that will build the practice you want. If you are interested in franchise law, for instance, then get involved in a franchise organization such as the International Franchise Association.

Referrals are also very beneficial. Talk to your classmates; find out their practice areas. Stay in contact with people whose company you enjoy.

Operations

A plan should include analysis of how you will handle the practical, day-to-day aspects of managing a law practice.

Business And Trust Accounts

When you open your legal practice, consider various bank services and evaluate your banker. You will need a client trust account, business accounts (checking and savings), and separate personal accounts. Determine whether the bank will be responsive to your needs as a small business and provide helpful financial advice as you grow. Also determine whether the banking fees will hurt your ability to stay in business.

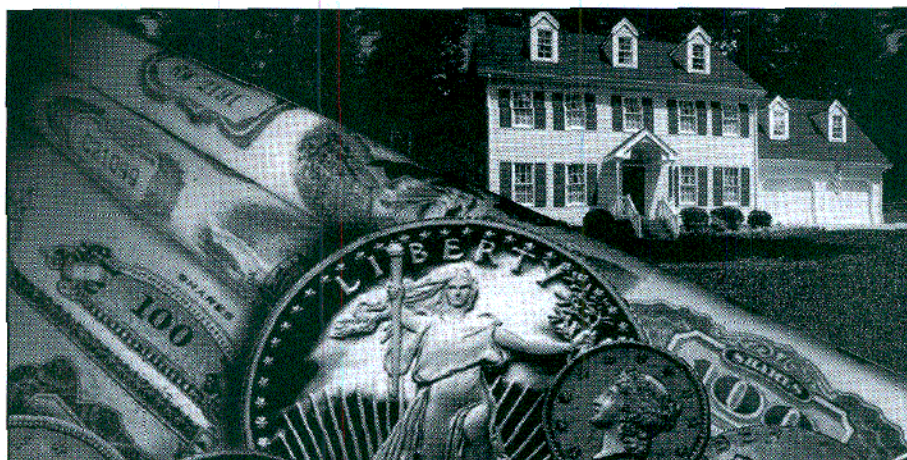
Computer Technology

Technology can be used for accounting, billing and firm management, word processing, case management, and accessing up-to-date information for legal research. A recent *ABA Journal* article cited a Price Waterhouse study on speed and accuracy of a document database search to paralegals. The paralegals searched

the documents for 67 hours and identified 15 documents satisfying the search criteria. The database produced 20 documents in 4-1/2 seconds. The authors' conclusion is that not only are there enormous risks in not automating, but also it "may even constitute negligence."

The authors also cite efforts by bar associations to enact minimum com-

puter literacy requirements for members and state that "in the not-too-distant future, the historical definition of literate will expand to include computers." Hubbard & Johnson, "Avoid Malpractice Automate," *ABA Journal*, September 1991 at 88-90. They predict that "attorneys who wish to practice in the 1990s must automate. Those who do not will no longer



HIRE EXPERTS WHO DON'T NEED PROFIT-SHARING OR A BIG CORNER OFFICE.

Your Trusts & Estates practice needs effective automation but you're too busy to do it yourself or haven't found the right product. Now, a unique software system is available incorporating the knowledge, judgment and drafting skills of leading Trusts & Estates attorneys into a dynamic, integrated computer practice system for Estate Planning Professionals. Introducing...

WEALTH TRANSFER PLANNING

a General Counsel Expert System

by Jonathan G. Blattmachr and Dan Hastings

- Recommends client-specific strategies in custom-drafted memos
 - Drafts wills, trusts, other estate planning documents
- Maintains a searchable database of all decisions and client information
 - Provides interactive expert commentary
 - Educates your staff
 - Keeps you up to date on the law and new techniques
- Adapts to your language and methods
- No computer knowledge required

THE TECHNOLOGY GROUP

36 S. Charles Street, Suite 2200, Baltimore, Maryland 21201 Phone (410) 576-2040 Fax (410) 576-1968

See a demonstration at TechShow95-Sheraton Chicago-March 31-April 1st
Call for more information and a complimentary pass.

be in business in the 21st Century?"

If you practice in a firm with computers, learn how to use them. If you do not currently have access to a computer, spend available resources on this technology. In either case, take the time over the next several years to become not only computer literate, but also proficient.

When you purchase computer equipment, you can expect to pay between \$1,700 and \$2,200 on a standard computer with a keyboard and monitor. Ink jet printers range from \$300 to \$700, and laser printers cost between \$800 and \$1,500. If you purchase a CD-ROM, add another \$400 to \$700. Software such as word processing software and bundled office software, personal information management software (or date books and address books), anti-virus software, and utility software can add another \$500 to \$1,000 to your purchase.

Other Office Equipment And Supplies

Will your copying justify the expense of buying a copy machine? Could you practice effectively without a facsimile machine? Prioritize your purchasing decisions. A desk, desk chair, client chairs, phones, a facsimile machine, access to a computer with necessary software and printer, stationery (or use of your computer to create it), are some of the essential beginning items.

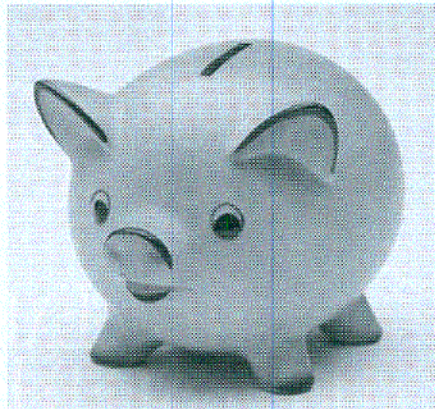
In addition, you may want a dictaphone. If you will be preparing forms without the use of a computer, you may need a typewriter. Do not forget a credenza, shelves, filing cabinets, extra desks and chairs, reception area furniture, and art work.

Office furniture such as a desk and chair can be as inexpensive as \$200 used or as expensive as the finest furniture. Facsimile machines range from \$400 for a basic unit to \$700 for a mid-range thermal facsimile to \$1,500 to \$3,000 for plain-paper facsimile machines. Consider, as an alternative, a modem and facsimile software for your computer. This is generally less expensive, but requires some time to get the details right, learn how to use the software and coordinate this operation with other activities

in your system. Basic copy machines range from \$500 to several thousands of dollars.

Phones with features like one-touch dialing, auto redial, and speaker phone start as low as \$70. Two-line phones can be as inexpensive as a few hundred dollars. If you decide to open an office with several phone lines and phones, systems can cost several thousands of dollars. Keep in mind the costs of installation, monthly charges and long-distance fees.

Expect CD-ROM or on-line services to add a few hundred dollars per month to your costs. While CD-ROM costs will remain stable from month to month, on-



line costs can vary depending on usage. On-line also requires phones, installation costs, monthly charges, and long-distance fees.

In general, expect to spend at least \$15,000 (if you are able to keep costs under control and buy at discount) outfitting your office with furniture, computers, and other equipment.

Location

Where do you want to practice law — in the city, suburbs, or the hinterlands? Each has different dynamics and different requirements. Are you interested in practicing in a high-rise or do you want a store-front office? An important consideration for location is the type of clientele you wish to attract. Where are your clients most likely to go and where will they feel most comfortable?

In Chicago, due to the commercial real estate glut, it is possible to rent space in the \$14 per square foot range. A small

office may cost \$1,000 to \$1,500 month. Office sharing is another alternative. Many independent attorneys that renting space from others can on rent and overhead expenses. In office sharing arrangement, rents can be as low as \$400 or \$500.

Business centers are another alternative; rents can range from \$18 to \$20 per square foot, with furniture, equipment, and some services supplied. In office sharing arrangement, the attorney usually has access to conference rooms, kitchens, copy machines, facsimile machines, and use of a receptionist. Business centers can generally provide secretarial services for a fee as well.

Staffing

When you begin your practice, will you operate alone or need a secretary or receptionist? Will you need other support personnel such as paralegals and associate attorneys? Will you need to hire personnel as you grow? Will you need full-time staff or will part-time support be sufficient? If you have a small or time practice, you may be able to practice without support staff. But when handling or other clerical matters reduce the time you can spend billing at your standard rate, a file clerk or secretary/receptionist should allow you to practice efficiently and productively.

Whether and when you need support staff is also a function of your technological sophistication and organization. For instance, I use a scanner for document preparation. If I have a document in electronic format, instead of sending the document to a secretary for typing, I can scan the document into my computer and do my editing as I receive the document. This process not only saves time, but also it saves paper and the need for someone else to under my notes or redlining.

Staffing issues also will include hiring and firing process, handling employee compensation, complying with employer tax and other regulations, and dealing with personalities.

A 1994 survey by the Institute of Firm Management of median salaries for support staff at firms of eight or

attorneys found that salaries for receptionists begin around \$14,000; salaries for legal secretaries begin around \$23,000; and salaries for paralegals begin around \$22,000. Morgenstern, "The Secretarial Advantage," *ABA Journal*, January 1995, at 75.

Library

Your library should be a repository for books, articles, forms, and material you will use again. A brief file is also useful as a reminder of the knowledge you have obtained and as a resource in future matters.

It can be beneficial to create a checklist of the necessary components of a matter and save a copy of your work product in a form library. The next time you have a similar matter, you will have the checklist and forms. These form files

will not only save you a great deal of time, but also will give you the opportunity to make incremental changes which increase the quality of your work. As you become more practiced and skilled you can also develop your own style and utilize language that you find more effective.

For newer attorneys or attorneys eager to learn quickly about a particular practice area, the Illinois Institute for Continuing Legal Education (IICLE) publishes practice handbooks on a variety of topical areas. Some of these handbooks, such as the "Residential Real Estate System" or "Corporation System" also include checklists and step-by-step guidance. In addition, many legal publishing companies offer form books for general or specific areas of the law. Some seminars offered through The Chicago Bar Association, the Practising Law Institute, the

Illinois State Bar Association, and other local bar associations, also provide materials useful in developing a library.

You may want to maintain a hard copy of your forms. Organize computer copies or disks in the same fashion so that you can easily reference both sources. Use the disk copy as your template and develop alternate clauses and language for the variety of different circumstances you encounter. Consider, as well, document assembly programs.

Ethics should also be a part of a law practice management library. I can organize my ethics material by general listing and in alphabetical order. The alphabetical listings include such topics as Advertising, Attorney/Client Privilege, Billing, Client Conduct, Conflict of Interest, Litigation, Malpractice, Management Professionalism, and Solo Practice. /

MEDICAL MALPRACTICE CASE EVALUATION • EXPERT TESTIMONY

- Addiction Medicine
- Allergy
- Anesthesiology
- Blood Banking
- Cardiology
- Cardiovascular Surgery
- Clinical Nutrition
- Colorectal Surgery
- Critical Care
- Cytology
- Dentistry
- Dermatology
- Dermatological Surgery
- Dermatopathology
- Dysmorphology
- Electrophysiology
- Emergency Medicine
- Endocrinology
- Epidemiology
- Family Practice

- Forensic Odontology
- Gastroenterology
- General Surgery
- Geriatric Medicine
- Gynecologic Oncology
- Gynecology
- Hand Surgery
- Hematology
- Immunology
- Infectious Diseases
- Internal Medicine
- Interventional Neuroradiology
- Interventional Radiology
- Liver Transplantation
- Mammography
- Maternal-Fetal Medicine
- Medical Genetics
- Medical Licensure
- Neonatology
- Nephrology

- Neurology
- Neuropsychology
- Neuroradiology
- Neurosurgery
- Neurotology
- Nursing
- Obstetrics
- Occupational Medicine
- Oncology
- Ophthalmology
- Optometry
- Oral Implantology
- Orthodontics
- Orthopaedic Surgery
- Otolaryngology
- Otolology
- Pain Management
- Pathology
- Pediatrics
- Pediatric Allergy

- Pediatric Anesthesiology
- Pediatric Cardiology
- Pediatric Critical Care
- Pediatric Emergency Medicine
- Pediatric Endocrinology
- Pediatric Gastroenterology
- Pediatric Hematology
- Pediatric Infectious Diseases
- Pediatric Immunology
- Pediatric Intensive Care
- Pediatric Nephrology
- Pediatric Neurology
- Pediatric Nutrition
- Pediatric Oncology
- Pediatric Otolaryngology
- Pediatric Rheumatology
- Pharmacy
- Pharmacology
- Physical Medicine/Rehabilitation
- Plastic Surgery

- Podiatric Surgery
- Psychiatry
- Psychopharmacology
- Public Health
- Pulmonary Medicine
- Quality Assurance
- Radiation Oncology
- Radiology
- Reconstructive Surgery
- Rheumatology
- Surgical Critical Care
- Thoracic Surgery
- Toxicology
- Trauma and Stress Management
- Trauma Surgery
- Ultrasound
- Urology
- Vascular Surgery
- Weight Management

All physician specialists are board-certified medical school faculty members or are of medical school faculty caliber. Experience in over 6,700 medical and hospital malpractice, personal injury and product liability cases for plaintiff and defendant. Specialist's curriculum vitae and complete fee schedule based on an hourly rate provided upon initial inquiry. Approximately three weeks after receipt of records specialist will contact attorney with oral opinion. If requested the specialist will then prepare and sign a written report and be available for testimony.

**DR. STEVEN E. LERNER
& ASSOCIATES**
1-800-952-7563

with your advice to clients, well informed decision making in your own actions and conduct is crucial to successfully practicing law.

Insurance

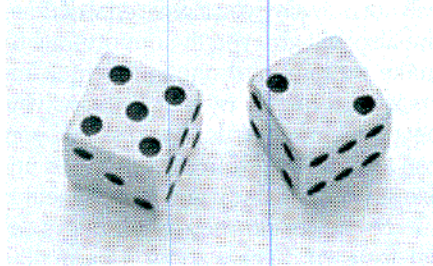
Consider your need for various kinds of insurance, including rental and liability insurance, required by most landlords. Also consider business property insurance, professional malpractice insurance, and personal insurance such as medical or disability insurance programs. Rental and liability insurance plans will vary depending on the coverage amounts set by your lease. Business property insurance will vary depending on the value of the property you want insured. Expect to pay, at least, a few hundred dollars per year. Professional malpractice insurance in Illinois begins as low as \$800 per attorney, but varies with the practice area and determinations made by the insurer. Medical insurance and disability insurance can be expensive, so consider your choices carefully. (The CBA offers a number of insurance programs. For information, call the CBA at (312) 554-2000.)

Administrative Systems

Sound administrative systems such as record keeping, client file management, litigation support, document management, reminder and docketing procedures, and accounting and billing will not only help to maintain and build your practice, but also they will take some of the fear and frustration out of practicing law.

Comprehensive practice systems, such as Juris, Power Law, Legal Edge, PINS, OMNILAW or JR. PARTNER, provide integrated programs for many of the processes listed above. Practice systems can cost as little as \$800 for a single user, but generally range from \$1,500 to \$15,000. While an integrated package may not meet your needs, specialized legal programs such as Ready for Trial, LiveNote and Discovery Video are available.

One record-keeping strategy is to know how much time you spend on a client project or portion of a project. I use a spreadsheet program, separate from my billing, to detail the time spent on a



project and its component parts. This is useful in several ways: (1) I can evaluate a matter with a client and, after determining a proper course of action, give the client a relatively accurate estimate of the total time; (2) during the course of a project I can determine whether changing circumstances will require more or less time and discuss these changes with my client; (3) by tracking time on similar projects I can determine whether I am performing more efficiently and, if I utilize set fees, whether I am performing more profitably; and (4) by tracking time on dissimilar projects I can determine which projects are most profitable.

Accounting And Billing

It is crucial that you know how much you spend and who owes you money. For a small practice, Quicken by Intuit is an inexpensive and efficient finance program retailing for about \$45. Timeslips, a time and billing program, retails for about \$190.

In billing, be consistent and persistent. Many clients reluctantly pay legal fees; accounts receivable of 90 or 120 days outstanding are not uncommon for law firms. In other industries, however, outstanding accounts receivable of 60 days are considered unacceptable. From the beginning of your business relationship with a new client, be very clear about your expectations regarding payment and use an engagement letter to reinforce these expectations and detail the scope of your services. Try to keep accounts receivable to no more than 30 days outstanding.

There are various methods of billing clients. Businesses generally hire attorneys at a fixed hourly rate. In matters which might be relatively routine, whether corporate, divorce, or bank-

ruptcy, a fixed fee arrangement may be appropriate. On the other hand, personal injury practice is generally based on contingency fees. Additional alternatives include retainers, hourly rate to exceed a sum certain with a percentage recovery, and premium billing.

Successful Manager

Prepare a plan incorporating your practice focus and philosophy and setting a three-year time line for development and growth. Are your expectations reasonable? What will you need to accomplish each of your objectives?

Finance

Determine the total initial costs for running your practice and whether funds are reasonably available. When you prepare the practice management plan, estimate costs on a monthly basis to determine the minimum amount needed to operate for a year. Prepare financial projections and calculate personal expense repayment, and interest on any loans to accurately determine what you need to survive and to grow. With these numbers, you can determine your billings and know what income you need to sustain in business. See Strusser, "Fees to Pay," *ABA Journal*, March 1991, at 53.

Successful Lawyering

Remember, successful lawyering goes beyond simply managing a legal practice. It involves upholding ethical standards and having integrity. It involves consideration for your client's needs and position. It involves rationally evaluating facts and circumstances and giving advice and guidance which is well researched, and competent. Successful lawyering also involves actively listening to your clients, seeking feedback on your performance, and continuing to learn to hone your skills.

You must prepare a plan for the development of your career and understand practice management concepts and goals. The structure you build will allow you to practice more effectively, competently with greater fulfillment. ■