

GPS Tracker

Publication of the General Practice Section
of the New York State Bar Association

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In the Driver's Seat—GP Section Moves Forward

by Martin S. Kera, Esq.

Welcome to the first issue of *GPS Tracker*, a publication of the General Practice Section of the New York State Bar Association ("NYSBA").

You are receiving this publication because you are a member of the General Practice Section, or because you are a NYSBA member who has indicated an interest in general practice.

In this issue of GPS Tracker—

Included in this publication are articles that we think will be of practical use to you as general practitioners. In it, you will find some helpful tips on networking, improving your cash flow, the use of social media in hiring, and more. (There is also a special offer or two that you may not want to pass up!)

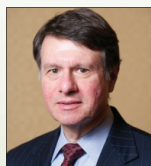
About the GP Section

As you know, the State Bar is not one-size-fits-all: the typical day of an attorney in a large firm in New York City may be different from that of an upstate solo practitioner. The needs of an attorney in a small firm who handles

a little bit of everything might be broader in scope than those of someone who specializes in one particular area of the law.

The General Practice Section is tailored to fit the needs of the general practitioner. We offer a broad knowledge base -- both substantive and procedural -- in the wide variety of areas encountered by general-practice attorneys every day. General practitioners are important to us, and we are here to address the issues that are important to you.

We hope you enjoy this publication, and we'd love to hear your feedback. **Please let us know what you think at GeneralPractice@nysba.org.** You can also learn more about the section at www.nysba.org/GP.



Martin S. Kera, Esq.,
(Kera & Graubard, New York,
NY) is Chair of the General
Practice Section.

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Financing the Trip— Five Tips for Improved Cash Flow

by Allison C. Shields, Esq.

1. Establish good billing practices.

Develop a consistent billing and collections procedure with a timeline for communication about fees. Don't wait until your retainer is exhausted before securing additional funds from the client.

Follow through and be meticulous. If you can't be bothered to send your bill on time, why should the client pay on time? Be flexible, but don't be a doormat.

2. Take money up front.

Require that clients pay something in advance and replenish the retainer periodically. Your clients will be financially invested in their matters, and you won't have to work for free or chase clients for money.

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Passengers Along for the Ride—Is Social Media Really Your Friend? The Legal Risks and Rewards of Online Social Networking in the Workplace

by Nancy B. Schess, Esq., and Khristan A. Heagle, Esq.

By now, many of us are LinkedIn, have “liked” a Facebook status update, or even used a “tweet” to update the world about something. Yet, the allure of social media -- with its speed and ease of accessibility to vast amounts of information -- can be dangerous when it enters the workplace. When a lawyer wears his or her “employer hat,” it is crucial to understand the rules before using social media to make an employment decision.

Three important tips to consider before turning to the internet:

1. “Friends Don’t Let Friends Google and Hire.”

Without question, you can learn a great deal of information about an applicant by reviewing his or her social networking presence. However, a problem arises when you learn information as an employer that you are not legally entitled to have. Since employers are not permitted to discriminate on the basis of an applicant’s protected characteristics (i.e., age, race, gender, etc.), New York law prohibits a variety of pre-employment inquiries that might lead to an employer learning about such a characteristic. Con-

sequently, as you venture into social media, even if unintended, you may discover information about an applicant that cannot be considered in making a hiring decision and that is therefore best not to have in the first instance. That said, law firms can safely use social media by setting up compliant “screening” protocols so that, for example, the decision-maker is not the same person performing the social media search.

2. “Think Twice Before Terminating an Angry Employee Who Posts Negative Information about Your Firm.”

The National Labor Relations Board has now weighed in and opined that certain types of employee communications on social media are protected activity. Specifically, where employees vent their frustrations about the workplace through social media, that communication may be protected as concerted activity under the National Labor Relations Act. In addition, New York’s “Lifestyle Statute” prohibits an employer from taking disciplinary action against an employee for certain types of off-duty conduct. Before disciplining an employee for social media activity, the prudent law firm employer should consider whether the activity might be protected under either federal or state statutory law.

3. “When in Doubt, Write it Down.”

A law firm’s best protection is a well-crafted social media policy which clearly communicates to employees the rules when using social media. An effective policy should, among other things, eliminate any expectation of privacy when employer equipment or systems are used, direct employees to protect confidential information (and in particular, client information), and clearly outline the firm’s expectations regarding the use of social media.

For better or worse, online social networking is now woven into the workplace fabric. Make friends with this powerful tool by understanding both the risks and the rewards it has to offer.

Nancy B. Schess, Esq., is a partner, and Khristan A. Heagle, Esq., is a senior associate with Klein Zelman Rothenmel LLP, a boutique firm representing management in labor/employment law.

Rain in the Forecast—Three Rainmaking Goals for your Next Cocktail Party

by Earamichia Brown, Esq.

The holidays are fast approaching and you may be invited to a number of cocktail parties. What’s your game plan? Remember, the goal of rainmaking is to form relations and gain trust so they can translate into business opportunities. So, here are three rainmaking goals to make before your next party.

1. Do Your Homework.

Is there anyone that you have wanted to meet that may be in attendance? What companies, firms, or organizations are sponsoring the event? If you can’t get a list, then think about the end game. Do you want to build a book of business, do you want to make a networking connection to develop a relationship, or do you simply want to expand your network? Now decide how many people you want to connect with and have your talking points ready.

2. Ask Relevant Questions.

Rainmaking is about connecting with people and developing opportunities where they will Know you, Like you, and Trust you. (I call it “KLT.”) If you don’t achieve KLT, then you won’t succeed in achieving your rainmaking goals. So make sure you ask good questions about issues that are important to the individual. For instance, if it is a potential client, make sure you ask about their legal issues or find out their motivation for hiring lawyers. What’s unique about their market, or business

area? If you are meeting people to expand your network, then ask questions geared to the identification of commonalities, likes, and/or dislikes. Your goal is to identify genuine mutual interests and/or commonalities to help develop a relationship based on KLT.

3. Take a Tip From Speed Dating.

Do not monopolize anyone’s time. Have your 30-second spiel ready. It should be a single sentence that illustrates something that you have recently worked on, but also demonstrates your area of expertise. Then make your introduction and identify any commonalities that exist. If you have something in common, find out how you can be of value to them. Make an offer to help, obtain contact information, and then move on to the next person. Remember your first goal is to leave with two or three genuine connections, because quality contacts are more important than collecting a bunch of business cards. Also, remember to follow up with them.

Now you are ready for the party. Don’t forget your umbrella!

Earamichia Brown, Esq., is the current chair of the New York State Conference of Bar Leaders. She practices at the Metropolitan Transportation Authority Office of the Inspector General in New York City.

Financing the Trip—Five Tips for Improved Cash Flow, continued

CONTINUED FROM PAGE 1

Consider requiring clients to maintain the original retainer balance by paying for work performed on a monthly basis. Use the retainer for the last payment and refund any additional funds to the client. Or request that clients replenish the retainer at strategic points when a large portion of the work will be done (prior to depositions, 30 days prior to trial, etc.)

3. Communicate your billing practices clearly.

Every problem with fees, billing, or getting paid relates back to the initial meeting with the client. You set the tone. It is incumbent upon you to ensure that your clients understand, acknowledge, and agree to your billing practices before any work is performed.

If you're hesitant, unsure, or unclear about your fees, the method or timing of payment, or other terms, clients will not take your fees seriously.

4. Send bills clients understand.

Even if you receive payment up front, send regular statements. Your bills should clearly state what was done, by whom and why, the fee charged, payment due date, outstanding previous balance, remaining retainer balance, and how payments can be made. Don't use legal jargon. If the client can't understand what your bill says, they will not want to pay for it.

Include your contact information on every bill, and the name of the person to contact about billing questions or discrepancies.

5. Make it easy for clients to pay.

Accepting credit cards or electronic payments reduces administrative time and headaches. Send clients an electronic bill with a link to allow the client to pay directly online, or obtain the client's agreement to charge a credit card within a specified period of time after the bill is sent, if no objection is lodged.

Offer a discount for early or on-time payment to encourage prompt payment.

Allison C. Shields, Esq., President of Legal Ease Consulting, Inc., provides practice management and marketing coaching and consulting services to lawyers. Contact Allison at Allison@LegalEaseConsulting.com or visit her website at www.LawyerMeltdown.com, or her blog at www.LegalEaseConsulting.com.

Technology Roadmap— Clio as a New NYSBA Member Benefit

by Teresa Schiller, Esq.

Looking for an all-in-one practice management solution for your office? Well, look no further. Try Clio. It will help you to run your office effectively, and you can subscribe at a discount because you're a New York State Bar Association ("NYSBA") member.

1. What is Clio?

Clio is a web-based practice management system. It is Internet- or "cloud-based," making it accessible on PC or Mac computers, smart phones, and tablets. Using Clio, attorneys can easily update their calendars and tasks, manage cases and documents, track trust and operating accounts, record their hours, and prepare customized bills.

2. Who needs Clio?

Clio is designed especially for smaller law firms and solo practitioners. For smaller firms, the costs of purchasing software, upgrading it periodically, and hiring technology support staff can be challenging. Clio allows smaller

firms to access a highly secure, sophisticated practice management system for an affordable monthly fee. Upgrades are automatic when users log in. Product support is included in the subscription cost.

3. What discount do NYSBA members get?

NYSBA members are eligible for a 10% ongoing discount on Clio, making the system available for \$44 a month per attorney and \$22 a month for each support staff person. Members can try Clio for free for 30 days.

4. How can I find out more?

For more information about Clio and its value to NYSBA members, go to www.nysba.org/memberbenefits.

Teresa Schiller, Esq., is an executive services counsel and the former director of law practice management at the New York State Bar Association.

Exclusive discount for General Practice Section members on New York Lawyer's Deskbook and Formbook!

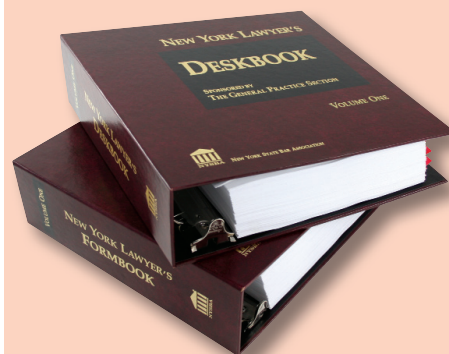
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ADDRESS SERVICE REQUESTED

Let's Not Reinvent the Wheel— Tips from the GP Section Listserve

Get questions answered and share information, forms, and practice tips with your colleagues. If you are a General Practice ("GP") Section member who wants to sign up for the listserve, simply e-mail your request to generalpractice@nysba.org.

Listserve is a convenient way to get information and save time. The GP Section's listserve enables you to meet your clients' needs more efficiently. You have the ability to pose questions to your peers or ask for referrals and reach hundreds of members. The listserve facilitates networking with your colleagues and allows GP Section members to informally discuss multiple areas of practice.

Here are some examples of recent posts to the listserve:

"When starting a law firm, do you know what the advantages are to forming a PC or PLLC as opposed to an LLP or LLC?" "What about filing requirements?"

"A P.C. must be documented and approved by the NYS Dept. of Education, and you must convince them that the only person(s) with ownership interest in the PC has/have the license to practice the profession for which the PC is being formed. To do this, you must file a Certificate of Good Standing with your Articles of Incorporation with the Dept. of Education and obtain their written approval for the PC formation BEFORE you can file with the Dept. of State. The same is true for a PLLC." Posted by Nancy Baum Delain, Esq.

"Can someone tell me the seller's obligations regarding underground oil tank on sale of residential property on Long Island. She opted not to do property disclosure and pay \$500 and purchaser has not asked for test or removal."

"Have a reputable company come and perform an inspection. Believe me, your client does not want to purchase the property with an underground oil tank. Where are you in the process? Has purchaser signed and returned the contracts?" Posted by Rhonda L. Maco, Esq.

Richard A. Klass, Esq., recently posted the new rules relative to the licensing of process servers in New York City. He also shared a sample bankruptcy retainer agreement for Chapter 13 and sample bylaws for a not-for-profit corporation.

Paul R. Kenney, Esq., forwarded a sample buy-sell agreement.

Stephan Siegel, Esq., recently shared a sample affirmation of engagement.

Henry Adler shared a sample companion-care contract/employment agreement.

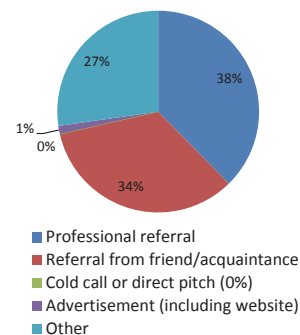
Listserve members regularly are made aware of new information that is crucial to their practices. If you do not want to receive daily emails, you can reset your settings online at the "Forums/Listserve" tab at www.nysba.org. You also can access previous messages,

and you have the ability to reply to or create a new message thread online. Many GP Section members find the listserve to be very useful.

We hope you will, too!

Roadside Assistance— We asked the General Practice Section, How Did You Land Your Best Client?

Here's what you said



Responses Received: 77

"...I ended up representing one of my very best clients because I sued him for someone else and after the suit was over (it took several years) he called me and asked to speak with me about representing him which I have now done for about 20 years."

See more "Other" responses at www.nysba.org/GPSResults