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Spring 2019

MAGAZINE

Practice Management & Marketing

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Cybersecurity Strategies

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The Legal Consumer Has
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6 Takeaways
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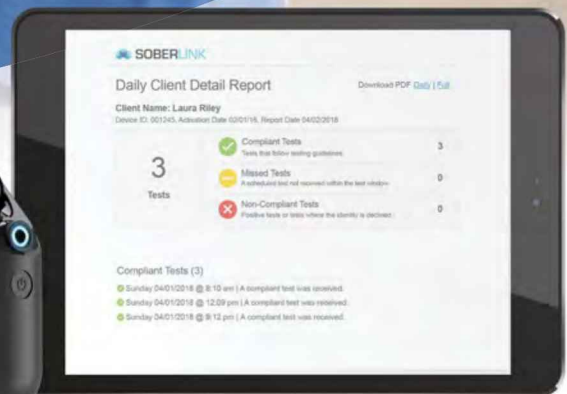
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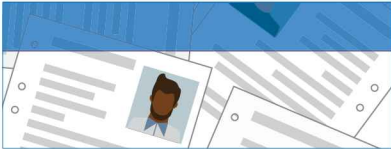
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MESSAGE FROM THE PUBLISHER



Dan Couvrette is the CEO of Divorce Marketing Group and Publisher of Family Lawyer Magazine and Divorce Magazine

Practice Management and the Peter Principle

In 1969, Laurence J. Peter published a book about the “Peter Principle”: a management concept suggesting that employees in a hierarchical company tend to rise to their “level of incompetence” after being promoted enough times.

As a skilled, knowledgeable, hard-working family lawyer, you may have risen through the ranks from associate to partner – or you may even have gone on to found your own law firm.

Unfortunately, your skills and experience as a successful lawyer are unlikely to help you deal with new technology, billing, and marketing to attract new clients. Hence the Peter Principle: you may now have

to spend less time practicing family law and more time managing your practice – a task that your successful legal career might not have prepared you for.

This can be a big problem for small firms and solo practitioners, who may lack the client relations, management, and marketing skills and support to build or maintain a thriving law practice. If that describes your firm, then take a look at:

- Video Marketing Your Family Law Firm (page 6)
- Best Practices for Family Lawyers (page 10)
- Podcasts: the Perfect Practice Promotion Tool (page 18)
- How a Time and Billing Software Can Increase Your Billable Time (page 20)
- Does Your Family Law Firm Have a Cybersecurity Strategy? (page 22)
- The Legal Consumer Has Changed – Are You Keeping Up? (page 28)
- CRM: Energizing Your Law Firm’s Marketing Strategy (page 49)

If you are a practice management savant, you will find plenty of other interesting articles in this issue – from courtroom strategies to legal and financial issues to life outside the office. Speakers from the May 2019 AAML/BVR National Divorce Conference offer reasons to bring your financial expert to mediation (page 32), tips on how to cross-examine an expert witness who has used the transactions method to value a business (page 34), and six key takeaways on the *Tax Cuts & Jobs Act* and alimony (page 48).

Since the practice of law is innately stressful, this issue also offers two articles to help you care for your physical and mental health: “Take a Trip to Texas” (page 40) and “7 Meditation Techniques to Increase Productivity & Reduce Stress” (page 42).

For resources and referrals, see our “Professional Directory” (page 44) or visit our website: www.familylawyer magazine.com/professional-listings. While you are there, we invite you to browse through more than a thousand articles and sign up to receive our monthly eNewsletter. If you are interested in contributing content to us, please email Editors@FamilyLawyerMagazine.com. ■

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complex wealth
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divorce?

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Videos need to be a part of your marketing strategy *now*. Learn how to ensure you have the best quality videos for your family law firm.

By Martha Chan and Dan Couvrette, Family Lawyer Marketing Experts

More than 1.9 billion users visit YouTube each month, watching more than a billion hours of video and generating billions of views each and every day. According to Cisco, internet video streaming and downloads are taking an ever-increasing share of bandwidth, and will grow to “more than 82% of all consumer Internet traffic by 2022.” Within the consumer segment, video streaming will be the fastest growing applications: 24% Compound Annual Growth Rate from 2016 to 2021.

There’s no question about the potential of videos to bring people to your website and to engage their interest once they’ve found you; the only question is whether you will take advantage of this growing trend or be at its mercy.

Prospective clients who visit your website have one thing in mind: should they hire you as their lawyer? Before making that decision, they want to learn more about you, your expertise, your firm, if you can solve their problems, and how much it will cost. Subconsciously or not, they also make that decision based on your personal style – especially when choosing between two similar law firms or lawyers. You are in a competitive market; in order to stand out and be remembered, you need to have videos on your website.

Videos Help Convert Visitors to Clients

Aside from an in-person meeting, the most compelling way to demonstrate

that your firm is the right fit for a potential client is through informative videos on your website featuring you and/or other attorneys from your law firm. If a picture is worth a thousand words, then a video is worth a hundred thousand words.

Well-produced videos can dramatically increase your chances of being contacted by website visitors. These videos should be engaging, informative, and create a great first impression of your firm. Videos also provide a lasting impression that can be far more effective than text or still photos. Divorcing people have a lot of questions, and they’re often confused about what to do and what they need. Offering the information they are seeking in short, accessible videos

will appeal to them – and possibly end their search for the right lawyer!

What you say, how you say it, and how you present yourself in the videos will help prospective clients decide whether or not you are the right fit for them. The right kind of video will help you attract the right kind of clients – and help to reduce the time spent on unproductive phone calls and initial consultations.

Videos can be optimized for search engines (Google, Bing, etc.) so that they show up in search results. They also enable you to broaden your Internet exposure because you can feature your videos on YouTube, Facebook, and on other websites in addition to your own.

Pre-Production Planning Is Crucial

The saying “Anything worth doing is worth doing right” was never truer than for video production. Poorly-produced videos are likely to create the exact opposite result to what you are hoping for, and most are a waste of time and money. We recommend you create a “firm overview video” and an “attorney video” that helps prospective clients understand why they should choose your firm and/or you. A set of videos answering FAQs about divorce in your state (or even city) – geared towards the type of clients you want to attract – will support and reinforce *your* firm and attorney videos.

Firm Overview Video: Branding at Its Best

This video should clearly state who you are, the type of clients you represent, what distinguishes you from other family lawyers, and how the client will benefit from retaining you. Consider the following two examples and you’ll see which type of client each one would attract:

- **Example 1.** “For the past 30 years, our firm has been helping business people and their spouses through complex divorces. We’re known for handling high-stakes divorce, and for keeping our clients’ divorce cases private.”
- **Example 2.** “For the past 30 years, I have been helping families achieve amicable divorces – while ensuring

that my clients receive their fair share.”

Attract Your Target Clients by Choosing the Right FAQs

Divorcing people are searching for information that will help them through the process from beginning to end, so the more information you provide, the better. Like your firm overview, the questions you answer should be determined by the type of clients you want to attract. Are you looking for high-asset clients, business owners, celebrities, high-conflict cases, mediated, or collaborative divorces? Answer questions based on the needs/wants of your target clients.

Scripts and Teleprompter

Write and rehearse what you are going to say. Experience has taught us that many lawyers are much more nervous in front of a camera than they are in court! Very few people can “wing it” well. Having a script and putting it on a teleprompter allows you to focus on your tone and delivery and come across like the expert that you are; it also reduces the number of takes, which saves time and money.

Tone and Manner

No matter what type of client you are trying to attract, you should present the most professional image possible. You need to *look* the part and *be* the part, ensuring that your message and delivery are consistent with each other. You do not want to come across like you charge \$600 per hour and that you only work with professional athletes if you actually charge \$300 per hour and work with middle-income families (or vice-versa).

The Video Shoot Location

Let the videographer help determine the best location in your office; he/she will factor in lighting and sound before deciding where to shoot. The space needs to be as quiet as possible: fluorescent lights and office equipment can create a surprisingly loud hum or buzz that is clearly audible on your videos.

What to Wear

In terms of outfits, most solid colors

are good. Make sure what you wear is not distracting: avoid loud colors or big patterns. You should also avoid shiny or jingly jewelry. If you will be using a green screen, do not wear anything green.

What You See Is What You Get

Once the camera is set up, take a look at what you can see through the viewfinder. Is your favorite painting or sculpture showing up the way you want? Are your Best Lawyers or Super Lawyer plaques in the frame? Are there fingerprint or coffee mug marks on your desk?

Marketing Your Videos

Once you have your final videos, share them! In addition to featuring them on your website, you can upload them to your social media pages, YouTube, and select divorce-related websites; you should also feature them in your newsletters and press releases. These kinds of videos – professionally executed, and with the right topics and scripts – are highly effective in terms of having your next ideal client find and book a consultation with you. ■



Dan Couvrette and Martha Chan are marketing experts to family lawyers. They are co-owners of Divorce Marketing Group – a marketing agency dedicated to promoting family lawyers and divorce professionals since 1996. They help lawyers attract quality clients, generate referrals, convert prospects into clients, and stand out from their peers.



www.divorcemarketinggroup.com

Related Article

Personal Branding for Lawyers

How to make personal branding and company branding work synergistically at your family law firm. www.familylawyermagazine.com/articles/personal-branding-for-lawyers

Family Lawyers and Law Firms Need Videos. Here's why:



A. Video Viewership Has Been Exploding

Videos will account for 82% of all consumer Internet traffic by 2022.¹

B. People Watch One Billion Hours of Video on YouTube Every Day²

85% of the United States internet audience watches online videos. The most popular videos are those uploaded by people or brands.³

C. Website Visitors Watch “Explainer Videos”

96% of people have watched an explainer video⁴, and 85% of executives prefer explainer videos to all other content types when learning about a product or service.⁵

D. Short Videos Win over Text

68% of people prefer to learn about a new product or service by watching a short video; text-based articles were a distant second at just 15%.⁴

E. Videos Help You Secure Clients

Your potential clients need information and many prefer videos to text. If they do not find videos on your website, they will seek them on your competitors' websites. The right videos could make the difference between losing business and being retained.

¹ Cisco, ² YouTube.com, ³ Statista.com, ⁴ WyzOwl.com, ⁵ The Economist

To view videos we have produced for family lawyers, visit:
www.DivorceMarketingGroup.com/our-services/video-marketing

Divorce Marketing Group Should Produce Your Videos. Here's why:



A. 23 Years of Marketing Family Lawyers and Supporting Divorcing People

We have been marketing family lawyers exclusively since 1996. We own and publish *Divorce Magazine* (launched in 1996), *DivorcedMoms.com*, and *Family Lawyer Magazine* (launched in 2012). No other video production company has our breadth and depth of knowledge in the divorce and family law arena.

B. We Will Help You Script Your Videos

Our experience enables us to minimize the time you need to spend on creating your videos and maximize the value you receive from them.

C. We Have Been Producing Videos for Family Lawyers for 15+ Years

We have scripted, shot, edited, and promoted countless FAQ, attorney, and family law firm videos for our clients.

D. We Will Promote Your Videos to 2.8 Million+ Visitors


Your videos can be added to our three family law focused websites: *DivorceMag.com*, *DivorcedMoms.com*, and *FamilyLawyerMagazine.com*. No one else can offer you this!



Best Practices for Family Lawyers

Advice from an experienced family lawyer on how to excel in the family law arena, work with your client, and grow your practice.

By Henry Gornbein, Family Lawyer



Family Law is often overlooked as a weighty and important area of practice, but the truth is that it is a vital and complicated legal area. Think of the fact that when people marry or start a relationship they believe it is forever. Sadly, approximately half of all marriages end in divorce. This is not even counting the many relationships that fail without marriage but leave children to be dealt with after the breakup or a one-night stand.

Everyone is unhappy in a divorce and it can be one of the most stressful and traumatic events in one's life. Some psychologists rank divorce among the worst possible events, second only to the death of a child or spouse. Divorces are difficult. Whether settled out of court, through mediation, or through a trial, a divorce can result in the following scenarios:

- Parents spend 50% or less of their time with their children.
- If one parent is paying child support and the other is receiving it, both sides are often dissatisfied with the amount; one feels that it is too little and the other feels that it is too much.
- Similarly, if spousal support is ordered, the recipient feels that it is too little and the payor believes that they are paying too much (especially since the *Tax Cuts and Jobs Act* removed the tax deduction for spousal support).
- Spouses must divide marital debts as well as property.
- There is a tremendous emotional cost to every divorce or custody battle.
- Attorney fees can be a delicate issue. Although usually untrue, many clients feel that they got a lousy deal and could have achieved the same result without having to pay for a lawyer.

Family Law Requires Broad and Deep Expertise

Do you outsource portions of your family law cases because you lack the experience or training to complete them yourself? Do yourself and your clients a favor by taking relevant seminars and courses and acquiring designations outside the law arena, such as:

- **Certified Divorce Financial Analyst®** (CDFA®) (www.institutedfa.com)
- **Certified QDRO Specialist** (CQS) (www.aacqp.org)
- **High Conflict Institute** (HCI) (www.highconflictinstitute.com). If you find yourself regularly dealing with high-conflict people (clients, their ex-spouses, or even opposing counsel in some cases), consider registering for webinars and online courses from the HCI.

To excel in the divorce arena, an attorney must have a wide variety of legal know-how and must be versed in a diverse array of legal principles that go beyond divorce, custody, and support laws. A divorce attorney must also be familiar with:

- **Real estate law.** Not only to deal with the marital home, but also to deal with investment property, commercial real estate, or a family farm in some cases.
- **Business and corporate law.** This can be very important, especially in high-asset divorces where one spouse must be compensated for the marital portion of a family business or multiple business entities.
- **Tax law.** Also, being able to read a spreadsheet, balance sheet, or a complicated tax return – whether business or personal – can be critical in many cases.
- **Retirement assets (including Social Security).** Some divorces will involve gifts, inheritances, or tort claims.
- **Family trusts and wills.** These could be key issues, especially where property has been accumulated over generations.
- **Ante- and postnuptial agreements.**
- **Criminal law and personal protection orders.** Domestic violence and

alcohol or drug abuse are increasingly important factors in many divorce cases.

Working with Your Client During the Case

A well-informed client will be able to make more educated decisions throughout the divorce process. Always remember that the client must live with the results for many years – perhaps for the rest of their lives – so you want to help them make the best possible choices during the process.

1. **Timely communication is critical**, so try to return all phone calls the same day. Surveys have shown that most clients expect to have a phone call returned within three hours. If that is not possible, instruct your staff to apologize and explain that there will be a delay in returning their call due to court or other pressing matters. Respond to all e-mails and texts in a timely fashion as well.
2. **Document everything**, copying clients on all correspondence including letters, e-mails, pleadings, and any other information that is part of the case.
3. **Face-to-face meetings** during a divorce or custody battle can help to reassure distraught clients.
4. **Divorces go in stops and starts.** Sometimes there may be weeks or even months where little is happening. Check in with your client to make sure that he or she knows what is going on.
5. **If there are court appearances or hearings**, make sure that the client is prepared. It goes without saying that you must be prepared, too.
6. **In court, be succinct.** Judges do not want a longwinded presentation that never gets to the point. Pleadings and oral arguments should spell out what you want for your client and why.
7. **Your client should be present at all court appearances** if possible. This is important for four key reasons. First, decisions are often made that

are critical to the case and the client must be involved. Second, if the motion goes well it is important for the client to see that. Third, if things do *not* go well the client must be there so that there is no third-hand information and so that you can do damage control. Finally, it sends a poor message to the judge if your client is not there.

8. **Have your client keep a diary or journal** to develop a case history as events unfold.
9. **Send a closing letter at the end of each case** and/or hold a final meeting to go through any remaining issues and make sure that all of your client's concerns have been addressed.
10. **Send your bills – especially the final one – promptly.** According to lawyer Jay Foonberg's "Client's Curve of Gratitude," even if you achieved your client's goals, their satisfaction with your work starts to decline almost as soon as the case is over. This means that the longer you wait to bill, the less likely the client is to pay.

Building Your Family Law Practice

Unlike other areas of the law, family law practice has few, if any, institutional clients. Thus, a family practice must "reinvent the wheel" every day: every time we finalize a divorce or other family law matter, we have to replace that client or case with a new one. The goal is to build a broad network for future referrals – and that requires satisfied clients. A satisfied client can help to build your practice while an unhappy client can do damage to your practice.

1. **Don't forget that your clients are real people with real problems**, and some of them may be scared to death about what the future holds. Listening to a client's issues with empathy rather than a tunnel-vision focus on the facts has been shown to increase client

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Collecting & Presenting Evidence

“Well Begun is Half-Done” applies to trial preparation – especially in relation to gathering, organizing, and presenting evidence.

By William Geary, Family Lawyer

After over 40 years of practice (in family law for the past 22 years), I have gone through a number of methods to gather evidence. Two things that have not really changed are collecting evidence from witnesses and methods to obtain and organize documentary and other types of evidence for presentation.

Your Witness List

Your potential witnesses can (and usually do) include family members, employers, tax preparers, counselors, physicians, educators, coaches, records keepers, and others. When the court requires a pretrial statement from you, you will draw up a list of people who fit in the above categories. Make sure that list includes the following information:

1. The witness' address and contact information.
2. The witness' availability to appear at a hearing or trial.
3. The witness' willingness to appear at a hearing or trial.
4. Whether the witness' employers will permit them to testify.
5. How to process a subpoena for the witness.
6. What evidence you would need the witness to produce.
7. Most importantly, what the witness will be able to add to your case.

Talking with your potential witnesses well in advance of trial may reveal weaknesses or strengths in your case – or even other witnesses or evidence you were unaware of before speaking with them.

Documentary Evidence

At one time, getting documentary evidence was a cumbersome and time-consuming task: you would ask the client for copies of bills, receipts, tax returns, etc. and when the client eventually found them, they would either bring the documents to your office or mail them to you. Now, clients usually respond to a request for documentary evidence with a scanned version of the document within minutes.

What about evidence regarding court rules or the law? Instead of going to the library and looking it up, most rules and laws are available to be printed online. What about evidence from commonly consulted sources? Again, the answer is online. The same applies to many things such as auditors' valuations of real estate, purchase prices for real estate, stock prices, incorporators of companies, statutory agents of companies, and prior marriage, divorce, dissolution, or custody records.

Cont. on page 14



WHEN IT COUNTS.

When your client owns a business that will be included in a divorce settlement, the stakes are high. For law firms whose clients are involved in complex divorce cases, Alvarez & Marsal provides expert witness services in business valuation, asset tracing and other financial matters. We gather and preserve evidence for trial and provide written and verbal opinions, rebuttal opinions and cross-examination assistance, always with a commitment to objectivity, quality and integrity. Visit us online at <https://www.alvarezandmarsal.com/expertise/valuation/divorce-services>

Contact: **Arik Van Zandt**
avanzandt@alvarezandmarsal.com
+1 206 664 8952



Not long ago when someone made a statement about their spouse saying something to them, we would ask if there were any witnesses, and the response would be, “No.” End of story. Today, when someone makes a statement about their spouse saying something to them and we ask if there were any witnesses, the response is often, “No, but he texted it to me.” Now we have “evidence” of the statement or threat.

With the rise of social media usage, our clients often offer extremely valuable information created and posted by the other party. **Note:** You should never have a member or employee of your firm pretend to be a “friend” of someone who may be posting unsavory information about your client – but if your client or some legitimate contact of the other side has lawfully received such information, it may be very helpful to your case. We have had total custody changes in cases based mainly upon what one of the parties was posting on social media as opposed to what the party was telling the guardian ad litem.

Voice-mails and Recordings

We are also receiving more and more voicemail evidence and recorded conversations. **Note:** It may be illegal in your jurisdiction to record conversations or record the conversations of two other people, even if they are in the same conversation in which one is participating. Therefore, check the law before considering using any recorded conversations as evidence – and well before suggesting that a client record conversations with their ex. If there is a large number of long voicemails, other potential issues include:

1. Being able to get to the relevant portions of the voicemail/recording(s) without boring and potentially angering the court.
2. Having the “full and complete” voicemail/recording for presentation or back-up to your sections.
3. Planning ahead on how to present these in court.

If possible, check with your Judge

or Magistrate regarding presenting voicemail/recordings in the following manner: presenting a “summary recording” that has just the relevant portions from your full recordings. “Pre-index” the full recordings and the places where things can be found (“CD 1: Track 3 – 0 hours, 56 minutes” or “CD 4: Track 1 – 2 hours, 3 minutes” etc.) so that you can find the relevant portions quickly. Keep a similar list regarding your “summary recordings.”

Keep the lists with you and with your list of exhibits. This allows you to reach each of the pertinent sections and play them as needed. Placing the full and complete recordings into evidence along with your excerpts should preempt any objection that the excerpts have been taken out of context. Ready your client (or whomever originally made the recordings) to identify and verify the complete sets as well as the excerpts, which the client should actually have prepared.

Bring a laptop to court to play the recordings. Line them up in the order in which you are going to use them, and ensure the full recordings are easy to find and access at a moment’s notice. Burn CDs with the summaries and the full recordings so that you can provide a CD to opposing counsel in exhibit exchanges – and also so that the recordings and summaries can be marked, identified, and entered into the record as exhibits.

Organization and Tracking for Presentation

Let’s say you now have all your witnesses, bills, appraisals, photos, emails, tax returns, expert reports, voicemails, etc. How do you keep track of and organize them?

The best way to start organizing, from the beginning, is to create the following:

1. Pretrial statement.
2. Spreadsheet.
3. Trial notes.
4. Trial notebook.

1. Pretrial Statement

You know that the court is going to have you attend a pretrial sooner or later and that you will have to do a pre-trial statement, so why not start one at the very beginning of the case? Starting it then will give you a working document and list so far as evidence to be presented from witnesses, recordings, voice-mails, and documentary evidence are concerned. No more going back through file after file to find what might need to be in the statement and no more of the same when preparing for trial. Preparation of the pre-trial statement from the beginning will help you keep track of issues and the evidence and witnesses who need to present evidence for those issues.

2. Spreadsheet

Nothing can help you track assets and debts or changes in those or give you a bottom line relating to different allocations like a spreadsheet, so why not start one at the very beginning of the case? As you are supplied evidence of different assets, debts, or incomes, you can list them in the spreadsheet, noting the amount, date, source of the evidence, and witness information if necessary. Different scenarios from different potential *de facto* dates, for instance, can keep track of the different values and different exhibits you may need. This spreadsheet will help you see what you still need and if there are exhibits missing for certain portions.



3. Trial Notes

You know that you are going to have to develop a guide to your questions regarding all the information you have to present and all the issues you will have to cover, both in hearings and trial. Why not start your trial notes at the very beginning of the case? Starting it then will give you a working document and list for questions, issues, and evidence. Again, at the end, no more going back through file after file to find what might be good for you to cover when preparing for trial. Indexing issues or themes so that they are easy to access will help you efficiently update potential questions for trial. Insert copies of exhibits or e-mails so that when you are questioning someone at trial you will have exactly what you need in front of you. Preparing and amending as you go along in your case is much, much easier than trying to put all of this together at the end. Keeping a list of “things to do” at the beginning of your trial notes will also help keep you on track for records

depositions, records, experts, and all other matters of preparation.

4. Trial Notebook

Whether your court requires it or not, you should have a trial notebook with all your exhibits in it when you go to trial. Exhibits would ideally flow in the same order as the testimony you want to present (but that is not always possible) and they should, hopefully, be organized by and grouped under themes. Starting this notebook from the beginning – perhaps even including some of the other side’s pleadings, motions, and financial or custody affidavits – will give you a good basic reference source to use as you prepare for trial and as you present your case.

To quote Mary Poppins: “Well begun is half-done.” That applies to trial preparation – especially in relation to gathering, organizing, and presenting. Good organization, from the very beginning, should result in the best possible presentation. ■



Attorney William Geary practices solely family law in Ohio. He is admitted to the Ohio Courts, the Federal Court for the Southern District of Ohio, and the Supreme Court of

the United States.

www.columbusfamilylawyer.com/attorneys/william-l-geary

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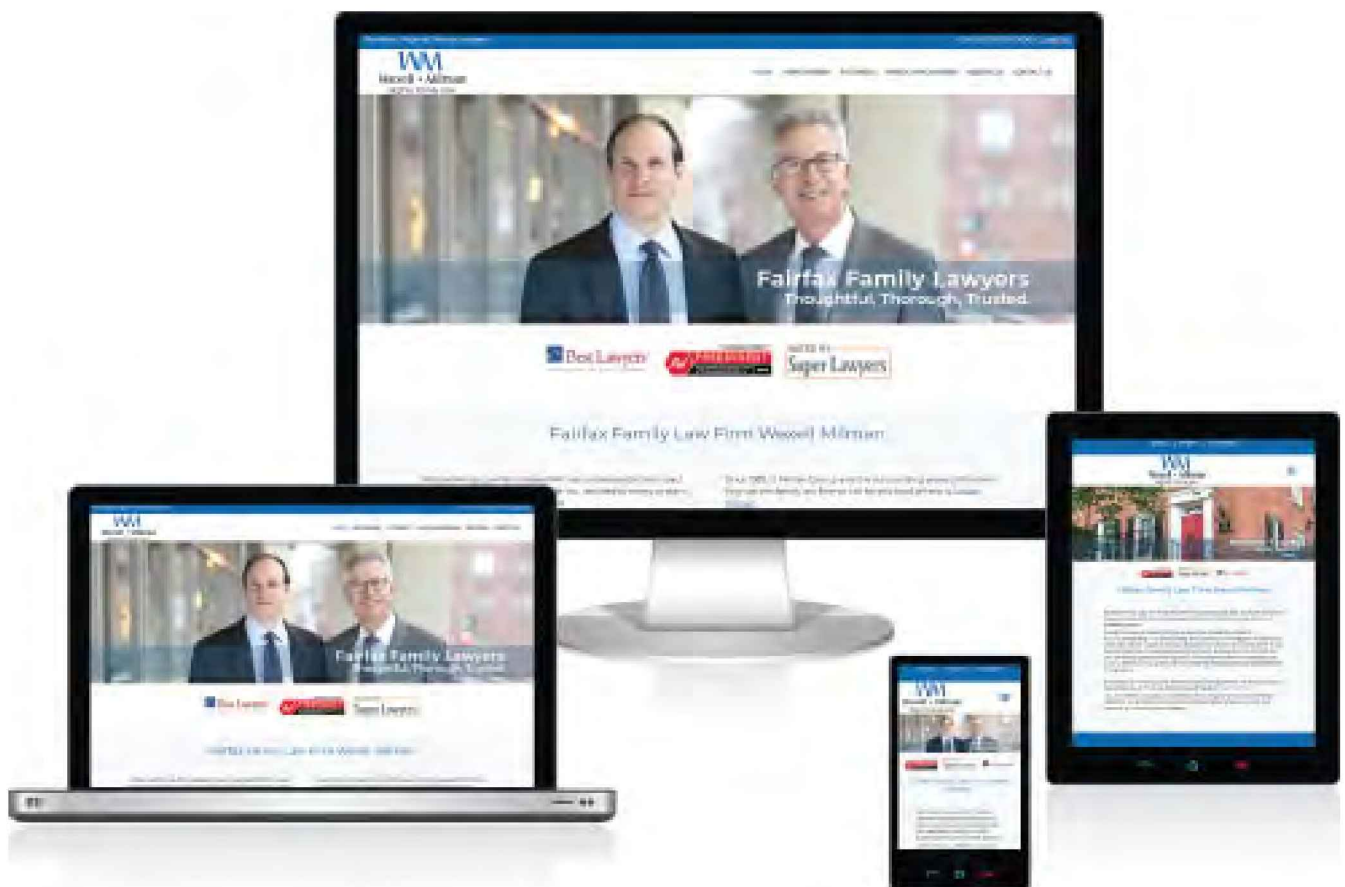
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“I just wanted to tell you that our website looks really nice and I appreciate all of your hard work on it and your patience with me and Melanie!” “I second that. You’ve been extremely patient, responsive, and knowledgeable – all things that are a big plus for two type-A attorneys with zero marketing savvy.”

~ Nissa M. Ricafort and Melanie K. Reichert, Attorneys
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“Thank you for sending me the link to your Firm’s website. It is very reassuring to read about your accomplishments and affiliations... in reading through the Family Law page, I really appreciated the Firm’s policy on actually focusing on reducing emotional stress and financial burden. I am terrified, to be honest, because divorce is a major change. But I now have a great deal more confidence in my selection of representation.”

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PODCASTS

The Perfect Practice Promotion Tool

Armed with only a microphone, a laptop, and an interesting topic, you could soon be building credibility for your personal brand – and attracting new clients to your office.

By David Pizarra, Family Lawyer

“You talk a lot. Some of it’s even good. You should do a podcast.” So began my adventures with podcasting. I had no idea what a podcast was, or why anyone would do or even listen to one, but my friend Mark was sure I needed one, and I trusted him.

In typical lawyer fashion I did my research on what a podcast is: essentially it’s on-demand radio. Most podcasts are audio, although there are some video, which is a growing format in popularity. Imagine being able to listen to your favorite radio show – whether it’s *This American Life*, *A Prairie Home Companion*, or *Planet Money* – any time you wanted. That’s the benefit of a podcast.

If you have a smartphone (and who doesn’t these days?), there are free apps that come either preloaded or that you can download for listening to a podcast while you commute, workout on the treadmill, mow the lawn, or do the dishes. I’ve used the Podcasts app, Podbean, Overcast, and Stitcher to enjoy the 10 shows I subscribe to, and I’ve found they all have different benefits and aspects I like and dislike.

Podcasts: the Ultimate 24/7 Marketing Tool

As a lawyer, you have knowledge and experiences to share with the world (read “your future clients”). The beauty of this listening flexibility is that once you put out an episode, it remains there to be found 24 hours a day, 7 days a week.

I write from a place of experience. My “Men’s Family Law” podcast (available on iTunes, Stitcher, and www.MensFamilyLaw.com) has been live for a few years now so I have a track record of downloads and email comments from listeners. They tell me their decision to hire me was based at least partly on the benefit of the information that I gave away to them. My show is very simple: it’s 3 to 10 minutes of me talking about some aspect of family law and how it will be implemented by a judge, then I usually interview someone of interest to my listeners. My guests have included dating coaches, personal trainers (for that post-divorce “gotta get in shape” segment), psychologists to talk about parenting plans, parental alienation experts, forensic accountants, forensic psychologists, other lawyers who specialize in complementary areas, and fathers who have inspiring stories of how parenthood changed them.

From an investment perspective, my show has cost me approximately \$750 and I can trace more than \$300,000 in revenue back to it. That makes for a fantastic return on investment!

Increased Credibility and Faster Client Conversions

I am not a celebrity, but hosting a podcast increases my credibility with potential clients and automatically makes me an expert on whatever I’m talking about. Since I create my own show, I can highlight

and examine the issues my future clients will be facing. I am educating and entertaining my prospective clients while they come to know, like, and trust me – all before they step foot in my office. Imagine being able to have your prospects already know your answers to the top five questions that every prospect asks – what a time saver!

When someone comes in for a consultation, and they've already listened to my podcasts, it makes the conversation more beneficial to both of us since I'm not going over all the basics. They feel more empowered and engaged with me, which makes them a better client.

Another great benefit to having a podcast is that it opens doors when I want to interview someone who might become a future friend, colleague, or referral source. When I send an email asking someone to be on my show – and let them know that it is a 20-minute Skype, Zoom, or phone call – they're eager to say yes. I've only had one person reject me, and in retrospect, I'm glad: they would have been an awful guest.



Getting Started: from Show Design to Distribution

To get started with podcasting, you need a microphone, a computer, and something to talk about.

Podcasters use many different types of microphones – from those earbuds that came with your phone (not recommended) to a super-expensive, professional quality mic (not recommended for first timers). I started with a \$79 Blue Snowball that connects by USB to my laptop. It's been a true workhorse of a mic for me, and I continue to use it today.

My computer was a three-year-old Apple MacBook Pro that came with GarageBand. Here are the steps I took to create my first podcast:

- Step One: Open GarageBand.
- Step Two: Hit record.
- Step Three: Start talking.

Granted my first episode was horrible, but that was operator error. I'm not a trained radio personality so I had to learn to put more energy into my presentation. Being more dynamic is crucial to having an interesting show. After my debut, each show was better than the last, and today, I can handle anything that a guest throws at me.

Figuring out what to talk about was the next step, so I created a content calendar on a spreadsheet with the episode number, topic, and a potential guest. I made a list of things I found interesting and/or thought my clients should know before they came to me, then worked my way down the list. Making

my list, I realized that I had many topics to chat about – and you will, too, if you are well-versed in your field of law.

Funny side note: I was chatting with a friend as we developed her show, and she thought she had nothing to say, so I asked a couple of questions and in two minutes she had enough topics for 20 episodes! You know more than you think you do, and your listeners know almost nothing about your topic (and what they *think* they know is often wrong), so make your list and start talking!

Marketing ourselves and our law firms is always a difficult task because lawyers are not trained to promote ourselves. With a podcast, you can demonstrate your knowledge, personality, and ability all from the comfort of your home or office. Expect your first podcast to be terrible; just do it, learn from it, and throw it away. Your second one will be better.

Podcasting has taken me around the world both in the reach of my show and in person. I spoke last year at the Global Speakers Summit in Auckland New Zealand, and then in

Johannesburg, South Africa on "Podcasting for Professionals". Last October, I was in the United Kingdom leading a workshop on developing a podcast for the UK's Professional Speakers Association.

For the cost of a dinner at your favorite Italian joint, you can become a podcaster, find new clients, open doors to people you want to meet, and maybe find a fun new hobby. I know I did, and I'll always be grateful to Mark for that. ■



David Pizarra is a Los Angeles family law attorney who focuses on men's and fathers' rights. He offers trainings for other lawyers across the nation for Thomson/Reuters on topics as diverse as family law for men, international child custody, domestic violence, and podcasting for professionals. www.TheLegalMastermind.com

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How a Time and Billing Software Can Increase Your Billable Time

Scott Clasen, the Director of Marketing at TimeSolv, discusses the power and impact of a time and billing software on the bottom line of a family law firm.

What are some of the best practices on time tracking?

There are seven different methods we recommend family law firms use to increase their billable time – and none of them include working more hours! This is about using the right tools combined with the right process to capture more billable time through efficiencies. Here are the seven best practices we recommend:

- 1. Create a documented time tracking policy.** Make sure the entire firm knows the expectations.
- 2. Establish a firewall between time entry and invoicing.** Creating invoices is not the time to be making or approving time entries.
- 3. Enter all time by the end of the day.** This should be the keystone of your time tracking policy.
- 4. Capture all the time, not just billable time.** This is the secret sauce to see how efficient your firm is. If a billable person is only billing 20% of a 40-hour week, what are they doing with the rest? Find out.
- 5. Review missing time once a week.** The billing administrator should check every Monday to see if time is missing.
- 6. Close out time entries every week.** This means that your timekeepers cannot make entries from past weeks or months.
- 7. Commission incentives.** If your firm doesn't have a commission structure, you should consider it; this will motivate timekeepers to make sure to track all time.

Of all the proven methods to increase billable time, which one is most important?

By far the most important is to create a documented

time policy. All the other methods I suggested should be part of that policy. A firm doesn't have to incorporate all these tips at once – but the first step is to create a policy.

How can family lawyers increase their billable time by using Timesolv?

TimeSolv makes creating time entries extremely easy using our web browser, mobile app, or TimeSync widget that allows you to make time entries even when offline.

Tell us some of the results your customers have experienced after adopting these best practices?

Our customers report that they save, on average, 8+ hours a week in their billing process each month – which means they've gained at least one full day in billable time!

Is a time and billing software like this beneficial to a solo practitioner or a small law firm?

TimeSolv was made with the solo or small firm in mind. We give attorneys exactly the right tools they need to quickly and easily track their time, create invoices and record payments. We've been helping small firms for 20 years as our tools and best practices have spread to over 20 countries around the world. ■



Scott Clasen oversees all aspects of TimeSolv's marketing efforts. With 20+ years of marketing experience, he has seen the full transition to the digital age.
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The majority of solo and small family law firms cannot afford to have their own IT departments overseeing their cybersecurity – so how can family lawyers protect themselves and their clients from cyber attacks?

By William N. Sosis, Lawyer and Information Technology Consultant

DOES YOUR FAMILY LAW FIRM HAVE A CYBERSECURITY STRATEGY?

Long gone are the days when securing confidential and sensitive information only required preventing break-ins or office theft. With the coming of the digital age, the Internet, mobile apps, Cloud Computing, WiFi devices, and the Internet of Things (IoT), the line between physical and digital information has almost become invisible. Perimeter security by itself is insufficient.

According to a 2017 Gartner report, “The exponential growth in [digital] data generation and usage ... is rendering current data security methods obsolete.” Moreover, the consequences that a cyber-attack can have on a business are appalling. Another report published by the Gartner Group in 2010 revealed that 43% of companies that had a major loss of computerized records never re-open, 51% permanently closed their doors within two years, and only the remaining 6% of companies were able to survive longer than two years after losing data.

Yet, with data security breaches and cyber-attacks on the rise, a 2016 lawyer survey by the American Bar Association (ABA) found nearly half of them say their firms have no data breach response plan in place. In addition, legal-industry experts say law firms are lagging behind their own corporate clients in data security measures.

Cybersecurity Strategy: Protecting Client Information from Cyber Attacks

As data breaches become increasingly inevitable, the ABA continues to alert lawyers of their role and responsibility in protecting their clients’ confidential information from cyber-related incidents. Lawyers are under increasing pressure to comply with a growing number of legal and ethical requirements.

But lawyers specialize in the law, not managing internet connected business risks. Mere compliance requirements, exhortations, and ethical standards do little to improve security and may do more harm than good. Telling lawyers what they must do without telling them *how* to do it only leaves lawyers feeling anxious and uncertain about the future.

Adding to the confusion is the cybersecurity industry that has sprung up in response to cyber risks. Despite its failure to contain the rising number of cyber attacks, between 2004 and 2015 the industry grew from \$3.5 to \$75 billion and is predicted to grow to \$170 billion by 2020.

So how can family lawyers protect themselves and their clients from cyber threats? How should they winnow through all the options available for implementing a good cybersecurity program? This is where the National Institute of Standards and Technology's (NIST) cybersecurity framework (CSF) comes into play. Although originally intended to protect the nation's critical infrastructure, the CSF has grown to include small businesses.

Developing a Cybersecurity Strategy for Your Family Law Firm

Adopting CSF standards is a modest first step in developing a cybersecurity program. The CSF can help lawyers determine which technologies and processes are needed for good cybersecurity in today's threat environment. By providing the tools needed, the CSF enables lawyers to create a unique cybersecurity strategy that fits their needs and budget. In a nutshell, there are three components to the CSF: the framework core, the framework profile, and the framework implementation tiers. These components work together to create a gap analysis allowing you to determine where you are and where you need to be. Closing the gap is where you address your risks and vulnerabilities and create your security plan.

It is fair to say that the NIST's CSF is fast becoming a business imperative for avoiding liability. In April 2016, for example, the NIST hosted the largest cyber insurance panel in its history with about 900 registrants. The significance of this event is that insurance carriers are now using the CSF to understand cyber threats, underwrite cyber insurance policies, and determine liability.

Implementing a Cybersecurity Framework at Your Family Law Firm

However, the majority of solo and small family law firms

cannot afford to have their own IT departments overseeing their cybersecurity or implementing the CSF. Lawyers in general also lack a basic understanding of the many technical aspects outlined in the CSF. For these reasons, the ABA urges that these lawyers hire an IT consultant on an "as needed" basis.

Finally, since there is no such thing as a totally secure system, it is important to remember that good cybersecurity is always about identifying and managing risks, exercising reasonable care, and hoping for the best while preparing for the worst. ■



William N. Sosis (JD) also holds a B.S. in Computer Science and Mathematics and an M.S. in Operations Research. He has over 25 years' experience in information technology as a consultant, business analyst, and project manager. He led the implementation and upgrades of numerous computer systems in

North America, Europe, and Asia. www.sosislaw.com

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An attorney's duty to keep client-attorney communications private now includes knowing how to prevent hackers from gaining unauthorized access to a client's confidential information. Here's a primer on the dangers of free Wi-Fi – and why using it is risky business.

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Do You Know How to Draft a Flawless QDRO?



Making a mistake when drafting a QDRO can be very costly for both you and your client. Tim Voit, the founder of the American Association of Certified QDRO Professionals, offers advice for those interested in becoming proficient in preparing QDROs.

Many family lawyers and financial experts regularly draft or assess QDROs. Are they all QDRO experts?

The number of individuals drafting QDROs in divorce is at an all time high. Some are paralegals and attorneys, some are CDFAs and CPAs, and some are investment advisors who will invest the QDRO distributions. Very few would be considered experts as their degrees and certifications are unrelated to QDROs.

Tell us about the American Association of Certified QDRO Professionals (AACQP) and the Certified QDRO Specialist (CQS) designation.

The AACQP offers a certification program that not only teaches you how to prepare and review QDROs, but also provides you with the knowledge to meet the Daubert challenge when providing expert testimony. A CQS is a trained professional who specializes in the preparation of QDROs and similar orders, and who divides retirement plans as marital property or for spousal support and child support. The AACQP awards the CQS designation to professionals who have passed the certification exam. The course is available online at www.aacqp.org.

What does the CQS certification program cover? How long will it take to complete?

This program is designed to give individuals the training to be considered QDRO experts. Although the program emphasizes the preparation of QDROs, it also addresses military and federal government retirement plans and IRAs. Candidates also learn how to facilitate QDRO distributions for investment advisors. There are four modules with a corresponding test at the end of each one; these tests are designed to help prepare the candidate for the final certification exam. The final exam can be taken online or it can be proctored for investment advisors. A seasoned professional could complete the CQS program in a few months – but for those not familiar with QDROs, or those who are working full-time, it could take six months to a year to complete.

Why should a lawyer or financial professional become a CQS?

Becoming a CQS provides your client with the assurance that you have formal training in preparing QDROs. It also allows you to advise on settlement agreement language, help avoid problems with entering QDROs, and provide expert witness testimony. Many of our members have told us that creating a new revenue stream by drafting or assessing QDROs themselves, rather than outsourcing the task, is one of the

main reasons they became a CQS; that, and the ability to avoid liability.

Can anyone become a CQS?

Financial degrees are helpful – whether it be a degree in finance, accounting, or actuarial science – but not required. The designation places more emphasis on practical applications than financial calculations. An expanded version of CQS, the Certified QDRO Analyst program (available later this year), will appeal to those who provide analytical services in pension valuations or other similar valuations.

You recently revamped the CQS program. What has changed?

The most significant change is that we now outsource the testing so that each exam can be either taken online or proctored (if necessary) anywhere in the country. ■



Tim Voit has over 25 years experience in drafting QDROs. He has been retained in legal malpractice cases to fix QDROs; he has testified in state and federal courts; and he has been interviewed extensively by the media, including Forbes and Reuters, regarding QDROs and retirement accounts. www.aacqp.org

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A full-page profile of Dan Johnson. On the right is a full-length photo of him in a dark suit, smiling. On the left is the text and logos described above.

Family Lawyer Magazine Recommends Dan Johnson a Los Angeles, California Divorce Lawyer

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Click here to view his Family Lawyer Magazine profile.

A small, square profile photo of Dan Johnson in a dark suit.

The Legal Consumer Has Changed – *Are You Keeping Up?*

Initial consultations can make or break what happens in your practice. By aligning with the way modern consumers hire family lawyers, you stand to win more business and gain more referrals.

By Liz Wendling, Business Development Coach

Many firms spend a fortune on marketing to get prospective clients to schedule an initial consultation, but nothing on adjusting their approach to align with the way the modern consumer hires lawyers. If your initial consultations are not regularly ending with a retainer check, then you need to update your lead conversion skills.

When I begin a consulting project for a law firm or work one-on-one with family lawyers, many are shocked to find out that they are regularly saying and doing things in their initial consultations that clash with how human beings are wired to be influenced. Most lawyers believe that they have a solid understanding of how the legal consumer hires lawyers: that when they sit down to meet with a prospect, they have all the skills they need to convert them into a paying client. The reality is that many lawyers are using 30-year-old techniques and outdated communication skills that are no longer effective with today's Internet-empowered consumer.

Smart lawyers are using a more progressive and innovative approach that today's sophisticated and experienced consumers not only appreciate, but they also notice.

Shifting the Way You Connect and Communicate

Engaging with today's consumer requires a shift in the way you connect and communicate with them. If you are not connecting in a way that is relevant to your potential client, they will find a lawyer who can.

By the time the new consumer meets face-to-face with a lawyer, a whopping 65–70% of their decision-making process is already complete. They are doing their homework on their terms, their turf, and their time. This consumer will hop from website to website to research you, google you, read about your credentials and expertise, and check out your ratings and reviews.

The remaining part of their process comes down to you. Will you engage, connect, and communicate with prospects in such a way that they do not feel the need to visit the competition or continue shopping for a lawyer? Will your one-on-one communication skills and approach be current or look like you got stuck in the '80s? Will you be an evolved lawyer or lose business to one?

Before writing my books for lawyers, I conducted extensive

research into the mind of today's legal consumer. I ran focus groups with individuals who went through the process of retaining family lawyers. They freely and frankly revealed their wants and needs, sharing what makes them tick and what ticks them off.

The following insights only scratch the surface of what the new legal consumer is looking for during an initial consultation, but they are a good place to start updating your conversion skills.

1 Skip the Shallow Small Talk

When meeting a potential client, lawyers are taught to begin the consultation with superficial small talk: to chat about the weather, traffic, parking, or to comment on what someone is wearing or a current event. Did you have any trouble finding the building? Did you have any issues with parking? How was the traffic getting here? Is it hot enough out there? STOP! Every other lawyer is saying the same thing! Contrived chit-chat does nothing to build rapport, create a strong connection, or make a dynamic first impression. Remove this old-school tactic immediately. Connect authentically, not artificially.

2 Connect with and Relate to Me

People are looking for a lawyer who makes a genuine connection, one who cares about them and their situation. When prospects don't feel a connection, they disconnect from you. Disconnected people don't write retainer checks. From their pre-consultation research, they already know that you have the qualifications and experience they seek. The contemporary consumer is buying who you are and how you treat them, not just your expertise. "Make me feel like I matter," they think, "that I am more than just a case number to you."

3 Don't Treat Me Like I Know Nothing About My Legal Options

In the past, the consultation approach relied on meeting with a potential client willing to sit quietly and be educated: a time when clients knew next-to-nothing about the divorce process or their options. Lawyers were taught not to sell but rather to educate. Don't sell yourself or your services: educate! Educate some more, and the consumer will write you a retainer check. Not anymore! Education is still important, but today's consumer is more knowledgeable and has more options available than at any other time in history. Find out how much the prospective client already knows, and navigate the consultation from there.

4 Help Me See How You Are Different from Your Competitors

One challenge that lawyers face when attempting to communicate how they are different is that, to potential clients, they sound similar to their competition. When a prospective client asks you how you are different or why they should retain your services, they don't want you to launch into a canned answer. I have been a divorce lawyer for more than 33 years and have an outstanding reputation in family law. I am proud of my practice and the outstanding service that I deliver to all of my clients. Blah, blah, blah. They are thinking: "Tell me something that I can't get from your website. Give me something that I can't read in your bio." You must articulate and connect the dots about why you are different and how that difference relates to them and their situation.

5 I Have a Name – Please Use It

In one focus group, a consumer declared, "Can you believe that the lawyer never used my name in our entire conversation, except to greet me? I'd never hire a divorce lawyer who did not see me as a person with a name." How much is this damaging habit costing you? Addressing your client by their name not only personalizes your conversation, it builds a deeper connection. However, do not overdo it – that becomes creepy.

Adapt, or Lose Business to a Savvy Competitor

You have a choice. Will you adapt to the modern consumer's behavior or fight it? The more you align with them, the more you will stand out, gain referrals, and win business. ■



Liz Wendling is a nationally-recognized practice development coach for lawyers. She designs programs for divorce lawyers who want to attract more clients, close more business, and differentiate themselves from the competition. www.therainmakingcoach.com

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Separation, Divorce, and the Surrogacy Process

What are the legal ramifications of a separation or divorce during the surrogacy process?

By Evie Jeang, Family Lawyer

A new baby brings love and joy to new parents – but fitting a newborn into the family unit's established routines can also lead to stress. Those who choose to become parents through surrogacy are no exception.

The decision to pursue the path of bearing a child by way of a surrogate is not always an easy one to make. Some couples resort to surrogacy after trying to become pregnant for a number of years; for others, pregnancy poses an unacceptably high health risk for the would-be mother. And for gay couples,

surrogacy is the only way to have one partner's biological child.

Surrogacy can be a daunting task: meeting with the surrogate, creating embryos, monitoring during pregnancy, the child's arrival, and growing accustomed to being new parents. It cannot be denied that bringing a child into the world significantly changes the dynamics of family life.

The Surrogacy Process Can Take a Toll on Prospective Parents

Surrogacy can be an extremely stressful time for a couple, taking both an

emotional and financial toll on both prospective parents. Unfortunately, there are situations where couples go their separate ways. But what are the legal ramifications of a relationship ending during the surrogacy process itself?

One such example of this is couple Sherrie Shephard and Lamar Sally. Sherrie and Lamar entered into a contract with a surrogate during their marriage. The two separated before the child's birth and Sherrie filed for divorce. Sherrie claimed that her partner, Lamar, had pressured her into agreeing to the surrogacy contract.

Sherrie brought suit and requested that the court void the contract on the grounds that she was not present at the birth and that her name was not on the birth certificate. Legally, this altered how medical costs of the child would be divided. Lamar Sally took full custody of the child and the court reserved jurisdiction on determining whether Sherrie is the child's legal mother.

What Happens if a Couple Separates During the Surrogacy Process?

This question can be answered by understanding what happens when a couple undergoing a standard birth decides to separate prior to their child being born.



In this situation, there are several different decisions a couple can make. The most common include:

1. Creating a custody agreement.
2. Giving one parent full custody of the child.
3. Putting the baby up for adoption.

These same principles apply to a separation between the Intended Parents of a surrogate pregnancy prior to the child's birth. The Intended Parents must decide on the next step.

Can the Surrogate Keep the Baby if the Intended Parents Agree?

Another frequently asked question is if a surrogate may keep the child if the parents decide to give the baby up for adoption or if the parents pass away before the baby is born. This decision is left to the Intended Parents and not the surrogate.

In summary, there is no clear-cut answer to what happens when a couple separates during the surrogacy process, but there are multiple options

parents can choose from. Although this type of situation is neither common nor favorable, it is always in the best interest of any person involved in surrogacy to know what their options are.

The surrogacy process can be difficult to navigate. This is why it is important for couples to do their research and consider speaking with a lawyer who specializes in family and surrogacy law before embarking on their journey. ■



Evie Jeang is the founder and CEO of Surrogacy Concierge, a full-service agency for the surrogacy and fertility needs of growing families. Licensed to practice law in California and New York, she has over 15 years of experience in the areas of international family law and surrogacy law.
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What we know now, and what to expect in the future. Although it's impossible to say for certain, it's reasonable to expect that as surrogacy options become more widely available for same-sex couples, new conflicts may also arise.

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Best Practices / Cont. from page 11

- satisfaction – and the likelihood of positive reviews and referrals.
2. **Work hard on every case** and referrals will follow.
 3. **Get or maintain a modern, professional website** and hire a search engine optimization expert to improve your rankings. A good website is useless if people cannot find it.
 4. **Maintain a regular blog on your website** and/or on a top-ranked divorce blog such as www.divorcemag.com/blog.
 5. **Write articles for or pitch story ideas to your local media.** Establish yourself as their “go-to” expert for all family law and divorce-related stories.
 6. **Network and find opportunities to market** in areas that are underserved.
 7. **Join a country club or other social organization** and practice your “elevator speech” to let people know

what you do in a succinct statement.

8. **Give seminars and lectures, and attend seminars and lectures.** Keep up to date on state and federal laws pertaining to divorce.
9. **Network with other professionals** who deal with clients in possible need of a divorce. Potential resources can include accountants, therapists, financial planners, realtors, and even people who run your local fitness club.

Problem-Solving vs. Scorched-Earth Family Lawyers

More and more attorneys litigate with a “take no prisoners” attitude; they will shade the truth to get an unfair advantage for their clients. But in a family law practice, more so than other practices, reputation is *critical*. For this reason, in family law, scorched-earth tactics are wrong and harmful. Thoughtful representation is a better approach. For example, you should remind your clients that, as parents, they will have

an ongoing relationship with their ex-spouse regardless of how the case resolves. Having a working relationship with their ex-spouse will be necessary to raise their children long after the dust has settled.

In the long run, being a problem-solving attorney rather than one who antagonizes the other side will make you and your family law practice more successful. ■



A senior partner at Lippitt O'Keefe Gornbein, Henry Gornbein is an AAML Fellow and past-president of the AAML's Michigan chapter. He is certified as a mediator as well as in collaborative law. A monthly columnist for the Michigan Family Law Journal, he has written numerous articles for Law Practice Magazine and Divorce Magazine. He is producer and host of the “Practical Law” TV show.
www.lippittokeefe.com



4 Reasons to Bring Your Financial Expert to Mediation

By Lisa Ann Sharpe, Family Lawyer

Bringing your financial expert to mediation increases the likelihood that the parties, attorneys, and the mediator have a clear understanding of the financial aspects of your case – which is likely to lead to a better resolution. Here are the pros of bringing your financial expert to mediation.

1 Calculating, Presenting, and Explaining the Numbers

An appraiser helps to clarify valuation issues when the heart of the case is a valuation dispute. The expert can provide valuable support and explanations for their reports in real time at mediation. When attorneys are focused on client advocacy (often perceived by the mediator as there to “argue”) and clients are caught up in their own emotions, the expert is viewed as more persuasive to the mediator. The expert can also be better positioned to marshal, present, and convey the financial facts of the case to the mediator and the opposing side, particularly if either or both need to be “educated” on the complex financial matters at hand. Valuation experts focus on the critical valuation issues, explain the valuation differences, and why his/her valuation methodology and numbers are appropriate.

2 Preparing and Updating the Marital Balance Sheet

A financial expert will generally “own” the marital asset and liability spreadsheet. Attorneys may try to get experts or opposing counsel to agree to the spreadsheet and asset list before mediation. The expert can update the numbers throughout the mediation day, which will expedite the resolution process.

Your expert should be able to simplify rather than complicate the asset allocation spreadsheets.

3 Creating Visual Charts and Graphs to Help Clients Understand the Financial Facts

The expert may prepare a short presentation for mediation and can also provide data visualization to facilitate effective communication of the financial facts of the case. The expert will often use bar charts, tables, or graphs making the financial information more readily understandable by providing clear visual displays. For example, for the disadvantaged spouse: cash settlement and alimony spend-down to show financial disparity in the future. The expert can also calculate controllable cash flow and determine the value of total compensation, including the perks and payment of personal items with business funds when a spouse owns a business. On the other hand, an expert for the money-advantaged spouse charts can show problems with cash flow.

4 Explaining the Tax Ramifications of the Proposed Settlement

A CPA can explain complex tax issues. For example, in cases with stock awards, the IRS withholds 25% at vest, but the actual tax burden is almost always higher. The changes in tax law have also resulted in greater SALT (State and Local Taxes) liability and using prior tax returns will not provide an accurate indication of future net income in states with high property taxes and income taxes. The expert is able to run tax calculations and answer income tax questions in real-time at mediation. The

tax ramifications of settlement are particularly critical after the 2018 *Tax Cuts and Jobs Act*, which cuts individual income tax rates, doubles the standard deduction, and eliminates personal exemptions.

A well-prepared expert can save you and your client time and expense by clearly identifying and presenting the key facts and disputed issues in an objective manner. They can provide assistance in educating your client, the opposition, and the mediator as necessary. And finally, your valuation expert can assist in diffusing unreasonable expectations of your client or the opposing side, focusing the parties instead on realistic resolutions to their case.

Considerations

As a testifying expert, your financial expert's file is generally available for discovery. This opens the potential for waiver of confidentiality or work product by prematurely disclosing the expert witness or your work product to opposing counsel, if the case does not settle at mediation. Here are four tips to help you avoid this potential pitfall.

1. **Carefully evaluate what information you provide to your expert.**
2. **When providing settlement communications to your expert prior to mediation**, label all information as "Confidential Settlement Communication – For Settlement Purposes Only".
3. **Make sure your expert understands that mediation**

statements may not later be used by them in future reports or in providing testimony.

4. **Emails to and from the expert with settlement strategy** should be kept to a minimum. Critical strategy sessions should take place in-person or on phone calls to avoid creating a discoverable email trail on your settlement strategy.

Most states have statutes protecting settlement communications occurring during mediation, but you should discuss these issues with opposing counsel and the mediator before mediation. This will confirm that there is a clear understanding and agreement on how communications will be protected going forward. ■

This article has been condensed from the original; to read the full article, go to www.familylawyer magazine.com/articles/bring-valuation-expert-to-mediation



Lisa Ann Sharpe is a family lawyer at Lasher Holzapfel Sperry & Ebberson. A former president of the AAML's Washington State Chapter, Lisa focuses her practice on complex divorces and mediation/arbitration. www.lasher.com

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Cross-Examination of the Transactions Method of Valuation

Questions to ask to discredit an expert witness' use of the transactions method of the market approach to valuing a small- to medium-size business.

By James R. Hitchner, Financial and Valuation Expert

When using the guideline company transactions method for the valuation of small- to medium-size businesses, analysts usually rely upon data acquired from comparable transactions in the private sector. One of the most widely used databases for the valuation of private businesses is "DealStats" (formerly "Pratt's Stats").¹ For small- to medium-size businesses – say \$25 million in value or less – there are 26,689 transactions involving U.S. sellers, and 85% are private buyers of private businesses.

There is a dearth of relevant information about these transactions, which can make them risky to use as a primary valuation method. This is where a family lawyer can attack support for the use of this method; here are two examples

of cross-examination questions to use when you wish to discredit the use of the transactions method of valuation. This is also a good primer for valuation experts preparing to testify in court.

Cross-Examination 1

Q: Would you buy a business without knowing whether or not you would assume the liabilities?

A: No.

Q: Would you buy a business if all you knew was what the seller told you were the revenues?

A: No.

Q: Would you buy a business if all you knew was what the seller told you were the earnings?

A: No.

Q: Would you buy a business without seeing a financial statement or

organized financial information?

A: No.

Q: Would you buy a business if all you were given was one year's financial information?

A: No.

Q: Would you buy a business if you had no idea about its future growth prospects?

A: No.

Q: Would you buy a business if you had no idea about its historical growth, none at all?

A: No.

Q: Would you buy a business without knowing anything about the company-specific risk factors?

A: No.

Q: Would you pay the same price for a business if you didn't know whether or not the inventory was included?

- A:** No.
- Q:** Would you buy a business based on a multiple of earnings from a transaction database that had instructions that stated you shouldn't do that?
- A:** No.
- Q:** Did you use DealStats and the IBA database for transactions in your valuation?
- A:** Yes.
- Q:** I just asked you several questions about what you would do and what type of information you would want if you were to buy a business, correct?
- A:** Yes.
- Q:** Do the transactions from the DealStats and IBA database contain any of that information?
- A:** No.
- Q:** So, it is your testimony today that it is okay for your client, my client, and the Court to rely on these transactions to determine value, but you would not buy a company with your own money with such a deficient amount of information. Is that correct?
- A:** Well, I am not buying the business: I am just trying to value it.

Cross-Examination 2

A concise, surgical, and potent line of questioning on the transactions method.

- Q:** The transactions you relied upon do not have anywhere near the sufficient amount of detailed information to support a value, correct?
- A:** It's the best we have.
- Q:** You said in your report that you put less reliance on the transactions method of valuation because it was more unreliable than the other methods you used, correct?
- A:** Yes.
- Q:** You said it was more unreliable because you didn't have a lot of information about the transactions, correct?
- A:** Yes.
- Q:** Did you also state that you used it as a corroborating method, not a primary method?

- A:** Yes.
- Q:** Okay. Is it fair to say, then, that you placed some reliance on a method you deemed unreliable?
- A:** I already answered your question. ■



Jim Hitchner (CPA/ABV/CFF, ASA) is managing director of Financial Valuation Advisors and CEO of Valuation Products and Services (VPS). He is also an inductee in the

AICPA Business Valuation Hall of Fame and a Charter Member of the AAML Foundation's Forensic & Business Valuation Division.

www.finvaluation.com

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VALUATION METHODOLOGY DEMYSTIFIED

There are three approaches to valuation – income, market, and asset – and there are corresponding methodologies within these approaches. When valuing a closely held business, one size does not fit all!

By Erin D. Hollis, Accredited Senior Appraiser

For many married business owners, the business is both the most valuable and most illiquid asset in the marital estate – and if the owners separate, the business asset may spark substantial controversy and conflict between them. Family lawyers frequently engage a valuation expert to assess a business' value when working with divorcing owners. To obtain a credible and reliable valuation, you need an experienced and credentialed

expert with technical know-how and a thorough understanding of the specific industry and best practices.

Three Approaches to Valuation: Income, Market, and Asset

There are three approaches to valuation – the income, market, and asset approaches – and within these approaches, there are various corresponding methodologies. Contrary to some opinions, there is no “one size fits

all” application. In fact, it is understood among valuation professionals there are preferred methodologies for valuing certain types of companies, which are based in large part on the capital structure and financial operations of the business in conjunction with the consideration of the purpose of the appraisal.

The Income Approach

This is the most commonly used approach for valuing a business. Based

on the economic principle of expectation, the income approach assumes the business' value is the present value of the economic income expected to be generated. The expected returns are discounted or capitalized at an appropriate rate of return to reflect investor sentiment and the inherent risks of the business. A business' value is based either on future cash flows or historical earnings; the methods under this approach include the Discounted Cash Flow Method (DCF Method) and the Capitalization of Earnings Method.

The DCF Method is widely used when valuing a typical, growing business operation, such as wholesale or retail operations, manufacturing, contracting, and service businesses. It identifies the total value of a business as the present value of its anticipated future earnings in a specified period, then discounts the present value of anticipated future cash flows at an appropriate present worth factor. This method is often utilized when valuing companies for sale, acquisition, or to acquire capital infusion. It is also employed when valuing a company that is either projected to experience significant growth or has a finite life. Basically, any business can be valued utilizing this method as it examines how the business will financially operate over a defined period: e.g., five years going forward.

The Capitalization of Earnings Method is used when valuing very small, closely-held businesses, and in some cases, depending on the purpose of the valuation, mid-to-larger sized entities. The premise of this method assumes a company's historical results are expected to continue with a relatively stable growth rate into the future. In many cases, particularly in the case of a small closely-held business, plans for expansion and growth do not exist or are not formally documented. With small, mature companies, the future typically mimics history, and shareholder expectations are not as focused on future financial performance or return on investment as they are on day-to-day operations. Start-ups, companies that anticipate growth based on a business plan, and companies that are in a transitional phase may all warrant

a forward-looking valuation analysis utilizing the DCF Method. Conversely, a historical performance analysis may be required for tax purposes, such as estate and gift taxation.

Based more on judgment calls than technical calculations, the Capitalization of Excess Earnings Method was created by the IRS in the 1920s to value distilleries put out of business during Prohibition. It is sometimes used to calculate the intangible value that tangible assets generate for a closely-held business. Although not widely accepted in the business valuation industry due to the fact it relies heavily on the judgment of the appraiser, it may be used in circumstances where, for example, a business is heavily invested in equipment, such as a small transportation company. This method has been cited in marital dissolution state case law; however, its reliability is profoundly suspect due to the unsubstantiated calculations of the rate of return on both the tangible and intangible assets.

The Market Approach

The market approach is based on the principle of substitution. Methods under the market approach include the Guideline Publicly-Traded Company Method and the Guideline Transaction Method. The market approach is predicated on the theory that the fair market value of a closely held company can be estimated based on the price investors are paying for stock of similar companies. This is done using ratios that relate the stock prices of the public companies to their earnings, cash flows, or other measures. By analyzing the financial statements of analogous companies and then comparing their performances with those of a subject company, the appraiser can judge what price ratios are appropriate to use in estimating the market value of the entity.

For example, examination of market multiples may give a perspective on the types of buyers, demand, and rates of return for a given entity in a given industry. Keep in mind, however, that multiples are specific to that transaction and point in time. They cannot be applied to every company due to a multitude of

company-specific risk factors, including management, clientele, market share, and financial condition. As such, the market approach may be best applied as a sanity check to values derived from other methods, such as a method under the income approach.

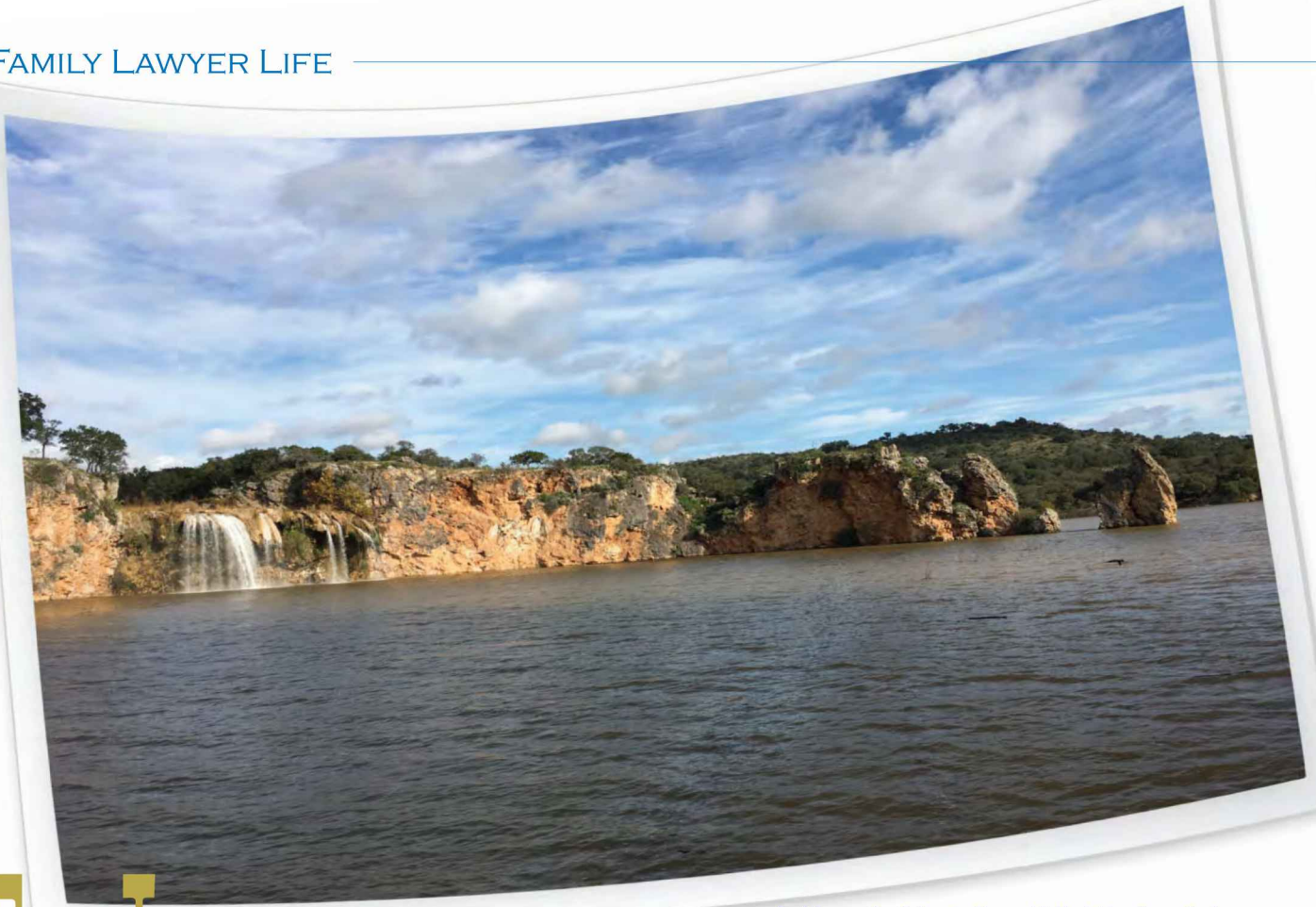
The Asset Approach

An asset approach may be applied when the benefits of operating a business do not outweigh the value that could be derived through an orderly liquidation of assets. Methods under this approach include the Net Asset Value Method and the Adjusted Net Book Value Method, which both assume a controlling premise of value. The asset approach is typically utilized to value the entire enterprise value rather than a non-controlling ownership interest or a pro rata ownership of less than 51%. This is because only a controlling ownership can dictate a business' capital structure or the sale of business assets, among other controlling shareholder characteristics.

The Net Asset Value Method is calculated as the business' assets minus existing liabilities. This simplistic approach is commonly used when valuing securities of businesses involved in the development and sale of real estate, investment holding companies, and certain natural resource companies. This method assumes the book values of the assets on the company's balance sheet are equivalent to their fair market values.

However, the Adjusted Net Book Value Method involves adjusting the book value of the assets and liabilities to their current fair market values. The value derived from this method assumes there is no expectation of intangible value or commercially transferable goodwill. The Adjusted Net Book Value Method may be also applied when valuing an investment or real estate entity, when all business income is attributable to personal goodwill of the owner or key person, or when the value of the net tangible assets exceeds that of the company's value as a going concern. An asset approach methodology may be used to value companies

Cont. on page 41



Cruising on the Colorado River with Vanishing Texas Cruises.

Take a Trip to Texas

If you are looking for a getaway offering scenic nature hikes, river cruises, impressive vineyards, unique accommodations, and fine food, consider a trip to the Highland Hills of Burnet County.

By Dr. Mel Borins, Travel Writer and Physician

Texas may not be the first destination that you think of when planning a trip to the Southern States, but it has a lot to offer. Many travelers visit the big cities of Dallas, Houston, and Austin, but the Highland Lakes Region of Burnet County – about an hour Northwest of Austin – is a fairly undiscovered destination. If you want a quiet getaway, want to explore nature, are interested in water activities, or just want good food and wine, consider going down to this delightful part of Texas.

Colorado River Cruise

The first thing I did was take a two-hour boat cruise with Vanishing Texas Cruises. I got to enjoy beautiful scenic views of Lake Buchanan and the Colorado River with impressive sheer cliffs and beautiful waterfalls, and also got an excellent guided tour of the region.

The Colorado River canyons are among the last sanctuaries for Texas Wildlife. There are 54 species of mammals, 68 species of reptiles, and 18 species of birds. The cliffs and hills are covered by 152 species of flowering plants and shrubs, and oak, pecan, sycamore, ash, elm, and willow trees.

Canyon of the Eagles

This is one of the best locations in central Texas for stargazing because of minimal light pollution in the region. Texas is the “Lone Star State” – but perhaps a better name would be “Infinite

Stars State.” You’ll also find 14 miles of designated hiking trails, limestone outcroppings, oak trees, and multiple biological zones of native plants in Burnet County’s State Park.

Wine Ignoramus to Connoisseur

When my friends discuss their wine preferences and appreciations, I fade into the woodwork. I can enjoy a \$7 bottle of wine just as much as a \$150 bottle of a rare vintage. That all changed after experiencing the tour and tasting at Perissos Vineyard and Winery. The Perissos Vineyard has 16 acres of vines and 13 different grape varieties, and all their wines are made from Texas-grown grapes. I had no idea about soil composition, temperature variations, natural wood kegs, different kinds of grapes, and what makes a special wine until I visited Perissos.

Fine Dining

Restaurants with reasonably priced, delicious food abound in this region. I particularly enjoyed Mama’s Home Cooking, Highlander House of Buffet & Steakhouse, and the Trailblazer Grille,

all in Burnet. The Overlook Restaurant located at Canyon of the Eagles ecolodge resort also has fine food and a great view of Lake Buchanan.

The region has much to offer the curious traveler, including unique dining and lodging options as well as stunning parks, nature preserves, and hidden treasures – such as extraordinary caverns carved by running water. You’d be wise to add a trip to Texas’s Highland Hills to your list. ■

This article has been condensed from the original; to read the full article, go to www.FamilyLawyerMagazine.com/articles/take-trip-to-texas



Dr. Mel Borins is a travel writer and family physician. He is the author of the books Go Away Just for the Health of It, An Apple a Day: A Holistic Health Primer, and A Doctor’s Guide to Alternative Medicine: What Works, What Doesn’t and Why. www.melborinscreative.com

Valuation / Cont. from page 39

that are winding down or companies that are not profitable and have no expectation of becoming profitable.

By excluding an asset approach in a valuation analysis, the appraiser assumes that an investor would evaluate the company based upon its earnings and cash-flow-generating potential rather than through an appraisal of the underlying tangible assets, which would not reflect the intangible or economic value inherent in the company.

In Conclusion

The type of business and its financial condition, the particular industry, and the reason for the appraisal all dictate the appropriate methodology for a valuation analysis. Utilizing different methods under one or more of these valuation approaches allows the appraiser to compare results to confirm the integrity of the final value, and to eliminate a conclusion that may result from an erroneous “one size fits all” application of the three approaches. ■



Erin D. Hollis (ASA, CDBV) is Director of Financial Valuation at Marshall & Stevens Inc. She has experience in both the United States and Canada for valuation services

including shareholder buy-outs/buy-ins, ESOPs, family business disputes, and marital dissolution. A qualified expert witness, she has testified in family law matters. www.marshall-stevens.com

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TOP: Jeremy Wilson, Sommelier at Perissos Vineyard and Winery.

BOTTOM: Clouds over Inks Lake, an inlet of the Colorado River in Burnet County.



7 Meditation Techniques to Increase Productivity & Reduce Stress

These techniques will reduce stress, anxiety, and insomnia while increasing serenity, focus, and relaxation – in as little as 10 minutes a day. Using any of these 7 techniques will produce life (and career!) enhancing results.

By James Gray Robinson, Family Lawyer and Consultant

The benefits of meditation have become commonly accepted by all segments of society. Reduced stress, stronger focus, increased calm, and better sleep are just some of the benefits of meditation. There are as many ways to meditate as there are people; there is no right way or wrong way to meditate.

The basic premise of these meditation techniques for lawyers is to be quiet for a period of time and let your mind be still and break the cycle of over-thinking. Many lawyers have resisted the concept of meditation, primarily because

they considered it to be esoteric and a distraction from a focus on their legal practice. I know this first-hand because for my first 20 years as an attorney, I rarely took time to breathe let alone authentically relax.

In fact, meditation sharpens focus, unclutters the mind, and improves health. It can be done in as little as 10 minutes or as long as you want. Here are meditation techniques for lawyers that won't seem exotic or weird, and can be practiced during the day or night.

1 Breathing Meditation

Yes, simply breathing. The focus is breathing in as deeply as possible and exhaling as completely as possible. There is nothing else to think about. The benefits of this kind of meditation include stimulating the Vagus nerve (in the abdomen) which results in lowered blood pressure. Additionally, by breathing deeply you are increasing the supply of oxygen to the frontal cortex, which helps you to think.

If you are stressed and over-thinking matters, this meditation is for you. If you want, you can inhale for a count (1,2,3,4...) and exhale for the same count, pausing at the end of the inhale and at the end of the exhale.

2 Spot Meditation

Pick a spot on your desk or on the wall and simply focus on it. Let your eyes soften (lower your eyelids) and let the spot fill your attention. Feel yourself relax as you focus on this spot and calmness will help you relieve stress or anxiety. Do this for 10 minutes or longer.

3 Body Meditation

Close your eyes and scan your body. If you feel any tension anywhere in your body, imagine that part of your body relaxing and releasing the tension. Start at your feet or your head and scan all of your body. By the time you are done, you will wonder what you were so stressed about.

4 Guided Meditation

You can get all kinds of guided meditation videos on YouTube, audio resources on the internet (just Google “Guided Meditation” for literally millions of suggestions), or download an app (currently, the most popular app for meditation is “Calm”). These guided meditations can be for healing, mind control, relaxation, remote viewing, or all kinds of experiences. You can wear ear plugs so no one else will know what you are doing.

You can listen to someone guiding you, or nature sounds, or even try “brainwave entrainment”: innovative and science-based sounds purportedly increasing brain function or inducing a variety of brainwave states, including enhanced focus, relaxation, meditation, or sleep.

5 Mantra Meditation

A mantra is a word, phrase or sentence that has some meaning for you, which you silently repeat while remaining still with your eyes closed. You can also use affirmations, such as:

- “With this breath, I inhale strength and exhale stress.”
- “At this moment, I choose to feel calm and peaceful. Everything is unfolding as it should.”

- “Today, I choose to release the past and look forward to the successful future that awaits.”
- “I am one smart, skilled, good-looking lawyer!”

6 Walking Meditation

This is something you can do in public. It simply involves focusing on your body as you are walking. Noticing what your feet, legs, hands, arms, hands and other parts of your body are doing while you are walking is very calming and relaxing. You do have to pay attention to traffic if you are walking on streets where vehicles are moving.

7 Music Meditation

Listening to soothing music is very beneficial. Piano, strings, orchestra, or wind instruments can lift your spirits like nothing else. I tend to avoid music that is jarring or mind-blowing, which would be counterproductive. The idea is to pick music that calms the soul. Just relax and focus on the music. There is also music created expressly for meditation or yoga; Google “Meditation Music” for some options

Meditation will reduce stress, anxiety, and health problems while increasing serenity, focus, and relaxation. Using any of these techniques will produce life (and career!) enhancing results. Being calm and relaxed in your law practice is very beneficial to building confidence in your clients and colleagues. Be a legal Buddha! ■



James Gray Robinson, Esq. was a third generation trial attorney, specializing in family law, for 27 years in his native North Carolina up until 2004, when he became a business consultant. At the age of 64, he passed the Oregon bar exam and is again a licensed attorney.

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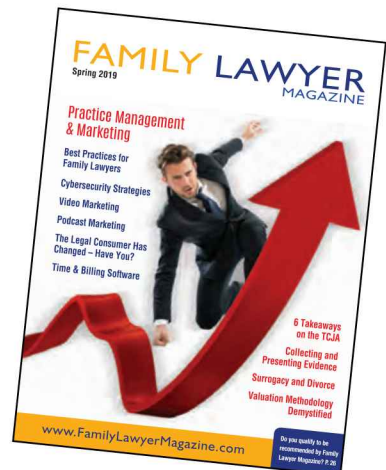


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6 Takeaways on the TCJA and Alimony

Now that alimony is no longer tax deductible, family law professionals have to find new tax planning techniques to settle cases.

By Michelle Gallagher, Financial and Valuation Expert

One of the most impactful changes of the *Tax Cuts & Jobs Act* (TCJA) was the change to the tax treatment of alimony. Under prior law, alimony and separate maintenance payments were deductible by the payer and includable in income by the recipient. Taking advantage of the tax rate differences between the divorcing parties was a common technique in settling cases because the higher-earning spouse was receiving a tax benefit proportional to the amount paid to the lower-earning spouse.

Plus, knowing alimony payments were going to be tax deductible was often considered a psychological “win” by the paying party, making it more palatable to accept. With the new law now in place, family law professionals are having to find new ways to settle cases using other tax planning techniques.

Here are six key takeaways on this topic.

1 The Changes Apply to Federal Law – Not State Law

The alimony changes under the TCJA were made to IRC Section 71, which are federal tax provisions; not state. Many states, however, begin their determination of taxable income with federal taxable income. It will be interesting to see whether the states will adjust for alimony. New York, for example, has already announced that it will operate as before, where alimony is taxable and deductible. Some states that have decoupled and exclude alimony from taxable income are New Hampshire, Pennsylvania, and Tennessee. Keep an eye on your state rules as they may be changing too!

2 Only Agreements Entered After December 31, 2018 Are Impacted

Some people think that all alimony from here on out is not deductible and not includable, but that is incorrect. It only applies to divorce or separation agreements executed after December 31, 2018.

3 Modifications Matter

If a divorce or separation agreement was executed prior to 12/31/2018 and modifications are made later, TCJA will not apply unless the agreement specifically states that it will apply. Attorneys need to be especially careful when drafting any modification agreement. Many are recommending that modification agreements specifically state whether TCJA will or will not apply and whether alimony will be taxable or nontaxable. Make sure modification agreements are clear!

4 Transfer Retirement Accounts at Pretax Values Instead of Paying Alimony

One technique being used in 2019 in place of tax deductible/includable alimony is the creative splitting of retirement accounts. The recipient will pay taxes on distributions when received, and other post-tax assets can be allocated to the other spouse to offset. If the recipient is under 59 1/2, there are still ways to receive the distributions without being subject to the 10% early withdrawal penalties. A QDRO can be used with qualified retirement accounts and IRA accounts can be annuitized under IRC 72(t).

For business owners, there are opportunities to replenish retirement plan assets that were unequally distributed to the recipient and when doing that, the business would presumably get a tax deduction for those contributions. Aggressive contribution plans like cash balance plans are a popular choice to replenish retirement funds that were transferred with the divorce on a more accelerated basis.

Cont. on page 50

CRM: Energizing Your Law Firm's Marketing Strategy

The right Contact or Customer Relationship Management system can help your firm run leaner and more efficiently.

By Shawn McNalis, Practice Advisor



Contact Relationship Management (CRM) software allows you to perform high-leverage functions easier, faster, and in greater numbers than simply storing your list of clients and prospects in a database. It allows you to:

- Track historical data on all of your referral sources, other marketing contacts, and activities;
- Generate reports on all past legal services and identify future legal needs;
- Inform existing clients and referral sources of future events in your office, invite them to stop by to update their files, and
- Keep abreast of legal issues that may concern your clients.

You will have to do some research into software that is a good fit to your existing storage and record-keeping systems. Many of today's options are industry specific and can be tailored to a variety of individual preferences.

Tracking Your Mailings

You can track mailings to specific groups of existing and past clients for cross-selling and upgrading purposes. You can also target groups of clients in your database who fit the criteria for other services, such as a real estate client who needs estate planning. These letters can be invitations to attend information sessions or for a complimentary consultation.

Tracking mailings also allows you to see how many referrals have been generated by existing clients through the years, and you can track the follow-ups to each referral – such as a thank-you card or a follow-up phone call.

Database Software

Database features determine how much you can do with your system. Look for the ability to create a variety of databases with lots of customizable fields. Choose software that can easily import data from other formats, and can merge all your databases into one for easy reconciliation.

Some systems can auto-dial any phone number within its database. There is also software that can date-stamp the notes you take for each contact. Systems that can store an unlimited number of contacts will let you expand your marketing efforts easily.

Look for software that has a clear, understandable, and readable format for its contact history pages. These pages are the backbone of the system, and you'll refer to them often.

Integrated Scheduling

Contact management software that allows you or a team member to easily manage your calendar through an integrated activity scheduler is handy. Look for software that will assign priorities to

activities and allow you to view actions based on importance. Another helpful feature can roll over incomplete tasks from today to tomorrow's agenda.

Report Generation

Choose a platform that has defined reports including phone lists, address books, activity and status reports, and task lists. Is the software customizable? Does it let you change fields to generate different reports such as "search for all past clients who own a business" or "all past and present clients who are older than 65." The ability to segment your contacts by specific data is critical in marketing.

Word Processing Features

You'll need software that can mail-merge letters, envelopes, and mailing labels. Some systems can fax-merge documents to multiple contacts. Customizable templates for business letters, report forms, memos, and fax cover sheets are a must. Look for a package that also has the ability to add fonts and graphics that customize your presentation to match your business's style.

Project Management

This will feature master and sub-project to-do lists. It will track completion timelines, allow you to change dates easily

and calculate due dates. It also has alarms for deadlines.

Security Features

For office confidentiality, pick software with options that can include different security levels for added control, record locking, a public-private toggle switch, individual passwords, and log-in IDs. Some have a utility that allows you to manage user accounts and access rights.

Networking

If you are part of a network, verify that the software can be shared easily among other users. With networking, you can share information about your schedule, but your appointments and activities can be kept private and accessible only by password.

Key Technical Considerations

Use the following questions about software criteria to help you decide which contact management software would best suit you and your office:

- Does it work with your office computers' existing operating system(s)?
- Is it compatible with other programs already in use? (Microsoft Office, etc.)

- What is the amount of hard disk space it consumes before data is entered?
- How fast and responsive is the program when run on your computers?
- How much memory does the program require?
- Is the software compatible with your printers and printer drivers?

The right contact or CRM system can help your firm run leaner and more efficiently — and it can help you streamline and increase your marketing activities.

Your marketing and relationship management strategy is as unique as your practice. One CRM might be a great fit for one firm but can fall short on meeting the needs of another. However, if you're looking for some CRM options to consider, here are a few systems that might be right for you:

InterAction and OnePlace cater to the legal industry. Infusionsoft, Microsoft Dynamics and FreeAgent CRM also offer features that can apply to your specific firm. Bitrix 24 offers a free version, as does HubSpot CRM. All work on Mac and Windows.

If you're looking for something more akin to legal practice management web

apps, the top known platforms include (but are not limited to): Clio, MyCase, Rocket Matter, Amicus, Houdini Esq., and Practice Panther. Unlike traditional CRM systems, these practice management apps can include billing features and manage case files. ■



Shawn McNalis is a Senior Practice Advisor with Atticus, the nation's largest and oldest attorney coaching company. As Director of Curriculum, Shawn leads the Atticus certification program for training new Practice Advisors.

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TCJA and Alimony / Cont. from page 48

5

Business Owners: Assign Nonvoting Ownership or Interest Only in an Entity in Lieu of Alimony

This one can be tricky and may require changes to company agreements, but if done properly, can be a very viable solution. It's also important to be careful that the business's operations don't suffer if certain payments are required to be made. The parties will need advice from their tax professionals to determine how best to structure payments for the best tax advantages. Depending on the entity type, the form of payment may need to be distributions or dividends, and if services could be provided by the ex-spouse, wages could even be paid, making the payments tax deductible.

Learn more about this topic at the AAML/BVR National Divorce Conference, May 8-10, 2019 www.bvresources.com/events/national-divorce-conference-2019

6

Anticipate Future Tax Changes in the Agreement

Although the TCJA change to the alimony rules is permanent, you never know what changes may lie ahead when it comes to taxes. It would be prudent to add provisions for tax law changes in an alimony agreement so if the tax law changes, the agreement can be revisited. Be specific about what can be modified. If there is a change in tax law that only alimony or support can be adjusted, you can't just modify anything in the agreement. ■



Michelle Gallagher (CPA/ABV/CFF) is a nationally-recognized business valuation expert. In addition to serving clients with valuation for tax and other matters, she leads Adamy Valuation's family law practice. Her extensive experience includes serving as a trusted consultant, expert witness, mediator, and court-appointed expert. www.adamyvaluation.com

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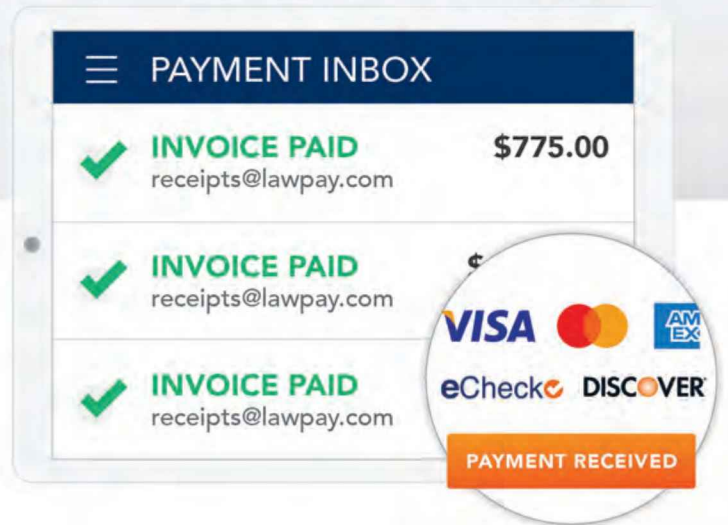


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