PRACTICAL ASPECTS OF PRACTICING LAW:

A MANUAL FOR NEW MISSOURI LAWYERS

A Project of The Missouri Bar Leadership Academy
Class of 2011

Also available online at http://www.mobar.org

A NOTE ABOUT THIS MANUAL

This manual is published both in print form and free online in Adobe PDF form at http://www.mobar.org.

Many websites are listed throughout this manual as references or resources. If you are reading the print form of this manual, some of the listed websites may appear long, technical, and unwieldy. Please visit the online version for easy hyperlinks to all the websites.

TABLE OF CONTENTS

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INTRODUCTION
by Apollo D. Carey*

The Missouri Bar Leadership Academy welcomes you to the practice of law! Those long nights in the library and even longer days in the classroom have finally paid off! No doubt this is a monumental accomplishment and one that you will remember for a long time to come.

As a lawyer, there are many practical situations in which you will find yourself and for which you are not prepared. Don't panic! One reason you will find yourself in these situations is that there are some predicaments in this industry for which no law school professor can prepare you. These situations boast that experience will be the best and only teacher. Until now, that is.

This manual is designed to provide new lawyers with practical tips and advice on how to navigate some of those situations. As a caveat, there really is no substitute for experience. This manual, however, should provide you with some much needed guidance when you find yourself questioning just why you paid so much for that J.D. degree. The manual may not exhaust every situation where practical advice is needed, but does cover most of the more common occurrences.

Section One of this manual provides an in-depth look at the structure and operation of the Missouri court system, an issue which can be unclear and confusing even to seasoned practitioners.

Understanding how judges are selected in this state can be very important information for those new lawyers who plan to regularly engage in litigation trial or practice, especially since, at present, it is under attack. Section Two provides much-needed insight into the Missouri Nonpartisan Court Plan and explains the intricacies of the plan to those unfamiliar with it.

The importance of Ethics/Professionalism in the legal profession cannot be overstated. Section Three reminds new lawyers just how important legal ethics are to the functioning and credibility of our profession. It also provides practical anecdotes and discusses how a new lawyer might navigate a situation involving an ethical question. This section is a must-read.

Communicating with clients is one of the most important skills a lawyer can have. This skill, however, is seldom developed in law school (unless one is fortunate enough to attend a law school that teaches client counseling). While some new lawyers have a natural talent for communicating with clients, others may need more work on the subtleties of this skill. Section Four gives strategic suggestions on how to effectively communicate with clients.

Relationships between lawyers sometimes can become adversarial, if not downright contrary, depending upon the facts and issues. Section Five provides practical solutions to issues

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that may arise when interacting with opposing counsel – a topic not readily discussed in any law school classroom.

Section Six explores several issues that may arise in the courtroom for new lawyers and provides suggestions on how practically to deal with those issues. Often, lawyers who are new to the courtroom setting quickly can become lost and confused with certain procedural matters. This section gives simple suggestions to make those courtroom trips much easier to navigate.

Section Seven provides a comparison of types of law practices: big firm, small firm, solo, and in-house counsel. The insight and information contained in this section should aid any new lawyer in the decision-making process over which practice environment would best fit their goals.

Section Eight deals with pro-bono services and community service opportunities within the legal profession. No doubt, at some point a new lawyer will be asked to provide free or substantially discounted legal services for the betterment of a community. This section provides practical advice on how to find these opportunities and how to manage and leverage them in light of one's paying job.

Section Nine explains the importance of networking and regular participation in bar association activities. New lawyers often underestimate the importance of meeting and establishing relationships with other members of the bar. A wealth of benefits awaits the new lawyer who quickly grasps the usefulness of bar participation and who takes advantage of networking opportunities.

Section Ten discusses how to manage the balance between one's work and personal life, an issue that recently has become more discussed in the legal profession. Achieving a balanced work, family, and personal life can be a challenge, especially for new lawyers. This section provides practical suggestions on how to navigate these often turbulent waters.

Section Eleven, titled "Alternative Career Ideas," explores the various career options that a new law school graduate may have outside of practicing law and explains how potentially to put that J.D. degree to other uses.

Finally, Section Twelve provides a wide array of various resources and references that will be useful in wading through those first few months of practicing law. The resources are strategically organized to provide quick and easy access.

Becoming a lawyer can be a very rewarding career choice for those who are willing to work hard at it. The path to becoming a successful lawyer is not always an easy one. Although hard work is required, it never hurts to receive a little help along the way. While this manual may not cover each and every issue which may occur in the life of a young lawyer, we hope that it provides you with tools, tips, and suggestions which you will find beneficial during your first few years of practice (and beyond). We hope you enjoy using this manual as much as we enjoyed putting it together for you!

SECTION 1:
MISSOURI'S COURT SYSTEM AND CIVIL APPELLATE PROCESS
by J. Zachary Bickel*

Where do cases begin?

Missouri circuit courts usually are where a case begins and the trial, if any, occurs. Circuit courts have original jurisdiction over both civil and criminal matters. Missouri's counties and the City of St. Louis are organized into 45 judicial circuits. Every county and the City of St. Louis contains a circuit court. Typically, the circuit court is located in the county seat, but it also may sit in additional locations within the county. Internally, circuit courts are divided into divisions. Depending on the circuit, certain divisions may hear only certain types of cases such as probate, family, criminal, associate circuit claims, small claims, and juvenile. The municipal division of the circuit court has original jurisdiction to hear and determine municipal ordinance violations, but often is located in a different courthouse than the rest of the circuit divisions. The administrative head of the circuit court is called the presiding judge. Generally, the presiding judge is in charge of assigning dockets and implementing local procedural and/or administrative changes within the court.

Where do cases go if the decision of the judge or jury is contested?

A party who feels that the judge or jury made a mistake at the circuit court level may appeal. The Missouri Court of Appeals is the state's intermediate appellate court. The Court of Appeals handles all appeals except those that fall within the Supreme Court's exclusive jurisdiction (which is defined by the Constitution of Missouri). The Supreme Court has exclusive jurisdiction over challenges to the validity of a United States statute or treaty or a Missouri constitutional provision or statute, cases requiring construction of the state's revenue laws, cases involving a statewide official's right to hold office, and cases where the death penalty has been imposed. Appellate cases initially decided by the Court of Appeals may be transferred from the Court of Appeals to the Supreme Court. Historically, less than ten percent of appeals are transferred to the Supreme Court. Thus, for the vast majority of appeals, the Court of Appeals' decision is final.

Where do I start if I want to appeal a civil matter?

First, did you read all the rules and statutes? As a matter of good practice, every lawyer should own or have access to copies of the Missouri Court Rules. Appellate practice has many unique procedural rules that, if not correctly followed, could cost you your client's appeal before you even start. There are numerous Missouri rules and statutes that can alter the timing or the procedure of your client's appeal, and they cannot be covered in this chapter alone. Before you commence your appeal, you should read and know Missouri's Rules of Procedure governing the appellate courts, the Local Rules in the district of the Court of Appeals where your case will be filed, and any statutes pertaining to your client's claim.

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Do I have a judgment?

To begin an appeal, you must first have a "judgment." A judgment is entered when a writing signed by the judge and denominated "judgment" or "decree" is filed. The judgment can be a separate document or entry on the docket sheet of the case, but must be signed by the judge and denominated "judgment" or "decree." Under current Missouri law, documents titled otherwise cannot constitute a judgment. Rule 74.01(a).

Is the judgment final?

A judgment must meet very definite requirements to be "final." For a judgment to be final and appealable it must dispose of all parties and all issues in the case and leave nothing for further determination by the circuit court. *Kahn v. Prahl*, 414 S.W.2d 269, 281 (Mo. 1967). Normally, Missouri does not recognize interlocutory appeals unless expressly authorized by statute. An interlocutory appeal is an appeal from any ruling by the circuit court that does not resolve all issues as to all parties in a case. An exception to this rule is that "the court may enter a judgment as to one or more but fewer than all of the claims or parties upon an express determination by the trial court that there is no just reason for delay." Rule 74.01(b); *Carney v. Yeager*, 231 S.W.3d 308 (Mo. App. W.D. 2007). A judgment becomes final at the expiration of 30 days after its entry if no timely authorized post-trial motion was filed.[1] Rule 81.05(a)(1). If a timely authorized post-trial motion was filed, the judgment becomes final at the earlier of the expiration of 90 days from the date the last such motion was filed, or if all such motions have been ruled on, then the date of ruling of the last such motion or 30 days after entry of judgment, whichever is later. Rule 81.05(a)(2).

In which court do I file my appeal?

As noted above, the Supreme Court of Missouri has exclusive appellate jurisdiction over cases which involve the validity of a treaty or statute of the United States or of a Missouri statute or provision of the Constitution of Missouri, the construction of Missouri's statewide revenue laws, the title to any state office, or cases where the punishment imposed is death. If your case is not one of these, then it will fall under the appellate jurisdiction of one of the districts of the Missouri Court of Appeals: the Eastern District in St. Louis, the Western District in Kansas City, or the Southern District in Springfield. The district to which you will be appealing is determined by the county in which your judgment was issued. To find the correct appellate court for your case, look at the map located on the Missouri Courts website: http://www.courts.mo.gov/page.jsp?id=261.

[1] If you think your judgment will become final pursuant to Rule 81.05(a), you should make certain that the relevant motion was an "authorized" post-trial motion. The "authorized" post-trial motions include, but are not limited to, those listed in *Taylor v. United Parcel Serv., Inc.*, 854 S.W.2d 390, 392 n.1 (Mo. banc 1993). When in doubt, file your notice of appeal even before the judgment becomes final, because the premature filing of a notice of appeal is deemed filed immediately after the judgment in fact becomes final, Rule 81.05(b), and thus does no harm.

Did I file the notice of appeal correctly and on time?

A notice of appeal must be filed with the clerk of the circuit court that rendered the judgment not more than 10 days after the judgment becomes final. Rule 81.04(a). The form and contents of a notice appeal are found in Form 8-A, a standard statewide form issued by the Supreme Court of Missouri. Rule 81.08(a). In each district of the Court of Appeals, the notice of appeal must be accompanied by certain required supplements. Check the local appellate court rules for details. You also must attach a copy of the judgment and a filing fee of $70.00. Rule 81.04. A good practice, however, is to always call the clerk of the circuit court to verify the amount of the filing fee, the number of copies required, and the required supplements. While you should endeavor never to be in this situation, if you are late in filing a notice of appeal, you may seek leave from the Court of Appeals to file one out of time. See Rule 81.07(a). As a matter of practice, the first attorney of record is usually the only attorney who will receive all notices from the appellate court.

Do I prepare and file the record on appeal?

After you have successfully filed the notice of appeal, you will have to begin compiling the record on appeal for filing in the Court of Appeals. If you are the one appealing ("the appellant"), it is your duty to prepare and file the record on appeal. Rule 81.12(c). The record on appeal contains both the transcript from the trial below, if any, and a bound document called the "legal file." Rule 81.12(a).

The transcript must be ordered within ten days after the notice of appeal is filed in the circuit court. Rule 81.12(c). The transcript must be requested in writing. Rule 81.12(c). Payment for the transcript is made directly to the court reporter. If you fail to provide the appellate court with any portion of the transcript, the Court of Appeals will assume the omitted portions do not aid your appeal. Rule 81.16(c).

The legal file consists of true copies of the pleadings and other portions of the trial record previously reduced to written form that have been certified by the circuit court. Rule 81.12(a). You should only include documents that are relevant to your appeal, but you always must include the docket sheet or case record, the pleadings upon which the action was tried, the verdict and/or the findings of the court or jury, the judgment or order from which you appealed, motions and orders after judgment, and the notice of appeal, together with their respective dates of filing or entry of record. Rule 81.12(e). You must order these documents from the clerk of the circuit court and request that all documents be certified. Alternatively, you can create the legal file by stipulation with opposing counsel, using copies of the documents instead of certified copies from the circuit court. For form and size requirements of volumes for the legal file, see Rule 81.12, 81.18, and any applicable local appellate court rules.

What should I do with the exhibits?

The appellant must file in the Court of Appeals all exhibits relevant to the appeal on or before the day the reply brief is due. Rule 81.16. Check the local appellate court's rules for the

specific filing format of exhibits. If you fail to deposit an exhibit, the Court of Appeals will consider it immaterial to the appeal. Rule 81.16(c).

Briefing: did I do it the right way?

The appellant's opening brief generally is due 60 days after the record on appeal has been filed. The brief of the party opposing the appeal (called "the respondent") is due 30 days after the appellant's brief has been filed. The appellant's reply brief, which is optional, is due 15 days after the respondent's brief has been filed. Briefing must comply with specific rules for content, color coding, formatting, and length, all of which generally can be found in Rule 84.06. Note: both the Eastern and Western Districts of the Missouri Court of Appeals have reduced the maximum word count for each brief by local rule, so be sure to check local rules.

In general, the appellant's brief should contain the following parts: white cover; Table of Contents (Rule 84.04(a)); Table of Authorities (cited case law, statutes, rules, and any other treatises or secondary sources); Jurisdictional Statement (Rule 84.04(b)); Statement of Facts (Rules 84.04(c)); 84.04(i); Points Relied On (see Rule 84.04(d) (format) *Thummel v. King*, 570 S.W.2d 679 (Mo. banc 1978) (discussion on purpose of Point Relied On)); Argument (Rule 84.04(e)); Conclusion (Rule 84.04(a)(6)); Certificate of Service and Certificate of Compliance (Rule 84.06); and an Appendix (Rule 84.04(h), *infra*). Although not expressly provided for in the rules, a summary of the arguments may precede the argument portion of the brief.

In general, the respondent's brief must contain the following: gray cover, Table of Contents, Table of Authorities, Argument, Conclusion, Certificate of Service and Certificate of Compliance. Rule 84.04(f). If the respondent does not agree with the appellant's Jurisdictional Statement, Statement of Facts, or the applicable standard(s) of review, the respondent may add those to its brief. Rule 84.04(f). Under Missouri's rules, a respondent is not required to file a brief; however, if the respondent elects not to file a brief, respondent waives oral argument.

Reply briefs by the appellant are not mandatory. If a reply is filed, it generally should include a light orange cover, and it should not reargue points raised in the appellant's opening brief. Rule 84.04(g).

The Appendix of a brief should contain the following, unless already found in a previously filed appendix: the judgment or decree of the trial court; a full copy of any jury instruction, if it is contested; and a full copy of any statutes or rules that are at issue. Rule 84.04(h).

When do I get to argue?

If you have requested oral argument, you will receive a letter from the clerk detailing your oral argument time and location.

How much time do I get to argue?

Generally, in regular cases the Western District allows the appellant a maximum of ten minutes for argument and a maximum of three minutes for rebuttal. The respondent is allowed a maximum of ten minutes for its argument. WD Rule I. In regular cases in the Southern District, the appellant has a maximum of 20 minutes, of which not more than five may be reserved for rebuttal. The respondent is allowed 15 minutes. SD Rule 1(c). In the Eastern District, the appellant is allowed 15 minutes for argument and 3 minutes for rebuttal, and the respondent is allowed 15 minutes. ED 395(a). Time may be extended or shortened either by notice or by the court's discretion at argument.

What if I don't like the opinion of the Court of Appeals?

In the Eastern and Western Districts, opinions are handed down every Tuesday, and the Southern District can hand down opinions on any day of the week. In all cases where an opinion is published, it will be available online at http://www.courts.mo.gov/page.jsp?id=1944. Copies of *per curiam* (unpublished) opinions are provided to counsel of record. If you do not agree with an opinion of the Court of Appeals (whether published or *per curiam*), you may, within 15 days after the opinion is handed down, file in the Court of Appeals a motion for rehearing or in the alternative application for transfer to the Supreme Court of Missouri. Rule 83.02; 84.17. Any post-opinion motion must include suggestions in support and be filed in the Court of Appeals. You can also move to modify the opinion if there is an error, or to publish the opinion if it was issued *per curiam*. Rule 84.17. Any application for transfer to the Supreme Court of Missouri must be first filed and denied in the Court of Appeals before an application for transfer can be filed in the Supreme Court. After denial by the Court of Appeals, you have 15 days to file an application for transfer to the Supreme Court. All applications of transfer to the Supreme Court of Missouri must be filed with the Clerk of the Supreme Court. Rule 83.04.

When is my case finally over?

The judgment of an appellate court is called the mandate. The mandate will be issued upon the expiration of the time for filing any post-opinion motions and will be mailed to the attorney of record. If any such motions are filed, the mandate issues after the court has ruled on all post-opinion motions.

Where can I find more information?

The clerks of the three districts of the Court of Appeals and of the Supreme Court are helpful and knowledgeable about all the procedures of the appellate courts. They are a frequently utilized resource for attorneys. Each district's website also has additional helpful "how to" tips and guidelines, as well as online copies of their local court rules. You can find information on each district of the Court of Appeals through the Missouri Courts website at http://www.courts.mo.gov/page.jsp?id=261, or in Section Twelve of this manual.

SECTION 2:
THE MISSOURI NONPARTISAN COURT PLAN
by Jonathan Sternberg[*]

Introduction

Though you might not know it, Missouri pioneered what presently is America's most respected system for choosing judges: the Missouri Nonpartisan Court Plan, commonly called "The Missouri Plan." All judges on the Supreme Court of Missouri and the Missouri Court of Appeals are selected under this model system, in which lawyers apply for open positions on the bench and are selected on the basis of their merit. Today, the Missouri Plan also covers circuit and associate circuit judges in the City of St. Louis and in St. Louis, Jackson, Clay, Platte, and Greene Counties.

In recent years, the Missouri Plan has come under attack from special interest groups who would have justice serve their interests, rather than those of the public. These groups want Missouri to switch back to electing all our judges – something that clearly works in small communities, but which the people of Missouri consciously abandoned 70 years ago in Kansas City, St. Louis, and our state's appellate courts because of the terrible corruption it caused.

So now, more than ever, it is important for all new lawyers to be very cognizant of how the Missouri Plan functions, why the people of Missouri adopted it, and why the way Missouri uses it is a model for other states.

What systems are used in America to select judges?

Throughout American history, all jurisdictions have used one of at least five methods to choose their judges. The first, specified in Article II of the U.S. Constitution and used throughout our country's history to choose federal judges, is nomination by the executive and confirmation by the legislature. The second, used in several states today, is nonpartisan elections – judges run for office without specifying a political party. The third, used in many states, is partisan elections – judges run for office as Republicans or Democrats. The fourth is election by the legislature. Finally, the fifth is the Missouri Plan: nomination of a slate of candidates by a staggered commission of lawyers and laypeople and appointment by the executive from that slate; every few years thereafter, the people vote whether or not to retain each individual judge.

The Missouri Plan originated in 1940 after a sad experience with terrible corruption at the hands of "Boss" Tom Pendergast's political machine, which had rendered Missouri's appellate courts politically dependent on the whims and wishes of a gangster. Since its inception 70 years ago, this system has served Missouri well. It ensures that the judiciary at the appellate level and in our large metropolitan areas is shielded from the influences of politicians and special interest groups, while at the same time responsible and accountable to the People – who, of course, the courts ultimately serve. Indeed, the Missouri Plan serves us so well that about 30 other states have adopted elements of it, too. The Missouri Plan is a model for most of the United States.

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How does the Missouri Plan work?

For vacancies on the Supreme Court of Missouri and the three districts of the Missouri Court of Appeals, there is an Appellate Judicial Commission composed of seven members, governed and set forth under Rule 10 of the Missouri Supreme Court Rules. Rule 10.03 provides the manner of selection and term of its members. The Commission comprises three lawyers, one each from the eastern, western, and southern districts of Missouri (contiguous with the districts of the Court of Appeals), elected by their colleagues in that district and serving staggered terms of six years. As Chief Justice William Ray Price recently explained it to the legislature, "The lawyers' role is to safeguard the professional quality of the candidates."

Alongside the lawyers are three members appointed by the Governor also for staggered six-year terms who cannot be lawyers. They "evaluate the candidates from the point of view of regular citizens of Missouri. To the extent these commissioners are appointed by the governor, they reflect the political mood of the state." Representing the judiciary, the Chief Justice of Missouri is the Commission's seventh participant. The nominating commissions in the City of St. Louis and Jackson, Clay, Platte, Greene, and St. Louis County each has one fewer lawyer and non-lawyer, and the Chief Judge of the local Court of Appeals sits in lieu of the Chief Justice. These are called the Circuit Court Judicial Commissions, and Rule 10.04 provides the manner of selection and term of its members.

When there is a vacancy on any court using the Missouri Plan, any attorney qualified under Article V of the Constitution of Missouri to be a judge and living within the jurisdiction of the court with the vacancy may submit an application to the relevant commission (Appellate Judicial Commission for appellate vacancies or Circuit Judicial Commission for circuit vacancies). The commission evaluates and interviews the applicants. In 2010, the Supreme Court opened all applications and interviews to the public. After screening the applicants, the Commission chooses the three candidates it believes are best suited to fill the vacancy and submits the list to the Governor. The Governor has complete discretion to appoint any one of the three, and the appointee begins his service immediately. If the Governor does not choose one of the three within 60 days of receiving the list submitted by the commission, the commission chooses one.

At the next general election after the appointee's first year of service, he or she is subject to a retention election, and then again every twelve years thereafter for appellate judges and every six years for circuit judges. The election ballot asks voters "Shall Judge X be retained in office?" Before each election, a Judicial Performance Evaluation Committee (organized under Rule 10.50) evaluates the judges' performances and publishes reports recommending whether they be retained or not, and why. If the judge is not retained, his or her term expires on December 31 of the election year, and his or her position will be vacant. At that point, the application and nomination process would begin anew.

Why was the Missouri Plan created?

When Missouri first was admitted as a state in 1821, as in the federal system all trial and appellate judges were appointed by the Governor for life with consent by the State Senate. In

1850, however, the people of Missouri amended the State Constitution to provide that Supreme Court and Circuit Court judges be elected by popular vote.

But by the early twentieth century, many prominent national scholars including Roscoe Pound and William Howard Taft began to voice concerns about the propriety of electing judges due to a danger that the elections would be and were being influenced by special interests, compromising the courts' ultimate independence and fairness. In Missouri, the rise of political bossism and its eventual overwhelming control of Missouri political life proved these warnings true. Beginning in the 1880s and 1890s, Kansas City's Democratic Party consolidated its power so as to control large blocs of voters, with Tom Pendergast as its head. In 1925, with Pendergast's backing, Kansas City amended its charter to place it under the direction of a city manager appointed by a smaller City Council. Since Pendergast was able to manipulate those councilmen, he quickly gained full command of the City's government.

Pendergast's influence – and ultimate domination – rapidly extended to all of Missouri. Politicians could not be elected without his backing. If a politician did not do precisely as "Boss" Pendergast said, Pendergast would mobilize his blocs of voters and ensure the politician was not re-elected. And as trial and appellate judges were elected, Pendergast necessarily dictated their elections, too.

The Pendergast machine's supremacy extended all the way to the Missouri Supreme Court. If a Supreme Court judge did not vote to decide a case the way Pendergast wanted, the judge would lose his office at the next ballot. Indeed, between 1918 and 1941, only two Supreme Court judges successfully sought re-election. For example, in 1932, the Pendergast-governed Supreme Court bizarrely declared unconstitutional Kansas City's state-run Board of Police Commissioners, returning control of the Kansas City Police Department to the City and effectively turning the Police into Pendergast's private army. In 1934, Pendergast's ward leaders in St. Louis succeeded in electing to the Circuit Court of the City of St. Louis a pharmacist who never had practiced law, despite the Bar advising against his election. That judge proceeded personally to choose grand juries charged with investigating municipal corruption and election fraud composed of the very officials who were to be investigated! Another Pendergast judge later dismissed those investigations entirely.

Very public stories like these frightened lawyers and laypeople alike across the state. The press picked up on the palpable sense that Missouri's judiciary had gone awry. The *St. Louis Post-Dispatch* spoke out against machine-politick judges. The Missouri Bar, as well as the Lawyers Association of Kansas City (today the KCMBA) and the Bar Association of Metropolitan St. Louis, amplified this popular sentiment.

Pendergast's reign finally ended in 1939, when a federal jury convicted him of income tax evasion. The following year, the statewide, Kansas City, and St. Louis bars succeeded in creating and placing on the ballot an initiative petition amending the Constitution of Missouri to establish the Nonpartisan Court Plan. The plan called for judges on the Supreme Court and Court of Appeals, as well as the Circuit and Probate Courts in the City of St. Louis and Jackson County to be nominated by the governor from a list of three candidates presented by a judicial nominating commission. After twelve months in office, and then again every twelve years, an

appointed judge would stand for a retention election: the People could vote whether or not to retain him. With Pendergast fresh in their minds, the People readily ratified the proposal. When, the following year, the legislature placed a repeal of the plan on the ballot, it received twice as many votes in its support as the first time!

Every time since then, when a jurisdiction in Missouri has become too big for sensible judicial elections, its voters have opted to join the Missouri Plan. In 1970, voters in St. Louis County chose to extend the Missouri Plan to their judges. In 1973, voters in Clay and Platte Counties did the same. In 2008, voters in Greene County joined them. No circuit that has adopted the Missouri Plan has ever voted to abandon it.

If judicial elections are so bad, why are some judges in Missouri still elected?

Judicial elections aren't *all* bad! They're just not suitable for large metropolitan areas and statewide courts. As Missouri shows, judicial elections clearly work on a small scale in smaller communities. Today, most of Missouri's smaller communities continue to use partisan elections to choose their Circuit Judges. This has never posed a problem, though, because of the nature of small communities.

Voters in small communities are more likely to know the reputation of judicial candidates, and the campaigns in these towns typically consist of yard signs and a few newspaper ads. There is little risk that, once elected, these judges will be influenced by campaign donors or political powerbrokers. Winning a partisan election in a large geographic area, however – such as an appellate district or in a major metropolitan area like Kansas City, St. Louis, or Springfield – takes *a lot* of money. In those elections, TV and radio ads cost hundreds of thousands of dollars just to get name recognition among voters. While accepting a major donation from a corporation or an endorsement from a prominent politician doesn't necessarily compromise a judicial candidate, it can give the *appearance* of impropriety.

Under the Missouri Plan, appellate judges and trial judges in St. Louis, Kansas City and Springfield do not face opposition, but are up for a retention vote based solely on their record on the bench. Indeed, they are prohibited from running a campaign at all – unless they face opposition from an interest group or political faction. The public can learn about each of these judges before their retention election by reading their thorough judicial performance evaluations conducted by committees composed of lawyers and non-lawyers.

Clearly, the blend of non-partisan retention elections for some judges and partisan elections for others in more rural parts of the state works well for Missouri. And if partisan elections aren't working anymore in a given judicial circuit, a majority of the circuit's voters can choose to join the Missouri Plan, as the voters of Greene County did in 2008.

Why is the Missouri Plan better than elected or appointed judges?

In recent years, special interest groups have sought to amend the Constitution of Missouri to do away with the Missouri Plan. Instead, they seek a return to Pendergast-era partisan

elections of judges. A simple examination, though, shows that those groups' motives are amiss and what they want would be detrimental to the administration of justice in our state.

As noted above, three other judicial selection systems exist in the United States besides the Missouri Plan: (1) the federal-style executive appointment system; (2) electing judges in nonpartisan elections; and (3) electing judges in partisan elections. The Missouri Plan is far superior to any of these alternatives, as it has shown to be since its inception seventy years ago.

a. Executive appointment system

Re-adopting the federal system, where the executive nominates judges with legislative consent, and which Missouri used from 1821-50, poses several glaring problems.

Federal judges are appointed for life and are not subject to retention votes by the People. A system in which the Governor nominates a judge and the Senate votes on the nominee has no means to vet the candidate for character or legal acumen – and the People have no say at all – is fundamentally political, rather than judicial. As we have witnessed at the federal level in recent years, this subjects nominees to political bargains, legislative stalemate, and delay. Presidential nominations are routinely held in abeyance by the U.S. Senate for purely political reasons. Meanwhile, the judgeship remains vacant. As Missourians recognized over 160 years ago, regardless of its merits under federal law, this system does not work in our state.

b. Judicial elections

Elections are the *worst* possible alternative to the Missouri Plan. As Chief Justice Price put it, "The reason is simple. Money. The amount of money involved in conducting statewide races will destroy the public's perception, and perhaps the actual integrity, of our judicial system." What is more, the obvious and open risks of corruption, graft, and greed are the reasons the people of Missouri switched from elections to the Missouri Plan in the first place. Judicial elections pose too great a risk of the dependent, unfair, and incompetent judiciary seen in their last incarnation in Missouri before 1940.

Special interests have increased their prominence in all areas of politics. Along with this, the amount of money spent on judicial elections in those jurisdictions using that method has increased rapidly. Between 1990 and 1999, $83.3 million was spent on judicial elections. Between 2000 and 2009, that number rose to $206.9 million – more than double the previous ten years. Moreover, the vast majority of the money spent comes from a small number of rich donors. It is thus unsurprising that, as a recent poll revealed, 70% of Americans believed that campaigned contributions in judicial elections have a "significant impact" on the judges' decisions. And indeed, experience has shown this to be true even in recent years.

In West Virginia, a coal company spent $3 million to elect a justice to the state's Supreme Court. Later, a $50 million verdict against that company came before the Court. The justice refused to recuse himself and joined a 3-2 majority reversing the verdict. In *Caperton v. A.T. Massey Coal Co.*, 129 S.Ct. 2252 (2009), the Supreme Court of the United States reversed

the judgment because it found there was a "serious risk of actual bias" that rose to an unconstitutional level.

In Illinois in 2004, the most expensive state judicial campaign in history took place for a seat on the Illinois Supreme Court. Combined, the two candidates raised $9.3 million. The one elected received more than $1.3 million from the State Farm insurance company. The next year, a $450 million breach of contract verdict against State Farm came before the Illinois Supreme Court. In *Avery v. State Farm Mut. Auto. Ins. Co.*, 835 N.E.2d 801 (Ill. 2005), the judge cast the decisive vote to reverse the verdict. That time, the U.S. Supreme Court denied certiorari.

Plainly, statewide judicial elections cause too many problems. They turn judges into politicians. They decrease the independence and impartiality of the judiciary. Missourians rightly and soundly rejected judicial elections seventy years ago. Missouri neither needs nor wants the risk of corruption and incompetence associated with statewide elected judges.

Conclusion: merit selection is the most meritorious

The Missouri Plan often is referred to as a “merit selection” plan, because it provides for judicial selection based on a candidate’s merit, rather than campaign rhetoric, fundraising, or political savvy, all while ensuring the people have the final say. It is unsurprising that more than 30 other states have adopted it for their statewide judicial officers. Indeed, even other countries, including Canada and the United Kingdom, have followed Missouri’s lead and instituted modified forms of the Missouri Plan for many of their courts.

Human beings are imperfect by nature. Like democracy as a political system, Missouri’s merit selection system for choosing judges is the most perfect system for imperfect beings. Our state’s history has shown that judges, governors, and legislators are just as prone to greed, vanity, narcissism, and corruption as anyone else. Thus, after a long era of terrible corruption that turned our elected statewide courts into instruments of essentially dictatorial power, Missourians sensibly turned to our middle way: judges nominated and vetted by a well-constituted body of lawyers and laypeople, selected by the state’s chief executive, and ultimately accountable to the people, for whom the right to fair and impartial justice is constituted.

SECTION 3:
PROFESSIONAL RESPONSIBILITY FOR THE PRACTICING ATTORNEY

by Jason R. McClitis*

While you have taken a course in professional responsibility and have passed the Multistate Professional Responsibility Examination (MPRE), maintaining an ethical practice is much easier said than done. This section will assist you in carrying out a professionally responsible legal practice and directs you to resources that will help you maintain an ethical practice.

Conflicts of interest

Before taking on a new client, it is imperative to determine whether you have a conflict of interest. Because of an attorney's confidentiality obligations, you must conduct a conflict check before receiving any potential confidential information from a client. The easiest way to conduct conflict checks is to cross-reference relevant information regarding the prospective client against a computer database or spreadsheet of all parties you have represented in the past and all parties that have been adverse to you. In addition to cross-referencing the prospective client's name, you will want to obtain the names from the prospective client of adverse parties or other persons and entities who may be affected by a potential lawsuit. Failing to perform adequate conflict checks not only exposes confidential information but also could harm your reputation. Such exposure may lead to others viewing you as irresponsible and unable to handle a case thoroughly and professionally.

The Missouri Bar provides a Conflict of Interest Check Form to help attorneys identify conflicts of interest. It is available through the "ClientKeeper" forms in the Law Practice Management Online Center (http://members.mobar.org/lpmonline/starting.html).

Engagement, nonengagement, and disengagement letters

It is important for attorneys and their clients to establish, in writing, whether there is an existing attorney-client relationship. Having this in writing reduces the possibility of miscommunication or misunderstandings with clients and ultimately helps protect attorneys from legal malpractice claims. For these reasons, the use of engagement letters, nonengagement letters, and disengagement letters is essential to maintaining a professionally responsible practice.

Engagement letters confirm or establish that an attorney-client relationship exists. Typically, such letters welcome the client, summarize the specific matter that your firm will handle, and include details about the attorney-client relationship, such as the fee structure, for the client to review and sign.

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Nonengagement letters do the opposite. In a nonengagement letter, an attorney declines representation of the prospective client. In many ways, nonengagement letters are more important than engagement letters. When declining a client, it is critical to make it *crystal clear* to the declined client that you are declining representation. Language that you and your law firm "do not represent [the declined client] in any capacity relating to this or any other claim" should be included. Further, be sure to provide the declined client enough information to know that time may be of the essence in filing their cause of action. It is also advisable to not foreclose the possibility of recovery for the declined client or do anything to completely discourage the declined client from seeking other legal representation. Instead, you always should encourage a declined client to seek a second opinion.

Disengagement letters are used to end the attorney-client relationship. They can be used at the completion of a case (e.g., after a settlement or final disposition of the case), or may be used when you withdraw from representing a client. Typically, a disengagement letter indicates that the attorney-client relationship has ended and the reason for ending the relationship. If the relationship is ending through a withdrawal of representation, it is important to provide the same information that otherwise would be contained in a nonengagement letter.

As a whole, using these letters is critical to ensuring clients and prospective clients know, at all times, the status of the attorney-client relationship and, if providing representation, the specific matter for which you represent the client. Failing to use these letters could lead to clients mistakenly believing they are represented, and could lead to serious consequences, such as the running of the statute of limitations on a declined client's claim. As a result, such letters are critical to an ethical practice.

For form engagement, nonengagement, and disengagement letters, visit The Missouri Bar File Bank at http://www.mobar.org/Members/FormsBank.aspx or download the ClientKeeper forms from Law Practice Management Online Center at http://members.mobar.org/lpmonline/practiceresources.html.

Representation agreements

When initiating representation of a client, it is imperative that both the attorney's and client's responsibilities are reflected in a written agreement. Representation agreements are binding agreements that can be used to inform a client of their attorney's fees and expenses and the billing procedures that will be used to calculate fees and expenses (e.g., contingency fee, hourly fee structure, etc.). Committing the client to the fees and expenses in the representation agreement helps prevent disputes regarding the cost of representation.

In Missouri, attorneys must comply with Supreme Court Rule 4-1.5 in charging client's fees and costs. Under this rule, fees and expenses charged to clients must be "reasonable." The reasonableness of a fee or expense is determined by the enumerated factors in Rule 4-1.5. Attorneys should be familiar with these factors when deciding what type of representation they will engage in (hourly, contingency, or flat fee), and what to charge a client. Further, under Rule 4-1.5, it is preferred for fees and expenses to be communicated to clients in writing, and in fact, it is required to be in writing for contingency fee agreements. Additionally, for attorneys

practicing family law or criminal law, keep in mind that certain contingency agreements are barred under Rule 4-1.5.

The Missouri Bar has multiple sample fee agreements available online. These can be modified to fit an attorney's specific practices. Simplified hourly and contingency fee agreements can be found in The Missouri Bar File Bank, under "Office Management" in the "ClientKeeper" forms (http://www.mobar.org/Members/FormsBank.aspx). The Missouri Bar Fee Dispute Resolution Committee, the Office of Chief Disciplinary Counsel, and The Bar Plan have developed a more comprehensive set of sample agreements for hourly, contingency, and non-litigation representation. These forms are provided with the "Fee Agreement Sample Forms and Comments" program and available through The Missouri Bar website (http://www.mobar.org/lpmonline/fees/).

There may be times where you want specifically to limit your representation of a client. In establishing a limited representation relationship, it is advisable to follow Supreme Court Rule 4-1.2(c). Under this rule, you can establish a presumption of a limited representation if you provide notice to the client that the attorney-client relationship is a limited relationship, and the client consents to such representation. The comments to Rule 4-1.2 provide a sample Notice and Consent form for limited representations:

- http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/c0c6ffa99df4993f86256ba50057dcb8/8195dff3462d90ba86256ca6005211c1?OpenDocument

Ethical dilemmas

There will be times when you will confront ethical dilemmas without a clear-cut rule on which to rely in determining how to proceed in a professionally responsible manner. If this occurs, you should review opinions issued by the Legal Ethics Counsel of the Supreme Court Advisory Committee.

Over time, the Legal Ethics Counsel has issued numerous formal opinions on a variety of ethical issues that arise in the practice of law, including conflicts of interest, secret recordings, solicitation, and office-sharing arrangements. These opinions are solely to provide guidance to attorneys and are available through The Missouri Bar website (http://www.mobar.org/ethics/formalopinions.htm).

Should the formal opinions not address a specific dilemma, you can request an informal advisory opinion from the Legal Ethics Counsel. You can request either a written and oral opinion. Guidance in submitting an opinion request also is available through The Missouri Bar website (http://www.mobar.org/ethics/informalopinions.htm).

After deciding how to approach your ethical dilemma, it is important to document the dilemma in detail, note the authority on which you relied in deciding how to proceed, and communicate the dilemma and your decision to the client when appropriate. Keeping a detailed log of how you reached your decision will go a long way in protecting you should the dilemma arise in the future. It also will reinforce your image as a forthcoming and ethical attorney.

21st century professional perspectives

While reading about ethical principles is helpful, seeing examples of good and bad practices shows how the principles apply on a day-to-day basis. To that end, the 2009-10 Leadership Academy class prepared a four-part series on "21st Century Professional Perspectives." These short videos provide an excellent perspective on the "dos and don'ts" of dealing with clients, opposing counsel, and judges. To view these videos, visit the following links:

Scene 1: http://www.youtube.com/watch?v=9405BgHgGbA

Scene 2: http://www.youtube.com/watch?v=kKub0Q72yEA

Scene 3: http://www.youtube.com/watch?v=h7uHi0TXGME

Scene 4: http://www.youtube.com/watch?v=GRPAL9RoF4g

SECTION 4:
COMMUNICATING WITH YOUR CLIENT
by Jessica A. Mikale*

To maintain and grow your practice, you will need interpersonal skills to demonstrate caring for your clients. No matter how well you know the law or understand how a judge may rule, you must be able to convey your knowledge to the client in such a manner that they understand your recommendation and the reasoning behind it. This will help the client understand why he or she may not get the same result as his or her friend or neighbor.

"How do I do this," you ask? This chapter suggests several ways to communicate with your client throughout your case to make sure that you and the client are on the same page – and to increase the likelihood that he or she will come back to you in the future and refer others to you!

Know your client: try to view world through their eyes, not yours!

a. How much information do they need?

When you meet with a client to discuss a new case, it is important to determine whether this is the first time that they have ever met with a lawyer and if they have some basic understanding of how the legal process works. Just because this is your umpteenth divorce case this week does not mean that the client knows anything about the process other than that he or she was just served with a petition. It is important at that first meeting to ask questions not just to glean the necessary information to prepare an answer to a petition, but also to determine how much assistance the client is going to need to understand what is going on and feel confident about the direction the case is heading.

At that the first meeting (and subsequent ones too!), *really listen* to gauge the client's comfort level and understanding of the situation. Based on your observations, note the detail of responses that you need to give the client to satisfy his or her individual needs. Be sure to keep this in mind not only when you speak with the client on the telephone or meet at court, but also when sending letters or e-mail. If you receive a motion in the mail and prepare an answer, don't just forward a copy of the motion and your answer to the client if you know the client is going to have questions about the motivations of the party, the potential impact on the case or have no idea what the legal terminology within the motion means, etc. Be sure to forward the documents with a cover letter sufficiently explaining the document for the client to understand it, not just read it.

By knowing the individual needs of the client, you will be able better to determine how much of an advance fee to request to cover the time that you expect to spend in this particular case. The detail-oriented client who feels the need to report each and every minute change and request your opinion on how that minute change may impact the case will require more of your time than the client that only reports highlights or responds only to direct contact from you.

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Remember that this need may not be static and the client may require more detail at some points of the litigation more than others. Be sure to consider the client's changing needs when requesting additional advance fees as well once the initial advance fee is depleted.

b. How responsive are they?

Ideally, every time you communicate with the client, you would receive a timely, concise response. In the real world, this is not usually the case.

No matter how involved a client is in his or her case (or seems to be judging from the telephone calls or e-mails you receive!), it is important for you to note on your calendar if you have a received a response from you client about a particular item or event. Just in case your client is not perfect, don't set the reminder only for the day the response is due. Instead, be sure to set at least two calendar events – one the date it is due and another a sufficient number of days ahead to allow you to contact your client with a reminder that the item or event is due.

If you know that your client typically takes his or her time in responding, you may want to set more than two dates. If your client continues to be slow in responding or is unresponsive altogether, be sure to remind the client (in writing!) of the importance of the deadlines and consequences if they are not met. To encourage more timely responses, it is a good idea regularly to update your billing and be sure to bill for each and every time you attempt to contact the client. This will allow the client to easily see how his or her lack of response directly results in an increase of costs. You certainly want to avoid having the client file a bar complaint against you claiming any delays were your fault and the best way to do that is to document your file.

For the detail-oriented client discussed above, it is also important to keep cost expectations in check. Therefore, it is also a good idea to regularly update your billing for this type of client as well, being sure to bill for each and every time a contact is made by you or the client, so that the client can easily see how this directly results in cost increases.

c. Is it time to get out?

Remember, you don't have to take a case just because you met with a potential client. If you have another case that you know is going to take a lot of time or you have a personal matter outside of the office that will consume even more of your time, etc., you must consider carefully whether or not to take a particular case. For example, it may not be a good idea to accept a case from a client that is going to contact you a hundred times a day and expects immediate responses because you may not have the time available.

If you know that you cannot devote the time to the new client for whatever reason, the best communication you can have with your client is to tell them that you will not have the time to devote to their case to meet their needs at this time. If the client knows that you were listening to them and believes that you recognize their needs and are putting their needs ahead of taking the case just to get their money, they may appreciate your honesty and still come back later or refer others to you.

You also do not have to stay in a case just because you have entered your appearance. It is important to remember that you can withdraw from a case if you are unable effectively to communicate with your client or if they stop paying you. Inability to communicate may be due to the client who continues to be slow or unresponsive or the client who completely disregards your advice. Either way, you don't want it to appear to opposing counsel or the judge that it is your inaction that is the cause of delay in the case. It may be better to withdraw.

Don't be afraid to ask questions and explain stuff!

It may seem to be an obvious part of your job description to ask questions of your client, however, this may not always be easy when dealing with sensitive topics or a client who thinks that he or she knows it all anyway. Asking questions of your client helps the client to actively participate in the meeting and reassures the client that you are listening. This will also help your understanding of why the client has taken the position they have and will help you to explain to the client whether or not you believe their position is attainable.

Do not use legal jargon or assume your client knows the terminology and timelines. Even if your client is a repeat client, he or she may not remember or understand some of the terms in this new case or remember the timing of how the case may proceed.

Respond to communications

The number one complaint to the Office of Chief Disciplinary Counsel resulting in a formal investigation for 2008 was for violation of Rule 4-1.4 of Missouri's Rules of Professional Conduct, "Communication." Regardless of how long it may take for a client to respond to you, it is important that respond to them as soon as possible, ideally within 24 hours. This means that you should regularly check each means of communication that you give your client to communicate with you, whether that is voice-mail, fax, e-mail or regular mail. If you know that you do not regularly check one of the means of communication, you should not give it to the client to use.

If you receive a communication, but know that you cannot respond as soon as you would prefer or the client requests, you should at least let the client know when they can expect a response from you. This lets the client know that you have received their communication and when to expect a response. Obviously it is important to then follow up when you said you would or at least update the client on when to expect a response. Clients do usually understand that they are not your only client, but they are less likely to think that they are being ignored or are unimportant if you let them know you have received their communication but are not able to respond at that time. The fact that you took the time to maintain the contact is important to maintaining clients.

If you are out of town or expect to be out of the office for trials, etc., be sure to update your voice-mail and e-mail with automatic responses to let clients know that you will be unavailable. If you are able, be sure to also state when you expect to return so that the client will have an idea when they may expect a response. Be sure to change the voice-mail and e-mail once you return to the office so that clients know you have returned as well.

Just because a client e-mails you from work does not mean that you should respond to the work e-mail. It is important at the first meeting with the client to ask for all means of communication that the client authorizes you are able to use to contact them. If you receive a communication from what appears to be the client, it is a good idea to contact the client through an approved source first to confirm that the communication is, in fact, from the client. For example, it may be too easy for a spouse in a divorce case to access the other spouse's Facebook page or e-mail account and either review a communication you sent or send you one acting like the spouse.

It is also true that, at the first meeting, ask the client for people with whom you are authorized to discuss all or part(s) of the case with other than the client. Just because a parent of your client may be paying the bill does not mean the client authorizes you to share any information with the parent.

Be up front with your client about expectations

From the very first meeting with your client, be realistic with the client about what to expect – don't just tell them what they want to hear! This is true even if you don't know the answer or can't speculate what the judge may do in this case. It is much harder to change a client's expectations once they have been set, especially if it is because of something you told them! Clients are coming to you because of your expertise and appreciate your honestly evaluating the case so that they do not feel like they're wasting money if something completely different occurs after a trial from what they expected. There is nothing worse to a client than paying thousands of dollars after being assured by their attorney that they would win only to have the judge rule completely the opposite.

If, after discussing expectations with the client, the client decides to disregard your advice and you remain in the case, it is a good idea to follow up with a detailed letter to the client reiterating the pros and cons of the client's situation, including a cost estimate for continuing the route the client is choosing. (In fact, I would even recommend requesting an additional deposit of an advance fee to make sure that you are paid.) This detailed letter serves several purposes:

1. There is documentation in your file to support that you discussed the matter in detail with the client on at least two occasions, including the potential problems.

2. If the client was very emotional during the office visit, he or she may not really have comprehended everything that was discussed. Sometimes seeing it in writing, in black-and-white, makes it easier for clients to understand once they have had some time to calm down.

3. It allows the client to refer back to what was discussed without contacting you to ask the same question multiple times.

4. It prepares the client for the cost of continuing the route the case is headed if they disregard your advice so that the client is not shocked that a trial ended up costing thousands of dollars.

5. It can help you prepare for trial and start you thinking about ways to mitigate the problems in your case.

Giving a client reasonable expectations includes what to expect about your billing policy. Be sure to discuss this at your initial meeting and detail it in your contract for services. For example, yes, you will bill for every phone call, every e-mail, etc. and that you round to nearest fifth or tenth of an hour, etc. Even though this may seem obvious, if you do not make this clear to your clients in the initial meeting, you may be surprised that some clients feel cheated that not much work was done for the amount of the bill because the phone call or e-mail was so short, etc. If you have a client that contacts you a lot, even after having been explained this policy, it is important that you frequently update and mail your bill to the client. This reminds the client of your policy and helps you to keep track of how much money is left in your escrow and when to ask for an additional advance fee, if necessary. Otherwise, the client may owe a substantial bill that may not get paid.

If you are not a solo practitioner, it is also important to remind the client at that first meeting that he or she is not hiring you, but the law firm and that other attorneys in the office may work on the file from time to time. Be sure to include this in your contract for services as well. If a client thinks that they are hiring just you, they may become dissatisfied or think they are not important to you when somebody else shows up with their file, which means an unhappy client, potential for disputes, and little chance for return service or referrals.

Learn from dissatisfied clients

Once a matter is concluded, it's a good idea to send a final letter to client summarizing the case and reminding the client of things that they still have to do, if anything (e.g. pay a judgment, stay off someone's land, pay child support, etc.). With the final letter, be sure to include your final bill for services as well as some sort of a survey of customer satisfaction. This may assist you in changing any practices that are not effective with clients of which you may not otherwise have been aware.

A client that is dissatisfied may be the most descriptive in his or her response to the survey. If you receive a negative response, do not be defensive and offer excuses. Instead, offer solutions. If the client that was dissatisfied is able to speak with you and misunderstandings can be corrected, the client may still come back to you or refer people to you because you took the time to address their concerns. Again, this reiterates that you were listening to the client and that the client is important.

SECTION 5:
OPPOSING COUNSEL: NAVIGATING AROUND COMMON FIRST-YEAR PITFALLS

by Darryl Chatman*

Dealing with opposing counsel can be a challenge for a new lawyer fresh out of law school. However, with the proper roadmap you can navigate around several common pitfalls that young lawyers may face. This guide addresses things that you can do to avoid these pitfalls, including: (1) researching opposing counsel as soon as possible; (2) utilizing experienced attorney mentors; (3) being familiar with the applicable rules; (4) being prepared for common litigation issues; (5) neutralizing any of opposing counsel's home field advantage; (6) being confident and learning from your mistakes; and (7) establishing a good reputation.

Do your research on opposing counsel as soon as possible

Don't wait until your first discovery dispute or trial to begin gathering information about your adversary. As soon as you get your first phone call, letter, or entry of appearance from opposing counsel, begin researching information about their firm, their practice areas, and their reputation. Ordinarily, most pertinent information about the individual attorney opposing you can be found on their firm's website or through other public sources including the internet.

Also, ask other attorneys who you trust if they have ever been involved in a case with the individual and, if they have, what you can expect in your case. The purpose of this research is to determine what their reputation is (i.e., whether they are aggressive, intelligent, ethical, and/or easy to deal with).

Find and utilize experienced attorney mentors

A good mentor will help you focus on the most important aspects of the cases that you are working on. Specifically, a good mentor can help you spot issues in your cases that you may have been unaware of, and assist you with important decisions such as whether you should settle a case or take it to trial. You should utilize experienced attorneys at your firm as mentors. Alternatively, seek out mentoring opportunities provided by The Missouri Bar or your local bar association. Either way, a mentor is an important component of your success early in your practice. Hopefully, the relationship with your mentors will continue throughout your career.

Know the rules

New and experienced attorneys may receive letters or emails from opposing counsel with demands that some particular action be taken, or objections against some particular action already taken. Experienced attorneys may shrug off these communications and regard them as posturing, but newer attorneys may wonder if they should in fact be doing something, or should

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not have done something they thought appropriate at the time. The best armor against this is to always check the applicable rules (State, Federal and/or local). The applicable rules will dictate how to react to opposing counsel's demands (i.e., whether to ignore them or address them, and whether to address them in a hearing before a judge).

However, if you decide to react to opposing counsel's communications, you should always provide a response in a timely fashion, and in a professional manner. Any response should be drafted with knowledge that clients and judges may read the response and form an opinion of you accordingly.

Each court (state, federal and municipal) has its own local rules. Many judges also have their own rules. Federal judges often post these on their websites or incorporate them into Case Management Orders. When in doubt, research the judge, the courtroom, and the circuit, and ask court personnel for advice. It is far better to ask ahead of time than to aggravate a judge with your failure to comply with courtroom expectations, however unintentional.

Be prepared for common litigation issues

a. Civil litigation

New lawyers may not have many opportunities to take a case to trial in their first year. During that same period, however, many new lawyers undoubtedly will be involved in discovery issues with opposing counsel. Whether it is trial or pretrial litigation, opposing counsel will likely expose you to an array of tactics to try to gain an advantage in your case.

The first experience a new lawyer may have with opposing counsel is during the early stages of discovery. Opposing counsel may withhold documents, give deficient written discovery responses, stall, ask for multiple extensions of time to respond, and abuse the discovery process altogether. Unfortunately, as you will soon realize, not all attorneys abide by the rules. Opposing counsel may have discovered that he or she is dealing with a new lawyer after they completed their research on you. However, don't be intimated. Ask a more experienced lawyer at your firm or a mentor if opposing counsel's behavior is reasonable. If not, get some suggestions on how to proceed.

Most of the time, a phone call or e-mail to opposing counsel will solve the problem. If not, file a motion with the court. In the most egregious situations, you may have to move for sanctions. Don't be scared to do this, but discuss your intention with opposing counsel before filing anything with the court. Always initially try to resolve issues with opposing counsel without court intervention. This is not only good professional practice, but most courts' local rules require it. Always remember to: (1) put all correspondence with opposing counsel in writing; (2) memorialize pertinent oral discussions in writing and send to opposing counsel for review; and (3) keep a record of all correspondence. Most importantly, keep all communications professional.

Depositions also present challenges for new lawyers. Experienced lawyers may object during your examination to throw you off, or sigh because in their view you are taking too long.

Give these actions little attention. Be confident in your preparation and execution. You will learn from your mistakes and improve after you review the deposition transcript.

Also, keep in mind that, most of the time, opposing counsel is simply acting in their client's best interests within the rules. Don't become emotionally involved. Their actions are not personal. Once you realize this, your job will be a lot less stressful, and you more easily will be able to focus on the real issues at hand.

b. Appellate practice

Opposing counsel in an appeal either will be new opposing counsel (often brought in after the trial by the client to handle the appeal) or the same one you have been dealing with during the trial. Forging a good working relationship with opposing counsel on appeal will make your life much easier. For example, at the outset of an appeal, the appellate court will schedule a settlement conference, where a retired judge attempts to mediate the case to a conclusion before the parties even begin briefing the appeal. Occasionally, you can work out a settlement at this stage, and it only helps things if you already have a good relationship with opposing counsel. Also, if you need to ask for extensions, it is nice to have opposing counsel consent to them rather than oppose them.

As part of the record on appeal in Missouri's state appellate courts, you must file a legal file. The legal file contains certified copies of all the relevant pleadings and documents from the trial court. Normally, you have to request these from the clerk, which can add expense and time in the preparation of the record. However, you can circumvent this if you and opposing counsel stipulate just to use your own copies of these documents.

The bottom line: fostering a professional and courteous relationship with opposing counsel on appeal will not only add civility during the prosecution of the appeal, but also will save you time and your client money.

c. Prosecutors and public defenders

By nature of their chosen career, attorneys who work as prosecutors and attorneys who work as public defenders find themselves in an adversarial relationship. This is not to say that their relationship must be contentious. While prosecutors traditionally advocate for justice and public safety, and public defenders traditionally advocate to protect the rights of the defendant, both types of attorneys share an interest in and commitment to mastering excellent trial skills. It is this shared goal that leads most prosecutors and public defenders (who work with each other daily in and out of the courtroom) to quickly realize that good working relationships with each other are critical. Not only does justice get done, but it gets done more effectively and more quickly when the two sides correspond in a courteous, professional manner and leave the more adversarial activities for the courtroom. Given the high caseloads carried by prosecutors and public defenders, there is little time for theatrics and unnecessarily contentious arguments or grandstanding.

Neutralize any home-field advantage

Experienced lawyers often have an upper hand in the courtroom because they are familiar with the judge, courtroom personnel, and the "machinery" of litigation in a particular court. This may make their job seem easier and you may become frustrated. Utilize your mentor and the court clerks to determine how to accomplish what you need. Calling the court for answers sometimes can be frustrating, so consider occasionally going to the court, meeting the people you typically call, and doing things in person. This will familiarize you with the court's "machinery" and personnel, and give you more confidence while moving forward with your case.

Also, you may have a case in your adversary's home town, where they have a perceived home-field advantage. Always consider contacting a local attorney and working with them on your case. If the client is not willing to pay for this, try to find someone through The Missouri Bar who would be willing to mentor you in that location.

Be confident and remember your mistakes

The worst thing a new lawyer can do is lose his or her confidence. Most experienced attorneys will sense this and use it to their advantage. However, do your research, don't be intimidated, get a good mentor, act in the best interests of your client, and learn from your mistakes. Keep a log of issues that you face and how you addressed them. Also, remember the "good" and "bad" attorneys with whom you have dealt so you can be prepared for your next encounter. Use this "roadmap" for reference both when you face future challenges and to assist new attorneys when you're an experienced attorney acting as a mentor.

Establish a good reputation

Finally, it is never too early to begin establishing a good reputation. People will remember their one bad experience with you more than all of the good ones. A bad reputation can affect how you are perceived by opposing counsel, judges and clients, which will harm you in the long run. In other words, the long term damage to your reputation is worse than any short term gain you may attain in a case by using inappropriate tactics. There is a big difference between being a zealous advocate and a person who will try to "win" by any means necessary.

SECTION 6:
COURTROOM ETIQUETTE
by Andrew C. Lawson*

As a new lawyer, you quickly will learn that, in order to be successful, you may need to find ways to make court appearances in four different counties in the same day. Alternatively, you may have the dilemma of trying to make three separate municipal court appearances in the same evening. To do this, you must master the skill of maximizing the time you spend in each jurisdiction. Finding yourself stuck at the end of a law day docket and wasting four hours for one client means you have lost precious time from your day, which ultimately affects your bottom line at the end of the month.

Learn the judge's "house rules"

"Learn the house rules" is a play on the phrase often used in casinos. Blackjack is basically the same at every casino; however, each casino has its own subtle nuances that could be the difference between you breaking the bank and having your legs broken. In each courtroom in which you practice, you will discover many similarities and important differences. You spent the last three years learning the law and almost no time learning how to practice it. Each judge will have his or her own subtle differences as to how he or she runs the courtroom. Learning the judge's "house rules" could be the difference between your case being called and handled at 9:15 a.m. or waiting around until 2:30 p.m.!

At times, catering to the apparent whims of the judge may seem frustrating. But the Judge is entitled to your respect; while their subtle nuances may inconvenience you in some way, they are there for a reason. In most cases, to reach the bench, the judge put in time as a practicing attorney and spent his or her share of time learning the house rules of the judges before whom he or she practiced. Upon receiving the black robe, he or she adopted the policies learned from former judges he or she believed would help run the courtroom more efficiently.

In terms of efficiency, one of the most important things for you to know before you walk into a new judge's courtroom is "how are the cases on their docket called?" Are they called in alphabetical order? Are older members of the bar's cases called first? Perhaps they are called on a first-come, first-served basis? Knowing which method a particular judge uses could save you from wasting valuable hours sitting twiddling your thumbs waiting for your case to be called.

Another thing that is important to know is what sort of paperwork the judge will require from you. If your client is entering a felony guilty plea, does the judge require you to fill out a guilty plea petition form that could be 25 pages long? Does the judge require you to fill out a waiver of a Sentence Assessment Report? If you want to continue your case for another law day, does the judge require you to fill out a court memo along with your oral request? Or, is this particular judge one that never requires you to fill out any paperwork at all?

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Knowing these things ahead of time will both save you time and please the judge. But it is just as important for you to know these things ahead of time to instill client confidence. As you are a new attorney, your client already may have some concerns over your ability adequately to represent them. If you give the impression that you don't know what you're doing in open court, you may lose that client altogether. Also, if it is a crowded circuit law day, you could be representing your abilities poorly to any future clients who may be in the courtroom.

Learning a judge's house rules is easy enough. If you are concerned with how the judge likes to do things, you always can show up for court early and try to speak with the judge in chambers. As a new lawyer, it is always a good idea to have as many face-to-face meetings with a judge as possible so he or she can get to know you on a personal level. It will please the judge to know that you are aware of the importance of not clogging up their docket, and that you want to be prepared as necessary when the time comes for your case to be heard.

Befriend the court clerks

While the judge may be the pit boss of the courtroom, your case doesn't get in front of a judge without first going through the court clerks. No matter if your case is criminal or civil, municipal, state, or federal, the court clerks are the most important cogs in our court system. They are the gatekeepers to everything you wish to accomplish in litigation. Clerks can help with something as simple as getting your case moved to a different day or save you from committing malpractice by pointing out to you that you filed the wrong type of "letters" in your decedent's estate in probate court.

The first time you appear in a new jurisdiction, it is very important that you introduce yourself to as many of the clerks as you can. If you believe there is a specific area in which your practice will focus, spend extra time getting to know the clerks that handle that area of law. And be sure to remember their names, because you want them to remember yours! At this point, you undoubtedly have paid for at least 5,000 shiny new business cards to pass out. A court clerk's hand is just as important a place to put one as a potential client's.

Never – I repeat *never* – throw a court clerk under the bus for anything unless it is a life-or-death situation (and maybe not even then). Mistakes will be made along the way, that's just life, and you cannot un-ring a bell. But assigning blame to a court clerk, even if deserved, will only upset the clerk's office and undoubtedly the presiding judge, who you will find is very protective over his or her clerks.

Court reporters

After you have introduced yourself to the clerks, you also always should introduce yourself to the court reporter in the courtroom. Just as every judge has their own nuances on how they run their court; every court reporter has a particular way of doing their job. Whenever you appear in court and a court reporter is being utilized, it is always a good idea to give the court reporter one of your business cards, especially if your name is difficult to spell.

If you are going to be admitting evidence in a hearing or trial, it is imperative that you talk to the court reporter beforehand and find out what their preference is when it comes to

labeling your exhibits. Some court reporters will prefer to apply their own exhibit stickers and mark the exhibits themselves before the hearing while others may prefer that the labeling and marking procedure take place as each individual piece of evidence is introduced during the hearing or trial.

Regardless of how the court reporter prefers the evidence to be marked, you should always create a "Witness & Exhibit List" for your hearing or trial. This "Witness & Exhibit List" should have the names of any witnesses you plan to call and list every exhibit you plan to offer. The witnesses and exhibits should be listed in the order in which you plan on using them. This way, the court reporter will have a roadmap for your case and will know the correct spelling of each of your witnesses. A sample of a proper "Witness & Exhibit List" can be found toward the end of this manual in Section 13.

Remember also to provide the judge a copy of your "Witness & Exhibit List," as he or she also will also appreciate knowing what to expect in your hearing/trial.

Miscellaneous tips

When it comes to appropriate attire in court, use your common sense. Casual dress is never appropriate for a court appearance, no matter how insignificant. If a judge is going to give you the court's attention then you owe him or her the respect of wearing business attire. Business attire includes wearing socks. You might think that wearing socks would be a no-brainer, but an excellent veteran criminal defense attorney in Cape Girardeau, Missouri, thought otherwise. And it was his insistence on not wearing socks to court that led to a Cape Girardeau County Circuit Judge actually to create a local court rule stating that all attorneys who appear in his courtroom must wear socks!

When you are waiting for your case to be called on a law day, you should avoid sitting with your client behind the bar if at all possible, even if you only have one client on the docket that day. You are a lawyer now and lawyers sit in front of the bar. If you want to be treated as an equal by the older and more experienced attorneys, you should sit among them while court is in session. Plus, if you are in a new court where court staff may not know you very well, they may not know you are in the courtroom. They might even mistake you for a well-dressed defendant!

Over time, you will learn the ins-and-outs of each court in which you practice. If you are going to court over a criminal matter, you always should call the local prosecuting attorney's office ahead of time and ask them any questions you might have. You will be hard-pressed to find any lawyer who knows more about the subtleties of a particular judge, court clerk, or court reporter than a prosecutor who is in front of them every day. If you have a civil case in a new court, it is a good idea to call up the president of the local county bar in that county or your area's delegate to The Missouri Bar's Board of Governors. Either source would be more than happy to share their learned experiences with a new member of the bar.

You are going to make courtroom etiquette mistakes as a young lawyer. Somehow, early in your career, you will embarrass yourself in open court. It's simply a rite of passage for all

new attorneys. The key is to not make the same mistake more than once, especially in front of the same Judge!

When you decide to take a case in a new court, it is essential that you prep *yourself* along with your client's case. Your actions in court could end up bringing you more clients than all the paid advertisements combined. But remember, rookie mistakes in front of potential clients could have an equally disastrous effect. Taking the time to learn the "house rules" of any court before you walk through the door could be the difference between sitting in a courtroom for four hours waiting on your one case to be called and being able to get in and out of the courtroom in 30 minutes. The old "time is money" saying may be true for lawyers who bill at $500 an hour, but for you, as a new lawyer, your motto needs to be "wasted time equals money lost."

SECTION 7:
TYPES OF LAW PRACTICE
by Kendra R. Howard*

One of the most basic questions new lawyers ask themselves is where to work after graduation. Law careers take many varied paths. Some lawyers go into private practice in law firms (big, small, and solo), some work in-house at a corporation, and some work for federal, state, or local governments.

This section provides an overview of the general pros and cons of these various types of law practice. Keep in mind that regardless of where you practice, there is one very important thing to remember: you are responsible for your career. You are responsible for making sure you get what you need for your professional development. Attorneys learn by doing. Your goal should be to get as much experience as possible.

Large law firms: advantages

Higher salaries. While highly competitive and more selective, large law firms are immediately attractive to many new lawyers for a variety of reasons. The most notable reason, of course, is the higher salaries. Some firms also offer bonuses to those who have completed federal and state judicial clerkships.

More resources. Large law firms offer large resources. Associate attorneys usually share secretaries, but they have full administrative support for any task. At a large firm, you also will work with paralegals and litigation support teams, librarians, and research assistants. You will have access to more databases on Westlaw and Lexis, as well as many other online resources specifically related to particular areas of practice.

More perks. Large law firms are full of perks – from box seats at professional sports games to tickets to sold-out shows. Any summer associate at a large law firm can tell you that large law firms know how to wine and dine. These firms often spend a lot of money pampering the clients, which in turn means their associates get a little pampering, too. Even basics such as parking and costs to attend out-of-town CLEs are covered. Generally, they also pay membership fees for social or civic organizations, gym memberships, marketing costs, and bar dues.

Name recognition. Large law firms spend a lot of resources on brand development. Thus, it is likely that any given large law firms have a reputation in its market. While that could be a good or bad thing, there will be an instant mental association when people recognize your firm's name.

Multiple jurisdictions. Most large firms have several offices spread across the country – or even around the world. This increases the exposure you may have when working on a matter. You may have opportunities to travel to another city and work out of one of the firm's other

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offices. You also may have to option of transferring within the firm to another city where it has an office.

Varied cases. Because large firms can be very large, they generally cover a wide variety of practice areas. This may give you an opportunity to explore many different substantive areas of practice. Sometimes, large firms offer new associates the option to rotate through different departments to see what they like and what fits, though this option is most often presented to summer associates.

Professional development. While the vast majority of attorneys learn by doing, larger firms tend to have formalized professional development programs. You definitely still will learn by doing, but as a new associate you may be assigned an official mentor to guide you and show you the ropes. You also may have more training sessions like mock trials, deposition training, or writing workshops. There may also be training on how to develop clients and how to market your services.

Large law firms: disadvantages

Higher billable hours. To balance out all the advantages, there are plenty of disadvantages in large law firms. Success at a large firm definitely requires some special skills. One of the major drawbacks is the higher billable hour requirement. A billable hour is time spent working on a matter that can be billed to a client. Most large firms have a yearly requirement around 2,000 billable hours. It could be more or slightly less. 2,000 per year is about 40 hours per week including a two-week vacation (which you may never take). To bill 40 hours a week may require you to work 60 hours or more because not all time spent in the office is billable. Even for the best workaholics, the long hours spent month after month quickly can grows tiresome and stressful, especially when you find little time to spend the higher salary you are earning! Still, many associates meet this task successfully and eventually have made careers doing so as partners at large firms.

More competition. The highly selective hiring process, the higher salaries, and the demanding workload make for a very competitive environment. At a large firm, everyone is out to be the greatest with the best cases and the most hours. The environment tends to foster a focus on the bottom line and not on you as an employee or new lawyer trying to develop a career. Working at a large firm means you have to be in charge of your own career and ensure that you receive the development and training you require.

More "grunt work." Undoubtedly, you have heard horror stories of first-year associates trapped in small offices ferreting through boxes of documents for days. That, or some less dramatic version of it, is very likely to happen at a large law firm. All newer associates are given document review projects. Yes, it is "grunt work" that higher-level associates will not do. Depending on the size of the firm and the number of senior associates available for projects, you may do document review or other grunt work for the first two or three years of your practice. But don't worry! Everyone at the firm has been through it. You just should be sure that you increasingly move on to more challenging projects. You don't want to be in your fifth year still doing grunt work.

Less client contact. As a young associate at a large firm, you may find yourself interacting solely with the attorneys at your firm. Contact with clients generally will be reserved for partners and higher-level associates. This largely depends on the philosophy of the attorney whose client it is. Some partners prefer all information to be funneled through them to be communicated to the client. Others will allow the particular associates working on the case to discuss the matter with the client. Many partners and senior associates recognize that client contact is good experience for new associates and will allow you to tag along to client meetings.

Longer partnership track. Large law firms generally have longer partnership tracks. That means that you may have to be an associate for eight years or more before you will be considered for partnership. Larger firms also have more rules about what criteria is important when seeking partnership and rules regarding equity and non-equity partnership levels.

Bureaucracy and firm politics. Speaking of rules, larger firms are full of them. It is inevitable that the larger the organization, the more bureaucracy there will be. Decisions at large firms are made on a higher level, so you have to pass through several levels along the chain of command before any change happens. There are rules regarding what types of matters the firm will take, what types of clients they serve, and what amounts to bill the clients.

Small law firms: advantages

Greater variety of work. Smaller firms tend not to have as many rules about what types of cases they take and who works on what. Therefore, you may be in a position to be involved in a greater variety of subject areas. You may work on any litigation that comes in the door, rather than focus on some specific subset as you would in a larger, more compartmentalized firm. For example, at a large firm, while you may be in the litigation practice group, you could be in a subgroup focusing specifically on asbestos litigation or intellectual property litigation. Smaller firms usually do not have such specific groupings.

More client contact. At a smaller firm, you are more likely to have contact with clients sooner. However, partners at small firms may be just as possessive of their clients as those at large firms. That's just human nature.

Hands-on experience earlier. Because small firms necessarily have fewer associates, you have more of an opportunity to dive right in. You will be expected to "just do it" and ask questions along the way. You likely will not spend large amounts of time doing grunt work and document review. Smaller firms need to make the most of limited resources. You will have the opportunity to go to court sooner and argue your own cases sooner than you would at a larger firm.

Less competition. Associates at small firms may experience a different type of competition, as there may be no set structure to becoming partner. At a large firm, there may be a plan to add X number of partners a year. Generally, small firms do not have that expectation, so you will be competing to make a place for yourself in the partnership. Small firms usually feature a greater focus on building a book of business. Even at a small firm, you cannot survive in the long run merely by working on other attorneys' files.

Greater input in processes and management. Large firms operate on a much more sizeable set of rules than smaller firms. Therefore, at a small firm you will be more likely actually to have your ideas addressed. For instance, you may want to bring a small client in under a reduced fee structure. At a small firm, the firm is much more likely to support that idea than at a large firm. You may have ideas on how to streamline a process or of some new resources or technology the firm should try. Those ideas may be more welcomed in a smaller practice environment.

Small law firms: disadvantages

Fewer resources and support staff. A smaller firm probably will not have a litigation support department to help get your production ready and librarians to help with research. You will have far fewer in-house resources. You still may have secretaries and paralegals, but you will be responsible for taking care of a lot more than you would at a large firm.

Fewer perks. Smaller size usually means less money for perks. This also varies from firm to firm. You probably still will be provided parking and CLE costs, but the budgets for these often will still be less than at a large firms. Depending on the firm, a small firm may not provide health insurance or 401(k) matching.

Lower salaries. Smaller firms tend not to provide the high salaries that large firms do. However, many new lawyers find the trade-off worth it for all the advantages of working in a smaller environment. As in any career decision, you have to look at the full picture and not decide where to practice based solely on the money. At a small firm, you may be expected to bring in clients sooner than you would at a large firm.

Training. The type of training you receive depends on the firm. Some smaller firms provide no real training and others do. Largely, this will be based on the available budget. At a small firm, you will be expected to take the reins of your development and actively seek to develop your marketing skills, social skills, and business relationships so as to expand your practice.

Solo practice: advantages

Be your own boss. Opening up your own firm could be a thrilling experience. You are your own boss. You have a huge amount of freedom. There are no partners hovering over you dictating the way that you work. Want to take a vacation? If your schedule will allow it, you can get all your work done, and you have the financial ability, then why not? However, the buck stops with you and you are responsible for everything.

Prestige if you are successful. Real success as a solo practitioner is very difficult to achieve and takes a great amount of time, sweat, stress, and financial investment (as discussed below). In the end, very few solo practitioners are successful. But if you can do it, you will have achieved a level of personal name recognition and prestige that at both large and small firms generally would be available only to senior partners.

Solo practice: disadvantages

Running a business. One of the main disadvantages of solo practice is having to be a businessperson in addition to an attorney. This requires choosing a business model (sole proprietorship, LLC, corporation, etc.), managing taxes and tax planning, understanding business accounting, and branding yourself. You will have to know law inside and out as a business, as opposed merely to a profession. This will occupy a considerable amount of your time, detracting from your time spent actually practicing law.

High responsibility. As a solo practitioner, you will responsible for developing your own work and getting your own clients. You are running a business, so you are also responsible for insurance, payroll for any support staff, supplies, research materials, and marketing. It is a lot of work, but solo practitioners who successfully handle this level of responsibility find it pays off in the end.

Investment. It may take a long time before you have sufficient capital to invest in your business. You will have great volume of expenses, such as office rent and equipment. To save on these expenses, many solo practitioners enter into an office sharing arrangement with other lawyers. The Missouri Bar lists open opportunities for these arrangements online: http://www.mobar.org/jobsforlawyers-sharing.aspx

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Slow start. It also takes a long time to build a successful solo practice, and you likely will be off to a slow start. Success even may depend largely on luck. It could take two or three years or more. You have to like what you are doing. Very few people are able to make it successfully as a solo practitioner. You should evaluate your personality to determine if you are suited to solo practice. Successful solo practitioners must develop a niche in the legal market, have real drive, be charming and personable, be disciplined, have great time management skills, and understand business.

In-house counsel: advantages

Control over time. Much of the in-house experience depends upon the size of the company. Some of the same advantages exist as within law firms. The main advantage is control over your time. It's not that you won't work hard, but you will have the ability to create your own schedule. As you will have only one client, you won't feel a duty to respond to a client call during dinner, when you're out, or while on vacation. Therefore, you likely will work more regular hours. People at companies generally are more accepting of the important work/life balance.

Less competition. Generally, there won't be competition for work in-house at a company because you have a captive client and everyone is hired to do some specific type of work. There also may be a cap on how far you are allowed to advance in a corporate legal department. The highest attorney is usually the general counsel. There may not be an expectation that you move up. You may stay in your same position forever without pressure to advance as you would in a law firm.

More varied work. Even though most in-house lawyers are hired to do a specific job, that job usually covers more than one area of practice. It is not uncommon for an in-house attorney to cover an employment issue today, a supply question tomorrow, and a finance issue next week.

Hands-on experience. As in a smaller firm, you will be responsible for a lot of work and you will go through many phases of that work largely by yourself. There won't be more junior associates to help prepare things for you.

In-house counsel: disadvantages

Corporate politics. Success at a large firm is based on how hard you work and the quality of your output. Success in-house may be based more on whether people like you. Your client is the businesspeople who you work with and see every day. You will have to put in more "face time" because your client has direct access to you and corporate employees will want to be able to stop by your office to ask questions. Corporate environments generally also feature more meetings.

Lower salary. Generally, in-house salaries are less than at large law firms. Of course, how much you earn depends on the company. You also may receive stock or stock options as a form of compensation.

Fewer resources. Corporate legal departments generally have far less support staff than large law firms do. Again, though, it depends on the size of the company.

Government

There are many opportunities for attorneys looking to work in government, be it federal, state, or local.

Agencies at every level of government have attorneys on staff. There are also opportunities at the state Attorney General's office, the U.S. Department of Justice, federal agencies such as the Environmental Protection Agency, the Department of Housing and Urban Development, the Securities and Exchange Commission, and the Department of Labor. As well, opportunities as administrative law judges exist for various commissions at both the federal and state level. Additionally, employment opportunities exist at every level of the court system.

Working for the government is very challenging but also can be very rewarding. The experience largely depends on where you are and your position. Generally, you will be busy but with steadier hours and good benefits. Your client is the government. Depending on where you are, your experience may be more like a law firm or more like an in-house department.

SECTION 8:
PRO BONO WORK AND COMMUNITY SERVICE
by Kate E. Noland*

New lawyers face considerable demands for their energy, intellect, and time. Finding time to take a pro bono case or provide community service may seem challenging to some new lawyers – it should not be. It's what successful lawyers do. Performing pro bono services will provide you the opportunity to gain practical experience, promote your business, and give back to your community.

Pro Bono

As an attorney, you are in the position to provide pro bono legal services to those without the financial means to pay for them otherwise. This isn't referring to family, friends, and new acquaintances who inevitably will seek free legal advice from you or your assistance in taking care of a speeding ticket. Rather, it means using your legal knowledge and ability to help others.

The Supreme Court of Missouri and The Missouri Bar strongly encourage all attorneys to provide free or reduced-cost services to charitable groups and individuals with limited financial means. See Rule 4-6.1. The Missouri Bar is asking attorneys to annually report the number of hours they spend working pro bono and will recognize those attorneys dedicating a significant number of hours to pro bono causes. The Bar's pro bono website makes pro bono opportunities and resources available to members of the bar and public: http://www.mobarprobono.org.

Pro bono work can include nearly any type of legal work. You can work within the area in which you practice or in some different area. This can be a great opportunity to learn about a new area of the law and meet fellow attorneys practicing in that subject. The Bar's free Pro Bono Deskbook provides forms and articles to assist attorneys engaging in a pro bono case: http://www.courts.mo.gov/hosted/probono/FormsAndTools.htm.

Numerous other resources are available to help you find pro bono opportunities. The Bar's website provides resources across the state: http://www.mobarprobono.org. Legal Aid focuses on civil legal matters and the main offices are in: Kansas City, www.lawmo.org; St. Louis, www.lsem.org; Springfield, www.lsosm.org; and Columbia, www.lsmo.org. Other groups offering pro bono opportunities are: KC Lawyers Care, Volunteer Lawyers and Accountants for the Arts in St. Louis and Kansas City. Numerous other organizations provide opportunities for attorneys to volunteer their legal services, many of which can be found from a simple internet search.

Community Service

Community service is another way to give back to your community and promote yourself. Many attorneys are actively involved in professional associations, community groups, charities, and religious organizations. These afford opportunities to serve on committees, hold

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leadership positions, and/or participate in volunteer programs. A professional benefit from community service is promoting yourself and your business. This is a great way to build your client base. After all, you never know where you'll find your next client! And as you necessarily will meet new people, community service provides a great opportunity for networking. See Section 10 of this manual, regarding networking.

Simply put, by donating your time and resources, you can give back to your community and promote your business.

SECTION 9:
BALANCING WORK AND LIFE
by J. Kendall Seal*

Who thinks about work/life balance?

Most new lawyers are busy looking for their first law job – scratch the personal life! Unfortunately, "just looking for a job" can lead to unintentional professional missteps. What role do you want professional fulfillment and balance to play in your development? Most people, especially new lawyers, are somewhat familiar with the impact of work/life unhappiness and how it is connected to a lack of balance. Unhappiness can destroy your personal and professional relationships, increase addictive behaviors, and result in negative consequences.

Your work/life balance can change without your even noticing. It turns out that people change – including you – over the course of law school, the bar exam, and other life experiences. Rarely will anyone point out these changes and often, individuals fail to notice these changes in themselves. It is very easy to get wrapped up in work. You can avoid personal and professional pitfalls through a little awareness, increased community engagement, and planning for the future. Being able to sift through all the misinformation related to a happy career in the legal profession is a great place to start.

Here are **five big myths** regarding lawyer happiness that every new lawyer should consider: [2]

- There aren't any happy lawyers.
- A high-paying law job leads to happiness.
- You can't do anything to make an unhappy law job better.
- Law firms will eat you up and spit you out.
- You are stuck.

Notable law professors and scholars have researched and discussed these five myths at length.[3] What happens when you are faced with the inconvenient truths of unhappiness at work or at home? How do you get over your own ego when things change? Start by being honest with yourself, engaging your community, and exploring some resources and strategies. The Missouri Bar has established the Missouri Lawyers Assistance Program (MOLAP) to help attorneys, their families, and law students explore some of these resources and strategies.

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[2] Nancy Levit, *5 Myths About Happy Lawyers*, MISSOURI BAR PRECEDENT 24-26 (Winter 2011).

[3] Nancy Levit & George Linder, THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW (Oxford University Press 2010).

Missouri Lawyers Assistance Program (MOLAP)[4]

The Missouri Lawyers Assistance Program is a professional, confidential counseling program for law students and members of The Missouri Bar and their families. Through a variety of free services, MOLAP helps individuals overcome personal problems such as depression, substance abuse, stress, and burnout.

Services include:

- **Counseling.** All Bar members have unlimited, 24/7 access by phone to a professional counselor (call (800) 688-7859). When necessary, MOLAP's counselors also make referrals to professional resources.

- **Crisis intervention.** MOLAP coordinates crisis intervention services for both individuals and law firms. All MOLAP services are free of charge and strictly confidential.

- **Education.** MOLAP offers educational programs and articles on topics such as stress, substance abuse, depression, and quality of life. Additionally, it provides a series of questionnaires to help members screen themselves for a variety of problems.

Authentic living, community, and thriving

Most lawyers embrace the value of honesty, as they are bound by their oaths to do. Honesty carries great weight not only in the courtroom, but also in our personal lives. In a profession that is ethically tasked with embracing truth while at the same time advocating for clients whose actions and goals can seem contradictory, it should come as no surprise that lawyers bring their legal minds and trial tactics into their personal lives. Sometimes, this approach is not the most productive, especially when relating to those outside of the legal culture. But it is important for new lawyers to evaluate their own values and priorities with the same honesty and clarity of thought that they bring to their legal practice. Understanding what you value in your personal and professional life is the beginning of finding balance in both.

Some lawyers define who they are by what they do. It is true that lawyers are well-educated and have access to places of power and privilege. But your education and profession only define a portion of your identity. One approach might be for you to try defining yourself in terms of values, such as honesty, courage, or compassion, instead of degrees and professional titles. Start by setting some goals that give priority to your values. Identify not only areas of strength but also areas of weakness. These benchmarks can help you identify your priorities. Keep your plan flexible and limit it to looking five years down the road. Reviewing your plan annually can help you see the progress you have made.

While lawyers usually are good at creating "to do lists" and setting goals to control for future contingencies, life happens unexpectedly. What are you going to do when something

[4] Missouri Lawyers Assistance Project: http://www.mobar.org/molap/

unexpected happens? What steps will you take when things go well but you do not feel right about the process? How will you gain clarity?

For many successful new lawyers, personal and professional life transitions or crisis represent challenges and opportunities for growth. How do you keep your professional life moving? How do you keep your personal life together? It often will be more challenging than you may expect, especially in a difficult job market. Personal life challenges can be myriad; if they become widespread, it may be advisable to reach out to a mental health professional, life coach, or MOLAP.

Professional life challenges can be equally complex. There are some basic things you can do to begin to correct the imbalance and maladaptive behaviors. As an attorney, there will be many competing demands for your time. It is essential to weigh how you allocate your energy and whether you are being honest with yourself about where you are, where you want to be, and with whom you are surrounding yourself to get there. A disconnect between actions and values translates into a negative impact on both your personal and professional happiness and reputation. Here are some quick tips regarding your professional life:[5]

- Whatever you do, don't lose focus.
- Put stronger emphasis on networking.
- Remind yourself of what anchors your career.
- Be a part of others' career solutions.
- Recognize that flexibility is critical.
- Engage in public service/pro bono work.
- Remember to frame your abilities in terms an employer can appreciate.
- Think long-term.

The potential disconnect between actions and values rises to the surface for most attorneys when there are transitions in their intimate relationships and families. For example, with the birth or adoption of a new child it may be beneficial to recognize that flexibility in office space and work hours will help them adjust and respond. Many people have experienced this disconnect between the demands of their careers and the care and nurturing of their children and loved ones. Be calm and creative. Reframe the conversation in such a way that is beneficial to the employer but keeps you connected and balanced.

[5] Jill E. McCall, *Quick Tips for Keeping Your Career in Gear*, AMERICAN BAR ASSOCIATION-THE YOUNG LAWYER 2 (July 2009).

Conversations with employers about workplace expectations can be a source of great anxiety for some lawyers. New lawyers discuss amongst themselves how an employer's policies state one thing; however the recipe for success at the office is more closely attached to internal practices that may deviate greatly from a policy manual and healthy work-life balance. These unspoken practices present a challenge for the new lawyer. Figuring out what is really expected can become more of a mystery than a straightforward expectation. This lack of clarity places additional pressures on the new lawyer to align their personal life goals with the unwritten practices and expectations of the office. Actually, though, this gives the new lawyer opportunities for growth.

One solution for the new lawyer is to reach out to their successful colleagues at the office and in the community to learn how they navigated this divide. Critically assess the feedback you receive from your peers because some lawyers do not have the best approaches to coping mechanisms or personal success. Determine whether the office is a supportive environment that fosters professional development and success or is a stagnant, disengaged entity that discourages and frowns upon growth. Note how coworkers treat one another and the client. Both individuals and organizations make decisions that will lead toward growth or decline. The new lawyer can make these difficult assessments and, ultimately, decisions that will lead toward growth by reaching out to their community and connecting with other lawyers and successful leaders.

A recurring theme in many successful people is their engagement in the community. People define community in different ways. It is less important how you define "community" than what you give and receive from that community. Only by interacting and exchanging ideas, successes, and failures can you relate better to others and start to see the world in a broader context with more possibilities. For new lawyers, these opportunities may take place in The Missouri Bar Young Lawyers' Section, a mentorship program, or volunteering with a local not-for-profit.

Mentorship and networking are the names of the game. Make the most of your mentorship and networking opportunities, and you will establish a support structure that will enhance your awareness, community engagement, and work/life balance.

Resources worth considering

Awareness

- Missouri Bar Lawyer Resources for a Changing Economy
  - http://www.mobar.org/aecff9bc-9e7f-437b-b425-2b11fef6586a.aspx

- American Bar Association Journal Work-Life Balance Articles
  - http://www.abajournal.com/topic/worklife+balance

- Missouri Lawyers Assistance Program (MOLAP)
  - http://www.mobar.org/dcc66de3-25b5-4dc9-aca6-775afd7ab196.aspx

Community Engagement

- Missouri Bar Young Lawyers' Section
  - http://www.mobaryls.org/
- Missouri Bar Leadership Academy
  - http://www.mobar.org/leadershipacademy/
- Missouri Bar Pro/Bono Program
  - http://www.mobarprobono.net/
- American Bar Association Young Lawyers
  - http://www.americanbar.org/portals/young_lawyers.html
- American Bar Association Pro/Bono Program
  - http://www.americanbar.org/groups/probono_public_service/resources.html
- Volunteer Opportunities
  - http://www.serve.gov/
- See **Section 8: Pro Bono and Community Service**
- See **Section 10: Networking**

Planning

- Missouri Bar Lawyer Resources for a Changing Economy
  - http://www.mobar.org/resourcesforachangingeconomy/
- Missouri Bar Job Posting
  - http://www.mobar.org/jobsforlawyers/
- American Bar Association-Career Center
  - http://www.americanbar.org/resources_for_lawyers/careercenter.html
- See **Section 11: Alternative Careers**

SECTION 10:
NETWORKING: GETTING INVOLVED
by Jerri Zhang*

Networking is one of the most important things any lawyer can do. As a new lawyer, it is even more important. Merriam-Webster defines networking as "the exchange of information or services among individuals, groups, or institutions; *specifically*: the cultivation of productive relationships for employment or business." As a lawyer, networking is the act of getting to know people in the legal community and in your local community. Not only will you want to get to know other lawyers, but you will want the legal community to know who you are as well.

You have most likely attended networking events while in law school. However, after law school you will have to be proactive about finding and engaging in networking opportunities. There are many ways to network in the legal community, be it through The Missouri Bar or through numerous other lawyers' associations in your area. Also, keep in mind that there are many non-legal networking opportunities in your community through groups like the local chamber of commerce, young professional and other civic organizations.

Networking opportunities within The Missouri Bar

Bar Committees

The many committees of The Missouri Bar are listed on the Bar's website: http://www.mobar.org/committees/about.htm. This is a great way to meet and network with other attorneys who are in the same practice area as you. The committees meet twice a year in Jefferson City. You can register to attend the meetings on The Missouri Bar website and you can join most committees' listservs through the above website.

Missouri Bar Leadership Academy

The Leadership Academy was established to increase diversity among The Missouri Bar's leadership by fostering the leadership skills of young and recently admitted attorneys. The Academy seeks diversity in gender, race, area of practice, and locality of practice. Participation in the Academy includes meetings with prominent members of The Missouri Bar, committee chairs, and attending meetings of the Board of Governors. Each academy class also develops and implements a community service project. To join the Leadership Academy, you must be nominated by other attorneys by an annual deadline and complete the application form.

Young Lawyers Section (YLS)

All Missouri lawyers age 36 or younger, or who have been in practice for five years or less, are automatically members of YLS. YLS's mission is "to enhance the professional growth and public service of new and recently admitted Missouri lawyers." YLS organizes service

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projects, social networking events, and CLEs targeted to young lawyers across the state. The YLS Council is YLS's governing body. It is comprised of approximately 35 lawyers from the districts across the state. Each councilperson serves a two-year term. For more information about how to get involved with YLS, visit their website: www.mobaryls.org.

Networking opportunities with your local bar associations

Various counties and cities across Missouri have their own local bar associations. Do some research as to which bar associations are in your area (many are listed at the end of this section). Some of these bar associations will have committees for different practice areas and for young lawyers. Identify local bar associations are and join a committee to meet lawyers in your community.

Networking outside of the legal community

Your networking opportunities do not end with The Missouri Bar and local bar associations. By reaching out to non-legal community groups and organizations, you will expand your network. This is a great way to not only give back to your community but to also market yourself as an attorney. Locate your city or county's chamber of commerce. Many will have events or organizations for young professionals. Several cities in Missouri have independent Rotary Clubs, which are another good way to meet leaders in your community. Also, keep in mind various non-profit organizations for pro bono opportunities or for chances to serve on boards.

Here are some of the bar associations and community organizations that you may be interested in joining:

St. Louis

- Bar Association of Metropolitan St. Louis
  - http://www.bamsl.org/
- Missouri Asian American Bar Association (MAABA)
  - http://maaba-law.org/
- Mound City Bar Association
  - http://www.moundcitybar.com/
- St. Louis County Bar Association
  - http://stlcountybar.org/
- Women Lawyers' Association of Great St. Louis
  - http://www.wlastl.org/
- Lawyers Association of St. Louis, Missouri
  - http://lawyersassociationofstlouis.org

- St. Charles County Bar Association
  - http://www.sccbar.org/

- Connect With
  - http://connectwithstlouis.com/

- Urban League Young Professionals of Metropolitan St. Louis
  - http://www.ulyp-stl.org

Kansas City

- Kansas City Metropolitan Bar Association (KCMBA)
  - http://www.kcmba.org/

- Asian American Bar Association of Kansas City (AABAKC)
  - http://www.aabakc.org/

- Jackson County Bar Association
  - http://www.jacksoncountybar.com/

- KC Legal
  - http://www.kclegal.net/

- Association of Women Lawyers of Greater Kansas City
  - http://www.awl-kc.org/

- Hispanic Bar Association of Greater Kansas City
  - www.kchispanicbar.com

- Lawyers Association of Kansas City
  - http://www.lakc.net/

- Kansas City Young Professionals Networking Society
  - http://kcyoungprofessionals.ning.com/

- HYP (Habitat Young Professionals) KC
  - http://www.habitatkc.org

Columbia/Jefferson City

- Boone County Bar Association
  - http://www.bocomobar.org/

- Cole County Bar Association

- Women Lawyers Association of Mid-Missouri

- Emerging Professionals In Columbia (EPIC)
    - http://www.columbiamochamber.com/chamber/epic.php

- Rotaract Club of Columbia
    - http://rotaractofcolumbia.org/

Springfield

- Springfield Metropolitan Bar Association
    - http://www.smba.cc/

- Springfield Area Chamber of Commerce
    - http://www.springfieldchamber.com/

- The Network for Springfield Young Professionals
    - http://www.springfieldchamber.com/about_us/the_network/

- Leadership Springfield
    - http://www.leadershipspringfield.com/

- Community Heroes
    - http://www.springfieldmo.gov/health/volunteer/

- Rotary Club
    - http://www.rotary.org

SECTION 11:
ALTERNATIVE CAREERS
by Susan Henderson Moore*

Just as each 1L enters law school for different reasons, each person graduates with different feelings about entering the practice of law. For many, a career in government or with a private firm in a traditional area of practice is a good fit that fulfills their personal and professional expectations. For a number of new attorneys, however, the ultimate appeal of these jobs is limited. Additionally, recently, many graduates have found themselves faced with limited opportunities within the traditional legal field because of the present economic challenges. Luckily, there are many "alternative" careers for those with a J.D. Depending on one's definition of "alternative" in this context, these jobs either can be simply outside the legal field, or still can be within the legal field, though in a unique working environment or subject area.

Asking the right questions of yourself

As a recent graduate considering entering a field of work outside the traditional practice of law, it is important to contemplate the reasons why you want to enter the career you are considering, the motivations for not entering the traditional practice of law, and the consequences your choice will have on your professional and personal lives. A balance and internal level of comfort with your own answers to these questions is really the key to being happy and successful in a career where most of your classmates have not ventured and where you are frequently the only person in the room with a J.D. Acknowledging that your chosen career outside the traditional practice of law will have its own set of challenges, whether it's finding the right work-life balance, expecting less compensation than an attorney position, or working with a variety of personalities, will help guide you toward making a realistic decision about your career choice.

The article "Non-Attorney Legal Careers: The Crossroads of Changing Jobs"[1] provides a list of basic questions worth considering before taking the plunge into an alternative career:

- What do I dislike about my current or future career in the traditional practice of law?
- What benefits do I most want to receive from my work?
- What kinds of settings do I work in most comfortably?
- What kinds of people do I work with best?
- What personal values need to be expressed in my work?
- What are my realistic immediate and long-term compensation needs and wants?

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[1] Nikki LaCrosse, "Non-Attorney Legal Careers: The Crossroads of Changing Jobs", *available at* http://www.lawcrossing.com/article/1347/Non-Attorney-Legal-Careers-The-Crossroads-of-Changing-Jobs/.

- What value can I bring to a potential employer?
- Do I feel pressured to switch to a certain kind of career?
- What effect will my choices have on others—spouse, family, children, and friends?

Skills that translate

While much of law school is about the substance of the law, law school also teaches many skills that translate well into a variety of fields. Reflecting on the list when thinking about career options might help you consider positions that you might not have otherwise contemplated. These skills include:

- Research;
- Critical analysis, including the ability to anticipate the ramifications of certain actions;
- Written and oral advocacy;
- Problem identification and solving;
- Teaching, which can include coaching and counseling;
- Negotiating;
- Writing; and
- Developing and presenting materials for highly educated audiences.[2]

Alternative career options

While the entire spectrum of alternative career possibilities for law graduates is too extensive to describe exhaustively in this section alone, the following list includes some of the most common careers that attorneys enter and, based on their skill set, find success in:

- Sports and Entertainment Management: agents representing and negotiating contracts for professional athletes and entertainers and professional sports team managers.
- Teaching: higher education administrators, professors, and K-12 teachers.
- Legal Administration and Management: consultants who work with law firms to develop ways to make their practices more profitable, legal headhunters, and legal researchers.

[2] Janice Mucalov, "Career Alternatives for Lawyers" (September 2009), *available at* http://www.cba.org/cba/practicelink/careerbuilders_advancement/alternatives.aspx#listofnon.

- Politics and policy: politicians, partisan and non-partisan staff, political consultants, lobbyists, and researchers, analysts, and advocates for companies, non-profits, and other organizations.

- Communications: on-air news correspondents providing commentary on legal affairs and writers for trade journals and business-related publications.

- Law enforcement: local, state, and federal law enforcement, including the FBI and CIA.

- Auditing and compliance: auditors and compliance directors monitoring whether individuals and entities are following the required laws, rules, and regulations in their respective field, as well as identifying the consequences of failing to meet such compliance standards.

- Ministry: ministerial positions that involve public speaking, counseling, and research and writing.[3]

Facing the challenges of entering an alternative career

One of the biggest challenges facing attorneys entering an alternative career is navigating the job search without some of search tools available to those applying for traditional legal jobs, such as on-campus interviews. There are a few key elements to an alternative career job search.

First, do extensive research of the field you want to enter. Identifying any education required in addition to a J.D., since often this degree alone isn't necessarily enough to ensure success. Know the key skill sets needed and determine if your strengths will fit well with the position. Educate yourself on other substantive information that will affect your ability to effectively perform the job.

Second, network with those both inside the legal community and in the alternative field you want to enter. Individuals in the legal community often have connections, especially through clients, professional associations, and social circles, with people in the field you are looking at and can help you make important connections. Individuals actually working in the alternative field will know of opportunities that could be a good fit for you and will be able to help you make connections with people in the field who appreciate your legal background.

Third, be prepared to find opportunities using alternative tools. Complete a non-legal internship, setting up informational meetings with people in the alternative field to educate yourself on the opportunities available and gain insight as to what steps you should take to enter that particular field. Search job listings at other schools within your universities and other fields on job websites. Use the "keywords" that are often used in job titles within the field.

[3] Sean Keefer, "Careers for Attorneys that Don't Want to Practice Law", Yahoo! (August 10, 2006), *available at* http://www.associatedcontent.com/article/49574/careers_for_attorneys_that_dont_want_pg2.html?cat=17.

Finally, prepare yourself for the challenges of interviewing outside of the legal field. For example, be ready to emphasize the positive aspects of having a J.D. and the skills you have that people outside of the legal field are not familiar with. Also, be prepared for questions during interviews about why you are interested in a career outside of the legal field and general skepticism about your motive. Unfortunately, there could be a presumption that you are interested in the job because you can't find one in the legal field. You must address this issue proactively.

Words of wisdom from those who know

The following are comments from people who have successfully navigated a career outside of the traditional legal practice discussing the path to their current position and how their legal education has benefitted them throughout their careers.

- **Dr. Troy Paino, President of Truman State University:**

"I earned my J.D. from Indiana University School of Law in 1988. After practicing law for three years, I decided to follow my heart and return to school to earn my Ph.D. in American Studies from Michigan State University. My desire to be a professor and work in higher education caused me to leave the practice of law, but much to my surprise, my legal education ultimately led me down a path toward higher education administration that resulted in becoming the 16th president of Truman State University. Because of my background in the law, my faculty and administrator colleagues in Minnesota turned to me to serve the University in a number of ways including negotiating the collective bargaining agreement with the faculty union in Minnesota. These experiences resulted in positions with increasing responsibility, in Minnesota and Missouri, that eventually led to the presidency at Truman. While my Ph.D. serves to give me credibility with the faculty and understand academic culture, it is my J.D. that serves me well in the day-to-day operations of the University. Most importantly, my legal background helps me know when it is necessary to seek legal counsel before making critical decisions."

- **Jeff Perry, Regional Director of State Government Relations for General Motors:**

"The legal profession first gained my attention while I was attending undergraduate studies in Business Administration at Michigan State University. I had always had a strong interest in learning what it takes to develop and operate a successful business organization. Along the way I discovered a strong link between business and law. As graduation drew nearer I was faced with making a choice that all undergraduates face: do I continue with my education or enter the working world. The trend has been that business majors follow a path into a Masters program. Looking for a way to distinguish myself from the hundreds of thousands of students with an MBA, I decided to take a chance and round out my undergraduate degree with a law degree.

The practice of law was always an option, but not my passion. Nonetheless learning the more technical side of business through the eyes of the law was very rewarding. I came out of law school determined to find a unique niche for my training. Growing up in the 'Motor City'

(Detroit metropolitan area) I quite naturally was drawn to the auto industry. Given the size and complexity of the auto industry it wasn't long before I discovered and began developing my own career path where I could immerse myself in both business and the law. Every department and every position was an opportunity to learn more about our industry and find new ways to apply my training in the law.

Today, my training in the law and my career have merged to a 'sweet spot' precisely where the law meets practical business application. My training in the law and business have combined to allow me to provide a unique perspective and understanding of the impacts of new and existing laws on the daily operations of my employer's business. I'm able to "interpret" for my colleagues in the business and marketing units of the company what changes in the law mean to them. Perhaps more importantly, I am also able to explain to law makers in simple terms what the impacts of their new laws will be on business. As a lobbyist and director of state government affairs, my job is to bridge the gap between the law and capitalism to ensure that each side understands the impacts and expectations on the other."

- **Mark Langworthy, Director of Development at the University of Missouri-Columbia School of Law and former Assistant Vice President/Trust Officer at a financial institution:**

"My initial opportunity to leave the traditional practice of law came because I was working for a firm with a great reputation that the Trust Company wanted to cultivate. I suspect that many young lawyers get similar opportunities, but fail to act on them for fear that it will end their legal career. I took the chance because there were aspects of the practice I wasn't enjoying. Until you explore opportunities, you won't know. In fact, after working in banking for a while, I was able to return to a traditional practice. The second time I left the traditional practice, the opportunity came about because of contacts I made as an active participant in the Mid-Missouri Estate Planning Council. But similar opportunities could have arisen from a Rotary Club, Church, or working for The Missouri Bar. So I guess my advice for those looking for non-law opportunities is to get active to make relationships. And don't be afraid to make a change."

References

There are literally thousands of websites, books, and other resources addressing the issues that arise for people with a J.D. entering an alternative career. Turn to those you trust, whether it be a person you know in the field you are interested in, the law school career center, or other sources, to help you weed through the information and hone in on the information that will be most helpful to your search.

SECTION 12:
RESOURCES
by Yamini A. Laks*

As a new lawyer, do not forget that there are numerous resources available! Part of your time as a new lawyer will require you to do some personal education. It may feel overwhelming at first, but spending time to make sure you have found the right answers will impress your clients and colleagues.

Below is a list of websites where one can find answers to many question; whether it relates to the practice of law, governmental entities, free legal research, or how to contact another state's Bar Association.

Keep in mind when you enter key words in any search engine, you may get links to websites that are not reliable. It is best to check and double check what it is you find online. Hopefully, these websites can guide you in your search for reliable information.

The Missouri Bar

The Missouri Bar's website is an excellent resource for the new lawyer. Your bar membership card will have you Bar Number and PIN/Password that will allow your access to numerous resources. You can file your continuing legal education credits online, renew your bar membership or access sample forms and free legal research from The Missouri Bar.

The Missouri Bar: http://www.mobar.org/

- File your CLE credit online
- Learn about your Missouri Bar dues
- Access free research engines
- Order the MOBar resource manuals and books
- Missouri Lawyers Assistance Program ("MOLAP")
- Missouri Bar staff information
- Missouri lawyers directory
- Missouri Bar Ethics CLE requirement

The Missouri Judiciary

Judicial Branch of State Government: http://www.courts.mo.gov/

- Locate changes to court rules
- Access Case.net: https://www.courts.mo.gov/casenet/
    - Docket and attorney information for nearly any Missouri civil or criminal case; search by litigant name, filing date, case number, or trial setting.
- Link to the Circuit Courts
- Link to the Eastern, Western and Southern Districts of the Missouri Court of Appeals

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- Link to the Missouri Supreme Court
- Link to Rules of Ethics
- Link to attorney membership and becoming a lawyer
- Link to the Clerk of the Supreme Court of Missouri
- Filing information

State resources

Office of the Missouri Governor: http://governor.mo.gov/

Missouri Attorney General's Office: http://ago.mo.gov/

Missouri Secretary of State: http://www.sos.mo.gov/
- Information on business incorporation
- Access to Missouri Administrative Rules
- Information on Election Rules

Missouri State Treasurer: http://www.treasurer.mo.gov/
- Information regarding unclaimed property
- Information on loans and saving for college

Missouri General Assembly: http://www.moga.mo.gov/
- Constitution of Missouri: http://www.moga.mo.gov/homecon.asp
- Revised Statutes of Missouri: http://www.moga.mo.gov/homestatsearch.asp

Missouri House of Representatives: http://www.house.mo.gov/

Missouri Senate: http://www.senate.mo.gov/

Missouri Administrative Hearing Commission: http://oa.mo.gov/ahc/

Missouri Department of Labor: http://www.labor.mo.gov/

Missouri Public Safety: http://www.dps.mo.gov/

Missouri Department of Corrections: http://doc.mo.gov/

Missouri Department of Natural Resources: http://www.dnr.mo.gov/

St. Louis Area: The Municipal Project: http://muniproj.com/

Federal resources

United States Department of Justice: http://www.justice.gov/

United States Courts: http://www.uscourts.gov/

Eighth Circuit: http://www.ca8.uscourts.gov/
- Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

U.S. District Court for the Eastern District of Missouri: http://www.moed.uscourts.gov/
- Bankruptcy Court: http://www.moeb.uscourts.gov/

U.S. District Court for the Western District of Missouri: http://www.mow.uscourts.gov/
- Includes Bankruptcy Court

Supreme Court of the United States: http://www.supremecourt.gov/

United States Citizenship and Immigration Services: http://www.uscis.gov/

Public Access to Court Electronic Records: http://www.pacer.gov/
- This website requires a small fee

Ethics and professionalism

The American Bar Association: http://www.americanbar.org/

Other online resources

Legal Information Institute at Cornell University Law School: http://www.law.cornell.edu/

HeinOnline: http://home.heinonline.org/
- Alternative to Lexis and Westlaw. Requires a membership.

Google Scholar: http://scholar.google.com/
- Free books, legal articles and opinions, and non-legal secondary resources

Fastcase: http://www.fastcase.com/
- Alternative to Lexis and Westlaw.
- The Missouri Bar provides a limited free membership. http://www.mobar.org/fastcase.aspx

Criminal law resources

Missouri Sentencing Advisory Commission: https://www.courts.mo.gov/rs/inquiry.do

Vine Link: https://www.vinelink.com/vinelink/initMap.do
- Locate an inmate (available for a majority of states)

Missouri Department of Corrections Offender Search: https://web.mo.gov/doc/offSearchWeb/
- Locate information on all inmates in the Department of Corrections's custody.
- Many counties also have websites with their jail population.

Forms

NOTE: Some circuit courts have developed their own forms for use in their courtrooms (St. Louis City, St. Louis County, and Kansas City). Check the website for specific formats. In addition, The Missouri Bar provides reference books based on practice field topics available for purchase.