

NEW YORK CITY BAR

The LL.M. in
Estate Planning
and Elder Law

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The Bar Sponsored
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Bar Association

EVENTS

SMALL LAW FIRM LUNCHEON

**BUSINESS OPPORTUNITIES
THROUGH THE
ASSOCIATION'S LRS**
Thursday, June 19, 2008
12:30 pm - 2:00 pm

Learn how you can expand your client base by joining the Association's LRS Panel - the oldest & largest legal referral service in New York, receiving 300-500 calls each day from people looking for legal representation.

Moderator:

Mark A. Josephson, Esq., CPA, CFP, CFE
Murray & Josephson, CPA's, LLC

Speaker:

Allen Charne, Director of LRS
New York City Bar

Registration by June 12 is necessary. The fee, which includes lunch, is \$25 for members; \$35 for non-members. Please register online at www.nycbar.org.

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New York City Bar
www.nycbar.org

Small Law Firm Center

JUNE 2008 NEWSLETTER

A NOTE FROM THE SLFC DIRECTOR...

ON EXIT STRATEGY FOR SOLOS AND SMALL FIRM PRACTITIONERS

"Every Exit is an Entrance Somewhere Else"
- Tom Stoppard

How many of us, as solo and small firm practitioners, have counseled clients on the importance of securing the future of their loved ones in case of a disability or a death? How many of those who represent small business owners emphasize the importance of having a succession plan, of securing their ongoing business and their customers? Over the years we have, perhaps, drafted hundreds of "buy-out" and "disability" clauses, represented dozens of estates, prepared wills and counseled our clients when they faced disputes with their deceased partners' families who tried to continue to run the business without having any idea of what it involved.

Yet, despite lending our learned advice to our clients and their families, many of us remain hopelessly lax in planning our own professional exit, whether it is voluntary such as retirement, or sudden, such as in cases of disability or death.

Indeed, a death or a prolonged disability of a solo practitioner often presents enormous problems for that person's family, clients and those who try to help them, and may expose his or her estate and family to liability. Although there are no specific requirements mandating an attorney to take steps to protect his/her clients in case of that lawyer's sudden inability to practice law, several Disciplinary Rules of the Code of Professional Responsibility address likely consequences of an attorney's death or disability. For instance, if the attorney does not have an exit strategy, his cases may become "neglected", violating DR 6-101 (A)(3), or his client's funds and/or property may not be promptly returned, implicating DR 9-102(C)(4). Bar associations regularly receive phone calls and complaints from clients who cannot access their files, obtain original wills or get any information on the status of their cases because their lawyer has become disabled, died or simply cannot be found. Although efforts have been made to find attorneys who would temporarily take over a deceased or disabled lawyer's practice, the ability of a "caretaker attorney" to be successful directly depends on how thoroughly the original lawyer has kept the files and whether he/she had left instructions on how the business would function in his/her absence.

In 1992 the ABA Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 92-369, entitled "Disposition of Deceased Sole Practitioners' Client Files and Property." The ABA opinion addressed the need for a lawyer to have a plan in place which would protect his client's interests in the event of the lawyer's death and provide guidance for the "caretaker attorney" who assumes responsibility for the deceased lawyer's files. In years to follow several bar associations have issued their own opinions addressing situations in which a lawyer dies or becomes disabled. Many of them are cited in an article published by ABA in their March 2006 Newsletter. (www.abanet.org/media/youraba/200603/article01.html). To view some of the New York Opinions click on the following two links:

1. http://www.nysba.org/AM/Template.cfm?Section=Ethics_Opinions&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=5391 ;
2. <http://www.nycbar.org/Ethics/eth1999-5.htm>

**SMALL LAW FIRM
FACILITIES - A UNIQUE
FREE BENEFIT TO
MEMBERS**

Attorney Work Space

Mon-Thur 9:00 a.m. - 8:30 p.m.
Fri 9:00 a.m. - 6:30 p.m.
Sat 10:00 a.m. - 3:30 p.m.

Conference Room

Mon-Thur 9:00 a.m. - 8:30 p.m.
Fri 9:00 a.m. - 6:30 p.m.
Sat 10:00 a.m. - 3:30 p.m.

NOTE:

Attorney Work Space is available on a walk-in basis, except during the hours of 12:00 p.m. and 2:00 p.m. Between 12:00 p.m. and 2:00 p.m. it must be reserved as a conference room. The Conference room can be reserved for 2 hour intervals daily except during the hours of 12:00 p.m. and 2:00 p.m. If you wish to reserve a conference room between 12:00 p.m. and 2:00 p.m. the Attorney Work Space currently serves as a secondary conference room during those times. To make a reservation contact the reference desk of the Library at (212) 382-6666 or email rmrvis@nycbar.org.

RESERVATIONS UPDATE:

Due to the increase in demand for the Small Law Firm Center, effective June 1, 2008 members will be limited to making no more than one reservation per day and not more than 3 reservations per week.

In 2005 the New York State Bar Association's Committee on Law Practice Continuity published a Guide entitled "Planning Ahead: Establish an Advance Exit Plan to Protect Your Clients' Interests in the Event of Your Disability, Retirement or Death."

The Guide addresses concerns of both planning attorneys and those who are called upon to respond in view of their disability, retirement or death. The Guide outlines a 4 Step Plan for Exiting a Law Practice as follows:

Step 1: Designation of an Assisting Attorney;

Step 2: Preparation of Written Instructions for the Assisting Attorney, family, executor and staff;

Step 3: Discussion of the Advance Exit Plan with the people listed in Step 2; and

Step 4: Description of the financial arrangements made with the Assisting Attorney, which may include medical authorizations to determine incapacity to continue in practice, and authorizations to notify others about the closure of the practice or to obtain extensions of time in active litigation matters.

The Guide also contains exit strategy checklists for attorneys, which help them close their own office, close another attorney's office as well as authorizations and agreements. To view the entire Guide with the checklists click here:

http://www.nysba.org/Content/NavigationMenu/Publications/ForSolosPlanningAheadGuide/planning_Ahead_Guide.htm

Many of us, especially solo practitioners, spend years helping clients make responsible choices. Often, however, we put our own responsibilities at the very bottom of our "TO DO" list, and day after day, year after year, we simply move that task to the following day. While it often makes us feel uneasy to think about the circumstances that would make us unable to practice law, we should heed the advice we so often give to our clients and develop and implement an Exit Strategy Plan now. Doing so will not only ensure a graceful exit but will also help our competence and professionalism triumph over our mortality.

With Best Regards,

Alla Roytberg, Esq.

BENEFITS FOR SOLOS AND SMALL FIRMS
**A BRIEF LIST OF LIBRARY RESOURCES FOR SOLOS
AND SMALL FIRMS**

- Westlaw and Lexis available in Library free to members;
- Remote and Library electronic access to law reviews and/or journals Via HeinOnline;
- Numerous print treatises and forms also in CD format;
- Library server-based access to Matthew Bender treatises/forms and McKinney's Forms;
- Remote access to limited Westlaw forms;
- Copy service fax and e-mail (PDF) requests;

For Further Information - Click here <http://www.nycbar.org/Library>
To reach the reference desk call (212) 382-6666

EVENTS

NYC BAR EVENTS OF INTEREST

**Pathways To Leadership: Keys To
Success For Women In The Law**
June 3, 2008 8:30 a.m. - 10:00 a.m.

**Smart Marketing - III
Smart Marketing: Maximizing
Revenue Through Client Loyalty**
June 5, 2008 8:30 a.m. -10:00 a.m.

**Come Dance With Us!
LRS Dance Party**
June 12, 2008 7:00 p.m. - 11:00 p.m.

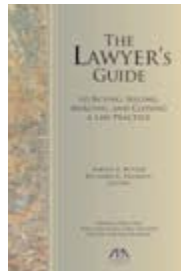
**Small Law Firm Luncheon
Business Opportunities Through
The Association's Legal Referral
Service**
June 19, 2008 12:30 p.m. - 2:00 p.m.

CLE PROGRAMS OF INTEREST

**Ethical Issues In Trusts & Estates
Practice**
June 2, 2008 6:00 p.m. - 8:00 p.m.

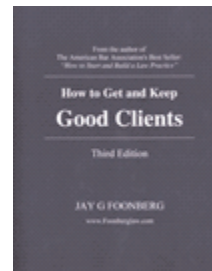
**Video Replay: Basics Of Mortgage
Foreclosure & Beyond**
June 25, 2008 6:00 p.m. -8:15 p.m

ABA BOOK OF THE MONTH



Regular Price:
\$99.95 USD

Member Price:
\$85.00 USD



Regular Price:
\$179.95 USD
includes CDs

Member Price:
\$153.00 USD
includes CDs

Please note, that this price does not include shipping/handling and taxes, charged by ABA. To Order books please email aroytberg@nycbar.org

The New York City Bar's Small Law Firm Online Cafe will open on June 1, 2008.

The Small Law Firm Center of the New York City Bar is pleased to announce formation of the online forum for solo and small firm practitioners. The purpose of this forum is to provide a place for solo and small firm practitioners to ask each other questions and exchange ideas on law practice management issues. If you have any questions or comments about the Small Law Firm Online Cafe please email aroytberg@nycbar.org. In the meantime, feel free to grab a cup of coffee or tea and begin our virtual conversation.

To access the Small Law Firm Online Cafe please click here:

<http://www.nycbar.org/forum/list.php?3>