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LawBiz® TIPS – Week of February 22, 2011

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In the current issue of *Legal Management*, I discuss value to significant clients, the business client who is a member of ACC. Their current "value statement" proposes a "scorecard." Many of the criteria are subjective, so one has to wonder how the ACC is moving the ball forward in bettering relations between attorney and client. Some criteria include a demonstrated understanding of the client's goals and objectives, the use of client service teams, and efficiency of a firm's management processes. Value always is in the eye of the beholder. Read more and send me a note telling me what you are doing to demonstrate value to your clients and how are they responding to you.

As you read this, I'll be in central California (Buellton to be specific) cycling in [Chris Carmichael's camp](#). Chris, coach of Lance Armstrong, not only is a great coach, he's developed a great business model that extends his knowledge to recreational riders as well as the pros. I'll be having a blast; this is my birthday present to me ... and is at least the 5th if not the 6th time I've taken the liberty to participate in my avocation with Chris.

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## Clever Lawyers and Bad Lawyers

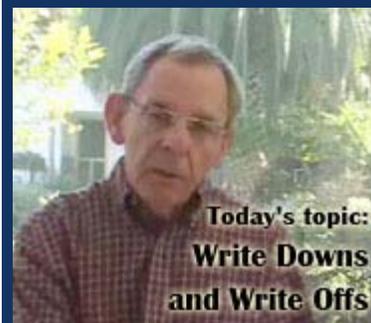
A reporter recently asked me if the trend toward the mandatory disclosure of malpractice insurance has resulted in any striking trends in the behavior or practices of the solo practitioners who are most affected. I replied that, as a practical matter, lawyers are very clever. They are wordsmiths as well as effective in finding loopholes. The loophole in this process is either to bury the disclosure notice so that it's not an obvious part of the engagement process, but still complies with the code, or by passing it off as an unnecessary requirement required by the State Bar that doesn't change anything for the client.

In this issue:

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What Readers Are Saying:

"No matter how you slice it, there is no substitute for wisdom and experience. Ed

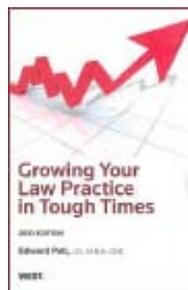
This latter statement is, of course, completely accurate. Remember who we're talking about: the 20% of the lawyer population who are good lawyers in their clients' minds, but who the State Bar has now labeled as suspect. Yes, there are problem lawyers, but there was never any study brought to light to show who "bad" lawyers were as a group and how mandatory malpractice insurance disclosure can help either prospective clients, current clients or injured clients. The real remedy, mandatory errors and omissions coverage, is still too politically charged for virtually all Bar associations to consider.

Mandatory bans of retainers for loan modification come under the exact same heading of being "unnecessary," and worse, disenfranchising the very people who currently have major problems because of the financial and housing crises, an "upside-down" homeowner. All loan modification lawyers are considered bad because a few are. The basic dynamic is simple – if a lawyer takes money in advance of the work and places the money into a clients' trust account, they can be assured of being paid on completion of the work. If the work is not completed, the money is not withdrawn and returned to the client. The penalty for withdrawal without doing the work is disbarment and prosecution for theft. The practical effect of the prohibition is to ban retainers for this type of matter, thereby preventing problematic homeowners from getting expert advice from a lawyer; this prohibition is not done in any other context.

Disbarment – being stripped of one's license to practice law – is the most severe professional penalty a lawyer can receive. Rule of Professional Conduct 8.5 states that a lawyer is subject to disbarment, or any disciplinary action, under the rules of the jurisdiction where that lawyer is admitted to practice, "regardless of where the lawyer's conduct occurs." What conduct? The commentary on Rule 8.4 proposes that, "Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category." This remedy, not some vague desire to "protect the public" as symbolized by mandatory insurance disclosure or mandatory retainer bans, should remain the focus of a self-regulating State Bar.

## Growing Your Law Practice in Tough Times

Following the worst economic crisis since the Great Depression, and facing a sea change in clients' demands and expectations, law firms must respond and adapt quickly and effectively. Law firms must choose the kind of law practice they will be; the marketing and business development tactics they will use; the overhead that is critical to their functioning; how to price, bill and collect for services; and how to manage the cash flow cycle.



Success lies in identifying and capturing the right kinds of clients, providing the services those clients need in ways that add value, and ensuring prompt payment and the ability to grow profits. This book, based on the experiences of Ed and his clients over 20 years of coaching and consulting, provides the keys to successfully thriving in

Poll has demonstrated both in this eyeopening book about the essential elements of running a profitable law practice. He provides practical wisdom along with simple ways to adopt and incorporate best practices for each. After explaining the pros and cons of every decision, he makes recommendations and provides useful guides disguised as key principles. Buy the book so you too can access Ed's wisdom and experience. It's worth much more than the investment."

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