

LawBiz® TIPS

YOUR PRACTICAL GUIDE TO PROFIT™



Week of **November 3, 2009**

Preserve, Protect and Defend Your Client Records

ABA's Rule of Professional Conduct 1.15 requires that client property and files be "appropriately safeguarded." There generally is no minimum time provided for in the rules concerning how long this safeguarding must be done. Lawyers are, generally, stuck with maintaining the clients' files unless he/she can find the clients and persuade them to retrieve their material and / or create protocols in the initial agreement that the client accepts and signs.

In California the State Bar has not expressed an opinion on how long files must be maintained, but the Los Angeles County Bar Association's Formal Opinion No. 475 holds that files should be kept for five years from resolution in civil matters, and for the life of the client in criminal matters. Failure to thus provide for the security of these files is a failure in the overall duty to act competently in the best interests of a client.

Files are not the only concern. Valuable client property includes documents such as original notes or securities, as well as original wills and settlement agreements. For paper documents, many firms rely on outside document management and storage companies to handle archiving and security of files. This often involves the use of traditional "bankers' boxes," with these items labeled and stored using a system that reflects your document management strategy. You should store on your own database the inventory system for your file boxes, and not rely on the storage vendor. Consider moving to the use of bar codes rather than coding by hand - which should be something your storage vendor can advise you on and implement.

The best approach, of course, is to return such property and not pay the storage costs. Consider a provision in your engagement agreement that allows for return of the valuable documents and property to

A Coaching Service that Delivers Concrete Results

Ed's Coaching will:

- Put your professional development on the fast track so you are moving up to the next level of success
- Provide you with a confidential sounding board
- Open your eyes to solutions to your challenges that have a proven record of effectiveness
- Partner you with a peer who has walked in your shoes before and acquired the insight and judgment to mentor and guide you
- Have no other agenda than your success

Clients include attorneys, managing partners, executive directors and financial directors at small, mid-size, and large law firms. We have seen many of our clients increase their revenue by five or six figures-that's \$50,000 to \$400,000 based on reports thus far.

Many of my clients have experienced:

- Increased revenue with long-term strategies for sustainability
- Attainment of partnership level
- Enhanced performance resulting from focused energy and reduced stress
- Feelings of increased control over

a last known address at the conclusion of a matter or by a date certain (e.g., in estate planning matters), whichever first occurs. An alternative is a formal letter to clients directing them to pick up their files within a stated time, say 30 days.

Although your client notification letter may state that clients must pick up their files within 30 days, you should keep these files for at least two years thereafter—unless, of course, the rules of your jurisdiction require a longer storage period. The rules and specific time periods for storing or destroying client files vary by jurisdiction. Some states, for example, require a lawyer to securely store a client's file for 10 years after completion or termination of the representation absent other arrangements between the lawyer and client. Depending on your state's statutes, after the storage time has lapsed, destroy the files in accordance with your file retention policy.

Personal Commentary

A number of larger law firms have or are creating education programs for their new, and even some continuing, associates. Just this morning, I learned from an "alumna" of Thacher that she enjoyed her time with Big Law because this firm believed in continuing education for its associates. Also, Howrey recently announced the creation of an apprentice program for all of its new associates, rather than delaying their new hires as other large firms have done. And, in both Canada and England, there is a tradition of "articling," very similar to an apprentice program. In other professions, such as accounting, an apprenticeship is required before granting the Certificate. There are other examples.

Should we return to an apprentice system for law school graduates before licensing them as lawyers? What's your opinion? [Click here to take our short survey](#). Our survey will end at 11:59 pm on November 10th.

Best wishes,

Ed Poll
lawbiz.com
lawbizblog.com
www.LawBizForum.com

professional life

Document hosted at JDSUPRA™

- Heightened productivity due to being held accountable and being questioned and challenged
- Objective, situational assistance from one of the country's top coaches and consultants

If you want to be more successful tomorrow, call Ed now!

Check Out Ed on 

Ed's Tweeting! 

Join 

What Readers Are Saying...

"I look at Ed as my business partner now—my once-a-week essential business meeting to take the pulse of my practice. During our one-hour phone conversations, we hash out the larger and smaller business challenges of my law firm. I always come away from those conversations enlarged, challenged, and sometimes even quite shaken, but with the tools necessary to move forward down the path he and I are constantly redefining for me and my firm."

-AL, Northern California

(800) 837-5880 Order Phone

(310) 827-5415 Office Phone

Document hosted at **JD SUPRA™**
<http://www.jdsupra.com/post/documentViewer.aspx?fid=72ce50b7-4b7f-4fbd-acc9-05e37a262fb4>

Please use the URL below to link to this issue:
www.lawbiz.com/nlimages/tip-11-3-09.html

© 2009 LawBiz® Management. All rights reserved.

Note: If you would like to unsubscribe or if your e-mail address will be changing, please use the links that are displayed below.