



*in*Brief Roundup: Top Three Practice Management Articles

By Monica Logan

Lawyers face myriad practice management challenges that we as PMAs try to address through our written content. Our chosen selections cover diverse issues ranging from unpaid fees to common malpractice risks as well as encrypting data. These articles focus on key topics as relevant today as when first written.

Read on for ideas to refresh your practice!

#1 Avoiding Unpaid Fee Traps

By Rachel Edwards, December 2016

Rachel Edwards' article provides a detailed discussion of ways to prevent and handle a client's nonpayment. Her advice is a good reminder to implement clear and efficient billing practices to avoid the issue of unpaid fees entirely. Generally, it's riskier to try to collect on an invoice than to work to prevent the situation.

Attempting to collect unpaid fees through legal action—a civil suit or collections matter—can damage your relationship with your client. Even though the client may be at fault, they could retaliate with a malpractice claim or ethics complaint. Proactive methods or an alternative solution can help you manage this issue. Ms. Edwards suggests being upfront with your clients and screening their ability to pay before engaging them as a client. At the onset of the representation, clearly explain your firm's billing procedures. She shares that one helpful tip is to require the client to replenish the retainer to keep a certain amount in trust. Also, if a client will receive an unusually large invoice, notify them in advance and explain the reason for the variance.

If a client doesn't pay your bill, Ms. Edwards outlines these steps before suing or sending delinquent fees

to collections. First, call the client. Your personal contact might encourage them to explain their reason for not paying. Second, offer alternative payment options or a discount as an incentive. Third, determine whether you can ethically withdraw from the matter. Finally, consider whether the Oregon State Bar's fee dispute resolution program is appropriate. Find additional information here: <https://osbar.org/feedisputeresolution>.

#2 Malpractice Risks I and II

By Hong Dao, October 2018 and January 2019

In Hong Dao's two-part series, she describes how improving one major factor—inadequate office systems—can help firms with many of the other risk areas like poor client relations, failure to meet deadlines, and failure to follow through. By establishing reliable office systems, a firm can reduce its overall malpractice exposure.

In Part I, Ms. Dao discusses six necessary components to build reliable office procedures: client screening and case assessment, calendaring, file management, client management, conflict checking, and time tracking and billing. She emphasizes mitigating the risk of poor client selection by creating a screening checklist to identify red flags in potential clients. She also touches on how to avoid missing deadlines, neglecting a matter, or miscalculating dates, all of which contribute significantly to malpractice claims. To prevent these mistakes, enter all relevant dates and deadlines into one master calendar that allows all firm members to easily double-check entries and perform the necessary backups.

In Part II, Ms. Dao focuses on good client relations, conflict systems, and billing. Maintaining a positive

relationship with your clients helps you avoid problems that may cause clients to file a claim against you. Setting clear communication expectations and treating clients with common business courtesy are simple preventive acts that can yield a positive result.

Another area of impact is billing. Ms. Dao suggests using a written fee agreement and reviewing every bill before sending it to the client. To ensure accuracy, enter your time promptly, or, at minimum, daily. Under- or overbilling clients can lead to unreasonable expectations and damage your client's trust.

#3 Protect Data by Encryption

By Hong Dao, September 2019

To shore up your office's cybersecurity, review Hong Dao's brief introduction on encryption options to safeguard your data. Ms. Dao begins by explaining why encryption is important. To secure your entire hard drive, use full disk encryption software, and she lists multiple options. You can also encrypt individual files and folders, but if choosing between one or the other, the entire hard drive should be your priority. You should also protect the firm's mobile devices. Newer devices or operating systems might already have encryption software.

Another type of encryption to consider is cloud file storage. Determine whether your vendor generates their own encryption key, which means they can decrypt your files and control backdoor access. For additional protection, either encrypt your files before uploading or use a provider who allows you to create your own decryption code, called a zero-knowledge provider. Ideally, your cloud storage provider should not be able to access your client files.

Because emails are not automatically encrypted, think about securing your messages. Before emailing sensitive or confidential documents, encrypt them with email encryption software or encrypted webmail. ■

OTHER WORKS BY MONICA LOGAN

- The Three P's of Profitability (*inPractice* blog post, May 31, 2023)
- Can We Talk? Audioconferencing Options and Tips (*inPractice* blog post, March 10, 2023)
- Manage Meetings Like a Conductor (*inPractice* blog post, January 13, 2023)



Monica Logan is a PLF Practice Management Attorney.