

The Florida Law Practice

LINK

For Florida Lawyers – By Florida Lawyers

A JOURNAL OF THE GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION

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The Florida Bar

Winter 2009

Corporate Debtors Must Use Caution When Repaying Debts to Shareholders

by Camille J. Iurillo and Gina M. Pellegrino

Scenario: A corporation is contemplating filing for bankruptcy. One of its shareholders loans it money and the corporation repays the shareholder more than ninety days and less than one year before filing for bankruptcy. This payment is known as a preference payment, under the Bankruptcy Code, if the shareholder is an “insider” of the corporation. After the debtor corporation files for bankruptcy, the shareholder is sued by the trustee of the bankruptcy estate in a preference action. Does the shareholder have a defense?

There is a general rule with respect to preference actions. According to the Bankruptcy Code, when a debtor makes a payment to a creditor during the preference period, while the debtor is insolvent, the trustee of the bankruptcy estate can bring a preference action against the creditor to avoid the debtor’s payment. *See*, 11 U.S.C. § 547(b). More specifically, if the creditor is an insider, the preference period is between ninety days and one year before the bankruptcy filing; whereas, if the creditor is a non-insider, the preference period is within ninety days of the bankruptcy filing. *See*, 11 U.S.C. § 547(b)(4). The purpose of the trustee bringing such an action on behalf of the bankruptcy estate is to collect this money to pay the debtor’s other creditors.

In our scenario, it is necessary to determine whether the shareholder is an insider of the debtor corporation. If the shareholder is not an insider,

the shareholder will have this as a defense to the trustee’s preference action. However, it is important to mention that there are other possible defenses to a preference action beyond the scope of this article, including but not limited to the earmarking doctrine as a defense, the subsequent new value exception as a defense, the ordinary course of business defense, and the ordinary business terms defense.

Section 101(31)(B)(iii) of the Bankruptcy Code states that if the debtor is a corporation, the term “insider” includes a “person in control of the debtor.” In addition, section 101(31)(E) of the Bankruptcy Code states that the term “insider” includes an “affiliate.” So, what is the meaning of affiliate? Generally speaking, the term “affiliate” means an entity, including a person, “that directly or indirectly owns, controls, or holds with a power to vote, 20 percent or more of the outstanding voting securities of the debtor.” 11 U.S.C. § 101(2)(A); *see also*, 11 U.S.C. § 101(15). The Middle District of Florida has adhered to this reasoning, stating that the definition of an insider includes an “affiliate,” thus, once it is determined who is an affiliate of the debtor corporation that person is also considered an insider of the debtor corporation. *See, In re Holly Hill Med. Ctr., Inc.*, 53 B.R. 412, 413 (Bankr. M.D. Fla. 1985).

Therefore, according to the applicable case law, discussing the meaning of affiliate, if a person holds

20 percent or more of the debtor’s voting stock, that person is deemed an insider of the debtor, even if the person does not have the power to vote the stock. *See, In re F & S Cent. Mfg. Corp.*, 53 B.R. 842, 848 (Bankr. E.D.N.Y. 1985); *see also, In re Interlink Home Health Care, Inc.*, 283 B.R. 429, 438-9 (Bankr. N.D. Tex. 2002).

In our scenario, if the shareholder holds 20 percent or more of the debtor corporation’s voting stock, then the shareholder is an insider of the debtor corporation and the shareholder will not likely have a defense to the trustee’s preference action since the debtor corporation repaid the shareholder between ninety days and one year before the bankruptcy filing. However, if the shareholder holds

See “Corporate Debtors,” page 2

INSIDE:

Chair’s Report	2
Statewide Solo, Small Firm Interview Program	3
CLE Audio/Video List	4
Advertising Rates for the “LINK”	5
Save the Date.....	5
Marketing Your Firm’s Legal Services During an Economic Decline.....	6
Section Calendar.....	8
Solo & Small Firm Annual Conference Brochure	10
Checklists for Pre-Suite Demand Packages	15

Chair's Report

by Ana Veliz

Happy New Year! The Third Annual Solo and Small Firm Conference is only a few weeks away. I encourage all of our members to attend. It will be held March 20 and 21st, 2009 at the Rosen Plaza Hotel in Orlando, Florida. The Conference will be unlike any other CLE you have ever attended! There will be great opportunities to network and get to know other practitioners. This Conference promises to be a day and a half of fun networking as well as very informative, practical CLE for the general practitioner and the solo and small firm lawyer. If you attend this conference you will walk away with useful information that will help improve your practice and your life as soon as you return to your office. The topics will include "Managing a Solo or Small Firm and Still Finding Time to Practice Law", "Working with the Media to Promote Your Practice" and "Bringing Balance to your Practice and Your Life". There will also be a panel discussion on attorneys fees. In recent times there has been a lot of publicity to the manner in which attorneys bill their clients. The attorneys on the panel leading this discussion have experience in billing on an hourly basis as well as on a flat fee agreement. The

panel will discuss the pros and cons of both fee arrangements. In addition to the useful topics and exciting speakers we have been able to bring together, we are honored to have the Bar's president, Jay White, scheduled to speak at our luncheon on Friday.

Saturday morning there will be a presentation on "Managing your Overhead: How to Operate a Solo or Small Firm and Take Home a Paycheck". As part of this conference, on Saturday early afternoon, we will be having our Second Annual Small Firm Interview Program. You will have the opportunity to interview law students and recent graduates for internships, summer clerkships, entry level positions, part time research or drafting positions as well as project based legal work. The "Conference & Interview Program" tab on our website contains all of the details. As the program was being put together we realized that all of us and many of our clients have been affected by the downturn in the economy. We felt it was important to give members an opportunity to talk about the challenges you are facing in business development and retention. As a result, we will also have an open forum discussion about how to survive and thrive in these challenging

economic times. It is our goal to provide you with practical and realistic suggestions that can be implemented immediately to help recession proof your practice.

I would also like to take the opportunity to remind you that we are looking for you, our members to submit an article of interest for publication in our newsletter, the Link. Having an article published is a great marketing tool. It lets your colleagues know that you have an expertise or are interested in a particular subject or issue. You never know when that knowledge you have shared with others will help develop a new client relationship for you. Remember that if you have an article that just needs updating or was published, please send us a copy. If your article is selected for publication you will receive a fifty percent discount for the Solo and Small Firm Conference registration fee!

Finally, our Website www.gpssf.org has updated section information and a lot of new content. Take a minute to login and browse. Of course, the Conference information and brochure can be found on the site.

I look forward to meeting many of you at the Conference!

CORPORATE DEBTORS

from page 1

less than 20 percent of the debtor corporation's voting stock, then the shareholder is probably not an insider unless he or she is a director or officer of the debtor corporation, so the shareholder will likely have a defense to the trustee's preference action.

In conclusion, a corporation that

is contemplating bankruptcy should utilize caution when repaying one of its shareholders prior to the bankruptcy filing, keeping in mind that the bankruptcy trustee has a right to bring preference actions, including actions against shareholders repaid by corporations during the preference period.

Iurillo & Associates, P.A., located in downtown St. Petersburg, is comprised of **Camille J. Iurillo**, Shareholder, **Gina M. Pellegrino**, Associate, and **Sabrina C. Beavens**,

as Of Counsel. **Ms. Iurillo** has been active in the St. Petersburg Bar Association for several years, and she is on the Executive Committee of The Florida Bar's General Practice Solo and Small Law Firm Section. **Ms. Pellegrino** joined the Firm in 2006 and is an active member of the St. Petersburg Bar Association Young Lawyers Section.

The primary areas of practice of **Iurillo & Associates, P.A.** are Commercial and Bankruptcy Litigation and Debtors' and Creditors' Rights.

Statewide Solo, Small Firm Interview Program March 20-21, 2009 in Orlando



Take advantage of our no-cost interview program on March 21.

The Solo, Small Firm Interview Program enables employers, at no cost, to interview law students and recent graduates from all of Florida's law schools. The event will take place in Orlando at the Rosen Plaza Hotel during the Solo, Small Firm Conference, on March 21, 2009. Employers can interview applicants for hiring needs including:

- entry-level associate
- part time research or writing
- summer 2009 clerkships or
- project based legal work

After reviewing resumes from interested applicants, employers can select one to six candidates to interview between 12:00 p.m. and 2:00 p.m. **The employer registration deadline is February 10, 2009 and interview space is limited.** Members of the General Practice, Solo and Small Firm Section will receive first option for interview space.

For employer registration or additional details, please contact Kristen Bryant, Director of the Small Firm Project, University of Florida Levin College of Law Center for Career Services at bryantk@law.ufl.edu or (352)273-0860.

For full details and forms, go to <http://www.gpssf.org/convention.php>

HOTEL RESERVATIONS for Solo & Small Firm Annual Conference Due by February 26, 2009

A block of rooms has been reserved at The Rosen Plaza Hotel, Orlando at the rate of \$169 single/double occupancy. To make reservations, call The Rosen Plaza Hotel directly at (800) 627-8258. Reservations must be made by 2/26/09 to assure the group rate and availability. After that date, the group rate will be granted on a "space available" basis.

The Florida Bar CLE Audio/Video List

www.floridabar.org

850-561-5629

KEY TO ABBREVIATIONS - CERTIFICATION CREDIT HOURS

AD = Admiralty and Maritime	ED = Elder Law
AG = State & Federal Government & Admin. Practice	EP = Wills, Trusts, & Estates
AP = Appellate Practice	FL = Marital & Family Law
AT = Antitrust & Trust Regulation	HL = Health Law
AV = Aviation	IL = International Law
BL = Business Litigation	IP = Intellectual Property
CA = Criminal Appeal	IM = Immigration & Nationality
CC = City, County, Local Government	LE = Labor & Employment
CL = Construction Law	RE = Real Estate
CR = Criminal Trial	TX = Tax
CT = Civil Trial	WC = Workers' Compensation

PLEASE ALLOW FOUR WEEKS FOR DELIVERY.

Revised 12/18/2008

Course No.	COURSE TITLE	CREDITS HOURS			Approval Period	COSTS	
		General	E = Ethics P = Professionalism S = Substance Abuse MIA = Mental Illness Awareness	Certification		S = Section Member N = Non-Section Member	CD
GENERAL PRACTICE, SOLO & SMALL FIRM SECTION							
0545	Rural Lands: Land Use Issues 2007 Update CD Only	5.0	0	AG = 5.0 CC = 4.0 RE = 2.5 TX = 1.0	09/28/2007- 03/28/2009	S = \$105.00 N = \$130.00	Not Available
0610	Solo & Small Firm Convention CD Only	10.5	0.5 E 1.0 P 1.0 SA	0	10/19/2007- 04/19/2009	S = \$265.00 N = \$290.00	Not Available
0586	3rd Annual Florida Ethics Update CD Only	5.0	5.0 E	0	02/22/2008- 08/22/2009	S = \$120.00 N = \$145.00	Not Available
0621	Florida Law Update 2008 CD Only	7.5	1.0 E	CA = 2.0 CC = 7.5 CR = 2.0 EP = 1.5 FL = 1.0 RE = 1.0	06/19/2008- 12/19/2009	S = \$150.00 N = \$175.00	Not Available
0751	4th Annual Ethics Update CD Only *85.00 includes GPSSF section membership until 6/30/2009	5.0	5.0 E	0	10/10/2008- 04/10/2010	S = Comp N = \$85.00*	Not Available

To order the above, go to www.floridabar.org and click on CLE.

General Practice, Solo and Small Firm Section 2008-2009 Advertising Rates for the Section's Newsletter the "Link"

RATES PER ISSUE	1 ISSUE	4 CONSECUTIVE ISSUES
Inside Front / Back Cover (Black & White)	Member \$400 Non-member \$600	Member \$1,000 Non-member \$1,200
Full Page (Black & White)	Member \$300 Non-member \$450	Member \$800 Non-member \$1,000
2/3 Page (Black & White)	Member \$225 Non-member \$325	Member \$600 Non-member \$700
1/2 Page (Black & White)	Member \$175 Non-member \$200	Member \$500 Non-member \$600
1/3 Page (Black & White)	Member \$100 Non-member \$125	Member \$300 Non-member \$370
1/4 Page (Black & White)	Member \$75 Non-member \$100	Member \$200 Non-member \$250
1/6 Page (Black & White)	Member \$50 Non-member \$75	Member \$150 Non-member \$200

Save the Date:



Make plans to attend the GPSSF section's Annual Solo & Small Firm Convention and Interview Program in Orlando at the Rosen Plaza Hotel on March 20-21, 2009. Join us for a full-day of informative CLE's on Friday, March 20th followed by a networking reception. The Convention continues Saturday morning covering additional CLE topics before the Small Firm Interview Program (SFIP) begins. SFIP will enable employers to interview law students and recent graduates from all of Florida's law schools, in Orlando on March 21, 2009 at no cost.

Marketing Your Firm's Legal Services During an Economic Decline

by Jennifer E. King

Client Development

Times are tough for the U.S. economy. Even if your law firm hasn't experienced a decline in business, you've undoubtedly heard about other businesses that are taking a hit. Some law firms have laid off attorneys. Partners are taking pay cuts. Other firms want to merge in an attempt to save themselves. The depressed economy isn't just affecting the large law firms; small firms and sole practitioners are also experiencing declining revenue as a result of the weakening economy. It's not surprising, then, that many firms are reexamining their budgets to decide where they can trim expenses if or when their own business takes a hit.

The marketing budget is one expense that many law firms will consider reducing or eliminating entirely in the time of cutbacks. But studies have shown that this is the wrong move. An economic decline actually offers new opportunities and advantages for firms that embrace smart marketing opportunities. Rather than cutting their marketing budget, proactive law firms will carefully consider their marketing activities, pursue a mix of solutions, track the results and redirect resources toward the marketing efforts that yield the best returns.

With careful thought and strategic investment in marketing and business development, law firms will see a payoff from their investment, both during the recession and after the economy picks up steam.

Why Spend Money on Marketing in a Down Economy?

There are myriad of reasons to continue—or step up—your firm's marketing activities during a recession.

Marketing your services will give your firm an advantage over those that scale back on their marketing efforts, or eliminate them entirely, during an economic downturn. When prospective customers need a lawyer, they're more likely to think of

you than the lawyer who hasn't been marketing. This gives your firm the opportunity to increase its name recognition and gain market share.

In addition, certain practice areas are recession-proof, or likely to experience an increase in business in a down economy. During a downturn, lawyers can still expect to see significant work in litigation, bankruptcy, restructuring, intellectual property, trusts, personal injury and products liability. Your firm should adjust its marketing to emphasize practice areas that remain profitable. The agile lawyers will recognize the opportunity this presents. If you primarily work in a practice that thrives during boom economies, consider cross training and expanding your practice to areas that do well during bust economies. If you can't easily diversify your practice, at least be on the lookout for unexpected opportunities. If your competitors eliminate practice areas or go out of business entirely, you may be able to pick up additional work that they previously handled.

Lastly, you may have an opportunity to stretch your marketing budget during a recession. And as you're looking at your marketing budget, consider how much is being spent on marketing overhead versus marketing activities. If cuts are absolutely necessary, smart businesses trim overhead spending that isn't producing any direct, measurable results.

Evaluate Your Current Marketing Efforts

When the economy is tight, it's important to look at each marketing activity in terms of value and ROI (return on investment). Focus the majority of your firm's marketing budget on investments that have low risk and high reward. If, after making those purchases, you have money left in the budget, you can use it to test other marketing activities.

Before engaging in new marketing activities, it's important to analyze your current marketing efforts. Consider the following:

Assess the current situation

What marketing activities are we engaged in, and what measurable results can we show from those activities?

Identify opportunities

What are our strengths in comparison to our competition?

Where are our firm's biggest opportunities for growth?

Set objectives

What do we want to achieve through our marketing?

Determine the marketing strategy

What resources are prospective clients using when deciding to hire a new attorney?

How do our existing clients decide which attorney to use?

Identify the marketing mix

What are the most cost-effective ways of reaching new and existing clients?

The answers to these questions should help you map out a marketing strategy. Once you've identified who you're trying to target, the best avenues to reach those prospective clients and the best way to position the firm, you can then define the gaps between your current and new marketing plan.

What Types of Marketing Efforts Should You Consider?

A recent LexisNexis/Harris Interactive Survey of Solo Practitioners and Small Law Firms asked respondents to rate the perceived value of various marketing tactics. The two most popular types of marketing were law firm Web sites (considered valuable by 89% of respondents) and legal directories (valued by 82% of respondents) (LexisNexis 2008).

When new clients search for a lawyer, most people will ask their family, friends and business colleagues for personal recommendations. But once people have the names of a few lawyers, they're then going to attempt

to validate that choice, and most will turn to the Internet to help them. Whether prospective clients find you through a legal directory or come directly to your Web site, both are valuable sources for attracting new clients, and they serve complementary purposes.

Web sites: Your Web site is a virtual representation of your firm, an online storefront of sorts. Surveys estimate that law firms spend about 19% of their marketing budget on their Web site (LexisNexis 2008). It's a significant portion of your budget, so it's important to make sure that your Web site is working for you.

Consider the following:

If your site is intended as a lead-generation source: Are you happy with the number of leads that your Web site is generating? If someone doesn't know your firm's name, are they likely to come across your Web site? If they type the name of your city and area of practice into Google or another search engine, does your Web site appear among the top listings? If not, you may need to apply search-engine optimization (SEO) techniques and/or paid search-engine listings to ensure maximum visibility for your firm, and to increase the leads that come through your Web site. Paying for placements on search-engine results is one of the quickest and most efficient ways to increase leads to your Web site. But buying keywords can be tricky. To maximize your ROI, consider working with a business partner who understands the nuances of SEO and pay-per-click listings.

If your site is intended as an information source for existing clients: A strong Web site will include content that is updated frequently, creating a reason for users to regularly visit the site. Because not every visitor wants to read an article—some might want to watch a video, others might want to listen to a podcast—you should make an effort to use different types of media that appeal to different types of visitors. Regularly updating your content with new articles, videos and podcasts that are interesting and informative—with a clear call to action—will keep your clients coming back to the site.

Online Legal Directories: Both anecdotal and quantitative evidence shows that when prospective clients need a new lawyer, they seek out a referral, often from a trusted peer such as a business colleague or a friend, then use the Internet to research credentials. Martindale.com® is the top online legal destination for corporate counsel, and lawyers.comSM is the top online legal destination for small businesses and consumers who are seeking legal representation. In fact, 70% of users surveyed say they planned to hire a lawyer they found through lawyers.com within 1 week, according to a survey conducted in October 2007. If you only spend your marketing budget on one activity, spend it on inclusion in an online legal directory. With unlimited online content about your firm's expertise, you'll get a high return on your investment and detailed tracking reports so your firm can measure performance and track leads.

Create original content: Closely tied to your Web site efforts is the idea of creating custom content for newsletters, Web sites, blogs, email blasts and print publications. Sophisticated marketers know that you don't sell your services just by telling a prospective client, "Hire me" (though it is important to have a strong call-to-action in your marketing message). Each time you can impress a prospective client with your knowledge and expertise, you're giving that prospect another reason to hire you.

Creating original content costs very little money for attorneys that have the time. If your target customer is an individual or small business, you'll want to write or speak in "plain English." That means you should cut out the legalese, ditch the citations, and keep your message short and understandable. Using online technologies, you can then post content to your Web site, write a blog, post a podcast or video, create electronic newsletters, and send email briefings to your customer and prospect list.

Conclusion

As a small business owner, you should rightfully be concerned about how a potential recession will affect your legal practice and the legal needs of your clients.

Analyze your marketing efforts.

Where is your law firm spending its money, what tangible results are you seeing from those investments, how well are you reaching prospective clients and how can you attract more business from new and existing clients?

When examining your budget, you must make thoughtful decisions about how and where you spend your money. This is the time to make strategic investments in marketing your law firm, with the understanding that these investments will help continue to generate revenue in the short-term and will help build your law firm's market share into the future.

The LexisNexis® family of companies can be your firm's strategic partner in these marketing efforts. With 140 years of experience in law firm marketing the company has worked with thousands of law firms during both strong and weak economic periods. In recent history, we've built more than 20,000 law firm's Web sites and spent 10 years making lawyers.com into the premier online legal directory for consumers and small businesses.

We understand the challenges and pressures facing your firm, and can work with you to evaluate, prioritize and implement effective marketing solutions that fit your budget.

Because our client base runs the gamut from solo practitioners to the world's largest law firms, we realize that no two firms are alike. Our solutions can be customized to your firm's marketing needs, strategy, goals and budget. And we're able to provide detailed business-tracking reports, so you'll be able to measure the value of your investment, know where your new clients are coming from and quantify the value of your marketing investment.

Contact your LexisNexis account representative, or visit www.lexisnexis.com/lmc to discuss the solutions that are right for you and to receive a copy of the LexisNexis-Harris Interactive Survey of Solo Practitioners and Small Law Firms.

Jennifer E. King is a marketing consultant who focuses her practice on the legal profession. She previously worked as Vice President of Editorial for Corporate Legal Times (now known as InsideCounsel) and has edited a number of legal publications, including Illinois Legal Times, Business Without Borders and US Business Litigation.

GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION

2009 SEMINARS

March 20-21, 2009

Solo and Small Firm Convention
Orlando

June 25, 2009

Florida Law Update 2009
Orlando

2009 EXECUTIVE COUNCIL MEETINGS

February 22-28, 2009

Out of Country
Ski Trip
Steamboat Springs, Colorado

April 17-19, 2009

The Ritz Carlton
New Orleans

**(Note: Hotels and dates subject to change
depending on availability)**

New Bar password procedure outlined

Florida Bar members who don't already have a password to access restricted areas of the Bar's Web site will soon have an opportunity to select two methods to obtain one. A form will be mailed along with the annual membership fee statement enabling Bar members to instantly get a password to access members-only sections of the Bar's Internet Web site.

Communications Committee Chair-elect Richard Tanner presented details at the Board of Governors' recent meeting.

Having a password gives Bar members access to a variety of online services through the Bar's Web site, www.floridabar.org. Those include the Fastcase free legal research service, paying annual membership fees, changing their membership records such as their official Bar address, designating an inventory attorney for their practice, inquiring about their CLE credits, posting CLE credits for a course, and registering and paying for CLE courses.

Members who want an instant password must provide the Bar with their e-mail address and the last four digits of their Social Security number, Tanner said, using the form in the annual membership fee statement. Once the Bar has received that information, the member can instantly get a password online through the Bar's Web site by following the instructions.

Having the e-mail address and last four digits of the member's Social Security number enables the Bar to verify the specific member requesting the password, Tanner said.

Members who don't want to use the form will be able to use the current system. That system allows members to request a password online, but it is then mailed to them, a process that usually takes five to seven business days, he said.

In response to a question, Tanner said that under public records laws, members' e-mail addresses becomes public record once the Bar has them. However, the last four digits of their Social Security numbers remain confidential to prevent identity theft.

Members who already have a password for the restricted areas will see no change and can continue to use their current password, Tanner said. However, the new system can be used if they lose or forget their password or need to replace it for security reasons.



Visit the Section's website at www.gpssf.org



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(1-800-636-2377) 8 a.m.–6 p.m. EST



*Shipping discounts are exclusive of any FedEx surcharges, premiums or special handling fees and are not available to package consolidators. Eligibility for discounts subject to FedEx credit approval. FedEx First Overnight®, FedEx SameDay®, FedEx® International Next Flight, FedEx International First®, FedEx International Priority DirectDistribution®, FedEx® 10kg Box, FedEx® 25kg Box and FedEx International MailService® not included. Eligible services subject to change. Base discounts on FedEx Express® are 15%-21%. An additional 5% discount is available for eligible FedEx Express® shipments when you ship online at fedex.com. For details on the FedEx Money-Back Guarantee, see Service Info at fedex.com. Discounts are subject to change. The FedEx Ground money-back guarantee applies to deliveries within the U.S. For details see the FedEx Ground Tariff. ©2009 FedEx.

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Statements or expressions of opinion or comments appearing herein are those of the editor and contributors and not of The Florida Bar or the Section.

The Florida Bar Continuing Legal Education Committee and the
General Practice, Solo & Small Firm Section present



Solo & Small Firm Annual Conference

COURSE CLASSIFICATION: INTERMEDIATE LEVEL

**One Live Location:
March 20-21, 2009
Rosen Plaza Hotel
9700 International Drive
Orlando, FL 32819-8114
407-996-9700**

Course No. 0752R

Schedule of Events

Friday, March 20

8:00 a.m. – 9:00 a.m.

Late Registration and Continental Breakfast

Sponsored by: *Nora Riva Bergman of Atticus*

9:00 a.m. – 9:10 a.m.

Opening Remarks

Teresa Byrd Morgan, Lake City

9:10 a.m. – 10:00 a.m.

The General Practitioner: A Dying Breed? (“I Ain’t Dead Yet!”)

Frank E. Maloney, Macclenny

10:00 a.m. – 10:50 a.m.

Managing a Solo or Small Firm and Still Finding Time to Practice Law

Steve Riley, Tampa

10:50 a.m. – 11:10 a.m.

Break

Sponsored by: *Kirkconnell Lindsey Snure & Yates, P.A.*

11:10 a.m. – 12:00 p.m.

Building Your Dream Team

Teresa Morgan, Lake City

Linda Calvert Hanson, Gainesville

12:00 p.m. – 1:30 p.m.

Lunch (included in registration)

John G. White, III, President of The Florida Bar

Sponsored by: *Florida Lawyers Mutual Insurance Company*

1:30 p.m. – 2:20 p.m.

Working with the Media to Promote Your Practice

Francine Walker, Director of Public Information, The Florida Bar

2:20 p.m. – 3:10 p.m.

Bringing Balance to Your Practice and Your Life

Jerry S. Chasen, Miami

3:10 p.m. – 3:30 p.m.

Break

Sponsored by: *Animal Law Attorneys, LLC*

3:30 p.m. – 4:30 p.m.

Panel Discussion: Hourly Fee vs. Flat Fee

Camille Iurillo, St. Petersburg

Ana Veliz, Miami

Kirk Kirkconnell, Winter Park

Teresa Byrd Morgan, Lake City

5:30 p.m. – 7:00 p.m.

Reception

Saturday, March 21

8:00 a.m. – 9:00 a.m.

Continental Breakfast

Sponsored by: *Regions Bank*

9:00 a.m. – 9:10 a.m.

Opening Remarks

Ana Veliz, Chair, General Practice Solo and Small Firm Section

9:10 a.m. – 10:00 a.m.

Managing Your Overhead: How to Operate a Solo or Small Firm and Take Home a Paycheck

Judy Equels, LOMAS, The Florida Bar

10:00 a.m. – 10:20 a.m.

Break

10:20 a.m. – 11:10 a.m.

Managing Your Overhead: How to Operate a Solo or Small Firm and Take Home a Paycheck (continued)

Judy Equels, LOMAS, The Florida Bar

11:10 a.m. – 12:00 p.m.

Marketing Your Practice

Peggy Hoyt, Oviedo

12:00 p.m. – 2:00 p.m.

Interview Program

12:00 p.m. – 12:15 p.m.

Lunch (included in registration)

Sponsored by: *Westlaw*

12:15 p.m. – 2:00 p.m.

Open Forum

Nora Riva Bergman, Mount Dora

Margaret “Peggy” Hoyt, Oviedo

Camille Iurillo, St. Petersburg

Ana Veliz, Miami

GENERAL PRACTICE, SOLO & SMALL FIRM SECTION

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Margaret “Peggy” Hoyt, Oviedo — Chair-elect
Teresa Byrd Morgan, Lake City — CLE Chair

CLE COMMITTEE

Patrick L. Imhof, Tallahassee, Chair
Terry L. Hill, Director, Programs Division

FACULTY & STEERING COMMITTEE

Teresa Byrd Morgan, Lake City — Program Chair
Nora Riva Bergman
Jerry Chasen, Miami
Judy Equels, Tallahassee
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Margaret “Peggy” Hoyt, Oviedo
Kirk Kirkconnell, Winter Park
Frank Maloney, Macclenny
Steve Riley, Tampa
Camille Iurillo, St. Petersburg
Ana M. Veliz, Miami
Francine Walker, Tallahassee

CLE CREDITS

CLER PROGRAM

(Max. Credit: 11.5 hours)

General: 11.5 hours

Ethics: 0.0 hours

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Checklists for Pre-Suit Demand Packages

Automobile negligence claims and personal injury claims are usually time-consuming and frustrating to the solo practitioner and his/her paralegal. There are many documents and records that must be requested before you can even begin drafting a pre-suit demand letter. Once you have the necessary documents, organizing the materials relevant to the client's claim may take several hours, even after the final narrative report is received from the primary treating physician. In an effort to streamline the process and help utilize your time to the fullest, I offer the following checklist to be used as a guideline:

CLIENT PRE-SUIT CHECKLIST:

- | | |
|--|---|
| 1. Accident Report | 10. Hospital records |
| 2. Signed medical authorizations for client | 11. Doctor's records (including a Final Narrative Report) |
| 3. Client's auto insurance info | 12. Medical Bills (including prescriptions) |
| 4. Defendant's auto insurance info | 13. PIP payout ledger (client's auto insurance) |
| 5. Citation disposition | 14. Other health insurance coverage info |
| 6. Repair estimates | 15. Client's personal info (married, children, date of birth, Social Security Number) |
| 7. Photographs (accident scene, auto and personal) | 16. Client's income tax returns for last 3 years |
| 8. Wage loss info | |
| 9. Ambulance Run Report | |

The above information in your file will enable you to prepare the most in-depth demand letter to the insurance carrier, and you will be rewarded by a quick turn-around offer of the policy limits available for your client's injury.

Here is another time-saving sample cover sheet to keep in the front of your client's file:

CLIENT INTAKE INFORMATION

DATE OF ACCIDENT: _____

BRIEF DESCRIPTION: (e.g., auto accident, or slip-and-fall) _____

CLIENT NAME AND ADDRESS: _____

TELEPHONE: _____

DOB: _____ SSN: _____

INSURANCE COMPANY: _____

LIMITS: _____

ADJUSTER & PHONE: _____

COMMENTS: _____

DEFENDANT NAME AND ADDRESS: _____

DEF. INSURANCE COMPANY: _____

LIMITS: _____

ADJUSTER & PHONE: _____

COMMENTS: _____

For the seasoned attorney and paralegal who have done several of these pre-suit packages, the above checklists will also help you be prepared for any pre-suit mediation that may be requested. (And of course, if all else fails, you will have all the necessary materials at hand to commence litigation!)

If you have any questions or comments regarding this article, please contact: Priscilla Horn, CP, FRP, 6570 51st Avenue, Vero Beach, FL 32967.

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