



# Dictum

The newsletter of the NJSBA Young Lawyers Division

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## Editor's Column Stating the Obvious

by Jaime Ackerman, Esq.

The other day someone I work with called me an “old lawyer.” I immediately threw him out of my office in mock outrage. Sure, I was a new lawyer during that time when skills and methods was still the newbie lawyer continuing legal education requirement. But still, old?

I try not to think about the fact it has been almost a decade since I was admitted to practice. But, being an ‘old attorney,’ it should be part of the job description to share my experiences and knowledge with the younger attorneys. Sometimes regaling others with tales of what not to do is as beneficial as the ones that are instructive on how to act as a lawyer. Many of these things should go without saying, but since I see them every day, perhaps a reminder of what should already be obvious is a good thing.

### Being on Time Matters

Do we really need to spend much time discussing this one? Unfortunately, yes, we do. In case there is any confusion, the court does not want to wait for you to show up. Judges run on their schedule, not yours. Your adversary also has better things to do than sit around until you decide to grace everyone with your presence. If your hearing is scheduled for 9 a.m., plan to be there a little early. If you're running late, call. This will at least show the court, and opposing counsel, that you're a professional, and considerate enough of other people's time to let them know you will not arrive timely.

I appeared for a trial up in North Jersey earlier this year, and to get there by 9 a.m., I left my house at 6. Of course, that day there was no traffic, so my client and I got to spend a lot of quality time in a lovely part of the state you wouldn't want to drive through after dark, waiting for opposing counsel to arrive. We were asked by the judge no less than four times whether we had heard from our adversary. When he finally arrived—over an hour late—

he was carrying a coffee cup and a bag from Starbucks, which he then brought back into chambers.

Now, I can't stop you from being late. I also can't prevent you from stopping off for snacks while you're over an hour late for court. But please, don't show up with evidence that you cared so little about the court's time—or mine.

### **Playing Games with Deadlines**

I could fill this section with stories of lawyers who submit opposition after the close of business Thursday night when the motion is returnable on Friday morning, and how that wreaks havoc on the poor law clerk and really annoys the judge. But we've all heard judges yell about this practice during their calendar call on motion days, haven't we?

Instead, let's all remember that just because a deadline to submit something (discovery, motions, opposition, whatever) falls on a Thursday, does not mean you should take every last second available to you.

In a particularly contentious case, I once had an attorney instruct his messenger to sit in my parking lot and not walk into the building until minutes before the end of the workday. At 4:59 p.m., the messenger walked up to the front desk to drop off literally a banker's box full of motions, which I only had the weekend to respond to. On top of the box was the instruction from opposing counsel, "DO NOT DELIVER BEFORE 4:55!"

There are a number of lessons to be learned from that one. It certainly does not endear you or your firm to your adversaries to engage in such gamesmanship. And to answer the logical follow up question, no, I did not have my messenger drop off my opposition seconds before the close of business the following Monday. It was an appealing thought...so very tempting...but ultimately, my boss and I decided we were better than that.

### **You're in Court...It is Your File**

We have all been there. Some file gets dumped on you at the last minute, and maybe you have enough time to skim through a few pages before having to appear in court. If you were lucky, perhaps you got a brief summary of what was going on from the attorney actually working the file before you had to run out the door.

You aren't going to know everything, but when the judge asks you a question, "Well, judge, this isn't my file..." should not be your response to a fairly vanilla

inquiry by the court. If you are standing in court appearing on behalf of that client, it is your file. If you don't know the controlling case law, tell the court that you would be happy to submit a memorandum of law once you get back to the office. If you don't know the answer to a question, it's ok to admit that you don't know but will find out. But if your mantra is really "this isn't my case," it will only make you—and your office—look bad to the judge.

### **We Live By the Rules...We Die by the Rules**

My first day as a law clerk, I booted up my computer, and sitting on the desktop was a message from my predecessor. In big bold letters, the entire document said, "We live by the rules...We die by the rules." Not five minutes later, my judge called me back into chambers, pointed to the rule book on her desk and said, "This is a rule book. Life would be so much easier if everyone just followed the rules."

I lost count of the number of times I appeared in court and listened to judges who were upset about attorneys not following the rules. My favorite variation on this is when the judge holds up his rule book and states in exasperation, "Counsel, this is a rule book. There are tools in here!"

If you aren't sure how to do something, your rule book—not Westlaw or Lexis—is probably the best jumping off point. Your boss asked you to do a wage execution and you have no idea what is involved? There's a court rule on that. Your client didn't respond to discovery, and now there's a motion to dismiss the complaint with prejudice pending? You better check the appendix of the rule book for the special notice you're required to send the client. You were assigned your first appeal, and are unsure when you have to file the appellate case information statement? There's a court rule on that too.

So remember, "We live by the rules, we die by the rules." It's not just a line from my favorite guilty pleasure movie of all time. ■

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# It's Not Rocket Science: Some Surprisingly Useful Clichés about Working with Support Staff

by Celeste Fiore, Esq.

It is easy to come out of law school abuzz with grandiose dreams of litigating the next *Brown v. Board of Education*. You are brimming with confidence and your ego is ready to explode after three years of legal education, only to find that you have absolutely no idea how to navigate the potential minefield awaiting you in your own law office. Most importantly, you may be ill-equipped to interact positively and productively with some key people in the legal field—your support staff. This situation can best be explained by and remedied through... clichés.

## Live by the Golden Rule

It is understandable if you have forgotten the meaning of this cliché: Treat others how you would like to be treated. Many of us leave law school with the impression that in order to succeed in this profession, we need to plow full steam ahead and smash anyone who gets in our way. We tend to trample our support staff in particular, and we may take out our daily frustrations on them. We sometimes forget that our support staff helps keep us organized, productive and sane.

Tension can arise when members of the support staff are older than you, or have more law firm experience. The support staff may also have established ways of organizing their own time and handling their own workloads. However, you may see areas where efficiency can be increased. Instead of ordering a change in policy or procedure, engage the staff in a discussion about why the existing policy is in place, and work with staff toward a solution.

Now, imagine what it would feel like if your partners would ask your opinion.

## It's All in the Delivery and a Little Goes a Long Way

Law school has trained young attorneys to sound confident when we are shaking in our boots, and to

stick to our guns even though we doubt our position. As a young attorney, it may be difficult to understand your place within your firm, and you may try to mask your insecurity by adopting an overly firm demeanor with your support staff. You may, inadvertently, fail to recognize the value they bring to your firm.

As the saying goes, you catch more flies with honey than with vinegar. Although I am sure the paralegals and secretaries at my firm would balk at being called flies, I am sure they agree with the message of this cliché. And, I know they recognize that the 'honey' comes in the form of both action and words.

For example, if you see the partners sending their own faxes (whether the office is hectic or not), you can feel confident that you are not misusing your time when you send your own! This also shows the support staff that you are willing to do some 'grunt work' when things need to be done—you are not too big for your britches. So, the next time you need to send an emergency fax to chambers at 4:56 p.m., the staff will not bristle when asked to stay an extra three minutes to get the job done.

Also, sometimes a little goes a long way. Make sure you let your staff know their work is an integral part of the process. Even though they are not drafting the brief or the appeal, the cover letter they draft to send the main document to the correct court or judge is valuable too! It's easier to comment on the negative than on the positive, but certainly do not neglect a job well done. Take a minute to acknowledge when your secretary catches a typo that you missed, and thank him or her!

## Don't Assume...

As a young, female attorney, I particularly dislike when older attorneys assume I lack knowledge or skill based solely upon my age and sex. They tend to talk down to me by explaining a concept, rather than first asking if I am familiar with that concept. Not only does this behavior break down communication, but it can

exacerbate an already strained negotiation or situation.

It is easy for a young attorney to fall into the same pattern with respect to support staff. We come out of law school with little to no practical legal skills. However, we may assume our staff is not familiar with legal principles (such as personal jurisdiction), and we may decide to give them a brief primer. While we can quote from *International Shoe*, our staff is likely to know *exactly* what constitutes ‘good service’ in New Jersey because they have had years of sending and receiving this service.

When a young attorney constantly assumes he or she knows more than his or her support staff, it can create tension and dissension that decreases productivity. We need to gather information about our staff’s experience before assuming we know more. But, as young attorneys we must be mindful of the need to walk a fine line between deference to senior staff and allowing staff to ‘bully’ us. Young attorneys face an uphill battle to earn the respect of senior (whether in age or in experience) support staff. However, if you live by the Golden Rule and give a little in the right way, you can manage this balancing act.

### **Use the Right Tool for the Job**

Young attorneys are busy, and have many different masters to serve. We need to make sure we are properly utilizing our time as well as our staff’s time. In order to do this, you need to select the right tool for the job. Like snowflakes, each staff member is unique. They all have their foibles and strengths, and respond to different types of criticism and praise.

Take the time to figure out what each person is good at, let them know you recognize that strength, and then utilize that strength. For example, I know a secretary who can spot a spacing or formatting error a mile away. Before I send off a brief or motion, I have her take a peek at the document so she can apply her special skill.

Every once in a while, a young attorney needs to throw his or her weight around. We need to walk that line between camaraderie and friendship that may be blurred due to our age and inexperience. We have to remember that we as the attorneys are ultimately responsible for any errors that adversely affect our clients. For example, your projects or work may be given short shrift or pushed to the bottom of the pile. Your requests for supplies may be ignored. If you have established enough of a rapport based upon mutual respect, hopefully this behavior will not occur. However if it does, a young attorney should quickly put the kibosh on it by having a heart-to-heart with the staff member. Nip it in the bud before it spreads like wildfire among the rest of the staff.

Hopefully, these clichés hold some truth for all young attorneys as we relate to the support staff that keeps our practices running. Live long and prosper! ■

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# Professionalism

by Matthew R. Streger, Esq.

I have been practicing law for over five years now. It's really not that long, but it is long enough for me to have gained a feeling for the practice and the way other people behave in this field. One of the things I remember from law school is a professor entreating us to practice law cordially, with respect for clients, adverse parties and other attorneys. At the time, I was somewhat surprised by these comments, as it seemed like this should be the norm.

How naïve I was. In retrospect, I can now see quite clearly what he meant. I will not go through the litany of unprofessional conduct I have seen, as I am certain that you have probably encountered the same. Suffice it to say, probably like all professions, the law has its share of unethical conduct, unprofessional work and some very unpleasant people.

But all is not lost. Occasionally, and perhaps all too rarely, you will run into lawyers who follow the sage advice of my law professor. I recently worked with a group of attorneys who fit that mold, and who reminded me there are practitioners out there who really are consummate professionals.

The facts of the case do not matter, except to note that it involved fairly complex tort litigation with several parties and insurance companies, all of whom were represented by counsel. The defendant was emotionally fragile. Rather than attack and beat him down during his deposition, perhaps in the hope of discouraging him from going to trial, plaintiff's counsel handled him very gently.

The defendant was clearly devastated by the events that led to the plaintiff's injury, and to spend three hours going over the minutiae of the case would only further damage him. Of course, it was also smart for the plaintiff, based on the insurance coverage issues, by helping ensure that there would be insurance coverage in the case to pay the plaintiff's damages. It went against the instincts of a plaintiff's lawyer not to attack at all costs, but it was one of the most professional, and intelligent, things that I have seen an attorney do.

After the deposition, one of the other lawyers sat us down and told us he was going to report back to his client, the primary insurance company, that they would not be able to get out of the case. His entire job, of course, was to get the insurance company out of the matter, but he was giving his adversaries an honest assessment of the weaknesses of his case, as it clearly implicated how the rest of the matter would proceed. This was not the act of an inexperienced attorney, but was rather borne of 30 years of experience in moving litigation forward. In light of other settlement discussion that had taken place, these honest disclosures helped everyone understand the landscape of the case and how they could best represent their clients.

Too often we practice law as if it is a poker game, acting as if should the other players see our cards, we are more likely to lose. The fact is, however, that the practice of law is not a game; and most of the time, bluffing and gamesmanship are not what win our cases. We play the cards we are dealt, using our skills so our clients receive the best possible outcome. But more importantly, winning and losing in the law are not the same as they are in poker. Everything remains relative, and even with a court victory, there are costs to our clients—in paying for litigation, time and emotion expended, and other intangible costs. Sometimes, showing the other side our cards is actually more beneficial to our client. Of course, this depends on the case, and on opposing counsel not using it to your disadvantage.

Building up trust is the key here, which leads me to my final point.

As I started out in the law, I remember being told that you should always be willing to sit down with your adversary after a case for a cup of coffee. While we represent our clients diligently at all

times, at the end of the day, this is just a job. There should never be anything personal between the attorneys who represent adverse parties and interests in a case.

Of all the things I heard as a young lawyer, this was the one that I simply never saw in my practice. It seemed to me that every case was a personal vendetta on behalf of opposing counsel, that they had some axe to grind with me, as much as their client did with mine. I have tried hard to be a professional and not to treat other lawyers in this manner; however, it seemed at virtually every turn I found attorneys who fought because they liked the fight, and never seemed to see the larger picture.

Yet in this recent case I actually saw true professionals at work. They represented their clients diligently and skillfully, collaborated with other attorneys to reach a good outcome, and when the case was over, they all went across the street and had a drink together. Five attorneys, all of whom were strong advocates for their clients, put the case behind them and sat down for an hour. Sure, there was some talk about the case and the practice of law in general, as well as other completely unrelated topics. But it was warm and genuine, and truly showed me what professionalism is.

The legal world is a pretty small one, and people talk. When I speak about the attorneys on this case, I will note what consummate professionals they are. This might lead to case referrals, or other opportunities, or just a generally positive reputation as an attorney, but it will certainly lead somewhere good.

So do not despair. If you look hard enough, you will discover the true professionals in the law. I hope you will find these attorneys in your practice, and that you will not fall victim to the conduct that seems to plague the field. In the meantime, take a moment and look at your practice. See if you are being the professional, or if you are instead perpetuating the stereotype of the adversarial lawyer, fighting at all times simply because you think it's your job. The mark of the true professional is knowing when to fight and when to sit down with someone instead. ■

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# The Benefits of *Pro Bono* Work to a New Legal Career

by Cathy Keenan, Esq.

Young attorneys are bombarded with competing interests for their time—billable hour goals, non-billable projects, meetings, committee work, marketing endeavors and let’s not forget family and friends. With so many tasks to fill their day, why would young attorneys seek to add *pro bono* legal work to their list? This article highlights not only how *pro bono* work improves the community, but how it actually benefits the careers of young attorneys.

## Meet the Need

First, there is a dire need for legal services for low-income people in New Jersey. Studies show that one out of three low-income people in the state need legal assistance with critical legal matters. However, only one out of six of those people will ever get the legal assistance they desperately need.

## Gain Valuable Skills

*Pro bono* work enables young lawyers to learn new substantive areas of law and gain practical skills at the early stages of their careers. *Pro bono* work can provide attorneys the opportunity to interview clients, draft pleadings, negotiate settlements and litigate cases in court.

After graduating from Cornell University Law School in 2010, Natalya Johnson was hired by McCarter & English, LLP, but spent three months beforehand as a deferred associate, for Newark Reentry Legal Services (ReLeSe), a project of Volunteer Lawyers for Justice (VLJ). ReLeSe assists low-income Essex County residents with criminal records in addressing the civil legal barriers serving as an obstacle to their successful community reintegration. At ReLeSe, Johnson interviewed clients and prepared pleadings for clients needing criminal record expungements. The expungement process is difficult for self-represented people to navigate, yet it is vital to obtaining employment and housing.

“Working with VLJ was a tremendous opportunity for me. Having a chance to work closely with and learn from VLJ’s staff attorneys on the forefront of cases proved to be invaluable,” said Johnson. “My experience with VLJ’s ReLeSe program gave me an added confidence and skill set to bring to McCarter.”

## It’s Good for Business

*Pro bono* work is good for business. Partly on the strength of his *pro bono* service, Thomas McConnell, of Hackensack, was named to the *New Jersey Law Journal’s* list of leading attorneys under the age of 40 last year. He devotes a week’s worth of hours each year to the Bergen County Alternatives to Domestic Violence Program. His *pro bono* work occasionally brings McConnell in contact with clients with billable matrimonial cases and real estate matters that can be handled by other lawyers in his firm. “You never go into *pro bono* cases with the idea of finding paying clients, but it can be a byproduct,” he said.

Geoffrey N. Rosamond, the partner who chairs McCarter & English’s *Pro Bono* Committee, noted, “Clients and potential clients proud of their own volunteer activities like to know that their lawyers are similarly engaged.” For some corporate clients, whether or not a firm actively volunteers within their community impacts their decisions around engaging outside counsel.

*Pro bono* matters provide a natural way to network with other attorneys, judges and community partners. Many *pro bono* programs are set up in clinic formats, where volunteer attorneys can market their practice to other volunteers and gain valuable referral sources for attorneys in different practice areas.

## It Exempts You from the *Madden* Requirement

Under *Madden v. Delran*,<sup>1</sup> lawyers in New Jersey are subject to court-ordered *pro bono* service. The Supreme Court of New Jersey warns in its directive that most



mandatory *pro bono* cases fall within three categories—violation of domestic restraining orders, municipal appeals and parole revocation hearings. Instead, you can choose to be proactive and perform 25 hours of self-selected *pro bono* work through one of seven court-approved providers. The list of these providers can be found at [www.njcourtsonline.com](http://www.njcourtsonline.com).

The providers on this list coordinate *pro bono* programs in varied areas of law, and with differing locations and time commitments. Many of these organizations also support their volunteers with training materials and mentors.

### Engage in Meaningful Work

Finally, you cannot underestimate the impact you may make on the client's life, and the impact the *pro bono* work may have on you. Brian Calandra worked at ReLeSe and VLJ for a year while waiting to begin his legal career as an associate at Shearman & Sterling in New York City. Calandra helped Essex County residents restore drivers' licenses, expunge criminal records, modify child support orders and file for bankruptcy. He commented, "You never forget the surge of hope in a client's voice when you take a case, or the sight of trepidation melting into relief when a judge rules in your client's favor. It's an experience you never forget. You feel like you're setting people free."

### How Do You Get Started?

Obviously, you can review the list of approved providers on the Court's website and look at individual *pro bono* providers' websites. But don't forget to check with your employer. *Pro bono* cultures vary depending upon the law firm, corporation or government agency; you should investigate your workplace's internal procedures before contacting a *pro bono* provider for a case.

Ed Thornton, a partner in Methfessel & Werbel in Edison, advises that associates at firms lacking a strong *pro bono* culture do serious research before approaching firm leadership about *pro bono* work. "Be prepared to give convincing answers to questions from firm management. You should be prepared to talk about how the *pro bono* work will not interfere with your work at the firm, what specific knowledge or contacts you will gain from the work, and how the *pro bono* representation will benefit the firm."

Alicia Hickok, of Drinker Biddle in Philadelphia, is one of the attorneys handling the appeal of a death row inmate in Georgia on a *pro bono* basis. She suggested, "The *pro bono* discussion with firm management should not be limited to a lawyer's passion for a particular cause or nonprofit organization. It should be about the work that would be done, the skills that you would gain, and the benefit that you would bring to the firm."

Another way to get started is to attend the New Jersey State Bar Association's fifth annual *Pro Bono* Conference, taking place on Oct. 30, 2012, at the New Jersey Law Center. Check the state bar's website, at [njsba.com](http://njsba.com), for more information.

There are many reasons attorneys should do *pro bono* work, only some of which are addressed above. Once you find your reason, take the time to investigate how you can get involved. You'll be glad you did. ■

*Cathy Keenan is the director of Pro Bono Services at Volunteer Lawyers for Justice in Newark.*

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### Endnote

1. 126 N.J. 591 (1992).

# Don't Forget the Design-Build Contracts Regulations

by Matthew H. Sontz, Esq.

The usual construction project delivery system/method is design-bid-build. That is, the owner contracts with a design professional (*i.e.*, architect or engineer) to design the project, oversee the bidding process, and supervise construction. The owner will also contract with the contractor to build the project. The contractual duties owed to the owner by the design professional and the contractor, respectively, are fairly straightforward because the owner has independently contracted with each.

Sometimes, an owner will contract directly with a contractor to both design and build the project. This may be done to save money and provide one-stop shopping, and is known as the design-build delivery system/method. This delivery system raises interesting legal questions regarding what the design-builder can and cannot do with respect to design, which is the province of licensed design professionals, and what duties are owed between and among the owner, contractor, and design professional, as the design professional is now in contractual privity with the contractor and not the owner.

The New Jersey Design-Build Contracts Regulations (DBC Regs)<sup>1</sup> provide some answers.

The DBC Regs define, among other things, the terms “owner,” “contractor,” “architect,” and “design-build contract.”<sup>2</sup>

A design-build contract is “a written contract, entered into between a contractor and an owner or developer, which provides both for the construction or alteration of a building, group of buildings, structure, or group of structures within the State of New Jersey and for the performance of architectural services by an architect retained by the contractor pursuant to a separate written contract.”<sup>3</sup>

Interestingly, the design-build contract definition does not explicitly include an engineer. An engineer’s authority to design structures overlaps that of architects in certain instances.<sup>4</sup> A contractor may, in certain circumstances, lawfully choose to hire an engineer instead of an architect for its design needs.<sup>5</sup> Among the many interesting questions raised by the omission of

engineer from the DBC Regs is whether an owner has less protection in the design-build context when the contractor chooses to hire an engineer, as opposed to an architect, for design needs.

The DBC Regs impose obligations with respect to the owner-contractor contract. They require that the architect make sure a regulatory notice to the owner is provided in the owner-contractor contract before the architect provides architectural services to the contractor.<sup>6</sup> This notice explicitly states that even though the architect is contractually obligated to the contractor, the architect may discuss issues pertinent to the design with the owner at any time.<sup>7</sup>

The DBC Regs impose obligations with respect to the architect-contractor contract. The architect may not be an employee of the contractor, and may only provide services as an independent contractor.<sup>8</sup> The architect must exercise independent professional judgment consistent with established standards of architectural practice, the Rules of Professional Conduct, and any other applicable statutory and regulatory requirements.<sup>9</sup> The DBC Regs reiterate that the architect may discuss issues pertinent to the design with the owner at any time.<sup>10</sup> Finally, the owner must be notified at least 30 days in advance of the architect-contractor contract being terminated, or before the performance of services by the architect is suspended or discontinued.<sup>11</sup>

The DBC Regs also require that the architect disclose to an owner in writing if the architect has a significant beneficial interest in a contractor for whom the architect performs architectural services.<sup>12</sup> A “significant beneficial interest” is a defined term that means “an ownership or other legal or financial interest in a contractor held by an architect or any member, associate, shareholder, officer, or employee of an architect’s firm or the immediate family of any such party.”<sup>13</sup>

The DBC Regs also require that the owner consent in writing to that architect’s participation in the project.<sup>14</sup> Even if the architect has a significant beneficial interest, the architect must still comply with a standard of independent professional judgment.<sup>15</sup>

The DBC Regs obligate an architect to notify an

owner and contractor whenever a party requests or directs the architect to make a fundamental change to the design or construction documents.<sup>16</sup> The architect may not proceed with the changes unless the owner and contractor agree in signed writings.<sup>17</sup>

The DBC Regs make it clear that it would be a mistake for a contractor or architect to assume that the architect owes no duties to an owner simply because the owner has not contracted with the architect directly. The DBC Regs provide numerous protections for an owner, including the obligation for an architect to exercise independent professional judgment. The DBC Regs should be considered in every design-build contract in New Jersey. ■

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## Endnotes

1. N.J.A.C. 13:27-7A.1, *et. seq.*
2. N.J.A.C. 13:27-7A.1.
3. *Id.*
4. N.J.S.A. 45:4B-7.
5. *Id.*
6. N.J.A.C. 13:27-7A.2.
7. *Id.*
8. N.J.A.C. 13:27-7A.3(a)(1).
9. N.J.A.C. 13:27-7A.3(a)(2).
10. N.J.A.C. 13:27-7A.3(a)(3).
11. N.J.A.C. 13:27-7A.3(a)(4).
12. N.J.A.C. 13:27-7A.4(a)(1).
13. N.J.A.C. 13:27-7A.1.
14. N.J.A.C. 13:27-7A.4(a)(1).
15. N.J.A.C. 13:27-7A.4(a)(2).
16. N.J.A.C. 13:27-7A.5.
17. *Id.*

# The Modern-Day Mobile Lawyer's Manifesto: Your Law Office is all Around You (Part Three)

by Michael J. P. Schewe, Esq.

This is the third part of a series dealing with the ever-changing way we practice law. The first two parts of this series—appearing in the October and November 2011 issues of *YLD Dictum*—covered the concept of a paperless law office. In this two-part segment, the articles will focus on the ever-increasing mobility of lawyers.

Assuming you have already made the jump to a paperless law office (just think, no more need to carry around those pesky, 50-pound Redwells), you may be tempted to practice law outside the office.

I practice what I preach; I am currently writing this article while enjoying some lovely jazz at the Newark Museum's backyard garden. And why not? Work is work, whether you do it cooped up in a windowless office, fighting paper cuts and momentary lapses of sanity, or you whip out a brief in a bathing suit in between cannonballs. It still has to get done. Personally, I work better when I am in good spirits.

I also do not buy into what I like to call the 'distraction retraction,' essentially that work done in the office is 'better' because you are more focused. Today, we must come to grips with the fact that we are constantly distracted. Jean Jacques Rousseau wrote in his famous treatise, *The Social Contract*, that "man is born free, but everywhere he is in chains." In this day and age, we have indeed become chained to our conveniences, or perhaps more accurately, our various devices. They enslave us in various ways, but none more troublesome than their distractive tendencies. Try as you might to use technological-blocking tools and/or personal volition control mechanisms, constant distraction is a part of our newly connected lives. Therefore, I fail to see the difference between sitting in the office reading [www.NYTimes.com](http://www.NYTimes.com) articles and taking a break from writing to briefly enjoy a particularly lucid jazz improvisation.

But, as I often do, I digress. I can argue all day about the pros and cons of mobile lawyering, so for the

purposes of this article, I will assume you are reading this because: 1) you, like me, found freedom and flexibility in your choice of employment, or 2) this is just another way to feed your distractive habit at the office. Either way, let's progress.

## Hardware

### Laptop

Most of us grew up putting floppy disks into desktop computers that were immovable objects. We crudely navigated MS-DOS on our massive, rear-projection monitors. Computers were new and fun, so we couldn't complain; but today, the idea of a non-mobile computer seems as outdated as a non-mobile lawyer. In order to fulfill the dream of lawyering from anywhere, we need workstations that function where *we* are, as opposed to where *they* are and will always be.

I won't go into the highly technical deliberations you will face when making your purchase, but let me share some of my general feelings. You are neither a graphic designer nor a cinematographer, so your virtual office laptop purchase, unlike your personal computer, needs to focus on power, memory and ease of use—both in the courtroom and on the move.

Software does exist that allows you to control your work desktop from your personal computer and, depending on your employer, you may not be allowed to use a laptop as your main office computer. This is so-called 'remote desktop control,' and (as long as it's approved by your IT department) can help a desktop-chained attorney work from home or from a laptop on the move.

### Tablets

I have talked with and read about a growing number of lawyers who love their tablets. They claim to have the relevant court rules and case law at their fingertips and/or on screen next to their case-specific pleadings and

exhibits while in the courtroom. While I cannot agree more with the utility of these ends, I am not sure why it necessitates a tablet. Although the tablet is lightweight and equipped with fancy apps, there are times in court when I would prefer a full keyboard to type out some quick notes. Tablet enthusiasts will counter that they can attach or use a wireless keyboard, but if you anticipate the need for typing, why bother lugging around a separate keyboard?

In case you care, I settled on a hybrid setup. It is a superlight (no DVD drive), *full* keyboard (built in), tablet-convertible, built-in-WiFi-capable, touchscreen beast. It gives me the best of both worlds. If I am on oral argument, I can flatten the screen and quickly scroll through my notes and the relevant case materials. However, if I am at a deposition or trial, I am able to quickly and easily take notes typing into the keyboard. Everyone is different (heck, I could change my mind in four months), but that's where I'm now. [Note: I believe the trend of phones getting bigger and tablets getting smaller—in conjunction with the evolution of more capable voice recognition and keyboard-Swype technology—will eventually meld the two into some kind of super-phone-tablet-computer. I suppose we're more than halfway there, so this is not an earth-shattering prediction.]

### Smartphone

'Smart' phone technology, whatever you take that to mean, has become indispensable. The things we can accomplish with our telephones in modern society are remarkable. While I may enjoy a traffic-avoiding re-route to the courthouse using my Galaxy S, you may not be as impressed. Indeed, we could go on all day about helpful, yet dispensable apps.

So why the smartphone and not the pager?

The simplest answer is that if you live the paperless life, your phone (like all your other devices) lets you carry your entire office on the go. (This is assuming your practice management software is on the cloud—so-called 'Software as a Service,' or 'SaaS.')

Thus, if you are ever without wireless (or a WiFi-enabled computer), your phone becomes your last line of defense. For example, say you are in the Newark Immigration Court and the immigration judge is beaming down at you about a document neither you nor assistant chief counsel can locate, and you quickly access it on your phone then email/e-fax it to the judge's law clerk: You obtain instant

hero status. Heck, I've Google Scholar-ed the case another attorney is basing his oral argument on while he is giving it in court in order to form a well-reasoned response. The key is that, in an age where information is clearly power, the smartphone is just another tool to keep the playing field anything but level.

### Wires (Or, If I Have Anything to Say About it, the Lack Thereof)

As an introduction to this section, let me just say that I have developed a firm hatred of all wires. I don't know why or how, but I want to rid the world of wires. I firmly believe they are the flotsam and jetsam of the digital world. There, I said it; let's move on.

#### Bluetooth Headphones

My love affair with Bluetooth began when my mother gave me her extra headpiece, claiming "I never use it anyway." I initially used it just for the thrill of it, but eventually began to see its many benefits. For one, it allows me to drive and talk (which I am not crazy about—cars are for loud music and awkward singing—but occasionally duty calls and no one wants a ticket). Another benefit of Bluetooth is avoiding neck-craning injuries and/or, what I affectionately call, 'sweaty-phone-head' (for those sweltering summer months in suits).

My next Bluetooth revelation came while at the gym. I was fed up with the situation where your phone rings, causing you to pause your music, remove/secure your headphones, find and secure your Bluetooth earpiece, answer your phone and realize you missed the call. So that day, amidst my 'running-the-wires-through-the-shirt-so-as-not-to-interfere-with-the-lifting' procedure—all the while trying to answer firm calls being forwarded to my cell—I shouted to the gods, "Why can't my Bluetooth just play music!!" Being that I am not a genius, nor am I ahead of any trends, a simple Google search when I got home revealed that, yes, such multi-tasking ear buddies had already been created with me in mind. They are my new favorite thing. The Bluetooth headphones lightly cradle your head and quasi-hover, playing your music until your phone receives a call, then they pause the music and move to the call. When the call ends, your music restarts automatically where you left off (sigh of relief). I cannot, nay will not, live without them ever again.

#### Tethering

Internet is a must no matter where you are, especially if your practice management software is web-based. And, while many places now offer free wireless, it is a fact of life that you cannot work from anywhere without Internet access, and not all places offer it.

In order to combat this, you have two basic choices: 1) buy a laptop that has 3G or 4G capabilities built in, or 2) 'tether' your phone to your laptop (allowing your phone to act as a faux wireless 3G modem or hotspot for your other devices).

The phone companies are beginning to offer tethering as an option on your phone, but the prices to date are a little high (I believe Verizon wants to tack on about \$20 extra per month to have mobile hotspot capabilities, which is an extra \$240 per year). The more economical way to obtain Internet access on your laptop is to use a desktop program in conjunction with a tethering app on your phone. The most well-known of these tethering apps is probably PDANet, but there are clearly others. With PDANet, you download their software onto your laptop, then, for a small fee (currently a single license is a one-time payment of \$15.95), you download the mobile app onto your cell phone and, voila, you have access to the Internet anywhere your phone can tap into 3G or 4G.

I am sure there are plenty of other applications that provide this service, so do a little research to find out which is right for you, and which are compatible with your phone. I've said it in other articles in this series, but it bears repeating: This is not a sponsored article; I simply suggest products I have used to help you navigate the quagmire. And one last *caveat*: While very handy to have in a pinch, tethering drains your batteries like they are donating blood. Stay plugged in whenever possible, and carry spare batteries to avoid technological letdown. ■

*Michael J. P. Schewe is the COO and managing attorney of ScheweLaw, LLC, with a practice in New Jersey and New York, focusing on employment, immigration, family, criminal and municipal court law.*

## Spotlight on Shanna McCann

by Jeffrey Neu, Esq.

This article highlights one of the most hardworking and dedicated professionals on the Young Lawyers Division Executive Committee and the New Jersey State Bar Association. Shanna McCann has worked tirelessly this past year as secretary to the Young Lawyers Division, and in this coming year she will be assuming even greater responsibility. As secretary she is responsible for the coordination and communications of the entire Young Lawyers Division Executive Committee, whether that be normal meetings, special meetings, crazy interview meetings, or just a run-of-the-mill Brew Ho Ho.

I'd like to give you a little background information on Shanna so you can get to know her a bit better. Shanna was born in Bridgeton on Jan. 8, 1978. From there she went to the esteemed Tower Hill School, and graduated in 1996. After Tower Hill, she went on to much broader and more distant pastures, including but not limited to, Dublin, Ireland. After receiving her bachelor's degree from Wake Forest University, she studied at Widener University School of Law, where she graduated in 2003.

Widener is the *alma mater* of several of our young lawyers in New Jersey, including our incoming chair for next year, Jon Lomurro. After a variety of internships, Shanna clerked for the Honorable Lowell A. Reed, of the United States District Court for the Eastern District of Pennsylvania, for nearly three years. After that, Shanna clerked for the Honorable David R Strawbridge, who was a United States magistrate judge.

Shanna has been recognized as a rising star in New Jersey by Superlawyers for the years of 2011 and 2012. She has received numerous awards, including one for service to the community by the Young Lawyers Division. She was also recently elected to the position of trustee of the New Jersey State Bar Association, representing Salem County. Shanna also serves as a representative on the meetings and planning committee, a member of the state bar's election committee and the

animal law committee. In addition, she is the secretary of the Salem County Bar Association. Aside from all the work she does on committees for the New Jersey State Bar Association, she also regularly lectures on a variety of topics, including the ethics of social media, and is the campaign treasurer for Assemblywoman Celeste Riley, of the Third Legislative District.

Shanna currently works for the law firm of Chance and McCann, with a focus on litigation. According to the website Avvo, she handles 40 percent civil rights work, 40 percent DUI work, and 20 percent personal injury law.

Some things you might find online, but not know about her life, are that she is an avid golfer, has a devotion to animals, has a sister who is a veterinarian, and has an injury-prone lawyer boyfriend. She is a dedicated dog lover, who gave me wonderful advice in looking for a dog. Oh, and apparently she loves her cocktails and crab claws.

I am looking forward to another wonderful year working with Shanna. ■

*Jeffrey Neu is a partner in the technology law firm Kuzas Neu, with offices in Philadelphia, Red Bank and New York, and is the current treasurer of the Young Lawyers Division.*

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