

# SOLO

Vol. 14, No. 4

LAW OFFICE INFORMATION FOR SOLO &amp; SMALL FIRM PRACTITIONERS



## Rethinking Employee Benefits

By Robin Page West

There's an old story about a solo practitioner who received a surprise visit from the State Department of Wages and Hours asking how much she paid her employees. "My secretary works 9 to 5, gets \$750 a week, plus matching 401K, sick leave, personal leave, disability, life and health insurance, a raise every year, and I pay her Blackberry bill," the lawyer told the agent. "My paralegal, who's part-time, gets \$30 an hour, all the same benefits as the secretary, plus parking."

"Also," the attorney volunteered, "there's the half-wit who works 18 hours a day and does 90 percent of the work. After the other two, there's not enough left to pay her anything, but fortunately having her name on the door in big

letters is enough to keep her coming back."

How true. But eventually something's gotta give. According to the May 4, 2008, *New York Times* article, "Even the Insured Feel Strain of Health Costs," health insurance costs are "burying small business" because we lack clout to negotiate for lower premiums. To bring premium costs back in line, we are being forced to raise employees' deductibles and co-pays, and/or reduce their coverage.

One way a solo/small firm practice can avoid disappointing employees is to consider asking them to trade benefits for a salary and bonus that's a little bigger, hours that are a little shorter, and/or vacations that are a little longer.

A compensation package  
(continued inside)

### Office Management

**You're Hired! Solo or Small Firm Employee Procedures**

**Associates? I Don't Need no Stinkin' Associates!**

**The Bonus Brain: Working with Virtual Assistant**

**Consulting Lawyers: The Wave of the Future?**

**Helping Staff Communicate Your Firm's Mission and Values**

GENERAL PRACTICE, SOLO AND SMALL FIRM DIVISION AMERICAN BAR ASSOCIATION

## editor/staff

SOLO is published quarterly by the General Practice, Solo and Small Firm Division of the American Bar Association, 321 N. Clark Street, Chicago, IL 60654-7598.

SOLO is distributed free to the members of the General Practice, Solo and Small Firm Division. Any member of the ABA may join the Division by paying its annual dues of \$45.

The opinions expressed in SOLO are those of the authors and do not necessarily reflect positions or policies of the ABA or the General Practice, Solo and Small Firm Division.

Editor-in-Chief  
Charles J. Driebe

Issue Editor  
Laurie Kadair Redman

Editorial Board  
Sharon K. Campbell  
D.A. "Duke" Drouillard  
Patricia A Garcia  
Laurie Kadair Redman  
Joan M. Swartz

Staff Editor  
MaryAnn Dadisman

Designer  
Andrea Siegert

Produced by  
ABA Publishing

© 2008 American Bar  
Association.

[www.abanet.org/  
genpractice/solo/](http://www.abanet.org/genpractice/solo/)

GP|Solo

ABA General Practice, Solo & Small Firm Division

(continued from cover)

like this will be attractive to workers who may have access to health insurance elsewhere, such as through a spouse's employment, those who want a job that allows them to spend more time with their children, aging parent, or in leisure pursuits, and/or those who have the desire and self

discipline to save on their own for retirement.

Offering a comprehensive benefits package may be the moral, altruistic, and paternalistic thing to do, but the fact remains that many solos and small firms simply do not have the wherewithal to support these benefits, especially in today's economy.

## YOU'RE HIRED! Solo or Small Firm Employee Procedures

By Jennifer J. Ator

**R**eady to take the plunge? Here are some ethical and legal procedures you need to manage employees.

### Time Records and Pay.

The Department of Labor (DOL) requires that all employers maintain contemporaneous time records for employees that are not exempt from overtime compensation. Your secretary and paralegal are not exempt. Pay them on an hourly basis, every week, if possible, and pay overtime if they work more than 40 hours. (Lunch time, paid holidays, and paid time off are not compensable working time). Require employees to maintain a time-

sheet and provide them at least 30 minutes for lunch that they record on the timesheet.

**Form I-9s.** Every U.S. employer must have an I-9 for each new employee. I-9s are not filed with the federal government, but employers are required to maintain the I-9 records for three years after the date of hire or one year after the employee is terminated, whichever is later. (See [www.uscis.gov/files/form/i-9.pdf](http://www.uscis.gov/files/form/i-9.pdf).)

### Compliance Posters.

The DOL Web site provides a useful quiz that identifies posters an employer is required to post. ([www.dol.gov/elaws/posters.htm](http://www.dol.gov/elaws/posters.htm))

Instead of making promises you may not be able to keep, which can lead to employee resentment, and worse yet, unwanted employee turnover, think creatively; offer employees only what you know you can afford to sustain for the long haul, and let them know from the outset that they will need

to make other arrangements for their retirement and insurance needs. And of course, before designing any benefits package, make sure to check all applicable laws and regulations. Some benefits may be mandated or regulated.

**Robin Page West is**

**the founding and former editor-in-chief of SOLO newsletter and a principal in the Baltimore firm of Cohan, West, Rifkin & Cohen, P.C. where she maintains a practice focusing on qui tam whistleblower litigation. Contact her at [rpw@cohanwest.com](mailto:rpw@cohanwest.com).**

Alternatively, purchase an all-in-one poster tailored to your state from [www.allinoneposters.com](http://www.allinoneposters.com).

### **Employee Handbook.**

At a minimum, a handbook should contain attendance policy; computer use/e-mail policy; discrimination and sexual harassment policy; simple job objectives; performance and salary review expectations; emergency closing instructions and/or emergency procedures; payroll procedure; holidays or personal time off provided; jury duty policy, if any; description of any benefits offered; and confidentiality and non-solicitation agreement. The handbook should contain an acknowledgment form, signed by the employee and maintained in the employee's file. Also, the confidentiality and non-solicitation agreement should be reproduced in a separate document, have an employee

signature, and be maintained in the personnel file. In light of the ethical requirements in the legal profession, a confidentiality agreement is essential. It is your job to make sure your employees are maintaining the same confidences you are required to maintain. You must explain that obligation to your employees.

**Worker's Compensation Insurance.** In many states, you are not required to have worker's compensation insurance unless you have a certain minimum number of employees. However, you're still responsible for injury in the workplace, even if you don't have insurance. If you have few employees, and work is generally in the office setting, worker's compensation insurance is inexpensive. Even if a claim is not legitimate, the cost of defense is something to consider.

**Employee File.** You must maintain an employee file for each employee. The file should contain an application with all relevant information, the employee handbook acknowledgement and executed confidentiality and non-solicitation agreement, a copy of the I-9, and any performance reviews or reprimands that you create throughout employment. Most importantly, don't let your secretary maintain these records; you must maintain these records in a secure place. Otherwise, when the secretary leaves, the employee records may leave, too.

**Jennifer J. Ator is a small firm practitioner who handles employment matters at Hankins & Ator, PL in Miami Springs, FL. Contact her at [jj@hankinsator.com](mailto:jj@hankinsator.com).**

# Associates? I Don't Need no Stinkin' Associates!



## A Brief Introduction to the Use of Contract Lawyers

By Lisa Solomon

**Y**ou know what it feels like to sometimes be overwhelmed with work. Your stress level rises, and you spend nights and weekends in the office. You don't want to hire an associate, yet you also don't want to turn away business just because you're jammed now. Enter the contract lawyer.

Contract lawyers work as independent contractors for other attorneys on a project-by-project basis. To find a contract lawyer, ask colleagues for referrals or search online: a growing number of attorneys are marketing directly to other lawyers rather than working through temporary staffing agencies.

In addition to reducing your workload, a contract lawyer can increase your firm's profitability. With two exceptions (Texas and Maryland), all bar associations that

have addressed the issue—including the ABA—have determined that an attorney may charge the client a premium or reasonable measure of profit in excess of a contract lawyer's fee, as long as the total charges to the client are reasonable. Regardless of whether or not you choose to charge your client more than you pay a contract attorney, outsourcing is still cost-effective for your client, since even a rate that includes a reasonable profit to you will generally be lower than your own hourly rate.

A contract lawyer will not become counsel of record for your client; rather, the provider works under your general supervision as your subcontractor. Therefore, as long as the contract lawyer is not making court appearances, it is not necessary for the provider to be licensed in your state.

Dedicated research and writing services providers should have their own legal research subscription plan (or access to a well-stocked law library.) Except in extraordinary circumstances or as otherwise agreed in advance, your provider should not bill you for the cost of accessing any databases or materials that are relevant to the legal issues involved.

Finally, for risk management purposes, a contract lawyer should carry malpractice or errors and omissions insurance. Although your malpractice policy will most likely cover you for work performed by the contract lawyer, you (or your insurance company) may wish to seek indemnification from that individual.

**Lisa Solomon is a sole practitioner in Ardsley, New York, whose practice is limited to assisting attorneys across the country with all of their legal research and writing needs. Visit her Web site at [www.QuestionOfLaw.net](http://www.QuestionOfLaw.net).**

# The Bonus Brain

## Working with Virtual Assistant

By Laurie Kadair Redman

A *what* assistant? That's the question I get most often. A virtual assistant (VA) is a person that works off-site and assists with a variety of tasks like revising documents, making travel arrangements, updating your Web site, creating newsletters, etc. Obviously, they don't do some administrative tasks such as filing, answering the phone, or bookkeeping. But, that's ideal for those of us who work mainly from home.

A good VA is more than a secretary; she or he is sort of a bonus brain to help your practice. My VA, Donna Cravotta, puts it this way, "Once I start with you consistently, I am always thinking about your business." A recent example: I asked Donna to help me edit a client survey. She suggested I create an online survey instead. Then, she researched the options, created my user account, survey, and tracking method. That's sharp thinking and a lot of help!

Here are some tips on working with a VA:

Track your administrative tasks for a week or so—which tasks keep you from doing billable work or do you just dislike doing? These are good tasks to potentially delegate to a VA.

Be ready to delegate. This is a big transition for some solos.

Do some research. There is a wealth of information on the virtual assistance industry on the Web. For example [www.virtualassistantnetworking.com](http://www.virtualassistantnetworking.com).

The relationship between an attorney and the VA is intended to be a collaborative and long-standing partnership. Take your time to interview several people and trust your instincts. It's important to like and understand each other. Donna and I are culturally very different—she from New York, me from the Deep South—but we hit it off immediately.

Be open to suggestions and change. In addition to providing years of on- and off-site administrative support, professional VAs



keep current on new processes and technologies and can offer a fresh perspective on helping you run your business more effectively.

Be flexible and look at the big picture. VAs offer a wide range of services, but there may be services they do not offer. You can complete your virtual office by contracting with an answering service and hiring a virtual bookkeeper.

A VA can be a useful addition to your practice and provide some extra brain power when you're occupied by billable work.

**Laurie Kadair Redman** is a solo practitioner from Baton Rouge, LA, with a practice primarily in estate planning and probate. She can be contacted at [laurie@lkrllc.com](mailto:laurie@lkrllc.com).



# Consulting Lawyers The Wave of the Future?

By Chuck Driebe

Lawyers in practice for 50 years often begin to think about what they'll do in the twilight of their careers and lives. The kids have finished college and retirement income has kicked in. What to do now? Retire? And do what? Sit around the house and torture your mate? There is only so much golf and tennis you can play. Travel is an option, but you can't travel 365 days a year. Keep working until you are carried out feet first? Maybe—many lawyers do so.

How can such lawyers continue to apply the expertise learned over a lifetime of practice in a productive way? A recent development in Atlanta caught my eye. David Baker is a past-chair of our GP Division and practiced for 40+ years with a mega-firm. The firm has a mandatory retirement age of 70. Sure, the firm will provide you an office for life in recognition of your long service, but you then have little to do. Baker chose a different course: he moved to a much smaller



firm because he didn't want to stop practicing. Mentoring with his expertise is part of what he brings to his new firm. Baker says he is renewed and exhilarated.

This may be an emerging trend for experienced lawyers to use their skills in a way that is useful to other and younger attorneys. Such lawyers can act as consultants to solo and small firm attorneys. Who among us has not called on an older lawyer for advice on how to handle particular matters or situations? Need help with a legal theory, a brief, or a trial? Just call on your consulting lawyer.

A consulting mentor

concept may be particularly useful in smaller communities where lawyers are more familiar with each other. The experienced lawyer could act like contract lawyers for specific matters. We have been so associated on numerous cases where the perception is that our expertise was particularly relevant to a specific case.

Such consulting mentors may be the wave of the future. Many state bars now have a mentoring requirement for newly admitted lawyers. These free programs, however, only cover the transition into law practice but not future needs. Consulting mentors can be compensated according to the complexity of a matter. Future development of this concept can be of service to the profession and the public.

**Chuck Driebe, editor-in-chief of SOLO, has a general practice in Jonesboro, Georgia. Contact him at [cjdriebe@mindspring.com](mailto:cjdriebe@mindspring.com).**



## Helping Staff Communicate Your Firm's Mission and Values

By Allison C. Shields

Your firm's values, mission, and differentiation (unique selling proposition, or "USP") are the foundation of your marketing. They attract the right clients and keep them coming back and referring others. Every contact with clients conveys the firm's culture, personality, values, accountability, and intelligence. The first contacts with a firm set the tone for the entire client experience. They can truly make or break a relationship with a client—and they can also make or break your firm.

There are no unimportant positions in a law firm. Employees must be carefully selected and trained, particularly if they greet visitors, answer phones, or interact frequently with clients. Every person in a firm needs to understand his or her role within the firm, how that role contributes to the firm's overall goals, and why the job is important to the success

of the firm.

Compensation and advancement need to be based on the values that the firm espouses. Otherwise, they aren't really values. Evaluate employees, including attorneys, based upon whether they are living up to the firm's client service standards. Rewarding those who provide excellent client service—in all its forms—is bound to get employees more engaged in delivering that service.

Some additional practical tips to enhance communication of your values, mission and USP:

- Introduce clients to the staff members in your firm, and make sure both clients and staff know which issues can be handled by staff and which require your individual attention.
- Involve employees in developing or revising the firm's mission and USP.
- Give employees some responsibility and authority for handling client problems.

- Create a game plan that tells staff exactly how to respond to clients, especially when you are unavailable.
- Develop suggested "scripts" for employee voice mail and telephone answering that communicates your USP and mission.
- Ensure that staff is instructed on how to direct calls properly and how to obtain information from clients.
- Develop standards and tie perks, rewards, bonuses, and raises to client service.

Communicating the firm's values, mission, and USP will come naturally if you live them on a daily basis and engage your employees in the process.

**Allison C. Shields, president of Legal Ease Consulting, Inc., helps lawyers make their practices more productive, profitable, and enjoyable. Contact her at [Allison@LegalEaseConsulting.com](mailto:Allison@LegalEaseConsulting.com).**

# SOLO

GENERAL PRACTICE, SOLO AND SMALL FIRM DIVISION

NONPROFIT ORGANIZATION  
U.S. POSTAGE  
PAID  
AMERICAN BAR  
ASSOCIATION

West is a primary sponsor of the General Practice, Solo and Small Firm Division.



**SOLOS ARE:**

33% of all lawyers

46% of all lawyers in  
private practice