

ACCESS TO JUSTICE CHAMPIONS

THE WSBA LOW BONO SECTION'S NEWSLETTER



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Did you know we have a new list serve on groups. io? It's a great place to get answers to your questions, find referrals, and share info about low bono practice.

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**Low Bono
Section**

This is a publication of a section of the Washington State Bar Association. All opinions and comments in this publication represent the views of the authors and do not necessarily have the endorsement of the Association or its officers or agents.

TIPS FOR STARTING A LOW BONO PRACTICE

BY LINDA FANG, JD

In late 2015, a former colleague and I decided to start our own law firm because we wanted more freedom in our practice. At the time, we both had about 10 years of law practice under our belts and wanted to work with clients who were like us: middle-class women of color and children of immigrants, who—despite being attorneys ourselves—had little experience as consumers of legal services.

Although the details took a while longer to sort through, we started our firm over one weekend in early October almost five and a half years ago. Neither of us had started a business before and we don't come from families of business owners, so almost everything was new to us.

Here are some tips for attorneys who want to start a low bono practice:

1. Do as much as you can with the resources you already have.

Fortunately, because of technology, it doesn't take much to start a law firm if you're willing to work lean. Many lawyers start their firms by finding a fancy office.

My business partner and I started our firm with two laptops and ourselves. We didn't need or want an office, so we worked from our homes and found nearby co-working spaces where we could rent a conference room when we needed to meet with clients. We each had our own printer, scanner, and basic office supplies laying around, so we made a list and each contributed the things we had to the firm. Our husbands are both in the technology space, so we asked them for help setting up our email system, document management, conference calling, web hosting, and cybersecurity systems.

We hired a virtual receptionist to answer our phones. In the beginning, we created invoices with Microsoft Word and managed our finances using Excel spreadsheets. When the time came, we summoned our limited creative skills and put together a website. You can always add more furniture and people and services later on, but generally there's no reason to spend a lot of money up front.

2. Be very clear about what you want to do (aka have a niche).

If you want to start a low bono practice, you must be very clear about exactly what you want to do and which clients you want to serve. This is also known as having a niche. Unless you are located in a rural area where there are very few other attorneys, or have no fear of malpractice liability, starting

a "general" low bono practice isn't going to work. My business partner and I had both practiced employment law for our entire careers, so it was a no-brainer.

We knew we wanted to work with women- and minority-owned businesses in Washington and California and focus our practice on giving advice, while limiting our litigation practice to no more than 25 percent and having a goal of spending 10 percent of our time providing pro bono services to clients from underserved communities.

When starting a new firm, it is easy to succumb to practice "creep," which is my term for letting yourself be talked into providing legal services you're not so familiar with because you don't want to lose the client or the work, and you think you can get up to speed quickly. For employment lawyers, this can be workers' compensation, ERISA, intellectual property, immigration, tax, securities, insurance coverage, and privacy. We drew a hard line around these practice areas and developed good relationships with other attorneys we can reach out to when these issues arise.

It's OK to thoughtfully and strategically expand your practice areas after your firm is established, but falling victim to practice creep too soon can not only increase your chances of getting sued for malpractice, but also take your time and energy from matters you are already equipped to handle.



"View from the top of the Rock, New York" by Dimitry B, licensed under CC BY 2.0

3. Prioritize efficiency, but keep your standards high.

If you want to charge lower fees to clients, you need to limit the scope of what you do for them and become more efficient at what you do. The first time we drafted a severance agreement for an employer who was terminating an employee over the age of 40, it took us about 20 hours to research case law, agency guidance, and legal updates, and draft the whole thing. We could not charge a small business owner for 20 hours of work on one agreement, so we charged for roughly two hours and turned that agreement into a template for other clients. Then we set about trying to find other clients

who needed severance agreements.

It should go without saying, but having a template does not mean you can or should simply hand it out to every client with a similar situation and charge them for two hours of your time. We constantly review and update our templates, rethink and rework them when we think they could be better, and tailor each agreement to the client's specific needs. Every client, low bono, pro bono, or full rate, deserves the same level of service no matter what they're paying.

You can do it!

We don't necessarily call ourselves a low bono law firm, but our

overarching philosophy is that if lawyers want to stay relevant, we need to provide what consumers want, in a way they understand, at a price they can afford. I hope these tips will help you as you start your own low bono firm.



Linda Fang is the founder of Banyan Legal Counsel, a boutique employment, business, and litigation law firm in Seattle that supports businesses and nonprofits owned or led by women, BIPOC, members of the LGBTQIA community, and others who have been historically underserved by the legal profession. Linda has been practicing law for 15 years and is licensed in Washington and California.



"Photoshop Swirl/Twirl Effect" by @CarShowShooter, licensed under CC BY-NC-SA 2.0

THE FALSE CONSENSUS EFFECT AND ITS RELATION TO THE JUSTICE GAP

BY MARYA NOYES, LLLT, MBA

I wanted to delve into the subject of false consensus bias because of the various and sundry recent events that have occurred in our nation. Namely, the presidential election and array of anxiety-provoking events that have occurred in rapid succession since Nov. 3, 2020. Please understand, I have no need or desire to investigate

either political party in this article. That task has fallen to many journalists much more qualified than me, a responsibility many have undertaken admirably. In fact, one might say it is hard to look in any direction without politics being analyzed with the subtlety of a freight train.

No. In this article, I wanted to discuss something that became readily apparent in this recent election. I—like you, I am sure—found myself stunned by the enormity of people who voted for the “other guy.” Regardless of the polls prior to the election, the closeness of the election results shocked me. Frankly, I was

THE FALSE CONSENSUS EFFECT AND ITS RELATION TO THE JUSTICE GAP - continued

blindsided. I also found myself incredibly confused because I like to think I am relatively well informed on perspectives other than my own.

I regularly read “news” from alternative political sources. Unlike many of my friends, I do not block people on social media with alternative viewpoints regardless of my opinion on the credibility of their ranting. Yet despite all these efforts, I was befuddled by my belief that the choice to be made in this election should be blindingly clear to the vast majority of American citizens.

I suppose there is a certain amount of naivete involved in my perspective. Regardless, I found my ignorance of my fellow citizens disturbing, so I immediately went about attempting to investigate the source of the confusion. As an extraordinarily rational person,

it appears I was at the mercy of a cognitive bias. Cognitive bias, for those of you that do not remember, is defined as a systematic pattern of deviation in thinking, or a systematic error in interpreting information.

As will be no surprise to those of you working in family law, human beings are not exactly rational creatures. We tend to be prone to all sorts of cognitive biases in our thinking. We may favor information that conforms to our existing beliefs and discount any evidence to the contrary. That tendency is called confirmation bias. As it turns out, human thinking is rife with biases that infect and influence our daily thinking. I am sure if I did more research, I would uncover that cognitive bias is somehow related to tribalism and survival, or some other such thing.

Nevertheless, most relevant to the subject matter at hand



"Everett, WA - USA / 07/30/2020: Dropping Mail in Ballot into mail box" by ShebleyCL, licensed with CC BY 2.0.

is the cognitive bias known as false consensus effect. This is the tendency humans have to overestimate how much other people agree with their perspective. Apparently, I was at the mercy of this particular cognitive bias on the night of Nov. 3, 2020. I falsely believed the majority of people agreed with my perspective.

In the age of social media and algorithms which consistently show viewers postings related to the behavior of the user, it is almost impossible to not be immersed in an echo chamber of our own making. Additionally, most people tend to congregate with others most like themselves. Groups tend to converge around social norms, economic reality, geographic location, political interests—the list is infinite.

In 2017, the Pew Research Center found that both Democrats and Republicans are primarily friends with people from their own party. Further, the same study found that over half of the study respondents



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THE FALSE CONSENSUS EFFECT AND ITS RELATION TO THE JUSTICE GAP - continued

had no friends from the opposing party. Without contradicting information or friends with opposing viewpoints, it is easy to understand how an opinion could be construed or misinterpreted as a consensus for the general public.

Given the failure to resolve the justice gap, it is easy to see how the false consensus effect may be at work in those with the power to resolve the situation. If people with assets and resources have no affiliation or exposure to those without them, it would be extremely easy to dismiss the data describing the justice gap.

For example, the 2003 Civil Legal Needs Study done by the Washington Supreme Court showed that over 76 percent of low to moderate income people with a legal need received no legal assistance. Those with resources

may not know anyone without the ability to afford legal assistance. Further, they may not have had any exposure whatsoever to the devastating consequences that a lack of legal accessibility actually means to the vast majority of Washingtonians. Without required and consistent conversations with those people located solidly in the justice gap, false consensus bias may lead those people with resources to assume the vast majority of the population live in a reality equivalent to their own.

Further, those with resources may not understand the urgency of the need for legal resources experienced by the low- to moderate-income litigant. Obviously, a mother with three children and no income that has just been left by her husband has a completely different level of urgency than a legal services provider which

may believe “everybody should have an attorney,” but has no discernible plan to bring it about.

In conclusion, if our society is to come to an understanding in any area, it is readily apparent we may need consistent and repeated exposure to those who exist in a reality different from our own. Without extending effort to overcome the cognitive bias that is part of the human condition, it appears areas of our society will remain extremely divided.



Marya Noyes is a LLLT practicing family law at Genesis Law Firm in Everett. She was licensed as a LLLT in 2017, and earned her MBA at Seattle University in 2019. Marya regularly writes articles on economic analysis and market opportunities presented by addressing the justice gap.

TECHNOLOGY IN THE LOW BONO PRACTICE

BY JENNIFER ORTEGA, LLLT



Just what does it mean to incorporate the use of technology into a law practice? Isn't everyone doing that already?

Sure, pretty much everyone uses email instead of snail mail, and looks things up online. And yes, that is using technology. But carefully and deliberately evaluating, choosing, and implementing

"Work Desk - Credit to <http://homedust.com/>" by Homedust, licensed with CC BY 2.0.

TECHNOLOGY IN THE LOW BONO PRACTICE - continued

technology solutions is another matter entirely, and one which many people seem reluctant to tackle.

The pandemic forced many law firms to take a much closer look at their use of technology, especially when it came to accessing documents and information remotely, and communicating with coworkers and clients. Those firms big or fortunate enough to have an IT team may have had an easier time of it, but of course, being bigger has its own set of challenges when implementing technology.

I'm choosing to focus here on firms that do not have dedicated IT staff—solo and small practices where the legal professional wears multiple hats, including that of Chief Technology Officer. In these firms, time pressure is nearly a universal concern, and the range of technology solutions can appear overwhelming. So just how does one go about deciding which solutions to implement, and more importantly for the time-pressed small firm leader, what to focus on first? One way to look at it is using a quasi-Six Sigma approach, which I learned about years ago working at a manufacturing company. I want to be clear I am no expert in Six Sigma, and there are many resources to learn about it. (I suggest looking it up online!)

Essentially, Six Sigma is a methodological practice for improving customer satisfaction and improving business practices. According to www.SixSigmaDaily.com, “In the 19th century, German

mathematician and physicist Carl Fredrich Gauss developed the bell curve. By creating the concept of what a normal distribution looks like, the bell curve became an early tool for finding errors and defects in a process. In the 1920s, American physicist, engineer, and statistician Walter Shewhart expanded on this idea and demonstrated that “sigma imply where a process

professional) satisfaction.

But what does this have to do with implementing technology? Well, I suggest first looking at the processes in your firm that are least efficient. For example, does your firm require clients to download, print, sign, scan, and email back documents? Why? Many people do not own a printer, and especially



“Frustrated business person overloaded with work. - Credit to <https://www.lyncconf.com/>” by nodstrum, licensed under CC BY 2.0

needs improvement,” according to *The Complete Business Process Handbook: Body of Knowledge From Process Modeling to BPM Vol. 1* by Mark von Rosing, August-Wilhelm Scheer, and Henrik von Scheel.”¹

I write quasi-Six Sigma because a law firm is not manufacturing goods. Still, identifying which existing processes and procedures cause delays and errors, and then using process improvement to reduce or eliminate such delays and errors can dramatically increase efficiencies and customer (and legal

now, when so many offices and libraries are closed, there is no easy way to print or scan documents.

There are numerous technology solutions—in use all over the world in countless industries—for signing documents electronically. There are certainly times when a wet ink signature is required, and an electronic signature simply will not suffice. But taking a hard look at whether a wet ink signature is truly necessary may very well result in the realization that many document signatures can be done far more efficiently using electronic signature

TECHNOLOGY IN THE LOW BONO PRACTICE - continued

apps. An online search will help you quickly identify options for adding this technology to your firm if it is appropriate for your needs.

Another area I suggest looking closely at is practice management software. Today, most (if not all) are subscription based, and offer a range of tools and options. Some of the most helpful, in my opinion, are those that allow you to easily file communications to a particular client or matter, track time and expenses which are easily edited for billing, and provide secure client portals to share documents and information. In this day and age, using an Excel spreadsheet to track time/clients/matters, and relying on

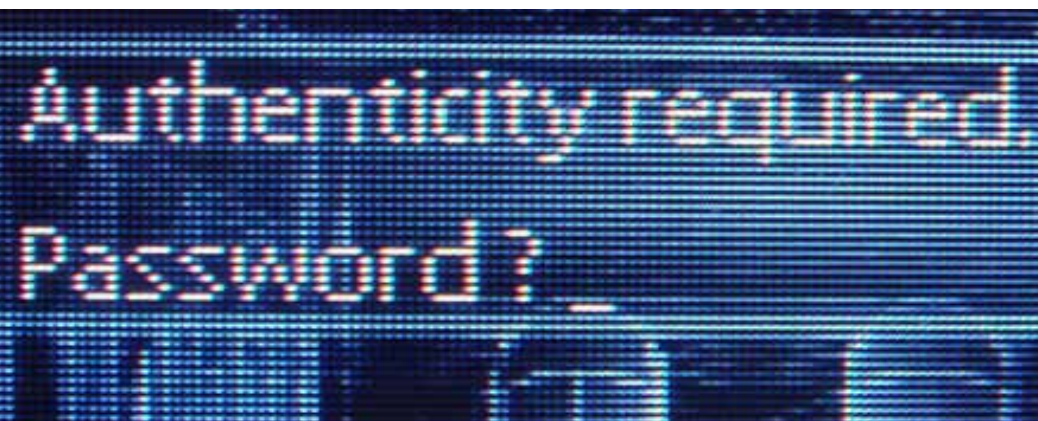
hard copy paper files is not only inefficient, it actually may cause errors and delays, not to mention be nearly impossible to manage when working remotely.

And speaking of security, a technology option to consider is a password app, which will help you track and easily update the myriad login/password combos you surely have. While I know “123456,” “password,” and your pet’s name are popular, these are terrible choices! A secure password app can make it much simpler to keep track of unique passwords. Obviously, you must weigh concerns about saving passwords in an app and whether that could

expose you to risk against someone finding the password you use for everything and using it to view or steal confidential data. Here’s an interesting article on the subject: <https://www.lawtechnologytoday.org/2021/02/five-reasons-to-trust-a-password-manager-and-not-your-notepad/>.

And how does this all relate to the low bono practice? It’s simple—greater efficiency and accuracy in your work means less time and money spent on outdated and ineffective processes. These savings can directly benefit your clients while increasing your ability to serve more clients.

¹ <https://www.sixsigmadaily.com/what-is-six-sigma/>.



"Authenticity required: password?" by liako, licensed under CC BY-SA 2.0

CHAIR'S NOTE

BY JENNIFER ORTEGA, LLLT

Did you know we have a new list serve on groups.io? It's a great place to get answers to your questions, find referrals, and share info about low bono practice. To join, type in this link and click through the directions: <https://groups.io/g/LowBonoWA>.

We also have a Facebook page, featuring legal professional write-ups, links, and info about upcoming events, including CLEs. To follow us, go to <https://www.facebook.com/WashingtonLowBonoLawyers> or search for Low Bono Section.



Jennifer Ortega is an owner and partner at Legal Technician Division, PLLC. Her firm focuses on providing excellent family law services at affordable rates.

Section members and the public are always welcome at our monthly Executive Committee, or ExCom, meetings. Notices are sent out on our list serve and posted on our WSBA webpage: <https://wsba.org/legal-community/sections/low-bono-section>. We hope to see you soon!



"WIPO Conference Hall" by WIPO | OMPI, licensed under CC BY-NC-ND 2.0

UPCOMING EVENTS

Executive Committee Monthly Meeting

Section members are encouraged to attend any Executive Committee meeting! Click on or dial in and learn more about what's happening with our Section.

March 16, 2021

Regular meeting: 4:00 - 5:30 p.m., virtual happy hour: 5:30 - 6:30 p.m.

April 20, 2021

Regular meeting: 4:00 - 5:30 p.m., virtual happy hour: 5:30 - 6:30 p.m.

May 18, 2021

Regular meeting: 4:00 - 5:30 p.m., virtual happy hour: 5:30 - 6:30 p.m.

The Low Bono Section is committed to justice for all and invites participation by everyone involved in serving moderate-income individuals.

Join our section!
Visit <https://wsba.org/legal-community/sections/low-bono-section>.

Event Coming Soon - Pitch Your Low Bono Business Ideas!

Are you interested in pitching your ideas for incorporating low bono principles and practices into a profitable business model, and getting feedback from practicing legal professionals? Do you want to join a panel of people actively providing low bono services and provide valuable critiques to participants? Watch the Low Bono Section's list serve for information on this upcoming event!