

# Index

## **ACCESSING JUSTICE**, 36, 427, 428

Class actions, 428

Community Legal Education Ontario, 40

JusticeNet, 38

Lawyer referral service, 37

Legal Aid Ontario, 37

Pro Bono Ontario, 38

## **ACCOUNTS**, *See* BILLING

## **ADMINISTRATION**, 14

## **ADVOCACY**

Appearance before the court, 359

Arbitration, 362

Civility, 412

Correspondence, 413

Courtroom, 416

Examinations, 360, 414

Factum, 275, 355

Limitation periods, 275, 352, 446

Mediation, 361

Media, 360

Oral presentation, 356

Professionalism, civility, 353, 411

Scheduling, 414

Stating the facts, 351

Tactics, 354

Three Cs, 411

Undertakings, 414

Written materials, 355

## **ADVOCATES SOCIETY**, 373

## **ANNUAL FILINGS**, 30

## **ARTICLING**, 28

## **ARBITRATION**, 362

**AREAS OF SPECIALTY, 365**

**ASSOCIATES, 294, 330**

Assessing performance, 332

Mentoring, 336

Recruiting, 330

**ASSOCIATIONS, 371**

**BAR ADMISSION COURSE, 29**

**BILLING**

Basis of billing, 255-257, 284

Closing file, 301

Books and records, 304

Client's files, 302

Lawyer's files, 303

Collection, 295

Assessment, 299

Charging order, 301

Considerations as to, 297

Lien, 300

Litigation, 298

Third party funding, 208

Dockets, 205, 264, 281

Draft account, 226

Fees and disbursements, 202, 286-287

Fixing a flat fee, 206

Format of account, 200, 287

Setting the hourly rate, 204

Timing of account, 201

**BOOKS, RECORDS AND REPORTS, 277, 451**

Audits, 458

Practice audit, 460

Bank accounts, 278

General, 451

Trust, 452

Cash-flow and budget, 460

Dockets, 205, 264, 281

Billable hours, 284

Non-billable hours, 284

Fee Journal, 457

General and trust accounts, 278

Journals and ledgers, 277, 455, 456

**BOOKS, RECORDS AND REPORTS** — *Continued*

Reports, 279

**BUSINESS OF LAW**, 18, 462

Administration, 14

Budget, 13

Fixing compensation, 327

Location, 12

Marketing, 13

Practice area, 12

Staff, 13

**BUSINESS PLAN**, 11

Budget, 13

Location, 12

Marketing, 13

Practice area, 12

Staff, 13

**CanLII**, 3

**CHARTER OF RIGHTS AND FREEDOMS**, 4

**CLIENTS**

Acting against a former client, 164

Assessing a client's case, 174

Billing. *See* BILLING

Complaints, 43, 154, 182, 185

Types of complaints, 183

Confidentiality, 257

Conflict of interest, 162, 165, 167

Costs, fees, 162

Different, examples, 175

Difficult, examples, 179

Expectations, 15, 237- 239, 241

"Finders, Minders, and Grinders", 471-473

First Interview, 9, 169, 172-174, 187, 189, 442, 448

Identification, 170, 188, 193

Independent legal advice, representation, 194

Joint Retainers, 164, 194

Nature of relationship, 8, 195

Nature of services, 159, 168, 173, 195, 239, 286

New, 157, 169

Obtaining instructions, 173, 175

Protection against the difficult client, 181

**CLIENTS** — *Continued*

Realism, 17-18, 241  
Relations, 236  
Reporting to, 190, 195  
Screening, 159, 163  
Securing the retainer, 175  
Servicing the client with other staff, 254  
Story line, 172  
Types of clients, 158

**CLIENT'S EXPECTATIONS**, 15, 237, 247, 251

Annual check-up, 251  
Communications, 245  
Confidentiality, 257  
Costs, 246  
Instructions, 173, 175  
Litigation outline, 253  
Managing, 247-250  
Meetings 253  
Promising results, 243  
Realism, 17-18, 241  
Reliability, 242  
Reporting, 246, 252  
Settlement discussions, 254  
Socializing, 248  
Timeliness of services, 250  
Understanding client expectations, 251

**CLOSING THE PRACTICE**, 491

Bankruptcy, 499  
Check list, 499, 505  
Change of careers, 498  
Death, 495  
Dissolution, 496  
Illness, 497  
Re-location, 497  
Reports to Law Society, to clients, 500  
Retirement, 494  
Returning client's files, 212  
Revocation, 496  
Succession, 312, 493

**COMMISSIONING DOCUMENTS**, 7

**COMMUNICATIONS**, 20, 35, 245

**COMMUNITY LEGAL EDUCATION ONTARIO (CLEO)**, 40

**COMPENSATION FUND**, 30

**COMPETENCY**, 4, 31, 242

**COMPLAINTS**, 43, 154, 182

Complaints Resolution Commissioner, 44

Law Society hearing, 44

Types, 43

**CONFIDENTIALITY**, 257

**CONTINUING PROFESSIONAL DEVELOPMENT**, 2, 31

Competency, 31

Courses, 2, 3, 33

Profession of law, 2

Substantive law, 2

**CONDUCT UNBECOMING A LAWYER**, 184

**COSTS**, 246

**DAILY PRACTICE SKILLS**

Billing Clients. *See* Billing

Delegating tasks, 268

Dockets, 264

Factum, 275, 355

File management, 267

Letters and emails, 271

Limitation periods, 275, 446

Meeting with clients, 268

Opinions, 274, 343

Pleadings, 273

Precedents, 276, 293

Prioritize time and work, 262

Research, 6, 276

Search and seizure, 292, 305

Time management, 244, 264

Writing, tips, 269-270

**DIFFICULTIES IN THE PRACTICE**, 15

Administration, 16

**DIFFICULTIES IN THE PRACTICE** — *Continued*

Billing a client, 16  
Changing law firms, 16  
Interviewing, 9, 15, 169, 172-174, 187, 189, 442, 448

**DISTRIBUTION OF PROFITS**, 323, 326

Eat-what-you-kill system, 329  
Factors to consider, 327  
Lock-step distribution, 329  
Points system, 328

**DOCKETS**, 205, 225

**ERRORS AND OMISSIONS**

Breach of trust, 434  
Conflicts of interest, 435  
Dabbling, 445  
Failure to communicate, 183, 436  
Failure to follow instructions, 175, 183  
Failure to achieve results, 437  
Failure to obtain a proper retainer, 436  
Independent legal advice, 447  
Lawyer's bills, 434  
LawPro's Best Claims Prevention Tools, 450  
Legal advice v. business advice, 447  
Limitation periods, 275, 352, 446  
Loss prevention rules, 438  
    Acting in a conflict of interest situation, 445  
    Dabbling, 445  
    Discovering an error or omission, 439  
    Inadequate knowledge of the law and procedure, 443  
    Inadequate systems and controls, 444  
    Lack of discipline, 444  
    Poor interviewing skills, 442  
    Procrastinating, 446  
    Standard of care, 440  
Practice pointers at initial meeting, 448  
    Check lists, 450  
    Confirm instructions, 173, 175, 448  
    Only legal advice, 449  
    Retainer in writing, 449  
    Reporting, 449  
Procrastinating, 446  
Specific error or omissions in family law, 448

**ERRORS AND OMISSIONS** — *Continued*

Specific errors or omissions in real estate, 447

**EXPERIMENTAL TRAINING PLAN**, 28

**FEDERATION OF LAW SOCIETIES**, 26

**FRAUD**, 184

**GREAT LIBRARY**, 42

**HONOURS**, 45

**INITIAL INTERVIEW**, 9, 169, 172-174, 187, 189, 442, 448

**JUSTICENET**, 38

**LAW FIRM**

Assessing associate's performance, 332

Capital contributions, 319

Distribution of profits, 323

Home office, 314

Issues facing the firm, 309

Leadership, 309

Management, 311

New clients, 310

Profit, 312

Record keeping, 312

Servicing the client, 311

Succession, 312, 493

Joining, 314

Leadership, 309

Leaving, 346

Limited liability partnerships, 319

New Clients, 310, 471

Office manual, 320

Opening, 9

Outsourcing, 317

Partnership, 318

Recruiting, 330

Sharing space, 315

Structure, 308

Succession, 312, 493

Withdrawal of capital, 347, 349, 394

**LawPro**, 22

**LAW FOUNDATION OF ONTARIO**, 35

**LAW PRACTICE PROGRAM (LLP)**, 28

**LAW SOCIETY ACT**, 24

**LAW SOCIETY OF ONTARIO**

Annual filings, 30

Articling, 28

Bar admission course, 29

Benchers, 25

Books, records and reports, 277

Communications, 35

Compensation fund, 30

Complaints, 43-44, 154, 182, 185

Conduct unbecoming a lawyer, 184

Continuing professional development, 31

Convocation, 25, 29

Governance, 25

Hearing, 44

History, 24

Honours, 45

Licence, 27

Member's Annual Report, 34

Practice management guidelines, 42

Professional conduct and discipline, 40-41

Treasurer, 25

**LAW SOCIETY OF UPPER CANADA**, 24

**LAWYER'S PROFESSIONAL DUTIES**, 3, 6

**LAWYER REFERRAL SERVICE**, 37

**LEAVING A LAW FIRM**, 346

Calculating final salary or draw, 349

Docketing for work and unbilled time, 349

Finishing tasks, 348

Leaving files incomplete, 349

Taking clients, 349

Timing of departure, 348

**LEGAL AID OF ONTARIO**, 37



**LEGAL RESOURCES, 20-22**

**LICENCE, 27**

**MANAGING THE FILE**

- Client's expectations, 236, 243
- Lawyer's competency, 242
- Staffing the file, 254
- Tickler system, 235

**MARKETING**

- Associations, 473
  - Advocates Society, 373
  - Canadian Bar Association, 371-372
  - Canadian Corporate Counsel Association, 373
  - Federation of Ontario Law Associations, 374
  - Other Bar Associations, 375
  - Toronto Lawyers Association, 374
  - Women's Legal Education and Action Fund, 375
- Blogs, 482
- Brochures, 482
- Calling cards, 487
- Chat rooms, 488
- Classmates and colleagues, 475
- Client appreciation, 469
- Community and school events, 475
- Conferences, 486
- Directories, 487
- Finders, minders and grinders, 471, 473
- Former clients, 477
- Friends and family, 473
- Government lawyers, 476
- In- House counsel, 475
- Law Society rules, 470
- Legal presentations to legal circles, 486
- Legal presentations to non-legal circles, 476
- Marketing plan, 466
- Media, 479
- Networking, 467
- New clients, 310, 471
- Newsletters, 481
- Ontario Reports, 488
- Presentations, podcasts, 486
- Publications, 483

**MARKETING** — *Continued*

- Referrals, 489
- Religious groups, 475
- Social associations, 474
- Social media, 484
- Target groups, 473
- Websites, 480

**MEDIATION**, 361

**MENTORING**, 336

- Coach and advisor network, 337
- Goals, 340
- Mechanics, 341
- Mentor, 339
- Mentee, 339
- Recruitment, 330, 337

**NATIONAL COMMITTEE ON ACCREDITATION**, 26, 27

**NATURE OF PRACTICE**, 308

- Firm, 308
- In association, 315
- Partnership
- Sole practice, 313

**NEGLIGENCE**, 184

**OBJECTIVES OF THE PRACTICE**, 1

**OFFICE**

- Back-up office, 390
- Capital, 393
- Equipment, 380
  - Computers, 380
  - Fax machines, 385
  - Other equipment, 385
  - Photocopiers, printers, 383
  - Telephones, 384
- Insurance, 391
  - Professional liability, 391
  - Property, 391
  - Term, 392
- Lay staff, 385
- Library, 394

**OFFICE — *Continued***

Premises, 379

Use of computers and data, 387

**OFFICE MANUAL, 320**

**OPINIONS, 274, 343**

**OSGOODE HALL, 24**

**OPENING A LAW OFFICE, 9, 313**

Additional materials, 20-22

Guides to opening a law practice, 10-11

Location of office, home office, 314

Outsourcing, 317

Sharing space, 315

**OPENING A FILE, 233**

Tickler system, 235

**OTHER CAREERS, 507**

Business, 509

Government, 510

In-house, 509

Politics, 508

Teaching, 508

Writing, 512

**OUTSOURCING, 317**

**PARALEGALS, 24**

**PHILOSOPHY OF THE PRACTICE, 17**

Idealism, 17

Realism, 17, 18

**PRACTICE ADVISORY SERVICE, 42**

**PRACTICE MANAGEMENT GUIDELINES, 42**

**PRACTISING OUTSIDE ONTARIO, 345**

**PRECEDENTS, 293**

Check lists, 293

Office forms, 293

**PRECEDENTS** — *Continued*

Practice, 293

**PROBLEMS IN THE PROFESSION**

Access to Justice, 427

Definition, 427

Self-represented, 429

Administration of justice, 405

Quality of laws, 405

Certainty and predictability of law, 430

Ethics and professionalism, 408

3 Cs of the Commercial List, 411

Civility, 412

Conflict of interest, 409

Correspondence, 413

Court room, 416

Ethics, 409

Exaggerating time, 410

Examinations, 414

Oral communication, 414

Over charging clients, 410

Professionalism, 411

Scheduling, 414

Health and well-being, 418

Coach and advisor network, 422

Discrimination and harassment counsel, 423

Member assistance program, 422

Ontario Lawyer' assistant program, 423

Numbers of lawyers, 402

Diminished marketplace, 403

Hoarding, 404

Negligent referrals, 405

Scams, 423

Self-represented, 214, 429

Shifting of client needs, 397

Sole practitioner, 417

Technology, 398

Back-up, 402

Communications, 398

Court administration, 402

Dockets, 401

Information, 399

Legal research, 401

Office administration, 400

**PROBLEMS IN THE PROFESSION** — *Continued*

Technology — *Continued*

Record keeping, 401

Reproduction of documents, 401

Three “Cs”, 411

Women in the law, 406

**PRO BONO ONTARIO**, 38

**PROFESSIONAL CONDUCT AND DISCIPLINE**, 40, 41

**PROFESSIONAL RESPONSIBILITY**, 3, 6

Competence, 4, 5

Ethics

Honour, 4

Integrity, 4

**READING LAW**, 6

**RECRUITING ASSOCIATES**, 330

**REPORTING**, 246

**RETAINER**

Account, 226

Agreement, 218

Billing the client, 199, 200-203

Cash, 197

Client particulars, 193

Check list, 216

Collection, 207

Contingency fee, 208, 220, 289

Dockets, 205, 225, 281, 283

Fixing a fee, 206

Full retainer, 195

Hourly rate, 204

Joint retainer, 164, 194

Liability, 209

Limited, 197

Litigation, 206

Precedent, 216, 221, 293

Referral fees, 291

Removal from record, 212

Scope, 191, 192

Securing the retainer, 175

**RETAINER** — *Continued*

Self-representation, 214, 429

Termination, 210

Third party funding, 208

Waiver and consent to act, 222

**RIGHTS AND REMEDIES**, 280

**RULE OF LAW**, 4

**RULES OF PROFESSIONAL CONDUCT**, 1, 48

**SELF-REPRESENTATION**, 214

**SEARCH AND SEIZURE**, 292, 305

**SPECIALIZATION**, 153

Areas of specialty, 153, 367, 368

Certification from Law Society, 367

Sub-specialties, 365, 366

Training for, 367

**TAKING OATHS AND DECLARATIONS**, 7

**TERMINATION OF RETAINER**, 210

Completion of assignment, 211

Partial completion, 211

Removal from record, 212

Returning files, 212

**TORONTO LAWYERS ASSOCIATION**, 374

**UNDERTAKINGS**, 8

**WITHDRAWAL FROM A FIRM**, 346

Billing, 349

Clients, 349

Finalizing files, 348

Timing of departure, 348

**WRITING**, 269

One-page rule, 345