

# Law Practice News



Newsletter of the State Bar of Wisconsin's Law Practice Section

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## View from the Chair

Thomas A. Heyn

Law Office of Thomas A. Heyn, Cottage Grove

A while back I was reading *Every Second Counts* written by Lance Armstrong. He's the first ever six-time winner of the Tour de France, the world's most grueling bicycle race.

Every second counts in this big race. To make every second count, he tells of the dedication that's required to succeed, a dedication to practice, even when it's cold and wet outside, or there's a long hill to climb, or a hot sun beating down. When it's time to practice, you practice. In the race, it's no different. Every second counts. So he gives 110%, even when he's tired, or sick, or injured.

But the book is about much more than a bicycle race. It's about Armstrong's successful fight against cancer, and his approach to life—every second counts. "I've said it many times before—if I had to choose between winning the Tour de France or having cancer, I'd choose cancer. I consider myself lucky for the experience . . ." It's from his experience with cancer that he learned to make every second of life count. In life, there's no coasting along. You live life with purpose, and dedication, and make your time count.

I read the book with a certain admiration for Armstrong. I thought his approach might lend itself well to law practice, and describe a way to be successful. Be dedicated, do whatever is necessary, no matter how difficult. Give it 110%. Make every second count.

But there's a certain sadness to his story, at least I thought so. Armstrong tells of the difficulties of being a world-class cyclist who must be gone from home, from his wife and children, for long periods of time. He had to choose what

was important. And being a champion cyclist was, at least for the present, more important to him than the time he needed for his family. He does still spend time with his children, and even his ex-wife, when he's in town. But it's not the family life that any of them really want. He made every second count in his profession, but not in his family. Armstrong admits that there are some cyclists on the circuit that don't have what it takes, or won't give what it takes to be the champ. But I wonder if some of them aren't happier for it, and successful in other ways that count.

Maybe there is as much to learn from his failure as from his success. Make every second count, but be sure to keep things in balance. Make sure the right things count. There will be some who choose, as has Armstrong, to succeed in their profession at any cost. But for me, if every second is going to count, I want to make it count for the right thing.

## BAM! Kicking Your Practice Up A Notch

Fasten your seatbelts and find that higher gear for your practice at the Minocqua 2004 seminar on Friday, September 24. Sponsored jointly by the Law Practice and the General Practice sections, substantive topics will review issues regarding planning for long term care and assistance, advanced topics in family law, and recent developments in the law of real estate easements. Office management sessions will cover how to buy office technology, dealing with metadata, how to exit a solo practice, a report on the soon to be released State Bar Law Office Management Assistance Program (LOMAP), and the ever popular "50 Hot Legal PC Tips, Practice Ideas, Gadgets and Web sites in 50 Minutes." BAM! Supercharge your CLE. Please, no tire marks on the pavement as you leave.

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## Law Practice Pointers

### Forms

Here is a quick tip to create forms on your computer to use with preprinted forms. Scan the preprinted form as an image. Insert that image as a watermark with 100% shading. Then create fill-in fields located exactly over the corresponding spaces on the form. A crude way is to use page anchored text boxes. Fancier solutions include using Forms toolbar or merge fields in your word processor. Then either suppress printing of the watermark image of the form and print directly onto the preprinted form, or else print the document with the watermark image of the form onto plain paper. Of course forms software, like HotDocs and Omnipage are more elegant solutions, but this tip uses tools you probably already have!

### Accounting

Having trouble managing your accounts receivable? ... Well, then make an appointment to review them. Schedule a time on your calendar every Friday afternoon, or every other Friday afternoon to review your firm's or your own accounts receivable. It won't take but a few minutes (at least it should take that long). And, that way, you will know which client's bills are getting a bit too high and which clients have been paying their lawyer.

### Communications

Simplify routine correspondence. Set

up "check the box" type forms for routine communication. These can be broken down by legal practice areas and even made with carbonless copies for file receipts. None of these sheets needs to be over a half page wide; which saves paper and mailing expense. Think up creative, customized ink-stamps, such as a stamp that allows you to "check the box" as to whether or not you have filed a particular document with the Court, or sent it to Opposing Counsel and/or to the Client, along with the date that the task was performed.

### Payroll

Consider using an online payroll service for convenience and privacy. Reminders are sent to you for payroll tasks, tax payments, and filings. You enter your payroll information electronically. The service will calculate the required withholdings, electronically deposit the paycheck in the employee's account, and direct debit your account. The service will generate signature ready Forms 940 and 941 and provide email worksheets and reminders for federal tax deposits. One company's pricing for eight employees is about \$25 per month. Several such services are available, including PayCycle.com and Paychecks.com.

### Equipment

Betterbuys.com provides comprehensive, objective, comparative review of office equipment (along the lines

of *Consumer Reports*). Published by *Better Buys for Business*, this subscription service contains detailed reviews of various types of office equipment, such as copiers, fax machines, printers and scanners. It offers side by side specs and prices and an Editor's Choice Award selections for those machines that are the best overall buys and the best performing products in their categories.

### Online Resources

Most of us are familiar with the search capabilities of Google.com. However Google provides many other useful capabilities. If a search returns a page in a foreign language, a link called [Translate this page] appears next to the title which, when clicked, will cause the foreign language page to be translated into English. Click on "more" at the top of the Google home page and follow the link to the "Web Search Features" to find the following special features (among others):

**Froogle:** A product search engine, allowing you to find a product for sale online and compare prices.

**Local Search:** To search for local businesses and services.

**PhoneBook:** Look up U.S. street address and phone number information.

**Street Maps:** Links you to MapQuest, Yahoo, and other U.S. street map sites.

**Search by Number:** Look up UPS, FedEx and USPO package tracking information, Vehicle ID (VIN) numbers, UPC codes, Telephone numbers, U.S. patents, and a variety of other online databases.

**Dictionary:** Typing a particular word into the search field not only returns the search results, but also a link next to the word giving the definition and a sound file giving the word's pronunciation.

**Images:** If you need an image to illustrate something, insert the desired word in the search box and select "Images" and Google will find related images available for download from the web.

Google is not the only search engine, but it does provide powerful, readily available and free tool for your use.

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## Copyright - Copywrong

Do you know a company where copies of subscription newsletters and alerts were made and distributed? A Maryland court has issued an opinion about such practices on cross motions for summary judgment. The case, *Lowry's Reports, Inc. v. Legg Mason, Inc.*, involves the intra-company distribution of the paid subscription-only *Lowry's Reports*, for which Legg Mason had a single subscription. These were copied, e-mailed or posted on the firm's Intranet, despite Legg Mason's express company policies against unauthorized distribution of third party works. The opinion, while not the ultimate decision on the merits, reviews the law in this area and discusses the nuances of copyright infringement and claims for damages, as well as the concept of "fair use" in the context of business and commercial enterprises.

Principles of "fair use" as a defense to copyright infringement, now embodied in the U.S. Copyright Act, first appeared in U.S. common law more than 150 years ago; and in recent years, courts have pondered fair use in the context of the Zapruder home movie of the Kennedy assassination, home video taping, and even a parody case involving 2 Live Crew's use of the Roy Orbison song "Oh Pretty Woman." All of these cases balance our belief in the right to freely circulate ideas with the rights of authors to protect works and reap economic benefits from their labors. In technology, fair use arises in litigation over reverse engineering, use of software by ISOs, through email, Intranets, and material posted on bulletin boards. Fair use is a defense to an action for copyright infringement, not a right and courts typically use a number of factors to determine whether use in a particular case will be considered fair use, not infringement. That said, most experts agree that judicial resolution of whether a particular use is "fair" or not is an equitable, often instinctive, decision-making process in which no single factor is dispositive, resembling an art more than a science.

Years ago, in *American Geophysical Union v. Texaco, Inc.*, a similar contro-

versy over the use of scientific publications erupted and the parties stipulated facts to present a test case to the court: Was the photocopying of eight scholarly articles from separate issues of the same trade journal by a Texaco research scientist "fair use" under the Copyright Act? Before the case settled, the court concluded such photocopying by corporate researchers for their own files was archival, not fair use and violated copyright laws. Although some archival copying can be fair use, institutional, systemic copying to make them available to scientists, avoiding the purchase of additional subscriptions is not.

Don't be misled by quantity versus quality. In 1993, a Florida court held a bulletin board owner liable for copyright infringement when subscribers uploaded and downloaded pictures from *Playboy* Magazine. Defendants argued portions from each magazine were insubstantial compared to the total and should be entitled to fair use protection. The court noted even a small amount of copying is not fair use if the portions copied are "essential." The court was certainly not implying "people do not read the articles," but the pictures were obviously central to the magazine's importance.

Lest you think that if a fair use defense fails, company policy will protect you, the *Lowry's* opinion notes "intent to infringe or knowledge of infringement is not necessary in determining liability." In fact, personal liability can attach to an employer, even if an employee disobeys explicit instructions!

This article has been reprinted, with permission, from *Legal Bytes*, a monthly publication of Reed Smith LLP ([www.reedsmith.com](http://www.reedsmith.com)), compiled and edited by Joe Rosenbaum. If you would like further information or wish to receive your own copy of this monthly, one page publication, please contact him directly at [jrosenbaum@reedsmith.com](mailto:jrosenbaum@reedsmith.com). Joe heads the New York-based E-Commerce practice at Reed Smith and Denise Howell, who contributed to the article, is based in Los Angeles and specializes in appellate and intellectual property litigation.

## Email and Internet: Useful Tools for Staff, But How About Personal Use?

When sending email from your office, do you follow your firm's written policy? Does your office even have a written policy? Are you letting email control you—or are you using it as an effective tool to serve clients? And what about employee access?

Most small law offices' email policy consists of providing Internet access or not, rather than defining the circumstances under which it is appropriate to use this tool. There's just not a lot of guidance out there. I'm often asked by partners, "Do other firms allow secretaries to have access to email and the Internet?" Then, there's frequently this follow-up question: "How do they keep them from misusing it or spending their time online instead of getting work done?"

Just substitute an excessive number of personal telephone calls during work and most business owners would recognize this as a personnel issue, not a technological one. We've all seen employees who manage their time poorly, and that's not limited to support staff. Planning one's work, balancing staff assignments, and anticipating deadlines are learned skills. Even good lawyers can procrastinate writing that brief until it creates last minute panic. As much as I plan my schedule, emergencies occur that interfere with having sufficient time to complete certain projects, like getting a column written before deadline, for example.

Good managers reward promptly

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## Email and Internet: Useful Tools for Staff, But How About Personal Use? (continued from page 4)

done work rather than the number of hours worked. They have direct knowledge of the tasks required to perform a job and give that person sufficient time to execute it well. Lawyers who don't understand the steps necessary to prepare the firm's bills, for example, often underestimate the time required. Too many lawyers still think someone merely presses a button on the computer to perform complex tasks. From my observations at hundreds of law firms, lawyers should do a better job managing themselves and their professional and support staff.

Attorneys let themselves be "interruption driven," with technology exacerbating the problem. The phone rings and while the call isn't urgent, it interrupts the thinking process while crafting a letter or drafting a pleading. While some lawyers are disciplined to have calls forwarded to voice mail or handled by a secretary, many take all incoming calls.

Email is even more intrusive. Most programs are set to regularly check for new mail. Often, email is heralded by a pop-up screen and a sound, making it hard to ignore. With few exceptions, most email is neither urgent nor critical. Most people, including your clients, know the phone is more effective in a true emergency.

Consider changing your habits to check email at regular intervals rather than reacting immediately to each in-coming message. You'll be more productive and less stressed.

### Policies

What's your office's policy regarding email and Internet access? If there isn't one, begin by defining the firm's general business goals and be sure your policy is in line with them. For example, if quality service and high client satisfaction are among the aims, the email policy should support those goals by giving staff the tools and means to quickly transmit information to clients.

I believe it's short sighted to limit or deny email or Internet access to employees. It's important to understand that you and your staff have lives beyond the office. Small firms may not pay top-dollar or provide the best benefits, but can offer a work environment that allows employees to balance work and home better than at larger organizations. An email policy should permit the occasional personal use of office email as long as it's kept to a minimum and doesn't interfere with getting work done.

An office email policy should address confidentiality. Whether the disclaimers on faxes or email have any effect is less important than ensuring the staff knows not to "reply to all" when intending to reply solely to the email sender. Office policies also should discuss the need to keep client information confidential. Lessons can be learned from doctors and other professionals who are rigorous about limiting access to client or patient files. In fact, in most medical offices, patients rarely even see their own file. But who hasn't been to a lawyer's office and seen other clients' documents in plain view?

If your firm doesn't use passwords and unique staff login IDs, it's time to implement them. Don't leave passwords blank, or use the words "password" or "welcome," or each person's initials. One suggestion is to use initials along with the last four digits of each employee's Social Security number. This will make it harder for an outsider to guess. Passwords also should be changed periodically.

### Storage

The policy should discuss email storage. There are federal, state and local regulations concerning storage and destruction of documents, whether electronic or paper, and these include email. Client confidentiality and attorney work product are of particular concern in drafting an email policy. Whether and under what circumstances email should be printed and filed also should be determined and documented.

Small offices also can use an email policy to teach "netiquette" -- standards

for sending email. Some of these rules are common sense, but it's amazing how much email doesn't follow these basic guidelines.

Make sure to check for spelling and typographical errors just as you would any correspondence. Personalize your signature to include basic information about you and your firm to make it easy for the recipient to follow up. Make sure to include a meaningful subject. Messages with no subject are frustrating to the recipient, especially if they intend to file it and may want to refer to it again. Use capitalization sparingly. Capital letters are the email equivalent of shouting and are considered rude. Be as brief as possible while being thorough. Respond to email in a timely manner just as telephone calls or correspondence.

When sending messages to a group, consider sending them as a blind "cc" so no one sees the names of others to whom the message applies. Use auto responses carefully. If you belong to email lists, you know there is nothing more annoying than having a large group of people all receiving a "so-and-so is out of the office this week" message. Finally, keep virus definitions current so you don't pass virus laden email to clients.

So, should you give your staff email and Internet access? In more and more situations, such access allows staff to electronically submit documents to the courts, clients and auditing companies. Think of it as giving them the tools to do their jobs more effectively. If there's a problem with employees spending too much time shopping online instead of handling office work, remember, you don't have a technology problem.

Carol L. Schlein is president of Law Office Systems in Montclair, New Jersey, a training and consulting firm specializing in law firm automation.

## Are Fax Machines Dead?

Steven Finell

Steven Finell LLC, Dobbs Ferry, N.Y

Regrettably, fax usage by clients and other lawyers continues to be robust. I say regrettably because, for at least 15 years, PC communication has been superior to fax in every way, except one:

1. PC communication is faster than fax. Even for the dwindling number who still use a conventional modem over a telephone line, the slowest modem today is several times faster than the fastest fax machine when transmitting the graphic image of a document, and is several times faster again when sending text or binary files (e.g., word processing documents or spreadsheets).
2. PC communication results in a clearer printed image. The lowest resolution PC printer is sharper than the highest resolution fax machine.
3. PCs can transmit text and data that can be copied, reused, and edited. Fax transmits only an image, and the image is often too poor for effective OCR.
4. A fax machine ties up a telephone line. PC communication needn't and, increasingly, doesn't.
5. An email is easier to respond to than a fax. A fax machine does not have a Reply button.

Despite these and other advantages of PC communications, fax usage not only survives but thrives because of its lone advantage: For most people, a fax machine is easier to use than a PC. For many, this one advantage of the fax outweighs all the other advantages of the PC. The least skilled office worker quickly can be taught to send and receive faxes. No one could earn a living as a fax consultant or fax trainer, and I have never heard of a firm with an FT (Fax Technology) department. PCs are harder to use and require much more training than a fax machine. Indeed, as much as I love them, PCs are harder to use and require more training than any other piece of typical office equipment.

Why are PCs so difficult? That is a much broader topic than the question posed above. The main reasons, which I won't attempt to defend, include these:

1. Most PC hardware and software designers don't understand what ease of use means in a world where most people find it too difficult to set the clock on a microwave oven, let alone program a VCR.
2. There is a lack of true standards in the PC world; many so-called standards are really proprietary technology with significant market share

(PDF is one such pseudo-standard).

3. Partly because of the lack of standards, PC software and peripherals cause unpredictable conflicts.
4. PC hardware and, especially, software are the least reliable products in our offices and homes; anything else that malfunctioned as often would be returned as defective.
5. Most PC data is imprisoned in the proprietary data format of some application and is incompatible with competing applications (imagine buying a filing cabinet that prevents you from transferring the contents to a competitor's filing cabinet).

The techno-savvy have two defenses to the continued barrage of faxes from clients and colleagues. First, we should replace our fax machines with fax modems and fax software, which will at least minimize the disadvantages of sending and receiving faxes. Second, we should try to educate those who still prefer to communicate by fax about better technology that will ultimately make their life and work (not to mention ours) easier and more efficient, but always remembering that we work for our clients rather than the other way around.

## John Zwolanek's Theory of Marketing

John Zwolanek

Main Street Law Office, Middleton

Your marketing will determine the financial health of your practice. Not your expertise. Not your reputation. Not your ethics. It all comes down to your marketing.

Marketing is NOT advertising. Advertising works in some fields, but fails miserably in others.

For example, my practice is elder law. Advertising would bring me AWFUL

contacts — mostly people looking for free advice or people for whom time had run out. So I market to those who appreciate what I do — stock brokers, life and LTCI agents, geriatric care managers, and admissions directors. They know the people I serve and my service helps their business. And, of course, our mutual clients.

So here's John Zwolanek's theory of

marketing a law practice in 2004:

First, choose exactly what you want to do with your day.

Next, describe exactly who you want to work with.

Next, know what you can and cannot do for those people.

Next, decide how you want to be paid.

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### John Zwolanek's Theory of

Next, think about who will benefit from your service (hint, it's not just the client).

THEN—see those people. Not the clients, the gatekeepers.

If you skip any of those steps, you'll take a lot longer to succeed. So, for example, if an attorney were to concentrate in personal injury, one possible analysis (as offered by one who does not do personal injury work) might be:

- (1) I want to spend my day largely in the office, sometimes in court.
- (2) I like working with insurance com-

panies and people in crisis.

- (3) I can get money for injured people, more money than if they settled on their own, but I can't heal them and I can't get their money immediately.
- (4) I want to be paid at the time the case is finished, and I want to be paid well, based on results.
- (5) If I get money for my client, their chiropractors and clinics will be paid more than if the client settles on their own or simply does nothing.
- (6) So I will personally visit two chiropractors a day, every day, and describe how I can move part (but not all) of their accounts receivable into

accounts paid by making sure their clients have enforced their legal rights. I'll ask for them to talk with their injured clients about whether they have settled their financial matters, if they are waiting, or if they've considered it at all. I'll ask them to hand my card to those clients and recommend a visit to me, and if they would like, I would even make that visit in the Chiropractor's office after the client's next visit with them — all at no cost to the chiropractor or the client. Now, who could turn that down!

## Write It Down!

By Sally J. Fields

You've thought it; I've heard it: "I should have written it down." Claim after claim could have been headed off, or more quickly and less painfully resolved, if the lawyer had taken the time to document what was said and discussed.

The standard of care does not dictate documenting everything. In fact, in the following examples, the attorneys faithfully followed their duty to inform their clients. The trouble is, since they did not document the effort, it is the attorney's word against the client's. These attorneys are well within the parameters of the standard of care, they just can't prove it.

While we all know or should know - the importance of documenting engagement and fee agreements and declination of representation, there are many other interactions where documentation is prudent. Take a look at the following scenarios, and think about how helpful documentation could have been.

I hope these stories prompt you to cultivate a documentation mindset throughout your practice.

- I told my client the risks of relying on the sworn financial statement

of his wife in a divorce case rather than doing our own investigation. But he was in a hurry and wanted to get it over with. Turns out his wife lied. My client now says I didn't tell him we should conduct our own investigation. *I didn't write it down.*

- I specifically discussed with my client the possibility of filing an adverse possession action, but they didn't want to because they said they owned the property outright. Now that their first action has failed they are suing me. *I didn't write it down.*
- I discussed with my client the possibility of his social security disability payments being reduced because of a worker's compensation award. He said he wanted to go ahead anyway. His disability was reduced. Now he is suing me. *I didn't write it down.*
- Punitive damages were awarded in bifurcated arbitration on wrongful termination. I told my client we should try to settle after liability was found and before the punitive damages hearing. They didn't want

to settle. My client was found to be liable for a large amount of punitive. They're now suing me saying I didn't warn them. *I didn't write it down.*

- I didn't call medical witnesses in a disability board hearing, relying instead on cross-examining the opposing parties' doctor and medical records. I discussed this approach with my client and talked about the downside of calling his doctor to testify. He agreed with the decision and rationale. He lost the hearing and now is alleging I didn't adequately represent him. *I didn't write it down.*

According to the most recent Gallup Poll on Honesty and Ethics (Nov. 2003), lawyers rank 18<sup>th</sup> out of 23 professions. Car salesmen are 23. If ever accused of malpractice, you need as much on your side as you can get. One of the strongest defenses is a well documented account of your actions. Otherwise, it's your word against your client's. In that situation, guess who probably wins.

**continued →**

## Lemon Juice, Cornstarch, and Microsoft: Invisible Ink and Your Documents

There is data lurking in your data. Some people call it “invisible ink.” Microsoft refers to it as “metadata.” Either way, the reference is to information in an electronic document that is not always visible. Metadata, or “information about information,” does serve a purpose. Metadata helps users save and retrieve documents more readily, by capturing information such as author, editor, “date created,” and “date revised” in the hidden part of the document. However, other information about the document is also captured, such as additions, deletions, revisions, versions, comments, and other information about the document that an attorney may not want to share with others. Some cases to illustrate the point:

**October 2000:** The Wall Street Journal reports that a candidate running for the U.S. Senate began receiving anonymous emails containing messages written in MS Word criticizing and attacking the candidate. A savvy aide looked at the document properties and discovered they were authored by the chief-of-staff of the opposing party.

**February 2003:** A dossier on Iraq’s security and intelligence organizations, cited by Colin Powell and published by 10 Downing Street, is discovered to have been plagiarized from a U.S. researcher on Iraq. Since the dossier was

published on their Web site in MS Word format, researchers also discovered the four people in the British government who edited the document. They were subsequently called to Parliament for a hearing.

**March 2004:** SCO Group, seller of UNIX and Linux, sent out a warning letter to 1,500 of the world’s largest companies threatening legal liability for using Linux if they failed to obtain a license from the Utah-based company. After filing suit against Daimler-Chrysler, metadata in a MS Word document revealed that the SCO’s attorneys had originally identified Bank of America as the defendant.

These are but a few of the highly publicized cases of how metadata inside electronic documents can have deleterious effects. Fortunately for attorneys, there are quite a few ways to get rid of this hidden information.

Microsoft is fully aware of the metadata within its popular Office applications. A simple search of the Microsoft Web site reveal numerous documents that provide step-by-step instructions to get rid of some of the most obvious metadata. In addition to adding features within the software to reduce and remove metadata, the company has published an add-on for Microsoft

Word 2003/XP to strip the metadata.

Another solution to get rid of metadata is to convert the document to PDF (Portable Document Format). This is an especially good solution if the document does not require editing by the recipient, or is to be posted on the firm’s Web site. Converting documents to PDF has become a snap. In addition to Adobe Acrobat, free sites such as GoBCL will allow visitors to upload documents and receive the document via email in PDF. The freely available OpenOffice will also convert a document to PDF. Conversions using Adobe Acrobat may still carry some metadata. Make sure to check the conversion settings and properties of the new document, scrubbing any existing information.

Fee-based products can be installed at the server level, and work with a firm’s document management solution. Two products that have received accolades are Payne Consulting Group’s Metadata Assistant and Workshare’s Metawall. These products will strip MS Word and Excel metadata, as well as work within MS Outlook to strip attachments. Neither product is inexpensive, but having sensitive proprietary information revealed to clients or opposing counsel is a potentially embarrassing and expensive proposition within itself.

Metadata, or “invisible ink,” should be eradicated from any documents before being sent out from the firm. Bob Blackberg’s article in Woody’s Office Watch suggests that every time a document is to be sent outside the firm it is being “published.” Just as no author would send a marked up, scribbled on document for publication, attorneys should “clean up” electronic documents before sending them to the world.

Catherine Sanders Reach, Associate Director of the American Bar Association’s Legal Technology Resource Center. She can be reached at [sandersc@staff.abanet.org](mailto:sandersc@staff.abanet.org) or at (312) 988-5053, or online at [www.lawtechnology.org](http://www.lawtechnology.org).

### Write It Down! (continued)

Taking the time to document what you’re doing is far less painful and less expensive than dealing with a malpractice claim. Responding to a claim will rob you of productive hours, possibly impact the level of your insurability, and may even put your livelihood on the line.

I have no doubt the lawyers in the previous scenarios are telling the truth. But the claim would have never been filed if they had written it down -- in a letter, in file notes, somewhere. Virtually every case would have been thrown out or never filed if the lawyer had done what they know they should do -- Write it Down!

Sally J. Field is the President of the Professional Liability Division of the Great American Insurance Group. Reprinted with permission from the *Risk Management Memo* newsletter ([www.greatamericanlawyer.com](http://www.greatamericanlawyer.com)).



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