

Solo Small Firm Section



# Fall 2009 Newsletter

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# Solo & Small Firm Section

Welcome! We look forward to meeting you at the Solo/Small Firm Section Programs for the upcoming 2009-2010 year.

You are encouraged to join us for brown bag lunches, seminars, CLE programs, steering committee meetings, and drop-in lunches every 2nd Friday with fellow bar members.

Contact us if you would like to offer your talent at our new end of year Talent/Comedy Show Evening featuring our very own BBA bar members.

Please note that our steering committee meetings are open, and we welcome your input and participation at the meetings. If you are unable to attend a steering committee meeting in person, you may participate by conference telephone by calling the BBA.

Contact co-chairs, Ellen Kief [ekief@kiefllaw.com](mailto:ekief@kiefllaw.com) or Lori Yarvis [lyarvis@sab-law.com](mailto:lyarvis@sab-law.com) with your ideas, suggestions and comments.

# Message from the Co-Chairs

## Rodney Dowell - Outgoing Co-chair



It has been a pleasure to be able to serve for the last two years as the co-chair of the Solo and Small Firm Section. I was especially honored to work with two tremendously talented and energetic co-chairs: Clare McCorrian during my first year, and Lori Yarvis, this year. Ellen Kief's addition as the incoming co-chair continues the tradition of excellent leadership and I look forward to the upcoming year.

During the last two years we strove to provide programming for the membership that would allow our members to be more competitive in this extremely competitive business. In this last year, I was especially pleased with the informative marketing programs that my co-chair Lori Yarvis organized. In addition, we sought to provide helpful advice for operating the law office in a manner to increase efficiency. I would invite all of our members to become active in the section steering committee so the programming continues to reflect the needs of our members. In addition, active participation will substantially increase the value of your membership.

## Lori Yarvis - Returning Co-chair

It has been a sincere pleasure to work with Rodney Dowell as co-chair. He has greatly enhanced our Section's law practice management initiatives and has worked very hard to ensure that we address the needs and interests of our Section membership. I know you will join me in thanking him for all of his efforts and contributions in serving as co-chair.

I am also very pleased to welcome Ellen Kief as incoming co-chair of the Solo/Small Firm Section. Ellen has tremendous ideas and energy, has served as our liaison to the Immigration Law Section and will continue to so serve. Ellen and I are already planning for the upcoming year. We look forward to a stimulating and productive year for our Section, and we especially look forward to your participation.



## Ellen S. Kief - Incoming Co-chair



I am looking forward to meeting all of you and joining Lori Yarvis as co-chair of the Solo/Small Firm Section for the upcoming year. My past two years co-chairing the BBA Immigration Law Committee was terrific, as I learned so much and met so many wonderful colleagues. I am thrilled to be back for more.

We are planning educational and entertaining programs for the upcoming year. To keep informed about programs, newsletters, and updates be sure to visit the BBA web site at [www.BBA.org](http://www.BBA.org). Some ways to get involved are by joining us at our monthly programs, attending steering committee meetings, attending CLE programs, writing articles for our Solo/Small Firm newsletters, joining us at our monthly drop-in lunches, and of course volunteering your talent at our new year end talent/comedy evening event.

I look forward to getting to know each of you and finding out how the Solo/Small Firm Section can meet your needs. See you at the BBA! Ellen.

# Special Programs

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## **NEW! Drop - In Meet & Greet Luncheons**

*Open to All BBA Sections*

### *Date & Location*

Second Friday of every month - 12:00 pm

Boston Bar Association - 16 Beacon Street, Boston

The Solo & Small Firm Section welcomes all BBA Sections to join our monthly Meet & Greet Luncheons every second Friday from 12:00 pm - 1:30 pm, starting October 9, 2009. This is an opportunity to meet your fellow bar members while enjoying lunch at the BBA.

## **Free Trust Accounting Training**

*Offered Through The Office Of Bar Counsel, The BBA and the MBA*

Resuming on October 1, 2009 from 8:00 a.m. to 9:00 a.m., and on the first Thursday of each month thereafter, the Office of Bar Counsel, the BBA and the MBA are co- sponsoring a free one-hour program on trust account record keeping. The program will provide guidance for attorneys, paralegals, bookkeepers, or other law office support staff interested in receiving training on the requirements of Mass. R. Prof. C. 1.15, as revised effective July 1, 2004.

This program will provide participants with a detailed review of the records required to be maintained for IOLTA accounts and other trust accounts. Record-keeping “traps for the unwary” will be examined, including:

- How to maintain your IOLTA account check register and individual client ledgers, either manually or using accounting software, in compliance with the rules; how to complete the mandatory “three-way” reconciliation of your IOLTA account and produce the required reconciliation reports; how to document the withdrawal of an earned fee from a trust account, including required notification and accountings to clients
- What transactions are prohibited, including writing checks payable to “cash” and using checks that are not prenumbered

The program is free, but advance registration is required. To register, please call the Office of Bar Counsel at (617) 728-8750 and ask for “trust account program registration.”

Location: Boston Bar Association, 16 Beacon St., Boston MA (subject to change)

Upcoming program dates: 8:00 a.m.—9:00 a.m. on:

- Thursday, October 1, 2009
- Thursday, November 5, 2009
- Thursday, December 3, 2009

# Upcoming Programs & Events

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## **“Get Connected” Using Web 2.0 Sites for Your Professional Law Practice**

Date: September 30, 2009

Time: 4:00 PM - 6:00PM followed by a social networking reception

Place: Boston Bar Association - 16 Beacon Street, Boston

## **Learn How Social Networking is Transforming the Practice of Law**

*Linked-in; Twitter; Blogging; Facebook; RSS feeds*

What exactly is Web 2.0

Value of Using Web 2.0 Content in your Legal Practice

Collecting and Introducing Web 2.0 Content in Evidence

The Future of Online Networking

Ethical Considerations in Using Web 2.0

### *Panel Speakers:*

Robert J. Ambrogi, Esq.  
www.legaline.com

James Bolan, Esq.  
Brecher, Wyner, Simons, Fox & Bolan, LLP  
www.legalpro.com

## **Choosing an Entity/Business Model for your Solo/Small Firm Practice**

Date: October 21, 2009 Brown Bag

Time: 12:30 PM-1:30PM

Place: Boston Bar Association, 16 Beacon Street, Boston

Whether you are hanging out a shingle for the first time, or growing your practice and considering taking on a partner, our speaker, CPA Paul Costantino, managing partner of the accounting firm Costantino Richards Rizzo, LLP, will walk you through the choice of entity analysis, the business models and the practicalities to consider such as budgeting and devising a business plan. The program will include an example business plan with financial templates on CD as well as suggestions on where to obtain forms of agreements such as partnership, operating and shareholder agreements.

## **Are you Doing Business or Working in the U.S., Canada or Globally?**

*Immigration Visa's and Tax Considerations You Should Know About.*

Date: October 29, 2009

Time: 12:00 PM-1:30 PM

Place: Boston Bar Association, 16 Beacon Street, Boston

The continuous flow of goods, services and people between the U.S., Canada and globally requires an understanding of how the government agencies deal with immigration. The panel will discuss how the NAFTA is interpreted by U.S. and Canadian officials in terms of work permit issuance, the definition of a business visitor, and entry requirements for eligible citizens of the U.S. and Canada seeking to enter either country to work. The panel will discuss the impact of increased border enforcement and expanded data sharing capabilities on the flow of people between the U.S, Canada, and globally.

The panel will also explore alternative U.S. immigration law categories. These will include non-immigrants in the H-1B category (professional employee in a specialty occupation), the E-1/E-2 categories (treaty traders and investors), the L-1A/L1B categories (intracompany transferees: executives, managers and employees with specialized knowledge) and the O-1category (persons of extraordinary ability) and F-1 student visa and OPT optional practical training. We will also explore re-entry permits and maintaining lawful permanent resident status. We will review the immigrant (permanent resident) categories based on family and business sponsorship. In addition the panel will discuss provisions of Tax Treaties between Canada, United States and global tax considerations.

Specific topics:

- Visa Options for United States and Canada
- Practical considerations for U.S. employers considering Canada as an alternative location for employing professionals.
- Alternative U.S. immigration law categories such as H-1B, E-1/E-2, L-1A/L1B, and O-1category.
- Immigrant (permanent resident) categories based on family and business sponsorship.
- Recent Business Immigration Updates
- Tax Considerations including Tax Treaties between Countries

*Panelists:*

Ellen S. Kief, Esq.  
Law Office of Ellen S. Kief  
U.S. Immigration Attorney, Boston, MA

Richard Iandoli, Esq.  
Iandoli & Desai, P.C  
U.S. Immigration Attorney, Boston, MA

Joel Guberman  
Guberman, Garson, Bush  
Canadian Immigration Attorney, Toronto  
Ontario

Philippe Tremblay  
FRAGOMEN (Canada) Co., Immigration  
Consultant  
Canadian Immigration Attorney, Toronto  
Ontario

## **Tax Issues for Solos/Small Firms**

November 18, 2009 Brown Bag

Time: 12:30 PM-1:30PM

Place: Morse, Barnes-Brown & Pendleton, P.C.

Reservoir Place, 1601 Trapelo Road, Waltham

Robert M. Finkel, Esq. and Diana Espanola, Esq. of Morse, Barnes-Brown & Pendleton, P.C. will be our guest speakers at our November 18, 2009 Brown Bag Program on “Tax Issues for Solos/Small Firms”. Robert and Diana will focus on tax issues affecting legal practitioners in their day to day law practice management, such as issues relating to employees and temporary worker classification, deductibility of expenses, use of a home office, required recordkeeping, Schedule C filing, estimated tax payments, use taxes and other practical aspects of running a law firm from a tax law perspective.

## **Holiday Networking Reception**

December 2009

# Proposed Upcoming Programs

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*January 2010*

## **An Update on the Massachusetts Data Breach Laws**

Record Keeping, storage, security program and breach notification requirements

*February 2010*

## **CLE: Practice Management and Client Relationships**

Practice management tools: Business and client management computer programs and tools.  
Professional best practices: How to manage client expectations and protect your law practice

*March 2010*

## **How to Increase Productivity and Generate More Revenue**

How to set up an Office Procedures Manual for your practice.

*April 2010*

## **Defensive Marketing, Proactive Marketing, and Changing Markets**

*May 2010*

## **Everything you ever wanted to know about the BBO but were afraid to ask - now is your opportunity!**

A speaker from the BBO will be invited to discuss BBO resources and roles, and will answer questions such as,

“What should you do when clients do not pay your fees?”

*June 2010: NEW THIS YEAR! Call Now and Offer Your Talent!!!*

## **Talent/ Comedy Show Starring our very own Boston Bar Association members.**

We are looking for your talent. Contact Ellen Kief at [ekief@kiefllaw.com](mailto:ekief@kiefllaw.com) should you be interested in sharing your talent at the BBA first ever BBA Talent/Comedy show event!

# Summary of Section Programs 2008-2009

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**“The Paperless Office”**, presented by Robert Plotkin, Esq., Robert Plotkin, P.C. and Van Smick, of Action Coach , September 26, 2009.

In this program, patent attorney Robert Plotkin, and business coach Van Smick discussed specific strategies for implementing a paperless office, as well as the overall framework Robert has used to transform his business. He used these strategies to communicate more efficiently with his high-tech clients, reduce the time it took him to file patent applications, put an end to his growing need for file cabinet space, and increase his profits.

Lesson 1: No law office is completely paperless, but that even making part of your practice paperless has significant benefits once you identify the proper “flows of information” to achieve the highest return on investment.

Lesson 2: You must plan the business process of going paperless, not just buy a scanner. To properly plan the process you must 1) identify each task performed in the process; 2) identify the flow of information in each task; and 3) determine if going paperless makes the task more efficient.

**“Spotting Trouble in Immigration cases: When Should I Call a Professional?”**, Ellen Kief, Esq., Law Offices of Ellen S. Kief and Paul Glickman, Esq., Glickman Turley, LLP, October 2, 2008. Co-sponsor-Immigration Law

Immigration law is an increasingly important consideration for solo and small law firm practice in their client representation. This program focused on immigration consequences of criminal arrests, charges and convictions that can have a profound effect upon a non-citizen’s rights and ability to remain in and return to the United States. The program also covered the obligations of small businesses which need to pay particular consideration to the immigration status of their employees. Immigration and Customs Enforcement (“ICE”) has the ability to audit employer’s immigration forms (I-9) and fine businesses which are out of compliance and in egregious cases seek federal criminal charges. The program also reviewed the various visa options available to non-citizens from visiting the country to seeking permanent status in the United States. Finally, the speakers considered immigration law in aspects of family law involving marriage and divorce.

**“The Secret to Attracting Clients”**, Roger Glovsky, Esq., Indigo Venture Law Offices, November 6, 2008. Co-sponsor-New Lawyers

The first part of a two-part series on marketing, this program focused on how to grow a practice with an emphasis on how to attract clients. Our speaker outlined the critical steps for attracting clients that are right for the firm. He also shared his experiences of growing a practice from scratch, how to generate referral sources, and transitioning from a solo practice to a larger law firm.

Roger discussed his keys for a successful marketing program that starts with a self-evaluation and deciding on how you package yourself. From there, each attorney must:

1. Create a brand which is reflected in your elevator speech, your web-site and business card;
2. Pursue good clients and get rid of bad clients;
3. Publish a clear consistent message of who you are;
4. Test the market for the services offered and how you will market your services;
5. Network broadly, but focus on best sources for ideal client;
6. Make your meetings count. No hard-sell, be helpful, be specific in the value you add for clients; a short meeting is a failure; create 3 points of contact, and FOLLOW-UP;
7. Generate referral sources. Roger created his own networking group.
8. Identify referral sources; track success of each referral source; and set aggressive goals for meeting new referral sources; and
9. Leverage yourself by providing a specialized service that can be easily marketed.

**“Developing Your Personal Brand and Marketing It Professionally”**, Rose Ellen McCaig, Esq., McCaig Law Offices, and Stewart Hirsch, Esq., Strategic Relationships, December 4, 2008. Co-sponsors-Immigration Law, Family Law and New Lawyers.

The second part of the two-part marketing series, the focus of this program was differentiating yourself to build not just a practice but the practice that you will enjoy and at which you will be successful. The speakers discussed adopting a simple yet effective mindset, along with actions you can take that will allow you to network comfortably and naturally, and increase your client base.

**“Outsourcing Legal and Other Services”**, Deborah DosSantos, Esq., Ogletree Deakins, and Amy Drachman, Esq., HR Counsel, January 23, 2009. Co-sponsor-Employment Law

The speakers discussed the laws and rules that guide and constrain a law firm’s outsourcing activities, including the Massachusetts statutory distinctions between independent contractors and employees and the ABA Formal Opinion on Lawyer’s Obligations When Outsourcing. The program included practical information on establishing outsourcing relationships, including suggestions for restructuring the relationship, terms to include in an independent contractor agreement, and pitfalls to avoid when utilizing outsourced services from individual vendors.

**“The New Massachusetts Data Breach Law”** at Morse Barnes-Brown & Pendleton, Eli Morse, Morse Technologies and Michael Cavaretta, Esq., Morse Barnes-Brown & Pendleton, March 12, 2009

The State of Massachusetts recently enacted one of the strictest statutory schemes protecting the personal data of Massachusetts residents. The personal data breach regulations, 201 CMR 17, promulgated by the Office of Consumer Affairs and Business Regulation under MGL Chapter 93H, apply to most businesses, including law firms. In this program, the speakers provided an overview of the regulations and suggested practical protocols for meeting the current January 1, 2010 compliance deadline.

**“Tax Traps for the Unwary”** at the John Adams Courthouse, Morris Robinson, Esq., M. Robinson & Co., May 20, 2009. Co-sponsors-Employment, Tax

In this program, Morris Robinson focused on tax issues that are commonly overlooked by non-tax law practitioners, including tax traps involving limited liability companies, responsible party liabilities for federal and state withheld income, sales and use and meals taxes and the classification of employees versus independent contractors.

**CLE-“Thriving in Challenging Times: A Law Practice Toolbox for Solos and Small Firms”**, June 4, 2009., Speakers: Susan Cohen, Esq. of Peabody & Arnold, LLP; Tamsin Kaplan, Esq., Tamsin Kaplan & Associates, PC, Rodney Dowell, Esq. Mass. LOMAP, Alan Klevan, Esq., Klevan & Klevan, Lori Yarvis, Esq., Schlesinger and Buchbinder, LLP and John Marshall, Esq., Office of Bar Counsel. Co-sponsors-New Lawyers .

Speakers in this program provided practical advice and insight into managing the attorney client relationship while also providing tools to help practitioners get started on the right footing and continue to maintain a healthy and thriving law practice, even in a challenging market. Expert panelists also discussed the ethics issues involved in managing a law practice.

# Massachusetts Data Breach Law Affects Small Business and Law Firms

By Lori Yarvis, Esq.

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A new set of regulations protecting Massachusetts residents from security breaches affecting their personal information will go into effect January 1, 2010. The regulations have been promulgated by the Massachusetts Office of Consumer Affairs and Business Regulation and apply to any business, including solo and small law firm practitioners, which uses “personal information” of a Massachusetts resident. Protected information includes employee records and client records.

“Personal information” includes a Massachusetts resident’s first and last name in combination with any one or more of the following: (i) a social security number, (ii) a driver’s license number or state issued identification card number, and (iii) a credit or debit card or other financial account number regardless of whether a PIN or security code is included.

Many Massachusetts businesses will be required to comply with these regulations which go into effect on January 1, 2010 for general compliance including encryption of laptops and encryption of other portable devices.

Compliance with the regulations will be judged on a case by case basis, taking into consideration the size of the business, the resources available to the business, the amount of data stored by the business, and the need for privacy and security of the client/customer/employee data. The regulations were precipitated by the highly publicized recent thefts of personal

information from customers of several large retail businesses.

If a business to which the regulations apply fails to comply, the Massachusetts Attorney General’s Office (i) may bring an action against the business to enjoin conduct which violates the regulations under the Massachusetts consumer protection laws, (ii) may recover fines payable to the State of Massachusetts for violations of the regulations, and (iii) may recover the costs of any litigation including reasonable attorneys’ fees from the business. The Attorney General’s Office has not yet clarified its role in enforcing the regulations. There is also potential for individual and class action lawsuits and MGL Chapter 93A unfair and deceptive trade practice actions. Failure to comply may also constitute prima facie negligence.

A brief summary of the regulations follows.

In order to comply with the regulations, a business is required to, among other things:

1. Adopt a written policy of privacy and security practices, termed a “written information security program”, for handling personal information of clients/customers/employees.
2. Make all employees aware of the written policy.
3. Monitor the implementation of the

policy through both audit software and manually, and review the policy each year.

4. Make sure that all personal information leaving its premises on laptops, for example, is encrypted.
5. Limit the amount of personal information collected and retained to that reasonably necessary to accomplish its business purposes, limit access to those reasonably required to have it and limit retention to comply with state and federal law.
6. Identify which records, both electronic and paper, and which storage media, including laptops and portable devices, contain personal information, or have its security policy provide that all records are to be handled as if they contain personal information.
7. Place reasonable restrictions on access to physical records containing personal information, and have the written security policy set forth the manner in which physical access is restricted.
8. Store records containing personal information in locked facilities.
9. Document any actions taken in response to an incident involving a security breach and make changes to its policy to protect personal information if necessary.
10. Determine if its computer system complies with the encryption

requirements set forth in the regulations.

It is good practice to make sure that all third parties with whom your company does business are also in compliance with the regulations.

The regulations are available online at the website of the Massachusetts Office of Consumer Affairs and Business Regulation. The website also contains a “Small Business Guide for Formulating a Comprehensive Written Information Security Program”, a section on “Frequently Asked Questions” about the regulations and a compliance checklist.

*Lori Yarvis is a corporate attorney at the Newton law firm Schlesinger and Buchbinder, LLP. Lori concentrates her practice on business transactions, including acquisitions and sales of closely held and family companies, and provides general counsel to businesses. Lori currently serves as co-chair of the Solo and Small Firm Section of the Boston Bar Association. Lori can be reached at 617 965-3500, lyarvis@sab-law.com.*

# Getting Business in Unusual Times

**Stewart Hirsch Esq.**

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Articles abound on this topic. Unfortunately, reading articles doesn't generate business. You do.

Here's two stories: In the past, "Bob" did work for "Wendy", a leader in a real estate development firm who said she'd like to give Bob work again. That was about 9 months ago. Bob hadn't called her since then because he knows real estate is quiet. Or, more accurately, he assumes it's quiet for Wendy's company.

When I coached Bob, we talked about his relationship with Wendy, which was good. He held off on calling her because he didn't want to call to just ask for work. I asked him what Wendy's biggest concern likely was. We talked through some ideas, until he picked the most likely – her job! Everyone is concerned about their jobs. So why not find a way to acknowledge that and show that you care? He called Wendy to say he'd like to visit – that it's been a while and he wanted to see how she is doing. His voice and attitude showed he cared about her, not just himself. She welcomed the call, and their visit is set. And she mentioned she might have work for him. He may or may not get the work, but his chances are higher now than they were before that call.

JoAnn had recently represented a manufacturing facility in getting some permits. Relatively simple work. She asked me for some thoughts on how to increase her work with the company. My advice? Become a trusted advisor to the client – get in touch on the business front, ask how their business is doing, what they're working on, and what their concerns are, whether or not it has anything to do with legal issues. And, most important, care, really care, about the answers. JoAnn did just that,

and learned that the client was thinking about adding a manufacturing line and developing some land. Because she asked, and was interested, the client started asking JoAnn questions. And got her involved on the spot. What did JoAnn do to get this work? Ask questions, and listen to the client. Without an agenda.

So – how do you get business in unusual times? Here's what not to do:

- Don't sit in your office waiting for the phone to ring, or an email to come in.
- Don't count on what many lawyers rely on: "she knows what I do – if she needs something she'll call").

Commerce is continuing; it's slower, but not halted. Reach out and touch someone. Give it a try. And not just one or two people - contact a lot of people. Ask about them, and care about what they say. Offer to help, and then follow through. Genuinely, from your heart. The business will follow.

*Stewart Hirsch, Esq. is an intuitive and strategic coach and trainer who helps lawyers generate business, through one-on-one coaching and workshops. He has led programs for the BBA, MBA and spoken at international conferences. Reach him at 781-784-5280 and s.hirsch@strategicrelationships.com*