

Chapter One

Chapter 1

Business Planning

To be profitable, your law firm needs a business plan like any other business. This is a fluid plan that will change as your clientele increases, technology changes, and you increase the number of services you provide. A business plan consists of several components:

1. Who are your intended clients and how do you provide services they value (unbundled, convenient hours, etc.);
2. Choice of entity;
3. Start-up costs and budget for 1-2 years;
4. Marketing strategy (see Chapter 6);
5. Office procedures (billing, etc.) (see Chapters 2 and 3); and
6. Technology needs (see Chapter 8).

Business planning will not only give you focus, but it will also give you a perspective, timelines, and ability to control your firm's growth.

PROVIDING VALUE THROUGH LEGAL EXPERTISE

Providing value to your clients should be the guiding principle in everything that you do in your law practice. Potential clients are coming to you first and foremost for your legal expertise. Thinking about and determining how you can provide value is the first and most important step in the business planning process.

There are five ways you can offer value to a potential client in virtually any kind of legal matter.

Counsel: The trained and objective advice of a lawyer is increasingly critical today, even though potential clients have growing access to legal information and resources that enable them to do more tasks on their own. Even in relatively simple matters, where potential clients generally have access to information or forms that would allow them to proceed with a lawsuit or enter into a contract, the potential clients often do not have:

- the expertise to understand the precise meaning of certain legal terms or the steps that must be taken to achieve their goals;
- the objectivity to determine whether proceeding on their own is the best option; or
- the confidence that they are pursuing the proper course of action for their individual situation.

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Advocate: A skilled advocate may have even greater value to many potential clients, particularly where the potential client is on unequal footing in terms of power. Examples include:

- a consumer debt case where the creditor has deep pockets and is represented by counsel;
- a divorce case where one spouse has significantly more resources and is represented by counsel;
- a business case where a budding small business is working on an important deal with a much larger company.

Having a trained advocate on the client's side can make a tremendous difference in the outcome of the matter and the client's peace of mind.

Navigator: In most instances, the legal system is still very complex and intimidating to the general public. Brief advice and coaching to help clients navigate the system may provide huge value to a client who is unfamiliar with the system but otherwise is well positioned to adequately handle his or her case.

Information Broker: While this was traditionally a core value that lawyers provided to their clients, many consumers today expect to find answers to many of their questions on the internet. Therefore, a great way to build trust and loyalty with potential clients is by knowing where they can get free and reliable information and resources, such as the court websites, and making this information freely available. (Jay Baer, *Youility: Why Smart Marketing is about Help not Hype* (N.Y.: Penguin, 2013).) Providing potential clients with this information means that you can focus your time on more significant and income-generating services.

Connector: A client may need services in addition to the legal assistance you provide in order to fully resolve his or her problem. For example:

- where a domestic violence victim seeking an order of protection also needs non-legal counseling; and
- where a small business client also needs a valuation consultant.

By identifying these needs and acting as a connector, you are offering value to the client.

CREATE AND TEST ASSUMPTIONS ABOUT WHAT CLIENTS VALUE • INCORPORATE CLIENT VALUE INTO BUSINESS STRATEGY

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Throughout this toolkit, we will go into greater detail about three popular and effective approaches to incorporating client value into your business strategy. These approaches are:

- incorporating limited scope representation, Chapter 5: Unbundling/Limited Scope Representation;
- alternative fee arrangements, Chapter 3: Pricing, Fee Structures, Billing and Collection;
- virtual law practice components, Chapter 7: Brick and Mortar or Virtual and Chapter 8: Technology.

Once you are familiar with these three concepts, you need to determine what clients in your target market value and what corresponding value you can offer them. The best way to do this is to create assumptions about what those clients value and test those assumptions:

Example 1: Based on the market research you have conducted and what you know, your assumption is that moderate income clients in your target market value convenience. Specifically, they value being able to access your legal services outside regular business hours (9:00 a.m. to 5:00 p.m.). To test this assumption, you advertise on your website and to your networks that your office will be open on Saturday mornings. What happens? Do clients take advantage of the Saturday morning hours? If they do, why did they? If they do not, why didn't they? Maybe your assumption is correct. Maybe it is incorrect. Maybe it is actually partially correct, but you need to adjust it because potential client feedback indicates Saturday afternoons are actually more convenient for clients than Saturday mornings. The point is to ask specific questions in order to properly evaluate the results. A second way to test this assumption would be by developing an online client portal and then asking clients the same questions regarding it.

Example 2: Based on the market research you conducted and what you know, your assumption is that moderate income clients in your target market value having choices with respect to legal service offerings. To test this assumption, you advertise on your website and to your networks that you offer alternative fee arrangements (*e.g.*, fixed fees by phase, task, or case or contingency fees). See Chapter 3: Pricing, Fee Structures, Billing and Collection. When talking with clients about your various fee arrangements, what do they choose? Why? Did they know that you offered alternative fee arrangements before they came to you? Which fee arrangements do they like the best and why?

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Example 3: Based on the market research you conducted and what you know, your assumption is that moderate income clients in your target market will pay \$800 for an uncontested divorce. To test this assumption, you advertise on your website and to your networks that you will charge \$800 for an uncontested divorce. Do any clients take you up on your offer? If not, your price might be too high and you may need to lower it and retest this assumption with a new price. You may also need to adjust your marketing strategy or simply ask people in person for purposes of this exercise so you can get to the heart of the matter.

It is advisable to continue to test assumptions, evaluate client feedback, and adjust your business strategy accordingly so you can grow your practice going forward.

Today's lawyers also need to consider incorporating process improvement into their practices in order to work more efficiently and bring down the cost of legal services. A great way to achieve this goal is by incorporating the core principles of Lean and Six Sigma process improvement with project management and tailored technologies into your practice. For more information, see www.bluevault.com/2015/10/07/law-firms-look-to-lean-and-six-sigma-for-guidance and the Appendix to this chapter.

PREPARE A BUSINESS PLAN

After considering how you can provide value to clients, the next step is to develop a basic business strategy, plan, and budget to help guide you through the rest of the startup process.

Why Should I Have a Business Plan?

Dwight D. Eisenhower once said, "[I]n preparing for battle I have always found that plans are useless, but planning is indispensable." The same can be said about business planning for start-ups, including law practices. While your initial business plan will likely not get you all the way through the start-up phase, going through the process of creating a business plan is still essential because it forces you to give at least some initial thought to your strategy for launching, maintaining, and growing your firm.

Additionally, writing a business plan forces you to think about the business aspects of a legal practice. If you are considering borrowing money from an investor or a bank, you will need to provide a business plan in order to be extended a line of credit.

Elements of a Business Plan

Initial business plans should contain the following sections:

- **Executive Summary.** Summarizes what the firm does. Why does your law practice exist and what are you looking to achieve?
- **Strategy.** What value are you going to offer to clients in your target market, and how are you going to market and monetize that value? Where do you want your firm to be in one, five, and ten years? See the section above for information about client value.
- **Attorney Overview.** Who will be practicing in this firm? Include lawyer biographies.
- **Financial Plan.** What expenses are associated with operating your practice and what are expected revenue projections? See the section below for more information on writing a thorough budget.
- **Marketing Strategies.** What is your marketing plan? See Chapter 6: Marketing and Business Development for more detailed information.
- **Metrics and Milestones.** How are you going to measure and evaluate your law practice performance? What are your short- and long-term goals for your law practice?

See the Appendix to this chapter for helpful resources.

TIPS

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| 1. Continually think about and evaluate how you can provide value to your clients. | 5. Consider a business contingency plan for the event of disaster or tragic loss. |
| 2. Create a business plan. | 6. Consider marketing strategies, including building a website and creating business cards. See Chapter 6: Marketing & Business Development. |
| 3. Prepare a budget, paying close attention to expenses and revenue projections. This sample budget allows you to insert projections and manipulate the budget to achieve desired goals. | 7. Research malpractice insurance coverage and providers. See Chapter 10: Legal Malpractice Insurance. |
| 4. Determine what form of organization your practice will be. | |

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Calculating your business expenses and revenue target is extremely important in creating a viable business plan. You will need to consider:

- How much it costs to run your business;
- How much money you need to live on; and
- How much money you ultimately want to make beyond that.

Identify and Calculate Your Monthly Business Expenses

Your business expenses include all costs and expenses associated with running your firm, including office expenses, insurance, software and other technology expenses, marketing and other professional expenses, taxes, staffing, and general administration and overhead costs.

**Identify and Calculate Your Personal Living Expenses/
Minimum Annual Salary**

For purposes of this toolkit, your annual personal living expenses include all expenses that are necessary to maintain health, safety, well-being, and the ability to earn money. Examples may include costs associated with housing, utilities, food, clothing, transportation, and various types of insurance, such as health, disability, and automobile. Once you have calculated your annual personal living expenses, add the income taxes that would be paid on your annual personal living expenses in order to calculate your minimum annual salary.

**Determine Your Desired Annual Salary and
Revenue Targets**

Your desired annual salary will take into account your annual personal living expenses and the additional disposable income you want to spend and save each month (*e.g.*, for recreational activities, saving for vacations, saving for retirement, and so on), remembering to also take into account income taxes. Obviously, your desired annual salary needs to be realistic for the state of your practice. If you have just started your firm, your desired salary realistically may be just above what it takes to cover your expenses, while at later stages it should be more realistic to aim higher.

By understanding your costs and identifying realistic income goals, you can determine how much per month or per week you need to average in order to meet your goals. So, for example, if your business and living costs together add up to \$40,000 per year and you hope to make at least \$10,000 beyond that, your revenue target should be to average \$1,000 per week to achieve your goal (assuming you take off for holidays and some vacation time).

Looking at your expenses and goals in this fashion frees you from looking at things through the hourly lens, informs your pricing strategies, and helps you evaluate how you are doing. Instead of focusing on how much you should charge a client for each hour, you can focus on what mix of paid services you need to average each week/month/year to meet your revenue goals.

When creating your initial budget, you might find it useful to use a budget spreadsheet similar to the Moderate Income Client Practice Budget. See the Appendix to this chapter for helpful resources. For a budget template, go to Forms2Share on the Law Practice Management page at www.cobar.org.

CHOICE OF ENTITY

Importantly, if you want to practice in a business organization, you must determine what form of organization your firm will be. There are many different forms that can be used to practice law in Colorado, including:

- *Sole Proprietorship*. One person owns and operates the business and it does not require filing of any paperwork to create.
- *General Partnership*. A general partnership exists when two or more persons operate a business together. Absent an agreement, a partnership is the default under the rules. No filings or paperwork are required to form.
- *Limited Liability Partnership*. This is a general partnership that has been registered with the Secretary of State. The differences between a general partnership and limited liability partnership lie in the assignment of liability to each partner.
- *Limited Liability Company*. This is an unincorporated business organization that is formed by filing Articles of Organization with the Secretary of State. See C.R.S. §§ 7-80-101 et seq.
- *Professional Corporation*. This is a separate legal entity that is created upon the filing of Articles of Incorporation with the Secretary of State. See Colorado Business Corporation Act, C.R.S. § 7-101-101.

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It is important to note that the Colorado Rules of Professional Conduct apply to all attorneys licensed to practice in Colorado regardless of the form of business entity through which they are practicing. As such, although attorneys are allowed to practice through limited liability entities, no attorney can escape malpractice liability. Notably, law firms cannot be owned by non-lawyers as the practice of law cannot be influenced by non-legal business partners. Colo. RPC 5.4.

For more detailed information about the pros and cons of each entity, please see *Lawyers' Professional Liability in Colorado*, which is available through Colorado Bar Association CLE, <http://cle.cobar.org>.

BASIC LAW PRACTICE CHECKLIST

At this point, you have considered what value you can offer your clients, incorporated that value into a business strategy, and drafted a business plan that includes a budget. Now it is time to consider what things you need to open your doors.

A basic law practice should have:

- A law firm name, phone number, and email address;
- A basic website (so that potential clients can find you) with appropriate disclaimers;
- Basic letterhead and business cards;
- Selected a business entity and filed the necessary paperwork with the Colorado Secretary of State's Office;
- Malpractice insurance;
- A space where you can meet with clients (see www.cobar.org/about-the-cba/cba-membership/stratum);
- A system for checking conflicts (see *Creating Conflicts of Interest Procedures to Protect You and Your Firm from Malpractice*, by Sandra J. Roberts (2013) (CBA members can check this book out for no cost through the CBA Lending Library);
- Business operating and client trust accounts;
- Basic billing and bookkeeping systems;
- A basic budget that includes your business expenses and minimum salary;
- Assigned initial pricing to your legal services;
- A basic business contingency plan in place (see the Colorado Supreme Court Office of Attorney Regulation Counsel's "Planning Ahead: A Guide to Protecting your Client's Interests in the Even of your Disability or Death (One of Which is Inevitable)," www.coloradosupremecourt.com/pdf/regulation/closing_practice.pdf);
- Access to legal research (see Casemaker for CBA members at www.cobar.org); and
- Basic technology security, file retention, and backup systems in place (see www.cobar.org/lpm).

APPENDIX

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Colorado Bar Association Resources

CLE

- “Hanging Your Shingle: Hardware, Software, and Anywhere You Want to Go,” CLE held in 2015, <http://cle.cobar.org/homestudies>

Law Practice Management

- As a service to its members, the CBA Department of Law Practice Management provides information and resources on a variety of law practice management issues, including templates on Forms2Share, a collection of materials in the Lending Library, Tech Tuesday Webinars, and monthly newsletters.
- *The Lawyer’s Guide to Creating a Business Plan*, 6th Ed. (Software, 2014), available to CBA members to check out at no cost through the Lending Library

The Colorado Lawyer

- “E-mail Security: The Scary Truth for Lawyers and What to Do About It,” Rob Kilgore & David Willson (May 2015)

Colorado Supreme Court, Office of Attorney Regulation

- Proactive Management-Based Program: OARC Subcommittee-developed self-evaluation tool so law firms can evaluate the firm’s ethical infrastructure and proactively address common risks.

Articles

Billing & Bookkeeping

- *The Small-Firm Guidebook to Accounting Systems: Finding the Fit that’s Just Right for You*, Steve Feters and Christopher T. Anderson, LexisNexis® Law Firm Practice Management Products (2014)
- “How to Choose Billing and Accounting Software for Your Law Firm,” Loretta Ruppert, Blog Post on LegalEase.com (Jan. 11, 2012)
- “Five Pitfalls of Legal Accounting,” Rick Kabra, *Law Practice Today* (Feb. 12, 2016)
- See Chapter 3: Pricing, Fee Structures, Billing and Collection for billing resources

**Chapter
1****Developing a Budget**

- “Budget Essentials for Law Firm Business Development,” Deborah C. Scaringi, *Legal Marketing Reader* (Oct. 2010)
- “Budgeting is the Key to Effective Alternative Billing,” Ed Poll, *LawBiz* (Oct. 2012)
- “Financing a Law Practice,” Laura A. Calloway and David J. Bilinsky, *GP Solo* (July/Aug. 2011)
- “Increasing Profit by Decreasing Costs,” K. William Gibson, *Law Practice Magazine* (July/Aug. 2012)

Borrowing Money

- U.S. Small Business Administration, www.sba.gov/content/borrowing-money

Building a Basic Website

- “Why a Mobile-Friendly Law Firm Website is Essential,” Austen Loft, Blog Post on SoloInColo.com (Nov. 4, 2015)
- “How to Select a Domain Name for Your Law Firm,” Andrew Cabasso, Blog Post on Lawyerist.com (Feb. 12, 2015)

Business Continuity, Contingency, and Succession Planning

- *The Contingency Planning Guide for Lawyers*, The Law Society of Upper Canada (Oct. 2014)
- *Surviving a Disaster: A Lawyer’s Guide to Disaster Planning*, ABA Special Committee on Disaster Response and Preparedness (Aug. 2011)
- “The 7 Deadly Sins of Succession Planning,” Peter A. Giuliani, *Law Practice Magazine* (Nov./Dec. 2015)

Client Empathy

- “Embrace the Empathy Piece,” Jayne Reardon, Blog Post on 2Civility.org (Oct. 14, 2014)
- “How Can Empathy Help You Differentiate Your Law Firm?,” Ilina Rejeva, Blog Post on LegalTrek.com (Sept. 28, 2014)
- “Emotional Intelligence, Lawyers, and Empathy — Using the Power of Listening with Care to Build Better Professional Relationships and Satisfy Clients,” Dan DeFoe, Blog Post on psycholawlogy.com (Nov. 25, 2012)
- “Lawyers: Gatekeepers for Psychological Issues,” Janice Mucalov, Canadian Bar Association Website (date unknown)
- “Empathy the Missing Ingredient in Poor Client Relations,” Ed Poll, Blog Post on Lawbiz.com (Aug. 8, 2013)

Choosing a Business Entity

- “Choosing a Business Structure for Your Law Firm,” author unknown, Blog Post on FindLaw.com (date unknown)
- “What Business Form to Use for your Law Firm,” Ian E. Scott, Blog Post on TheStudentAppeal.com (date unknown)
- “How to Select a Law Firm Business Entity,” Megan Zavieh, Blog Post on Lawyerist.com (Feb. 23, 2015)
- *ALPS Getting Started Solo Manual*, www.alpsnet.com/gettingstartedsolo/

Choosing a Law Firm Name

- “Selecting a Name for Your New Law Firm,” Matthew Hickey, Blog Post on Rocket Lawyer.com (April 18, 2012)
- “Small Firms, Big Lawyers: Small Firms with Big Names,” Jay Shepherd, Blog post on AboveTheLaw.com (July 27, 2011)
- “Choosing Your Company’s Name: Corporate Names Versus Trademarks,” Sonia Lakhany, Blog Post on MyShingle.com (June 27, 2014)

Client-Centric Law Firms

- “Why Your Firm Should Be Designed With Your Client In Mind,” LegalPracticePro.com (Aug. 27, 2015)
- CLP Speakers Series: “Transforming the Delivery of Legal Services in Canada: Findings of the Canadian Bar Association’s Legal Futures Initiative,” with Fred Headon, Assistant General Counsel, Labour and Employment, at Montreal-based Air Canada and Chair of the CBA’s Legal Futures Initiative (published March 13, 2015)
- “Creating a Client-Centric Practice,” Ed Finkel, *Illinois Bar Journal* (Nov. 2015)
- “For 2016, Should You Expand Your Practice to . . . Walmart?,” Casey C. Sullivan, Blog Post on Findlaw.com (Dec. 22, 2015)
- “The Client-Centered Law Practice (Part 1 of 2),” Jim Calloway, *Oklahoma Bar Journal* (Jan. 17, 2004)
- “The Client-Centered Law Practice (Part 2 of 2),” Jim Calloway, *Oklahoma Bar Journal* (Feb. 14, 2004)
- *Youtility: Why Smart Marketing is about Help Not Hype*, Jay Baer

Creating a Business Plan

- “Lean Startups Need Business Plans, Too,” Tim Berry, Blog Post on Entrepreneur.com (July 10, 2012)
- “Write a Winning Business Plan With These 8 Key Elements,” David Ciccarelli, Blog Post on Entrepreneur.com (June 23, 2014)
- “Creating a Business Plan for Starting a Law Firm,” Paul M. Floyd, Materials from a Minnesota Lawyers Mutual Webcast (April 26, 2012)
- “Are YOU Ready to Fly Solo?,” Ed Poll, *Law Practice Today* (March 2011)

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- “Future Perfect: Staged Business Planning for Law Firms,” Jared Correra, Blog Post on AttorneyAtWork.com (March 5, 2015)
- “Law Firm Recruits Lawyers to Provide a la Carte Divorce Services in Cafe Setting,” Debra Cassens Weiss, *ABA Journal News* (Nov. 2012)
- “Key Points to Consider When Borrowing Money,” U.S. Small Business Administration, *FindLaw* (March 2008)
- “Building a Great Business Plan for Your New Law Practice,” Freya Allen Shoffner of Shoffner & Associates, Boston, MA, *Massachusetts Bar Association LOMAP*
- “Six Tips to Take Charge of Your Own Economy,” Cynthia Sharp, *GP Solo* (Jan./Feb. 2013)

eLawyering

- eLawyering Blog, published by Richard S. Granat

Incorporating Lean Six Sigma & Agile Principles into Your Law Practice

- #LegalLean at MaRS: Ken Grady – “The Seyfarth Lean Journey”: In this talk, Ken highlights the amazing transformation and evolution of the Seyfarth Lean program: a value-driven client service model that combines the core principles of Lean Six Sigma with process improvement, project management, and tailored technology solutions. For almost ten years, SeyfarthLean has been unique to the legal profession and a contemporary approach to providing, delivering, and managing client and legal services.
- *The Lean Startup*, Eric Reis, New York: Crown Business, 2011. Print.
- “Lean Operation for a Client-Centric Practice,” Paul Spitz, *Law Technology Today* (April 16, 2014)
- “Five Tips for Running a Lean Law Practice,” Asaf Cidon, blog post on attorneyatwork.com (March 24, 2015)
- “The Dawn of the Agile Attorney,” John E. Grant, *Law Practice Today* (Feb. 13, 2015)
- “Practice Lean! Implementing Technology-Driven Lean Six Sigma in a Law Firm,” Frank Urbanic, http://works.bepress.com/frank_urbanic/1/ (Nov. 2014)
- “An Introduction to Lean Six Sigma as Applied to Law Firms,” Lisa Glanakos, *Practice Innovation Newsletter*, Thomson Reuters (Oct. 2014)
- “Insiders’ Views: How Lawyers Can Benefit from Lean Six Sigma,” Interview with Jason Moyse & Aron Solomon, *LegalTrek.com* (April 2015)
- The Agile Attorney Blog – Follow it for tips on incorporating agile technology into your law firm
- “Using Informatics to Drive Process Improvement,” Nicholas Gaffney, *Law Practice Today* (Nov. 13, 2015)
- “Imagineering the Future of Law,” Bob Young, *Law Practice Magazine* (Nov./Dec. 2015)

Law Practice Management & Technology — Starting a Practice

- “The Pocket Guide to Launching Your Law Firm,” Roy Ginsburg, Edward Poll, Stacey E. Burke, & Nicole Black, *MyCase*, Podcast Part 1 (Jan. 2016)
- “Launching Your Law Firm: The Necessities,” Stacey E. Burke, *MyCase Pocket Guide to Launching Your Law Firm* (Jan. 2016)
- “Start a Law Firm Guide,” www.myshingle.com

Running a Law Firm

- Opening a Small Firm — How to Survive the First Three Years, Branigan Robertson, DBA-YLD Blog Post (Nov. 2, 2015)

Selecting Office Space – See Chapter 7: Brick and Mortar or Virtual for more information.

- “Tips for Choosing Virtual Office Space,” Carolyn Elefant, Blog Post on MyShingle.com (Feb. 18, 2014)
- “Why Do Small Law Firms and Solo Attorneys Choose Shared Office Space?,” Stephen Perih, Blog Post on LawFirmSuites.com (Feb. 11, 2014)
- “Home Is Where the Office Is: Ethical Implications of the Virtual Office,” Seth L. Laver, Blog Post on ABA Section of Litigation Webpage (March 27, 2014)
- “10 Questions to Ask Yourself Before Choosing an Office Space,” Lisa Girard, Blog Post on Entrepreneur.com (March 19, 2013)
- “Five Things to Look for in Shared Office Space,” Ron Bockstahler, Blog Post on AttorneyAtWork.com (Oct. 7, 2015)

Setting Up Business Operating & Client Trust Accounts – See Chapter 3: Pricing, Fee Structures, Billing and Collection for more information

- “ILOTAs and Client Trust Accounts,” Carole J. Buckner, *GP solo* (July/Aug. 2011)
- Colorado Lawyer Trust Account Foundation, www.coltaf.org
- “Business Bank Accounts: 6 Mistakes Small Businesses Make,” Sarita Harbour, Blog Post on BusinessNewsDaily.com (April 22, 2014)

Technology Security & Backup – See Chapter 8: Technology for more information

- *ABA Legal Technology Buyer’s Guide*, <http://buyersguide.americanbar.org>
- “Computer Security: It’s Scary Out There!,” Vivian Manning, Blog Post on Attorney AtWork.com (Nov. 12, 2013)
- “Back That Cache Up: Data Redundancy Is Essential for Law,” Jared Correia, Blog Post on AttorneyAtWork.com (March 18, 2014)

**Chapter
1****Authorities****Colorado Rules of Professional Conduct**

- Colo. RPC Rule 1.0 through Rule 9.0, www.cobar.org/rulesofprofessionalconduct

Colorado Ethics Opinions

- Formal Ethics Opinions issued by the CBA Ethics Committee and Continuing Legal Education in Colorado, Inc., www.cobar.org/ethicsopinions

American Bar Association Ethics Opinions

- Ethics Opinions, www.americanbar.org/groups/professional_responsibility/publications/ethicsopinions.html