2012 Annual Convention

How to Make a Living Practicing Poverty Law Issues

Access to Justice Committee

3.0 General CLE Hours

May 2-4, 2012 ♦ Cincinnati
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Mr. King received his BCS from Ohio University and his JD from The Ohio State University Michael E. Moritz College of Law. His professional memberships include the Ohio State Bar Association (Access to Justice Committee; Health Law Committee), Ohio Department of Job and Family Services (Medical Care Advisory Committee), Ohio Best Rx Commission, Medicaid Eligibility Policy Advisory Committee, and the Disability Medical Assistance Advisory Council. Mr. King has worked on health law issues in Ohio for over 25 years and is an experienced manager and trainer. He became the director of his firm in 2009 and manages the firm’s work in policy advocacy, litigation support, training, task forces, publications, and specialty assistance and consulting. Mr. King chairs several statewide legal aid task forces, as well as the Committee on Regional Training, a three-state legal aid training consortium. He has written, consulted, and trained extensively on Medicaid, Medicare, managed care, alternative payment sources, access to health care, and law office management. Mr. King coauthored an article in the Journal of Public Health Policy, “Lessons for the Health Care Industry from America’s Experience with Public Utilities” and a study analyzing Ohio’s Medicaid Managed Care Program, “Making the Consumer’s Voice Heard in Medicaid Managed Care: Increasing Participation, Protection, and Satisfaction.” He has also written about staff training, professional development, and legal services management. Mr. King was the 2005-2006 recipient of The Ohio State University Michael E. Moritz Alumni Society Public Service Award. For additional information, please visit www.ohiopovertylawcenter.org.

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Ms. Pecquet received her BA from California State University, Long Beach and her JD from Southwestern University School of Law. Her professional memberships include the Cincinnati Bar Association (Elder Law Committee), Ohio State Bar Association (Recording Secretary, Elder and Special Needs Law Committee), National Academy of Elder Law Attorneys, and
Association of Professionals in Aging (President-Elect). Ms. Pecquet is a partner with her firm and practices in the area of elder law, primarily planning for Medicaid eligibility for individuals who are institutionalized in a nursing facility or assisted living facility or living at home, seeking home- and community-based care. This includes preparing advanced directives and documents that enhance the individual’s independence, developing Medicaid eligibility plans, filing Medicaid applications, meeting with the Medicaid Department and appealing decisions, if necessary, and developing a plan for the family. She also advises individuals and parents of children with special needs on estate planning and special needs trusts. Ms. Pecquet has represented hundreds of consumers before the Medicaid Agency. She is also an accredited attorney for the preparation, presentation, and prosecution of claims for veteran’s benefits before the Department of Veterans Affairs. Ms. Pecquet is the author of multiple publications on the subject of elder law. She is a frequent speaker on elder law matters and participates in various community organizations involved in providing services to consumers who are aged and have special needs. For additional information, please visit www.beckman-weil.com.

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Ms. Marx received her BA from The University of Toledo and her JD from The Ohio State University Michael E. Moritz College of Law. She is the President of the Ohio State Bar Association (Board of Governors; Chair, Audit Committee; Vice Chair, Budget and Headquarters Committee; Special Committee on Gender (Chair, Law School Subcommittee)), a member of the Ohio State Bar Foundation (Board Member), Ohio Bar Liability Insurance Company (Board Member), Fairfield County Bar Association, Dayton Bar Association, Columbus Bar Association, Toledo Bar Association, Ohio Women’s Bar Association, and a volunteer for the Fairfield County Pro Bono Legal Clinic. Ms. Marx is a solo practitioner in Lancaster, where she has practiced for the past 20 years. She concentrates her practice in the areas of workers’ compensation, Social Security disability, estate planning, probate, personal injury/automobile accident representation, and business formation and planning. Ms. Marx is of counsel with the Columbus law firm Barkan & Barkan Co., LPA and was formerly a CPA/tax consultant in Columbus for several years after law school. She was a member of the original Steering Committee of the OSBA/Supreme Court of Ohio Joint Task Force on Gender Fairness. Ms. Marx is not only passionate about serving her profession, she also actively serves her community through her participation in numerous community programs, including serving as a member of the Board of Trustees of the Fairfield Medical Center and as a Member of the Board of several other community boards, including Meals on Wheels of Fairfield County. For additional information, please visit www.carolmarxlaw.com.
How to Make a Living Practicing Poverty Law Issues
Session # 804

How to Make a Living Practicing Poverty Law Issues: “If You Build It, They Will Come”
Janet E. Pecquet

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How to Make a Living Practicing Poverty Law Issues: “If You Build It, They Will Come”

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Getting Started—Decide what you want to do. Do you want to practice in the private sector, and if so, what does this mean? Who else, if anyone, practices your area of the law in your geographic area? If you can, talk to them to find out about the market.

Do you want to work in a firm, and if so, what size—large, medium, small? Do you have a firm in mind? Talk to other lawyers and find out about the firms in your areas. Some firms are wholly devoted to particular areas, such as insurance defense, while others are more general.

How much do you need/want to earn? What do you have to do (hours, investment) to get there?

The firm I joined in 1993, Beckman Weil Shepardson LLC, had never heard of elder law. We now (13 years later) have three attorneys practicing elder law and a geriatric licensed social worker assisting us. I started by mailing a letter to all of the nursing homes in the surrounding five counties, and enclosed an outline they could distribute to their residents and families. I gave consumer seminars and seminars to professionals. Word of mouth helped to spread the business.

Know Your Market—Who are your clients? If you want to practice in the area of Elder Law and Benefits Preservation, your clients are older adults, children of aging parents, parents with children who have special needs, and disabled adults who receive benefits—Medicaid, Medicare, Food Stamps, SSI, Social Security Disability Insurance Benefits, and housing assistance. Another source of clients is personal injury attorneys settling medical malpractice cases. Attorneys, financial planners, CPAs, physicians, geriatric care managers, nursing facility staff, hospital discharge planners—these are all referral sources.

Families who have children with disabilities are thrilled to find a lawyer who understands the system, and are willing to pay fees for the advice and navigation. We are on the Children’s Hospital referral list for estate planning for parents with

* Since I practice elder law and public benefits preservation, this material focuses on developing a practice in this area.
special needs children. We are also on referral lists at the Hamilton County Developmental Disabilities, Alzheimer’s Association, several individual nursing facilities, The Drake Center (trauma care), some hospital discharge offices, and the Medicaid caseworkers.

**Develop a Business Plan**—Once you have decided what to do and who your market is, develop a business plan. Elder Law is a high volume practice. You have to figure out a way to get the volume in the door. Ways to do this are:

- Give CLEs to lawyers and other professionals
- Send a letter to your target audience—in my case, I sent a letter to all the area nursing facilities letting them know I was with this firm and ready to see clients
- Give community seminars. For example, our local chapter of the Alzheimer’s Association presents a Caregiver Series four times a year, and brings in professionals to speak on various topics. We usually speak at one of the sessions. A local funeral home association also has a community educational series and we present on topics of interest to their clients.
- Volunteer with target organizations—get on Boards and volunteer to work at various events. The Association for Professionals in Aging is a local not-for-profit organization of professionals in all areas of geriatric care—nursing home, home care, geriatric care management, lawyers, financial planners, etc., and this organization provides great exposure to professionals in the field. If no such organization exists in your area, create one.
- Sponsor events
- Look for support groups and offer to speak at meetings.
- Become the expert in your area
- Be an advocate for your clients—take on projects that benefit your clients in the broad spectrum
- Form a discussion group of attorneys who practice in your area to keep up with the latest changes.
- Send a newsletter or other informational material to your clients and to the providers of your clients

**Involve Yourself in Your Bar Association**—Bar association involvement lets you meet local attorneys who practice in your area and who could be a source of referrals. Form your own practice group, and if there is no committee in your practice area, create one. We probably get 30 percent of our clients as a result of referrals from other attorneys.
Become the Expert—Become the person others look to for the correct answer. Give of your time, within reason, to answer questions on the phone. Be generous and willing to help others develop their practice, and be a mentor if requested. I generally will talk to someone for 15 minutes before I tell them they need to schedule an appointment, and attorneys and financial planners often call about their clients with questions.

Your Local Legal Services Organization—Don’t forget where you came from and generously take volunteer cases, if needed. Co-counsel with your local legal services organization and involve them in your advocacy efforts.

Our Motto—Personal attention is the hallmark of our firm. Our goal is to call people back within 24 hours, and we believe we are attentive to our clients’ needs. We have also found that if you involve the client in one or two other attorneys from your firm, the client tends to come back with other work. We have special events for clients, and try to take care of them the way we would want to be taken care of.

Expand Your Practice Area—In my prior life as a legal services/Title III attorney, many of the cases I handled were state hearings in which Medicaid had already been denied. Now, we handle applications, and very rarely an appeal. County caseworkers are a referral source and relationships that we respect. We also handle annual reapplications for eligibility.

Also, as spin off cases, we have been involved in other cases: probate—estate administration, uncontested and contested guardianships, and elections against the will in probate court, breach of fiduciary duty cases (to set aside gifts or to defend gifts by an attorney-in-fact), long term care insurance breach of contract cases (one class action), life insurance breach of contract actions, private disability benefit insurance appeals, trust reformations, estate planning, special needs planning and trusts, and others. There is room to expand, particularly in the special needs area (and individual education plans for children).