

Volume 2, Number 4 • September 2004

There is no such thing in anyone's life as an unimportant day.

-Alexander Woollcott

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The Gentleman Warrior Lawyer: Earl Anderson

by William G. Schwab

He is 83 years young. He is a warrior. He is a battle-tested aviator. He is a general. He is a patriot. He is a leader. He is a lawyer. He is a gentleman.

This article normally profiles a young successful lawyer, but in this issue we are taking the time to look at the life and successful career of the General Practice Section Lifetime Achievement Award Recipient General Earl Anderson.

When I first met General Anderson, I didn't know anything about him, other than that folks called him General, and his bearing initially intimidated me. As a former enlisted man, officers were to be avoided. I didn't know if it was an honorary designation like auctioneers who call themselves colonels or what. His bearing was one of a person in charge. He was resolute. From the first time I met him, he was outspoken in his idealism for the legal profession.

As years have gone by, my initial thought of being intimidated gave way to finding a man who was gregarious, friendly, encouraging, and never at a loss for words. No one spoke about his achievements, and his modesty prevented him from doing so.

About a year or so after I met him, someone told me he had been a three-star general in the Marine Corps. No other lawyer has ever achieved that rank. Perhaps it is how he got there that should be an inspiration for lawyers young and old.

World War Two was waging in the South Pacific and a young officer was aboard the USS Yorktown during the Battle of Midway. The ship would go down to the enemy attack, and the young man would end up in the waters of the Pacific for hours until rescued. Earning a Bronze Star for bravery, he went on to become a Marine aviator and instructor during World War II. He continued flying through the Korean War and the Vietnam War, where he piloted 40 combat missions. He then continued to serve his country until his retirement from the military.

Somewhere during all this, he raised a family and went to George Washington University Law School, graduating at the top of his class. Upon retirement, General Anderson started yet another career as a private citizen lawyer. He practices. He reads. When a newsletter that I was editor of didn't arrive, I heard from him that he missed it. He critiques what he reads—tells you what he likes. Leader of men. Encouraging lawyers to be better. Encouraging me to be a better editor.

He is the epitome of what all lawyers should strive to become. We talk about civility in the profession, but here is a man who has lived it.

-William G. Schwab, GPSolo New Lawyer Editor schwab@uslawcenter.com





How to Furnish Your Office

By William G. Schwab

You are starting or expanding your office. You need to furnish it.

My advice is to hire an consultant, but don't assume they will do it all. Remember, this is your practice, not theirs, so you will suffer for any mistakes. A consultant should be able to give suggestions. (For a horror story about how things can go wrong, read my column, Old Man's Words of Wisdom, in this issue.) Coordinate colors and styles.

First, make a list of how you operate or intend to operate. Determine what is unique about your office. In my office all of the lawyers stand to review finished work, which is placed on top of three fixed drawer file cabinets near the secretaries. We wanted small tables to enable collaboration between secretaries and lawyers when going over work. That is how we like to work, and it is efficient for us. Because of the nature of our practice, true file cabinet drawers break due to the weight of our shelves. We want fixed shelf lateral files. If this is how you operate, tell people three drawer files with fixed drawers are a requirement. If you have a vision of your library with 6- or 7-foot shelves, so you don't need any wall decorations about

the shelving, say so. Make a list of how you operate and what is important. The consultant should plan to meet your needs—not what he thinks your needs are. Think of where you will do filing, have the postage supplies, review work, assemble that big project, and so forth.

When you meet with our consultant, ask for a resume and references for similar projects. Tell him or her exactly how you operate and what you want. Put it in writing. Ask for suggestions, but don't just accept their statements as gospel. Ask yourself 'Is this how we want to practice law?"

Check and double-check the statement or invoice. Don't make a mistake like I recently made, where I thought I was getting 6-foot shelves for my library and instead 60-inch shelves were actually ordered. I didn't catch it, and now we have to decorate the wall area above the shelves, which is an unexpected added expense. If you know about what you want, show the consultant what it is from other vendor's catalog. Make copies of what you give the consultant.

With my file cabinets, we specified fixed file shelves, but we couldn't tell from the invoices they weren't correct until they were delivered. That caused an office disruption as furniture came and went to correct the mistake. 'Satisfaction guaranteed" is fine as a statement, but if your office is disrupted for three or four months, there is no amount of satisfaction guaranteed that can overcome the loss of productivity or income. Remember as a general rule of thumb that the time you lose today will be income you lose six months from now.

Here's a short checklist to follow:

- 1. Examine how you operate. Write it down!
- 2. Look how your secretaries actually do their work. Is there a better way?
- 3. Are there certain items that you would not want to change?
- 4.
- Now talk to a number of office designers/consultants. 5.
- Ask for references.
- 6. Call references and see what mistakes were made and why.
- 7. Hire the one with which you feel most comfortable.
- 8. Tell the consultant how you operate and how you wish to operate 9.

Stress the nonnegotiable items.

10.

When a layout is presented ask questions. Do not order.

11.

Have the consultant come back and ask more questions. Do not order

12.

Without the consultant present, have everyone possible in your office from the receptionist to the custodian to the senior retired attorney review the suggested order for comments.

13.

Double-check drawings.

14.

Double-check sizes.

15.

Confirm in writing what you expect the end product to look like, e.g., uniform color and appearance.

16.

Order it.

17.

When delivery comes, be there.

18.

If something is wrong, tell everyone immediately. Don't sign saying everything is fine before you do a complete inspection of every nook and cranny.

19.

Hope everything goes well.

-William G. Schwab, GPSolo New Lawyer Editor schwab@uslawcenter.com





Tips on Transitioning: Is There Life After the Law?

By Gretchen Otto

Many of us attended law school with stars in our eyes from watching too many *Perry Mason* and *Matlock* reruns. There will, however, always be a certain percentage of lawyers who will graduate to dislike the actual job, or perhaps just a traditional or large firm setting, for personal or other reasons. Some lawyers may even find themselves in a position where they remain at a job that makes them miserable because they feel like they have 'wasted' their law school education, or that a career change will make them less of a 'success.' There is good news for this group of lawyers. Many people have downsized their practices or even made the transition out of the law and are very happy and productive in their subsequent careers.

Lise Hamilton Hall worked with large and small firms in New York and Pennsylvania before opting for full-time motherhood and a part-time law guardian practice. This satisfying balance affords her both an outlet for her legal skills and sanity-preserving interaction with adults. She is retaining work skills and maintaining a seamless ré sumé should she choose to go back to full-time practice. She also finds her law degree valuable in her volunteer work on various boards of directors, thereby helping her with the real psychological and sociological stumbling blocks of feeling like she is not using her degree.

If you are unhappy in the practice, put together a list of factors outlining the costs and benefits of your current job. Your list should include all the factors associated with your employment and even consider such intangibles as your social environment and the amount of pressure that billing or marketing creates for you. Quality of life issues such as your commute and family time should also be considered.

Hamilton Hall suggests that if you have made your list and are still considering a leap, then the first step out of a traditional or larger firm would be to scale back your lifestyle. Make a financial plan for getting out of the practice. Set a realistic budget. Meet with a financial planner if you have to. For a cheaper solution, you might look for a community education course on budgeting for a household as well.

Don't forget another potential option. Being of counsel or even working out a space sharing arrangement might be worth exploring before you make a final decision to leave your current situation, particularly if your dissatisfaction primarily involves stress over partnership. Evan Loeffler of Seattle, Washington (and an editor of *GPSolo*) happily exercised the latter option to start a thriving solo practice, and would highly recommend exploring it.

Hamilton Hall also notes that your choices now, or as you begin your law firm life, will limit your range of choices in five years. Going into your firm with a financial exit plan is appropriate even if you don't currently dislike your job. She observes that for your firm, your employment is a business arrangement. Thus, for you it needs to be a business deal as well. Reassess as necessary every six months. Ask yourself frequently if your current situation is meeting your goals.

Lastly, don't forget the resources of your law school's placement office. They have experienced many people transitioning in and out of the practice and can assist you or just cheer you on.

Happy lawyering . . . and perhaps beyond!

Gretchen Otto, Esq, is a lawyer and freelance writer living in Northern Virginia.





When I first entered the legal workforce as an associate, my boss's wife made it a mission to do something about my persistent bachelorhood. To this end, she set me up on several dates. In evaluating these dates, it is interesting to note two facts: first, they were short-lived, rarely lasting as long as three hours; and second, they were all with different people.

To Penny's credit, she was persistent. After some time, however, she changed her strategy. She walked into my office one afternoon, and dispensing with all chit-chat, made a statement that struck fear and trepidation into my heart:

"I'm going to help you pick out a new wardrobe."

I am one of first to admit that I am not a spiffy dresser. I do own suits, and am known to wear them when the occasion requires. I am happy, however, to wear khaki trousers and a sports jacket. This, I reasoned, was more cost-effective, since I would not have to pay for professional dry cleaning.

"What's wrong with what I'm wearing?" I asked, trying not to sound defensive.

"When was the last time you ironed that shirt?" she asked.

- "What are talking about? This isn't a golf shirt."
- "Not that kind of iron! A clothes iron."
- "The label says 'permanent press."
- Penny shook her head incredulously and changed the subject.
- 'Bow ties are out, Evan."
- 'Straight ties make me look short," I explained.
- "You are short! Look, for four or five thousand dollars, we can get you a new wardrobe and you'll look great."
- 'Thousand'?" I echoed. I did not feel that complaining to my boss's wife about my salary would be fruitful. 'How much better can you make me look for fifty bucks?"
- 'Look, Evan, I've already discussed this with my husband, and he agrees you need to dress better. You want to make a good impression on people professionally as well as socially, and you're not helping yourself by looking like an extra from Invasion of the Unmade Bed People. You should dress up when you take people out."
- 'Penny," I said, 'I don't need to dress up just to take my date to McDonald's."
- "You've been taking your dates to McDonald's because no decent restaurant would let you in the way you dress."
- This was true. It is amazing how often upscale restaurants lose reservations. I played my ace. I figured if I could whether the storm she would forget the whole thing in a day or two. 'Fine," I said. 'Let me check my calendar to see when I have time to go shopping with you."
- 'I already got you the rest of the day off," she said. 'Let's go."
- In addition to my general indifference to expensive clothing, I hate shopping. An afternoon spent shouldering my way through crowds of shoppers for the privilege of spending money I don't have on stuff I don't want is not how I like to spend my leisure time. Given the choice of going clothes shopping and being bitten in half by a shark, I'd have to think about it.
- Penny took to me to a men's clothing store where she announced that she would be doing all the talking and that I would buy what she recommended. She then collared a salesman and,

indicating me, stated that her husband needed a new suit. Both the salesman and I were shocked.

"A new suit?" I said.

"Your husband?" said the salesman, looking me over.

"That's right," said Penny. What's your suit size, honey?"

I stated I had no idea since all my suits were hand-me-downs from my father. The salesman whipped out a tape measure and, with it, started prodding me. Eventually he came back with a garment whose most distinguishing feature was the length of its price tag. At Penny's insistence I tried it on and happily pointed out that it did not fit correctly.

"The pants don't fit," I stated, gesticulating at the trousers whose legs trailed two feet behind me.

"We can fix that, sir," said the salesman as he started drawing on me a piece of chalk.

'Don't you have anything here that fits me out of the box?" I asked indignantly. 'What sort of store is this?"

The salesman looked over at Penny for help. Penny commanded me back into silence, where I remained while the salesman nipped and tucked at me. In the meantime, Penny and another salesperson put together a collection of matching shirts, ties, socks and other suit paraphernalia. My car keys were then held for ransom until I purchased the whole ensemble.

A few days later, I arrived in the office wearing my new suit. The other lawyers took note and commented on what a fine figure I cut in a suit that fit correctly. My boss then called me into his office where he began by agreeing that the suit was a step in the right direction.

'The reason I wanted to speak to you, though, is about something different. I ran into my tailor yesterday and he said how sorry he was to learn that Penny and I were no longer married. I told him we were still married and demanded to know what the hell he was talking about. He said my wife was in the store a few days earlier with a short, unkempt individual buying a suit. She kept on referring to this individual as her husband. Do you know anything about this?"

'Ummm. Nope."

"Hmmm. Strange," he pondered. "Well, let me know if you learn anything."

Despite his ongoing inquiries, my boss was never able to learn anything further about the mysterious individual seen with his wife. My desire to not appear as a 'short, unkempt individual" increased markedly. I learned to iron my own shirts, scrapped my collection of clipon ties, and found a dry-cleaner. To this day, however, I have not found anything to help me look less short. Elevator shoes do not come in wingtips, and stilts would clash with the suit unless they were painted basic black. Any suggestions would be greatly appreciated.

Evan Loeffler, is now of counsel with the law firm of Harrison, Benis & Spence, LLP, in Seattle, Washington, where Penny's husband is still a partner and will remain nameless for the sake of continued office harmony.





The Old Man's Words of Wisdom

By William G. Schwab

I have been practicing law for over a quarter century. I thought I had the game of law down pretty well and had developed the largest practice in my county. I thought in many respects I had it made and was looking to growing my practice to the next level.

Two years ago I decided that the physical facility of my practice was lacking. Things started to look dingy after 15 years in the same office. We had grown to the point that one associate's office was in a hallway. I hired an architect. I hired a builder. I planned and planned so we would have the finest office in the county. I kept a close watch on the two-year building project. While I had a general contractor, I took an active role as inspector. At night I was out with my tape measure to make sure everything would work and make us more productive and functional. Then I goofed up.

My practice is in rural America. Consultants are generally not available. My architect had never designed a law office, and my contractor had never built one, but because of the active role I took, corrections were quickly made, and the architect and contractor suggested items that worked better than I imagined they would. The local independent telephone company came in and worked out a system for telephones and computer networking that was great. Though they were not formally consulting on the project, they listened and made suggestions that made us more efficient.

Then I hired a consultant for the interior furnishings. It was a national company that we had done business with for years, which had a local retail store. They took measurements. They took notes on what we wanted. We were exacting. They used a computer to generate what it would look like. I abdicated my role as lawyer entrepreneur.

In December, I ordered furniture based on their drawings and assurances that they were

providing what we requested. I took their word for it that the part numbers were right and they would fit the rooms. When the furniture was delivered, it seemed everything went wrong, from the file cabinets that were exactly what we asked not to get to other items. I had made a mistake. I gave up control of my own destiny.

Part of the order came in late winter. The conference tables were oversized so that we had to put them on angles that were in opposition to the lighting. Another part of the order came a month later. Eighty-seven pieces out of 90 were wrong. Desks were oversized so office doors couldn't open. Colors didn't match. Whole units were missing or not ordered. One desk had a whole supporting panel missing. It was my fault. I abdicated my role as owner-manager-customer. I assumed my consultant knew what to do.

Things then got whose. The reorder or fix took another two months. In all this time the office and my income were drastically disrupted. Secretaries had to move several times or couldn't move at all. I found myself working four to five hours a week with the vendor to straighten it out, rather than practicing law. The home office of the company was appalled, and worked to straighten it out. The amount of productivity and my time and lost income can't be calculated precisely, but it is in the tens of thousands. If this had happened early in my career, I don't think I would have recovered financially. Now our hope to move to the next level is years away as we recover from the financial blow. All my yelling and screaming won't give me back the time lost.

Why do I relate all this? While the consultant messed up royally and continuously, as a manger of my own destiny, I heard the word "consultant" and "computer layout" and assumed they would take care of everything properly. It was only when problems developed that I checked and double checked everything and found I gave my practice's future to someone who didn't deliver on promises. I forgot the main rule of all solos and small practitioners—you are responsible for your own destiny.

Bill Schwab Now learning the law for over 27 years





The ABA General Practice, Solo and Small Firm Section provides many career-building opportunities

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Technology eReport gives answers to your technology questions and **GPSolo New Lawyer** offers career and practice tips.

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To get the most from your membership, join up to three substantive committees to receive even more specialized information that may not be available anywhere else. In addition, you have the option to give your input on relevant topics and timely issues, and contribute articles or suggestions to Section publications.

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The GP Section gives its members the opportunity to participate in the governance of the Section. Committee participation allows members to pursue their specific areas of interest, and also provides valuable opportunities to meet and work with colleagues from across the country and abroad. We welcome the participation of lawyer, associate, and law student members and afford special opportunities through our Diversity Fellows Program.







Dear Mike

By Mike McBride

I am a second-year associate who will never make partner. It's not because of anything I do, but because of the secretarial support I have. Being the low person on the totem pole, I have been assigned a secretary that started when I started right out of high school. I thought the two of us could learn together.. [sic] What as [sic] mistake. She doesn't care. parties all night. When I tell er [sic] something, she ignores me. If I give something back to her for corrections, I have to reread everything, because she 'corrects' things that were [sic]. It is a disaster. Several times things slipped by and I got embarrassed in Court. How do I go about telling the partners, [sic] I need help after telling them how good she would be when I first started?

—Can't Type to Save My Sole [sic]

Dear 'Can't Type to Save My Sole":

Having effective support staff is essential to the efficient, effective, and profitable practice of law. Your assistant is your critical link. You need to address the performance issues on a graduated scale. First, have a private meeting with your secretary. Lay out your expectations and your concerns. Obviously, if your secretary has a bad attitude and does not come to work refreshed and prepared to work, these are serious issues. Failing the first step, meet with your office manager or administrator, depending on the size of your office, or the managing partner in charge of personnel. Discuss your concerns, provide documentation regarding examples of the errors, attitude, problems, missed deadlines, failure to meet appropriate expectations, docket litigation deadlines, or other issues that led to your embarrassment in court (or yipes—malpractice!), and discuss ways to either discipline, correct, train, suspend, or ultimately terminate your secretary. If she cannot perform in the law office environment, then

it may be time to get another secretary. Do not delay. It is important to have a dialog with appropriate persons at your firm so that you may practice law profitably and efficiently.

You wrote about problems facing young lawyers. I am an old one. I hired a nice young lady right out of law school. I thought it would work, but our work ethics (I'm a morning person—she's not) and our personalities don't match. She would be a real find for someone else. How do I go about firing her without harming her self-confidence. She has done everything I asked. I probably could help her find another position, but how do I bring it up?
—She Has to Go!

Dear 'She Has to Go!"

Making personnel decisions, such as termination, are never easy. It is a meeting and confrontation that must happen, however. Praise her abilities but explain the differences between her abilities and style and your work habits and work style. If possible and appropriate, provide a small severance payment as a part of her termination. Offer to help her to find another position, and follow up with your local bar association legal placement office or your network of contacts. Be sure to accurately assess and portray her skills, however, so that hopefully they will be a good fit at the next employer.

Got a question for Mike?

E-mail D. Michael McBride III at D.Michael.McBride.III@abanet.org

D. Michael McBride III is a Council member of the ABA General Practice, Solo and Small Firm Section. He also Chairs the Outreach Committee. McBride practices federal Indian law and litigation in Tulsa, Oklahoma, where he is a Director and Shareholder of Sneed Lang, P.C. He also serves the Kaw Nation as an Associate Justice of their Supreme Court.



Legal Trivia



Who was the last President to argue before the Supreme Court?

Richard Nixon, in Time Magazine v. Hill





Legal Tidbit

'Lawyers cannot remain empty of head and pure of heart. . . . A lawyer has a duty to investigate or take some steps to inform himself in a situation where he believes that there is client perjury."

Barry S. Alberts, Co-Chair of Ethics and Professionalism Committee, ABA Litigation Section, at 25/2 LITIGATION NEWS 5 (January 2000).





Section News

In This Issue's Section News:

- **Beverly Hills Fall Meeting**
- **Upcoming Meetings**
- Live News Feed from Lawyers Weekly USA
 - A Lawyer's Guide to Estate Planning -Book



Join the GPSolo Section in glamorous Beverly Hills

Please join us October 13–17, 2004 as we gather for the 2004 Fall meeting. In addition to the committee and council meetings, we have planned exciting one-of-a-kind social events, including a group outing to a live taping of the Jay Leno show, a private screening and

reception at the only silent movie theater still in existence, and a Difference Maker dinner in the same historic location as the Golden Globe Awards. If CLE is what you crave, plan to attend the Solo Day Road Show, a daylong CLE program designed to take your practice to new levels of efficiency, profitability, and professionalism. Be sure to bring plenty of business cards as we have invited members from twenty-nine state, local, and specialty bar associations.

Please take a moment to fill out the simple online registration form and reserve your social event tickets today! To register, please visit:

http://www.abanet.org/genpractice/events/04fall/index.html

See you in Beverly Hills!

Lee Kolczun Chair, ABA GP|Solo Section

Other Upcoming Section Meetings

The General Practice, Solo and Small Firm Section will be traveling to some exciting places this year for our upcoming meetings. Hope you will be able to join us!

FALL 2004

October 13–17, 2004 Beverly Hills, CA

WINTER 2005

February 9–15, 2005 ABA Midyear Meeting Salt Lake City, Utah Grand American

SPRING 2005

May 18–25, 2005 (*Joint Mtg. with the ABA Young Lawyers Division*) Miami, Florida Fontainebleau Hilton

SUMMER 2005

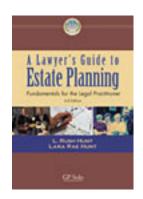
August 4–10, 2005 ABA Annual Meeting Chicago, IL Sheraton Chicago For more information on upcoming meetings and events, please visit http://www.abanet.org/genpractice/events/index.html



Live News Feed for Section Members

The General Practice, Solo and Small Firm Section is pleased to announce the addition of a live new feed on the Section's website, courtesy of the Lawyers Weekly USA!

To view the live news feed, please visit http://www.abanet.org/genpractice/news/index.html



Hot New Publication!

A Lawyer's Guide to Estate Planning: Fundamentals for the Legal Practitioner, Third Edition

Price: \$99.95

GP|Solo members: \$89.95

This new book is intended to provide a helpful introduction to the basics of estate planning. It is written with an eye toward the needs of general practitioners and those who are seeking to develop a specialty in the estate-planning field. For this reason, the text is written in a user-friendly manner that provides basic text treatment of the subject along with cautions, examples, and planning pointers clearly denoted throughout the book

To purchase the book, please visit

http://www.abanet.org/webapp/wcs/stores/servlet/ProductDisplay?storeId=10251&productId=-





Advocational Vocab

Test your vocabulary. Do you notice the differences among the following?

pail pale

pain pane

Answers

- Pail—(n.) a bucket
- Pale—(adj.) light-colored; (n.) an enclosure

- Pain—(n) suffering
- Pane—(n) window glass

Now test your friends and colleagues.





4.

5.

Seven Steps for Preparing the Witness

What is involved in good preparation? It is an interactive, evolving process from both the lawyer and client's perspectives, and there are basically seven steps:

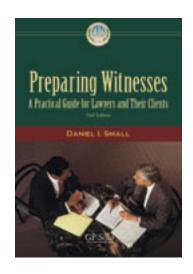
- Introductions—Imagine sitting down on a park bench and telling a total stranger your most troubling secrets. You wouldn't feel comfortable doing that, so why should anyone think your new client would feel comfortable doing the same thing just because the other person is a lawyer? Take the time to get to know the witness and get comfortable with each other. The time invested up front to do this is well worth it.
- *Review the Facts*—Encourage your witnesses to go over as much as they know about the likely subject matter of the questioning: who, what, when, why, where, how? What do they remember, and what might someone *else* remember? Going through it the first time is rarely enough. Go back over the facts in 'slow motion' to catch more of the details and issues.
- Review the Process—Even more important than the facts is the need to talk about the process of communicating in a question-and-answer format. The facts do not change, but the method of answering questions is something that takes a lot of getting used to.
- *Put It Together*—By reviewing both the facts and the process, you and your witness can then put the two together in anticipation of different questions and approaches.
- Anticipate Problems-Now is the time to identify things that may be seen as potential

problems and prepare accordingly. One common anticipated problem is nervousness: 'How will I be able to think clearly when I'm so nervous?" I give witnesses the same answer I give when I get the same question teaching law students and young lawyers: Don't be nervous about being nervous. You *should* be nervous.

- 6. *Dry Run*—No amount of discussion can fully explain the question-and-answer process. Like anything difficult and unnatural, doing it right takes practice.
 - **Review the Transcript**—Another great benefit of doing a dry run is to generate and review a transcript or video. Depending on the case and the resources, this can mean anything from a full, videotaped session with a court reporter to a simple tape recording that can be typed up for review. If there are inaccuracies, it can prepare you and your client for the inevitable mistakes in any real transcript.

From *Preparing Witnesses: A Practical Guide for Lawyers and Their Clients, 2nd Edition* by The ABA General Practice Solo and Small Firm Section.

Learn more or purchase this book at: http://www.abanet.org/abapubs/books/5150295



7.







GPSolo New Lawyer Links—Ties That Bind!

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