



President's Column:

Tackling Social Disengagement in COVID-Era Law Practice

By Clarence Webster



For years, I have enjoyed the myriad professional and personal benefits the Capital Area Bar Association provides to its membership. I have received far more value from CABA than it has from me.

The collegiality, the opportunity to network with lawyers and judges with diverse experiences and expertise, and the chance to give back to the profession and the community have been invaluable to my development as an attorney. I am honored to serve as President of Mississippi's largest and most active local bar association this year.

For good or ill, we are all aware the COVID-19 pandemic has changed the legal profession. Advances in remote-work technology have made it easier for us to practice from the comfort of our homes, giving us more flexibility to juggle our work and life obligations. But this development has significantly accelerated what I perceive as our profession's increasing disengagement from the social aspects of law practice—happy hours with friends to discuss the scuttlebutt on who is transitioning to a new job or

handling a controversial piece of litigation, office conferences with colleagues to discuss a sticky legal issue, or bar conferences and events to interact with lawyers with whom we do not customarily cross paths.

CABA was not immune from the impact of the COVID-19 pandemic. Past presidents, Chancellor Tiffany Grove and Jennie Eichelberger, masterfully navigated the organization through more than a year of virtual events and limited in-person engagement, while staying connected with the membership and raising significant sums for the Mississippi Volunteer Lawyers Project. But due to COVID, we—especially newly admitted lawyers—have not had an opportunity to fully enjoy all that CABA has to offer, especially engagement with other legal professionals.

To that end, the goal of the Board of Directors and our committee chairs this year is to hold all CABA events in person while taking the necessary precautions to protect the health and safety of our members. We also want to continue to engage with members who cannot participate in person. At a minimum, to the extent possible, CABA will provide virtual options for CLEs and lunches—CLE credit and lunch are free for all our members. In

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Upcoming Events

October 19, 2021

CABA Membership Meeting
Noon • The Capital Club

February 15, 2022

CABA Membership Meeting
Noon • The Capital Club

April 19, 2022

CABA Membership Meeting
Noon • The Capital Club

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CABA Membership Luncheon Meeting

Tuesday October 19, 2021

Lunch at 11:30, Meeting at 12:00 • The Capital Club

Free Lunch



addition to our membership meetings, CABA will hosts several social events, including Bar-Review Happy Hours, to provide rich opportunities for networking and fellowship. Our annual Christmas party will take place at Char Restaurant on December 2, 2021 from 5:30 to 7:30 pm.

CABA will also continue to provide multiple opportunities to give back to the capital area through pro-bono work. During Pro Bono Week, the Community Outreach Committee will co-sponsor a pro bono legal clinic with MVLP at the Hinds County Chancery Courthouse. The last legal clinic, which took place on July 30, 2021, was well-attended, and no one seeking legal services was turned away. We

hope to have similar participation in October.

All that said, the health and safety of our membership is paramount. We will remain flexible and responsive on hosting in-person events given the status of the pandemic. Unfortunately, we had to cancel this year's Fall Social due, in part, to state and federal guidance regarding large, in-person events. We will continue to follow that guidance going forward.

The Board remains committed to making CABA even more valuable to its membership. We welcome your thoughts and ideas. More importantly, I am personally soliciting your participation. The bulk of CABA's work takes place at the committee level. We have

a dynamic group of committee chairs who are excited about returning to in-person events, but we need your help. A list of committees is available on our website. Call or email a committee chair, an officer, a board member, or our executive director, Jane Harkins, to volunteer.

Please mark your calendar and plan to attend our next membership meeting on October 19, 2021, at the Capitol Club. The Small Firm/Solo-Practitioner Committee will hold its first in a series of CLE presentations.

Thank you for being a member of CABA. I appreciate what you have done, and will continue to do, to help CABA make a difference in our profession and community. ➡

Tax Hike Rumors Swirl

By D. Nathan Smith, LL.M.



Federal tax law has remained uncharacteristically stable since the passage of the Tax Cuts and Jobs Act of 2017, known formally as "TCJA" and colloquially as the "Trump Tax Cuts."

Among other things, the TCJA cut the corporate tax rate, cut the capital gains rate, rearranged the individual income tax brackets, doubled the standard deduction for individuals, and doubled the estate tax exemption. With the election of a Democrat President and a Democrat-held Congress, rumors have swirled for some time about the inevitable roll-back of provisions of the TCJA. Democrats have argued that the TCJA cuts unfairly favor large corporations and wealthy individuals. Until now, though, little headway has been made in changing its provisions.

"Now" is September 2021, and President Biden has proposed a \$3.5 trillion infrastructure bill as part of his "Build Back Better" agenda.

Such magnitude of spending begs the question: how are we going to pay for this? Proposed answers were unveiled recently in a document released by the House Ways & Means Committee, where all good tax bills originate. Bear in mind that, as of the writing of this article, none of these measures have made it out of committee, much less passed the House or Senate. However, it does appear that sufficient momentum exists to enact at least some of the proposed measures.

Capital Gains

Unsurprisingly, the proposal will raise the long-term (assets held more than one year) capital gains rate. The TCJA scaled back the top capital gains rate to 20%, with preferential rates of 15% and even 0% for lesser earners. The proposal will increase the top rate to 25%, although it is unclear whether the preferential rate will be changed. Note that this is not as drastic a measure as originally proposed by President Biden, who has suggested that the top rate should be increased to 39.6%, effectively treating capital gains the same as ordinary income for higher earners.

Estate Tax

In 2021, the federal estate tax exemption stands at \$11.7 million (indexed for inflation) for individuals. This means that, in the case of married couples, estates valued at up to \$23.4 million are not subject to the estate tax. Under the terms of the TCJA, the increased estate tax exemption will sunset on December 31, 2025, and the exemption will revert to \$5 million per person, indexed for inflation. The proposal will accelerate this sunset to the end of 2021, effectively cutting the estate tax exemption in half at the end of the year.

Speaking of the estate tax, President Biden has threatened in recent months to eliminate the so-called basis "step-up" to fair market value on the date of a decedent's death. This would have led to more gain recognition events when appreciated assets were sold or transferred from a decedent's estate. The real estate industry was particularly unhappy with this provision, and it was nowhere to be seen in the Ways & Means proposal. The proposal also mentions clamping down on estate planners' use of defective grantor trusts and discounted valuation transfer techniques.

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Corporate Income Tax

For years the corporate level income tax rate was a flat 35%. The TCJA reduced this rate to 21%. President Biden has proposed raising the level to 28%, but the proposal splits the baby (unevenly) and proposes a top corporate rate of 26.5%. Note that the corporate-level tax rate only applies to Subchapter “C” corporations. These typically include very large companies and very old companies which have not made an S election.

Individual Income Tax

One of the most notable features of the TCJA was the adjustment of individual income tax brackets. Following passage of the TCJA, many middle-class Americans saw an almost immediate increase in their paychecks as withholding for federal taxes was decreased. The highest bracket earners saw their income tax rate decreased from 39.6% to 37%. The proposal will not upset this bracket shift... until individual earners reach \$400,000, and couples filing jointly reach \$450,000. Those taxpayers will see their tax rate revert to 39.6%. The proposal will also add a tax “surcharge” of 3% for individuals who earn \$5 million or more. My speculation is that, if this “surcharge” is enacted, it will likely never go away.

1. A recent example of a Mega-IRA is Peter Thiel, who co-founded PayPal. In a widely published report, it was found that Mr. Thiel had increased his Roth

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2021 HOLIDAYS

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Nov 25	Thanksgiving Day
Dec 25	Christmas Day

The proposal restricts contributions to IRAs for individuals who earn \$400,000 or more. Additional contributions from savings will be prohibited after an IRA balance reaches \$10 million. Some of the restrictions on Roth IRAs will return, in an attempt to curb so-called “Mega-IRAs”.¹

What next?

Assuming, arguendo, that the proposal emerges from committee, it still faces roadblocks,

particularly in the Senate. The senate is currently split 50–50, and, in theory, can pass the bill with a simple majority using the deciding vote of the Vice President. However, Senator Joe Manchin (D–WV), has already indicated that the \$3.5 trillion spending proposal is too high. It is likely that he will prevent a simple majority vote on the spending or taxing provisions proposed until changes have been made. Stay tuned! ➡

IRA balance from \$2,000 in 1999, to \$5 billion in 2019. Democrats have argued that the IRA provisions were never meant to be an investment

and tax avoidance tool, rather, they were enacted to encourage saving to provide retirement security.

2021 Christmas Party

December 2, 2021 • 5:30 - 7:30 pm
Join us at Char Restaurant



Getting the Last Word

By Terryl Rushing

Although I'm one of the last fourteen people in the state to get an actual "paper" newspaper, I confess that I skim over a lot of it. I read the obituaries, though, every day. It may be a purely age-related habit—I'm ordinarily not the gloom-and-doom type—but I try to keep up. And my friends depend on me to let them know who's in there. In any event, I figure that, between the obits, the comics, and Dear Abby, I've covered death, humor and "huh? that's a problem?" all in one place. And not necessarily in that order.

Obituaries should fit the person, I guess, and reveal what was important in their life. We can only guess what reaction the community will have when reading our obits, but one thing's for sure, the reaction will be, at least partly, based on how old you were when you died. Early in life, it's "Oh, he was so young" or "She had her whole life ahead of her." Later, it's "What a shame—cut down in his prime." I figure I'm somewhere between "Well, she lived a good life" and "She was still alive?"

If you're really concerned about evoking a certain response to your obituary, you should probably write it yourself. Hell, it's your obit; it should reflect your personality, not the personality your children *wish* you had. Besides, their perspective on your life may be vastly different from yours—for example, what you characterize as a priceless collection,

acquired over many years of painstaking acquisitions, is to them just a floorboard full of beer bottle caps.

A self-written obituary gives you one last bit of control over your public persona. Only you know what's important to you, and your kids may not realize how noteworthy it is that you won the 9th grade spelling bee. And, in addition to the written word, when you draft your own obit, you can select your own photos. I'm all for including a picture of a younger you. My personal choice is a picture taken when I was in my mid-20's, wearing a bikini, and looking pretty darned good. My kids already understand that Mom calls that the obit picture, and it is probably going to disappear before my demise. Anyway, it might cross the boundary between an obituary and a dating profile, so I may have to find a slightly more conservative—but equally foxy—picture. (Pre-arrangements are also a good idea. For one thing, I want my service to be at the church. As much money as I've contributed to it, they can at least host my last party.)

By authoring your own obituary, you also get to decide which of the bereaved to mention by name. I'm thinking spouses/partners (current, not former, unless you still have Christmas dinner together), kids, grandchildren, dogs, and siblings, in that order. Okay, maybe move dogs up a couple of spots. It's not necessary to comment on

your relationships with each person mentioned; save that for the reading of the will.

That's not to say that children will never do a great job on an obituary. Two of my favorites, both written by children of the deceased, are the obituary of Mary "Pink" Mullaney of Wisconsin, who died in 2013 at the age of 85, and that of Joe Heller of Connecticut, who died in 2019 at the age of 82. Pink was known to put a chicken sandwich in her purse to share with a homeless person after church, offer rides to people caught in the rain, go to nursing homes and kiss everyone, and invite new friends to Thanksgiving dinner, even if they were from another country and you had to "listen with an accent."

Joe hoodwinked "an exceedingly proper woman and a pillar in her church" into marrying him, making her think "he was a charming individual with decorum." He spent the rest of their marriage embarrassing her with "his mouth and choice of clothing." After many years of "shopping" at the local dump, he left his family "with a house full of crap." His daughters suggested waiting a suitable amount of time before coming to claim any of it, noting, "We're available tomorrow."

On the other hand, a children-written obituary can backfire, especially if the dearly departed was not especially nice to them. For

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Start the discussion...



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example, the obituary of Dolores Aguilar, who died in California in 2008, reported that she “had no hobbies, made no contribution to society and rarely shared a kind word or deed in her life.” Leslie Ray Charping, who died in Texas in 2017, was described by his children as having lived twenty-nine years longer than expected “and much longer than he deserved,” leaving behind “two relieved children” and “countless other victims.” Ouch.

So, those of us to whom death comes without adequate preparation (i.e., we know the Grim Reaper is in the neighborhood, but don’t realize he’s on the front porch) will have to rely on our children (mine prefer the term “beneficiaries”) for that last press release. Some questions to ask yourself—Are your children reasonably articulate? Do they know enough about you to include meaningful details? (Of course, that could work both ways.) Do they like you? You might want to look around at the nursing home they stuck you in before you answer that last question. If the answer to any of these questions is “no,” you’d better get pen to paper.

With that in mind, no matter who authors the obit, some common phrases just drive me up a wall. I know, I know, it’s not nice to judge the dead, but, if you’re over the age of 85, it’s probably not necessary to mention that your parents predeceased you. (If they are still alive, however, that should probably be printed in boldface.) While I realize that grieving family members want to soften the event, and believe that their loved one shot up like a missile to heaven (and maybe she did), there’s nothing wrong with the word “died.” Also, the word “matriculated”

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means “enrolled,” not “graduated.” There is a difference between “it’s” and “its”, “their” and “there”, “fewer” and “less”, and “that” and “which”. (If any journalists are reading this, please take note. Grammar is apparently no longer taught in school, and editing must be a lost art.)

Still, obituaries remain a fascinating glimpse into lives well (or not-so-well) lived. Whether

we knew the deceased or not, obituaries can make us sigh with regret over an untimely death, smile at the stories that describe a truly unique character, and admire the lifetimes spent in service and good deeds. Let’s not take them for granted. I can see a future where they will read like text messages: “Annie Smith passed. 😞 U r invited to funeral & pig roast. Its Saturday at there house. Cash bar.” ➡

SOCIAL MEDIA

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Statistics show that 90% of organizations now maintain social media profiles, and CABA is among that majority. You can find the Capital Area Bar Association’s page on Facebook and find us on Twitter (@CABALaw). Social media is a simple way to improve communications within our organization, but we need our members to help to build an effective social media presence. If you are currently on Facebook or Twitter, please engage. Whether you like us, follow us, or comment on posts, you are helping build CABA’s social media profile.

» On Computing

Focused on the Contemporary Lawyer



Law Practice Management Software



By Joel Howell

Law Practice Management Software (LPMS) is not a new concept, but as the years go on, the software becomes more intuitive, and pricing becomes more reasonable. This article is to provide an update and shopping tips. Many LPMS programs allow for free trials of their products, which can help you get a

better feel for the program and see if it meets your needs.

When looking at LPMS, there are four main areas of management you will need to consider when browsing the multitude of features offered by each product. These management features include (but are not limited to) clients, attorneys and staff, records, and accounting. While these management features might seem intuitive, it is important to go into your search for a LPMS with these features ranked so you can better sift through the many programs on the market. For example, solo practitioners probably will not have management of attorneys high on their features priority list. The following content is a deeper dive into features that fit broadly into each of the four categories mentioned above.

First, for many users, features which deal with case/matter management is one of if not the most important reason you would consider integrating an LPMS into your business. Some software is targeted more towards specific practice areas.

Second, client/contact management is a feature that should not be overlooked. If a client can easily use the software, they are more likely to interact with the program.

Third, task management tools can be helpful when opening a new case so that all upfront tasks can be found in one location. When assessing task management features, make sure that tasks created have due dates that can be attached to cases/matters and be assigned to those responsible.

Fourth, calendar features are helpful for clients and attorneys to stay on the same page of court appearances, deadlines, etc. When looking at what different LPMS offers for calendars, make sure you know what you prefer: either full integration with Outlook or Google calendar or a standalone calendar feature offered by the software.

Fifth, timekeeping is an essential function offered by most LPMS

software. Before you commit to buying a program, see if a trial version is available to determine computability with your existing system.

Sixth, conflict checking is a vital function required of any law firm. This feature can come in handy but be aware that many LPMS software don't offer it. Implementation of a conflict checker can vary, but users should be able to search a database for matching names (at a bare minimum). When looking for a LPMS, make sure the program can check for conflicts accurately and intuitively, allowing for a lateral hire to input their conflict database into the system, works quickly when a new client calls, and complies with the rules of professional conduct.

Seventh, determine if LPMS' modes of client communication are compatible with the ways your existing clients prefer to communicate (email, text, and the like).

Eighth, document management compatibility is important. Users should be able to add documents and associate those newly added documents to a case/matter. Also, make sure clients (through their portal with the service) can easily upload and access documents, as this will increase their likelihood of interacting with the system.

Ninth, form files are helpful to streamline the litigation process. Many LPMS allow for document assembly or allow it to interface with your existing protocols.

Tenth, if the LPMS includes bookkeeping functions, ensure that it will interface with your existing systems.

Eleventh, trust accounting features, follow hand in glove with the foregoing analysis of bookkeeping features.

Twelfth, depending on the LPMS software you select, full accounting might be offered. So, if during your research, you find a fully integrated system would be ideal for your firm, make sure the software you pick has this feature offered.

Thirteenth, Billing and invoicing is a feature some software offers and others do not. If your software doesn't offer this, then make sure the LPMS system offers this feature.

Fourteenth, online payment processing systems is a fast-growing feature for many LPMS'. In your research, make sure that this feature is included, or as an add-on feature.


Finally, protecting your information and that of clients is a paramount concern. Many LPMS systems use encryption to store client and firm data securely.

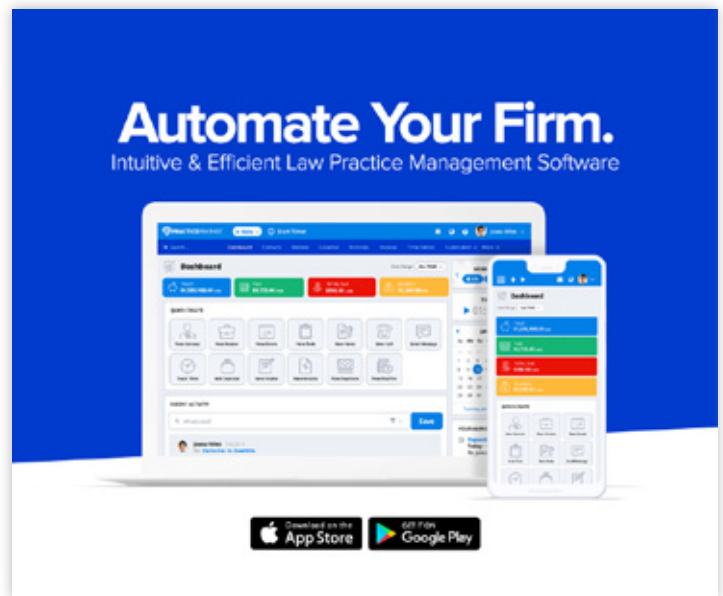
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Having considered the foregoing, here are three top-rated LPMS programs for you to consider: MyCase, Practice Panther, and Clio.

MyCase is an LPMS that is highly rated. One of the most noted features is the user-friendly set-up. Additionally, e-signature and the web payment functions can be very useful. MyCase includes built-in document storage and a full email client. Little integration is required making implementation quick and easy.

Practice Panther is a LPMS that has particularly good security and accounting features. The color-coded outlay is helpful feature, which can aid in organization (i.e., trust, outstanding balances, paid balances, and billable hours for a single client). It can simplify billing, allowing for attorneys to track time and expenses remotely, with data-driven insights (allowing users to know what type of matters bring in the most cash), and the ability to track trust account balances and request and accept retainer payments directly to your trust account. Plus, their payment system (PantherPayments) is fully compliant with IOLTA and ABA guidelines.

Clio is a LPMS that is approved by The Mississippi Bar, and members get a 10% discount. It has highly rated security, 24/7 customer support, and allows for over 125+ integrations of your favorite apps and platforms (Google Apps, Fastcase, Dropbox, QuickBooks, etc.). There are plans for all sized law firms, from solo practitioners to mid-size and large firms. Clio also allows you to customize by practice area (such as civil litigation, estate planning, personal injury law, or criminal defense). 



Questions or comments?

Drop me an email: jwh3@mindspring.com

CALL FOR CONTENT

We Want to Hear Your Legal "War Stories"

As lawyers, sharing our "war stories" is how we mentor younger lawyers, relive our triumphs, and gain perspective on our defeats. The stories we share live on in the annals of Mississippi lawyering with the next generation, but only if we tell them.

In the spirit of CABA's goal to bring back social engagement, the newsletter calls for submission of tales about your most memorable days as a lawyer, no matter how large or small the event. It might be the cross-examination at trial that put the jury in your client's corner or the quip by the judge that set the tone for the hearing. It could be the last-minute save of a big deal going wrong (or if not, what could have been), your role in changing Mississippi law, or the day your client heeded your counsel for the better. Names can be changed or remain anonymous to protect the innocent. We welcome your short summary of what happened or a full length article that tells the whole story in all its glorious (or infamous) detail.

Article submissions may be sent to: info@caba.ms.





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