

## SELF-ASSESSMENT #9 — ACCESS TO JUSTICE AND CLIENT DEVELOPMENT

An important part of the administration of justice in our state is ensuring that people of all economic levels and geographic locations have access to not only the courts, but to competent, licensed professional legal assistance. This self-assessment form is designed to help lawyers evaluate their practices and procedures relating to this important principle. Because tackling the justice gap necessarily involves reaching out to underserved communities, we also provide guidelines concerning client development.

**Access to Justice:** Lawyers have a duty to promote and protect the public interest. One of the most significant issues currently facing consumers of legal services is meaningful access to justice. For purposes of this assessment, we are defining “access to justice” as a concept much broader than access to the courts and litigation. It encompasses a recognition that everyone is entitled to the protection of the law. It is about protecting ordinary and vulnerable people and solving their problems. Improving access to justice in Colorado requires leadership and change that reaches well beyond the traditional construct of legal aid. The responsibility must also fall to law firms and other for-profit legal organizations to look inward at what they might do themselves to better meet their obligations to promote and protect the public interest. Encouraging pro bono or other volunteer work, as well as exploring alternative fee arrangements and limited scope retainers (where appropriate and permitted), are examples of some tangible steps that firms can take to do their part to close the justice gap.

Additionally, lawyers and law firms should explore how they interact with self-represented parties. One aspect of the access to justice crisis in Colorado is that legal services have become increasingly expensive, and are unaffordable for many of those who have a need for legal services. This has resulted in a large number of self-represented parties. Studies show that a significant number of self-represented litigants have complaints about the opposing counsel with whom they interact. On the other hand, many lawyers report challenges in communicating or negotiating with self-represented litigants. This suggests, at the very least, that lawyers need more information and training to assist them in dealing with self-represented litigants.

**Client Development:** Client development and access-to-justice issues are closely tied together. When law firms are willing to retain clients using alternative fee structures and limited scope representation, more people are aware of and able to access legal services, while lawyers expand their books of business and diversify revenue streams. This is a classic example of a win-win. Providing legal services at reduced rates for low-income clients, adopting alternate billing models, and providing unbundled services are all examples of ways that lawyers can both bridge the justice gap, as well as develop new clients.

Questionnaire	Yes	No	N/A	Suggested Systems & Practices	Resources
<b>Objective 1: Creating an efficient business structure that has room for alternative operational strategies aimed at reducing expenses and improving long-term sustainability.</b>					
<p>Have you carefully considered your monthly expenses and overhead, and have you considered ways to reduce your expenses such as:</p> <ul style="list-style-type: none"> <li>-office sharing</li> <li>-alternative office space</li> <li>-phone service</li> <li>-investigator pricing</li> <li>-staff</li> <li>-supplies/equipment</li> </ul>				<p>A law firm can incur sizable expenses and overhead. There are numerous ways to gradually build and manage infrastructure in the effort to keep costs more manageable. Low expenses and overhead means that less money is needed to be profitable and sustainable. Likewise, with tools (such as a state-of-the-art case management system), lawyers and law firms can achieve greater efficiency. This may reduce the need for additional staff (which in turn reduces overhead). This may also free up an attorney’s time and provide a financial cushion that allows the attorney to take on pro-bono and modest means cases. If you are a solo lawyer just starting out, sharing office space will allow you to pool resources, save money and ease the isolation of practicing alone. But before entering into an office sharing arrangement with another lawyer, it is imperative that you know exactly what you can and cannot share, whether it be rent, computers—or even clients. Lawyers should also be mindful that sharing office arrangements with non-lawyers is a separate issue that subjects lawyers to distinct ethics requirements.</p>	<p>Randall Ryder, <a href="#"><i>How to Keep Your Solo Practice Sustainable and Lean</i></a>, Lawyerist.com, March 25, 2016.</p> <p>Jenny B. Davis, <a href="#"><i>Designing Your Law Office to Save Money and Boost Productivity--Without Sacrificing Style</i></a>, ABA J., July 1, 2014.</p> <p>Kathryn Thompson, <a href="#"><i>Keeping Your Office Sharing Arrangements with Other Lawyers Squeaky Clean Under the Ethics Rules</i></a>, ABA CTR. FOR PROF’L RESP., May 2007.</p>
<p>Do you use technology to increase your efficiency and increase your ability to provide legal services at a lower cost/hourly fee?</p>				<p>Computer programs – such as for timekeeping, case management, etc., can increase productivity and reduce manual hours spent (and reduce stress).</p>	<p>Dean R. Dietrich, <a href="#"><i>Handling Clients’ Text Messages</i></a>, WIS. LAWYER, April 2016.</p>

<p><b>Objective 2 - Having an effective office set-up that is conducive to providing services to a broader population.</b></p>					
<p>Do you have a plan to promote cultural competency in your office?</p> <p>Does that plan include recruitment practices that consider diversity as relevant to the effort to promote access to justice?</p>				<p>Consider training to help attorneys and staff develop strategies for dealing with non-English speaking clients, low-income clients, and clients who may have had prior bad experiences with the justice system. Develop training to help attorneys effectively reach out to underserved populations who may not be aware of the nature of the American legal system. Also consider setting up appropriate expectations and practices – including hiring – that will allow the office to be responsive to the community. Diversity is a legitimate consideration in this regard.</p>	<p>N. Y. C. BAR ASS’N MINORITIES IN THE PROFESSION COMM., <a href="#">BEST PRACTICES STANDARDS FOR THE RECRUITMENT, RETENTION, DEVELOPMENT, AND ADVANCEMENT OF RACIAL/ETHNIC MINORITY ATTORNEYS.</a></p> <p>Minority Corporate Counsel Association, <a href="#">“Creating Pathways to Diversity.”</a></p>
<p>Does your firm have bilingual staff and/or access to interpreter/translator services</p>				<p>Hiring bilingual staff and/or providing interpreter/translator services will aid the office in outreach and service to non-English speaking, or English-as-a-second-language clients.</p>	
<p>Do you provide formal or informal training to help staff interact with the public and potential clients?</p>				<p>Training is important for attorneys and staff alike. Simple tasks such as answering phones, responding to inquiries from clients, potential clients, and pro se parties are some of the office’s most important PR. Likewise, lawyers should keep in mind that these interactions are sometimes a person’s first encounter with the legal system--make sure it is a positive and respectful one.</p>	<p><a href="#">SUCCESSFUL BUSINESS PLANNING: REPRESENTING THE MODERATE INCOME CLIENT</a>, COLO. BAR ASS’N/CLE IN COLO. (2013) (updated version, <a href="#">SUCCESSFUL BUSINESS PLANNING FOR THE MODERN LAW PRACTICE</a> (2016), <i>available here</i>).</p>
<p>Do you provide alternatives for clients with less ability to travel (such as to your office and/or normal work site) and/or potential clients who need off-hour meetings?</p>				<p>Potential clients and clients might not have the ability and/or flexibility to leave their work during business hours. Does the firm have a way of meeting with these people? These same individuals might not have transportation options. Is there a way to accommodate them?</p>	<p>Consider: telephone meetings, Skype or Facetime, home visits, meeting at a local library or other place (be cautious about client confidentiality when meeting in public).</p>

<b>Objective 3 – Implementing alternative billing arrangements in order to bring in business and bridge the justice gap.</b>			It is important that strategies and practices are in place that help the firm think broadly about taking diverse clients who might otherwise be unable to access an attorney. This includes actually visiting and getting to know unfamiliar areas.	<a href="#">Justice Index 2016</a> , National Center for Access to Justice, Fordham Law School
Do you use alternative pay arrangements based on income level?			These can include, for example, payment plans, reduced fees, sliding scale fees & “modest means” fee structures, unbundled services, and pro-bono	
Have you considered providing limited scope representation, i.e. unbundled services?			It is important to remember obligations in both state and federal court. A clear letter laying out the limitations of the representation is also crucial. Also see Colo. RPC 1.2.	INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., <a href="#">UNBUNDLING LEGAL SERVICES: A GUIDE FOR LAWYERS</a> (2015).  HON. ADAM ESPINOSA, AMY GOSCHA, JAMES GARTS, HON. DANIEL TAUBMAN, AND DANAÉ D. WOODY, <a href="#">PRACTICAL AND ETHICAL CONSIDERATIONS TO INTEGRATING UNBUNDLED LEGAL SERVICES</a> , COLO. BAR ASS’N/CLE IN COLO., (2015).
If you are not able to take a client, do you direct them to resources for modest means and indigent clients?			As part of providing access to justice for individuals who are confronted with a legal problem, it is important to think about whether simply saying “no” is the optimal answer. It is important to remember the opportunity to redirect a person to the right resources for their situation.	<a href="#">Colorado Legal Services</a>  <a href="#">Denver Bar Association Legal Clinics and Free Legal Information</a>  <a href="#">Colorado Judicial Branch Self-Help Center</a>
<b>Objective 4: The Firm or Lawyer Provides Pro-Bono and other Volunteer Services</b>				
Do you take on pro bono work and encourage other attorneys in the firm to do so as well?			Pro bono and other volunteer activity in the community is encouraged by the law firm and taken into account in performance evaluations (for example,	CANADIAN BAR ASS’N, <a href="#">The ABCs of Creating a Pro Bono Policy for Your Law Firm</a> (Oct. 2009).

				billable hour credits are provided or annual goals are set). <ul style="list-style-type: none"> <li>• A written pro bono policy is in place.</li> <li>• You are required to participate in pro bono work.</li> <li>• Your entity encourages pro bono work.</li> <li>• Pro bono hours “count” toward billable hour targets.</li> <li>• You spend the appropriate amount of time with the client and are empathetic.</li> <li>• Consideration of Colo. RPC 6.1.</li> </ul>	Stacy DeBroff, Kevin Lapp, Alexa Shabecoff, <a href="#">Pro Bono Guide: An Introduction to Pro Bono Opportunities in the Law Firm Setting</a> , HARVARD L. SCH.
<b>Objective 5 - Using Effective Client Development Strategies to Increase Business and Bridge the Justice Gap</b>				Lawyers should make efforts to be a part of the legal and non-legal community. One way to do this is to network with a local bar association or other legal groups. Lawyers may want to use social media and internet marketing to reach out to non-traditional legal consumers. Lawyers who provide low cost or alternative fee services should emphasize these services in their marketing. Websites and other marketing material should be user friendly and understandable.	
Do you have a marketing strategy?				A marketing strategy might target underserved populations by emphasize the firm’s commitment to alternative fee arrangements, modest means clients, and unbundled services.	<a href="#">SUCCESSFUL BUSINESS PLANNING: REPRESENTING THE MODERATE INCOME CLIENT</a> , COLO. BAR ASS’N/CLE IN COLO. (2013) (updated version, SUCCESSFUL BUSINESS PLANNING FOR THE MODERN LAW PRACTICE (2016), <a href="#">available here</a> ).
Do you have a website and/or do you use internet tools for marketing?				Use the internet to reach out to new clients. A good website can bring in business. The website could provide concrete information about fees and billing. Websites can also clearly explain the firm’s commitment to alternative fee structures, modest means, and unbundled services.	Steve Olenski, <a href="#">The 7 Lethal Internet Marketing Mistakes Law Firms Make</a> , FORBES, Mar. 5, 2015.

Are you actively involved in the Colorado Bar Association and/or a local bar association and/or specialty bar association?				The Bar Association can help lawyers find pro-bono resources and other valuable resources for working with modest means or indigent clients.	<a href="#">Colorado Bar Association</a> (CBA) <a href="#">Local Bar Associations</a> (CBA)
Do you market in nontraditional ways and reach out to underserved legal markets?				Consider advertising in diverse publications and neighborhoods. Consider advertising in languages other than English. Further, Colorado is a big state with many potential clients who need services that live outside the Front Range metropolitan areas.	
<b>Objective 6 - The Firm evaluates success in providing access to justice.</b>					
Do you track and evaluate the demographics of clients and where clients are from?				It is important to consider tools to be strategic in advertising, not just reactive. Data collection, for planning purposes, is crucial.	
Do you conduct interviews with clients at the end of representation to evaluate how they feel they have been treated in the legal system?				A satisfied client, and a client who understands what happened and why, is one who will leave with a sense of justice. That client will also refer other clients to the lawyer, even if the client “lost.” This is because, as Maya Angelou said, “people will forget what you said, people will forget what you did, but people will never forget how you made them feel.”	
Do you or your law firm periodically review your success in reaching out to underserved populations?					Marc Davis, <a href="#">Paying Off</a> , ABA J., June 2018.

## SELF-ASSESSMENT #10 — WELLNESS AND INCLUSIVITY

Today’s lawyer demands a better lifestyle that embraces work/life balance and diversity. In 2015, the ABA Commission on Lawyer Assistance Programs and the Hazelden-Betty Ford Foundation conducted a study involving approximately 11,400 actively practicing layers from 19 states. The study revealed that approximately 21% of the lawyers qualified as problem drinkers, 28% struggle with depression, and 19% demonstrate symptoms of anxiety. The study also revealed that nearly one third of the lawyers with these issues are less than 30 years of age and have practiced less than 10 years.

Meanwhile, attraction and retention of quality staff is a challenge due to the reduction in law school attendance, aging in the profession, and 21st century changing technology. Diversity is when you count people; inclusiveness is when you make people count. You need both to have sustainable diversity in your firm/organization. Studies show that to increase staff retention, it is better to keep staff happy, healthy, engaged, and motivated.

This assessment presents a series of questions designed to help you evaluate whether your practice promotes wellness and inclusivity. For resources, the Colorado Lawyer Assistance Program (COLAP) offers Colorado attorneys confidential assistance for any career-related challenge. This could include coping with work stress, anxiety, succession planning, support in grieving a loss, or confronting substance use issues. COLAP has a confidential assistance line and its website, <http://coloradolap.org/>, features links to resources, lists of support groups, and articles on wellness issues. Meanwhile, the Center for Legal Inclusiveness, which is dedicated to “actively educating and supporting private and public sector legal organizations in their own individual campaigns to create cultures of inclusion,” provides support for attorneys looking to enhance diversity in their practice. The Center for Legal Inclusiveness promotes networking to connect attorneys with other attorneys to build career satisfaction and success. Its social media pages offer updates on diversity and inclusivity issues on a local and national level and may be found at <https://centerforlegalinclusiveness.org/>. Other resources to consider include the American Bar Association’s Office of Diversity and Inclusion, which may be found at: <https://www.americanbar.org/groups/diversity.html>, and *What If I Say the Wrong Thing*, by Verna Myers, which is also available through the American Bar Association, <https://shop.americanbar.org/eBus/Store/ProductDetails.aspx?productId=214476>.

### Part A: Wellness

	Yes	No
Do you or your firm/organization recognize the importance wellness plays in a person’s professional and personal life?		
Does your firm/organization have procedures to easily identify lawyers/staff with any kind of practice or personal problem? • Does your firm have a non-punitive method of adjusting the attorney’s workload until the issue is resolved?		
If you are a sole practitioner, do you have a mentor, trusted colleague, family, or friend that you can turn to for support in the event you experience a personal or practice difficulty (or both) and need support?		
If you are a sole practitioner, do you recognize the importance of a work life balance and have you implemented a plan to ensure that balance in your law practice?		
Do you take steps to keep stress associated with the practice of law at a minimum? These may include: • Taking time to spend with family and friends; • Volunteering time through community service organizations;		

<ul style="list-style-type: none"> <li>• Planning and taking time off;</li> <li>• Reading a new book;</li> <li>• Engaging in physical activity;</li> <li>• Practicing yoga or meditation.</li> </ul>		
<p>If you find yourself becoming stressed or anxious, are you familiar with simple techniques to quickly reduce stress including:</p> <ul style="list-style-type: none"> <li>• Taking a deep breath;</li> <li>• Placing one hand on your upper chest, one on your abdomen, and breathing (a practice that activates calming neurotransmitters);</li> <li>• Opening your eyes and smiling (the act of smiling releases endorphins);</li> <li>• Saying to yourself: “I have the resources to deal with this” and then using those resources.</li> </ul>		
<p>Does your firm/organization have policies and procedures that encourage work life balance/integration and that include:</p> <ul style="list-style-type: none"> <li>• Taking their entitled breaks: lunch breaks, sick leave, annual leave.</li> <li>• Availability of family/parental leave.</li> <li>• Flexible hours when needed.</li> </ul>		
<p>Does your firm/organization provide/offer appropriate and regular quality of life programs during regular business hours, and is everyone encouraged and able to take advantage of them?</p>		
<p>Does your firm/organization’s work environment promote a healthy lifestyle, for example, ergonomically correct work stations, work breaks, walking paths, and access to healthy food &amp; drink choices?</p> <ul style="list-style-type: none"> <li>• Does management encourage these options?</li> </ul>		
<p>Does your firm/organization have appropriate referrals for programs to assist with mental health issues (stress, anxiety, depression, bipolar, relationships, etc.)?</p> <ul style="list-style-type: none"> <li>• Is everyone aware of resources in the community?</li> </ul>		
<p>Does your firm/organization have appropriate referrals for programs to assist with substance abuse &amp; addiction issues (alcohol, drugs, gambling, sex, food, etc.)</p>		
<p>Does the firm/organization have a dedicated budget to wellness?</p> <ul style="list-style-type: none"> <li>• Who is the designated person in charge of the budget?</li> </ul>		

**Part B: Diversity/Inclusiveness**

	Yes	No
<p>Has your firm/organization developed a rationale of the need for creating a more diverse and inclusive workplace?</p> <ul style="list-style-type: none"> <li>• Does this rationale tie in with your firm/organization’s business imperatives and strategies?</li> </ul>		

Have you taken steps to increase your awareness of implicit bias and other barriers that affect those underrepresented in the legal profession. Consider Project Implicit's free, online assessments at <a href="https://implicit.harvard.edu/implicit/aboutus.html">https://implicit.harvard.edu/implicit/aboutus.html</a> .		
Assess which groups with which you feel comfortable, or have a natural affinity, and take steps to meet with or market to those groups that fall outside that list. <ul style="list-style-type: none"> <li>As part of such an assessment, acknowledge that these steps may lead you to feeling uncomfortable and fearful of saying or doing something that may offend others but that you become comfortable once you get past the “uncomfortable.”</li> </ul>		
Develop and implement an inclusivity plan that includes a written statement that defines inclusivity and the benefits you hope to gain from being inclusive.		
Does your firm/organization regularly review the compensation structure to ensure that it does demonstrate equal opportunities for all?		
Has your firm/organization devised measures to evaluate diversity and inclusion initiatives and ensure accountability?		
Has your firm/organization identified a person, department and/or committee to monitor your diversity/inclusiveness efforts? <ul style="list-style-type: none"> <li>Does everyone in the firm/organization have a role in its success?</li> </ul>		
Does the firm/organization have a dedicated budget to support diversity/inclusiveness efforts?		
Has the firm/organization implemented training sessions for employees that focus on issues related to diversity/inclusiveness?		

**Part C: Catch All**

	Yes	No
Does management/senior staff set a good example for staff by creating, implementing, and monitoring dependable office policies and systems, including work-life balance and mentoring programs?		
Are the above policies reviewed on a regular basis (minimum every year) for effectiveness and current, up-to-date standards and information?		
Does Human Resources or management conduct exit interviews that allow for an honest and respectful discussion?		