

# Amicus

Newsletter of the Kansas Women Attorneys Association

Spring 2005

Katherine J. Bailes, Editor

## President's Message - Staying Connected

By Teresa L. Sittenauer

One of the primary benefits of membership in KWAA is that feeling of connectedness—not having to struggle with personal or professional issues on your own. As members of this living, breathing organization, we support each other, encourage each other, and challenge each other to become better people and better lawyers.

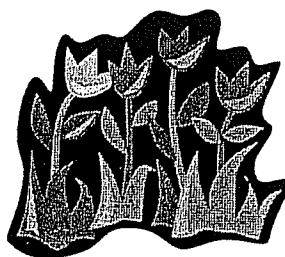
Have you read the latest messages on our list serve? They are examples of freedom of speech and the exchange of ideas at its finest. We are a diverse organization, but we all seem to share one trait in common—we're not afraid to express our opinions or respectfully disagree with the opinions of others. I learn something new from each one of these exchanges and I am grateful to those who share their thoughts. It keeps us connected.

Our membership directory was mailed a few weeks ago. It was produced by our executive director and it looks great. The directory has several uses. One is referrals. Send a fellow KWAA member some business if you have the chance. I have used my directory lately to brainstorm names of good candidates for statewide and local bar awards, or nominations for offices and committees, or people who need to be encouraged to apply for judicial or other appointments. Perhaps the best use of your directory comes when you have a problem or a question, legal or otherwise. Who might

know how to help? Who is willing to listen and give advice? Who can provide mentoring in this situation? The answer, many times, is in your KWAA directory.

Finally, many of our members gathered at our winter gala, "Great Women on the Bench." We had good food and drink and excellent company. Judge Mary Briscoe did not disappoint with her witty and, in turn, poignant remarks. We remembered Judge Kay Royse with a donation to her scholarship fund at KU Law School. We honored those among us who were recently appointed to the bench. It was a memorable evening, and it felt good to connect with women from across the state we usually see only in the sweltering heat of Lindsborg.

If you have not had a chance to join the KWAA list serve, please do so. Take a look at our Lindsborg preview in this issue of the newsletter and make plans to attend. If you value your membership in this organization as much as I do, resolve to widen our circle by recruiting a new member or two. There's strength, and comfort, among friends.



**PEOPLE GROW  
THROUGH  
EXPERIENCE IF  
THEY MEET LIFE  
HONESTLY AND  
COURAGEOUSLY.  
THIS IS HOW  
CHARACTER IS  
BUILT.**

**- ELEANOR ROOSEVELT**

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### About this publication...

*Amicus* is the official publication of the Kansas Women Attorneys Association.

For information about membership or general facts about KWAA, contact the executive staff:

**KWAA**  
1200 S. W. 10th Avenue  
Topeka, Kansas 66604  
(785) 290-2717  
Fax: (785) 234-2433



#### KWAA Staff

**Steve Kearney**  
Executive Director  
skearney@kearneyandassociates.com

**Michael White**  
Vice President of Association Operations  
mwhite@kearneyandassociates.com

**Andy Shaw**  
Vice President of Governmental Affairs  
ashaw@kearneyandassociates.com

**Kellie Kearney**  
Director of Finance  
kkearney@kearneyandassociates.com

**Leisa Shepherd**  
Executive Assistant  
lshepherd@kearneyandassociates.com

**Keri Renner**  
Director of Communications  
krenner@kearneyandassociates.com

**Deb Eberline**  
Association Operations Specialist  
deberline@kearneyandassociates.com

**Danae Johnson**  
Association Operations Specialist  
djohnson@kearneyandassociates.com

**Jessica Cafferata**  
Legislative Aide  
jessicacafferata@kearneyandassociates.com

## MEMBER NEWS

**Theresa Bush** became a grandmother in August. Also, on November 27, 2004, she married Lawrence Bush.

**Kathleen Harvey** (Overland Park) will write an article for the National Legal Assistants Association for their annual meeting. She will moderate and present with two other attorneys for a Missouri Bar teleconference in April. She is also expecting a set of twin grandsons this month.

**Laura Ice** (Wichita) was named 2004 Employee of the Year by Textron Financial Corporation. Textron Financial Corporation will send Laura and a guest on an all expense paid trip to Cozumel as a reward for her hard work.

**Amanda Kiefer** (Topeka) had a baby boy, Kiefer Paul, on February 16, 2005, at 9 lbs. 4 oz. and 22 inches.

**Marie Landry** (Topeka) recently joined the Kansas Coalition Against Sexual and Domestic Violence.

**Anne McDonald** (Roeland Park) will be leading a short day hike at Prairie Center in Olathe on Saturday, March 5, 2005. Please contact her at (913) 384-6645 for more information.

**Roberta Sue McKenna** (Topeka) gained additional responsibilities in her role as Assistant Director of Children and Family Services which include legal services, judicial liaison and legislative support.

**Anne Miller** (Manhattan) was named to Best Lawyers in America for the 10th year. She also opened her own practice in the Commerce Bank Building in Manhattan.

**Janice Norlin** (Salina) was named to the Domestic Violence Fatality Commission.

**Linda Parks** (Wichita) is running for KBA Vice-President.

**Lauren Reinhold's** (Lawrence) office, the University of Kansas Legal Services for Students, celebrated 25 years of free legal service to KU students this academic year.

**Trish Rose** (Hutchinson) is Chair of the Hutchinson/Reno Arts & Humanities Council and is spearheading an effort to save a historic building in Hutchinson.

**Teresa Sittenauer** (Topeka) is running for KBA Board of Governors.

**Kathleen Sloan** (Olathe) was sworn in in November as a Johnson County District Court Judge.

**Ann Smith** (Lenexa) recently began working as Assistant County Attorney in Montgomery County.

**Stephanie Smith** (Prairie Village) was elected to the Board of the Mid-America Planned Giving Council on January 14, 2005.

**Deborah Stern** (Topeka) was promoted to Vice-President of Clinical Services and Legal Counsel at the Kansas Hospital Association.

**Elizabeth Sweeney-Reeder** (Overland Park) recently accepted a new position as a Child Support Enforcement Attorney with SRS in Overland Park. Elizabeth is also expecting a baby due in March.

**Melissa Taylor** won a prestigious Professionalism Award and was presented this award by Justice Sandra Day O'Connor.

**Gaye Tibbets** (Wichita) married Ron Sylvester on February 17, 2005.

**Melinda Whitman** (Olathe) was appointed as Johnson County Court Trustee.



By now you should have received your 2004 - 2005 KWAA Membership Directory. If you have not received a copy, please contact Danae at 785-290-2717 or by e-mail at djohnson@kearneyandassociates.com.

SAVE THE DATE

## KANSAS WOMEN ATTORNEYS ASSOCIATION'S

16th Annual Conference

Bethany College

Lindsborg, Kansas

July 21st - 23rd, 2005



The keynote speaker at this year's Conference is Susan Estrich.

Ms. Estrich was the first woman editor of the Harvard Law Review and one of the first women to head a major presidential campaign. Ms. Estrich headed up Michael Dukakis's presidential campaign in 1988.

She is also a frequent speaker on gender issues especially in relationship to law schools.

**Please mark your calendars and plan to attend!**

**More information on the conference will follow.**

## KWAA CALENDAR

**Lecture by Deanell Reece Tacha, Chief Judge of the US Court of Appeals for the 10th Circuit**

March 3, 2005 - 7:30 pm at the Robert J. Dole Institute of Politics, University of Kansas, Lawrence, KS

**Deadline for JMK Attorney Achievement Award**

March 25, 2005

**KU Women in Law - Pub Night**

April 1, 2005 - Liberty Hall, Lawrence, KS  
Contact Carly Farrell at 785-550-8897 with questions.

**KWAA Council Meeting**

April 23, 2005 - Time and location to be announced. Officers, District Representatives and Committee Chairs to attend.

**KWAA Annual Conference**

July 21st - 23rd, 2005 - Lindsborg, KS

### **KWAA Donates to Judge Kay Royse Scholarship in Law**

On January 22, 2005, during the "Great Women on the Bench" reception and Gala, KWAA donated \$2,000 to the Judge Kay Royse Scholarship in Law at KU Law School.

"This scholarship was established in 1999, to award scholarships to assist and encourage women students in their second or third year of study in the School of Law at KU, and who have demonstrated a substantial commitment to public service in Kansas."

"Judge Royse received her law degree from KU in 1979. She practiced law in Wichita after graduation and in 1986 was elected to the first of three terms as Sedgwick County District Judge. She served there until 1993, when she was appointed to the Kansas Court of Appeals, the second woman ever to be appointed to that position.

"Judge Royse spoke at the School's second annual scholarship reception about the scholarship she received while in law school. She spoke of her feelings of gratitude and the importance of thanking those who provide such support. Judge Royse died in September 1999." (Excerpt taken from KU Law School's website, with permission.)

KWAA would like to extend a special thanks to WWAA, WAAT and the memorial golf tournament organizers for their joint efforts on raising this money.

## Representing Non-Citizens in Criminal Cases

By Rekha Sharma-Crawford

The effect of criminal convictions on immigration status is a twisted law school exam question. While this article is meant to provide a foundation for representing non-citizen defendants facing criminal charges, it is not exhaustive. Aligning yourself with a competent immigration attorney may be your best defense as you defend a non-citizen client.

To begin a proper analysis one must have a definitional basis. Many of you may understand these basic principles, but it is in these subtleties that an accurate analysis of your client's situation is found. The first step is to define your client. This definition is an exact understanding of their status. The basic questions that should be asked are: Did they make a lawful entry? Have they arrived on a visa? Are they in status or out of status on that visa? Are they a Lawful Permanent Resident? How long have they been a Lawful Permanent Resident?

In today's climate, if your client is illegally present in the U.S., either by an illegal entry or failing to maintain status, any arrest or sentence that results in incarceration can place your client at risk for deportation. Generally, all jails contact Immigration and Customs Enforcement regarding an alien inmate. Immigration Enforcement conducts an interview of the individual regarding their presence in the United States and determines if an immigration detainer should be placed on the individual.

If your client illegally entered the country without being inspected then he is both "inadmissible" and "deportable." Inadmissibility for criminal grounds is defined at 8 USC §1182 (a)(2). Deportability is defined at 8 USC 1227(a)(2). If your client was inspected upon his entry, i.e. he entered on a visa and was inspected at the border or point of entry, then, in most cases he will be only subject to grounds of deportability. However, Lawful Permanent Residents who have departed the United States may, in some instances, upon their re-entry be subject to both grounds of inadmissibility and deportation.

The second step is to define the crime. Crimes bearing immigration consequences are generally divided into two classes:

Crimes Involving Moral Turpitude (CIMT) and Aggravated Felonies. Aggravated Felonies are defined at 8 USC §1101 (a)(43). Crimes Involving Moral Turpitude are not defined statutorily but are loosely characterized as:

Anything done contrary to justice, honesty, principle, or good morals; an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in

general, contrary to the accepted and customary rule or right and duty between man and man. (9 U.S. Dep't of State, Foreign Affairs Manual (FAM) §40.21(a), N2.2)

In essence, a Crime Involving Moral Turpitude is a crime that is *Malum In Se* as opposed to *Malum Prohibitum*. However, much like everything else in Immigration, it is not that clear. For example, a worthless check charge in one jurisdiction may not rise to a CIMT, however, in another jurisdiction, if the statute contains as an element, fraud, a CIMT may very well be established. Likewise, a DUI conviction is not a CIMT, however a DUI where the driver was also suspended at the time of arrest is a CIMT. The distinction being that since the driver had a suspended license the driver would have been aware he was prohibited to drive. The violation of that prohibition, aggravated by the DUI has been held to meet the threshold for a CIMT. Matter of Lopez-Meza Int. Dec 3423 (BIA 1999). Thus, as a general rule, in determining whether or not a crime is a CIMT, a careful statutory analysis of the elements of the offense is necessary.

A single conviction for a CIMT will make your client inadmissible, but a single, first time, conviction for a CIMT may not necessarily make your client deportable.

Aggravated felony convictions are equally troublesome. Any conviction for a crime amounting to an aggravated felony will make your client inadmissible and/or deportable. There may or may not be a waiver for that crime. A crime may be both an Aggravated Felony and a CIMT, i.e. sexual abuse of a minor, or it may only be either an Aggravated Felony or a CIMT. Recently, however, the US Supreme Court found that a felony DUI was not an aggravated felony. In so finding, the Court ruled that for a conviction to be deemed a "crime of violence" it must involve more than an act of mere negligence, as was only required for the state DUI offense being examined by the Court. Leocal v. Ashcroft, 03-583. (US. Sup. Court Nov. 9, 2004).

Controlled substance convictions will result in removal with one exception. A first time conviction for personal use possession of marijuana, under 30 grams, is subject to waiver. However, possession of drug paraphernalia is a crime "relating to a controlled substance" and as such is a deportable offense. It is important to note that controlled substance violations are some of the most lethal as no waivers are specifically available. Therefore, when evaluating the potential collateral consequences of a controlled substance violation, extra care must be taken in aggressive representation.

Finally, in resolving cases, it is absolutely necessary to make sure that what may not be considered a conviction under criminal statutes,

are not considered convictions for immigration purposes. 8 USC §1101(a)(48)(A) defines conviction as follows:

The term "conviction" means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where - a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

Thus, a diversion, which is a contract between the District or County Attorney and the client, without judicial intervention, will likely not be considered a conviction. However, a diversion, or in Missouri, a suspended imposition of sentence, wherein a plea is taken before a judge and that judge has imposed probation-like restrictions which are to be met before the case is dismissed, would be a conviction for immigration purposes. Therefore, careful consideration should also be given to the definition of a "conviction" when disposing of criminal charges.

Alarming, in some cases, a conviction is not necessary to trigger an Immigration consequence. 8 USC §1182(a)(2)(A)(i) sets out that an alien is inadmissible "who admits having committed, or who admits committing acts which constitute the essential elements of - a crime involving moral turpitude." Therefore, a diversion agreement in which your client admits to the contents of the police report or the affidavit could subject them to removal.

These pieces are just the basics. They can hopefully provide some guidelines to assist you in making critical decisions for your clients. These statutes change frequently. The Supreme Court, all eleven Circuit Courts, and the Board of Immigration Appeals each create new case law on a daily basis that must be entered into this analysis. It is confusing, but diligent representation can often help to avoid dire consequences for your non-citizen client.

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*Rekha Sharma-Crawford  
Sharma-Crawford, Attorneys at Law  
7208 W. 80<sup>th</sup>, Ste. 207  
Overland Park, KS 66204  
(913) 385-9821*

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KANSAS WOMEN ATTORNEYS ASSOCIATION
NEW/RENEWAL MEMBERSHIP APPLICATION

August 1, 2004 ~ July 31, 2005

Name \_\_\_\_\_

Firm/Agency \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Day Time Phone # \_\_\_\_\_ Home Phone # \_\_\_\_\_

Fax # \_\_\_\_\_ E-Mail Address \_\_\_\_\_

Areas of Practice \_\_\_\_\_

County of Residence \_\_\_\_\_ County in which office is located \_\_\_\_\_

Areas of Practice: (Check all that apply)

- Administrative, Appellate, Arbitration/Mediation, Bankruptcy, Business/Corporate, Collections, Corporate Counsel, Criminal, Disability, Education, Elder, Employment, Estate Planning, Family, General Practice, Government Counsel, Insurance, Judiciary, Juvenile, Labor, Legal Education/Professor, Legislative, Litigation, Medical Malpractice, Non-Traditional/Non-Legal, Personal Injury, Real Estate, Social Security, Tax, Utility, Workers Compensation, Other: \_\_\_\_\_

- New/Membership Dues: \$50.00
Renewal/Membership Dues: \$50.00 (Current members please wait until the end of the year to renew)
Law Student Membership Dues: Complimentary

Make checks payable to the: Kansas Women Attorneys Association

Mail payment and membership application form to:

KWAA

1200 S.W. 10th Ave

Topeka, KS 66604

Office Phone ~ (785) 290-2717 \* Fax ~ (785) 234-2433

## 2004 - 2005 KWAA Council Members

## OFFICERS

## President

Teresa Sittenauer  
(W) 785-232-7761  
(F) 785-232-6604  
Fisher Patterson, et al  
PO Box 949  
Topeka, KS 66601  
tsittenauer@fisherpatterson.com

## President-elect

Patricia Hamilton  
(W) 785-232-2200  
Wright Henson, et al  
PO Box 3555  
Topeka, KS 66601  
patricia@wrighthenson.com

## Secretary

Wendy Tatro  
(W) 785-271-3119  
Kansas Corporation Commission  
1508 Vermont  
Lawrence, KS 66044  
wtatro@kcc.state.ks.us

## Treasurer

Nancy Ogle  
Woodard Hernandez et al  
(W) 316-263-4958  
257 N. Broadway, Ste 300  
Wichita, KS 67202  
nancyo@woodard-law.com

## Past President

Kathy Webb  
(W) 316-263-5851  
300 W. Douglas, Ste 500  
Wichita, KS 67202  
kwebb@mtsg.com

## DISTRICT REPRESENTATIVES

## District 1

Elizabeth Sweeney-Reeder  
(W) 913-826-7405  
Dept. of SRS  
8915 Lenexa Dr.  
Overland Park, KS 66214  
oehrs@srskansas.org

Hon. Janice Russell  
Johnson County District Court  
(W) 913-715-3810  
Olathe, KS 66061  
janice.russell@jocogov.org

## District 2

Molly Wood  
Stevens & Brand  
PO Box 189  
Lawrence, KS 66044  
mwood@stevensbrand.com

Katherine Kirk  
(W) 785-749-1323  
1727 E. 1000 Rd.  
Lawrence, KS 66049  
kathykirk@earthlink.net

## District 3

Sara Beezley  
(W) 620-724-4111  
PO Box 352  
Girard, KS 66743  
beezleylaw@clct.net

District 3 *Continued*

Sally Pokorny  
(W) 620-331-0050  
Sally Pokorny Law Office  
118 W. Myrtle  
PO Box 521  
Independence, KS 67301  
sdpokorny@yahoo.com

## District 4

Alice Hamilton Nida  
(W) 620-341-9927  
1730 E. Wilman Ct.  
Emporia, KS 66801

Kellie Hogan  
(W) 316-265-0424  
200 N Broadway  
Wichita, KS 67204  
hogank@klsinc.org

## District 5

Becky Sanders  
785-368-6238  
KS Dept Human Resources  
1430 S. Topeka Blvd.  
Topeka, KS 66612  
rebecca.sanders@dol.ks.gov

## Chris Collins

(W) 785-235-2383  
Kansas Medical Society  
623 S.W. 10th Ave.  
Topeka, KS 66612  
ccollins@kmsonline.org

## District 6

Deb Egli James  
(W) 785-827-7251  
Hampton & Royce  
PO Box 1247  
Salina, KS 67402  
debjames@hamptonlaw.com

## Samantha Angell

(W) 785-827-0344  
PO Box 1697  
Salina, KS 67402  
samanthaangell@hotmail.com

## District 7

Deena Hyson Bailey  
(W) 316-265-9311  
Martin Pringle, et al  
500 Nations Bank  
100 N. Broadway  
Wichita, KS 67202  
dhbailey@martinpringle.com

Kelly Rundell  
(W) 316-268-4681  
City of Wichita  
Department of Law  
455 N. Main  
13th Floor  
Wichita, KS 67202  
krundell@sbcglobal.net

## District 8

Trish Rose  
(W) 630-663-7131  
PO Box 1868  
Hutchinson, KS 67504  
trose2@kscable.com

District 8 *Continued*

Kimberly Rodebaugh  
(W) 620-694-1400  
1008 E. 12th Ave.  
Hutchinson, KS 67501  
kletc@kletc.org

## District 9

Shirley Calvin  
(W) 620-275-0238  
(F) 620-275-4999  
Kansas Legal Services  
120 Grant  
Garden City, KS 67846  
calvins@klsinc.org

Rebecca Crotty  
(W) 785-296-2388  
Board of Tax Appeals  
915 SW Harrison, Ste 451  
crotty.rebecca@bota.state.ks.us

## District 10

Kerry Wasinger  
(W) 785-625-4515  
Kansas Legal Services  
102 W. 15<sup>th</sup>  
Hays, KS 67601  
wasingerk@klsinc.org

Kim Renyer  
(W) 785-628-8226  
Jeter Law Firm, LLP  
PO Box 128  
Hays, KS 67601  
krenyer@eaglecom.net

## District 11

Sheryl Bussell  
(W) 913-573-8124  
Wyandotte County D.A.'s Office  
5617 Webster Ave  
Kansas City, KS 66104  
sbussell@wycokck.org

Anne McDonald  
(W) 913-573-4116  
5444 Cedar  
Roeland Park, KS 66205  
amcdonald@wycokck.org

## CHAIRS-STANDING COMMITTEES

## Annual Conference

Becky Sanders  
785-368-6238  
KS Dept Human Resources  
1430 S. Topeka Blvd.  
Topeka, KS 66612  
rebecca.sanders@dol.ks.gov

## Archives

Gabrielle Thompson  
(W) 785-537-2943  
Kansas Legal Services  
104 S. Fourth  
Manhattan, KS 66502  
thompson@klsinc.org

Archives *Continued*

Carol Boorady  
(W) 316-264-3300  
Foulston Conlee, et al  
200 W. Douglas, Suite 300  
Wichita, KS 67202  
cbooradyks@yahoo.com

## Awards

Mary Droll Feighny  
(W) 785-368-8401  
3540 SW Oak Pkwy.  
Topeka, KS 66614  
feighnym@ksag.org

## Career Development

Anne Burke Miller  
(W) 785-539-6500  
Law Office of Anne Burke Miller  
3130 Amherst Ave.  
Manhattan, KS 66503  
amillerjd@aol.com

## Gender Bias

Patricia Riley  
(W) 785-273-2020  
Weathers & Riley  
PO Box 67209  
Topeka, KS 66667  
patty@weathersandriley.com

## Membership

Susan Saidian  
(W) 316-262-8361  
(F) 316-263-0610  
Redmond & Nazar  
200 W. Douglas, 9<sup>th</sup> Flr  
Wichita, KS 67202  
sgsaidian@redmondnazar.com

## Newsletter

Katherine Bailes  
(W) 913-345-2669  
10831 King  
Overland Park, KS 66210  
baileslegal@earthlink.net

## Publicity

Amanda Kiefer  
(W) 785-291-3913  
3016 SW Sowers Ct.  
Topeka, KS 66604  
kiefera@kscourts.org

## Scholarship

Michele O'Malley  
Fisher Patterson, et al  
PO Box 949  
Topeka, KS 66601

## Supreme Court in Review

Trisha A. Thelen  
(W) 316-291-9586  
Foulston Siefkin, LLP  
100 N. Broadway, Ste. 700  
Wichita, KS 67202  
tthelen@foulston.com

## Finding Balance in the Legal Profession

By Jane Allen

Much has been written lately about creating and leading a balanced life. At least on paper, balance is a celebrated virtue in our culture. This importance is even evident in our everyday jargon. Slogans such as “fair and balanced” imply the virtue of balance in our media, just as the term “imbalanced” is often used pejoratively to describe an individual whose priorities are askew, or a situation that has become untenable. Even a bedrock principle of our government is based on balance – the balance of powers between our branches of government. Balance then, it seems, is fairly important. Realizing this importance does little, however, to clarify what leading a balanced life really means. Since starting Counsel On Call four years ago, I have had the opportunity to explore the meaning of a balanced life through my interviews with hundreds of attorneys from across the country, each struggling to come to terms with leading a balanced life and practicing law. From these conversations, the only generalization that I can make is that there is no one recipe for achieving balance. The ingredients are different for every attorney.

When attorneys talk about balance, most think about the issues that they currently face. It may be that they are questioning how to maintain an active client base, be an attorney clients can depend on, keep abreast of current legal issues, and be a good spouse or good parent. Others may question the balance in their lives because they want more time for personal pursuits like tennis, golf, charity work, or socializing with their peers. Whatever the reasons, many attorneys at different points in their careers take a step back and question whether they, in fact, have a balanced life. My personal journey to find balance in the legal profession began after I learned that my husband and I were expecting our first child. I suddenly realized that the life I was leading would not be balanced after I became a parent. Not just because I was a commercial litigation attorney with demanding hours - that alone would have been challenging enough – but also because I knew that my clients’ needs would always come first. If my client needed an injunction and my child had a soccer game, I realized that my client’s need for the injunction must take precedence. If a judge mandated that I be in chambers on a day that I happened to volunteer to accompany my child’s class on a field trip, I knew that the court order must

take precedence. Constantly living my life in between a rock and a hard place was not an idea that I relished.

At first, I thought the solution to balancing my professional and personal life was to remain at my firm as a salaried associate and to request a reduced-hour schedule. Of course, I fully expected my firm to reduce my salary accordingly. On closer reflection, however, I concluded that this type of arrangement typically led to disgruntlement. Partners tended to feel that they were paying too much for too little commitment. On the other hand, the attorneys working on a reduced schedule tended to feel that they were being under-compensated because they routinely worked more than their scheduled hours. Other associates and partners also resented staying late to complete time sensitive projects, in particular when their colleagues working on a reduced-hour schedule would have to pick up and leave in the middle of crunch time. I did not want to experience these feelings of resentment and guilt, nor did I want my colleagues to experience them. The solution I devised to achieve balance in my life was to return to being a federal law clerk.

**“During this period in my life,...twenty to thirty hours per week, and not having the pressure of primary responsibility for cases, was a balance for my family and me.”**

I knew the steady hours would permit me to spend more time with my newborn child. When I approached my firm with my decision, they offered to consider alternatives that would permit me to stay at the firm and to achieve balance with my family. I proposed being a contract attorney. I knew that this arrangement would allow me to have professional interaction and intellectual stimulation while affording me a significant amount of quality time with my child. My firm and I also knew that I would be paid for the actual hours that I worked - no more, no less. During this period in my life, working on a contract basis for twenty to thirty hours per week, and not having the pressure of primary responsibility for cases, was balance for my family and me.

Whatever your goals are at a particular moment, whether it be making partner at a successful law firm, choosing to be a stay at home parent, or somewhere in between like many of the attorneys we work with, certain guiding principles will help you achieve balance in the practice and to remain content with your choices.

1. Understand why you are making the choices you are making and support your decision;
2. Understand that it will not always be easy;
3. Constantly re-evaluate whether your choices are working for you at this point in your life. If they are not, devise a new plan;
4. Build up your support network. Whether it be family, friends, a great nanny, these people can help you succeed in your mission;
5. Be flexible;
6. Be willing to say no;
7. Understand that you can have it all - it just depends on how you define it;
8. Be happy, not guilty, about the choices you make.

Since I own a business with a mission to create alternatives to the traditional practice and to enable attorneys to achieve a balanced life, most of you are probably wondering whether I have achieved balance in my own life. Parenting four children and running a company with attorneys working from Los Angeles to New York is not always easy, but at this moment in my life it works for me. Before the birth of my first child eight years ago, I would not have made the same choices as I have made today. In fact, had anyone suggested that I would have launched this business, I probably would have laughed - all of which underscores the importance of finding a balance that works for you based on what your needs and values are at the moment. Be open. Be flexible. Be honest with yourself and others, and I assure you that you can find a balance that is right for you.

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*Jane Allen is Founder and President of Counsel on Call, a company specializing in the placement of contract attorneys. Reprinted with permission.*

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## 12 Steps to Building Your Practice

Patricia A. Comeford, J.D., President  
The Esquire Group

Building a practice in today's economy is challenging but by no means impossible. The key is not just focusing your efforts but positioning yourself. Below are twelve steps to helping you distinguish yourself in the market.

1. Determine what qualities make you and your business unique. Consider:
  - Type of practice
  - Experience
  - Race, age, gender of lawyers
  - Diversity of lawyers
  - Location of practice
2. Find out as much about your target client groups as possible. Consider:
  - Clients' legal needs
  - Geographic location of client group
  - Racial, gender and age makeup of client group
  - Publications to which client group may subscribe
  - Where the client group advertises and how they market
  - How the client group selects lawyers
  - What lawyers the clients have been using and for how long

3. Develop a consistent message and image that accounts for your unique attributes, and position that message to your target group.

4. Find and take advantage of every opportunity to promote yourself and firm to target clients and those who service or are related to target clients.

Examples:

- Buy space in clients' publications
- Attend client meetings if possible
- Speak at meetings at which clients will be present
- Advertise, if so inclined, where clients advertise and try to place ads near clients' ads (people always want to see their own ads).

5. Tell everyone about everything you do and want to do. Don't be bashful about talking about your accomplishments - your competitors aren't.

6. Consider an annual or short periodic newsletter targeted to specific client groups.

7. Build a database of clients and prospective clients. This is the information age.

8. Keep track of where your clients come from and then go back to those sources over and over. The old adage of don't fix it if it isn't broke.

9. Reward all referral sources in some way and make it special. You never know where your next client or case will come from.

10. Get out in public and participate in activities in your community. The more people you come in contact with, the better.

11. Don't overreach. Stick to your areas of practice. Bad results ruin good marketing.

12. Offer legal services to groups in which your target clients participate. The objective here is to remain visible to your target clients. Marketing within your client's industry establishes you as an expert.


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### Has your information changed?

If any of your information has changed, please contact Danae at the Association office.

We need your help to keep our membership records as current as possible. Danae can be reached at 785-290-2717 or by e-mail at [djohnson@kearneyandassociates.com](mailto:djohnson@kearneyandassociates.com).

 KWAA  
1200 S.W. 10th Avenue  
Topeka, KS 66604