Entrepreneurs in Community Lawyering

New Mexico Solo and Small Practice Incubator

Program Description
Steering Committee Members

- Josh Allison (Judge, Second Judicial District)
- Richard Bosson (New Mexico Supreme Court Justice, retired)
- Jack Brant (Attorney, Law Office of Jack Brant PC)
- Bradford J. Dalley (Judge, Eleventh Judicial District)
- Jerry Dixon (Attorney, Dixon Scholl, Carrillo, PA)
- Veronica Dorato (Attorney, Dorato & Weems Law Firm LLC)
- Cynthia A. Fry (Judge, Court of Appeals, retired)
- Darin McDougall (Liaison from Young Lawyer’s Division, Attorney)
- Laurie Hedrich (Attorney, Hedrich Law PA)
- Bonnie Stepleton (Assistant Dean for Student & Career Services, UNM School of Law)
- Dorene Kuffer (Attorney, Law Office of Dorene A. Kuffer PC)
- Ed Marks (Executive Director, New Mexico Legal Aid)
- Nan G. Nash (ATJ Liaison, Judge, Second Judicial District, retired)
- Ruth Pregenzer (Director, Entrepreneurs in Community Lawyering, State Bar Foundation)
- Stormy Ralstin (General Counsel, State Bar of New Mexico)
- Antonia Roybal-Mack (Attorney, Roybal-Mack Law PC)
- Maureen A. Sanders (Attorney, Sanders & Westbrook PC)
- William D. Slease (Chief Disciplinary Counsel, Disciplinary Board of the New Mexico Supreme Court)
- Richard Spinello (Executive Director, State Bar of New Mexico)
- Linda M. Vanzi (Judge, Court of Appeals)
- Julie Vargas (Judge, Court of Appeals)
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I. BACKGROUND

a. What is a Legal Incubator?

Legal incubators (also referred to as law practice incubators) assist new attorneys in starting their own solo and small-firm practices. Legal incubator programs are not intended to compete with established attorneys, but rather to train new attorneys to be competent lawyers, serve the legal needs of currently under-represented populations, and encourage participating attorneys with a passion for a lifetime of public service and active community participation.

Legal incubators provide a work environment in which incubator attorneys gain experience in the practice of law and managing a law practice. In an incubator, newer attorneys provide legal services while being mentored by experienced attorneys. Most incubators encourage their lawyer participants to create their own practices that are centered on providing affordable legal services to moderate-means people. Ideally, upon completion of the program, incubator graduates will launch sustainable and profitable law practices, which include the provision of affordable legal services to some of their clients.

The legal incubator concept has gained significant popularity in recent years as a way of addressing the need for additional training for new attorneys and meeting the largely, unmet needs of moderate-means populations. The first legal incubator was started by Fred Rooney at City University of New York (CUNY) in 2007. Since that time numerous legal incubators have been started by law schools, bar foundations, and other organizations across the country. The ABA Standing Committee on the Delivery of Legal Services now has a sub-section dedicated to legal incubators.

b. Why New Mexico Needs a Legal Incubator

New Mexico is a geographically large state with a significant population of moderate-means residents.1 While the State has a number of programs directed at providing legal services to very low-income residents2, accessible and affordable legal services for people of moderate-means are not well established or consistently available. Many moderate-means New Mexicans can afford to pay a modest amount for legal assistance; however, they cannot afford the fees associated with traditional full-representation legal services. Many times these individuals are forced to represent themselves. This often does not achieve the best results for the individuals and causes numerous problems for the court system. Over the long term, legal incubators may help develop solutions to fill this gap in legal services.

2 Very low-income is generally defined as below 125% of the FPG
The State Bar of New Mexico, in collaboration with the University of New Mexico School of Law (UNMSOL), New Mexico Legal Aid (NMLA) and other interested parties, is addressing this challenge by creating a legal incubator. This legal incubator program is called **Entrepreneurs in Community Lawyering (ECL)**. ECL helps new attorneys start successful solo and small firm practices, with the expectation that after they leave ECL these attorneys will continue to dedicate part of their practices to providing affordable legal services to New Mexico’s moderate income population.

II. PURPOSE OF THIS DOCUMENT

The purpose of this document is to identify the goals, structure, and operations of the ECL program for the initial start-up phase and a two-year pilot period. This document identifies the mission and activities of the Incubator, its staff and management.

III. PROGRAM DESCRIPTION

a. Corporate/Business Structure

ECL is a program of the State Bar of New Mexico. ECL is structured with two components. The first component is the mentorship program that helps to train new attorneys to be successful solo and small firm practitioners focused on providing people with moderate incomes affordable legal services as part of their practice. The second component is the participation component, which consists of the attorneys participating in the program (Participants). Each Participant will be a solo practitioner with an independent corporate/business structure in the form of a sole proprietorship, S-Corp, LLC, PA, etc.

The following diagram illustrates ECL’s two components and their interactions.
ECL is run by a director with demonstrated experience in the practice of law, law office management, and a commitment to teaching, community outreach and access to justice. The program director is an employee of the State Bar of New Mexico.

In the participation component of ECL, each Participant is responsible for setting up his/her corporate business structure. While in the program, Participants will develop their businesses, which will continue with little or no modification when they leave the program.

Each Participant must: obtain his/her own professional liability insurance bank accounts (including a trust account); required state and city business licenses; set up his/her own client files and billing system; have his/her own letterhead, business cards, and website; be responsible for finding clients and managing cases. While the State Bar referral programs are available to Participants to assist them in finding clients, the Participants must develop marketing strategies to identify appropriate clients in their chosen practice areas.

b. **Program Specifics (Duration, Fees, Practice Areas)**

ECL offers a twelve-month program for a maximum of six (6) Participants, with rolling admission and the option to remain connected with the program for an additional twelve months in certain circumstances. This structure means there will be new Participants entering the program each year, Participants who have completed one year in the program and want to continue for an additional year, and Participants leaving the program to continue their practices outside of the incubator.

While participating in the ECL program, Participants are encouraged to structure their fees to be affordable for moderate-means clients. The exact fee structure will be determined by each Participant on a case-by-case basis. See Appendix A for the Statement of Principles to which ECL asks Participants to adhere. Participants are also encouraged to consider sliding scale fees and alternative billing methods to maintain the desired affordability.

While in the Incubator, Participants are encouraged to practice primarily in the areas of law most needed by the target population. These areas include family law (including divorce and custody, kinship/guardianship, adoption), probate, adult guardianship, children’s advocacy, SSDI, and workers’ compensation and simple estate planning (simple wills, powers of attorney, and transfer on death deeds).

c. **Relationships and Resources**

ECL provides Participants with training in both the practice of law and how to run a law practice as a successful business. Additionally, ECL provides Participants with subsidized office space and use of office equipment, including a copier/scanner and copy paper. Participants also receive free CLE classes, bar dues, and mentorship fees, and assistance in developing business cards and letterheads. The program also provides Participants with legal research tools, a one-year free subscription to Clio, and access to an expanding form bank with templates that can be modified for the Participant’s practice.
Each Participant must sign a Participation Agreement with ECL. This agreement defines the rights, responsibilities, and obligations of the Participants and the ECL program. By signing the Participation Agreement, Participants agree to abide by the rules of the program regarding practice areas, attending training, rent/lease agreement, mentoring of fellow participants, and updating of program resources.

d. **Eligibility and Application**

Applicants must provide a statement of interest, resume, written business plan, be licensed to practice in New Mexico (or have passed the Bar exam) at the time they begin the program. Recent law school graduates (0-5 years) are eligible, regardless of where they attended law school. Strong preference will be given to attorneys who express a desire to practice in New Mexico, with additional preference given to attorneys who want to work in rural areas of the state. Preference will also be given to attorneys who express a desire to focus some portion of their subsequent practice on moderate-means clients.

e. **Participant Training**

A variety of training and educational programs are available to ECL Participants. ECL’s curriculum is designed to address the practical needs of a lawyer who is just beginning his or her practice. ECL Participants will have access to training in substantive areas of law and business/law practice management, including the structure and operation of a solo or small law firm, the use of technology in a firm, trust accounting, the demands of a civil practice, client and case selection, case preparation, file management, client communication, civil litigation techniques, ethics, and professionalism.

Training will be provided by a variety of community partners, local attorneys, and judges, in addition to the ECL director. Additionally, because of ECL’s association with the State Bar, Participants will have free access to all CLEs offered through the State Bar. Participants are being encouraged to attend a broad range of CLEs for exposure to as many areas of law as possible.

ECL will place special emphasis on helping Participants create sustainable business models to provide quality legal services to people with moderate incomes throughout New Mexico. This will include using alternative fee arrangements, unbundled services, and other innovative methods to provide needed legal services in an affordable and sustainable manner.

f. **Participant Responsibilities**

During the first three months, while Participants are setting up their businesses, ECL will not charge Participants rent. However, Participants may be expected to spend a portion of their time staffing the New Mexico State Bar Foundation legal helpline. The helpline provides callers with legal advice, brief services, and legal information. The helpline provides statewide access to a legal help for New Mexico Residents, while also helping Participants learn how to interview clients, assess cases, and provide legal advice in an efficient manner, in addition to gaining experience in substantive areas of law.
IV. COMMUNITY PARTNERS AND OUTREACH

Community stakeholders and volunteers from many different areas of the legal community have been involved from the very beginning in the conception and development of ECL. This is reflected in the makeup of the ECL Steering Committee, which includes representatives from the New Mexico State Bar and Bar Foundation, the University of New Mexico School of Law, the New Mexico Access to Justice Commission, the New Mexico Disciplinary Board, New Mexico Legal Aid, the current Legal Director of Enlace Comunitario, along with representatives from the State Judiciary and the Private Bar.

This is by design. In order to be successful, ECL will require broad support from the legal community for funding, training of Incubator attorneys, client referrals, and in-kind support, including office space, office services, and waiver of dues and fees for Incubator attorneys.

Because it is a project of the State Bar Foundation, ECL will be able to offer donors the financial incentive of tax exempt status for their donations. Additionally, due to its purpose of educating new attorneys and providing legal services to underserved populations, donations to the program will also qualify toward the $500 aspirational goal in lieu of pro bono services for New Mexico attorneys.

Going forward, the Steering Committee plans to enlist support and assistance from other stakeholders, as appropriate, including: State Bar sections (Solo and Small Firms, Senior Lawyers, Young Lawyer Division, etc.); attorney referral programs; local bar associations; local city councils and county commissions; City of Albuquerque Business Initiatives Program; other educational institutions such as the UNM Business School and the paralegal program of New Mexico community colleges; other civil legal service providers; and other members of the New Mexico Bar.

The State Bar of New Mexico believes the ECL program is a win/win for New Mexico. It serves the Bar membership by providing additional jobs and training, and it serves the community by helping to meet underserved legal needs within the community.

V. ADDITIONAL INFORMATION AND RESOURCES

The following are links to resources for more information regarding legal incubators and the changing practice of law.

- American Bar Association Standing Committee on the Delivery of Legal Services: http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main.html

- California Bar Foundation Incubator Guide: http://www.calbar.ca.gov/Porta...ce/2014%20Incubator%20Guide.pdf

APPENDIX A – STATEMENT OF ECL PRINCIPLES

In an effort to memorialize the understanding between each Participant and ECL with respect to each Participant’s obligations and goals, each Participant will agree to adhere to a “Statement of Principles” that identifies the purpose of ECL to facilitate Participants in creating market-based solutions for serving moderate-means New Mexicans. The Statement of Principles will encourage Participants to:

- Focus on serving the legal needs of moderate-means clients who typically have too much income to qualify for free legal services but do not have sufficient resources to pay for an attorney in the traditional legal market;
- Concentrate on areas of law and need that are not being met by the traditional legal market;
- Seek to make the provision of legal advice more approachable to everyday people by adapting to the needs of clients who may not have previously engaged a lawyer or asked for legal advice;
- Be innovative and strive to make legal assistance more accessible and more affordable for the clients ECL strives to serve;
- Be creative with fee arrangements and limited scope engagements (i.e., unbundled services) in order to make legal services more accessible and to provide flexibility, transparency, and certainty to the clients;
- Use technology in an efficient way to provide value to each client;
- Collaborate with other ECL Participants, mentors, and community partners;
- Be good lawyers: strive to provide excellent legal advice, contribute to the effectiveness of our justice system, and improve the profession.