

How to Move on from 2020 and Get Ahead in 2021

Strategies for Making Next Year Be Your Law Firm's Best

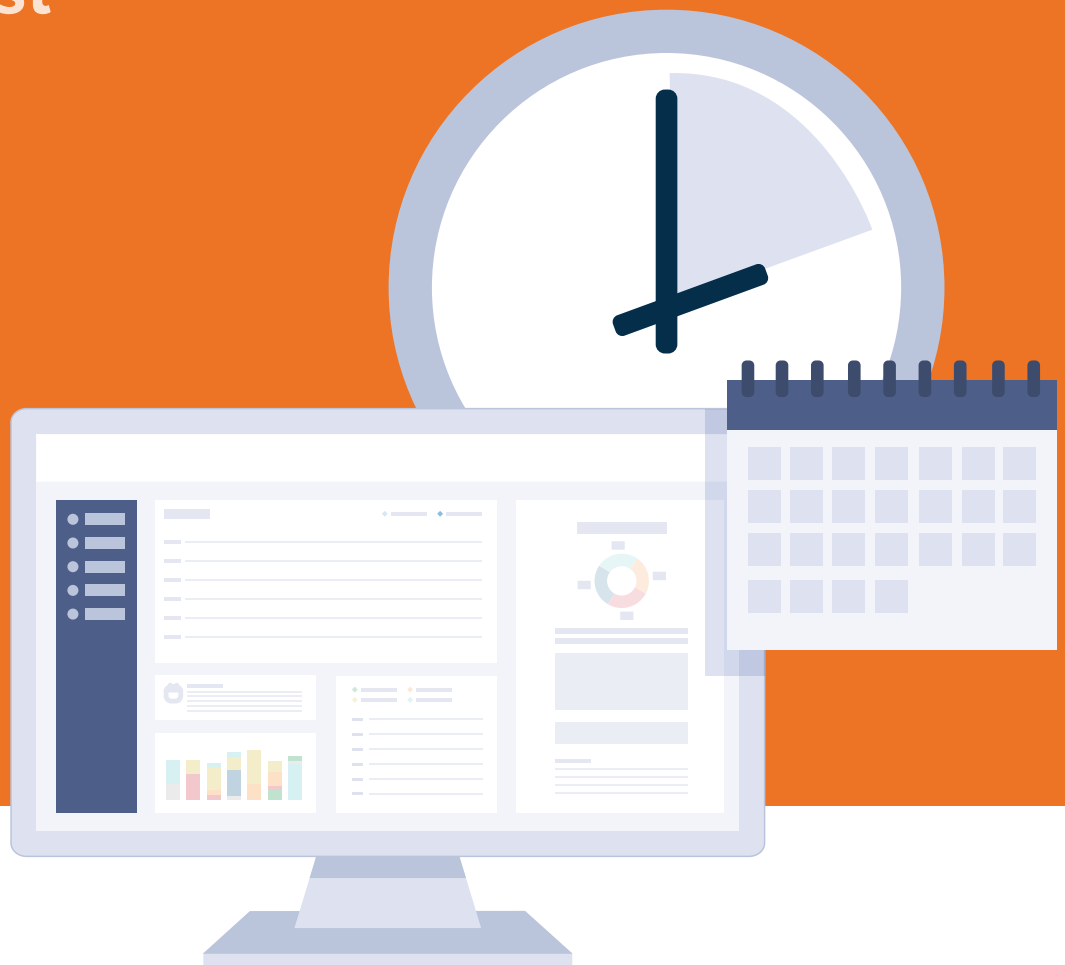


Table of Contents

- 1. Introduction 3**

- 2. Clean Up Your Matters 4**
 - a. Determine what data needs to be culled 4
 - b. Rectify your billing reports 5
 - c. Run business reports 6

- 3. Improve Your Year-End Billing and Collection 7**

- 4. Celebrate the End of Year Safely and Ethically 9**

- 5. Start Success in 2021 with These Seven Priorities 11**
 - a. Establish goals (KPIs) 11
 - b. Consider physical location needs 12
 - c. Establish marketing and intake strategies 13
 - d. Establish virtual vs F2F policies with clients 14
 - e. Establish WFH/remote work policies 15
 - f. Evaluate diversity policies 16
 - g. Establish hiring goals 17

As the calendar closes on 2020 it's time for us all—especially in the legal profession—to take a giant step back, take a deep breath, and realize everything we've accomplished within the last year:

Nearly all of us moved from physical, brick-and-mortar businesses to some kind of virtual business. Our employees are working remotely and using chat programs like Slack to communicate things we used to shout down the hall. We're taking depositions on Zoom and waiting for courts to work through months-long backlogs.

In a word, we've done a lot.

But that doesn't mean the year wasn't painful and uncertain. This was a once in a century time for all of us, and while we've all adapted to the "new normal" (which certainly includes never wanting to hear the phrase "new normal" again), we can't lose sight of the legal and business basics that will ensure that we close out the calendar year successfully.

We've created this guide to help you do just that, with tips on everything from closing out Trust accounts to throwing virtual holiday parties. And because the end of the year also brings the start of a new one, we've included seven essential strategies to start 2021 off right and begin your most successful year yet.

Much of this guide was written for users of case management software like Smokeball. However, even if you don't have legal software, the tips are hopefully just as useful. If after reading this guide you see how Smokeball can help your firm be more productive and profitable in the near year, [we'd love to be a partner well into the new year.](#)

Who is Smokeball?

Smokeball is legal software for life. Your life. Designed for and by lawyers, Smokeball legal management software automatically records your time, fills in your documents, and provides you with state- and practice-specific forms ready for editing. It was designed with your specific practice in mind.

We take care of your business so that you can take care of yourself while practicing law. We're ready to be your strategic partner, helping your practice accelerate your success, whether that be through growth, billable hours, or spending less time in the office. Let us work for you: for more information visit us at www.smokeball.com.

Clean up your matters

Most [case management software, like Smokeball](#), organizes your contacts, files, and client data into legal matters. Enact good hygiene on keeping these matters clean and clear. Or, if you still use paper files or another method, keeping your information in check is no less important.

When you let your matter list get out of hand, you invite mistakes: Time and payments get posted to wrong matters with similar names, and inactive matters take up space on your reports and make data analysis more confusing. When your matter list shows only open matters, you can concentrate on the right things.

Utilize your case management and billing software to determine the inactive matters (of more than a year), and then close those lingering matters out. Make sure the matter is finished and a final bill has been issued. Does the client owe you money? If so, consider writing it off or turning it over to collections. Keeping uncollectible receivables on your books distorts your profitability reports and your cash flow projections. When matters are finished, return unused retainers in a timely manner. Keeping unused retainers not only violates ABA rules, it shows a higher than necessary liability on your balance sheet.

Determine what data needs to be culled

The American Bar Association's Model Rule 1.16(d) states:

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

States have different retention requirements. Illinois, for example, is seven years from the conclusion of representation. Other states, like New Jersey, use seven years from the event recorded. It's important to check with your state bar association for what to retain and for how long.

Once a matter is closed, return appropriate files to your client after making or scanning copies. Files not returned should be scanned and originals sent to storage. Put a note or record in your practice



management software indicating the date documents were sent to storage (if using hard copies), the storage location including box numbers, and box contents. Enter a destruction date on the calendar. Well before the destruction date, notify your client that you will be destroying the records. Create a process to track destruction dates and notifications and recall files for destruction.

Rectify your billing reports

If you have not been properly balancing your Trust Accounts start now and clean them up before year end. In early November or December, do your bank reconciliations for your these accounts. When doing your Trust reconciliation, you should have a number that matches three ways: The bank reconciliation number should match to the Trust Account Bank balance on your Balance Sheet. This is usually where attorneys stop but there are more matches to be made. The Trust Liability amount on your Balance Sheet should balance exactly to what is in the Trust Bank account and the Trust Ledger.

Print a Trust Ledger Report from you [billing software](#). A Trust Ledger Report shows every Trust balance for each matter. Balances must be kept by client or matter. The Trust Ledger balance is your Holy Grail: All things must balance to this number. Do not ignore it if the numbers are different. You are obligated to have these numbers match.

If your Trust Ledger is less than the balance in your Trust Bank account, the difference is probably because you ran a matter invoice and showed you were applying the Trust retainer to the invoice but never actually transferred the money to your operating account. The Trust Ledger and the Liability Account were reduced through the billing process, but you never actually took your money. Simply reimburse yourself from your Trust account to your Operating account.

If your Trust Ledger is more than what is in your Trust Bank Account, you most likely deposited the money into your Operating Account rather than your Trust Account. Another cause for this is taking your money before you have invoiced it. You are not allowed to take money out of Trust before the client has been made aware of it. Issuing an invoice is a way to notify your client the money is being taken. These are serious errors and should be rectified immediately.

In summary, the Trust Bank Balance on the Balance Sheet = Trust Liability Account on the Balance Sheet = The Trust Ledger Report balance. Start early so all your adjustments and corrections can be made before year end.

In January, after completing all bank reconciliations and recording all entries for the prior year, if using Smokeball run Balance Sheet, Income Statement, Accounts Receivable and Accounts Payable reports as of the last day of your fiscal year (usually 12/31). If possible, save a backup of your accounting file as of the date these transactions are completed. Do not overwrite the backup. Send this information to your Accountant and/or Tax Advisor.

Run business reports

Only [Smokeball gives real-time business and management reporting in multiple segments so that law firms can track their profitability](#). Run a report showing how many new matters you opened last year. If you run the report by month, you may spot trends. These trends could help you determine when to step up marketing because you are going into a slow period. It could also help you with staffing. Should you ramp up with interns because a busy season is approaching?

Running the same New Matters Report by Attorney will tell you who is bringing in new matters. Take it a step further and look at the profitability of each of those matters. Someone who brings in matters you lose money on should not be rewarded just based on the number of new matters brought in. If someone is not bringing in new matters, perhaps you have not properly incentivized them to do so. Is there a disconnect in your compensation or are expectations not being effectively communicated?

By looking at the New Matters Report by Matter Type, you can see what areas of law are making up your new business. Do you have enough staff expertise to handle these areas? If not, you could add additional staff or educate existing staff. Are they profitable areas? Should you change your marketing and advertising to leverage this?

While knowing what matters were opened last year is valuable, consider the other end of the spectrum, too. Evaluate the Closed Matters for last year.

The end of the year is also an excellent time to revisit your billing rates.

Look at matters that override default rates. A large number of matters not using default rates may indicate too much flexibility in setting up new matter rates. Exceptions should be just that. When Originating Attorneys can set their own matter rates, they may be costing your firm money.

If you raise your rates at the start of the new year, it is best to make that determination before time is entered into your billing system in the new year. Determine what the new rates will be, what matters they will apply to, and when the rates will be effective. Make sure to communicate this information to your billing staff. If required by your client agreement, send rate-change notifications to your clients before the new rates go into effect.

“I wish we would have been using Smokeball many, many years ago. It is even more important now with the court systems’ e-filing requirement. Everyone’s moving to becoming paperless. The program is ahead of the game.”

Katie S.,
Personal Injury Attorney

Improve your year-end billing and collection (for next year, too!)

“A good word in court is better than a pound in the purse,” goes the Irish proverb. But, having put in that good word, and so much more hard work, how do you manage to get that pound from the client’s purse to yours?

Billing and collection of fees are among the most important and most difficult of the myriad of business tasks associated with the practice of law. As the end of 2020 rapidly approaches, we offer a few basics, reminders, and suggestions.



- Communicate with clients clearly from Day 1.
 - Your engagement/retention letter must be clear and on your [updated legal form](#) (don’t forget costs, especially if they are to be deducted from any award).
 - Explain the process, i.e., how you prepare a bill; show an example bill, using an [easy to understand billing format](#).
 - Utilize descriptors; billing a block of eight hours with the descriptor, “Memo preparation; client conf call; document review,” is not adequate for a professional invoice, and can generate more questions instead.
 - Convey expectations on payment terms, and state that clearly in the engagement letter.
- [Keep accurate track of all time](#) and get write-offs approved afterwards; do not allow individuals to work six hours on a matter and enter four hours because it “took too long.” Otherwise, you don’t know how your fixed fee files are performing financially, how many hours lawyers and paralegals are really working, what your profitability is, and other [key performance indicators](#).
- Track time contemporaneously. Reconstructed timesheets invariably miss time, take longer to prepare, lack sufficient detail when subject to review, and evidence a lack of organization. Eliminate the wasted and lost time spent looking at emails and document logs to determine what you did this week (or last!) with cloud-based remote legal software and a [document management system](#).
- Identify a responsible party and give them the authority to bill, and to negotiate if necessary, and collect. Effective and clear delegation to an accounting role will help eliminate grumbling by the fee generators.

- When considering different types of billing models, e.g., contingency with a reduced hourly fee, contingency with a fixed fee, fixed fee with a bonus, etc. be sure that you have a [proven method to keep track of the time](#), the costs, and the contingencies related to the fee. This is especially important in cases where attorney’s fees may be part of the award application
- Bill regularly, and especially immediately after any resolution of the matter. The benefits of doing so are well-documented, and are illustrated by the “Foonberg curve of client gratitude,” which proposes that the client is most likely to pay immediately after a resolution, and less likely to pay the longer the delay. In addition, failure to regularly and promptly bill subtly sends the message, “We don’t need the money.”
- Make it easy and secure to pay your invoices; accept online payments, credit cards and LawPay, a payment platform with enhanced features that is integrated with Smokeball.
- Use the right tools. According to the [2019 ABA Legal Technology Survey Report](#), “Solo and small firm attorneys were the least likely to have time and billing software, which may result from the higher use of fixed-fee pricing in solo and small firm practice.” As noted above, however, just because a file is on a fixed fee does not mean its profitability and other key performance indicators should not be measured.

[YourABA e-news](#) reports that the top three reasons lawyers lose money, simply, are failure to keep time **contemporaneously**, inconsistent invoicing practices, and reluctance to take retainers due to fear of trust fund accounting rules. [Cloud-based law firm management software](#) is now available to all law firms, large and small, that addresses each of these focus points, including [IOLTA trust account support](#). The continuously updated business management features of Smokeball are designed to enhance the productivity, organization and profitability of law firms of all sizes.

Automatic time tracking in Smokeball has been a huge help in my business. It is automatically running in the background and tracking everything I do, which means without any effort whatsoever I have metrics on what case types are profitable for me, which helps me adjust my pricing.

Nora Endzel
Family Law Attorney



Celebrate the end of the year safely and ethically

A recent survey confirms that [75% of workers prefer monetary recognition](#) in the form of [bonus](#), gift cards, or paid time off, over a holiday party, whether virtual or in person. Only 25% of firms report they will host holiday parties, and most of those will be virtual. Given the lack of enthusiasm by participants, plus the restrictions imposed by the COVID-19 pandemic, one has to wonder if the traditional office party, with all of the associated risks and angst, will ever come back.

Because so many parties are cancelled or being scaled back, some firms are devoting more resources to gifts for clients, suppliers, people who refer business, etc. The rules of holiday gift giving and receiving are not as widely discussed as are wild holiday office parties, but are still important to everyone in business.

A gift is something of value offered with no expectation of a return; a bribe is the same, offered in hope of gaining influence or receiving a benefit.

If you are giving gifts:

- Any gifts involving anyone involved in government contracts or approvals should be carefully examined; most are simply not allowed. Consider a [builder's holiday gifts](#), which resulted in five suspensions and two terminations for his friends in the Building Department. (Interestingly, the whistleblower was the sole employee who received a bottle of Jack Daniels, while his co-workers received Crown Royale and chocolates.)
- Know your clients' policies. Even though you may be allowed to offer the gift, the recipient may be limited by a policy of their own. The last thing you want to do is to get your intended recipient in trouble. Smokeball's [Tasks and Workflows](#) feature allows you to give everyone notice of the clients' gift policies, and track who is making gifts or entertaining the client.
- Lawyers have been [prosecuted for making improper "gifts"](#) to doctors, EMTs, tow truck drivers, and others who refer business, so offering gifts of cash or significant value should be avoided.
- If you want options to consider, here are some [holiday gift ideas](#) from the Smokeball team.



If you are offered or receiving gifts:

- Know your firm's policy – over 75% of private companies, and all government employers, have policies regarding receiving gifts and entertainment. Unfortunately, there is no uniformity among them, so recipient beware.
- Ask others, and the boss, what they think; any gift you are reluctant to discuss or reveal is probably one you should decline.
- Sad but true – if you're new on the job, some vendors offering gifts may be seeking to involve you in an ongoing "cozy" relationship that violates policy or the law.

The rules of the office holiday party are, by now, well-known. Although many organizations are cancelling or holding virtual gatherings, here is a quick reminder of the basics, all of which were ignored by the ironically named Hi-Way Safety Systems, whose [2019 holiday party](#) resulted in two dead, one overdosed, and four arrested.

If you are planning a party:

- Err on the side of inclusiveness in both the planning and invitation list.
- Provide plenty of food and non-alcoholic drinks; limit alcohol to beer and wine.
- Have a starting and stopping time, with activities in between to encourage mixing.
- Discourage (and do not host, attend, or approve expenses for) after-party parties.
- Check with your insurance agent.

If you are attending a party:

- Don't drink too much.
- Don't gossip, complain, or talk excessively about work.
- Don't bring up, or jump into, controversial topics.
- Don't leave too early, or too late.
- Dress and act appropriately.

In the end, excellent communication within the firm using tools such as the [Matter Activity Timeline](#), and a common-sense approach to holiday gifts, should keep you on the right side of everyone's policies, and the law.

Priorities

Establish goals (KPIs) • Consider physical location needs • Establish marketing and intake strategies • Establish virtual vs F2F policies with clients • Establish remote work policies
Evaluate diversity policies • Establish hiring goals

Establish Goals (KPIs)

You won't know success until you define it, so the first step for any (re)opening law firm is to decide what success will look like. Start with finite time benchmarks—6 months, 1 year, 3 years—to know when to accurately self-assess. Then define key metrics that are measurable and workable; these are often called key performance indicators (KPIs), but you can simply call them goals.

Everyone's goals are different so don't stress about finding the right ones; instead measure what's most important to you, for example: monthly revenue, number of cases worked, number of hours worked (or not worked), etc. Finally, be flexible and kind to yourself. The goals you set in January 2020 are likely different than the ones you'll set in July 2020. Goals change as your firm does.

Need more information? Consider:



E-BOOK

Ultimate Guide to Small Law Firm KPIs →



E-BOOK

The Three Pillars of Successful Small Law Firms →



BLOG

Using KPIs to increase law firm profitability →



SMOKEBALL FEATURE

Law Firm Insights →

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Consider physical location needs

Many law firms—like most small businesses—lease their space. The brick and mortar presence of a law firm has been a given for generations. However, with the rise of flexible workspaces (e.g. shared workspaces like WeWork) and telecommuting (i.e. use of mobile technology), a brick and mortar office is no longer assumed.

While you may not be ready to completely forego a static address for your firm, you may want to research and consider sharing office space with others, moving to a block schedule of “office hours,” and/or becoming a virtual law firm even if for only certain days or times of the year.

Need more information? Consider:

 **E-BOOK**

Guide for Law Firms Working Remote and Working From Home →

 **BLOG**

How viable is the virtual law firm? →

 **BLOG**

How to start a law firm →

 **SMOKEBALL FEATURE**

Mobile App for Lawyers →

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Establish marketing and intake strategies

Whether you are starting a firm from scratch or reemerging after time in the shadows you will need to cultivate a list of clients and prospective clients by communicating with them frequently and effectively. Most small law firms have enough on their hands with practicing law and running a profitable business, but setting up a successful marketing and intake system is both important and easier than you might think.

At the very least every law firm should have a website, social media presence, email marketing program, and ratings platform presence (e.g. Yelp.) None of these platforms require much, if any, money, and all of them act as *de facto* advertising for your firm on search engines. Even if you have had a firm website for years, now is the time to reconsider the content that you put on it (e.g. blogs, news/updates, etc.) so that Google and Bing can more easily link to you.

Need more information? Consider:



E-BOOK

[Social Media Workbook for Attorneys →](#)



E-BOOK

[Social Media for Personal Injury Attorneys →](#)



BLOG

[Four critical ways to modernize your firm's website →](#)



WEBINAR

[How Modern Consumer Habits Are Changing Law Firm Intake →](#)

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Establish virtual vs F2F policies with clients

Even if you're not ready to be a virtual law firm, chances are that at least some of your clients will now desire virtual consultation, if not representation. Video conferencing, mobile file sharing, and virtual hearings are here to stay. Many law firms will continue to offer face-to-face (F2F) open door policies and in-home visits to clients, but many clients will now prefer to shop for, and interact with, law firms the way they do shopping on Amazon.

Firmly establish the assumed methods of contact you'll have with clients. Put those policies into writing and clearly communicate them on your website and materials. The actual policy is up to you, but clearly stating how accessible you're open to being will be crucial for clients in late 2020 and beyond.

Need more information? Consider:

 **E-BOOK**

Turning Crisis Into Opportunity →

 **E-BOOK**

The Future of Law →

 **BLOG**

How the coronavirus pandemic has transformed the legal profession →

 **SMOKEBALL FEATURE**

Video Chat that Saves Directly to Your Legal Matters →

Priorities

Establish goals (KPIs) • Consider physical location needs • Establish marketing and intake strategies • Establish virtual vs F2F policies with clients • **Establish remote work policies**
Evaluate diversity policies • Establish hiring goals

Establish WFH/remote work policies

Many law firms began working remotely and working from home (WFH) long-term for the first time in 2020. While it was a steep learning curve for many, and while many firms will always prefer employees work in-person, some firms may be open to extending a policy of working from home for their colleagues. If so, it is best practice to get a policy in place and set expectations early.

Needless to say that if a law firm is going to be virtual and decentralized it will also need a technology plan in place. Ensuring that all employees have access to laptops and software for case management, document automation, billing, video conferencing, etc. is a top priority. It is also not a given that employees will always have reliable internet service, so do your research on cloud software and choose a hybrid model (both locally installed and accessible via the internet) when possible.

Need more information? Consider:

 **E-BOOK**

Choosing the Right Remote Cloud →

 **E-BOOK**

Is Legal Practice Management Software Worth It? →

 **BLOG**

Working Remotely: A practical guide for small law firms →

 **SMOKEBALL FEATURE**

Maintaining Control of Tasks and Deadlines While Working Remotely →

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Evaluate diversity policies

The coronavirus pandemic will undoubtedly be the story of 2020 as its implications are felt globally across social, economic, and political realms. But the year has also seen tremendous social justice protests not experienced in a generation. As law firms are often the first contact for a public seeking justice, it is important for law firms to consider what role—if any—they want to play in vocalizing their policies on diversity, equality, and justice.

Many law firms and companies adopted “anti-racist” policies in summer 2020 that encompass hiring, training, and business practices. There are myriad resources available to research this approach. The ABA also has a [deep shelf of resources](#) addressing not just race, but also gender, disability, and other differences in the workplace.

ABA Diversity and Inclusion Resources



DIVERSITY AND INCLUSION CENTER

Programs, resources, and information across the American Bar Association →



RACIAL EQUITY IN THE JUSTICE SYSTEM

Central clearinghouse of ABA-related information and resources →



TOOLKITS AND PROJECTS

Learn more about combating implicit bias in the profession →



GOAL III REPORTS

Monitoring ABA's progress in promoting full and equal participation →

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Evaluate diversity policies • **Establish hiring goals**

Establish hiring goals

Whether you're starting your law firm and debating a full-time or part-time legal assistant, or restarting your physical firm and debating hiring summer associates or clerks, hiring is an essential task. This is especially true as law firms experience a backlog of casework resulting from the closure of courts nationwide.

Like setting business goals (KPIs), your firm should set hiring goals, delineating not just how many employees you need, but what you need them to do, how long you will need them, what success looks like for each of them, etc. Set immediate and annual goals so that you can periodically review your business's success and growth plan.

Need more information? Consider:

 **E-BOOK**

Hiring and Managing Staff to Increase Law Firm Profitability →

 **BLOG**

Hiring your law firm's first employees, simplified →

 **BLOG**

Law firm hiring: How to get the most out of your new hires →

 **SMOKEBALL FEATURE**

The Future of Summer Associate Programs →