

Considerations for the Aspiring Small/Solo Practitioner



By Matt Austin,
Mason Law Firm & Mark Kafantaris,
Kafantaris Law Offices

The allure of working for a large law firm enticed many of us to seek dozens of job interviews with large firms in our second year of law school. The prospect of practicing law making six figures was a big incentive, as well as the prestige and omnipotence of these firms. The reality, however, is that the vast majority of us – 80% according to the American Bar Association – end up in small firms, or practice by ourselves.

It is not clear what makes a law firm “large,” and this often depends on its geographic location. Thus, while a 60 lawyer firm is plenty big in Columbus, it isn’t big for New York City, where large firms boast as many as several hundred lawyers. Yet, even these mega firms operate in many ways as smaller firms. Separate departmental practice areas invariably group attorneys into smaller packs, and oftentimes attorneys share the same nearby secretary. The true muscle of the law firm comes from its ability to pool large resources where they are needed, be it other lawyers, staff or support services. Moreover, large firms can make better use of idle time of the staff by having workers assist another lawyer or department in the firm while the others are tied up in court or depositions.

In these economic times, however, much of the regular work has dried up and the lawyers have less work to bill their clients. This has been frustrating to established firms that have been burning through cash to stay afloat. Lawyers who once billed forty-five hours in the same week last year find themselves struggling to bill half of that per week this year. Nonetheless, firms continue to dole out regular pay checks (minus bonuses) to lawyers and try to keep them busy with volunteer or pro bono work. Large firms thus are not immune to today’s harsh economy, though they bear it with more fortitude. Their aggressive hiring, however, seems to be a thing of the past.

This change in law firm momentum seems to have jump-started the creation of new solo and small law firms. And with an

abundance of resources around, hanging your own shingle is not as perilous anymore.

To get started, of course, you will need to be resourceful with an entrepreneurial spirit. No one will hand you work. You will not have legacy clients, and you will not be able to count on a certain amount of revenue from long term clients each year. Your case load, and therefore revenue, will be inconsistent. Feast or famine will be all too familiar. Frugality and planning are paramount.

The solo firms that last are often the ones that have created a niche and have successfully marketed their services. Lawyers should specialize in something – and resist the temptation to take whatever comes in the door – once income becomes more stable. Solo firms ought to carve out an area of law for themselves in which they are particularly proficient and work to perfect their practice in that area.

Even with an established niche, marketing is necessary to bring in business. Tasteful advertising that provides honest information about a firm’s services does not diminish the standing of our profession, and in fact can provide a public service to those in need of our assistance. The least expensive way to do this is with a website with lots of content (“How to” articles,” “What if” scenarios, and pertinent “Q&A”) to prospective clients who visit there. For those more comfortable with computer technology, a blog, Twitter account, or Facebook page can have some use, so long as they remain focused on business, rather than socializing.

Here are some nuts and bolts suggestions for those considering solo practice:

Business Plan: Create a concise memo clearly identifying the reason for starting the practice, your target clientele, your marketing initiatives, and your budget. Include where you would like to be in one year and five years. These are not only goals, but rules to live by; for example, if you have a \$1000 marketing budget, do not exceed it despite prospective gain.

Choice of Entity: Learn the different ways a firm can be created and decide which

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is best for you. Consult with an attorney well-versed with regard to the professional responsibility rules.

Business Name: The Ohio Supreme Court has stringent rules on law firm nomenclature. For example, you will likely designate the principals in the business name, though the Supreme Court has recently relaxed things a bit in this regard. Likewise, a solo practitioner cannot refer to his firm as a “Group” or use “and Associates” in the firm name and marketing must not be considered deceptive in any way.

Federal Tax Identification Number (aka “EIN”): All entities must have this unique number to pay federal income taxes. A Federal Tax ID is to an entity what a Social Security number is to an individual. Work with an accountant to obtain an EIN and plan for taxes.

Office Space: Choose office space based on both your clientele and your budget. Working from home is an option for some people, but for others the distractions ultimately become prohibitive. If you will be in court most days, find space near the court house. If you are interested in probate work, find space near well-to-do suburbs where it will be most convenient for your prospective clients. Share a lease with others to split the cost of rent and overhead. Officemates are also good sounding boards for legal strategy and are a wonderful resource for guidance.

Many new attorneys covet a great office in a marquee building. But as your practice develops, you will likely view office space as just overhead.

Malpractice Insurance: A must unless you are willing to provide each client with a disclosure to the contrary. Obtain quotes through bar associations, trade associations and private brokers. Then bite the bullet and get insured.

Now you need to furnish your office and begin implementing your marketing plan. Initially, attorneys need very little: a laptop computer, smart phone, high speed Internet, and a combination of printer/scanner/copier/fax machine, along with regular office supplies like pens and paper. Below is a little more detail about each of these items.

Computer: A laptop computer is essential. Part of the benefit of being solo is that you can work anywhere you want, from the coffee shop or the court house. Make sure your laptop has an internal air card so you're always connected.

Software: A computer is only as good as its software, and Google Apps is one of the best for solos and small firms. For \$50/year, it provides email, calendar, telephone, and shared document support. You also need a billing program.

Smart Phone: This goes without saying. You need the mobility of a cell phone that can send and receive email, use the Internet, as well as download attachments.

All in One: Lawyers are constantly printing, copying, scanning and faxing. Reliable and professional grade equipment is critical.

Virtual Assistant: You're an attorney, so act like one. In the beginning you will type your own letters, answer your own phone, send out your own bills, file your own paperwork, etc. All of this effort reduces the time you have to market your practice and tend to your clients' legal matters. For a modest hourly rate, virtual assistants perform secretarial (and even some paralegal) tasks without the burden of hiring these individuals as employees.

These considerations might seem overwhelming to some, but no one said running your own business would be an easy task. It can, however, be a rewarding experience full of flavor and adventure.

maustin@maslawfirm.com
mark@kafantaris.com



Matt Austin

Ethical and Business Considerations for Lawyers

Linking-In, Tweeting, or Facing Off on Facebook

By Lisa Kathumbi

Social and professional networking websites have dramatically changed the way we communicate. Today, a lawyer can catch up with law school friends or colleagues, showcase their expertise, identify business opportunities, and connect with current and potential clients without even leaving the office. As lawyers, however, we must remain mindful of our professional responsibilities and of the potential risks.

Top three sites where you are likely to find members of the Bar:

LinkedIn

Presently the most popular networking site for professionals, including lawyers, LinkedIn boasts over 43 million users in over 200 countries. LinkedIn users can request and give referrals, share blogs and join groups based on both personal and professional interests.

Facebook

While LinkedIn has long been seen as the online network of choice for professionals, more and more professionals are spending their time expanding their network on Facebook. Through formal contact (messages), informal contact (wall posts), event announcements, and opportunities to join interest groups, Facebook is reportedly helping lawyers obtain and give referrals and also land clients.

Twitter

Launched in 2007, Twitter is a social networking and "micro-blogging platform." It allows for an interactive experience among users who can subscribe to other users' "tweets," respond to them publicly or privately, or "re-tweet" them to other users. Lawyers are using Twitter to connect with potential clients and develop their expertise through blogs, links to their publications and by responding to legal questions from users.

Remember Your Ethical Duties

While social and professional networking websites present many benefits, lawyers must ensure that their online professional profiles and social networking activities do not violate the rules of professional conduct. Lawyers should be particularly mindful of the rules regulating lawyer communications, advertising, solicitation and referrals. For example, Ohio limits real-time communications with prospective clients, which includes online chats and instant messaging, which are common features of social networking sites.¹

Having a bad day at work? Today, many people use their Blackberries to vent their frustrations. Lawyers who blog, tweet or

post status updates with negative comments regarding a member of the bar run the risk of violating Rule 8-102(B), which prohibits false accusations against a judge or adjudicatory officer. The Preamble to the Rules explains that although a lawyer, as a citizen, has a right to criticize officials, "the lawyer should do so with restraint and avoid intemperate statements that tend to lessen public confidence in the legal system."

Tips for Lawyer-Employers

Many employers, including legal professionals, have also turned to social and professional networking websites as an easy and affordable way to identify potential job candidates and to monitor the conduct of current employees. These types of searches are not without risk. They can potentially expose a business to legal liability for discrimination, invasion of privacy, violation of the Fair Credit Reporting Act or other state and federal laws. If you are using information from networking sites to help make employment decisions in your practice you should: (1) conduct searches on potential candidates uniformly; (2) be careful about relying on information that a user has created privacy settings to protect; and (3) consider developing or encouraging your office to develop an off-duty, off network policy that clearly defines expectations.

See You in Cyberspace

With the White House recently unveiling its trio membership in Facebook, MySpace and Twitter, social networking websites have undeniably become an integral part of American culture that lawyers will likely have to adapt to remain competitive. Because social and professional networking websites are still relatively new, however, the law in this area is largely untested and it is difficult to fully evaluate the risks. By keeping in mind your ethical obligations and taking steps to minimize the potential risks, it is possible nonetheless to fully enjoy the many benefits and opportunities that social and professional networking websites have introduced.

¹ Rule 7.3 of the Ohio Rules of Professional Conduct.



Lisa Kathumbi