



Representing a Start-Up Venture Part I

**Basic Business Skills for Starting &
Running a Small Practice**

**Friday, November 16, 2018
NYC**

9:00 a.m. – 4:30 p.m.

7.0 MCLE Credits; 7.0 Areas of Professional Practice

*Sponsored by the Committee on Continuing Legal Education and the Law Practice
Management Committee of the New York State Bar Association*

This program is offered for educational purposes.
The views and opinions of the faculty expressed during this program are those of the
presenters and authors of the materials. Further, the statements made by the faculty
during this program do not constitute legal advice.



Copyright © 2018
All Rights Reserved
New York State Bar Association

Program Description

The New York State Bar Association is pleased to present Representing a Start-Up Venture Part I.

Technically, any new business is a “startup,” regardless of what it does. But there are significant differences between a “small business” engaged in a basic retail or service business operated by its founders, and a “venture startup” backed by outside investors that is engaged in a manufacturing, high technology, e-commerce, Internet or media business. One of the most common mistakes business attorneys make is to confuse the two, assuming that what works for an antiques store will also work for an e-commerce website.

When representing an entrepreneurial company, you cannot afford to be a “specialist”. Your client will expect at least a certain level of familiarity with corporate, contract, intellectual property, employment, international, immigration, tax and securities law issues they will face in building its business and raising capital. As fast-moving, demanding risk takers with limited funds to pay for legal services, startup ventures and their founders will also challenge your time management, client management and ethical practice skills to the utmost.

This program focuses on representing the venture startup and dealing with the often complicated legal, tax, financial and ethical issues involved in working with fast-growing enterprises run by time-challenged entrepreneurs and backed by professional investors.

Program Agenda

8:30 a.m.

Registration

9:00 a.m. – 9:10 a.m.

Introduction and Overview: The Small Business vs. The “Startup” Venture

Clifford R. Ennico, Esq.

Law Offices of Clifford R. Ennico
Fairfield, CT

9:10 a.m. - 10:00 a.m.

Choosing the Right Legal Entity for a Startup Venture

- Limited Liability Companies vs. S Corporations
- When is a “C” Corporation the Right Choice?
- Should you form an LLC in New York City?
- Forming in New York vs. Delaware or Nevada
- Finding Out if a License is Needed for the Client’s Business

Maureen Crush, Esq.

Crush & Varma Law Group, P.C.
Fishkill, NY
(1.0 Areas of Professional Practice)

10:00 a.m. – 10:10 a.m.

Break

10:10 a.m. – 11:00 a.m.

Corporate Shareholders’ Agreements and LLC Operating Agreements

- Identifying the Owners and their Percentage Ownership
- Management Provisions
- Voting Provisions Including Supermajority Voting Requirements
- Confidentiality, Non-compete and “Assignment of Invention” Provisions
- Tag-Along, Drag-Along, Pre-Emptive and Other Rights of Investor-Shareholders
- “Buy-Sell” Provisions
- Other Common Provisions

Maureen Crush, Esq.

Crush & Varma Law Group, P.C.
Fishkill, New York

Clifford R. Ennico, Esq.

Law Offices of Clifford R. Ennico
Fairfield, CT
(1.0 Areas of Professional Practice)

11:00 a.m. – 11:50 a.m.

Your Client's "Social Mission": For-Profit, Not-for-Profit, Benefit Corporation or "B Corp"?

- Benefit Corporations in New York
- Benefit Corporations vs. "B Corps"
- Pros and Cons of Not-for-Profit Corporations under New York's Nonprofit Revitalization Act
- "Even Bad Wolves Can Be Good": Structuring the Business (For Profit) Corporation for Social Benefit

Clifford R. Ennico, Esq.

Law Offices of Clifford R. Ennico

Fairfield, CT

(1.0 Areas of Professional Practice)

11:50 a.m. – 1:00 p.m.

Lunch (on your own)

1:00 p.m. – 1:50 p.m.

Basic Tax Issues for the Startup Venture

- Income Tax Issues for LLCs and Corporations
- Sales and Use Tax Issues for Online Businesses
- Working with your Client's Accountant or Tax Advisor

John M. D'Aquila, CPA, CGMA

D'Aquila & Company LLP

Jacksonville Beach, FL and New Rochelle, NY

Clifford R. Ennico, Esq.

Law Offices of Clifford R. Ennico

Fairfield, CT

(1.0 Areas of Professional Practice)

1:50 p.m. – 2:40 p.m.

Capitalize the Startup Business

- Debt vs. Equity
- Putting Money Into, and Taking Money Out Of, a Limited Liability Company
- Shares of Stock vs. "Units of Membership Interest"
- Voting vs. Nonvoting Equity
- Can You Have Preferred Equity in a LLC?
- Options, Warrants and Convertible Notes
- "Strip Rights" Contingent on Change in Control
- "Friends and Family" Offerings

John M. D'Aquila, CPA, CGMA

D'Aquila & Company LLP

Jacksonville Beach, FL and New Rochelle, NY

Clifford R. Ennico, Esq.

Law Offices of Clifford R. Ennico

Fairfield, CT

(1.0 Professional Practice)

2:40 p.m. – 2:50 p.m.

Break

2:50 – 3:40 p.m.

Intellectual Property Issues of the Startup Venture

- Best Practices for Trade Secret Protection
- Requirement and Procedure for Obtaining and Enforcing Patents
- Establishing and Protecting Trademark Rights
- Scope of Copyright Protection and Registration

Teige Sheehan, Esq.

Heslin Rothenberg Farley & Mesiti, P.C.
Albany, NY

(1.0 Areas of Professional Practice)

3:40 – 4:30 p.m.

Representing the Web-Based Venture

- Legal Review of Your Client's Website
- Drafting the User's Agreement, Privacy Policy and Other Web Contracts
- Your Client's Liability for Third Party Activities Their Sites: Does 47 USC § 230 Still Hold?
- Our Privacy vs. Their Privacy: Should You Be Concerned About Europe's New GDPR?
- Taxation of e-Commerce and Internet Sales
- Buying and Selling the Web-Based Business

Clifford R. Ennico, Esq.

Law Offices of Clifford R. Ennico

(1.0 Areas of Professional Practice)

4:30 p.m.

Adjournment

Accessing the Online Course Materials

Below is the link to the online course materials. These program materials are up-to-date and include supplemental materials that were not included in your course book.



www.nysba.org/StartUpVenturePartOneMaterials

All program materials are being distributed online, allowing you more flexibility in storing this information and allowing you to copy and paste relevant portions of the materials for specific use in your practice. WiFi access is available at this location however, we cannot guarantee connection speeds. This CLE Coursebook contains materials submitted prior to the program. Supplemental materials will be added to the online course materials link.

**Follow Law Practice Management
on Twitter for Quick and Relevant
Program Information!**

@NYSBALPM



New York Rules of Professional Conduct

These Rules of Professional Conduct were promulgated as Joint Rules of the Appellate Divisions of the Supreme Court, effective April 1, 2009, and amended on several occasions thereafter. They supersede the former part 1200 (Disciplinary Rules of the Code of Professional Responsibility).

The New York State Bar Association has issued a Preamble, Scope and Comments to accompany these Rules. They are not enacted with this Part, and where a conflict exists between a Rule and the Preamble, Scope or a Comment, the Rule controls.

This unofficial compilation of the Rules provided for informational purposes only. The official version of Part 1200 is published by the New York State Department of State. An unofficial on-line version is available at www.dos.ny.gov/info/nycrr.html (Title 22 [Judiciary]; Subtitle B Courts; Chapter IV Supreme Court; Subchapter E All Departments; Part 1200 Rules of Professional Conduct; § 1200.0 Rules of Professional Conduct).

**[http://nycourts.gov/rules/jointappellate/
NY-Rules-Prof-Conduct-1200.pdf](http://nycourts.gov/rules/jointappellate/NY-Rules-Prof-Conduct-1200.pdf)**

Free, Confidential Help for the Problems Lawyers Face

*drinking problems
gambling
stress
drug abuse
mental health issues
depression*



NYSBA Lawyer Assistance Program

1.800.255.0569 | nysba.org/LAP

All LAP services are confidential and protected
under Section 499 of the Judiciary Law as
amended by Chapter 327 of the Laws of 1993.





Bringing you the best and most relevant continuing education to help you be a better lawyer. Last year over 2,000 lawyers and judges volunteered for a NYSBA CLE. For decades, CLE volunteers have been developing and presenting seminars, preparing rich collections of written materials and raising the bar for legal practice in New York.

View a Complete Listing of Upcoming CLE Programs at
www.nysba.org/CLE



Law Practice Management Programs Available Online

Law Practice Management Continuing Legal Education programs are open to all members and non-members. Topics include finance, technology, human resources, marketing, client development and day-to-day operations of your law firm. All LPM live programs and events are recorded and available online, on demand. Special member pricing options are available. Recent programs include Leveraging Technology in Your Practice, Technology, Tools and Ethics Rules, Powerpoint 101 for Lawyers, Maximizing the Use of Your iPad in Your Law Practice and many more.

Learn more about Law Practice Management Resources
www.nysba.org/LPM