



NEW YORK STATE BAR ASSOCIATION

GETTING STARTED IN A SOLO LAW PRACTICE

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TODAY'S TOPICS

- The Six Big Questions When You're Starting Out
- Organizing Your Solo Practice
 - Creating your business plan
- Financial Management of Your New Practice
 - Budgeting
 - Billing, collection and cash-flow

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STARTING OUT: THE SIX BIG QUESTIONS

- What will I practice?
 - Home office or “real” office?
 - Will you see clients in the home?
 - Corporation, LLC or Sole Proprietor?
 - How Will I Manage My Practice So I Make Money?
 - How Much Will I Charge My Clients?
 - How will I get the word out*?
- * -- will be addressed in other segments of today’s program

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FOUR BASIC STRATEGIES FOR YOUR “PRACTICE MIX”

- Stick with what you know and don’t venture outside “the box”
- Take on “anything and everything that walks in the door and has a pulse”
- Build a reputation for two or three highly desirable practice areas and let the market tell you what you should be
- Specialize in a certain type of client and become a “generalist” for that client

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STAYING “INSIDE THE BOX”

- **Advantages**

- Your malpractice insurer will adore you
- Easier to describe what you do at cocktail parties and social occasions
- You will keep all of your hair well into old age

- **Disadvantages**

- May prevent you from growing unless your specialty is in great demand
- You will end up making other attorneys wealthy (losing clients to them) by referring out work you are not comfortable doing
- May leave you vulnerable to sudden market changes and economic swings that render certain practice areas obsolete or undesirable
- When you’re starting out, you may not have a “box” to stay into ☺

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TAKING ON “EVERYTHING THAT MOVES”

- **Advantages**

- Guarantees that you will have at least some business
- May be the only practice alternative when you’re just starting out and have little experience with particular specialties

- **Disadvantages**

- Serious malpractice risk: no one can stay on top of all developments in 5-6 practice areas
- Your malpractice insurance may not cover everything you want to do
- By spreading yourself too thin, you may have trouble developing a reputation for expertise in a certain field

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LETTING THE MARKET DECIDE

- **Advantages**

- More likely you will get work on a regular basis
- Probably will be less competition, meaning you can charge more for your services
- You may get referrals from other lawyers who are staying in their “boxes”
- Can develop a reputation for “cutting edge” legal work before other lawyers do

- **Disadvantages**

- Can be stressful as you will be constantly in “learning mode”
- May be a good reason why local attorneys avoid certain specialties even if they are in demand
- If you are developing more than one specialty, there may not be “synergy” between them

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LETTING THE MARKET DECIDE

- **Look for practice areas:**

- That are in demand
- That are “cutting edge” or otherwise haven’t saturated the market
- That can generate a decent profit margin; and
- That you can easily market to without great expense

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SPECIALIZING IN “TARGET” CLIENTS

- **Advantages**

- Allows you to be more of a generalist
- Easier to stay on top of developments in multiple practice areas
- If client community is organized, easier to generate referral business

- **Disadvantages**

- If there are not enough “target clients” in your area, may have to relocate to engage in multijurisdictional practice
- May be vulnerable to market, technology and economic swings that disproportionately impact your clients (book publishers, anyone?)

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SPECIALIZING IN “TARGET” CLIENTS

- Identify a client that is common in your area, and provide a wide range of services for that client with one or two specific exceptions
- For example, “a Wall Street lawyer for your small or growing business” (Cliff’s approach)
 - Cliff does just about everything for small business clients except litigation and patent/trademark work
- Just don’t specialize in “clients who don’t know what they’re doing and have no money . . .”
 - They are easy to find, but you won’t make a living ☺

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OTHER “CLIENT CENTRIC” STRATEGIES

- Business type: software, Internet, and early-stage technology companies
- Specific industry: construction, publishing
- Underserved ethnic or religious groups: Hispanics, Muslims, immigrant communities
- Economic status: high net worth individuals who need sophisticated tax and estate planning
- Clients who themselves specialize in “target” clients: residential vs. commercial real estate investors

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HOME OFFICE VS. “REAL” OFFICE?

- For certain types of practice, a “real” office is unavoidable
 - Litigation
 - Trusts and estates
- If you reside out of state, you must maintain a physical office within the State of New York [Jud.L. § 470; Schoenefeld v. Schneiderman, 821 F.3d 273 (2d Cir. 2016)].
- Some other reasons you may not be able to work from home:
 - Your Local Zoning Regulations May Not Let You
 - Your Nosy Neighbors May Not Let You
 - Your Spouse or “Significant Other” May Not Let You
 - You Are Not Disciplined Enough to Work from Home

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THE BIG QUESTION

SHOULD YOU SEE CLIENTS
AND CUSTOMERS IN
YOUR HOME OFFICE?

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THE ANSWER TO THE BIG QUESTION

NO!!!!!!

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AW, GEE . . . WHY?

- Will make you more visible to your neighbors and community, thereby inviting legal hassles
- Increased risk of “slip and fall” and “dog bite” type liability
- Not all clients/customers are nice people . . . household items may go missing
- Your spouse/significant other will not want people traipsing through your home
- Do you really want your clients/customers to see how you live? Or know where you live?

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THE KEY TO HOME OFFICE SUCCESS

- In a single word, “invisibility”
- How do you achieve “invisibility”?
 - Don’t use your home address for business purposes (rent a UPS Store private mailbox and use that address instead)
 - It will also get you out of the house at least twice a day . . . ☺
 - Use this address when registering your trade name or DBA
 - Rent conference room space from local professional firms (many won’t charge you if you agree to refer business to them)
 - See clients at their offices whenever possible, or in a neutral location (diners, libraries) consistent with your brand image
 - Avoid noise (esp. at night), lots of cars in your driveway or street, or “noxious odors” that will give you away

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P.C., LLC OR “SOLE PROPRIETOR?”

- Can form a professional corporation or limited liability company (LLC) in New York State to engage in the practice of law, BUT:
- “Each shareholder, employee or agent of a professional service corporation . . . shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or any person under this direct supervision and control while rendering professional services on behalf of such corporation.” [BCL § 1505(a); cf. LLCL § 1205(b)]
- So why bother?
- May be a good idea if . . .
 - You are engaged in other (non-practice-of-law) activities and want to keep a clear separation between them;
 - You plan to bring on partners within the next year to two years; or
 - For “optical” (marketing) reasons because it makes you look bigger than you actually are.

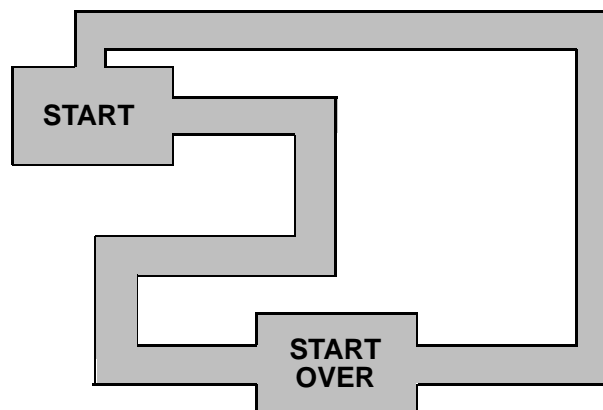
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P.C., LLC OR "SOLE PROPRIETOR?"

THE START-UP SLOG



How can you avoid this?

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NEXT, CREATE YOUR BUSINESS PLAN

- A spreadsheet is not a business plan.
 - While forecasts and metrics are useful, they should be viewed as emanating from carefully thought-out choices and action steps.
- A business plan needs to focus on steps needed to:
 - Develop business (Sales)
 - Staff and manage work-flow (Production and distribution)
 - Provide cash to run the business (Finance)
 - Manage infrastructure and support (Administration)
- The goal is to maximize the value of the enterprise for the benefit of its owners.
 - Value depends upon an ability to demonstrate a revenue stream that is:
 - Reasonably predictable
 - Based upon repeat business from diverse sources
 - Value also depends upon an ability to manage costs.
 - Overhead is necessary, but needs to be controlled.
 - The most expensive (and valuable) asset you have is your time, so use it wisely.
 - “What bad things happen to my clients if I don’t spend this money?”
- Factors of production – land, labor, capital and management

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YOUR BUSINESS PLAN – A CHECKLIST

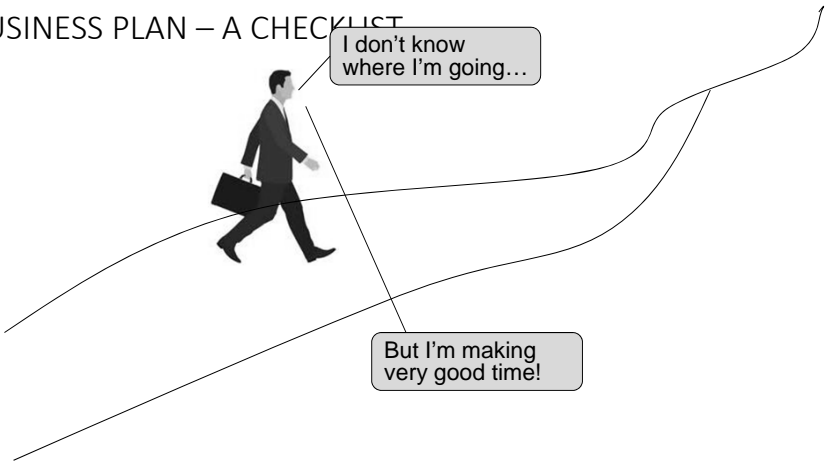
- Practice Basics
 - What types of law do you practice?
 - Who are your primary clients?
 - Who are your primary referral sources?
 - Who are your primary competitors?
 - What makes you a better choice? How are you different?
 - How do you want clients/prospects to view your practice?
 - High-value specialty provider?
 - Low-cost provider?
 - Most responsive?
- Practice Resources
 - Who are the lawyers in your firm and what type of law do they practice?
 - Who is responsible for:
 - Generating business?
 - Assigning and supervising work?
 - Client communications/relations?
 - Office management?
 - Who are your other employees and what do they do?
 - Any strategic partnerships/referral relationships?

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YOUR BUSINESS PLAN – A CHECKLIST



I don't know where I'm going...

But I'm making very good time!

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YOUR BUSINESS PLAN – A CHECKLIST

- Revenue Plan
 - How will I price my services?
 - Hourly?
 - Flat fees?
 - Contingency?
 - Percentage of assets or of “the deal”?
 - Retainer?
 - Commission?
 - What cases/matters/files do I have already in hand; what will they produce in fees and when?
 - Files from prior firm
 - Files pending from prior client relationships
 - How will I develop new cases/matters/files?
 - Call on your “A List” prospects/referral sources
 - Call your “B List” prospects/referral sources
 - What is my best estimate as to what I can produce by way of fee revenue each month for the next 24 months?
 - What is my marketing plan and budget?

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YOUR BUSINESS PLAN – A CHECKLIST

- **Production Plan**
 - Besides myself, how many other people do I need to be able to handle cases/matters in a timely fashion?
 - Other partners?
 - Associate(s)?
 - Paralegal(s)?
 - Secretaries?
 - Support staff?
 - Part-timers?
 - Contract lawyers?
 - How will I compensate them; how much should I pay?
 - 1099 or W-2?
 - Hourly wage, plus overtime?
 - Base salary?
 - Benefits?
 - Payroll taxes
 - Health insurance
 - Paid-time-off
 - IRA/401(k)
 - Other

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Your Business Plan – A Checklist

For example, professional managed office space such as “Work Better” and others provides:

- **Furnished, Secure Private Offices**
- **Fully Equipped Meeting Rooms Onsite**
Conference rooms and small meeting rooms
- **Enterprise –Class Technology**
Secure Wi-Fi, custom telecom solutions, copy machines, videoconferencing, & more
- **Flexibility**
Expand and move as needed
- **Professional Office Support Personnel**
Facilities and vendor management (cleaning, supplies, telecom, utilities, etc.)

Administrative support
phone answer service, tech support, guest reception, services, & more)
- **Networking Opportunities**
Work in a community of business professionals; find valuable connections and potential clients

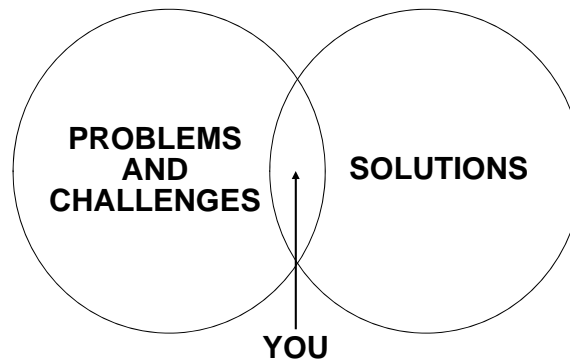
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YOUR BUSINESS PLAN – A CHECKLIST

A REMINDER



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YOUR BUSINESS PLAN – A CHECKLIST

- **Production Plan (cont'd)**
 - What accommodations/facilities do I need to have in place to support these people; how much should I pay?
 - Office space
 - Will clients be coming to my office?
 - Layout?
 - Conference/reception space?
 - Traffic flow?
 - File space?
 - Furniture, fixtures and equipment
 - Telecommunications
 - Software
 - Filing system/records retention
 - Library/research capability
 - Other
 - Who is going to manage all this? How do I budget my time?
 - Client intake
 - Work-flow and assignments
 - Supervision
 - Office management
 - Etc.

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YOUR BUSINESS PLAN – A CHECKLIST

• Finance Plan

- MOST IMPORTANT QUESTION – How am I going to pay my personal expenses while I am starting up my practice?
 - Guideline – enough income from savings or other sources to pay personal expenses for a year
- Where is the capital going to come from to finance my business start-up?
 - Personal savings?
 - Personal borrowing?
 - Firm borrowing?
- If I plan (need?) to grow to support new business, where will I get the capital to finance the growth?
 - Reduction in earnings/draw?
 - Capital contributed by new partner(s)?
 - Borrowing?

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YOUR BUSINESS PLAN – A CHECKLIST

• Administration/Management Plan

- What tasks do I need to plan for when I budget my time?
 - Serving clients
 - Quality assurance
 - Delegating and supervising; scheduling
 - Business development
 - "Business hygiene"
 - Family time
 - Personal time
- What do I need to pay attention to if my business is to be well managed?
 - Balance client development with ability to serve clients
 - Quality control
 - Work allocation and matter management
 - People/HR/internal communication
 - Morale
 - Retention of key players
 - Reviews and performance evaluation
 - Training and career development, including your own
 - Relations with key "stakeholders", starting with you and your family
 - Physical appearance of the office
 - Firm finances
 - Learning how to manage a business

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BUDGETING

- First, hire a good bookkeeper/accountant to handle:
 - Setting up time, billing and general accounting systems and procedures
 - Preparing a draft budget
 - Paying bills, remitting taxes, etc.
 - Keeping the books up-to-date and reporting actual vs. budget
 - Preparing compliance reports
 - Tax returns
 - 1099s
 - Reports to banks, etc.
 - Advising you as to how to control costs
- Budget Guidelines
 - Space costs s/b about 7% of revenue
 - Marketing expense, especially for a small firm s/b 2.0% to 3.5% of revenue
 - Web-site, brochure and external communications
 - Face-to-face client/prospect meetings
 - For most hourly-billing firms, work-to-collection cycle s/b no more than 4 months
 - Expect to realize about 92% of your standard hourly rate

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BUDGETING

- Cost-saving techniques include:
 - Consider outsourcing capacity-sensitive office services
 - Photocopy/facsimile
 - Technology
 - Lease equipment that incurs a lot of wear-and-tear
 - Network with other small firms for research/library needs
 - Use a payroll service
 - Try not to advance costs for clients, or ask for advances to cover costs
 - Filing fees
 - Travel
 - Consider using contract lawyers/paralegals to handle demand peaks
 - Whenever possible, use e-mail, rather than couriers or the USPS
 - Use a single carrier for voice and data services
- It's really all about revenue; your costs are fixed in the short-run

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BILLING AND COLLECTION

- Use engagement letters to communicate fee and billing arrangements, including fee estimates and payment terms, to clients.
- Manage the work in the office to keep it moving to conclusion or to a point where you can bill it.
- Shorten the billing and collection cycles.
 - Improve promptness and accuracy of time entries
 - Don't wait until end of month to send a bill if a matter has closed or a milestone has been reached
 - Make extra effort to ensure bills are accurate and conform to client standards BEFORE they go out
 - This is especially important for electronic bills
- Collect delinquent accounts.
 - Call clients who owe you money, or have someone else in your office call them, and ask to be paid
 - Make sure communication are peer-to-peer
 - Don't let accounts go beyond 45 days before taking some kind of action
 - For clients who are hard-pressed, work out monthly payment plans
 - At near-zero interest rates, deferring receipt of 100% of your fee is preferable to accepting a 25% discount
 - Refer problem accounts to a collection agency
- Where possible, ask for retainers or advances.

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BILLING AND COLLECTION

- Don't be afraid to suggest alternative fee arrangements.
 - Flat fees
 - Matter scope and budget
 - "Carve-out" provisions
 - 50/25/25 payment schedule
 - Performance fees
 - Modified contingency
 - Agree upon client objectives
 - Measure results
- If you are charging contingency fees, must comply with Rule 1.5 of NY's Rules of Professional Conduct (www.nysba.org/DownloadAsset.aspx?id=50671)
 - Contingency fees in medical malpractice cases must also be within the limits set by Jud.L. §§ 474-a.
- On longer projects, keep communicating with clients on progress. If the fee arrangement is open-ended, be sure to advise as to time and costs incurred.

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FINAL THOUGHTS

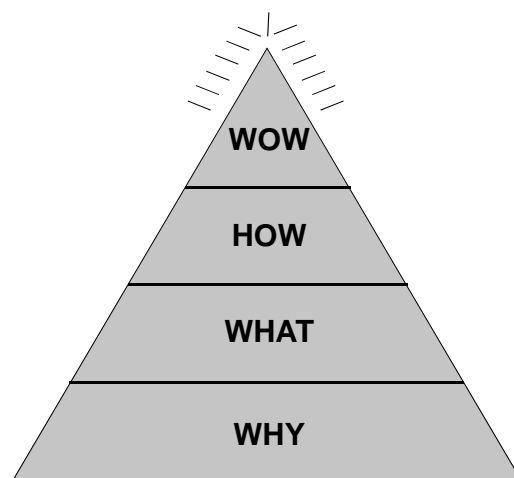
- When you create a new law firm, you are starting a new business. It pays to start managing it like a business from the get-go.
- One hopes that your goal is to create an institution that will continue to live and thrive for successive generations of partners. If not, why bother?
 - A business plan is essential.
 - Compensation plan
 - Admission, death, disability, withdrawal and retirement provisions
 - Dissolution/termination plan
 - Where possible strive for consensus; try not to take votes.
- Don't build something you can't or won't manage. You can't delegate your responsibility as an owner of the business. Too many others depend on you.
- Plan to spend around 3,000 hours a year for five years to get a firm off the ground.
- Keep your clients satisfied and well served AND have a good time doing it.

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GET IT DONE



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Q&A

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