Starting From Scratch
“A real life approach to starting and running a small law practice”

Altus Law
Scott Schnuck

Marketing - Definition
- The study of the “It”
- Your particular service
- Offered to a clearly identified buyer
- Marketing is NOT sales (though sales is included)
- Main 2 Questions:
  - What is your “It”
  - Do “they” want “It”
Marketing – “IT”

- What is the “It”—the thing someone is going to pay you for
- Specific product[s]
- Location
- Delivery method
  - Hourly
  - Task based
  - Contingent
- Benefits of your service (distinguish feature v. benefit)

“It” is also defined by “you”

- Can you do “It”
- Will someone trust you to do “It”
- Going to have to prove it
  - Are you capable? Not necessarily the most capable
  - Why should the world believe you can do “It”
- Beware of too many “Its”

Marketing – “Them”

- Who wants “It”—“Them”

  Market Analysis
  - Market fragmentation – small/numerous clients v. concentrated
  - Client – e.g., companies v. individuals
  - Nature of engagement – one-off/limited repeat/long-term relationship
  - MUST identify the client with particularity!
Marketing – “Them”

- How are you going to “get” “Them”
- Understand buying mechanisms
  - One-off v. relationship clients
  - Divorces v. corporate clients
  - Companies v. individuals
  - Gate keepers
  - Estate planning—adult children v. aged client
  - Referral v. search practices
  - Complex litigation v. DUIs

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Marketing – “Them”

- Understand the market segment
  - Concentrated - 10s (local Fortune 500 companies)
    - Can talk to each
  - In between - 100s (local construction companies)
    - Can communicate at/with each—though not in-depth
  - Dispersed – 1000s - 100,000s (all the future ex-wives)
    - Cannot identify or try to talk to any individual

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Marketing – “Them”

- Hunting flies to hunting elephants
- Assess:
  - Nature or market
  - Amount of investment per contact/client
  - Necessary skills for each hunt

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Marketing – “Them”

- Promotion
- Web
- Advertising/direct mail
- Referrals – clients, attorneys, other service providers
- Personal contacts – presentations, information sessions, lunches/coffee

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The other “Them”

- Competition
- Who are they
  - Size, market share, longevity, local v. remote, non-legal competitors (i.e., the web)
  - Many/few
- Does the competition compete in all areas
- Their strengths and weaknesses
  - E.g., large, well-funded competitors with established client base in a concentrated relationship-based market = bad plan

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Co·va·lent

Chuck Palmer
Co·va·lent

Why?

How?

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Co·va·lent

Why?

- You are not a teenage male.
- The numbers will deceive you.
- Your deliverable is the only thing that matters.
- What do you want?

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Co·va·lent

Why?

- The numbers will deceive you.
- $350 \times 1800 \text{ hours} = $630,000

I'M RICH!!!
Co·va·lent

Why?

❖ Your deliverable is the only thing that matters.
❖ Most clients only see your bill.
❖ Worse – they only talk about your bill.
❖ Newsflash – if you only deliver a bill, you’re in trouble.

Co·va·lent

Why?

❖ What do you want?
  ❖ This is the beginning and end of your budget. And what will make your firm a failure or a success.

Co·va·lent

Tools

❖ Business development.
❖ Business delivery.
❖ The team.
**Co·va·lent**

**Tools**

- Business development.
- Specialization.
- Reverse budget.
- Pig-headed adherence to your marketing plan.

**Co·va·lent**

**Tools**

- Business delivery.
  - Pricing = hourly/packages/both?
  - Do we have a system for that?
  - Can that be automated?
  - Delivery is the only thing that matters.

**Co·va·lent**

**Tools**

- The team.
  - Inside (attorneys, paralegals, admin).
  - Outside (CPA, bookkeeper, insurance agent, marketing consultant, business attorney).
Closing the loop.

Who are we?

Humble beginnings

Started with three central ideas:
  - Efficiency
  - Access to Justice
  - Attorney life satisfaction

Each stage of growth has different challenges
Day-to-Day Operations

Management Perspective

- Culture
- Balance
- Software
- Management and finance meetings
- HR meetings
- Calendaring
- New ideas

Culture is Key

- Whatever your culture is – own it.
- Attorney and employee satisfaction and stability
- Helps with communication – common goal
- Less frustration

Balance

- Balance is different for everyone and every firm
  - Balance will change
- Juggling – so many hats:
  - Home life
  - Clients
  - Other professional obligations
  - Management of firm
  - Networking
  - Etc.
Software

- Online management system
- Billing time
- Invoicing
- Reports

Management meetings

- Regular management meetings
- Regular finance meetings
- Make it a priority
- Easy to skip on admin when clients are ringing

HR Meetings

- Employees are amazing but a lot of work
- Time and effort to train
- Retention
- Regular meetings are key
- Culture and support
Calendaring
- Make sure you are calendaring everything
- If you have an assistant – have them double check
- Share calendar with firm
- Leave preparation time for meetings/clients

New Ideas
- Make sure you are getting out and talking to colleagues and other professions
- There are always ways to improve
- Technology is advancing
- More efficient = happy clients = more profits
Ethics

❖ Questions

❖ Examples and

❖ Tools

❖ how avoid the Ethical Pitfalls going Solo/ Small

Ethics

❖ What ethical Rules do you think are the easiest for a new attorney to break accidently?

❖ How do you recommend avoiding that problem

Ethics

❖ Neglect of a matter

❖ ORCP 1.3 Diligence: A lawyer shall not neglect a legal matter entrusted to the lawyer.

❖ (The ABA Model Rule requires a lawyer to "act with reasonable diligence and promptness in representing a client.")
Ethics

HYPO: Attorney starting a new practice has not yet implemented practice management procedures. Attorney takes on 3 family law cases simultaneously, no conflict exists between the cases, however, the case load quickly snowballs and results in missed filings and failures to appear.

Obviously ethical rules have been broken, what techniques or management practices would you use to avoid this type of issue? And, if an attorney finds themselves in a similar scenario how would you recommend handling the issue before violating an ethical rule?

Conflicts of Interest

ORCP 1.7 (a) ...a lawyer shall not represent a client if the representation involves a current conflict of interest... (b) ...a lawyer may represent a client if:

1. the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
2. the representation is not prohibited by law;
3. the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client; and
4. each affected client gives informed consent, confirmed in writing.

HYPO: Husband and Wife approach an Estate Planning attorney requesting a trust preparation. Attorney agrees to representation and discovers during the representation that Husband is hiding property from the wife and intends to keep said property out of the Trust. Attorney decides to end representation of the couple and does not disclose his knowledge of the Husband's deceit.

Has attorney properly avoided a conflict of interest scenario? Is the attorney obligated to disclose the Husband's deceit?
Ethics

✧ Competence

✧ ORCP 1.1: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

✧ HYPO: You have been practicing for over a year, focused mostly on Estate Planning. A potential client comes to you with a Family law issue that you have never handled before, but you are thinking of expanding your practice. You inform the client of your current experience and offer to take the case at a fee rate equal to that of the current market.

✧ Is there any ethical issue in taking this case? If so what issues do you see and what tools could the attorney utilize to ensure they provide competent representation?

Ethics

✧ Marketing and Advertising

✧ ORCP 7.2 Advertising

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a lawyer referral service; and

(3) pay for a law practice in accordance with Rule 1.17.

(c) Any communication made pursuant to this rule shall include the name and contact information of at least one lawyer or law firm responsible for its content.
Ethics

**HYPO:** Christmas is coming and you just started your practice. You decide to market a Christmas discount to any client who signs with you within the next 30 days. You market it on your website with a SALE CLICK HERE button.

- Is this marketing ethical, or are you manipulating your clients into signing before they are really prepared for representation? How or would you recommend some type of holiday promotion to stir up business?

Ethics

**Preserving client money**

- ** Earned on receipt**
- **ORCP 1.5 (c):** A lawyer shall not enter into an arrangement for, charge or collect:
  - (3) a fee denominated as "earned on receipt," "nonrefundable" or in similar terms unless it is pursuant to a written agreement signed by the client which explains that:
    - (i) the funds will not be deposited into the lawyer trust account, and
    - (ii) the client may discharge the lawyer at any time and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed.

Ethics

**HYPO:** Client comes to you and wants to open a case against his former employer for withholding wages. You think the client has a reasonable case, but are unsure of the clients follow through. You request that the client make an initial deposit to show good faith that they want to proceed with the litigation. After receiving a check you deposit it in your attorney operating account.

- What type of ethical issues are you facing, if any? How could you have avoided these issues?
Ethics

✧ Declining Representation

✧ ORCP 1.16 Declining or Terminating Representation

✧ (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect the 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 or expense that has not been earned or incurred. The lawyer may retain papers, personal property and money of the client to the extent permitted by other law.

Ethics

✧ HYPO: Potential client calls you late on a Friday evening. You are just about to leave the office for an important meeting, but you take the call. Client is hysterical, wants to press charges on a roommate for stealing his property. Your practice area is corporate litigation. You try to explain this, and recommend the client contact the bar, but the client is hysterical to listen.

✧ After you hang up you are unsure whether the client understood that you do not represent them. But you have no number or way to contact them? What do you do? Do you have to have an engagement letter for every client call?
FLYING SOLO WITHOUT FLYING BLIND:
PREPARING TO MAKE THE LEAP
INTO SOLO PRACTICE

K. William Gibson*

I. INTRODUCTION

Starting and building a solo practice is unlike taking a job as an associate at a law firm. Lawyers practicing on their own must become proficient in the law and learn how to handle cases competently and efficiently. At the same time, they must become proficient in practice management, marketing and client development, case management, and technology. That is a tall order, but the good news is that new lawyers now have more resources available to them at any time.

In contrast, I started practicing in 1980. In those days, attorneys operated without computers, fax machines, Internet, smartphones, e-filing of court documents, and so on. I started practicing with one other lawyer, and we handled an assortment of cases—from court-appointed criminal defense, to collecting bills for a lawn mower dealer, to personal injury. Our secretary was thrilled when we purchased a new self-correcting electric typewriter for her. Every piece of paper we generated was mailed, expressed, or hand-delivered. Our secretary kept “carbon copies” of everything she did. We had to go to the law library in the courthouse to make photocopies. Legal research at the time was the exclusive monopoly of WestLaw¹ and LexisNexis.² We had to go to the law library and pay exorbitant fees to do any online research. Most of our research required legal reference books and printed appellate court opinions.

I mention this ancient history only to make a point about how difficult and time-consuming it was back in the very old days to do things that can now be done in minutes on our smartphones. Progress has been made on so many fronts, but nothing has been more game changing than the technology that allows us to get things done quickly and inexpensively.

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For the past ten years or so, after a twenty-five-year career as a plaintiff's personal injury lawyer, I have been working as a mostly full-time arbitrator and mediator. Although I still have a few of my own personal injury cases at any time, I spend most of my time helping other lawyers resolve their own personal injury cases, as well as other types of cases—including business, real estate, employment, and consumer cases.

My longtime legal assistant recently left my office, and I have decided to take my own advice and not hire anyone to replace her. The good news is that working alone as an arbitrator and mediator is not as daunting as working alone as a personal injury lawyer handling a hundred or more cases at a time. As an arbitrator or mediator, I rely on the attorneys in the case to provide me with relevant pleadings, motions, exhibits, medical records, deposition transcripts, and more. They have to do the hard work of preparing or obtaining those documents and sending them to me before the hearing. Once I have received the necessary materials, my primary responsibility is to evaluate the information provided and make informed decisions.

I still have a number of my own cases where I am solely responsible for preparing pleadings and motions, interviewing clients and witnesses, obtaining medical and other records, taking depositions, and preparing for arbitration, mediation, or trial. I am fully aware that pulling all that off without missing any deadlines will require me to be more organized than I was when I employed an assistant.

This article will offer advice on how to become organized and take advantage of available resources.

II. REACH OUT FOR SUPPORT

Sole practitioners, by and large, work alone—often without any support staff. No one else has a financial interest in the success or failure of a solo lawyer's practice. For that reason, no one will have a lot of interest in the day-to-day trials and tribulations that the sole practitioner is going through. That, in my opinion, is a good reason for having a partner. That partner has an obligation to listen to you discuss the ups and downs of your practice, just as you have an obligation to listen to your partner. However, having found more satisfaction working as a sole practitioner, my advice to young lawyers is to establish a relationship with another lawyer that will allow each lawyer to take vacations—but not to form a partnership. Even if you share office space with other lawyers, they probably will not have more than a passing interest in your problems, and if you walk into their offices to talk about your problems too many times, you may find that their doors eventually get closed.

Isolation was more of a problem before the Internet and social media. Fortunately, now it is possible, by joining online discussion lists or even Facebook or LinkedIn, to find forums to discuss challenges faced by yourself and other sole practitioners. Discussion group members will offer you advice,
comfort, and solace because they know that you will provide the same to them when it is their turn.

I watched the growth and development of several discussion lists for sole practitioners on the websites of American Bar Association-related groups. The first of these was SoloSez, sponsored by the ABA GP/Solo Division.3

Of particular interest was the fact that groups such as SoloSez discussed substantive problems faced by solo and small firm lawyers, but just as importantly, their conversations ranged from restaurants, to politics, to raising children. It struck me that the conversations—involving people who likely had never met and would never meet—were similar to conversations among lawyers who shared the same office space.

When a sole practitioner faces a problem that he or she has not dealt with before, it is much easier to put a question out to the discussion group than to pick up the phone and call a lawyer who does not know you. Discussion groups are now common in every state and province and often involve solo and small firm lawyers who practice in the same legal arena—personal injury, criminal, family law, probate, and so on. A quick online search will bring up discussion lists, sometimes called “ListServes” in every jurisdiction.

III. LEGAL INCUBATORS

Everyone seems to agree these days that law schools are woefully inadequate in preparing students to start and build a law practice. Law schools will often say that it is not their job. There are positive trends, however, mostly brought on by the backlash against law schools since the great recession of 2008, which found a shockingly high number of law school graduates unable to find jobs in the legal profession. As law schools continue to graduate students who are unable to find work and are saddled with massive student loan debt, some schools have begun to pay attention to the plight of recent graduates, and some have taken the step of forming “legal incubators” to help new lawyers.

A. IIT Chicago-Kent

IIT Chicago-Kent College of Law has long been a leader in applying technology to the delivery of legal services. Chicago-Kent’s incubator program is called the Solo & Small Practice Incubator (SSPI). According to the SSPI website, the program “encourages and supports its graduates by providing substantive and skills training workshops, coaching in marketing and business development, mentoring support, networking opportunities, and an array of other resources. Participants are also provided with office space and basic office

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fixtures." Each SSPI participant is paired with a graduate of Chicago-Kent as a mentor. In addition to covering nuts-and-bolts topics, participants are also mentored in the following: "Professionalism, Legal Ethics, Civility, Diversity and Inclusion, and Wellness, Mental Health and Addiction."

SSPI's offerings to date have included "real-world" seminars and training sessions, including such topics as:

- Learn the Ins and Outs of Real Estate Transactions
- Digital Marketing and Online Trends
- 10 Things You Need to Know to Open Your Practice and Overcoming the Fear of Opening a Practice
- Providing one-on-one practice development and marketing advice & guidance
- Jumpstarting your business development drive
- Effective Strategies of Negotiation and Settlement
- "Unbundling" and Limited Scope Representation
- Website 101: Strategies, Terms and Tools
- How to Become Practice Ready as a Solo or Small Firm Attorney

B. Thomas Jefferson School of Law

Some incubator programs for recent graduates go beyond education, support, and mentoring by offering physical office space where new lawyers can set up shop. One such program is offered at the Center for Solo Practitioners at the Thomas Jefferson School of Law in San Diego, California. The Center's Lawyer Incubator Program admits six to ten recent graduates each year—new lawyers who want to start their own law practices. The law school describes the program as "a cooperative, shared-space environment that is easily accessible to public transportation, courts and other public services."

The incubator program assists new attorneys by facilitating "access to affordable office space, guidance in managing a legal practice, quality continuing

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5 Id.
9 Id.
10 Id.
legal education, seasoned mentors, and [access to the school’s] network of alumni attorneys.” Lawyers in the program are encouraged to gain experience by providing pro-bono services and services to low-income individuals.

C. Pro-Bono Incubators

Many incubator programs encourage new lawyers to do pro-bono work for free, but a growing trend seems to be to advise these lawyers to perform what is sometimes called “lo-bono” work for low to moderate income individuals. Lawyers are taught how to prepare fee agreements and are taught to use time and billing software. Lo-bono work usually involves straightforward legal work, mostly short-term projects done using flat-rate fee arrangements or reduced hourly rates.

D. Arizona State University

Another trend growing out of the incubators is the formation of non-profit law firms by new lawyers. One particularly ambitious program was developed at Arizona State University and is called the ASU Alumni Law Group.13 The University claims to have started the “largest university-based nonprofit law firm” in the country.14 The ASU Alumni Law Group advertises that it provides:

“[A]ffordable legal services to members of our community who often struggle to find access to justice. The firm charges below-market rates so that members of the community with low to moderate incomes can obtain access to justice through a variety of legal services. Rates range from $75.00 to $150.00 per hour, depending on the complexity of the matter and clients’ ability to pay.”15

According to its mission statement:

“The ASU Alumni Law Group was created to help recent graduates of the Sandra Day O’Connor College of Law become more practice-ready by providing them with further practical legal instruction through both closely supervised on-the-job training and a structured

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11 Id.
12 Id.
14 Id.
curriculum. Supervision is conducted by seasoned professionals with experience in the practice area(s) they supervise. The structured curriculum includes instruction in how to practice law, as well as how to start and maintain a law practice.”16

The firm offers legal services in a wide “variety of practice areas, [including] general civil matters, . . . consumer law issues, housing/foreclosure and deficiency actions, landlord-tenant disputes, employment and small business matters, [and] criminal defense services.”17 The firm also handles “a variety of Veterans’ issues, including civil and criminal areas.”18 Supervision of ASU Alumni Law Firm lawyers is provided by experienced lawyers with expertise in each practice area.19

Legal incubators vary widely in the services and education that they provide to recent graduates.20

IV. Bar Association Practice Management Advisors

Most bar associations in the United States and Canada offer free or low cost practice management advice to lawyers.21 Practice management advisors (PMAs) will come to the lawyer’s office and perform a comprehensive audit of systems and procedure, if requested, or they may evaluate and offer advice on specific problems and issues of concern to the lawyer.

The problems addressed by PMAs tend to fall into several specific categories:

- Problems managing trust accounts and providing the required accounting.
- Lack of operating capital resulting in the lawyer falling behind on payment of bills and taxes.22
- Problems managing cases and keeping clients informed of the progress of their individual case.23
- Problems missing deadlines and/or court appearances.

17 Id.
18 Id.
19 Id.
20 A listing of incubator programs and the services they offer can be found on the ABA website. Incubator/Residency Program Profiles, AM. BAR ASSOC., http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_profiles.html (last visited Jan. 25, 2015).
22 In extreme cases, lawyers use trust funds to pay personal bills.
23 Bar complaints are often triggered by clients whose telephone calls or emails are not answered.
Problems resulting from poor time management, health problems and/or substance abuse.\textsuperscript{24}

In addition to identifying and assessing the lawyers’ problems, PMAs can provide referrals to professionals, ranging from accountants to drug and alcohol counseling.\textsuperscript{25} Some of those services are provided free or at low cost by bar associations, while other services are offered for a fee.\textsuperscript{26}

In addition to providing practice management advice, many bar associations also provide what are called “lawyer assistance programs.” These programs are targeted at the problems that underlie the performance issues addressed by the PMA. Those problems may include physical or mental health matters or alcohol and drug issues. Many lawyer assistance programs offer individual or group counseling to affected individuals. New lawyers should not hesitate to take advantage of these services. All consultations are provided in strict confidentiality. The subject is of such importance that the ABA has a Commission on Lawyer Assistance Programs.\textsuperscript{27}

V. Preparing to Hang Out Your Shingle

Young lawyers who do not have the benefit of participating in an incubator program would be well advised to do a lot of research, planning, and preparation before hanging out a shingle. While no amount of research will fully prepare a new lawyer for the challenges that he or she will face, failing to do that research will likely lead to untold surprises.\textsuperscript{28}

A. Office Space

The new lawyer will need a place to work, to store active and closed files, and to meet clients. Today those do not need to happen at the same place. Many new lawyers work from a home office and meet clients at a convenient location such as a coffee shop or borrowed office.


\textsuperscript{25} Id. at 23-24.


\textsuperscript{28} A list of books and other resources can be found at the conclusion of this article in Appendix A.
B. Home Offices

The advantage of a home office is that it does not cost anything. The disadvantage is that most people do not get as much work done at home because of domestic distractions—laundry needing done, dogs (and kids) needing feeding, and lawns needing mowed. New sole practitioners would be well advised to rent a small office, preferably with a conference room available, from another lawyer or law firm.

In large law firms, the costs of running the office get spread around. But in small offices, those expenses are the responsibility of the lawyer whose name is on the door. When monthly expenses are high or unexpected costs arise, the sole practitioner will have a bad month. So how does a solo or small law office cut costs? The two largest expenses for any lawyer are (1) office space and (2) administrative support services. New sole practitioners can cut these costs by eliminating the traditional office, working without staff, or even considering outsourcing essential services such as reception and clerical work. To really cut overhead, lawyers will need to rethink the way they do everything in the practice.

C. Renting Office Space

Solos are usually faced with the choice of renting more space than they need or renting an office from another lawyer or firm. Whichever of these options the lawyer chooses, the rent, along with payroll, will be the largest single monthly expense. But, more and more, solo and small firm lawyers are cutting their monthly rental expenses by renting only the space they need in a shared office, sometimes called an “executive suite.” In an executive suite, you pay for what you need and can afford, whether a full-time office, a part-time office, or just a conference room where you can meet clients.

But what exactly does a solo lawyer get with a shared office arrangement, and how can it help save money each month? Most of the time, rent includes the office space; reception services, such as telephone answering and greeting clients; high-speed Internet access; mail handling; and coffee service.

With a full-time office, the lawyer can move in with all his or her files, put pictures of the kids on the wall and use it every day. A part-time office is shared with other people, and you need to leave it empty when your time is up; but it is a great place to meet clients, take depositions, or hold arbitration hearings. Also, you will often get a good location and a prestigious address. When you are not in your part-time office, you will likely be working at home or at a coffee shop. Shared office space is available in every community. It may be a regional or local business, or part of a national organization that has offices in multiple cities. National office-sharing companies operate in most states and provinces. Local companies often offer lower rates.
D. Purchasing Office Space

It has long been said that more lawyers fund their retirements from investments in real estate, often having purchased their office buildings early in their careers, than fund their retirement from savings. Whether that is true or not is beside the question; the fact remains that in many cities and towns across North America, a new lawyer can purchase a small house that has been converted to office space or purchase an “office condominium” for about the same monthly cost as paying rent.

E. Eliminate Full-Time Employees

Having full-time employees means the solo lawyer will not only have to pay the monthly salary for someone to answer the phones, prepare documents, organize cases, and talk with clients, but it also means the solo lawyer have to pay payroll taxes, employee health insurance, and worker’s compensation insurance. Not only that, but the solo lawyer will likely have to pay a replacement when an employee is on vacation or is home sick. If a solo lawyer provides sick leave and vacation benefits, the lawyer may ultimately be paying twice.

When the time comes where a solo lawyer needs to hire someone, consideration should be given to part-time workers—people who want to work less than full-time—who can be paid hourly. The solo lawyer will only need to pay for the time the employee spends in the office. If the solo lawyer does not want to require people to punch a time clock, don’t worry—there is probably an app for that.29 Having part-time employees gives the solo lawyer more flexibility than having one full-time assistant. One of the employees will usually be able to increase hours to cover for someone who is off.

F. Outsourcing

How does a solo lawyer get by without having any employees, or at least without as many as would be required in a traditional office? One way to eliminate some staffing costs is to outsource the low-level work that highly paid employees currently do. A legal assistant has better things to do than answer the phone, so why not find someone else to do it? Outsourcing telephone reception is a popular concept right now. Many companies will take messages from callers or relay information to them if the lawyer is not available to take the call. The company will also transfer the call to the solo lawyer if requested to do so.

If having a live receptionist is not critical to the solo lawyer’s practice, there are any number of “virtual receptionists”—available online or with local software—that will answer phone calls and offer personalized messaging. There are plenty of options available, but the bottom line is that it is no longer necessary to incur the salary expense of having someone answer phone calls and take messages.

In addition to outsourcing telephone-answering services, a solo lawyer can also outsource some of the higher-level duties that full-time employees currently perform—often to the same companies that offer reception services. Many companies, some located offshore, offer personal assistants to handle everything from Internet research to website maintenance and search engine optimization—all for about half the hourly rate solo lawyers are probably paying current clerical staff. Search the Internet using the phrase “virtual legal assistant” to find offerings from around the world.

VI. Marketing Your New Practice—Getting Clients

In the new ABA book, Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer, I wrote that:

Marketing your solo or small firm practice involves time and money, whether you practice family law, bankruptcy, small business, personal injury or any other area of the law. Many lawyers are tempted to start throwing a lot of time and money at their marketing efforts without much thought. Instead of doing that, however, my advice is to do a lot of research, give it a lot of thought and come up with a plan before spending any money.30

No new lawyer, or experienced lawyer for that matter, should begin a marketing program without first developing a marketing plan. A marketing plan should be part of the lawyer’s overall business plan. New solos might do well to consider paying for a few hours of time with a marketing consultant before embarking on a marketing program.

The marketing plan should be tailored to the solo lawyer’s practice area, the demographics of the target audience, and the geography of the practice area. For example, a new solo’s marketing plan would need to consider different factors in San Francisco or New York than when practicing in suburban Portland, Oregon.

The marketing plan must identify goals, strategies, and tactics for implementing those strategies and accomplishing the solo lawyer’s goals. A goal might be to develop a practice representing Spanish-speaking people in the area

that have been injured in automobile accidents. Strategies to accomplish that goal might include seeking referrals from other lawyers, marketing directly to potential clients, or identifying non-lawyer sources of referrals such as former clients. Tactics might also include developing a Spanish language website or blog, advertising on Spanish language radio and television, and advertising in publications targeted towards Spanish speakers in the market area.

A. Website

The cornerstone of any marketing program will be the development of a website or multiple websites. An ABA survey found that "Innovative online models, such as those that enable an exchange of questions and answers with lawyers and those that provide consumer feedback about lawyers are most likely to be used to assist in finding a lawyer . . . ."\(^{31}\) Many lawyers succumb to the temptation to have their website developed and hosted by one of the large legal publishers (at a cost of several thousand dollars each month.) Lower-cost alternative solutions are available both for design and hosting of lawyer websites.

Increasingly, lawyers are turning to local website consultants proficient in Wordpress\(^{32}\) or Squarespace\(^{33}\) to develop a website, then have the site hosted by companies who specialize in hosting Wordpress sites. My two websites\(^{34}\) were developed using Wordpress at a cost of less than $100. I found a Wordpress consultant while attending a weekend class at a local community college.

Wordpress is open source, and plug-ins from thousands of developers are available for free or at a small charge. Squarespace is not open source and provides all plug-ins. Both services have distinct advantages and disadvantages, but both are easy to use to develop a website.

Websites not only need to be attractive and easy to use, but need to be appealing to search engines, particularly Google. Websites need to be "optimized" for these search engines, so the solo lawyer's site will display prominently in searches for the lawyer's practice area in the lawyer's location. Wordpress offers free or low-cost search engine optimization (SEO) "plug-ins" that will tell the lawyer what Google and other search engines think of the site. SEO websites will analyze the site for free, give a score and identify specific SEO problems with the site.

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B. Blogging

Lawyers are prolific bloggers. Most lawyer bloggers, in my view, are not practicing lawyers, but are consultants offering services to lawyers in areas such as marketing and technology. Those lawyers who blog for their clients or prospective clients often have particular expertise and want to show the world that they have such expertise.

Law practices are generally divided between those who offer services to consumers and those who offer services to businesses. Blogs directed to business clients or prospective clients tend to be more successful. In my experience, blogging in a practice focused on consumer issues—personal injury, bankruptcy, family law, etc.—are less likely to be read by prospective clients.

If the solo lawyer’s practice will involve providing services to businesses, then blogging can be an effective part of a marketing plan. Keep in mind, though, that once one commits to writing a blog, updates need to be made on a regular basis. Nothing turns prospective clients away faster than a blog that is months or years out of date.

C. Videos

YouTube has a channel for lawyer videos. Personal injury lawyers have embraced YouTube wholeheartedly. The ABA Law Practice Division gives out awards for the best lawyer YouTube videos. Admittedly, most lawyer videos are simply short commercials extolling the particular lawyers’ expertise within a practice area. Many lawyers embed their YouTube videos on their websites. YouTube videos are to the consumer legal market what blogs are to the business legal market and should be considered as part of a new lawyer’s marketing plan.

D. Social Media

Sites like Facebook and Instagram exist so that people can keep in contact with their friends. Users, including clients and prospective clients, can “check a lawyer out” on Facebook and Instagram. Lawyers can use those sites to “drive traffic” to their own websites.

The problem for lawyers on social media sites is how to separate their personal lives, complete with photos of kids and cat videos, from their professional lives, where they may not want to share a lot of personal

information. Many lawyers accomplish this separation by creating two profiles—one for personal postings with privacy settings that do not allow “non-friends” to access those postings,\textsuperscript{39} and another profile for their law practice.

Sites such as LinkedIn,\textsuperscript{40} on the other hand, are purely business-to-business and are seldom visited by clients. For lawyers serving business and professional clients, LinkedIn is necessary for establishing and maintaining such relationships. For lawyers serving consumer clients, it is not nearly as effective.

\textbf{E. Lawyer Rating & Referral Sites}

In the pre-Internet days, Martindale-Hubbell\textsuperscript{41} was the pre-eminent publication that rated lawyers’ competency and provided a place where prospective clients could find a lawyer. Martindale still exists as an online service but is not the venerable source it once was.

Today, services by companies like Avvo\textsuperscript{42} have replaced Martindale, particularly in providing lawyer information and ratings to consumers. Avvo was reported to have received $37.5 million in funding from investors in 2014\textsuperscript{43} and is now providing legal services through participating lawyers.\textsuperscript{44} Avvo gives each practicing lawyer a rating, whether the lawyer wants a rating or not.\textsuperscript{45} Lawyers can “claim” their listing by going to the Avvo site and providing more information.\textsuperscript{46} Avvo also offers a complex process through which participating lawyers can increase their rating and visibility on the Avvo site by doing such things as answering questions posted by consumers about particular fact situations.\textsuperscript{47} Lawyers are given points for answering those questions, and some questions have a higher point value.\textsuperscript{48} Avvo offers a premium listing for lawyers, as well.\textsuperscript{49} If a lawyer does not have a premium listing, then consumers who go to that lawyer’s Avvo page will

\begin{footnotesize}
\textsuperscript{40} LINKEDIN, www.linkedin.com (last visited Jan. 26, 2015).
\textsuperscript{46} Id.
\textsuperscript{48} Id.
\end{footnotesize}
find advertisements featuring competitors on the same page.\textsuperscript{50} A premium listing will remove competitors' ads.\textsuperscript{51}

Avvo has recently started a service whereby consumers can “Get legal advice from a top-reviewed lawyer on the phone” for only $39.\textsuperscript{52} With lawyers routinely charging $200–$300 or more per hour, and with consumer clients reluctant to enter into open-ended arrangements with lawyers that allow each lawyer to charge as much as they want, sites such as Avvo appear to be capturing a large segment of the consumer legal market. As venture capital continues to flow into companies like Avvo, it seems clear that the consumer end of the legal marketplace has undergone, and continues to undergo, a fundamental shift.

RocketLawyer\textsuperscript{53} offers “memberships” to the public (currently at $39.95 per month), which allows the public to “ask a lawyer legal questions,” obtain forms, then “have a lawyer review your work to make sure it’s done right”.\textsuperscript{54} RocketLawyer also advertises, “deep discounts when you need more help.”\textsuperscript{55} Lawyers and new solo lawyers can sign up to be providers through the site.\textsuperscript{56}

LegalZoom\textsuperscript{57} got its start by selling legal forms.\textsuperscript{58} It now has a network of participating lawyers who agree to provide discounted legal services to consumers.\textsuperscript{59} The headline trumpets “[f]ind an attorney you can trust for your family” with rates starting at $9.95 per month.\textsuperscript{60} New sole practitioners can also sign up with LegalZoom if they have at least five years of experience.\textsuperscript{61}

Neither RocketLawyer nor LegalZoom will provide the income base for a solo lawyer’s new practice, but with the trend in online legal services going straight up, these services may be worth considering.

\section*{F. Bar Association Lawyer Referral Programs}

Many state and local bar associations provide lawyer referral services where participating lawyers agree to provide an hour of legal consultation at a reduced rate. If the client decides to hire the participating lawyer, the fee for

\textsuperscript{50} See id.
\textsuperscript{51} Id.
\textsuperscript{55} Id.
\textsuperscript{59} Id.
further representation is negotiated between the client and the lawyer, although some referral programs cap the rate that can be charged. Your state and local bar association can provide more information.

G. Bar and CLE Activities

Participating in Bar Association and Trial Lawyer Association activities is an effective way to get to know other lawyers and to get name recognition in the legal community. Lawyers usually get a great deal of satisfaction from participating on bar committees, and it is something that lawyers may feel a professional obligation to do, but it is not generally an effective tool in building a law practice.

Lawyers develop reputations in a variety of ways, and being active in the bar is a good way to develop a reputation for being interested in such things as pro bono, legal services for the poor, bar admissions, or continuing legal education activities. However, if a lawyer wants to develop a reputation for being a good personal injury lawyer, one who is worthy of being referred cases, the lawyer should strive to achieve that reputation. The best way to achieve that reputation, quite frankly, is by having success in the courtroom or handling some high-profile cases.

While many CLE programs are sponsored by bar organizations, other programs are sponsored by private entities, both for-profit and not-for-profit, and they are usually looking for new speakers. The higher-profile and more prestigious CLE programs at lawyers’ conventions and meetings are the exclusive province of the lawyers who appear regularly and tell stories about their most recent big verdicts, so do not expect to break into those programs right away.

H. Television Advertising

Television commercials cost a lot of money. If used correctly, they can be a good way to develop a consumer practice. Television advertising is generally local. With television commercials being very expensive and television advertising relying heavily on the science of demographics, a sole practitioner would be well served by consulting someone with expertise in legal advertising.

Different states and jurisdictions have regulations concerning attorney advertisements. Some states restrict the use of paid actors, reenactments, testimonials, and other things that sometimes appear in commercials. Lawyers should check state regulations before producing or purchasing a television commercial.
VII. Technology

Technology tools are key in setting up a solo practice. A sole practitioner’s technology needs will be different than they might be at a larger law firm. The following sections detail suggestions regarding necessary technology and the considerations that should go into such decisions.

If the sole practitioner does not have any support staff in the office, the technology needs will be fairly basic, but it will still be important to assess those needs and get the right tools. Every lawyer, particularly solos on the go, needs a laptop. If the lawyer is without a secretary, there probably is no need for a desktop computer. Laptop computers, both PC and Mac, have never been cheaper. Tablets are essential and offer more and more apps for lawyers, such as TrialPad, which offers an easy and efficient means of organizing and presenting information.62

A. Backup Devices

Backup is critical! When a lawyer takes a laptop on the road, the lawyer is toting around the entire practice. Do not leave the office without having a complete backup in a safe place in case something happens.

For local backup, external hard drives are readily available and less expensive than ever. Be sure to set a computer to regularly back up data and applications, including email. USB flash drives hold an ever increasing amount of data. Online backup services such as Dropbox63 and cloud backup services from Google, Microsoft, and Apple allow users to store a great deal of data at increasingly lower prices.

B. Scanners

Most desktop printers come with built-in scanning. Portable scanners can be taken along to depositions, trials, and client meetings. Also, iPhone or Android devices can scan documents in a pinch.

C. Smartphones

As with tablets, smartphones, (whether iPhones or Androids), have more legal apps than ever. Many cloud based case-management applications offer a mobile app, so data can be accessed from anywhere via WiFi or a smartphone.

D. Software and Online Tools

To help sole practitioners find programs to suite their own practice, the following sections offer suggestions for various programs that have been helpful in my own practice.

1. Word Processing Suites

I use Microsoft Word as part of the Office suite. I also use OpenOffice, a free, open-source suite designed to compete with Microsoft Office. For my everyday work, I use OpenOffice and only use MS Word when I am swapping files with other Word users (like when I am writing this article). OpenOffice can read Word files and vice-versa, but occasional problems can crop up, so I keep both products on my laptop. Thus defeating the cost-savings, I suppose.

OpenOffice includes Writer (the word processor), Calc (similar to MS Excel), Impress (for presentations), Base (for creating a database), Draw (for drawing) and Math (for working with mathematical formulas).

2. Adobe Acrobat

One of my most highly recommended products, Adobe Acrobat X, particularly Acrobat X Pro, makes working with PDF documents easy and seamless. It also includes an optical character recognition (OCR) engine, which can help scan forms enabling attorneys to type into a form. It is also helpful for making PDFs searchable instead of the flat, unsearchable PDFs of the past.

3. Bookkeeping & Accounting

A solo lawyer’s monthly profit will be the difference between the money coming in and the money going out. A program like QuickBooks will help with a lot more than keeping track of inflows and outflows, but it will do that, as well. (I will confess to still using Quicken—an older product from Intuit. It continues to meet my needs.)

QuickBooks is basically an accounting program. Like any accounting program, though, it will need to be configured properly if it is to be used correctly. A tax preparer can help set up a chart of accounts in such a way as to reduce the amount of time the tax preparer will need to spend at the end of the year.

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\(^{64}\text{OPEN OFFICE, www.openoffice.org (last visited Jan. 26, 2015).}\)

4. Time & Billing

A solo lawyer should keep track of time spent working. No one likes to keep track of time. Even if the lawyer is not billing by the hour, time capture will help the lawyer learn which cases and matters are profitable or not. Sage Timeslips\textsuperscript{66} might be the oldest time and billing software program around, and is particularly popular in small offices. Timeslips offers timekeeping, accounting, invoicing, and project and task management, both on the desktop and in the cloud. Mac users can only use the cloud version. Timeslips automatically creates the most common tasks and expenses for lawyers, which makes getting started easier.

Time and billing packages, like a lot of other legal software, are rapidly moving to the web. A couple of other timekeeping programs are web-friendly. Bill4Time\textsuperscript{67} and EasyTime\textsuperscript{68} are both popular with Mac users. Bill4Time lets users access data online with a mobile phone or on the desktop widget. EasyTime is one of the rare products that runs natively on Mac OS X.

Other products offer time and billing as part of a more comprehensive solution, often at a much higher price and with a sharper learning curve. Products like PC Law,\textsuperscript{69} Amicus Accounting\textsuperscript{70} and Tabs3\textsuperscript{71} from PracticeMaster offer time and billing as part of their broader case management offerings.

5. Case Management

MyCase\textsuperscript{72}, Clio\textsuperscript{73}, AmicusAttorney\textsuperscript{74}, and Rocket Matter\textsuperscript{75} are all web-based and offer all of the standard case management features:

- Client and matter tracking
- Calendars and docketing
- Document management and more

\textsuperscript{73} Clio, www.goclio.com (last visited Jan. 26, 2015).
\textsuperscript{74} AMICUS ATTORNEY, www.amicusattorney.com (last visited Jan. 26, 2015).
\textsuperscript{75} ROCKET MATTER, www.rocketmatter.com (last visited Jan 26, 2015).
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As with tablets, smartphones, (whether iPhones or Androids), have more legal apps than ever. Many cloud based case-management applications offer a mobile app, so data can be accessed from anywhere via WiFi or a smartphone.


Because they are web-based, the programs offer file sharing through their own sites or through online storage sites such as Dropbox. Online case management programs are priced per user-per month. Check out the individual sites for current pricing.

Other stand-alone case management products are still available, but the web-based systems have recently captured a big share of the market. No matter which program is chosen, a sole practitioner will be guaranteed to be more organized than before.

VIII. CONCLUSION

New lawyers now have more resources available to them at any time. Utilizing the practical advice discussed in this article will help a sole practitioner handle cases competently and efficiently while becoming proficient in practice management, marketing and client development, case management, and technology.
APPENDIX A: Books

JAY G. FOONEBERG, HOW TO START AND BUILD A LAW PRACTICE (5th ed. 2004).


CAROL GREENWALD & STEVEN STYLES MULLIGAN, BUILD YOUR PRACTICE THE LOGICAL WAY (2012).

ALLISON G. SHIELDS & DENNIS KENNEDY, FACEBOOK IN ONE HOUR FOR LAWYERS (2012).

JAMES CALLOWAY & SHARON D. NELSON, HOW GOOD LAWYERS SURVIVE BAD TIMES (2010).

ALLISON G. SHIELDS & DENNIS KENNEDY, LINKEDIN IN ONE HOUR FOR LAWYERS (2013).

RICHARD C. HERMANN, PRACTICING LAW IN SMALL TOWN AMERICA (2012).


LYNETTE BENTON, QUICKBOOKS IN ONE HOUR FOR LAWYERS (2014).

DAN PINNITON AND REID TRAUTZ, THE BUSY LAWYER’S GUIDE TO SUCCESS (2010).


KATAYOUN M. GOSHTASBI, PERSONAL BRANDING IN ONE HOUR FOR LAWYERS (2013).