

ATL

Academy for Private Practice

Volume 1 — Getting Started

ABOVE
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ATL Academy for Private Practice

Volume 1 — Getting Started

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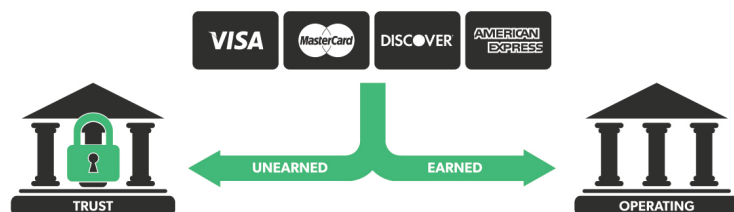
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Introduction

The appeal of solo and small firm practice is easy to see: the opportunity for “real” legal work, solving actual client problems. Not to mention the greater control and flexibility. But with this freedom comes the responsibilities of office management, finances, marketing, and so much more that they don’t teach in law school or at a large firm.

Above the Law is proud to publish an unmatched depth and range of content for solo and small firm lawyers. Our contributors--all successful practicing lawyers themselves-- are willing to share everything from practical technology solutions to expert advice on business development

Whether you are an entrepreneurial small law attorney looking to innovate and grow, or a Biglaw denizen thinking about hanging your own shingle, ATL Academy for Private Practice: Volume 1 -- Getting Started eBook offers a mix of deeply informed, sometimes contrarian, but always thoughtful insight into meeting the challenges of starting and optimizing your practice.



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Section 1:

Breaking Out

Reinventing Yourself As A Lawyer

By **BRIAN TANNEBAUM**

I've watched lawyers reinvent themselves — both successfully and unsuccessfully. It can be done, but like anything else in the legal profession, it takes thought and time. (I just lost half the audience.)

For those left here, there are only two reasons you want to reinvent yourself. One is money, and/or two, is that you hate what you're doing...

Let's take two scenarios. First, you're a former prosecutor turned criminal defense lawyer who after three years of defense work wants to do personal injury. You've been practicing six years and the dream of going from \$40,000 as a prosecutor to \$250,000 as a defense lawyer just hasn't happened yet. You also hate all your clients, and hate the work. Everyone says there's more money in PI, and you're convinced that five-million-dollar verdicts are readily available for the taking.

This is a lawyer that has not become “the man (or woman — oh, you were getting ready to pounce) to see,” and therefore doesn't have a lot to lose by shutting down the defense shop and moving into the world of PI work.

But if you're this lawyer, I wouldn't recommend you open up shop as a PI lawyer. I'd recommend going to do insurance defense for a couple of years. There's the steady salary that's probably about or more than you were making, and no one will really miss you for a few years. This is not to say you can't just wake up tomorrow and say you're no longer doing criminal defense, but remember that when you reinvent yourself — especially if you're going to be doing contingency work — the money won't start coming in right away.

So go do insurance defense, meet all the people in the practice area, and then emerge on the plaintiff's side. I suggest this for other practice areas as well — if you're relatively young in the practice, it's easier to reinvent yourself by learning on someone else's dime. You're probably not

making the kind of money that is tough to walk away from, and if your goal is to be competent rather than just taking money from clients and pretending, or sending embarrassing emails asking 300 lawyers for “a copy of a complaint for negligence,” it’s a better move to learn how to practice in your new area while not having to worry about making rent.

For the lawyer who has developed a multi-decade practice and well-known reputation in a certain discipline and decides it’s time to do something else, it’s not necessarily more difficult — it’s just different.

This type of lawyer has been his own boss for a long time and going to work for someone is generally not an option. My advice for this lawyer, or the younger lawyer that doesn’t want to get a job to learn the new practice area, is to find a lawyer that does this type of work. You’ve got to be careful here. No lawyer wants to teach another lawyer to take his business, unless he’s close to retirement. Find a lawyer who does something similar. Going back to the PI example, I would find a lawyer who concentrates on medical malpractice. I would tell this lawyer that I am looking to get into PI, but don’t want to do med mal. This sets up an immediate referral relationship. Not every lawyer will be interested, but those that understand the benefit of having someone around that does something similar will at least consider the possibility of working together. I would tell this lawyer that I want to work together on my cases and will pay co-counsel fees in accordance with my Bar Rules.

There is, of course, a marketing aspect of reinventing yourself. Two things to consider. One, I’ve seen the “now accepting personal injury cases” type ads. I guess that works if you’re a lawyer who does mass advertising. The other way of course is to mine your list of current and former clients. One thing lawyers are bad at is understanding the value of relationships with clients after the case is over. I don’t care what you practice, every client leaving your office when a case ends should be told to contact you for any legal issue. It’s not that you practice in more than one or two areas, but you want to be the person the client calls so that you can maintain contact and put them in good hands.

If you do this as a matter of course, you now have an easy path to communicating your new practice area.

One last thing: Reinvent yourself if you hate what you do. If you are reinventing yourself because you think you'll make more money, I hope you do — because if you don't, you'll hate what you do.

Brian Tannebaum will never “get on board” at the advice of failed lawyers who were never a part of the past but claim to know “the future of law.” He represents clients, every day, in criminal and lawyer discipline cases without the assistance of an Apple device, and usually gets to work (in an office, not a coffee shop) by 9 a.m. No client has ever asked if he’s on Twitter. He can be reached at bt@tannebaumweiss.com.

From Biglaw to Boutique: Why Wait?

By TOM WALLERSTEIN

A lot of people have asked me questions. For example:

“I am currently a third-year law student I am hoping to eventually open my own firm (sooner rather than later perhaps) as I am willing to suffer the first few years of practice and not making money in hopes that I can recoup that years down the road I do not feel that my best years should be wasted working for somebody else (my opinion of a firm is that they are useful right out of school to ‘learn the trade’ but outside of that the firm benefits more from an associate than the associate benefits from the firm”

I’ll answer this one publicly:

If you are in law school and you have the choice between working for an established firm — big or small — or working for yourself/starting your own firm, it’s a no-brainer that you should go with the established firm first. You can always leave the firm to pursue your own practice at any time, but the converse isn’t true: Once you go out on your own you might forever lose opportunities you have as a student.

In any event, I disagree that a firm necessarily benefits from an associate more than an associate benefits from the firm. I’ll stick with the only thing I really know: my own personal experience. I wrote in my first-ever blog post that “none of my limited success would have been possible without my Biglaw experience.” I think there are three reasons this is true for me. . . .

Experience

I learned an awful lot of stuff during my first 10 years of practice, both in my clerkship and when working for firms. I never felt like I was learning an awful lot; but, over time, the more I worked

with junior attorneys, the more I realized I actually knew what I was doing. At least most of the time.

It's true, as many people say, that in a lot of ways you can "learn the trade" more by working for yourself or in a small firm environment than you would doing years of document review or due diligence for a big firm. After all, as a first-year solo practitioner, you can be in court, or taking depositions, and meeting real clients. But let's be honest; the types of cases you will be handling are far less complex and have much less at stake than the cases you would work on in a big firm.

And you can learn a lot as a Biglaw associate, even if you feel like you are little more than a lowly cog in a machine. I've already written about how to make the most of your Biglaw time while you plan to open your own practice someday. You can't keep from paying dues, but watch what you're doing with your time. The trick is to do great work — even if menial — and keep your eyes and ears open, and try to keep a healthy mindset. That often pays off with more and better experience. Maybe I was lucky that my firms offered such substantial early experience, but I still think it can pay to affirmatively try to take on as much responsibility as possible. (But not by trumpeting your superior legal mind.)

As a junior associate, I simply didn't have the skills to do all the work or fully handle the cases that I'm handling now. My prior experience was essential to the success of my current venture.

Connections

Biglaw firms, by definition, have lots of lawyers working for them. If nothing else, a stint in Biglaw gives you an opportunity to meet hundreds of more attorneys than you are likely to meet if working for a small firm or for yourself. I've written how important I believe relationships are, and how to use your Biglaw time to build those relationships.

Again, I view my Biglaw connections as essential for the success I've had with Colt Wallerstein. I still have important clients that I met when working for them in Biglaw. I have attorney connections I met in Biglaw who refer cases to me when they have a conflict, or when the amount at stake does not justify their rates. Without these important connections, my business never would have survived its critical first year.

Pedigree

A lot of clients won't care where you went to law school. And a lot of clients won't care about your big firm pedigree. But some will. I am certain that many of my clients hired me in part because they knew of and respected the firms I used to work for.

A lot of associates enter Biglaw precisely because of the perceived boost to their résumé. I don't think that's a big secret, and I also don't think there's anything wrong with that. I'm not an elitist, but I am a realist. You may not necessarily get a better education at Harvard or Penn, but you will get more opportunities because of the pedigree. The same goes for law firms. Working for what is thought to be a prestigious firm can only help you with your later ventures, whatever they are.

* * *

I really love the current iteration of my career. It is so much more fulfilling than was being an associate in Biglaw that sometimes I regret that I waited so long to make the move. But then I remember that my professional past is an essential component of where I am today. However much value my past firms got from me, I'm confident I received critical value in return.

Tom Wallerstein lives in San Francisco and was a partner with Colt Wallerstein LLP, a Silicon Valley litigation boutique. Currently a partner at Venable, his practice focuses on high tech trade secret, employment, and general complex-commercial litigation.

Unchain Thyself

By **GARY J. ROSS**

“Twenty years from now you will be more disappointed by the things that you didn’t do than by the ones you did do. So throw off the bowlines. Sail away from the safe harbor. Catch the trade winds in your sails. Explore. Dream. Discover.” – Mark Twain

A Biglaw partner once closed a presentation I attended with this quote. I don’t know if everyone else’s eyes had simply glazed over or if they were drinking the Kool-Aid (the presentation was on something like How To Be A Better Drone Associate), but it seemed me and one other associate were the only ones who found this quote wildly inappropriate. Explore, dream, and discover by being chained to a Biglaw desk? Um, what?

Plato’s Theory of the Forms postulated that in some transcendent realm there are ideal forms of objects that we see/hear/touch here in the material realm. When you imagine the ideal attorney version of you, what do you see? Forget about your current life for a moment. Imagine the very best or the greatest version of you as a lawyer. Are you being mobbed by reporters on the front steps of a courthouse because you just won a huge case? Freeing an innocent man (or woman) from death row? Being the trusted neighborhood lawyer? Or maybe jetting around the globe putting together complicated deals? More than likely in this ideal version of you you are not typing up a senior attorney’s changes to a document at 4 a.m. in the morning.

Free your mind. The only thing holding you back is you. You can leave Biglaw and become whatever you want to be. Doesn’t even matter what you did in Biglaw, or least whatever you did in Biglaw isn’t going to prevent you from being what you want to be. If you spent X years in litigation and want to begin helping startups, you can quit and then start posting on the Internet (and on fliers) that you’re an attorney with X years of experience at a big firm and you will draft shareholders’ and subscription agreements for startups. Sure, the first couple you draft will take you forever and a day, but then you’ll be on your way. (By the way, don’t be so sure potential clients are only going to hire someone with experience. Clients want to be with someone they’re comfortable with, and whether you have on-point experience will be secondary to that. I’ve had clients say, “We’ll learn together!”)

What's the alternative? Waiting around for Biglaw to let you change practice areas as a senior associate? To say, "Well, since you want to get mobbed on the steps of the courthouse, we'll move you from real estate to litigation and then fast-track you to the first chair." You can fast-track yourself to that first chair role (or head deal-person role) by removing every layer between you and the client. Then there won't be anyone to stop you!

Assuming that after judgment day there won't be a need for any more lawyers, this is your one shot at being a lawyer. Do you want to spend it doing largely meaningless work until the wee hours every night because that's what you've been doing for the past X years? At 80 it may not seem so significant that you paid off your loans at 35 instead of 40. Or that you never paid them off but you had a life you're proud of.

And while a lot of us might be tempted to imagine ourselves as something completely different from a lawyer, like an actor or a lottery winner, let's not forget that armed solely with a law degree you can right wrongs, fight on behalf of people who don't have anyone fighting for them, make a person's dream of owning their own business come true, and hey, if you have enough gumption, I suppose you could go to Egypt or some other oil-rich yet unstable country and negotiate a contract on behalf of unnamed oil companies, and then go to oil companies in Texas with that contract in hand and try to get rich as a broker. Nearly everyone who is truly successful took a big risk somewhere along the way. Ask the sharks on Shark Tank if they ever took a chance.

Imagine you succeed. You become that best version of a lawyer you can be. Twenty years from now are you going to be disappointed you went out on your own?

And if to you sailing away from the safe harbor and catching the trade winds means going as far as you can in Biglaw, by all means stay focused on that. It's no small feat to make partner at an Am Law 100 firm. I wish I had made partner. But if you are one of those who when you imagine your perfect lawyer life it's not in Biglaw, then what are you doing?

Gary J. Ross opened his own practice, Jackson Ross PLLC, in 2013 after several years in Biglaw and the federal government. Gary handles corporate and compliance matters for investment funds, small businesses, and non-profits, occasionally dabbling in litigation. You can reach Gary by email at Gary.Ross@JacksonRossLaw.com.

What You Can Do In Biglaw to Get Ready For SmallLaw

By **GARY J. ROSS**

You want to unchain yourself from Biglaw and start your own practice. While in my opinion it's better to go too early than too late, maybe your firm hasn't paid bonuses yet, or maybe you're still holding out hope that one day that comely associate down the hall will acknowledge you.

Whatever the reason is you want to hang on a bit longer, here are some things you can do while still in Biglaw to prepare for the future life leap:

- **Become famous.** Or at least get your name out there a bit. Try to use your firm's marketing department (a/k/a the people who put the firm's logo on your PowerPoints) as much as you can. See if there are any speaking opportunities they or the partners you work with know of. The perfect scenario is to become so well-known in a particular field people seek you out once you've left. But I know it's hard. If you find you're having trouble getting famous, then try to at least do this next one.
- **Get published.** Obviously you're busy. But having an article published looks great. When I inquire about speaking opportunities, one of the first things I'm asked is whether I've written articles about the subject. Or sometimes they'll just assume I've written articles and they'll ask me to send my articles to them. Even if you're just authoring an uncredited client alert, that's better than nothing and you can at least put it on your LinkedIn profile. (I wouldn't put those on your SmallLaw website though.) Nobody is going to question whether you were the main author unless you've somehow already demonstrated you don't know anything about the subject.
- **Know the basics.** For example, if you're corporate and are going to stay in corporate, get really good at — or at least get a lot of experience in — handling general corporate stuff. Forming corporations and LLCs, drafting bylaws and operating agreements, etc. You know, first-year/paralegal stuff. Once you make the leap, you're going to be doing this stuff a lot, and you probably won't have any paralegals around to help you. Also, while we're on the subject, get on super-good terms with your firm's paralegals, so that if you do have a technical question after you're out, they know who you are and feel comfortable taking your call. If your state has a Paralegal Day, maybe surprise your paralegal with a book or flowers or some other gift.

- **Figure out partner edits.** When you send off a contract or a registration statement or another document for a partner to review and it comes back riddled with red marks, don't just type in the changes as fast as you can. Take the time to understand why the partner marked up the document a certain way. Even if the phone is ringing off the hook and you're getting so many emails with large attachments that you have to keep moving them to subfolders throughout the day, in the long run it's worth the extra few minutes. If necessary, print out a blackline for later and on the train ride home or in the car ride home, look it over and try to figure why he/she made the changes. There are reasons for the changes. Figure them out. If you can't figure them out, ask. Generally even the most crotchety partner won't mind bragging a bit about their drafting skills, even if they may be a bit condescending when they're explaining it to you. Fine-tuning your drafting skills now is going to help you later on.
- **Branch out.** If you're a corporate associate, try to get on a pro bono litigation matter, preferably with a team of litigators. You may never touch litigation as a corporate SmallLaw practitioner, but it definitely helps to be more knowledgeable about what happens during a lawsuit. (Ideally, you should know more about litigation than your future SmallLaw clients, and some of them may have been in lawsuits.) If you're a litigator, maybe see if you can take on a pro bono 501(c)(3) incorporation so you can gain some basic corporate knowledge. If you ask, you may be able to do one with someone in the corporate group. (I was paired with litigators a couple of times for pro bono non-profit matters.)
- **Reach out.** Reach out to everyone you know who left Biglaw and started their own practice. Try to have lunch or coffee with them. If you happen to think of yourself as particularly important and you're nervous of word getting around that you're leaving — especially if you're not sure if it's true yet — you don't have to tell these folks you're thinking about unchaining yourself. But if you do leave, you're going to come to rely on these people for questions that you can't even begin to fathom right now. Trust me: you won't be calling your Biglaw friends to ask them how LawPay works with your IOLTA account.
- **Work on your elevator speech.** A lot is going to flow from that. Groups/publications to target, etc. What is it you want to do? On the other hand, don't hold off making the leap until you figure out what you want to do. Making ends meet hanging out your own shingle is going to toss you around a bit, so it's unlikely you'll wind up doing exactly what you thought you'd be doing. (Don't get scared: you might wind up doing something a whole lot more interesting!)
- **Law texts.** See if you can "inherit" all the law books you can, especially state practice manuals. They are a godsend. If your firm was like mine, they're going to go through all your boxes when you leave and take out stuff like Red Books and any leather-bound deal books (that still smarts) that they don't think should leave the premises. So, you know, if you were to accidentally leave those items at home...

- **Office furniture.** If you're feeling particularly ambitious, while you're at it try to inherit some furniture. You might need your own furniture after you're out, depending on what kind of office situation you choose. Everyone will tell you you can get used furniture for a song, but a song is still more expensive than free, which is what a large law firm — that isn't in the business of selling furniture — might give it to you for. Maybe say you're renovating your home office because you just don't feel like you're being productive enough when you're working from home on the weekends, and taking the discarded furniture off their hands would really help.
- **Find a wealthy spouse.** I can't tell you how many times seasoned solos have told me they couldn't have survived those first few months (or years) without their spouse's income. If you can't find any suitable prospects, call Patti Stanger if you have to. If you're already married and you're worried your spouse's income won't cover both of you while you're in the process of getting your firm rolling, gently encourage your spouse to start applying for promotions or higher-paying jobs.
- **So there you go.** Your time in Biglaw isn't going to be a total waste. If you're greedy with acquiring the knowledge and the tools you'll need to succeed on your own, you can stick your SmallLaw landing. And stick it better than I did: I still rue the day they pried my leather-bound deal books from my grasping, desperate hands.

From Biglaw to Boutique: Come On Along, or Go Alone

By **TOM WALLERSTEIN**

I was talking to a friend who is a junior partner in a large firm, and who is thinking of starting her own firm. She knew what practice area she would focus on, and she had at least one client who she felt sure would go with her. But she still had two critical questions to resolve. First, she wasn't sure if she wanted to open a solo practice, or if she would try to recruit someone to form a partnership. Second, she wasn't sure if she would form a "virtual" office, or try to start a traditional "brick and mortar" shop.

With regard to her "solo versus group" decision, we talked about the differences in tax treatment, liability exposure, etc. But I offered her my opinion that another important consideration is the practical, day-to-day differences between running your own shop and being in a partnership....

With a solo practice, you alone make all the decisions and all the rules. You don't share profits. That independence and autonomy serves many people well, but it comes at a cost. When a solo goes on vacation or takes a day off, he or she has to arrange coverage for office matters. You can't be in two places at once — even if some lawyers' time records suggest otherwise. And, of course, a solo stops making money when he or she isn't working.

Bearing sole responsibility also means that you alone are, well, solely responsible. If you fall, you fall alone. I've talked to quite a few solos who have formed small partnerships, and nearly every one of them reports feeling much less stress simply by having someone else help make decisions and share responsibility.

On a more practical level, it's enormously helpful to have other people to bounce ideas off, and to brainstorm. By necessity, small firm lawyers often find themselves practicing in unfamiliar territory. The value of having another lawyer to consult cannot be overstated.

A partnership also is perceived differently by prospective clients, referral sources, and colleagues. I've found that being an "LLP" itself provides a subtle boost in client perceptions, at least for defense-side litigators. "The Law Offices of John Doe" and even "John Doe and Associates" does not seem to impress as much as "Doe & Baker LLP." It also is helpful that outsiders can't tell from the name alone whether Doe & Baker LLP has two partners, or two hundred.

Having one or more partners also can serve as motivation in the same way as two friends may try to quit smoking together, encouraging and spurring each other on. (Admittedly, some partnerships by design are little more than separate solo practices which share expenses. In that case, this and many of the other benefits I ascribe to partnerships don't apply).

On the other hand, forming a partnership raises a host of complexities. How will expenses be shared? How will compensation be set? By percentage of investment? Hours worked? Hours billed? Client origination?

Before forming a partnership, you also have to carefully consider and discuss what is expected of each partner, how decisions will be made, how disagreements will be settled, and what are the effects should a partnership dissolve. Partners should discuss their vision for the business, and at least a five-year plan.

I've also seen several partnerships fizzle out due to what I call "roommate issues." Consider people who move in together, but, within three months, are bickering over trivial things and leaving passive-aggressive notes on the refrigerator door. Business partnerships have similar challenges. Fights about putting the cap back on the toothpaste become fights about who is hoarding all the yellow highlighters. Personalities are critical, and you can't sit down and anticipate every issue in advance. A partnership faces an uphill battle if the partners don't at least get along on a personal level.

The second major issue my friend was considering was whether to opt for a virtual firm or to look for office space. No one can deny that technology can allow attorneys to fully function, and collaborate, without a physical office. Many people do most of their work via email and telephone anyway, and a virtual firm has the obvious advantage of lower overhead. At a minimum, it might make sense to defer paying rent until you actually are generating income.

Lower overhead not only helps your bottom line, it also can be effective marketing. Most attorneys in virtual firms are good at explaining how their lower overhead translates into lower overall expense to clients.

One of the nice parts of working at Quinn Emanuel was the lax dress code; a virtual practice offers even more flexibility in terms of dress code and schedule. I've talked to lots of attorneys who are downright giddy that they can actually be paid for legal work they perform mostly while sitting at their kitchen table in their bathrobe, or while lounging in Starbucks.

On the other hand, a traditional office offers intangible credibility. To some extent, it signals your seriousness about your business. Many otherwise unemployed attorneys hold themselves out as running a virtual, solo practice. Justified or not, some people might wonder if a virtual firm is a "real" firm. An attorney at a virtual firm might have to work extra hard for credibility if a client hears a dog or baby in the background. This is unfortunately true even if the lawyers in the virtual firm are working just as hard as lawyers in a traditional office setting.

I also believe that having a brick and mortar office outside the home, and dressing for work, helps you stay motivated and focused. Even if you aren't particularly busy, putting yourself into an office setting might help you accomplish more than if you spend the day "working from home."

I'm not sure if my friend ultimately will try to find a partner or go it alone, or if she will opt for a virtual firm. When I confronted those questions, I answered them in a way that made sense for me. Two things are certain: First, resolving both issues is fundamental to forming a new law practice. Second, the right answer for any given person probably depends just as much on personality and inclination as it does on economics.

Section 2:

What Not To Do

How To Make People Think You Are Not Horrible

By **JEFF BENNION**

Making people think you are not horrible is a full-time job for lawyers. Gallup did a poll on the most trustworthy professions in the United States and, you guessed it, lawyers are near the bottom. You know who's the most trusted profession? Doctors and nurses, and they are the number 3 cause of death in the United States. Even historically, two hundred years ago, lawyers were drafting and signing the Declaration of Independence and doctors were using leeches to heal people. I'm pretty sure that, on top of killing fewer people, the average person will be overcharged in their life more by doctors and nurses than by lawyers, but whatever. So, again, making people think we are not horrible is an uphill battle for us.

The Internet is helping some of us tip the scales in one way or the other. Each one of these topics could be their own article, but for now, I wanted to give you a short primer on how to shrug off the shroud of horribleness we have as lawyers.

Have A Website, But Only If It Is A Good One

To tweak a phrase we all learned in kindergarten, if you can't have a good website, don't have any website at all. A website is more than just a passive marketing tool – it's an online résumé for you and your firm. Just like you wouldn't send out a mass mailer that was incomplete and written in comic sans to all your potential clients, you should not have a website that is incomplete, sloppy, or ugly. Doing so sends a message that your visitors that (1) you don't complete your projects, (2) have poor taste, or (3) can't afford to pay someone to build your website for you. Having a website is important, but if you have to choose between keeping that Geocities website you have for your business with a link to sign your guestbook and spinning animated gifs at the bottom, or not having a website, choose the latter.

E-mailism Is An Important Word I Just Invented

An e-mail address contains two separate, yet equally important parts: the part before the @ sign and the domain names after. Here's why they matter. I can't think of a better example than what the FBI told me when I was going through the Special Agent recruitment. They use automated filters to put more competitive résumés at the top and then review the top résumés manually. One résumé that floated to the top had a contact e-mail that was something like darkassassin39@yahoo.com, and, without even getting to his education or work experience, it went from the top of the pile right into the shredder. Why? Because apparently the government doesn't want to risk giving a gun and a badge to someone who sounds like a weirdo. So think about that when clients are faced with an almost unlimited number of lawyers they could reach out to via e-mail and your e-mail name is something like tupac_livez@gmail.com or Han_shot_first@outlook.com.

Which moves us onto the next topic of domain names. If you have an @aol.com or even an @gmail.com work e-mail address, it says a lot about you. If you want to use that for personal use, that's one thing, but as a business address, that's a different matter. Here's an article from the Chicago Times on the subject.

When I see an @aol.com e-mail address, I think back to unique problems I have had with @aol'ers: Explaining how zip files work, explaining why I can't e-mail you a copy of the 7-hour video depo, explaining why you should upgrade from Windows 2000, explaining what bcc means, etc. I'm not saying that having an @aol.com account means you are dumb, I'm saying that it carries a negative connotation and that I assume you are dumb. It's like racism, only acceptable and based on more solid science. It's what I'll call "E-mailism." Whether that radically unfair mold fits you is not the important question. The important question is, "Are your potential clients also e-mailists?"

Buy a domain name for \$12 a year and use the free e-mail address that you usually get with your domain name. Start putting it on business cards and on your website and start responding to business e-mails from your new professional e-mail address. Soon, your business e-mails will be in one spot and your personal e-mails will be in another with very little work on your part.

Own Your Web Presence

If you are a lawyer, like it or not, you have a web presence. Google yourself (or Alta Vista yourself if you are an @aol.com person). You probably have an Avvo profile. You probably have a State Bar profile. If you have your own business, you are cursed with a Yelp page. Claim your profiles and fill them out. One of the lawyers I work with has 30 years' experience on me and has won some landmark jury victories. His Avvo.com profile shows that he is at a 6.5, which is a D-, just because he has not filled it out. Just filling out your information could raise you to a B+. Potential clients looking at that won't know why he's so low. If there's nothing there, just a low score, they might quickly move on.

Hiring Us Is Hard

I have had to hire a lawyer before. It's not like shopping for TVs. You can't go to Amazon.com or YouTube.com and get thousands of reviews for a few products that you narrow down based on reputation. Instead, there are thousands of products (us), comparatively little information, and we start off with a bad reputation in strangers' minds. So, do what you can to fight it. Claim your online presence. Pay attention to the nuances of how strangers view you. There are likely some small changes you could make that will have a big impact.

Jeff Bennion is a solo practitioner from San Diego. When not handling his own cases, he's consulting lawyers on how to use technology to not be boring in trial or managing e-discovery projects in mass torts/complex litigation cases. If you want to be disappointed in a lack of posts, you can follow him on twitter or on Facebook. If you have any ideas of things you want him to cover, email Jeff at jeff@trial.technology.

The Arrogant Lawyer's Guide To A Successful Practice

By **GARY J. ROSS**

Ed. note: Filling in just this once for Gary is Mr. Arrogant Lawyer, who has somehow found time in his busy schedule to deign to share a few tips for building a successful law practice.

- **Office Space.** Right off the bat, get the largest office you can find. Don't worry about cost: think big! From day one, you want to be able impress your clients with your exquisite taste. Clients will be putty in your hands once they see your office's Colonial raised wood paneling, inlaid Turkish parquet floor tiles, new-smell oak furniture, and 19th-century oil landscape paintings. To show off your new digs, eschew phone consultations and insist all potential clients meet you in your office.
- **Know Your Client.** Give the client what she needs, not what she asks for. She may have asked for an email with a few bullets on which financials she should provide her investors, but what she really needs is a 15-page memo covering every contingency, even those that may not occur until the next Ice Age. Your client will appreciate your thoroughness, and will gladly set aside the time required to read your penetrating analysis and description of the pertinent regulatory background. And such a valuable treatise is certainly worth your client opening up her checkbook. After all, just because you're not in Biglaw doesn't mean you can't bill like you're in Biglaw!
- **Respond When Ready.** Return phone calls and emails when you darn well please. You'll signal how important and busy you are by waiting a few days to return messages. You don't want to give the impression you don't have anything to do.
- **Assign Blame.** Figure out who's at fault for any mistakes you happen to have been tricked into making. It's not blaming others as much as it is simply explaining the situation thoroughly. For example, you may need to explain to your client the only reason you missed the deadline is because the idiot at the country club overserved you the night before the motion was due. She'll understand.
- **Network.** Make the most of networking events. When you show up at an event, ask for work straightaway. Don't bother with small talk. Get in, make your pitch, and then get out. And since you don't want to waste valuable time by listening to other attendees, cut them off immediately.

They can go back to their feeble story after you've moved on. Remember, the goal is to show how important and busy you are.

- **Mentors.** Don't bother with mentors. You know yourself best, so rely on yourself to figure things out. You'd just have to ignore the person's advice anyway, so why bother? You didn't get where you are today by listening to others.
- **Follow-up on Referral Requests.** Scold people who aren't referring work to you. If it's already been a couple of weeks and your college buddy has yet to refer you even one simple matter, it's time to let him know how disappointed you are in him. I mean, what's the holdup? Doesn't he remember all those times you held his legs as he was doing keg-stands?

If you follow these tips diligently and ignore all other advice, I can promise you that you will have the law practice that you know in your heart you deserve!

Change Or Irrelevance?

By **KEITH LEE**

The legal industry has never been resistant to change. Observers and pundits often like to throw around the idea that the legal industry is just now coming under fire from technological change and commoditization of legal services. The practice of law has always been evolving, however, due diligence, precedent, and a monopoly on providing legal services has allowed law firms tend to evolve slowly. What observers think is some new trend is really just an accelerated pressure to change. And to be clear, it's not tech companies that are leading the charge to convenience, lower prices, and self service. They're just reacting to the demands of the market — clients.

Clients are the driving force of change in the legal market. “Law is too complicated.” “Lawyers are too expensive.” “I don't even know where to go for legal help.”

The legal industry has done little to heed or adapt to these calls. But valued at around \$400 billion annually, plenty of other people have. LegalZoom, RocketLawyer, LawGives, and more are emerging as the first choice for what would have been traditional clients of solos and small law firms. They're easy to access, give the client the feeling they are making an informed decision, and most importantly, they're far more inexpensive than a regular lawyer.

It's not just affecting small firms either. There are companies moving into spaces that were traditionally served by mid-size to large firms. Axiom Law, Pangea3, CustomCounsel, and plenty of other companies are looking to take over work from larger firms. These companies are providing the same things that the companies going after individual clients are: ease-of-use and low cost.

This all came to mind after I read the post, *The Profession Is Doomed*, by Toby Brown. Brown was at a panel for the National Conference of Bar Presidents and the topic of such disruption was the primary focus. Brown's reaction was that any change in the market would be met by bar associations and the like with forming a task force. In particular, the topic of Washington's recent implementation of Limited License Legal Technicians (LLLT) arose and, according to Brown, was universally met with ire:

“And here is where things got ugly – the audience focused in on the details of the LLLT program, trying to poke holes in it. This audience was made up of Bar Presidents and Executive Directors. These people are well positioned to drive change across the profession. But instead of talking about how they could adopt similar changes in an accelerated fashion, they were looking for ways to kill it.”

I sat there as long as I could listening to this. Finally I could take it no longer and interjected. I “suggested” that a failure to drive disruptions would lead to others moving in and taking over the legal market. With some internal fortitude, I was able to avoid using swear words.

Brown ultimately came to the conclusion that the legal industry is lost and that it is going to be unable to adapt and meet the needs of clients. Instead, companies like the aforementioned are going to come in gobble up low-cost legal services that are easily commoditizable. And then they are going to slowly work their way up the food chain to more lucrative legal services.

Legal Services Are Not Products

Of course, not all legal services are able to be translated into commodities. Legal services aren't widgets. How to handle a situation — a will, an estate, a ticket — is actually dependent on a variety of factors. What, on the surface, appear to be similar situations may actually be wildly different once all the facts are known. Problems are going to arise because what a client thinks is simple is actually rather complex. That's why lawyers exist. It's why the most common answer to a question posed to a lawyer is: “it depends.” That's why lawyers are expensive.

But clients don't know this, and lawyers have traditionally done a poor job of explaining it. So they turn to what seems affordable and “good enough.” Lawyers, bar associations, and the industry as a whole, have to do a better job of communicating to clients. We need to make legal services more streamlined, accessible, and affordable. Because outside forces are looking in and trying to figure out ways to do so and supplant the traditional lawyer monopoly.

That might mean that lawyers have to abandon what once might have been “bread and butter” legal services (divorces, estates, etc.) provided by solos and small firms to LLLTs or some other

service provider. Instead, lawyers will likely be better served with a focus on higher-end and bespoke services. Unfortunately, not everyone is going to make it. There is going to be a continued squeeze on lawyers and law firms. There will be consolidation. There will be bankruptcy and lawyers walking away from practice altogether.

But you can either have change forced upon you or you can embrace it. Sitting around and hoping that you'll be able to weather the storm doing the same old thing is a path towards irrelevance. Instead, be proactive in your practice. Look for ways to adopt lean methodology. Find ways to educate clients. Search for ways to focus on continual improvement and be willing to cannibalize your own business.

Change is coming one way or the other. You just need to decide what side of the change you want to be on. In front or behind.

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Stop Saying Lawyers Need To Become Entrepreneurs

By **KEITH LEE**

I saw a link to a new law review article entitled, *Entrepreneurial Esquires in the New Economy: Why All Attorneys Should Learn about Entrepreneurship in Law School (PDF)*. From the abstract:

As the legal industry continues to recover from the shock of the recent recession, it finds itself in a fundamentally different place than it was ten years ago, with even more tumultuous change on the horizon. Economic pressure coupled with continued technological innovation has increased attorney unemployment levels, shifted law firm business models, and changed the expectations of legal clientele. Yet, despite this radically shifting market place, legal education has remained fundamentally unchanged. This article examines the current state of the legal industry through an entrepreneurial lens and juxtaposes it with the current state of legal education. In doing so, this article sets forth three key claims:

- the legal industry is not only ripe for entrepreneurial attorneys but will actually depend upon them for survival;
- as a whole, law schools are currently ill-suited to provide entrepreneurship training; and
- all attorneys, regardless of their chosen career path, would benefit from exposure to entrepreneurship education in law school.

I tend to agree with all of the above.

Most lawyers are going to be entrepreneurs whether they realize it or not. Take a look at the most recent demographic survey from the ABA:

PRACTICE SETTING

<i>% of lawyers in...</i>	<u>1980</u>	<u>1991</u>	<u>2000</u>	<u>2005</u>
Private Practice	68%	73%	74%	75%
Government	9%	8%	8%	8%
Private Industry	10%	9%	8%	8%
Retired/Inactive	5%	5%	5%	4%
Judiciary	4%	3%	3%	3%
Education	1%	1%	1%	1%
Legal Aid/Public Defender	2%	1%	1%	1%
Private Association	1%	1%	1%	1%

Sources: *The Lawyer Statistical Report*, American Bar Foundation, 1985, 1994, 2004, 2012 editions

PRIVATE PRACTITIONERS

<i>% of private practitioners...</i>	<u>1980</u>	<u>1991</u>	<u>2000</u>	<u>2005</u>
Solo	49%	45%	48%	49%
2 – 5 lawyers	22%	15%	15%	14%
6 – 10 lawyers	9%	7%	7%	6%
11-20 lawyers	7%	7%	6%	6%
21 – 50 lawyers	6%	8%	6%	6%
51 – 100 lawyers	7%	5%	4%	4%
101 + lawyers	*	13%	14%	16%

Sources: *The Lawyer Statistical Report*, American Bar Foundation, 1985, 1994, 2004, 2012 editions

* Largest firm size for 1980 data was 51+ lawyers.

SURVEY DATA

75% of lawyers are in private practice. And of that 75%, 69% are in practices of 10 lawyers or less. If you're going to be in a law firm of that size, entrepreneurial spirit and skills are a must have. You will be expected to learn in trial by fire, take charge of your own career, and find your own work and clients. You'll need to help in business development, promotion of the firm, and be aware of the firm's finances.

What Phillips's article fails to take into account, and many law schools are acting as though is a startling new discovery, is that most lawyers have always been entrepreneurs. Look at the survey data for 1980 and compare it to 2005.

	1980	2005
Solo	49%	49%
2-5 Lawyers	22%	14%
6-10 Lawyers	9%	6%

That isn't some radical difference. Lawyers have been going out and hanging their shingles for decades. In the past, the academy could ignore it and focus on their ivory tower accolades and placing a select few students into Big (and medium) Law.

But those going into larger firms have never been the majority of lawyers. Lawyers have been graduating from law schools for decades and going right out into the world to hang their shingle or join a small firm. Or they go to work for a large firm for a few years and then walk away to start their own practice.

The differences now are:

- the overall legal industry is in a tumultuous period and even lawyers at larger firms are realizing that they do not have permanent positions;
- legal technology companies are competing to offer a variety of legal services to consumers and companies;
- hints of deregulation abound (see Washington's Limited License Legal Technicians); and
- the internet has leveled the playing field for news and coverage of the legal industry so now more people are aware of trends in the industry (ATL exists).

Given the above, combined with the lack of incoming applicants to law schools, it's no wonder that there is a reactionary focus towards entrepreneurial skills in law schools. But of course, generally speaking, law schools are also probably the last place to look for entrepreneurial skill development.

Where To Go Instead?

If you're a lawyer or law student who wants to learn about entrepreneurial skills, you'd be far better off sticking your head into a few MBA classes. Or better yet, go out into your local community and find some successful solos. Ask if you can buy them lunch. Find out what they did to get started. Reach out to solos online who have successful practices. See if they'll take a few minutes out of their day to talk to you on the phone. Build real relationships with people.

Listen to some podcasts:

- **This Week In Startups**
- **StartUp Podcast**
- **How To Start A Startup**
- **Lawyerist Podcast**
- **I Am The Law (from Law School Transparency)**
- **Resilient Lawyer (shameless self plug)**

Just go spend some time at SBA.gov! It's a pretty good free resource if you don't know of anywhere else to go. Your tax dollars paid for it, you might as well get some use out of it. And of course, you should look at fellow ATL columnist Carolyn Elefant's long running solo site MyShingle.

So to the chorus of people saying that lawyers suddenly need to become entrepreneurs – stop it. Most lawyers have always been entrepreneurs. The fact that you're just now noticing means you've been willfully ignorant for the past couple of decades.

Section 3:

Some Top Top 10s

10 Questions To Ask Before Joining A Small Firm As A New Lawyer

By **KEITH LEE**

I received a message from a new attorney asking about joining a solo practice. He felt it was a good offer in terms of benefits and pay. And because this lawyer had done some research, he was aware that this was an anomaly. An experienced paralegal is usually more valuable to a solo practice than a brand-new baby lawyer.

This lawyer wanted to know what research to conduct and what questions to ask in order to get a feel for the practice. A wise decision, because while it may be tempting to take any job that comes your way in this job market, you also don't want to be taken advantage of. I had a number of suggestions for him.

1. See if you can find out about their reputation in your local bar community. Are they well thought of? Scorned? Do they churn through a new associate every couple of years
2. What type of mentorship/training will you receive?
3. Will you be working closely with the attorney or are you expected to be up and running all on your own on day one?
4. What type of support staff will be available to you?
5. What will be your billable hour requirements (if applicable)?
6. Ask about the workload that you are expected to shoulder. What is a common workweek for the lawyer? 8-hour days? 10-hour days? Regularly there on the weekends?
7. Can you get along with this person? Really try to get a feel for their personality. You are going to be spending a lot of time with them. If they're not someone you can see grabbing a beer with, it's probably not going to work out.
8. Are you expected to assist in business development? Will you be part of the marketing of the firm? Going to events, participating in bar functions, speaking, writing, etc.

9. If not, will the lawyer permit you to engage in your own business development in ancillary or adjacent practice areas to the lawyer's in order for you to be able to develop your own book of business to contribute to the firm?
10. Probably a bit aggressive to ask, but what would your future with the firm be? Does the lawyer expect to take you on as an associate for a few years and then let you spin out on your own and take on another new lawyer? Is there a potential for an equity stake in the firm down the road?

All of which are important aspects of joining a solo or small practice. I especially emphasized number eight, the ability to assist in business development, because otherwise you'll just end up as a replaceable grinder. Having a book of business is an essential part of being able to gain equity in a solo or small practice firm. Without it, whoever does control the firm can just replace you with another fresh law grad a few years down the road.

If you're a brand-new grad and not a lateral moving into a new firm with 1-3 years experience, then it is also incredibly important to focus on number two, receiving mentorship and training. If you want to develop into a good lawyer, mentors are absolutely necessary. As you start out your career, you don't know what you don't know. You will need someone to offer a guiding hand and bring you up to speed on how to actually practice law, because we all know they don't actually teach you that in law school.

You're also going to need to put your ego aside when you join a solo or small firm as a new lawyer. If there are paralegals or secretaries, they absolutely know more about how a law firm runs than you. Sure you'll be a lawyer and they are there to support you, but that doesn't mean you should think you know more than them. Be open to advice and information from everyone.

You should also expect a fair bit of criticism when you start out at a new firm. It might sting your pride but criticism is a necessary part of becoming a good lawyer. Again, as a new lawyer, you don't have a metric by which to judge your own performance. You will have to rely on other people's assessments of your writing, briefs, depositions, and arguments. When someone offers you criticism they are providing you an opportunity for growth. With the right mindset, criticism is a gift – make the most of it.

Working at a small firm has its pros and cons. You'll likely be able to get to more advanced work than you would get in a larger firm. But you will also be expected to be up and running on your own much faster. Large firms will have professional development programs in place to help bring

new associates along. At a small firm, you'll get whatever a partner gives and after that you'll largely be left on your own for any type of professional development.

Ultimately, being with a solo or small firm is about taking initiative. If you are the type of person who is comfortable with forging their own path and you have an entrepreneurial spirit, than joining a smaller firm is likely a good choice for you. But if you're the type of person who just wants to be another worker bee, you're likely better off going somewhere else.

Flying Solo: 10 Things I Wish I Knew

By **JEENA CHO**

2015 marks the sixth anniversary of JC Law Group PC (exactly six and a half years, but who's counting?). Had someone told me that I'd be running my own practice when I graduated from law school in 2003, I would've laughed. My only goal in law school was to work as a district attorney — you know, to pursue justice and all that ideal stuff that you buy into from too many years of watching courtroom drama TV. After graduation, I landed my dream job and became an Assistant State Attorney. It's funny how your “dream job” can very quickly turn into your worst nightmare.

In 2009, in the midst of the economic crash, Jeff, my now husband (boyfriend at the time), and I decided to do what now seems slightly insane — quit our day jobs to start a law firm. We learned a lot along the way, about the practice of law — both in terms of client service/management as well as running, operating, and growing a business.

For anyone considering flying solo, my suggestion is to find someone to take the journey with you, if possible. I feel very fortunate that my husband and I shared a vision for a law practice that's sustainable, profitable, gave us a sense of purpose, and fit our lifestyle. Having a partner is great for many obvious reasons — division of labor, someone to bounce ideas off of, but most importantly, someone to keep you accountable and keep you going.

“Transferring your passion to your job is far easier than finding a job that happens to match your passion.”

— Seth Godin, *Linchpin: Are You Indispensable?*

Here are 10 Things I Wish I Knew Before Flying Solo.

1. My Biggest Obstacle Is Myself

What I learned over time is to not let my inner critic sit in the driver seat. Of course, a certain amount of overcoming the inner critic was required for us to start the practice, but every day I struggled with feeling not good enough, not smart enough, and feeling panicked that at any moment, someone was going to call me out as being a fraud.

I don't know if it's a function of getting older, practice, or the mindfulness practice but over the years, but I developed an unshakable sense of can do attitude.

Interestingly, the stronger my sense of can do attitude gets, the more opportunities show up in my life.

“If you hear a voice within you say you cannot paint, then by all means paint and that voice will be silenced.”

— Vincent van Gogh

2. Everything Takes A LOT More Time

Starting and growing your practice takes, well, practice. In the beginning, everything will take a lot more time than you could ever anticipate. When your web developer promises to deliver your firm website in 10 days? Yeah, that's never going to happen.

Figuring out how to reconcile your clients' trust account? I used to spend an entire weekend every month doing this. Do yourself a favor and hire a bookkeeper. This may be the single most important advice I can offer to any solo practitioner.

The good news is that over time, you'll become more efficient.

3. The Art of Saying “No”

The worst client you can ever have? The client you don't like from the initial consultation.

When you're first starting out, there's an overwhelming sense that if you don't sign-up every potential client that walks through your door, your practice will fail.

Learning to trust your gut and declining clients takes practice but is critical to the success of your law firm. The 80/20 rule is in full effect in law practice. 20% of your clients will cause 80% of your grief.

4. It's a Marathon

During the early years of our practice, I used to fret about all the little things — if the phone didn't ring for a day, I'd convince myself that we're going to go homeless. If the website crashed, it felt as though my life crashed with it. I obsessed over every detail of our practice. Needless to say, this is unsustainable and very taxing.

Adopt a long view for your practice. It's a marathon, not a sprint. Yes, the small stuff can sometimes matter, but keep your eye on the ball — what is the long-term goal for your practice?

5. Do What You Love

“Every reflective person sooner or later faces certain questions: What is the purpose of my life? How do I find a moral compass so I can tell right from wrong? What should I do day by day to feel fulfillment and deep joy?”

– David Brooks

This quote comes from David Brooks's New York Times article, *What is Your Purpose?* It's worth reading.

Many lawyers see flying solo as an escape — escape from the firm structure, escape from the unbearable boss, escape from the grueling hours, and escape from unfulfilling, dissatisfying work. I think this is a great start to exploring your life's purpose. After all, understanding what you dislike (and the reason for it) is crucial for aligning your life towards fulfillment and deep joy.

However, I invite you to go deeper and explore the questions Brooks asks. The best part of flying solo is that you can define for yourself what your practice is going to look and feel like. You can determine the clients you wish to serve. You can decide what it means to have a purpose-driven law practice.

*Jeena Cho is co-founder of JC Law Group PC, a bankruptcy law firm in San Francisco, CA. She is also the author of the upcoming American Bar Association book, [The Anxious Lawyer: An 8-Week Guide to a Happier, Saner Law Practice Using Meditation](#) (affiliate link), as well as *How to Manage Your Law Office with LexisNexis*. She offers training programs on using mindfulness and meditation to reduce stress while increasing focus and productivity. She's the co-host of the *Resilient Lawyer* podcast. You can reach her at smile@theanxiouslawyer.com or on Twitter at [@jeena_cho](https://twitter.com/jeena_cho).*

From Biglaw to Boutique: Top Ten Differences

By **TOM WALLERSTEIN**

This is the time of year when everyone pulls out a Top Ten list of one thing or another. I don't mind; a Top Ten list is a convenient format for reflection and New Year's Eve has always been a time of reflection for me, whether that involves setting goals or just thinking about the ups and downs of the past year. So I thought I would use the opportunity to offer my perspective of the Top Ten Differences Between Biglaw and Boutique. So without further ado, let's push in the button and let the top ten play:

10. Money, Money

When you work at a firm, you get paid either a salary or an hourly rate. You get employer-paid benefits and you might even get a bonus. But you know the firm is billing you out at hundreds of dollars an hour, and your hourly wage comes nowhere near that. When you run your own shop, you don't get a salary but you keep all the money paid by your clients, or recovered in a contingent fee agreement. Of course, you're also responsible for all the expenses.

Whether that is a good or bad thing depends on a lot of factors and varies by individual, but no one can deny that the economics between working in Biglaw and working for yourself are very different.

Read on after the jump for the rest of the Top Ten Differences Between Biglaw and Boutique....

9. Who's the Boss?

In consultation with my clients, I get to make all the decisions in my cases; I don't need to wait for a partner to act on my recommendations. If I want to accommodate a discovery request

instead of filing a motion, I can so advise my client without a partner second-guessing me. I also have the prerogative to refuse to work for a potential client for whatever reason.

Although it's great to have maximum authority, that authority entails responsibility. Any mistakes made in your cases are yours alone. Biglaw associates often underestimate the amount of psychological comfort they get from their built-in Nuremberg defense.

8. Doing the Fun Stuff

Most Biglaw associates know all too well that they will do all the grunt work and the partner will swoop in to handle all the glamorous work, not to mention take all the credit. It can be frustrating to spend hours poring over exhibits and preparing the perfect deposition outline, only to have the actual deposition assigned to a partner who knows nothing about the case.

When you run your own shop, you can do the stuff that I generally consider the “fun stuff,” like taking depositions, arguing motions, first-chairing the trial, etc. And, if you have associate help, THEY can do the document review and prepare the outlines.

7. Flexibility

Solo or small firm attorneys don't necessarily work fewer hours than their Biglaw counterparts, even in a dead week. But when you are your own boss, you have much more flexibility with your time commitments. That means it's much easier to actually take your scheduled vacation, or go home early, or even work from home. The greater flexibility of working for yourself translates into innumerable other benefits, too, like setting your own dress code.

6. Building the Book

When you are a Biglaw associate, it can be challenging to generate a book of business. Recognizing this, the Biglaw model assigns work to associates from the rainmakers. When you run your own firm, you have to generate your own business. Like many other aspects of running your own business, this is both liberating and stressful. Generating your own income is very fulfilling on many levels, but so, too, is having the security of always having enough work.

5. The Water Cooler (aka “Did you see Survivor last night?”)

You might think that you don't really like your Biglaw coworkers, so you won't miss them if you join a boutique or small firm practice. But there is something to be said for routine contact with coworkers. Once you join a small firm or start a solo practice, you may find yourself a bit more lonely while working, and you might miss the opportunity to gossip about the new file clerk or what happened on the latest hit HBO series. And beyond the obvious quality-of-work-life benefits, studies have shown that informal interaction with coworkers around the water cooler can lead to big gains in productivity.

4. Check Your Emails: Templates, Exemplars, RFEs, and RFIs

Biglaw attorneys have the luxury of access to the collective work product of the many other attorneys at the firm. This often includes access to thousands of exemplar pleadings and research memos on virtually every conceivable subject. In my Biglaw experience, it was common for an attorney to send a firm-wide email with a subject reading “RFE,” which meant a “Request for Exemplar,” or “RFI,” which meant a “Request for Information.” I imagine that I saved many hundreds of hours of time I would have had to spend had I not had access to those resources. With 24/7 email-availability policies, I knew that help was always just a “send” button away. And even without email help, I always had access to the firm's online document library.

For many solo and boutique practice attorneys, losing access to the firm's collective document library means a less efficient attorney.

3. Cocktail Party Appeal

When I was in law school, I noticed that most of my classmates chose their firm based on what I called its “cocktail party appeal,” or gauging the reaction they received from their classmates when they mentioned their chosen law firm. “I accepted an offer from Cravath” received near-universal acclaim, so that seemed to be a pretty safe career path. We could not for a second explain any real difference between Cravath or Skadden; all we knew was that each firm generated a slightly different reaction from our peers.

The “cocktail party appeal” of running your own firm is very different. On the one hand, some junior attorneys and law students will always think that you have “traded down” or couldn’t hack it in Biglaw. On the other hand, laypersons tend to think more highly of you for being an entrepreneur. If you’re chatting up a 3L in a bar, saying you’re a solo practitioner might not advance your agenda. But to many people in the real world, having your own practice is the very definition of success. Again, different people might weigh this differently, but everyone agrees that the prestige and credibility factors differ a lot from Biglaw to boutique.

2. Rubbing Expert Elbows

Biglaw associates naturally like to criticize the partners for whom they work, but any objective observer would admit that the partners in Biglaw are among the most highly trained, highly experienced, and flat-out smartest attorneys practicing law at its most sophisticated level. A chance to work closely with the top practitioners in any field is an honor, and the experience of working on high profile, headline-making cases is simply irreplaceable.

For all the advantages of running your own firm, I most miss working with so many attorneys recognized as among the best in their field.

1. Face Time: It’s Not Just an App

Law firms are made up of people, and office politics necessarily becomes a factor in any workplace, including law firms. A good example of this is the requirement of face time. We all know the stories, and the tricks, like leaving your lights on or coming back to work after going home to show your face late at night.

I personally tried hard not to let this influence how I worked, but no matter what you have been told, you’re naïve if you think that face time at your firm doesn’t matter. If your firm hosts a firm hike or ski trip, you better believe it behooves you to attend.

Alas, no more! Running my own firm, I can now finally reveal a dark secret: I’m not a fan of skiing. First, I’m not very good at it. Second, I left the Midwest, among other reasons, because I

don't like the snow. My idea of a great firm outing is a concert at the Greek Theatre in Berkeley or wine-tasting in Napa, not freezing my @\$ off while risking my life on a black diamond trail. The freedom to decline to go to events that don't fit my personality is a liberating fringe benefit of running my own firm.

* * *

So, there you have it. Whether any particular change from Biglaw to boutique is a positive or negative is subject to debate, but I'm also sure there isn't anyone who can deny it's not just a change in style. The differences are real and are worth considering for anyone who is considering trading places.

Section 4:

Further Considerations

No Resting On Your Laurels

By **GARY J. ROSS**

In SmallLaw, no one cares what grades you got in law school. No one cares if you were on a journal. Few people even care where you went to school. It could be Harvard or Thomas Cooley. Doesn't matter.

When I opened my own practice and started making pitches to clients, I learned quickly that no one cared about my background. They may like to hear I once worked at large firms, but for the most part, I'll see eyes glaze over once I start mentioning the names of the firms. Nobody cares. Outside the legal field and back in the rest of the world where clients come from, people aren't that knowledgeable about how, say, Nixon Peabody compares to McGuireWoods, and for all a lot of folks know, Fried Frank is something you can order at Nathan's.

Yesterday was a good example of this. I had a 40-minute Skype interview with an industrial designer in Brussels whose Wikipedia page revealed he went to several top schools around the world (e.g., Wharton), and had a long history of brilliance in engineering and architecture. (After all, he had a Wikipedia page, which is more than I can say.) But he never asked me where I went to school, or what firms I had worked for before starting my practice. He spent the entire 40 minutes talking about his plans for his business and asking me questions about term sheets and capital-raising and the IPO process and my fees. Those were the things that mattered to him, not my GPA.

For the lawyers out there who may not have set the world on fire thus far, hanging out your own shingle is a great opportunity to reset the clock. After you open your own practice, few people will care about your résumé. They'll just care about you as you are now, with your skills and abilities and what you can bring to the table today. If you always felt held back before, SmallLaw offers you a chance to prove what you can do when no one is stepping on your head by pre-judging you based on your background.

One afternoon a few years ago, I was vegging out and saw the Albert Brooks movie *Defending Your Life*. I never find his movies as funny as they're intended — I can tell when I'm supposed to laugh, but his whining just doesn't do it for me — yet there are always moments in each that stick out. Brooks has to defend in a court setting how he lived his life, and one day his normal attorney can't make it, so Buck Henry comes in as a substitute. Buck Henry reports that he uses 51 percent of his brain, which in the movie is an astronomical figure. (Brooks uses 3 percent.) But then in court, Henry just sits there doing nothing, even as Brooks is repeatedly attacked. What good is a supposedly brilliant attorney if he doesn't serve his client? That's why no one cares about an attorney's GPA.

I should add, though, that while potential clients may not care where a person studied or worked, they are often interested in how many years the person has practiced. I found out today the Belgian fellow went with another attorney who didn't go to a high-ranked law school, was never a Fed, and hadn't been in Biglaw since the 20th century. But, he did have a lot more experience than me, since he graduated from law school just as I was turning two years old. Apparently his now-client viewed his 40 years of practice favorably. Go figure.

Beyond the ‘Small Law Firm’ Stereotype

By **TOM WALLERSTEIN**

For some, the phrase “small law firm” implies certain stereotyped practice areas, clients, and attorneys. At its worst, the stereotype invokes unsophisticated clients and matters that are routine and uninteresting. I doubt the stereotype is wholly true anywhere. I know for sure it isn’t true in San Francisco or Silicon Valley.

I know many attorneys in small firms who have specialized, high-end practices. These specialized practices are often called boutiques, and they are perfectly suited to serve the entrepreneurial, high-tech client base that abounds in the San Francisco Bay Area.

Even in the down economy, a number of new ventures were launched in Silicon Valley. Geographically, the high-tech corridor also seems to be expanding, thanks to Twitter, Zynga, Salesforce.com, and the like setting up shop in San Francisco. You don’t even need a Visa or traditional office space to launch a startup anymore; now you can enjoy Peter Thiel’s “Visa-free entrepreneurship and technology incubator on an ocean vessel in international waters.”

It remains to be seen whether we’re experiencing a boom or just another bubble, but I guess it doesn’t matter anyway. I’m not an economist and I’m not making predictions. I am only remarking on some great practice opportunities for smaller law firms which exist here, maybe because we are fortunate to have so many imaginative, passionate, and savvy entrepreneurs working on exciting projects in so many different industries....

I’m not weighing in on how much money a solo, small, or boutique firm can make. I’m focusing on practice areas and types of cases that are especially well-suited for handling by smaller law firms or boutiques. Colt Wallerstein, for example, has only a handful of full-time attorneys, but we stay pretty swamped with practice areas that cater to the dynamic, high-tech business environment.

Here are just some of the practice areas that have proven well-suited for boutique treatment:

Business formation and transformation: Last week I had lunch with a solo practitioner who helps startups formalize their structure. He has a large stable of rather sophisticated young companies to which he gives general business advice. Other small firm attorneys specialize in providing general employment counseling, another practice area in high demand in any environment where new businesses are forming. Small law general business attorneys handle plenty of work in Silicon Valley, although the competition is admittedly high.

Executive compensation: Creative compensation plans are a hallmark of Silicon Valley, and stock options remain a popular (and, from a lawyer's perspective, fun) subject to litigate. My firm has litigated a number of executive stock option disputes, usually, but not always, on the company side. Often the employee with the options in dispute has a large sum of potential funds tied up in the dispute, so he might not be able to afford Biglaw rates notwithstanding the significant amounts at stake. There are a fair number of those kinds of clients who can use a lawyer with specialized knowledge about executive compensation.

Trade secret and employee mobility litigation: One of the reasons Silicon Valley is so ripe for innovation is because so much engineering talent, and so many potential partners and investors, live here. Employees constantly move from company to company. And every time an engineer, programmer, or sales person moves to a competitor, potential trade secret litigation is implicated. Heaven help the fool who makes a copy of his company's hard drive or source code before he leaves to join a competitor; inevitably, his former employer will find out. Non-competition, non-solicitation, and similar agreements also result in a healthy amount of litigation and pre-litigation counseling.

Trade secret litigation can threaten the very existence of an emerging company, justifying specialized attorneys. On the other hand, a young company may not yet have the funding to hire a Fenwick & West or MoFo. My small firm has always been actively litigating at least one or two bet-the-company trade secret matters since we began in 2009. Even if both of the companies involved hire big-firm lawyers, the individual employee who is transferring from one employer to another can often benefit from solo or small-firm representation.

The same dynamic applies to trademark and copyright litigation; that is, those types of cases can have bet-the-company implications for businesses that are interested in a less expensive

alternative to Biglaw. Often, a startup finds itself adverse to a competitor with much deeper pockets. A small firm like mine can find success if it can explain to these clients the importance of getting the highest value possible within their limited litigation budgets when facing trademark or copyright litigation.

Intellectual property prosecution and counseling: High-tech businesses need specialized intellectual property counseling. Every new business out here knows enough to consider the need for protecting their IP, but remains largely ignorant of many of the important steps they could be taking. The result is that highly-qualified solo or small firm specialists can find a market for helping companies register their copyrights and trademarks, file their patent applications, and give advice about the best practices for protecting trade secrets and other IP.

I'm sure there are many more specialized practice areas that can be well-suited for solo or small firm practices. And although there are unique attributes of Silicon Valley, I don't think these practice areas are unique to California. I'm sure there must be similar opportunities not only in New York, but also in the Route 128 area of Boston, the Research Triangle of Raleigh-Durham, and any number of other places where high-tech companies thrive.

In these and similar places, at least, boutique practices can be a whole lot more than the small law firm stereotype.

Part Of The Community

By **GARY J. ROSS**

One of the many great things about having a SmallLaw practice is the feeling of being a part of the community. A solo/small-firm law office is just another small business, and it's hard not to feel a sense of kinship with other people who provide services directly to the public. The local community bank, the shoeshine shop down the street, the deli on the corner, the video/toy store, to name a few.

Sometimes I even delude myself into thinking they might see me that way. Certainly I get a different reaction when I tell folks I have my own practice than I did when I was part of a large firm. A lot of times shop owners will start talking about their struggles or any new regulations that are hurting their business. Or we'll start talking about having a landlord, negotiating a lease, taking out insurance policies, and the like. When I was in Biglaw, it was rare that I could say to a small businessperson: "I know just what you mean. I'm one of 500 attorneys in a huge office building. We have a cafeteria, our own marketing department, and a guy who comes around to shine our shoes. So I can definitely relate to your experience running a small business."

Large law firms are more of a closed environment, especially in the associate ranks, partly because you have to be there all time. Working all those hours chained to a desk, it's hard to get out into the community much. Other than having lunch across the street, a lot of Biglaw attorneys might as well be in the Annapolis. And being force-fed work, there's no real work-related reason to ever get out and meet the folks around the office.

Whereas eating what you kill encourages SmallLaw practitioners to get to know their neighbors and to join programs like BNI and other networking organizations, where you come into contact with other people trying to make ends meet doing their own thing. A CPA with her own practice, an interior designer, an architect — all are people who can completely relate to going out finding clients, and I've been amazed how incredibly helpful people can be in making introductions and telling me about interesting events and opportunities. There's an almost palpable sense of the fact that we're all in this together.

Most small businesspersons know that an attorney at a large firm is going to be prohibitively expensive, and frankly, probably won't have any idea how to handle their matter. An attorney with his own practice, on the other hand, is someone they might be able to use. Back when I was doing triathlons, there was a person I regularly visited who, shall we say, got my body ready for the races (hardcore cyclists/triathletes can probably guess what she did). My four years of being a mediocre triathlete happened to span my time at Treasury, my foray back to Biglaw, and then starting my practice. She and I would generally make perfunctory conversation about my work, and then move on to more interesting things like grass growing. But the day I told her I was going out on my own, her eyes lit up, and she started talking about her future business plans and how with opening other stores there would be all kinds of legal issues I could help with.

The feeling of being a part of the larger community is (yet) another reason why in spite of the often precarious nature of SmallLaw ("Oh my God, I just wrapped up a big case. What am I going to do now??"), it doesn't take long before you can't imagine doing anything else.