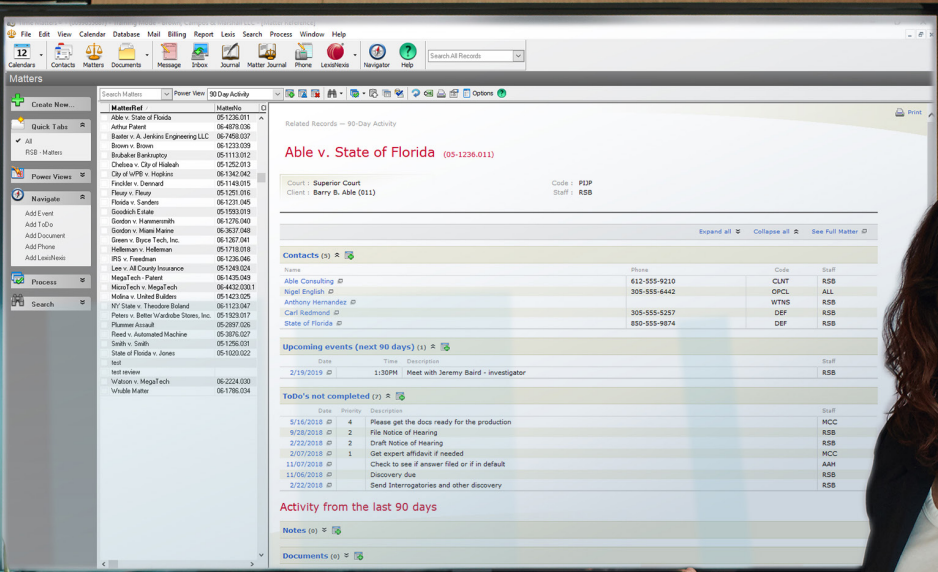


PCLaw | Time Matters™



WHITE PAPER

THE 12 REALITIES OF STARTING YOUR OWN LAW FIRM

Introduction

Whether you're starting fresh out of law school or starting all over mid- or late-career, hanging a shingle can be an enormously challenging endeavor, and an incredibly rewarding one. While you're certain to see a fair number of both, how those challenges and rewards balance out in the end can be surprisingly dependent on the decisions you make right now.

But with so many challenges coming at you at one time, how do you make certain that every decision you make is the right one? You don't. Mistakes are part of every successful venture.

That said, it's well worth relying on the advice of those who came before you in getting off to as good a start as possible. In fact, the 12 realities here are worth referencing from time to time no matter how long or successfully your firm has been operating.





REALITY 1: A law firm is a business, and businesses require a source of money to keep going.

However noble or high-minded your intentions in starting a law firm, there will be items you'll have to buy and bills you'll have to pay, including some you almost certainly have not considered. Unless you have a wealthy benefactor bankrolling you, the need for income can very quickly sidetrack the best-laid plans.

We're not suggesting that you have to start from day one with every desk chair and paperclip in place. It is possible, in fact, to start a law firm in a corner of your house without so much as even a desk, and successfully so. But some items, such as a law license, computer and specialty software, are non-negotiable. Others, such as malpractice insurance, maybe technically

optional in some states, but really should be considered mandatory.

Here is a very condensed list of purchases and bills to come:

- Computer
- Printer
- Scanner
- Smartphone/tablet computer
- Copy paper
- Toner
- Office rent
- Utility bills
- Bar dues
- Continuing legal education
- Malpractice insurance
- Cell phone bill

No matter if your goal is to provide legal services to clients with no money to pay you, you won't have the resources to help those people if you don't have paying clients to pick up the tab for bills and occasional purchases.

REALITY 2: Dream big and carry a buttoned-up business plan.

If you'll be applying for a loan or trying to raise startup money for your new practice, you'll need a business plan to reassure the people you're asking for financing from that you know enough about budgets and short- and long-range planning to make good use of that money, and someday pay it back.

If you won't be doing either, write one anyway. The time, research and discipline you devote to creating a business plan will be enormously helpful in making certain you know exactly where you are at present and what your goals are for the future.

Once you have it exactly the way you want it, tuck it away in a safe place for future reference. In the coming months, or even years, it will be well worth reading over to see how well you stuck with your original plan, and whether your firm exceeded your expectations or perhaps failed to live up to your original goals. It may even give you ideas for how to get back on track if you've gone off the rails. There are a number of resources that can help you build a professional business plan, including the B plans website and the software Business Plan Pro® or LivePlan® from Palo Alto Software. No

doubt, there are many others, potentially including your local bar association.

REALITY 3: Start with noble intentions (and a marketing plan).

Every law firm begins with the unlimited capacity to help people and make the world a better place. Unfortunately, they also start with the same capacity for failure.

The fact is, the more thoroughly you plan for success in your new endeavor, the more likely you are to achieve it. Or, on the other side of the coin, there's the old Benjamin Franklin quote, "By failing to prepare, you are preparing to fail."



So let's start with creating a marketing plan. Not many of us have a ready-made client list when we first start out, so building one can be the most important, and potentially most difficult aspect of hanging a shingle. And yes, a certain number of clients may just happen by and seek your advice because they saw your sign, but in general, those are not the types of clients that are going to bring long-term financial stability to a law firm.

That's why taking the time to create a marketing plan is so vital to your success. We have to warn you, it takes time and discipline to create a productive marketing plan and there are educated decisions you'll need to make along the way:

- Who you consider your target market
- What tactics you'll use to reach them
- Who your competitors are
- Your competitive strengths and weaknesses
- And much more

If you'll be creating your own marketing plan, two potential places to get started are the **Small Business Association** website or your local bar association. One other option is to hire out non-legal projects like marketing plans to professionals with more time and expertise to devote to them. (See REALITY 8: Know what you're good at, and what you're better off hiring someone else to do.)

REALITY 4: You really shouldn't open a law firm without an exit strategy.

It may seem counterintuitive to create a plan to close a law firm at the same time you're opening it, but as we all know, lawyers have myriad legal responsibilities, but absolutely no immunity to sickness, death, family problems, or any of the other human frailties that can get in the way of representing clients.

Better to make an exit plan in the beginning than when you're in the middle of an emotional or financial crisis and incapable of making rational decisions.

Lawyers have a number of ethical considerations to prepare for when closing a law practice. They need to give opposing parties, clients, bar associations and courts reasonable notice; and they need to destroy documents and advertising that could give the appearance they are still doing business. It's also important to consider how you plan to:

- Settle open or unfinished accounts, particularly for clients whose flat-fee agreements may be interrupted.
- Form an assumption attorney relationship with a lawyer you trust to

take over your cases.

- Purchase tail malpractice insurance for previous cases.
- Store and safeguard client files.
- Alert others that you are no longer in business, perhaps through letters, voicemail messages or a web page.

REALITY 5: For all the joy technology has to offer, there is an equal and opposite potential for misery.

Law firms have record-keeping responsibilities that would make most accountants cringe. And that's just the practice management side of the business. Never mind the actual day-to-day accounting and trust requirements.

No matter how small you're starting, you really should not even attempt to operate

a law office without top-drawer practice management software. It doesn't have to be a big investment.

Programs such as PCLaw® from PCLaw | Time Matters™ make it easier for small firms by combining both practice management and billing and accounting management into an all-in-one package.

Whichever direction you go, practice management gives you instant searchable access to every tiny detail of every case all together in one place, with no need for paper files.

Make sure that your practice management software also helps you capture time that might otherwise go unbilled; integrates with your accounting and office programs; and gives you anytime, anywhere access to calendars, timekeeping functions and documents from your smartphone or tablet.



Because of the complex accounting demands imposed on law firms, we also highly recommend accounting programs created specifically for legal professionals. Either that, or as we just discussed, consider a highly specialized program such as PCLaw® that combines both matter management and billing and accounting functions into one integrated package.

If you get both your practice management and accounting programs right, you'll save yourself a lot of time, not to mention an enormous amount of grief. For more on how to make that happen, see REALITY 10: A good technology consultant or legal technologist is a relationship to be treasured.

REALITY 6: Read everything available about the different business entities. Then consult an expert.

A successful entrepreneur will consume enormous quantities of information deciding which type of business entity to operate under, then spend at least an equal amount of time discussing the pros and cons of the different entities with a brilliant accountant and/or business lawyer, either of whom you trust with your financial future.



That said, here is the condensed version of options:

- A sole proprietorship is easy to start, but makes you personally responsible for all the debts of a law firm. That is a little too scary for most lawyers to even consider.
- A partnership is an association of two or more persons created to carry on a business for profit. Partners need to determine up front how decisions will be made when conflict arises, particularly if they are evenly divided on the resolution. Notice that we said when conflict arises, not if. Count on it. Plan for it.

There are two types of partnerships:

- A limited partnership (LP) is created by filing a certificate of formation with the

secretary of state. An LP has two distinct groups of owners: general partners and limited partners. Limited partners are not personally responsible for the liabilities of the partnership. General partners are. As passive investors, limited partners do not have control of the partnership.

- A limited liability partnership (LLP) is created from a pre-existing partnership or limited partnership and is formed by registering with your Secretary of State. LLPs provide personal liability protection to the general partners, but the partners are still liable for their own malpractice.
- A limited liability company is formed by filling articles of organization. The owners of the LLC are called members, and are not personally responsible for the liabilities of the LLC.
- In member-managed LLCs, all the members share in the management of the entity. A member-managed LLC looks like a partnership.
- In manager-managed LLCs, specific managers are designated to make the day-to-day decisions of the LLC. A manager-managed LLC looks like a corporation. Profits and losses are split equally or based on contribution, depending on your state and prior member agreements.

There are also different types of corporations, each with its own rules and tax implications, though you'll need to study the laws in your own state to determine if it allows law firms to classify as corporations. Many do not, primarily because corporations shield the business principals from personal liability, often considered undesirable because of the powerful role a lawyer's advice can play in affecting clients' futures, or even their lives.

REALITY 7: When choosing a specialty, follow your heart, and the realities of the market.

There's a place in this world for all types of people and all types of lawyers. You may well be one of the lucky ones who have a lifelong passion for the type of law you want to practice. If you do, by all means devote every ounce of your hope fully considerable energy to making a success of it. If you haven't developed a particular affinity for one legal specialty or another, you're in very good company. Many of the legal world's most accomplished specialists had no idea where they were headed before they stumbled into their specialty either. Choosing a specialty can be helped along in a number of ways:

“Choose a job you love,
and you will never have to
work a day in your life.”
- Confucius

- Look at what's happening in your local market. Maybe yours is an area where energy companies are exploring, entrepreneurs are flourishing, or high-tech companies are clustering. If you're not sure about the prevailing direction of business where you live, start exploring the local chamber of commerce website. If you find there's nothing happening in your area that interests you as a lawyer, consider moving to an area that more closely matches the future you see for yourself.
- Look at the economic situation. Boom economies are natural for certain types of specialties such as real estate or immigration firms, and even bust economies offer plenty of opportunity (think bankruptcy or small-business start-up law). The trick is not picking an area that's so ripe for the picking that every other lawyer in your area has already rushed into it before you. That, and realizing that economies always cycle up and down, so what's boom today may well be bust next week.



- Look at your own skills, talents and life experiences. Think back to internships or previous cases you've worked on that made you feel especially excited by the challenge. Talk to other lawyers about their specialties. Think about what you do when you're not working and how those interests may be turned into a legal business opportunity. If you happen to be in a large metropolitan area, it's possible to build a very successful practice in a niche market.
- Do pro bono work in a field you think sounds interesting. It's a great way to help others while you're gaining valuable experience and exploring the types of cases that excite you enough to build a firm around.

REALITY 8: Know what you're good at, and what you're better off hiring someone else to do.

You're a lawyer and if one of your intentions is to get paid, you'll need to start representing as many clients as you can, as quickly as you can.

It's easy to fall into the trap of thinking you're saving money by doing non-lawyer tasks such as building your own website or doing your own accounting or, as we referenced

earlier, creating your own marketing plan. In reality, all you may be doing is taking time away from the one thing that other people will pay you to do, which is lawyering. Not to mention that you're probably not nearly as good at doing those other things as people who actually have that expertise, which will almost inevitably cost you money somewhere down the road.

Even if you have a lot of spare time and few clients to work with in the very beginning, it's never good to fall into the do-it-yourself trap. That self-help time would be much better spent networking with local chamber of commerce types, going to social functions where you can introduce yourself to others in the area (read: potential clients), or even having lunch or dinner with better-established lawyers in the area who may have more work than they can handle and would love to know someone they can trust to refer new clients to.



REALITY 9: There are a number of ways to bill for your services. All offer the potential for profit.

At one time not many years ago, practically the entire legal community turned up their noses at the very idea of alternative fee arrangements. The general consensus among firms was that only clients who were being cheap would ask for set fees, so there probably wasn't any profit to be made from them anyway.

Oh, how times have changed. Early adopters of AFAs very quickly learned to thrive on them. Savvy law firms found ways to work more efficiently – most by taking advantage of fast-tracking practice management software and other advances in technology – and actually found they were very capable of making as much or more money under AFAs as under the old hourly way of billing.

And as it turned out, clients who suggested fixed-fee arrangements – particularly the corporate ones – weren't necessarily looking for the cheapest price; many were merely looking for more predictability in their pricing so they could set or meet their budgets.

REALITY 10: A good technology consultant or legal technologist is a relationship to be treasured.

Finding the right technology and software for your firm is very much kin to finding the right spouse. It happens every day, but so do divorces and separations. That's what makes it really important to develop a relationship with a trusted technology consultant or legal technologist who will take the time to get to know you and your firm needs before making recommendations. (Versus selling you on the package they're making the biggest commission from.)

The fact is, technology changes at a whirlwind pace, much faster than most lawyers are able to keep up with on their own. You don't necessarily want a consultant who is tied to one company, but you do want one with in-depth knowledge of the different hardware and software options that are specifically suited for legal firms.

PCLaw | Time Matters™, for instance, certifies independent consultants who have completed coursework and passed exams proving their expertise in the



legal technology world. These Certified Independent Consultants not only have the technology background to help you make the right choices; they're also expert in law firm processes who can help you manage your entire practice more efficiently and productively.

REALITY 11: You don't have to actually commit malpractice to get sued out of existence for it.

No one goes into law intending to commit malpractice. But it does happen, even to the best law firms in the world. It also occasionally happens that a perfectly ridiculous claim of malpractice actually wins.

Either way, you need malpractice insurance. We know the struggles of hanging a shingle and getting off to a good start financially. But it's because we're so aware of those struggles

that we advocate so strongly for malpractice insurance.

While it may seem expensive initially, it only takes one lawsuit, or even the threat of one, to put that cost into perspective. Cut back on the expensive office. Cut back on the high-dollar furnishings. But don't cut corners on malpractice insurance. If you never make use of it, good for you; you've accomplished something. If you do, thank goodness for it; you could very well save your practice because of your foresight.

REALITY 12: Listen to your instincts in a new-client meeting. Your gut can be smarter than your head.

It's been said that there's nothing less valuable than services already rendered. In the field of law, as in many other service industries, that can mean one very frustrating



outcome: not getting paid. And bad debt is just one of a very long list of ways things can go wrong in a client relationship.

Bad client relationships can reveal themselves very early on in what you may pass off as the most harmless ways: an inappropriate comment or look, a quick flash of unwarranted anger, even an attempt to be overly controlling about the way the case should be handled.

Trust your instincts. Don't be afraid to give all due credit to those hairs standing up on the back of your neck. Instincts are a big part of what make you a good lawyer and they can save you from taking on a client that you're likely to regret later. If you don't listen and all that happens is the loss of income from one rotten client, consider yourself lucky for the cheap education.

Of course, while your instincts can be a great barometer of client problems to come, it's also important to have a rigorous client-intake process for onboarding any new client. The process can not only help you discover situations in which a particular client may have caused difficulties for a previous law firm; it's also absolutely essential for helping you avoid potential conflicts of interest that can lead to malpractice suits.

Finally, hanging a shingle is a great option with great potential for good. Enjoy the ride, but don't let it run you over.

There's no end to the number of decisions you'll need to make as you get started in your new firm, including a few we haven't even mentioned:

- Office options, including leased or virtual office space vs. purchasing space
- Hiring or outsourcing office help
- Buying or leasing furniture

The fact is, it's easy to get overwhelmed or burned out or even depressed that you can't control every decision. Don't.

Remember why you got into law and remind yourself of the incredible opportunities in front of you. Every person is different, every

situation new, every firm unique. If you start out thinking you're going to do everything perfectly, you're already well on your way to failure. Give yourself a break when things aren't going your way and learn from your mistakes. New opportunity is just around the corner.

And if you find you need advice or opinions on making your firm a success, remember that your legal industry vendors can be a great resource. Their success depends on the success of the law firms they work with and they can be very helpful in answering questions or offering insights.

Quite often, too, you can find a wealth of useful information just by searching legal industry websites. PCLaw | TimeMatters™, for instance, maintains a Resource Center with a wealth of information worth browsing through – case studies, industry studies, product literature, white papers, and webinars and podcasts – about a wide variety of subjects all types of firms can benefit from.

PCLaw | Time Matters LLC™, a joint venture between LexisNexis® and LEAP Legal Software, is a global provider of practice management software solutions for law firms. For more than two decades, our practice management solutions have been used by lawyers to make better business decisions, improve profitability, and enhance client relationships.

PCLaw® and Time Matters® technology has been developed and refined to meet the needs of law firms. Whether you are looking to earn more, work more efficiently or spend more time on practicing law, PCLaw | Time Matters™ has the practice management solutions and resources to support your personal success and your firm's performance.

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