

THE NUTS AND BOLTS OF STARTING A LAW PRACTICE

BY GINA BONGIOVI, ESQ.

The notion of starting your own practice is an intimidating one. Even people who are miserable in big firms tell me the fear of hanging a shingle outweighs their misery. Yes, it is scary and yes, it is risky, but the rewards are well worth it. This checklist should help you get started.

1. Address

I recommend you nail down your business address at the beginning of the process. It's one piece of information that goes on every form and changing it later usually involves steep filing fees.

You can use a home address, but I don't recommend it. Especially if you're doing family, criminal or bankruptcy law, you don't want clients and opposing parties to be able to easily figure out where you live. You can use a P.O. box, but some local municipalities won't license a business at a P.O. box. The best alternative I've found is to create a virtual office, which gives you a physical business address and access to conference rooms and day offices on an as-needed basis at an affordable monthly fee.

2. Phone Number

This is another piece of information that goes on all your forms. Check Google Voice as a (free) alternative to using your cell phone number or getting a hard-wired phone line.

3. To Incorporate or Not to Incorporate?

There are conflicting schools of thought on whether or not lawyers and other professionals benefit from forming an entity, like a corporation or an LLC, when they are personally on the hook if they screw up. If you're really on a budget, you can save the filing fees by operating as a sole proprietor. However, I strongly recommend you form an entity as soon as possible. If you are operating as a sole proprietor, you'd better have malpractice insurance.

4. Banking

In many states you are required to have two bank accounts: an interest-bearing client trust account (IOLTA or Interest on Lawyer Trust Accounts) and an operating account. When you receive a client retainer, you must deposit it into the trust account because it isn't your money until you do the work to earn it. The interest the money earns while it sits in your IOLTA account goes to legal aid. Only after you do the work and invoice the client can you transfer the money from the trust account into your operating account. Your operating account contains your firm's money, so you pay all of your expenses out of it. Never *ever* pay your firm's expenses out of your trust account. Also, never *ever* commingle the funds in the two accounts. Probably the fastest way to get disbarred is to mess with your client trust accounts.

5. Insurance

Not all states require their lawyers to carry malpractice insurance, but to operate without it is very risky. Premiums can be quite expensive, so be sure to shop around. Try to deal with brokers who have experience working with professionals. Professional liability insurance is completely different from general liability insurance and you want your broker to understand the differences.

6. Law Practice Management (LPM)

How do you manage client files? If you're naturally organized, you can create a file naming system on your hard drive. If you aren't, then check out different LPM options. The newest trend is the use of cloud-based LPM applications like Clio, LexisNexis Firm Manager and RocketMatter. Cloud-based applications are great because you can access them from any device, you don't need an IT professional to set them up and they're typically a lot less expensive than the software you'd install directly onto your hard drive. Most of these cloud-based applications are geared toward solo and small firm practitioners, both in the features they offer and the price point. While there are definitely advantages to choosing an LPM solution from the



beginning, you may want to wait until you've been practicing long enough to know your quirks and what sorts of pain points you want to solve with an LPM solution.

7. Marketing

Where to Find Clients

Most new firms don't have a budget large enough to mount a successful advertising campaign. With that in mind, you definitely want to have a website to which you regularly add content. Then you want to get out into the community and find clients. The trick is to market to your sales force and not to your end client; figure out who else works with your target client and go where they go. If you're an estate planner, find some financial advisors. If you do probate work, join a funeral director's trade association. If you do family law, make sure you know some hairstylists and manicurists. (Don't laugh; they're often the first to know when a marriage is in trouble). Networking groups are a great place to start, but don't spend too much time with them if you're not seeing a return on your investment.

Picking the Right Clients

Some day you will have the luxury of picking and choosing your clients. One of the biggest perks of having your own firm is the ability to avoid representing people who have "trouble" written all over them. Let me assure you, you *will* pick bad clients, and they *will* make your life difficult. Over time, you will learn to spot the warning signs and be able to politely decline to represent the clients before they start burrowing into your psyche. From my experience, here are some warning signs that you are talking to a bad client:

1. They have already fired two or more lawyers.
2. They are solely focused on the fee and try really hard to get you to reduce it. These people are never happy no matter what you do.
3. They expect you to solve all their problems in the initial consultation. They expect you to work miracles and will never be happy with less.
4. They ask you to take a reduced fee now because they'll have "tons" more work for you down the road. I've fallen for this one more than once and the future work never comes.

How to Keep Clients

Return phone calls, be available to your clients, keep them updated on what's going on and don't screw them over. It's pretty simple really, but it's amazing how many clients come to me after not hearing from their lawyer for weeks or months on end. Remember that old adage from business class that says it

costs four times as much to get a new client as it does to keep an existing client? If you keep your clients happy, they will be your best source of referrals. Whether they come back to you for repeat work, or refer others to you, happy clients make for successful practices. Granted, some clients are just miserable and will make you miserable. The longer you're in practice, the better you get at spotting this type of client. When you do, politely decline the representation. Their money isn't worth the ulcer you'll develop trying to please the un-pleasable client.

8. Getting Paid

We're certainly not in this game for the glamour, so at some point you have to get paid for your services. I echo Jay Foonberg's admonition: **Get payment up front**. While very few lawyers work this way, I can find absolutely no reason not to. Chasing clients for payment can quickly and easily run a solo practitioner out of business and it's completely unnecessary. Any client who can't pay you up front is unlikely to pay you at all.

If you have a hard time insisting on payment up front, make sure you accept credit cards. Then, if a client asks you to wait to be paid, essentially extending them credit, tell them to borrow the money from Visa or MasterCard. Speaking of which, be sure your credit card processor thoroughly understands the importance of keeping the funds in your two bank accounts separate, and get those promises in writing.

9. Keeping Your Sanity

As solo and small firm practitioners, we have more to juggle than those working for big firms with staff. We worry not only about client matters and deadlines, but also contend with the administrative aspects of running a firm, including doing the books, answering calls, marketing the firm and ensuring we don't lose our sanity in the process. Delegate your weaknesses.

If a task isn't the highest and best use of your time, find someone else to do it. Hanging a shingle is an arduous process but it has its rewards. Taking the cases you want, with clients you like, and keeping all the money to spend on vacations you don't have to beg for are just a few of them. ■



GINA BONGIOVI is a Las Vegas native and holds a JD/MBA from UNLV. She is a solo practitioner providing outside general counsel services to small businesses, serves on the advisory board of Vegas Young Professionals and LexisNexis Firm Manager, and as pro bono counsel for Vegas Shepherd Rescue.

Her blog MyOwnFirm.com provides advice for attorneys starting a professional practice.