

First Steps in Building Your New Law Firm

Written by

Jim Calloway (Oklahoma Bar Asso.)
and Rochelle Washington (District
of Columbia Bar Asso.)

For ABA TECHSHOW 2016
All rights reserved. You may
redistribute this within your own firm.

Editing for OBA Opening Your Law Practice 2017 by Darla Jackson
(OBA Practice Management Advisor)

What's the best thing about being a solo practitioner? Being your own boss and running your own business.

What's the worst thing about being a solo practitioner? Often, it is being your own boss and running your own business.

Perhaps you long for the freedom to do what you want, make decisions for yourself, set the hours you want and take only the cases you want.

That sense of freedom and empowerment will stick with you for several days, maybe even weeks, after opening your solo law practice.

Then reality sets in

The freedom is absolutely true. You can docket a child's Little League game in the early afternoon and attend it with no explanations required to anyone. But, saying that a solo practitioner has no boss is somewhat ironic. In many ways instead of having a single boss, the solo practitioner has a hundred or more bosses. The "bosses" include every client and the landlord who expects to be paid rent, along with all of the other providers whose fees for services constitute your overhead. Sure, you can set your own hours, unless the judge says a case will be heard on a set day and time. You can do whatever you want with your business time and personal time. But most things you want to do with your personal time cost money, which is only available if you devote an adequate amount of business time to practicing law.

The true solo practitioner, with no employees, wears many hats- all the "hats" there are for the business in fact. They are management and labor. They serve as the Chief Executive Officer, the Chief Financial Officer, the Chief Information Officer. They also serve as the file clerk, the errand runner, the receptionist, the secretary and perhaps even the janitor. When the true solo practitioner is in court or in conference with a client, all other business operations are closed because there is no one else available to handle them.

One thing remains certain. To the extent that a lawyer can operate more efficiently, quickly and cheaply in the future, it will benefit both the lawyer and the lawyer's clients. Technology tools should be used to increase efficiency and client service.

Today, we must focus on creating satisfied clients in an increasingly competitive marketplace. Legal ethics and obligations to protect the client's best interests may prevent us from adopting the old adage - "The Customer is Always Right". But we can strive toward the goal of "The Client is Always Satisfied". This does not mean necessarily satisfied with the outcome of a particular case. It does mean that the client's perception of the lawyer's advice, efforts and reliability should be satisfactory. For it is the client's perception that will result in either future referrals or bar complaints. Many lawyers fail to recognize that the skill of a lawyer or even an outstanding result may not weigh as heavily in a client's positive or negative perception as other matters. The tone

of the receptionist's voice, the amount of time left on hold, the promptness of returned phone calls, the appearance of an attorney's office, copies of pleadings and correspondence being mailed to the client, all may contribute more to your client's attitude than the matters we are trained to consider important.

Checklists will be very important in your law practice for handling substantive matters as effectively as possible. To that end it is recommended that you read the book *The Checklist Manifesto* by Atul Gawande.

Here is your first checklist:

Checklist for Starting a Law Practice From District of Columbia Bar Association

Prepare a Business Plan

1. Executive Summary
 - a. Mission Statement
 - b. Description of Law Firm
 - c. Firm Goals and Strategy
 - d. Practice Areas
 - e. Pro Bono Activity
 - f. Financing Requirements
2. Firm's Description
 - a. Name & Ownership
 - b. Decision Making and Operation
3. Marketing Strategy
 - a. Target Market
 - b. Budget
 - c. Local Economy
 - d. Marketing Plan
 - e. Current and Potential Clients
 - f. Competition
4. Firm Economics
 - a. Start-up Costs
 - b. Billing Projections
 - c. Expenses
 - d. Overhead Review
5. Financial Plan
 - a. Budget
 - b. Financing Sources
 - c. Break-even Analysis
 - d. Financial Projections

Choose the Entity & Know Why

1. Sole Proprietorship
2. General Partnership
3. Limited Liability Partnership
4. Professional Service Corporation/Professional Association
5. Professional Limited Liability Company

Office Space Considerations

1. Geographic Location
2. Competition/Cooperation
3. Size
4. Home Office
5. Office Services Suite
6. Space Sharing
7. Lease/Ownership

Accounting

1. Meet with CPA or bookkeeper
 - a. Set up chart of accounts
 - b. Establish accounting procedures
2. Internal/External Dynamic
3. Purchase Software
4. Payroll Services

Open Bank and Trust Accounts

1. Operating Account
2. IOLTA (In DC and many other jurisdictions, this is mandatory)
3. Non-IOLTA Trust Account

Technology

1. Software
 - a. Word Processing
 - b. Time and Billing
 - c. Conflicts Checking
 - d. Case Management
 - e. Accounting System

2. Hardware
 - a. Telephone
 - b. Computer
 - c. Printer
 - d. Scanner
 - e. Copier
 - f. Fax Machine/eFax
3. Internet
 - a. Internet Service Provider
 - b. High Speed Internet, Cable vs. DSL
4. Legal Research
 - a. Fastcase, Westlaw, Lexis-Nexis, Casemaker
 - b. Free/low cost services

Office Equipment, Services and Supplies

1. Postage Provider & Meter
2. Furniture
3. Telephone System
4. Business Cards
5. Announcement Cards
6. Office Supplies

Insurance

1. Professional Liability
2. Workers' Compensation
3. Health Insurance
4. Property and Casualty Insurance
5. Cyber Insurance

The Lawyer as Manager

A Thumbnail Sketch of Law Office Management

Generally speaking there are several types of lawyer-specific operations in a law office.

1. Client and Case Management
2. Delivery of the Legal Services
3. Document Management
4. Time and Billing
5. Accounting
6. Marketing and Client Development

Traditional means to do these operations involved files in folders, typewriters, manually recorded time sheets and ledgers. Manual systems still work fine. But no one uses a typewriter to prepare documents anymore. There is a difference in ease and accuracy in word processing on a computer versus a typewriter. You will find a similar improvement in automating all of the above functions. The sooner you handle all operations on a computer, the better.

As a lawyer, you need access to the law. The better your access the more you will spend (in money and training). It is very important to shop around among the various legal information providers. Internet access is an absolute must.

Someone must pay you for your services, usually either clients or other lawyers, with a rare situation where a government entity or the other side will pay you.

The best source of business is a referral from a satisfied client. Client satisfaction depends more on the client's perception of his treatment than on the lawyer's skills or the results obtained.

Every dollar you do not pay out in overhead is an extra dollar you take home.

Your greatest successes are often cases that you turn down.

Your client has to receive your bill to pay it. The sooner you get the bill to the client, the better your chances are it will be paid and paid promptly.

Excellent employees are the greatest of prizes. Praise them, listen to them and compensate them well. Schedule some regular time each month (perhaps a luncheon) to listen to your assistant's concerns and ideas. Continuing training for employees is an investment you will never regret.

Your receptionist is often the lowest paid, least experienced and least trained employee. Your receptionist gives all of your clients their first impression of you and sets the tone for every dealing between you and the world. Make sure you are giving the impression you desire.

The successful lawyer **MUST BE** a law Firm Manager.

Most lawyers just want to practice law. A few, perhaps, came from a business background or attended business school and really are excited about the prospect of running their own business. But for most, the business concerns are not what drove them to law school.

What is management?

Well, obviously, law firm management means different things depending on the size of the firm and the type of practice. The managing partner of a two hundred attorney firm has a vastly different view of management than a solo practitioner with one employee.

But, the general tasks of law office management are similar no matter what the size of the firm.

The primary management style difference between smaller and larger firms is the delegation of management duties. The larger the firm, the greater share of those duties are handled by staff, who specialize in administration and management. The smaller the firm, the less likely it is that resources are available to hire full time managers and, therefore, the duties fall on the lawyers (or our secretaries and legal assistants.)

For convenience, let us refer to two broad sets of management issues, the Administrative Services, which are generally applicable to most businesses and Delivery of Legal Services, those which apply only to a law firm.

Administrative issues are crucial for the existence of the law firm. They may be done poorly, which will decrease success and profitability of the firm, but they will generally be done. For example, if the electricity keeps getting shut off, eventually there will be a system in place to pay the electric bill. Penalties for late payment or non-payment of employees withholding will eventually be remedied if the practice is to survive. Administrative issues which do not directly relate to the delivery of legal services are often referred to as the "business side" of the practice of law.

Some of these types of administrative issues include:

1. The Physical Location
2. Purchasing
3. Accounting
4. Personnel
5. Establishing procedures and systems
6. General business plan
7. Technology

In addition to the prior list of actual delivery of legal services issues we might add such areas as:

1. Quality Control and Risk Management
2. Work Allocation (who does what tasks)
3. Future Planning
4. Technology proficiency
5. Training and Continuing Legal Education
6. Trust Account Management
7. Development of Legal Assistants and Associate Attorneys
8. Relationships with Affiliated Attorneys

As you can see, these lists could go on and on and it is almost impossible to draw a "bright line" separating one set of areas from another.

The key is to determine whether lawyers are doing tasks that are mostly on the "business side" of the firm and are more properly done by non-lawyer employees or consultants. Even the solo practitioner who has no staff will probably make arrangements for outside help for computer applications, heavy typing and other non-legal matters. More than one solo practitioner's spouse has found themselves pressed into service for tasks as shopping for office supplies, typing or otherwise serving as a temporary receptionist or secretary.

In fact, this is one of the key differences between a solo practitioner and a lawyer practicing in a large firm. A lawyer in a larger firm has the luxury of allowing the lawyer's spouse to be totally oblivious to what goes on in the law practice. A solo's spouse will have to know much more and will have much more direct interest since the disposable income in the household may vary from month to month depending on the success of the practice. Suppose someone calls for the lawyer at home in when the lawyer is out. With a personal injury practice, for example, the spouse will need to know that a minor accident with no hospitalization may just need some reassurance and instructions to contact the lawyer in the morning and not discuss the matter with anyone further until then. A case involving death or catastrophic injury may mean tracking down the lawyer immediately for client consultation and evidence preservation issues.

The inherent problem of the lawyer as administrator or manager is that all of the time that lawyers spend managing, they are not producing legal services at all. As a solo and small firm lawyer, one may be surprised that over one-third of office time may be devoted to non-billable tasks. The lawyer has to handle these matters (or delegate them to someone) but should do so as efficiently as possible. Efficiency in management always results in more time for compensated client services.

(Note: The following section is a lightly modified excerpt from the D.C. Bar Basic Training and Beyond eManual which is a supplement to the D.C. Bar training course on how to start a law firm. The full eManual is available at <http://www.dcbar.org/bar-resources/practice-management-advisory-service/upload/eManual-050316.pdf>)

PLANNING

“As a solo or small firm lawyer, you are especially vulnerable to accusations of unethical conduct. The reasons have nothing to do with your ability or character as compared to other lawyers. You are especially vulnerable because your practice setting increases the likelihood that a bar complaint will be filed against you sometime during the course of your career. You owe it to yourself to recognize the ethical hazards that accompany your chosen career, devote time and energy to managing the risk, and be vigilant in protecting yourself against accusations of misconduct.” Benjamin Cowgill
GPSSOLO January/February 2008

<http://www.americanbar.org/newsletter/publications/gpsolomagazinehome/gpsolomagazine/index/ethicalhazards.html>

Proper planning and implementation can ensure the health of the small firm and act as a protection against bar complaints. Thorough planning prior to launching your law firm is one of the most important steps you can take as you venture into the small firm world.

Consider this example: less than 10% of the D.C. Bar's more than 100,000 members are small firm lawyers. However, small firm lawyers generate 45% of the docketed cases filed annually with the District of Columbia Office of Disciplinary Counsel. I can only assume that these statistics are somewhat similar in other jurisdictions. But how can this be? While there are many reasons for this statistic, the nature of the complaints in D.C. suggest that a lack of planning and management underlie many of the complaints against small firms. Failing to communicate with clients, having too many clients, inadequate records and mishandling of IOLTA trust accounts are among the common reasons for such complaints.

[Similar information about attorney disciplinary actions in Oklahoma is available at <http://www.okbar.org/Portals/13/PDF/2016%20PRC%20Annual%20Report.pdf>. Information about practice setting collected via a 2013 member survey is available at <http://www.okbar.org/Portals/13/PDF/Governance/MembershipSurvey2013resultsfinalJul8.pdf>.]

The Business Plan

(Note: District of Columbia Bar Association Business Plan Startup Template is attached at the end of these materials to assist you in creation of your own business plan.)

So how can you avoid a bar complaint? Creating and implementing a business plan is a key defense. You need a business plan to assist you in creating and operating your business. Many lawyers do not believe they need a business plan. However, having a plan creates control and direction. In the absence of a good plan your decisions may be unduly influenced by the balance in your operating account rather than your intended course of action when you decided to venture out as a small firm lawyer. In essence either you will control your business or your business will control you.

The process of drafting your business plan will expose many issues which you may not have initially considered. It will reveal to you that your enterprise is a system composed of smaller systems. You will create a unique mission and purpose for your firm that will prove crucial for growing your firm. Start with the attached template to assist you in this process. A business plan is like a resume, it is not something that can be copied or slightly modified from another source. Instead, your plan will be unique to your personal and professional experience as well as your unique take on how you want your business to run, who you want to serve and how you plan to approach your practice area of choice.

Your plan does not have to be a perfect. It is far more important that it be functional, realistic and evolving. The development of a business plan requires you to think through your mission statement, financial goals and the logistics of operating your business. If done properly the creation of your business plan will encourage the use and implementation of management systems to maintain structure and organization for your firm, from how to process paper, to client intake process, to financial management.

The table in Appendix 2 will help you work through the issues of budgeting and expense projections. You can then begin factoring profit into your pricing. So, rather than asking every lawyer you know the question “how much do you charge,” you can use your business plan to determine how much you should charge to cover your overhead and to generate the profit necessary to support your lifestyle. Without this analysis you will inevitably back into pricing yourself without consideration of your profit margin. When this occurs, the lawyer becomes a cash-flow surfer with no idea whether the business is actually profitable.

The Small Firm Backup Plan

Don't forget to include in your plan a backup procedure. What will happen to your law firm if you become ill or incapacitated? How will you protect and maintain files and client information if your office is destroyed by fire or flood? Who will notify your clients and the courts? Of course, we all hope that these things never occur but we must be prepared if they do. The time to think of a backup plan is not after the devastation occurs but before it does. So, how do you create such a plan and what are the options available to you for emergency arrangements? For creation of the necessary instruments, the ABA'S [“Being Prepared”](#) is a great resource. It provides useful instruments and information to assist you in establishing a backup plan. It can be purchased from the ABA or on [Amazon.com](#).

OFFICE MANAGEMENT SYSTEMS

To be profitable, competitive and organized, you must also have uniform office management systems. Systems help avoid bar complaints and negligence claims. If you have created a business plan for your firm, then you probably have set up management systems.

Creating Systems

Here are some examples of systems you should have in place to properly run your small firm.

Paper handling: Consider how you will open new files and close old ones. Consider your method of processing mail, fax correspondence and phone messages. What about transactional documents and pleadings? For example, if you are creating a paperless system, your goal should be to touch the paper only once. Also, consider using something like www.theformtool.com to automate repetitive documents. The outdated method of typing over an existing document to create a new one leaves too much room for error.

Client files: Consider your practice area and what documents should be included in your files. A few basic items would include a client information sheet, fee agreement, case notes, telephone messages, a correspondence log and an expense log. Depending on your practice area your file may need additional items. Create a case management system and method to perform conflicts checks. There are a variety of software programs available for your case management needs or you may create a master log in an Excel or Word document. Establish a file numbering system. You may need to keep both an electronic and hard copy of the client file. Everything you create could be part of the client file from yellow sticky notes, to email, text messages and the pleadings and instruments, so check your jurisdictions rules on record keeping. Be sure to associate all such items with the electronic and paper file.

Time Management & Calendaring: Establish a calendaring system for important court dates, deadlines and meetings. Make sure your staff is properly trained on the use of these systems. Use time management applications to keep a written log of your time while you work. Most case management systems include a calendaring system. A popular stand-alone billing system for lawyers is www.time59.com. Some malpractice insurance carriers will expect you to have two or three calendaring systems for purposes of redundancy. If you use Outlook for calendaring and docket control, be sure to back it up regularly to a separate drive and consider regularly printing your calendar and scanning it to a PDF as an extra backup system.

Invoicing & Handling Money: Create a billing system that is easy to use. Be consistent with your invoices and send them at the same interval or date. Determine if you will need a bookkeeper or accountant for the maintenance of your bank accounts or if you will keep track of the accounts on your own. You can do this manually with something like Excel or using a software like QuickBooks or another system. Consider how you will handle accounts receivable. Old debt is bad debt so it imperative to stay on top of clients who owe you for services rendered. Create a monthly budget and review your operation regularly for profitability analysis. Remember: Are you setup to make a profit or are you simply surfing cash flow?

Establish Office Policies and Procedures: You will need policies on all systems used to run your firm. Clearly set forth how you will communicate with clients, provide

updates and return calls. Establish a uniform procedure for how to open and handle files both hard copy and electronic. Create pricing policies and checklists for how to handle common legal procedures.

Productivity and Technology

Your business will be profitable to the extent that you are efficient and able to keep overhead to a minimum. With planning, creativity and technology you can increase productivity and be competitive. You will have to spend some money to make money. Here are few productivity ideas for small firm lawyers:

1. Evaluate all areas of your office that clients see and occupy. Ask yourself if you would hire a professional that worked in a similar space. Find a trusted colleague or friend to provide you with a second opinion. If you find that negative feedback is the consensus, make the necessary changes to make it appealing and inviting to clients. Consider everything that can be seen, heard, and touched.
2. If you have multiple parties as clients and are having trouble getting everyone contacted by phone to set a meeting, *try **Google.docs*** as a solution. Let's say you have three or four depositions to set and three or four lawyers involved in the case that you must contact and schedule. Go to <http://docs.google.com> and create a new document or spreadsheet with the name of the witnesses and possible dates for the depositions. Using the lawyers' email addresses, circulate the document or spreadsheet for each lawyer to indicate availability. It eliminates the phone calls and speeds the process. You will first need to open a Google account at <https://www.google.com/accounts> and take the tour to get an explanation of how this helpful process works. It's simple and effective. You may also use the scheduling assistant in Outlook or some other scheduling application like: http://www.vcita.com/software/online_scheduling.
3. When you are meeting with a new client and you have been officially retained, **start work immediately** on the case and in the presence of the client, even if it something small. Most of the work we do is behind a desk or at the computer if we are not in litigation or mediation. It is important to the client that they see you doing something. Let the client see you begin the case or project by directing a staff member to open the file or prepare a letter or make a phone call to the existing opposing counsel. Enter the client's contact information into your contacts list, database or case management system. Open the file on your laptop and create a checklist. Set up the next appointment or deadline. Convey the message that you are immediately at work for this new client.
4. Find a person you trust and have this person call your office as a potential client and also **come into your office as a potential client** and evaluate how he or she is greeted, how the office looks, and the overall impression that is made by your staff and the physical surroundings. Is your sign old, faded and in need of painting? Are the magazines dated? Does your waiting area turn people off? Does the person who answers your phone and greets people coming to your office seem genuinely interested

or distracted and hurried? Get an objective evaluation of your office function and take corrective actions. This is especially important if you are in an office-on-demand environment and staff changes occur.

5. If you want to make a great impression, keep a client happy and get a good reputation for being accessible and a good communicator, **call a client before he or she calls you**. Try including a phone call as part of your consistent billing process. Alternatively, on a weekly basis, set aside fifteen to thirty minutes and call a client with whom you have not spoken to for a while and just check in and see how he or she is doing and make a status report. Maybe it's a case where you are waiting on a ruling and the judge is taking a long time. Maybe it's a case where you are waiting on a trial date or some other event. The work is done, and you may not have contact with this client again for months. Give this client a call, tell him or her you were thinking about him or her, give a brief update, assure them that all is well and move on to the next call. You will stand out against the common perceptions that lawyers don't return calls or are inaccessible.

6. Build a positive reputation in your community by being known as a **committed volunteer**. For example, if you litigate and are in and out of the courthouse on a regular basis, get trained as a guardian-ad-litem and get appointed by a judge to represent the best interests of a child or an adult. It can be demanding, time consuming work, but it is rewarding in ways you will never expect. Judges and court staff will have a new respect for you and you will meet many people and make many relationships. The good you will do will be uplifting, and someone who really needs your help will benefit.

7. Remember that sending an e-mail or fax does not guarantee that it has been received. Train your staff to read the fax transmission notice to confirm that transmission was successful. Have a system in place for your assistant to **follow-up** by phone, especially where the mail or fax communication is time sensitive.

8. Regularly **check your email spam** filter to be sure if important email was snagged by the spam filter.

9. **Make use of** the drag and drop feature in **Outlook** to drag an email to the calendar to schedule a new event or to contacts to create a new contact.

10. If a primary purpose of your website is to market your legal services, **know where your website is positioned** in Google, Bing, Yahoo, MSN and any other search engine when a potential client using common search terms is trying to find a lawyer like you. If you do not show up high on page one of Google and the other search engines, optimize your website for the search engines. Learn about search engine optimization: <https://static.googleusercontent.com/media/www.google.com/en/webmasters/docs/search-engine-optimization-starter-guide.pdf>

11. **Use Google Analytics** to evaluate your website and its interactive ability with

potential clients: see, <http://www.google.com/analytics/>

12. Opportunity to **collaborate with clients** abounds today. It is possible to work on files and projects directly with your client, to upload documents and make case developments readily available. This facilitates good communication. Less time is spent on the phone and in meetings and less money is spent on delivery charges. Consider using the client portal integrated with case management systems such as www.goClio.com, www.MyCase.com, www.Rocketmatter.com, or www.CosmoLex.com. Investigate [Adobe Connect](#), [Basecamp](#), [Prolaw's built-in extranet](#), [MS SharePoint](#), [Zoho](#) or [GoogleDocs](#).

13. Laptops, tablets and smart phones are easily stolen. Consider the consequences if yours was stolen and you had confidential client information in many files. [Use longer passwords that cannot be easily hacked](#). **Encrypt your laptop**. Most laptops have encryption features. It is also possible to buy an encryption utility at www.securikey.com or www.pgp.com. For a Mac, see <http://mac.sofotex.com/Security/File Encryption/> And make sure your staff is trained on security procedures and protocol.

Download [Ten Essentials for Small Firm Management](#).

(Note: The previous section was a lightly modified excerpt from the D.C. Bar Basic Training and Beyond eManual which is a supplement to the D.C. Bar training course on how to start a law firm. The full eManual is available at <http://www.dcbar.org/bar-resources/practice-management-advisory-service/upload/eManual-050316.pdf>)

Business Entity Formation and Malpractice Insurance

What Business Entity Should I Choose for My Small Firm?

By Rochelle D. Washington, Sr. Staff Attorney

Practice Management Advisory Service

Lawyers venturing out to “hang a shingle” often immediately consider forming a business entity to protect themselves and their enterprise. Typically, they do this because they are seeking protection from third party liability or, alternatively because they are mimicking their colleagues and observe that most law firms include initials after the firm name representing a business entity of some kind. Using this logic is dangerous and should not be the motivation to form a business entity. When a lawyer asks me, “what business entity should I form?” I in turn ask, why do you want to form one in the first place? Understanding the reason for establishing an entity is imperative to ensure you make the right decision. If the reason is to protect assets and limit your exposure to liability then purchasing adequate insurance coverage may be a better answer. So before making these decisions, I urge you to consider a few things.

First, take a look at your ethics rules. In the District, we have ethics rules that prohibit a lawyer from limiting perspective professional liability to clients. See D.C. Rules of Professional Conduct 1.8(g)(1). Second, research your jurisdiction’s laws. In the District of Columbia, a business entity may provide a level of protection in some circumstances, but this is not the case if the liability claim stems from your own personal negligence or if you knowingly engaged in a wrongful act. See D.C. Code § 29-510 (2014), and also, D.C. Code § 29-803.04 (2014). This means that merely forming a corporation may not protect you personally from a third-party claim of professional misconduct or malpractice. Finally, often a newly established business, including a law firm, is required by third parties to personally guarantee contracts, loans or lines of credit whether the principal has established a business entity or not. Therefore, setting up an entity may not limit a lawyer’s liability or provide the protection they seek even if the claim is not based upon a professional liability claim.

Another consideration before establishing a business entity is the financial implications which are often cost prohibitive. There are typically additional annual filing requirements and additional tax liabilities by virtue of establishing a business entity. Some of the filing requirements and negative tax consequences may be reduced or eliminated by filing a subchapter S election under the Internal Revenue Code. If you are not familiar with this, contact your tax advisor. More information on filing requirements and taxes can be obtained from the taxation or business licensing agency in your county, state, or local jurisdiction. In Washington, D.C. the agency for business licensing and entity formation is the Department of Consumer and Regulatory Affairs.

Ultimately, the decision to incorporate or form a business entity is truly a question of substantive law that should be discussed with a corporate lawyer and your accountant. So please, do not assume that you need a business entity to establish and protect your law firm as this simply stated, may not be the case. In most instances

operating your firm as a sole proprietor and applying for a tax id with the www.IRS.gov is sufficient, cost effective and less burdensome. If limiting your liability to third parties is your motivation, consider other business insurance options in addition to your options for a business entity. If your jurisdiction does not permit you to limit professional liability and this is your primary concern, then malpractice insurance is the answer and may even be required. D.C. Rules do not require that a lawyer have malpractice insurance coverage however, I highly recommend that you do. Other insurance coverages should also be considered to protect against third party claims such as, employee insurance, general business insurance, cyber insurance, workman's compensation and so on. [Click here](#) for more information on liability insurance in D.C. For more information on this and other practice management topics, D.C. Bar members may contact the Practice Management Advisory Service at the D.C. Bar [at pmas@dcbar.org](mailto:pmas@dcbar.org).

(Note: The following section on malpractice insurance is a lightly modified excerpt from the D.C. Bar Basic Training and Beyond eManual which is a supplement to the D.C. Bar training course on how to start a law firm. The full eManual is available upon request to D.C. Bar members <http://www.dcbar.org/bar-resources/practice-management-advisory-service/upload/eManual-050316.pdf>.)

Finding Malpractice Insurance

It is strongly recommended that a lawyer have adequate professional liability coverage. Here are some facts and questions every lawyer should know and ask about malpractice and malpractice coverage. If you're unsure of the terms of your policy or what they mean, speak to an attorney or insurance professional. Here is a checklist to assist you with the selection of your malpractice insurance carrier:

Is your malpractice policy a claims made policy? Claims made policies cover claims that are made during the policy period. This differs from an occurrence policy, which covers any claim that was made as a result of an occurrence (i.e. the alleged malpractice) that took place when the policy was in effect. Most homeowners and car insurance policies are occurrence policies, and those are the policies with which most people are familiar. But claims made policies are common for malpractice. If your policy is a claims made policy, once you become aware of a potential problem or claim, you should immediately advise the insurer. Failure to advise the insurer may mean a loss of coverage.

Does your policy have a prior acts date? This date may limit the claims covered by your policy even if the law firm becomes aware of the claim during the policy period. If the alleged malpractice occurred before the prior acts date, it won't be covered. If your policy contains such a provision, you will need to determine whether the date involves the whole firm or specific lawyers.

Do you have 'tail' coverage? This is important if you are switching carriers and don't have prior acts coverage with the new policy. Some insurance companies offer free tail coverage if the lawyer has been insured a certain number of continuous years. Ask if the company provides free tail coverage.

What are the exclusions to your policy? Doing work for free for friends or family? Acting as a court appointed guardian ad litem? Taking on work in a new practice area that hasn't been previously disclosed to your malpractice carrier? Check your policy to see whether these items are covered under your policy. Does the policy you are purchasing cover all of your practice without exclusions for particular cases or practice areas? Does your policy's definition of professional services fit your firm and what it does?

Are you covered for all claims of malpractice, including those instituted as a result of a collections claim? An often-cited reason why malpractice insurers don't like their policyholders to institute collections claims for unpaid fees is that the client often retaliates by instituting a malpractice claim. Sometimes those claims result in scrutiny of your billing procedures or the clarity of your communications with clients about your fee structure.

Are you covered for other activities related to your law practice, such as a real estate lawyer acting as a title agent, or any lawyer acting as a member of a board or bar association? If you work as a court appointed Guardian Ad Litem, are you covered by your policy? Does your policy provide coverage for responding to a bar complaint?

How much do you know about your malpractice carrier? Don't choose a malpractice carrier based upon price/premiums alone. Is your insurer financially strong, reliable and experienced?

Will you have the opportunity to choose or approve counsel should a claim be made against you? Your policy may give your malpractice insurer the exclusive right to choose the attorney or firm that will represent you.

Are your policy limits sufficient? What is the size of the potential judgment or value of the typical case or transaction being handled by the firm? If the numbers are high, you might want to consider higher limits. Consider the firm's assets to ensure that you're sufficiently protected.

Are your defense costs and expenses outside of the policy limits included? Defending a malpractice lawsuit can be expensive. Do defense costs reduce your coverage? Determine whether your policy limits include defense costs as well as liability limits. Review your deductible and be sure you know what it applies to - expenses or indemnity or both?

Having a malpractice policy isn't enough- make sure you know what that policy covers and where you may be vulnerable. Read your policy and get professional guidance if necessary.

Office Space — Just Where Are You Going to Work?

As the real estate agent saying goes, there are three important things about real estate; location, location and location. If you wish to establish a new practice with consumer clients, renting an office on the thirtieth floor of a downtown office building may not be a wise decision. On the other hand, if you are going to have a litigation based practice with clients not limited to the local area, getting as close to the courthouse as possible maybe the most important consideration.

For the solo practitioner lawyer who is just starting out in business, there are essentially three alternatives:

- (A) You can decline to rent office space and work out of your home,
- (B) You can sublet or office share space with other attorneys, or
- (C) You can lease space independently to establish your own law firm separate from any others.

A. The Home Office - The obvious benefit to working from your home is that you save a tremendous amount of office overhead expenses. It is doubtful your utility bills will be any higher at home due to having your office there and you are already paying your house payment or rent. Plus, the Internal Revenue Service has loosened some restrictions on deducting home office expenses.

Nevertheless, there are significant disadvantages to operating from a home office. Perhaps the major disadvantage is possibility of an aura of lack of success or professionalism on the part of the attorney who does so. Clients want to be represented by competent, successful professionals. If you office from your home, you may find yourself not getting certain business because clients will have the perception that you cannot be that skilled an attorney if you cannot even afford to have a "real office." You may also find that clients will entrust you with minor matters, but would go to another attorney with a more impressive office environment when a significant or complicated matter presents itself.

Another detriment to the home office is that it can be much more difficult to get work done in this setting. There are more external distractions (your spouse asks you to help with some household chore "for just a few minutes" or the dog wants to be petted) and internal distractions (turning on the television or raiding the refrigerator).

Finally, you will have to deal with the issue of where to have conferences and meetings with your clients. Though you might be comfortable inviting some clients into your home, there are certain types of practices (notably family law or criminal law) where this presents an unacceptable risk.

Scheduling client appointments at locations like restaurants or the court house snack bar often simply does not provide a sufficiently confidential atmosphere for

attorney/client conferences. They may also be events like closings, will executions or depositions that do not work well in this environment.

While the home office setting is not for everyone and does entail some significant disadvantages, many lawyers are functioning quite well in this environment. It is particularly beneficial for the lawyer who only wishes to practice law part time or where it addresses child care concerns.

Before you decide on a home office, read Bob Ambrogi's blog post from earlier this year, [Why I Gave Up My Home Office for an Actual One](#). Bob almost never needs to see clients in his office and still made this decision.

If you do decide to practice law from your home here are some suggestions:

- (1) Dedicate a room in your house as your law office with one or more separate business phone lines. Having a place to go "to work" will help you discipline yourself and avoid family distractions. Consult carefully with your telephone company as to what features are available for voice mail when you are out of the office or on the phone, call forwarding, or a second business line or a "personalized ring" for your computer/fax machine. Also investigate a personalized answering service. You will be unable to answer the phone quite a bit and it may be worth the monthly cost to have a human being taking messages.
- (2) Try to make an arrangement with another lawyer or a court reporter or some other professional to sublet their conference room or spare office for a certain number of hours per week for client conferences, and
- (3) Consider obtaining a post office box or a mail drop for your "official" office address. Post office boxes are obviously much cheaper, but a private mail drop will have the advantage of allowing you to have your mail delivered to a "suite number" which sounds more impressive than a post office box. In addition, mail box stores will accept overnight deliveries and packages that arrive by private messenger such as Federal Express and UPS where the post office will not. If you do not use the post office box, remember that most lawyers need someone who can sign for certified mail and deliveries during business hours when you are in court or otherwise engaged out of the office.

B. Sub-letting an office or office sharing - Office sharing with other attorneys can be greatly beneficial to the beginning attorney. Typically, your rental payment will allow you access to any resources in addition to your actual office such as a law library, a fax machine, a copier (you will likely pay on a per copy basis), a receptionist, client waiting areas, a kitchen, restrooms and so forth. These arrangements can prove beneficial to all concerned as it is unlikely that all of the lawyers will want to use a law book, the

conference room or the kitchen at any one time. A solo practitioner who is not office sharing, will have to pay for many of these things whether they are being utilized or not.

In addition, associating with other attorneys may provide valuable client referrals and some mentors with whom to discuss legal strategies and interpretations. Perhaps the greatest difficulty in being a "true" solo practitioner is finding other attorneys with whom to "brainstorm" or seek advice without compromising client confidences.

A beginning lawyer may also be able to negotiate a rent reduction in return for a few hours of services to the landlord attorney each month for things like filing or routine court appearances.

However, there are several possible problem areas with office sharing arrangements. An attorney's reputation is his or her most important asset. You should be aware that many attorneys will tend to make assumptions about you personally based on the reputations of the attorneys with whom you choose to office share. It is important that you investigate the attorneys with whom you may be intending to office share as to their reputation in the legal community.

You may also find that the attorneys from whom you seek to sublet or office share are reluctant to enter into a written agreement. This is typically because they are as unsure as you as to whether the arrangement will work out on a long-term basis. In addition, all attorneys are typically busy and no one wants to take the time to draft an agreement. You are going to make a significant investment in moving into a location, perhaps installing a phone line, and having business cards and stationary and envelopes printed. You should be entitled to some reasonable amount of notice even if the arrangement proves unsatisfactory to the other attorney. Typically, you will find that if you agree to draft the agreement, subject to the other attorney's approval, these concerns can all be adequately and fairly addressed. The leasing attorney should be sure to specify in the agreement what is included in the monthly rental charge and what requires additional payment (such as copies). For a true office sharing agreement between co-equal attorneys, it is also important to spell out what is to be paid for collectively and what is the individual obligation of the attorney.

Perhaps the most troubling concern about office sharing arrangements is the potential for ethical dilemmas or for exposure for liability for the malpractice of another attorney.

Even if you are not truly a partner with another attorney, you may still find yourself in legal jeopardy based on a claim that the client believed he was represented by a partnership. Evidence supporting this allegation could include answering the telephone with a firm name, having a stationary with all of the lawyer's names on it, or referring to one another as "partner" in front of the client. You may find that your malpractice insurance carrier will refuse to insure you if there is letterhead, a sign or receptionist answering the telephone combining several attorney's names. The best initial solution to the malpractice exposure is to require that all of the attorneys who are sharing offices obtain malpractice insurance with the same carrier and in similar limits and to provide proof of coverage to each other.

The following language in an office sharing agreement might serve to prevent some future troubles.

The undersigned lawyers agree that they are all solo practitioners who are pooling to share office expenses but are not a partnership. Each attorney agrees to use his best efforts to ensure that all clients that he or she represents understand that there is no existing law partnership. All attorneys agree that they will not represent clients without a written fee agreement and that all such written fee agreements shall all contain the following language: "Client understands that he/she is contracting only with the attorney whose name appears herein and that the attorney is not in a partnership with the other attorneys located in the same office suites. Only the attorney whose name appears herein is responsible for the client's case.

Potential conflicts of interest are another area of significant concern in an office sharing relationship. There are significant economic benefits that occur from office sharing. An attorney should accept that there will be some detriments and some cases that the office sharing situation will render you unable to handle.

It is not the purpose of this paper to discuss conflicts of interest in depth. These matters are generally discussed in the Rules of Professional Conduct Rules 1.7, 1.8, 1.9, 1.10 and 2.2.

Since lawyers who are merely sharing expenses are not considered to be a law firm, many attorneys are not as concerned about conflicts of interest as they would be in a partnership context. They should be. As a practical matter, many of the most significant potential conflicts of interest will be recognized by the clients or perceived even when they do not in fact appear. If the lawyer down the hall represents the wife in the divorce case, you are probably not going to convince the husband that you can adequately and fairly protect his interest. Frankly, you should not even try to convince him and then represent him.

It is possible to construct a "Chinese wall" between yourself and another lawyer in the office sharing relationship. This is a risky course of action however and is not recommended as a general rule. Before even considering that course of action, you should consider the anticipated fee that might be earned in relation to the potential problems with a later claim of malpractice or ethical violation, the extent to which such representation could affect your relationship or future referrals with the other attorney, and the difficulty in securing clients' confidentiality under such situations. Some written communication detailing potential problems to the client is required and yet this also serves to raise a red flag should a client later become unhappy. Both lawyers would have to ensure that the files were stored and locked in such a location that the other lawyer or his staff could not have access to the client's confidential information. If a receptionist is shared, clients must be cautioned to not leave messages with the receptionist and such things as sharing the same copy machine could prove to be a

problem. Having several lawyers' computers networked where they can share files in another problem area. Hopefully after an examination of the facts the attorneys will conclude that this is a situation that is would be better to be safe than sorry.

The "safe" way (according to Jim Calloway) is to agree in advance that the lawyers will observe the same conflict of interest rules as if they were in a partnership, even though they are not. They are then more likely available to consult, to share and to network their computers. But that does not mean that they can disclose client confidences to each other without client approval.

A very important office sharing tip: Even in these days of email and other types of communication, your phone number is your lifeline for business. You will certainly be passing out business cards with your phone number on them and sending correspondence with your address and phone number. You may be doing some advertising where your phone number is presented. Former satisfied clients who wish to refer new business to you may do so by the phone number on the business card from your prior representation. It is well worth the investment and expense in an office sharing or subletting arrangement to pay for an additional telephone line for you with your own phone number that you may take with you should the relationship dissolve. This can be done either with a telephone that actually rings on your secretary's desk or it can just be one of the multiple lines that the receptionist answers for all of the lawyers. Your office mates will probably appreciate the additional telephone line and will appreciate your business foresight. A separate telephone line will also allow you to have all of your long-distance calls billed to one number so that splitting up the long-distance phone calls between lawyers will not take any of your time. Although business telephone lines are a significant expense, this is an important investment into the stability of your future practice.

C. Your own separate office location - The major benefit of renting your own law office location is that you will have complete control over all aspects of your office space. You can furnish the office as you see fit and you will be in charge.

The drawback, of course, is that it will be significantly more expensive for you to rent and fully equip your own office than to office share. Before entering into a lease, it is critical that you spend time shopping for a convenient location and that you establish a reasonable budget for equipping your office. You should also spend some time in the office of another lawyer cataloging all of the different equipment that is present. You should also consider that utility bills, garbage service, real estate taxes and a number of other extra expenses will be associated with a free-standing location. Being on your own and dependent on no one can bring a great sense of freedom. It also brings much responsibility. If your waiting room needs chairs, you are going to have to buy the chairs. Consider shopping for used furniture. Do not, however, purchase used computer equipment except from an individual that you know and trust well at a very low price. Nothing becomes obsolete sooner than computer equipment.

Billing and Collections

There was a time in the legal profession when you performed services for a client, you billed the client for those services and the client paid you for those services. Like most aspects of modern life, it is no longer that simple.

Now more than ever, billing and collection is a process that practitioners must understand and master if they are to manage their practices effectively and profitably. It requires planning and organizational skills

There are five important aspects to the process:

1. Deciding which clients/cases to take. Know the warning signs of “bad” clients and do not take them.
2. Determining the type of fee and the fee agreement. Inform the client of the billing and collection rules/procedures when you first meet the client. Give a copy of them to the client with the fee agreement.
3. The process of recording time. Knowing the real value of your time and sending invoices that reflect all of your time and effort.
4. The billing process.
5. Getting paid

Billing

According to the late J.Harris Morgan in his outstanding book, *How to Draft Bills Clients Rush to Pay*, communicating effort is critical in preparing invoices. Without proper timekeeping, there is no way to communicate the work and effort that went into the services that were performed. In his book there are excellent examples of various invoices.

On most matters you should consider doing regular progress billings. It is much easier for a client to pay a series of invoices as the work progresses than a large invoice when the matter is completed. Too often, the client will forget about all the effort that went into the case when it is completed.

Automated Document Assembly

Lawyers have and will continue to labor long and hard to produce documents. However, one of the benefits of the increased computerization of the law offices is the accessibility of automated document assembly processes and programs. It is likely that within the next several years the majority of documents produced by law firms will be largely produced through some document assembly process.

Practical Billing Tips

- 1. Avoid the Surprise Total!** A client should never be surprised by the amount of a bill. Poor communication was listed by Altman Weil Pensa as a main reason clients give for not paying an invoice. If you know that a client's bill is going to be high for a particular reason, contact the client personally and tell him/her in advance.
- 2. Avoid Complicated or Incomprehensible Format.** The key here is to make the bill as clear as possible. Include enough detail to be certain that the client knows what was done.
- 3. Do Billing in a Timely Manner.** For ongoing work, it is critical to bill timely. It is best to bill as soon as the work has been completed. With today's new time and billing software, it is not necessary to wait until the end of the month to send a bill. It is very easy and convenient for a client to forget the work that was done if a bill is sent out long after the work was completed.
- 4. Avoid Errors of Any Kind on the Bills.** There is no excuse for any type of error on an invoice, especially an error in arithmetic. Although the time and billing software almost eliminates errors, attorneys in all size practices will often retype an invoice. An error on an invoice will cause a client to question the entire bill and may cause them to question all past and future bills.
- 5. For Business Clients, Avoid Directing the Invoices to the Wrong Person.** Make certain that the person who is responsible for reviewing and paying the bills receives them. Nothing slows the payment process more than sending the invoices to the wrong person.
- 6. Watch Overuse of Certain Billing Descriptions.** Clients do not like the overuse or, in some cases, misuse of billing descriptions such as 'Conference' or 'Telephone.' When using these descriptions, be as specific as possible.

Keep in mind that none of these tips will guarantee that your clients will pay their bills quickly. You must still make certain that you provide quality work, communicate with your client, mail invoices timely and monitor your receivables constantly.

Collection

Unfortunately, even when we do everything right, we still have a problem collecting a fee. You must be diligent when dealing with your accounts receivable. You must make certain that you review your aged A/R on a weekly basis. In small firms, everyone should understand the importance of collecting the accounts receivable.

As with billing, time is of the essence. Statistics show that an invoice over 60 days has only a 70% chance of being collected in full. After 90 days the chance of collecting the invoice in full drops to 45% and after 120 days, it falls to 20%.

You should be able to generate the following information from your time and billing system on all of your clients and you should review this information regularly:

1. How much each client owes you in total and on each separate matter
2. How much has been billed to date
3. What is total work in progress and how old is the work in progress
4. How much work remains to be done on this matter/client
5. What is the payment history of this client
6. Your fee agreement with the client
7. Other factors such as whether or not the client is a fantastic referral source or is the brother-in-law of the president of your best corporate client.

Collection Tips

1. Concentrate your efforts on your current clients.

We all have clients and former clients that we have allowed to get too far behind. We should not allow our past errors to prevent us from making certain that our current clients do not get too far behind in payment.

2. Develop a collection policy.

The policy should be simple to administer and enforce. It should address what should be done when a client goes past 30 days, 60 days and 90 days. For 90 - 95% of the cases, the process should be automatic. It can be as simple as sending a letter after 30 days to determine if there is a problem or having an office manager contact a client.

3. Monitor daily cash receipts.

If necessary, distribute copies of daily cash receipts to appropriate staff.

4. Communicate with clients.

Do not avoid discussing collection of fees with clients. If you are providing quality legal services and are charging a fair and reasonable fee, you should be paid for those services. If you choose for whatever reason, to do the work pro bono, then the decision should be yours and not the client's.

5. Contact Clients When They are Late Paying

Have someone in your firm or if necessary a part-time person hired just for collection to contact clients when payment is past 30 days or when they do not live up to a payment arrangement. Follow up is the key. If the client knows they are going to be called they are more likely to live up to their obligations.

6. Stop Work if Clients Do Not Live Up to The Fee Agreement

If you monitor your accounts receivable regularly, you will notice payment problems early enough to withdraw from representation.

7. Consider Getting Paid in Advance for the Work You Do...

a. Up-Front Retainers - This is the most common type of retainer. The money is paid up-front by the client, then used by the lawyer as legal services are performed and billed. Often, the retainer doesn't cover the full cost of the services, and at the end of the matter a substantial account is owing.

b. Replenishing Retainers - The client pays an initial lump sum fee advance, when it has been exhausted the client is given 30-day notice to deposit, either the same amount or a predetermined amount, failing which, subject to ethics, the lawyer stops working and withdraws.

c. Credit Cards - By accepting credit card payments you shift the burden of being the client's banker over to the client's banker. It costs a small percentage of each transaction, but isn't that worth the price of not having to collect a fee?

8. Monitor Your A/R Weekly. Age Your A/R Monthly.

Today's time and billing systems make it very easy to run an accounts receivable report weekly and to age it monthly. This will allow you catch problems early.

9. If You Have Employees Make Certain They Know Your Collection Policy

Employees are fully aware of those clients who do not pay. It is very important that all your employees understand your policy and your firm's commitment to it.

Good management of your firm will result in quality service and satisfied clients who will value your effort and be willing to pay you for it. Here are some forms to help in collection.

Thirty Day Letter

Dear,

In reviewing our accounts receivables, I noticed that we have not received payment in the amount of \$ _____ for invoice # _____, dated _____.

I am sure this is just an oversight on your part. If, however, you have a problem with the service we have provided, please contact me immediately so we can discuss the matter.

If I do not hear from you I will assume that you have no difficulty with the service or with paying the invoice and will look for payment by (Date).

Sincerely yours,

Solo Law Firm

Sixty Day Letter

Dear,

It has been thirty days since my last letter and we have not heard from you regarding payment. According to our fee agreement, all invoices must be paid within 30 days of receipt of the invoice. If we are to continue to provide you with a high level of service, it is critical that we have invoices paid timely.

Please contact me immediately if you have any problems with the payment of this invoice. If I do not hear from you, we will expect full payment by (Date.)

Sincerely yours,

Solo Law Firm

Ninety Day Letter

Dear,

I have not had any response to either of my letters requesting payment of the past due invoice # _____ in the amount of \$ _____. I regret

that I am at the point where I cannot extend any further time to you for the payment of this invoice.

Effective immediately, we will be unable to perform any further work on this matter until the invoice is paid in full.

Please contact me so that we may resolve this matter.

Sincerely yours,

Solo Law Firm

Letter After Client Promises (Some) Payment

Dear,

Per our discussion on (Date) you have agreed to pay \$_____ on invoice # by (Date). We know that you will live up to this agreement.

If there are ever any problems or difficulties with payments or invoices, please contact us immediately so that we can resolve the matter quickly. We want to assist you in every way possible and we are here to answer any questions you may have about our policy and procedures.

We look forward to a continued good working relationship.

Sincerely yours,

Solo Law Firm

**Letter After Client Promises (Some) Payment
And Does Not Send Payment**

Dear,

Although you had promised to send payment in the amount of \$ _____ by
(Date) we have not received any payment.

I regret that I am at the point where I cannot extend any further time to you for
the payment of this invoice.

Effective immediately, we will be unable to perform any further work on this
matter until the invoice is paid in full.

Please contact me so that we may resolve this matter.

Sincerely yours,

Solo Law Firm

Sample Billing and Collection Policy of Solo or Small Law Firm

In order to provide our clients with the best possible service and manage our practice efficiently, it is necessary that we have a fair and reasonable billing and collection policy.

1. We will expect all clients to pay a retainer fee agreed upon at the initial interview. This will be placed into a trust account and will be used to pay for the last invoice at the conclusion of the matter. Any money that is not used for that invoice will be refunded to the client immediately.

or

We will expect all clients to pay a retainer fee agreed upon at the initial interview. This will be placed into a trust account and will be used to pay for time and expenses as work progresses. You will receive a monthly invoice that will list the balance of your retainer. If necessary, you may be required to replenish the retainer.

2. Invoices will be sent out monthly and will include the details of the time spent.
3. Payment of invoices will be expected within in 30 days of receipt.
4. Work will stop on all work if invoice goes unpaid after 90 days or no payment plan is established and maintained.

Accounting

Running a business is about making profit. Good record keeping is a must. A lawyer would be absolutely appalled with a client who ran a business without monthly financial reports, profit and loss statement, business projections, cash flow data and other accounting procedures that any business employs. Yet frequently lawyers run their practices with insufficient attention to their bookkeeping.

One should direct immediate attention toward purchasing a good time and billing and accounting software package. You can find much information about these types of products at ABA TECHSHOW.

Some case management software packages have accounting functions and a simple program like QuickBooks may work for the solo and small firm lawyer. But a good accounting solution will have double ledger entry so that you can easily catch any errors quickly. There are a number of billing programs available including some released as shareware on the Internet. Practice management software combines many functions.

This part of law office management is pretty simple to plan. If you have an accounting background, then you know what to do in this regard. If you don't have an accounting background, then you should utilize accounting software to help you in your day to day operations and obtain professional help to complete and file tax returns. Here's one valuable tip: although programs like QuickBooks will set up standard law office expense categories, consult with your accountant about these before you start entering data. You might as well start off with categories that match the ones your tax preparer uses.

Personnel

There can be no more important business decision in a law office than who you hire to work with you.

For better or worse, your secretary, receptionist or legal assistant will be your representative and create your image when dealing with clients, other lawyers, court personnel and many others in your community. The efficiency and profitability of your office will often be substantially determined by the efficiency and dedication of your staff. Investing in proper staff training is an absolute necessity particularly with new and improved computer hardware and software.

Some beginning lawyers are confused in the terminology between legal secretary, legal assistant and paralegal. The terms paralegal and legal assistant appear to be used interchangeably. The American Bar Association has defined the legal assistant as follows: "Persons who, although not members of the legal profession, are qualified through education, training or work experience, are employed or retained by a lawyer, law office, government agency, or other entity in capacity or function that involves the performance, under the direction and supervision of an attorney a specifically designated substantive legal work, which work, for the most part, requires sufficient knowledge of legal concepts such that, absent that legal assistant, the attorney would perform the task."

Essentially a legal secretary does largely clerical tasks and a legal assistant is authorized to do more substantive law related tasks, such as document drafting. However, these terms seem to be somewhat interchangeable and most veteran attorneys would tell you that they would much rather have a "legal secretary" with 15 years experience than a "legal assistant" who just graduated from a community college and is seeking his or her first employment. Legal assistants do often keep time records and are billed out by the attorney at an hourly rate when they are doing tasks that would otherwise be done by a lawyer. If you do plan to have a legal assistant bill clients at an hourly rate it is suggested that your attorney fee contracts and or engagement letters specifically note the hourly billing rate for the legal assistant and mention that the legal assistant is not a lawyer and cannot therefore give legal advice. Legal assistants can be a valuable resource for the lawyer and a profit center for the firm if they are properly supervised and managed by the attorney.

It is important to teach a legal assistant or other staff person what they can tell the clients and what they cannot. They may explain the legal processes to the client and how they will operate but they should not advise the clients regarding their rights and duties or represent to the client that they are making decisions regarding the client's case. It is important that an attorney checks the assistant's final work product to ensure that a quality product is always reaching the client.

It is also important for the lawyer to provide regular feedback, both positive and (where warranted) negative, to all employees regarding the quality of their work. You should teach your employees the importance of thorough and complete written documentation of conversations with clients, instructions from clients, and information given to clients. You should also make sure that all employees are aware of the importance of returning telephone calls promptly, being on time for appointments and keeping the clients regularly informed of the progress on their case and other interactions that often fray the attorney/client relationship. As the attorney you should set a good example in all of the above matters.

You should also be aware that when you hire staff, you will invest time as well as money. Problems of the staff will inevitably become your problems. You will have to deal with these issues. I recall once talking to a solo attorney on the phone when we were interrupted by the cry of a baby. The veteran lawyer chuckled and said "I've got a baby here. My secretary's babysitter is sick. When she called in, I told her to bring the baby up. We've got a brief due today and I don't know how to run the computer, but I know how to watch a baby."

Most importantly, you should stress to your employees the importance of maintaining client confidentiality and how discussion of anything that goes on in the office outside of the office could be grounds for immediate termination. Many employees are too lax in this regard, believing that as long as they do not mention names, they can discuss interesting fact situations with their family and friends. Stress to your employees that fact situations can easily identify clients and compromise client confidences without ever mentioning a client's name.

Each person employed by a law firm should be required to sign a Statement of Confidentiality. It is imperative that all employees know and understand that confidentiality of all matters related to the client's and cases is to be held in the strictest confidence and should not be discussed in the presence of other clients, delivery persons or with their friends. In order to assure that each employee knows and understand the importance of confidentiality it is a good idea to have all employees sign a "Confidentiality Agreement" upon employment.

On the next page is a sample "Confidentiality Agreement".

CONFIDENTIALITY AGREEMENT

It is the policy of (name of firm) that matters related to the firm, its clients, and its practices are not to be discussed in the presence of any unauthorized persons. The information received in this office is the private property of the client and any unauthorized disclosure could result in legal liability of the firm and prejudice to the client's case.

All information must be treated with the utmost sensitivity and confidentiality. A breach of confidentiality with respect to any client matter or internal matter will be considered reason for immediate dismissal.

This will confirm that I, the undersigned have read, thoroughly understand and agree to abide by the provisions of the foregoing stated policy.

Date: _____

Signature of Employee

Time Management For Attorneys

One of the most common complaints among all attorneys is that they do not have enough time. In fact, that seems to be a common complaint from many people in our society today. But for the solo practitioner, this is a critical issue. When you waste a half a day, you have effectively shut down the business for that period. If you waste time in the office regularly, you can have significant problems.

One lawyer enjoyed telling the story of representing a very busy individual who could only meet with the lawyer between 8:00 p.m. and 10:00 p.m. on Wednesday nights or on the weekend. This busy individual was employed as a sanitation engineer riding on the back of a garbage truck. However, between several children all involved in summer athletic teams and a spouse who was taking some college classes in the evenings, these two hours were all he had left during the week.

Time management is more properly the subject of an entire book (or several books) rather than a CLE paper. As solo practitioner, you really need to read at least one book in this subject area. Your attention is directed to the following suggested reading:

The Time Trap by Alec MacKenzie - There have been over one-half million copies sold of this best seller from the American Management Association. This book is available from the Law Practice Management Section of the ABA. It is also available in most book stores. Mr. MacKenzie focuses on "The Twenty Biggest Time Wasters," including inadequate planning, attempting to do too much, the inability to say "No", inadequate controls, too much travel, inadequate staff, drop in visitors, management by crisis, and much more.

The Seven Habits of Highly Effective People by Stephen Covey. Mr. Covey suggests that you recognize that there are tasks which are urgent and tasks which are important. A law practice has dozens of tasks which must be accomplished daily. Even something as simple as filing an Entry of Appearance becomes urgent when the deadline for filing is today. You may find yourself trapped into doing urgent tasks all day without ever having a chance to get to the tasks that are very important but not urgent, such as marketing, contacting referring attorneys and former clients to thank them, law office automation, upgrading hardware or software, writing for publication in legal periodicals or designing more efficient office systems.

Book stores brim with books on time management and self-improvement (which generally include significant attention to time management). Obviously, there aren't enough lawyers and harried executives to justify this many publications. So, time management must be a concern for many people these days.

Several common suggestions run through the many time management publications that are available.

These observations include such things as:

- 1. Goal Setting** - Several times a year one should take the time to set both short term and long term personal and professional goals. It is impossible to succeed until you have decided on what you are trying to accomplish. You should plan for where you want to be in one year, five years, and ten years and then review your prior goals to see what progress you are making towards them and where there is room for improvement.
- 2. Daily planning-** Allow fifteen or twenty minutes per day at the beginning of each day to plan what specific tasks will be accomplished that day.
- 3. Organization** -Every attorney already should keep a Things To Do List on the desk. Try to shorten that and give yourself a daily goal by distilling the list to a five or six "Must Do Today" list. Be sure and prioritize these items.
- 4. Procrastination is a difficult enemy to overcome.** Try to focus on doing your most difficult task as soon as you get to the office each morning. One form of procrastination is to put off unpleasant or difficult tasks by clearing up a bunch of minor tasks that can be done within a few minutes. The result is that at the end of the day soon comes with no progress on large task.
- 5. Self-study-** Consider spending one week recording every minute of your office time, including trips to the restroom and personal phone calls and drop in visitors. You may be surprised at how much time that you are wasting each day and the mere fact that you are recording wasted time makes you likely to waste less time.
- 6. Plan your errands smartly.** One housewife with several children became particularly adept in this regard. She kept a 3 X 5 spiral notebook in her purse and kept lists, separated by store, of needed items. It was not only a great time saver, but avoided impulse purchases. She was able to run in Target quickly and pick up just the six items that were needed. One law office management consultant suggested that one important time management technique was to pick a dry cleaner, gas station, and grocery store that were all on the way to work.
- 7. Schedule time to work-** Try to schedule blocks of time without interruption in your office for such items as taking and returning phone calls and completing long neglected projects. Consider marking off two mornings a week from your calendar for interruption free work time. You might also consider advising your clients as to when you return phone calls for example, between 1:30 p.m. and 2:30 p.m. each day. Once you so advise them, however, you then have to be faithful in returning phone calls during that time period.
- 8. Delegate effectively.** Lawyers are among the world's worst in failing to appropriately delegate projects. Hire good employees and trust them with important assignments. Most practice management solutions automate task

assignment and workflows and facilitate tracking of task completion. For example, see the [CosmoLex Workflow](#).

9. It is important to learn how to say NO in a warm and graceful way to some of the many requests that you will have from schools, community groups, bar associations, civic groups, religious groups and the others depend on voluntary help. There is no doubt that many of these are beneficial and worthy projects. Remember Abraham Lincoln's adage that all a lawyer has to sell is his time and advise. Agreeing to serve on yet another committee is pulling more "inventory" out of your store that cannot then be "sold" to customers.

Appendix 1 District of Columbia Bar Association Business Plan Startup Template

*(Note: The following template is taken from the D.C. Bar Basic Training and Beyond eManual which is a supplement to the D.C. Bar training course on how to start a law firm. It is copyrighted material of the District of Columbia Bar, with **all rights reserved**. It is reprinted here with permission. **You may use this template to prepare your law firm business plan, but any other reuse or republication of this material without obtaining the permission of the District of Columbia Bar Association is prohibited.***

Business Plan for a Startup Law Office

The business plan consists of a narrative and several financial worksheets. The narrative template is the body of the business plan. It contains more than 150 questions divided into several sections. Work through the sections in any order that you like, except for the Executive Summary, which should be done last. Skip any questions that do not apply to your type of law practice. When you are finished writing your first draft, you'll have a collection of small essays on the various topics of the business plan. Then you'll want to edit them into a smooth-flowing narrative.

The real value of creating a business plan is not in having the finished product in hand; rather, the value lies in the process of researching and thinking about your practice in a systematic way. The act of planning helps you to think things through thoroughly, study and research if you are not sure of the facts, and look at your ideas critically. It takes time now, but avoids costly, perhaps disastrous, mistakes later.

This business plan is a generic model suitable for all types of service businesses. However, you should modify it to suit your particular circumstances. Before you begin, review the section titled *Refining the Plan*, found at the end. It suggests emphasizing certain areas depending upon your type of practice. It also has tips for fine-tuning your plan to make an effective presentation to bankers. If this is why you're creating your plan, pay particular attention to your writing style. You will be judged by the quality and appearance of your work as well as by your ideas. It typically takes several weeks to complete a good plan. Most of that time is spent in research and re-thinking your ideas and assumptions. But then, that's the value of the process. So, make time to do the job properly. Those who do never regret the effort. And finally, be sure to keep detailed notes on your sources of information and on the assumptions underlying your financial data.

Business Plan OWNERS

Your Firm Name
Address Line 1
Address Line 2
City, ST ZIP Code
Telephone
Fax
E-Mail

I. Table of Contents

I.	Table of Contents	41
II.	Executive Summary.....	42
III.	General Firm Description.....	43
IV.	Services.....	44
V.	Marketing Plan.....	45
VI.	Operational Plan.....	52
VII.	Management and Organization	56
VIII.	Personal Financial Statement.....	57
IX.	Startup Expenses and Capitalization	58
X.	Financial Plan	59
XI.	Appendices.....	62
XII.	Refining the Plan	63

II. Executive Summary

Write this section last.

We suggest that you make it two pages or fewer.

Include everything that you would cover in a five-minute interview.

Explain the fundamentals of the proposed firm: What will your service be? Who will your clients be? Who are the owners? What do you think the future holds for your firm and this practice area in general?

Make it enthusiastic, professional, complete, and concise.

If applying for a loan, state clearly how much you want, precisely how you are going to use it, and how the money will make your firm more profitable, thereby ensuring repayment.

III. General Firm Description

What practice area will you be in? What will you do?

Mission Statement: Many firms have a brief mission statement, usually in 30 words or fewer, explaining their reason for being and their guiding principles. If you want to draft a mission statement, this is a good place to put it in the plan, followed by:

Firm Goals and Objectives: Goals are destinations—where you want your firm to be.

Objectives are progress markers along the way to goal achievement. For example, a goal might be to have a healthy, successful firm that is a leader in service and that has a loyal client following. Objectives might be annual revenue targets and some specific measures of client satisfaction. **Firm Philosophy:** What is important to you in your practice?

To whom will you market your services? (State it briefly here—you will do a more thorough explanation in the *Marketing Plan* section).

Describe your practice area. Is it a growth area? What changes do you foresee in the practice area, short term and long term? How will your firm be poised to take advantage of them? Describe your firm's most important strengths and core competencies. What factors will make the firm succeed? What do you think your major competitive strengths will be? What background experience, skills, and strengths do you personally bring to this new venture? **Legal form of ownership:** Sole Proprietor, Partnership, Corporation, Professional Limited Liability Corporation (PLLC)? Why have you selected this form?

IV. Services

Describe in depth your services (technical specifications, drawings, photos, firm brochures, and other bulky items belong in *Appendices*).

What factors will give you competitive advantages or disadvantages? Examples include level of quality or unique or proprietary features.

What are the fee structures of your services?

V. Marketing Plan

Market research - Why?

No matter how good your service, the venture cannot succeed without effective marketing. And this begins with careful, systematic research. It is very dangerous to assume that you already know about your intended market. You need to do market research to make sure you're on track. Use the firm planning process as your opportunity to uncover data and to question your marketing efforts. Your time will be well spent.

Market research - How?

There are two kinds of market research: primary and secondary.

Secondary research means using published information such as practice area profiles, trade journals, newspapers, magazines, census data, and demographic profiles. This type of information is available in public libraries, bar associations, chambers of commerce, from vendors who sell to your practice area, and from government agencies.

Start with your local law library. Most librarians are pleased to guide you through their practice area data collection. You will be amazed at what is there. There are more online sources than you could possibly use. For more general information, your chamber of commerce has good information on your geographic area. Trade associations and trade publications often have excellent industry-specific data.

Primary research means gathering your own data. For example, you could do your own traffic count at a proposed office location, use Google and the yellow pages to identify competitors, and do surveys or focus-group interviews to learn about consumer preferences. Professional market research can be very costly, but there are many books that show small firm owners how to do effective research themselves.

In your marketing plan, be as specific as possible; give statistics, numbers, and sources. The marketing plan will be the basis, later on, of the all-important revenue projection.

Economics

Facts about your practice area:

- What is the total size of your market?
- What percent share of the market will you have? (This is important only if you think you will be a major factor in the market.)
- Current demand in target market.
- Trends in target market—growth trends, trends in consumer preferences, and trends in service development.

- Growth potential and opportunity for a practice of your size.
- What barriers to entry do you face in entering this market with your new firm? Some typical barriers are:
 - High capital costs
 - High labor costs
 - High marketing costs
 - Consumer acceptance and brand recognition
 - Training and skills
 - Unique technology
 - Staffing issues
 - Communication costs
 - Admission issues in multi-jurisdictional areas
- And of course, how will you overcome the barriers?
- How could the following affect your firm?
 - Change in technology
 - Change in government regulations
 - Change in the economy
 - Change in your practice area

Service

In the *Services* section, you described your services as you see them. Now describe them from your clients' point of view.

Features and Benefits

List all of your services.

For each service:

- Describe the most important features. What is special about it?
- Describe the benefits. That is, what will the service do for the client?

Note the difference between features and benefits, and think about them. You build features into your services so that you can sell the benefits.

What efforts will you make toward client development after an initial matter is closed?
Will you continue to market to the client after the initial work is completed?

Clients

Identify your targeted clients, their characteristics, and their geographic locations, otherwise known as their demographics.

You may have more than one client group. Identify the most important groups. Then, for each client group, construct what is called a demographic profile:

- Age
- Gender
- Location
- Income level
- Social class and occupation
- Education
- Other (specific to your industry)
- Other (specific to your industry)

For commercial clients, the demographic factors might be:

- Industry (or portion of an industry)
- Location
- Size of firm
- Quality, technology, and price preferences
- Other (specific to your industry)
- Other (specific to your industry)

Competition

What firms will compete with you?

List your major competitors:

(Names and addresses)

Will they compete with you across the board, or just for certain services, certain clients, or in certain locations?

Will you have important indirect competitors? (For example, enterprises that sell legal forms for do-it-yourself consumers)

How will your services compare with the competition?

Use the Competitive Analysis table below to compare your firm with your two most important competitors.

In the first column are key competitive factors. Since these vary from one practice area to another, you may want to customize the list of factors. In the column labeled **Me**, state how you honestly think you will stack up in clients' minds. Then check whether you think this factor will be a strength or a weakness for you. Sometimes it is hard to analyze our own weaknesses. Try to be very honest here. Better yet, get some disinterested strangers to assess you. This can be a real eye-opener. And remember that you cannot be all things to all people. In fact, trying to be causes many failures because efforts become scattered and diluted. You want an honest assessment of your firm's strong and weak points.

Now analyze each major competitor. In a few words, state how you think they compare.

In the final column, estimate the importance of each competitive factor to the customer. 1 = critical; 5 = not very important.

Table 1: Competitive Analysis

Factor	Me	Strength	Weakness	Competitor A	Competitor B	Importance to Client
Service						
Fee to client						
Quality						
Variation						
Image						
Reliability						

Factor	Me	Strength	Weakness	Competitor A	Competitor B	Importance to Client
Stability						
Expertise						
Firm Reputation						
Location						
Appearance						
Marketing Method						
Credit Policies						
Advertising						
Other						

Now, write a short paragraph stating your competitive advantages and disadvantages.

Niche

Now that you have systematically analyzed your practice area, your service, your clients, and the

competition, you should have a clear picture of where your firm fits into the world.

In one short paragraph, define your niche, your unique corner of the market.

Strategy

Now outline a marketing strategy that is consistent with your niche.

Promotion

How will you get the word out to clients?

Advertising: What media, why, and how often? Why this mix and not some other?

Have you identified low-cost methods to get the most out of your promotional budget?

Will you use methods other than paid media advertising, such as the internet, a web site, trade shows, catalogs, incentives, word of mouth (how will you stimulate it?), and network of friends or professionals?

What image do you want to project? How do you want consumers to see you? In addition to advertising, what plans do you have for graphic image support? This includes things like logo design, cards and letterhead, brochures, signage, and interior design (if customers come to your office).

Should you have a system to identify repeat clients and then systematically contact them?

Promotional Budget

How much will you spend on the items listed above?

Before startup? (These numbers will go into your startup budget.)

Ongoing? (These numbers will go into your operating plan budget.)

Fee Setting

Explain your method or methods of setting fees. For most new firms, having the lowest fee is not a good policy. It robs you of needed profit margin; consumers may not care as much about fees as you think; and competitors can underprice you anyway. Usually you will do better to have average, reasonable fees and compete on quality and service.

Does your fee strategy fit with what was revealed in your competitive analysis?

Compare your fees with those of the competition. Are they higher, lower, the same?

Why?

How important is your fee structure as a competitive factor? Do your intended clients really make their decisions based upon fees?

What will be your client service and credit policies?

Proposed Location

Probably you do not have a precise location picked out yet. This is the time to think about what you want and need in a location. Many startups run successfully from home, from a virtual office, or from a combination of home and virtual office for a while.

You will describe your physical needs later, in the *Operational Plan* section. Here, analyze your location criteria as they will affect your clients.

Is your location important to your clients? If yes, how?

If clients come to your place of business:

Is it convenient? Parking? Interior spaces? Not out of the way?

Is it consistent with your image?

Is it what consumers want and expect?

Where is the competition located? Is it better for you to be near them or distant?

Distribution Channels

How do you market your services? Where are your target consumers and how do they find you?

Sales Forecast

Now that you have described your services, clients, markets, and marketing plans in detail, it's time to attach some numbers to your plan. Use a *revenue forecast spread sheet* to prepare a month-by-month projection. The forecast should be based on your

historical revenue, the marketing strategies that you have just described, your market research, and practice area data, if available.

You may want to do two forecasts: 1) a "best guess", which is what you really expect, and 2) a "worst case" low estimate that you are confident you can reach no matter what happens. Remember to keep notes on your research and your assumptions as you build this sales forecast and all subsequent spreadsheets in the plan. This is critical if you are going to present it to funding sources.

VI. Operational Plan

Explain the daily operation of the firm, its location, equipment, people, processes, and surrounding environment.

Production

How and where your services generated?

Explain your methods of:

- Service generation techniques and costs
- Quality control
- Client service
- Cost control
- Service development

Location

What qualities do you need in a location? Describe the type of location you'll have.

Physical requirements:

- Amount of space
- Type of building
- Zoning
- Power and other utilities

Access:

Is it important that your location be convenient to transportation or to a type of consumer?

Do you need easy walk-in access?

What are your requirements for parking and proximity to freeway, airports, railroads, and shipping centers?

Include a drawing or layout of your proposed facility if it is important.

Construction? Most new firms should not sink capital into construction, but if you are planning to build, costs and specifications will be a big part of your plan.

Cost: Estimate your occupation expenses, including rent, but also including maintenance, utilities, insurance, and initial remodeling costs to make the space suit your needs. These numbers will become part of your financial plan.

What will be your business hours?

Legal Environment

Describe the following:

- Licensing and bonding requirements
- Permits
- Health, workplace, or environmental regulations
- Special regulations covering your profession
- Zoning or building code requirements
- Insurance coverage
- Trademarks, copyrights, or patents (pending, existing, or purchased)

Personnel

- Number of employees
- Type of labor (skilled, unskilled, and professional)
- Where and how will you find the right employees?
- Quality of existing staff
- Pay structure
- Training methods and requirements
- Who does which tasks?
- Do you have schedules and written procedures prepared?
- Have you drafted job descriptions for employees? If not, take time to write some. They really help internal communications with employees.
- For certain functions, will you use contract workers in addition to employees?

Suppliers

Identify key suppliers:

- Names and addresses
- Type and amount of supplies furnished
- Credit and delivery policies
- History and reliability

Should you have more than one supplier for critical items (as a backup)?

Do you expect shortages or short-term delivery problems?

Are supply costs steady or fluctuating? If fluctuating, how would you deal with changing costs?

Credit Policies

- Do you plan to sell services on credit?
- Do you really need to sell on credit? Is it customary in your practice area and expected by your clientele?
- If yes, what policies will you have about who gets credit and how much?
- How will you check the creditworthiness of new clients?
- What terms will you offer your clients; that is, how much credit and when is payment due?
- Will you offer prompt payment discounts? (Hint: Do this only if it is usual and customary in your practice area.)
- Do you know what it will cost you to extend credit? Have you built the costs into your prices?

Managing Your Accounts Receivable

If you do extend credit, you should do an aging at least monthly to track how much of your money is tied up in credit given to clients and to alert you to slow payment problems. A receivables aging looks like the following table:

	Total	Current	30 Days	60 Days	90 Days	Over 90 Days
Accounts Receivable Aging						

You will need a policy for dealing with slow-paying clients:

- When do you make a phone call?
- When do you send a letter?
- Do you hire counsel to collect or collect yourself?
- Does your professional liability carrier get concerned if you file

suit to collect?

Managing Your Accounts Payable

You should also age your accounts payable, what you owe to your suppliers. This helps you plan whom to pay and when. Paying too early depletes your cash, but paying late can cost you valuable discounts and can damage your credit. (Hint: If you know you will be late making a payment, call the creditor before the due date.) Do your proposed vendors offer prompt payment discounts?

A payables aging looks like the following table.

	Total	Current	30 Days	60 Days	90 Days	Over 90 Days
Accounts Payable Aging						

VII. Management and Organization

Who will manage the firm on a day-to-day basis? What experience does that person bring to the firm? What special or distinctive competencies? Is there a plan for continuation of the firm if this person is lost or incapacitated?

If you'll have more than 10 employees, create an organizational chart showing the management hierarchy and who is responsible for key functions.

Include position descriptions for key employees. If you are seeking loans, include resumes of owners and key employees.

Professional and Advisory Support

List the following:

- Accountant
- Insurance agent
- Banker
- Consultant or consultants
- Mentors and key advisors

VIII. Personal Financial Statement

Include personal financial statements for each owner, showing assets and liabilities held outside the firm and personal net worth. Owners will often have to draw on personal assets to finance the firm, and these statements will show what is available. Bankers usually want this information.

IX. Startup Expenses and Capitalization

You will have many startup expenses before you even begin operating your firm. It's important to estimate these expenses accurately and then to plan where you will get sufficient capital. This is a research project, and the more thorough your research efforts, the less chance that you will leave out important expenses or underestimate them.

Even with the best of research, however, opening a new firm has a way of costing more than you anticipate. There are two ways to make allowances for surprise expenses. The first is to add a little "padding" to each item in the budget. The problem with that approach, however, is that it destroys the accuracy of your carefully wrought plan. The second approach is to add a separate line item, called contingencies, to account for the unforeseeable. This is the approach we recommend.

Talk to others who have started similar firms to get a good idea of how much to allow for contingencies. If you cannot get good information, we recommend a rule of thumb that contingencies should equal at least 20 percent of the total of all other start-up expenses.

Explain your research and how you arrived at your forecasts of expenses. Give sources, amounts, and terms of proposed loans. Also explain in detail how much will be contributed by each owner and what percent ownership each will have.

X. Financial Plan

The financial plan consists of a 12-month profit and loss projection, a four-year profit and loss projection (optional), a cash-flow projection, a projected balance sheet, and a break-even calculation. Together they constitute a reasonable estimate of your firm's financial future. More important, the process of thinking through the financial plan will improve your insight into the inner financial workings of your firm.

12-Month Profit and Loss Projection

Many firm owners think of the 12-month profit and loss projection as the centerpiece of their plan. This is where you put it all together in numbers and get an idea of what it will take to make a profit and be successful.

Your revenue projections will come from a revenue forecast in which you forecast revenue, cost of services provided, expenses, and profit month-by-month for one year.

Profit projections should be accompanied by a narrative explaining the major assumptions used to estimate firm income and expenses.

Research Notes: Keep careful notes on your research and assumptions, so that you can explain them later if necessary, and also so that you can go back to your sources when it's time to revise your plan.

Four-Year Profit Projection (Optional)

The 12-month projection is the heart of your financial plan. The Four-Year Profit Projection is

for those who want to carry their forecasts beyond the first year.

Of course, keep notes of your key assumptions, especially about things that you expect will

change dramatically after the first year.

Projected Cash Flow

If the profit projection is the heart of your business plan, cash flow is the blood. Firms fail because they cannot pay their bills. Every part of your business plan is important, but none of it means a thing if you run out of cash.

The point of this worksheet is to plan how much you need before startup, for preliminary expenses, operating expenses, and reserves. You should keep updating it and using it afterward. It will enable you to foresee shortages in time to do something about them—perhaps cut expenses, or perhaps negotiate a loan. But foremost, you shouldn't be taken by surprise. There is no great trick to preparing it: The cash-flow projection is just a forward look at your checking account.

For each item, determine when you actually expect to receive cash (for services) or when you will actually have to write a check (for expense items).

You should track essential operating data, which is not necessarily part of cash flow but allows you to track items that have a heavy impact on cash flow, such as revenues and operating expenses.

You should also track cash outlays prior to opening in a pre-startup column. You should have already researched those for your startup expenses plan.

Your cash flow will show you whether your working capital is adequate. Clearly, if your projected cash balance ever goes negative, you will need more start-up capital. This plan will also predict just when and how much you will need to borrow.

Explain your major assumptions, especially those that make the cash flow differ from the *Profit and Loss Projection*. For example, if you provide services in month one, when do you actually collect the cash? When you buy equipment or supplies, do you pay in advance, upon delivery, or much later? How will this affect cash flow?

Are some expenses payable in advance? When?

Are there irregular expenses, such as quarterly tax payments, maintenance and repairs, or seasonal expenses, that should be budgeted?

Loan payments, equipment purchases, and owner's draws usually do not show on profit and loss statements but definitely do take cash out. Be sure to include them.

And of course, depreciation does not appear in the cash flow at all because you never write a check for it.

Opening Day Balance Sheet

A balance sheet is one of the fundamental financial reports that any firm needs for reporting and financial management. A balance sheet shows what items of value are held by the firm (assets), and what its debts are (liabilities). When liabilities are subtracted from assets, the remainder is owners' equity.

Use a startup expenses and capitalization spreadsheet as a guide to preparing a balance sheet as of opening day. Then detail how you calculated the account balances on your opening day balance sheet.

Optional: Some people want to add a projected balance sheet showing the estimated financial position of the firm at the end of the first year. This is especially useful when presenting your proposal to a lender.

Break-Even Analysis

A break-even analysis predicts the revenue volume, at a given price, required to recover total costs. In other words, it's the revenue level that is the dividing line between operating at a loss and operating at a profit.

Expressed as a formula, break-even is:

$$\text{Break-Even Revenues} = \frac{\text{Fixed Costs}}{1 - \text{Variable Costs}}$$

(Where fixed costs are expressed in dollars, but variable costs are expressed as a percent of total revenues.)

Include all assumptions upon which your break-even calculation is based.

XI. Appendices

Include details and studies used in your business plan; for example:

- Brochures and advertising materials
- Practice area studies
- Blueprints and plans
- Maps and photos of location
- Magazine or other articles
- Detailed lists of equipment owned or to be purchased
- Copies of leases and contracts
- Letters of support from future clients
- Any other materials needed to support the assumptions in this plan
- Market research studies
- List of assets available as collateral for a loan

XII. Refining the Plan

The business plan presented above should be modified to suit your specific type of firm and the audience for which the plan is written.

For Raising Capital

For Bankers

- Bankers want assurance of orderly repayment. If you intend using this plan to present to lenders, include:
 - Amount of loan
 - How the funds will be used
 - What this will accomplish—how will it make the firm stronger?
 - Requested repayment terms (number of years to repay). You will probably not have much negotiating room on interest rate but may be able to negotiate a longer repayment term, which will help cash flow.
 - Collateral offered, and a list of all existing liens against collateral

For Type of Firm

The Nature of the Law Firm

- A law firm is a service enterprise and such enterprises sell intangible products. They are usually more flexible than other types of businesses, but they also have higher labor costs and generally very little in fixed assets.
- What are the key competitive factors in this practice area?
- Your fees to consumers
- Methods used to set fees
- System of production management
- Quality control procedures. Standard or accepted industry quality standards.
- How will you measure labor productivity?
- Percent of work subcontracted to other firms. Will you make a profit on subcontracting?
- Credit, payment, and collection policies and procedures
- Strategy for keeping client bases

Appendix 2 Annual Small Firm Budget by Month

Expenses	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Office Rent													
Employee Salaries													
Employment Taxes													
Health Insurance													
Office Equipment													
Office Supplies													
Computer Equipment													
Computer Supplies													
Telephones													
Malpractice Insurance													
Gen'l Liability Insurance													
Education & Training													
Organizational Dues													
Loan Payments													
Office Furnishings													
Bookkeeping/ Accounting Fees													
Marketing Expenses													
Entertainment													

Client Disbursements													
Partner Draw													
Miscellaneous													
Total Expenses													

©2007 Reid F. Trutz All Rights Reserved www.firmresolutions.com