

From Student to Solo: A Comprehensive Guideline for Solo Practice Success
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I.	INTRODUCTION	2
II.	THE RESURGENCE OF SOLO PRACTICE	4
III.	DON'T GET OVER YOUR HEAD WITH OVERHEAD	10
a.	Establishing the "Business" of Law	10
i.	<i>Incorporating</i>	10
ii.	<i>Malpractice Insurance</i>	12
b.	Home Office vs. The Alternatives	13
c.	Setting Up the Home Office	18
d.	Monthly and Periodic Office Expenses	22
IV.	HANGING OUT THE SHINGLE	23
a.	Networking	24
i.	<i>Joining Up!</i>	26
ii.	<i>Marketing Your Legal Services by Giving Them Away</i>	29
iii.	<i>Spread the Word</i>	30
b.	Internet Marketing	32
i.	<i>Website Design</i>	32
ii.	<i>Four Free Tools to Create Website Traffic</i>	36
V.	THREE PRACTICE AREAS SUITABLE FOR THE HOME OFFICE PRACTITIONER	40
a.	Expunctions and Pardons	41
b.	Bankruptcy Assistance	45
c.	Will Drafting	48
VI.	CONCLUSION	53
	APPENDIX	54

I. INTRODUCTION

A law degree opens the door to a vast array of career opportunities.¹ Although most law grads seek employment with medium and large firms,² some take jobs as judicial clerks,³ as in-house counsel,⁴ or as law school professors.⁵ Still other students find work with non-profit organizations,⁶ or even leave the legal field entirely and work in insurance, banking, or other career fields involving critical thinking, problem solving, and writing.⁷ What remains is a group of graduates who choose, for one reason or another, to go solo—to work for themselves by starting a solo law practice.⁸

While all career choices possess a certain degree of risk, opening a solo practice presents unique risks not realized through other career options. Mainly, instead of guaranteed starting salary, solo practitioners begin with zero income. In fact, most solos are likely to lose money their first year.⁹ This reality often pushes even the most entrepreneurial minded graduate towards the safety net of firm work. However, given the

¹ Deborah Arron, *WHAT CAN YOU DO WITH A LAW DEGREE?* (4th ed. 1997) (a thorough compilation of the numerous career options available to law school graduates).

² According to the Association for Legal Career Professionals, *Class of 2008 National Summary Report 2* (2009) [hereinafter “Class of 2008 Report”], 56.2% of law graduates of the class of 2008 work in private practice, of whom 61.6% report working for firms with 11 or more attorneys.

³ A total of 9.6% of the 2008 graduating class accepted employment as judicial clerks. *Id.*

⁴ Of those surveyed, 13.4% reported finding employment in the business sector. This includes positions as in-house counsel. *Id.* at 1.

⁵ Just over 2% of the 2008 graduating class found employment in academia. *Id.*

⁶ 5.4% of those surveyed reported finding employment in the public interest sector. *Id.*

⁷ See Jane Schmitt, *Law Degree Opens Doors to Other Professions*, *BUFFALO BUSINESS FIRST* (June 23, 2000).

⁸ Less than 2% of the 2008 graduating class went into solo practice. *Class of 2008 Report*, *supra* note 2, at 1–2.

⁹ See Art Italo, *Starting a Small Firm or Solo Law Practice*, <http://www.italoconsulting.com/articles/solo.htm> (“It takes a period of two to three years for most small businesses to get to the point where the business is producing enough revenue to cover the business expenses, income taxes and the personal expenses of the owner.”); see also *Starting a Law Firm – Expenses*, January 22, 2010, <http://startingalawfirm.blogspot.com/> (a solo practitioner describes his fixed monthly expenses, totaling \$3,456).

recent economic downturn, and the near cessation of firm hiring, graduates are now more likely to consider solo practice as a practical option.¹⁰

That said, going solo is not for everybody. Solo practice requires a great deal of ambition, discipline, business sense, and tolerance for risk.¹¹ With these vital attributes in hand, the recent graduate must then develop a plan for success. Running a solo practice, like any business, involves a substantial amount of forethought and planning. One can perform a cursory internet search and locate a number books and articles discussing the topic of “Going Solo” and “How to Start a Law Firm.” These writings are very helpful in offering general guidance in starting a law practice, and are recommended resources to use in conjunction with this article. However, while these books are written in general terms and offer only vague advice and instruction, this article offers specific recommendations for survival.

The article will first discuss how the recent economic downturn has created an environment that will encourage more new graduates to choose solo practice. This section will discuss how changes in the economy and the legal job market have and will cause law graduates to consider solo practice as a feasible career option post-graduation.

Next, the article offers some “how-to” guidance for the new solo practitioner hanging a shingle immediately after law school. To endure the first few years of solo practice, economic efficiency is a must. Most businesses fail due to a lack of cash flow—that is, their expenses exceed their revenues.¹² Thus, the first substantive sections of this article will focus on how to limit start-up costs, control overhead, and avoid common

¹⁰ See Joseph C. Scott, *The Large to Solo Firm Shift: Calendaring Alternatives*, LAW PRACTICE TODAY, September 2009, <http://www.abanet.org/lpm/lpt/articles/ft09093.shtml>.

¹¹ Lisa Stansky, *Hot Practice*, STUDENT LAWYER, May 2002, at 9.

¹² Siew Cheng Hoe, *Why Businesses Fail*, ASSOCIATED CONTENT, June 21, 2009, http://www.associatedcontent.com/article/1865717/why_businesses_fail.html?cat=3.

costly mistakes. The greatest two expenses of most law offices are wages and office rent.¹³ This article suggests how new practitioners can use technology to offer legal services out of a home office without the need for legal support staff. Because even the most economically efficient law office can't generate a profit without clients, Part III of the article will describe various techniques for acquiring clients, including specific marketing tactics and advertisements.

Finally, Part IV will discuss three practice areas most suitable for newly degreed lawyers working out of a home office. In order for a new lawyer to achieve success, he or she must both attract a sufficient volume of clients and be capable of offering these clients competent legal services from a home office. These three practice areas are simple to market and require a minimal amount of expertise. Further, these services can be provided with limited face-to-face attorney-client contact—eliminating the need for a formal office setting.

II. THE RESURGENCE OF SOLO PRACTICE

In recent decades, opening a solo law practice has become the consolation prize, a last resort, the only remaining option for those finishing in the lower half of their graduating law school class.¹⁴ In fact, ask most successful sole practitioners how he or

¹³ See William F. Brennan, *New Survey Focuses on Law Firm Economics*, Altman Weil, Inc., http://www.altmanweil.com/dir_docs/resource/41ff6ad2-da67-406e-9999-ca2aaae63539_document.pdf (survey results indicate that paralegal and staff costs are the top expense for law firms, and that occupancy expenses run a close second). See also M. Wood, *Competition, Globalization Changing Firm Business*, *Baxter Says*, VIRGINIA LAW, http://www.law.virginia.edu/html/news/2005_fall/baxter.htm (Ralph Baxter, at a lecture at the University of Virginia Law Campus explained that “[a] firm’s greatest expense is attorney and staff salaries, and after that, rent . . .”).

¹⁴ See David Lat, *Start Up LLP: Creating Your Own Law Firm*, ABOVE THE LAW, June 19, 2009, http://abovethelaw.com/2009/06/start_your_own_law_firm.php (“Carolyn Elephant [a highly published expert in the field of solo law practice] . . . sometimes compares solo practice to the Supreme Court. The

she fared in law school and you will hear few boast about their success.¹⁵ The majority of students who performed well in school found jobs with large firms paying six figures with benefits, or jobs with the government offering competitive salaries and security. Balancing these high salaries, comfortable offices, and job security against the zero initial pay and the high levels of risk and fear associated with solo practice, even those better suited for solo practice often opted to become “employees” of other attorneys instead.

Historically, however, going solo was the traditional path followed by most new practitioners, regardless of their success in law school.¹⁶ In the early part of the twentieth century, the newly barred lawyer would either hang their shingle immediately after graduation, or clerk for a short term with another solo practitioner.¹⁷ Young men and women pursued a legal degree not with the goal of working for a firm, but with aspirations to make a name for themselves—inspired by fictional characters such as Atticus Finch and Perry Mason, not by Frank Smith at XYZ law firm in the transaction department. Ironically, as technological advances made solo practice more feasible, leveling the playing field against large firms, solo practice became second class and large firms gained dominance.

In light of recent changes in the economic climate within the legal community, however, we are likely to see a resurgence in solo practice as a standard career path

SCOTUS is the court of losers; a petitioner winds up there because they’ve lost everywhere else. The Supreme Court is, in that sense, the court of last resort.”)

¹⁵ See Ryan Sullivan, *Solo and Small Practice Office Management Survey*, 2010, at 7 [hereinafter *Sullivan Survey*] (on file with author). Thirty-one attorneys who completed the comprehensive online survey were contacted directly and asked their law school class rank upon graduation. Twenty-two responded, and of those only one finished in the top 10%; only four finished in the top 25%.

¹⁶ MIA ILENE-BETH FRIEDER, *SOLO AND SMALL FIRM SUCCESS – OPENING A LAW PRACTICE* § 1-1 (2d Ed. 1997).

¹⁷ HAL DAVIS, *HOW TO START A SOLO PRACTICE* 15 (2008).

chosen by many recent law graduates.¹⁸ Through the 1990s and most of the 2000s, law students had a multitude of career options from which to choose following the completion of their studies.¹⁹ Many of the top students were recruited by large national and regional firms, accepted positions as judicial clerks, or pursued lucrative non-traditional legal careers.²⁰ The remainder of graduates easily found jobs with medium and small firms, or sought employment in various positions with the government.²¹ Today, however, such opportunity no longer exists.²² Conglomerate firms are firing, not hiring,²³ and judicial clerkship positions have become extremely competitive.²⁴ Further, small and medium sized firms, which normally hire an associate or two each year, are

¹⁸ A survey performed by the ABA in December of 2009 reported that 87% of local bar associations were offering CLE programming specifically addressing issues related to the economic downturn; 47% percent of this programming was on the topic of “going solo.” See American Bar Association, *Impact of Economic Downturn on State and Local Bar Survey* (December, 2009) <http://www.abanet.org/barserv/resourcepages/economy/part3/largelocals.pdf> See also Joseph C. Scott, *The Large to Solo Firm Shift: Calendaring Alternatives*, LAW PRACTICE TODAY, September 2009, <http://www.abanet.org/lpm/lpt/articles/ft09093.shtml>.

¹⁹ See GARY A. MUNNEKE & ELLEN WAYNE, *THE LEGAL CAREER GUIDE – FROM LAW STUDENT TO LAWYER* 340–41 (5th ed. 2008) (provides a detailed chart showing legal employment trends spanning from 1985 to 2007).

²⁰ *Id.*

²¹ *Id.*

²² See Molly McDonough, *Summer Associate Offers Plummet, Hitting 17-Year Low*, ABAJOURNAL, March 3, 2010, http://www.abajournal.com/news/article/summer_associate_offers_plummet_hitting_17-year_low.

²³ See Cynthia Cotts, *Law Firm Revenue May Drop as Much as 10% This Year*, BLOOMBERG ONLINE, December 10, 2009, <http://www.bloomberg.com/apps/news?pid=20601103&sid=a9tre9KO0bmc> (“Many of the largest U.S. firms fired junior attorneys and staff this year, while deferring start dates for first-year lawyers.”). See also NALP, *Perspectives on Fall 2009 Law Student Recruiting*, 2010 (“The market for 3L law students looking for law firm work was barren, with only 3% of the law firms surveyed reporting that they recruited for 3L students (this compares with 3L recruiting rates of 25% in 2008, 42% in 2007, and 53% in 2006”).

²⁴ Top graduates, normally offered associate positions with high-paying national firms, are flooding the judicial clerkship market in hopes of finding a temporary residence to wait out the recession. See Daniel Newhauser, *Online Federal Clerkship Applications at All-Time High*, November 2009, <http://legalthimes.typepad.com/blt/2009/11/online-federal-clerkship-applications-see-alltime-high.html> (“The Web site used by about two-thirds of all federal judges to find clerks saw 401,576 electronic applications between Oct. 1, 2008 and Sep. 30, 2009. That’s a 66 percent increase from that time period last year, when 241,529 applications were turned in.”). Additionally, current clerks are choosing to stay on additional years to wait out the poor job market. See Adam Sichko, *Legal: More competition for law jobs as attorneys migrate to smaller markets*, THE BUSINESS REVIEW (ALBANY), September 18, 2009 (“Turnover in judicial clerkships—another popular one-year job—has plummeted as clerks sign up for multiple years of service, unsure of their job prospects in this economy.”).

finding themselves struggling to find work for their current staff of attorneys.²⁵ With few employment opportunities available, solo practice has become an attractive option for recent law school grads seeking to avoid contract work, changing careers, or accepting positions as unpaid interns.²⁶

The upside is that economic downturn creates an environment whereby those choosing solo practice have a greater chance of success. In fact, during hard economic times, solo practitioners become better situated to attract new business than larger firms. When consumers are struggling to make ends meet, they are more prone to make purchasing decisions based on price, and place less weight on experience, prestige and comprehensive service offerings. Thus, the solo practitioner, with low overhead and a strong hunger for new business, is perfectly positioned to attract these price-conscious consumers by offering comparable services at lower rates.²⁷

²⁵ In most firms, regardless of size, when business is slow, partners delegate less in order to keep their own billing hours high. When less is delegated, newly hired associates struggle to maintain minimum billing requirements. As a result, managing partners determine that there is no need to hire additional help.

²⁶ See Elie Mystal, *It's Come to This: Unpaid Internships For Lawyers With One – Three Years Experience*, ABOVE THE LAW, September 2009, http://abovethelaw.com/2009/09/its_come_to_this_unpaid_intern.php. Here, Elie Mystal reports of a firm in California advertising an unpaid internship on Craigslist. The ad states, in part:

The current economic climate has made it difficult for young lawyers to find paid positions. Employment prospects improve with experience and a stronger resume. Good experience with a top notch firm is what we offer. If you can realistically make a six to twelve month commitment and can get by without compensation (other than billable travel, mileage, parking and related expenses), this is an excellent opportunity. We cannot make any promises of future paid positions. Candidates who have proven and distinguished themselves during internships, will be considered for future paid positions with the firm.

The theme of the article is twofold: That the economy has created such a poor job market for attorneys that there is a demand for *unpaid* internships. And, that certain firms “are ready to capitalize on the desperation of young lawyers.” *Id.*

²⁷ A survey conducted by Altman Weil, Inc. found that attorneys in firms of 9 lawyers or less had median hourly billing rates substantially below those of larger firms. Altman Weil, *2002 Survey of Law Firm Economics*, http://www.altmanweil.com/dir_docs/resource/0bc2f7f1-af35-4114-b07e-3ed7e3d69819_document.pdf. Another survey illustrates that firm expenses per lawyer is lowest in firms of 9 attorneys or less. See Ward Bower, *Mining the Surveys: Diseconomies of Scale?*, 2003, http://www.altmanweil.com/dir_docs/resource/f44c154c-d8c6-468d-a862-41474fe25634_document.pdf.

Consumers will not only hunt for lower rates, they will seek flat fees over hourly billing. Flat fees allow the client to better budget for and control expenses.²⁸ Likely, clients may choose a higher flat fee over a lower hourly estimate for this very reason. Unlike larger firms, solo practitioners can offer flat fee services more efficiently.²⁹ Flat fees are typically based on an estimate of how long a particular project should take. Solo practitioners are in a better position to make accurate estimates. For example, a solo attorney, after completing a number of corporate formations, will have an excellent read on how much he should charge for this service; a large firm may have difficulty precisely estimating how long it will take an associate to complete a similar task. In addition, as a solo's efficiency and expertise increase, so too will his realized profits for each flat-fee billed service.³⁰ Within a large firm, considering associate turnover and inconsistent project delegation,³¹ it is less likely that the time lost during the leg of the learning curve will be fully recouped.³² Thus, where firms are best suited for hourly work only, solo practitioners have the flexibility to handle both flat fee and hourly arrangements.³³

²⁸ See CAROLYN ELEFANT, SOLO BY CHOICE 128 (2008) (“[F]lat-fees give clients certainty so they can budget for paying fees and also eliminate the need for regular invoices.”).

²⁹ See Sandhya Bathija, *Small Firms Turning to Flat Fees for Rising Profits*, THE NATIONAL LAW JOURNAL, March 29, 2007 (“For small law firms . . . moving away from the billable hour to the flat fee attracts more clients and creates efficiency. . . . It's a desirable structure for all firms, but it is much more practical for small firms. . . . It's much easier for [small firms] to implement it than a large firm because [there is less] bureaucracy to go through.”).

³⁰ Over time, as the solo becomes more efficient, the solo will recoup the time lost on projects that were underestimated, or which required foundational research and drafting.

³¹ In some firms, particular projects are given to associates only at certain stages of their career. For example, Chapter 7 bankruptcies might only be handled by the “new” associate of the firm. Thus, a newer associate may be hired and take over these responsibilities before the previous new associate performed enough bankruptcies to recoup the time lost during the learning stage. See Ryan Sullivan, *Individual Responses to Solo and Small Practice Office Management Survey*, 2010 [hereinafter *Individual Responses*] (on file with author).

³² See *supra* note 30.

³³ In fact, according to a survey of solo and small firm practitioners, flat fee or an even split of flat fee and hourly billing are the most predominant methods of billing utilized by solo practitioners. *Sullivan Survey*, *supra* note 15, at Table 5. Fifty-three percent of solo practitioners surveyed reported utilizing either flat fee billing, or an even split of flat fee and hourly billing. Conversely, only 43% of attorneys working in firms of 2 to 10 attorneys reported utilizing similar billing methods; the majority utilizing hourly billing as the

Today's economic climate will likely influence many recent law grads to explore the option of solo practice as a career alternative, and has created a unique environment in which new solo practitioners can excel. Unfortunately, most law school curricula do not adequately prepare students for solo practice.³⁴ Although additional resources should be utilized, this article will help graduates bridge the gap from student to solo practitioner. The sections below will provide specific advice and recommendations for setting up, marketing, and operating a solo law practice. In order to maintain a competitive edge over larger firms, and other small and solo practices, the solo practitioner must be frugal in controlling expenses. The following section will discuss how new practitioners can avoid getting over their head with overhead.

predominant method for billing clients. *Id.* at 5. Hourly billing becomes even more popular as firm size increases. *See generally* Nuno Garoupa, *Cashing by the Hour: Why Large Law Firms Prefer Hourly Fees Over Contingent Fees*, 24 J.L. ECON. & ORG. 458 (2008) (explaining how large firms prefer hourly billing in order to increase profits and monitor the production of salaried employees). Contributing to the tendency of smaller firms to utilize flat-fee billing more regularly than larger firms may be the type of services provided by each. Small firms more often represent individual consumers, where large firms more often represent businesses. Legal services such as bankruptcy filing, divorce, adoption, wills and estate planning, and criminal defense provided to consumers by solos and small firms are often billed at a flat fee. *See Individual Responses, supra* note 31 (on file with author). Legal services such as trademark litigation and class-action litigation provided to businesses by large firms are almost always billed on an hourly basis. *See* Interview with Richard Moberly, Professor, University of Nebraska College of Law (March 12, 2010) (notes on file with author).

³⁴ *See* Sandhya Bathija, *When Hanging a Shingle, Solos Are Reluctantly Solo*, LAW.COM SMALL FIRM BUSINESS, <http://www.law.com/jsp/law/sfb/lawArticleSFB.jsp?id=1175677438183> (“[M]ost first-tier law schools only cater to students who want big-firm jobs.”). *See also* Debra Moss Curtis, *Teaching Law Office Management: Why Law Students Need to Know the Business of Being a Lawyer*, 71 ALB. L. REV. 201, 205 (“A course dealing with the practicality of managing a law office has been documented as part of the curriculum of a law school as early as the 1946-47 academic year. However, this course has not been incorporated regularly into law school studies even today.”). Many law school administrators believe that “the role of law schools is to train law students the theories and substance of the law and how to think like lawyers,” not how to act like lawyers. Roger C. Cramton, *The Current State of the Law Curriculum*, 32 J. LEGAL EDUC. 321, 321 (1982).

III. DON'T GET OVER YOUR HEAD WITH OVERHEAD

a. Establishing the "Business" of Law

i. *Incorporating*

The first active step in setting up a solo practice is formally creating the business. Essentially, there are three feasible formation options for a solo practitioner: sole proprietorship, professional corporation,³⁵ or professional limited liability corporation (PLLC).³⁶ Each form of entity involves special considerations, advantages, and drawbacks concerning organizational structure, future growth, liability, and taxation.

Most solo attorneys choose to practice as sole proprietorships, likely because of the ease of formation.³⁷ The completion of a simple registration form is enough in most states to set up a sole proprietorship. Shadowing this simplicity, however, are many drawbacks. For instance, a sole proprietorship can have only one owner. Thus, if the firm were to expand to include additional partners, a new corporate structure would need to be formed. Another shortcoming of sole proprietorship is the absence of liability protection. As a sole proprietor, every creditor, whether personal or professional, has unlimited access to all of the attorney's personal assets.³⁸

³⁵ In Nebraska, professionals seeking to operate as a corporation must be formed as a professional corporation as contemplated by the Nebraska Professional Corporation Act. NEB. REV. STAT. §§ 21-2201 to -2222 (2006).

³⁶ Professional limited liability company formation in Nebraska is governed by the Nebraska Limited Liability Company Act, NEB. REV. STAT. §§ 21-2601 to -2653 (Cum. Supp. 2008).

³⁷ See *Sullivan Survey*, *supra* note 15, at 3 (53% of solo practitioners report forming their firm as a solo proprietorship).

³⁸ See Mitchell F. Crusto, *Extending the Veil to Solo Entrepreneurs: A limited Liability Sole Proprietorship Act*, COLUM. BUS. REV. 381, 390 (2001) ("Because sole proprietorships are governed by common law default rules, a sole proprietor has unlimited personal liability for his business activities.").

In response to the lack of protection offered by the sole proprietorship, many attorneys have chosen to form professional corporations (PC).³⁹ A professional corporation is simply a corporation that can be made up of a single lawyer. That is, one person may be the sole shareholder, sole director and sole officer. A professional corporation may limit personal liability to ordinary creditors,⁴⁰ if they will extend credit without a personal guarantee. Nevertheless, the corporate shield will provide no protection from professional liability.⁴¹ One drawback of the PC is the exhausting recordkeeping and filings required to maintain the corporate books. More concerning, however, is the potential for double taxation associated with corporate entities. In the past, professionals were eager to form PCs so they could take advantage of certain retirement plans to shelter income.⁴² Today, however, there exists no retirement plan edge for these corporations and professional corporations have become much less attractive.⁴³

The emerging trend is to form a professional limited liability company (PLLC).⁴⁴ PLLCs afford the liability protection of PCs without the arduous bookkeeping and

³⁹ See *Sullivan Survey*, *supra* note 15, at Table 2 (32% of solo and small firm practitioners report forming their firm as a PLLC or LLC).

⁴⁰ See AM. JUR. CORPORATIONS § 731 (“It has been held that the shareholders of a professional corporation have the same insulation from liability as shareholders of other corporations with respect to obligations of a purely business and nonprofessional nature . . .”).

⁴¹ *Id.* (“[T]here is general agreement that there is no limitation of liability for acts of malpractice or obligations incurred because of a breach of duty to a client or patient.”); see also Bizfilings, http://www.bizfilings.com/Learn_About/Business_Types_For_Professional_Practices (“A professional remains liable for his/her own negligent acts, as well as the acts of any other professional within the firm that he or she supervises.”)

⁴² Barbara Weltman, *The Entity Choice of Your Professional Practice*, http://www.bizfilings.com/Learn_About/Business_Types_For_Professional_Practices.

⁴³ *Id.*

⁴⁴ Professional Limited Liability Companies have only been available in most states for about a decade, yet a survey of 119 solo practitioners showed 30% were formed as PLLCs or LLCs. See *Sullivan Survey*, *supra* note 15, at 3.

taxation problems.⁴⁵ The formation of a PLLC is fairly simple in most states—usually involving a few basic filings.⁴⁶ The PLLC also adequately accommodates future growth. If the practice later expands to include other lawyer partners, the shares of the corporation are merely divided.⁴⁷ The PLLC also avoids the double taxation problem faced by owners of corporations. In PLLCs, the income is allowed to “pass through” to the owner who reports it on his or tax return.⁴⁸ With regard to liability, however, it should be noted that the PLLC will offer no greater shield to liability than a professional corporation.⁴⁹ For this reason, obtaining malpractice insurance should be the solo practitioner’s next task on the to-do list.

ii. *Malpractice Insurance*

⁴⁵ See Christel Walther, *LLC and Lawyers: A Good Combination?*, 50 LOY. L. REV. 359, 369 (“[P]LLCs can be taxed . . . on a flow through basis, thus avoiding the double taxation that is applicable to distributed corporate income.”).

⁴⁶ In Nebraska, a sole practitioner can incorporate as a PLLC by filing articles of organization and a certificate of registration with the Secretary of State.

Steps in Nebraska :

- 1) Create Articles of Organization in compliance with NEB. REV. STAT. § 21-2606.
- 2) Publish a notice of organization for 3 consecutive weeks. NEB. REV. STAT. § 21-2653.
- 3) Send a letter to Nebraska Supreme Court requesting a Certificate of Authority pursuant to Supreme Court Rule § 3-202. Articles of Organization must be attached. There is a \$25 fee.
- 4) File Articles of Organization, proof of notice, and Certificate of Authority (also titled “registration certificate” with Secretary of State pursuant to NEB. REV. STAT. § 21-2607 and 21-2653. There is a \$10 fee to file a notice. NEB. REV. STAT. § 21-2634. Plus, there is a \$25 fee for filing a certificate of authority. NEB. REV. STAT. § 21-2631.01.
- 5) File a copy certified by the Secretary of State of the Articles of Organization with the Clerk of the Supreme Court. Supreme Court Rule § 3-202(C).
- 6) The next step will be to request an EIN from the IRS. This EIN allows the sole proprietor to open a bank account under the name of the LLC. The form to request an EIN is Form SS-4, available at www.irs.gov/pub/irs-pdf/fss4.pdf.

⁴⁷ Interestingly, PLLC or LLC formation was the most common type of business formation of firms of 2 to 5. See *Sullivan Survey*, *supra* note 15, at 3.

^{48,49} See Limited Liability Company (LLC), <http://www.irs.gov/businesses/small/article/0,,id=98277,00.html> (explains how income from the LLC is passed through to shareholders; no separate filing is required).

⁴⁹ See, e.g., NEBRASKA SUPREME COURT RULES § 3-201(C)(7)(b).

Although not all states require malpractice insurance,⁵⁰ this author says get it! Nationally, approximately 35,000 legal malpractice claims are filed each year.⁵¹ Although malpractice insurance premiums will cause a slight ding in the budget,⁵² the cost of an uninsured malpractice suit, regardless of fault, would likely bankrupt a solo practice.⁵³ The best source of malpractice insurance providers is the local bar association.⁵⁴ As with any insurance, malpractice premiums and coverage will vary from company to company, so shop around.

b. Home Office vs. The Alternatives

When going solo, there are a number of office arrangement options from which to choose: storefront office, executive suite, office share, barter arrangements, or working from one's home—each having its own advantages and disadvantages. For example, the storefront office is great for attracting new clients and establishing the firm

⁵⁰ In California, for example, attorneys are not required to obtain malpractice insurance. However, they are required to disclose whether or not they are covered. *See* CAL. RULES OF PROF'L CONDUCT R. 3-410 (effective Jan 1, 2009). The same rule applies for attorneys practicing in Nebraska. *See* Phone Interview with Dennis Carlson, Nebraska Bar Association (February 23, 2010) (on file with author). However, a Nebraska law firm formed as a "professional organization" is required to maintain \$250,000 of professional liability insurance. *See* NEBRASKA SUPREME COURT RULES § 3-201(C)(7)(b).

⁵¹ *See* Legal Malpractice Law Firms Home Page, <http://www.legalmalpracticelawfirms.com/> ("Each year, over 35,000 lawsuits are filed against insured lawyers for legal malpractice. This number does not include those lawyers who are uninsured, and the total figure is even higher.").

⁵² *See* Maggie Gebremichael, *The Average Cost of Legal Malpractice Insurance*, http://www.ehow.com/about_5390403_average-cost-legal-malpractice-insurance.html ("The average cost for one lawyer can range from \$5,000 to \$8,000 per year."). *See also* Sipp Externship Notes (2009-10) (on file with author) (Attorney Brad Sipp explains that a solo attorney in Lincoln, Nebraska can obtain professional liability insurance for \$800 to \$1500 depending on type of cases and how long he or she has been practicing). For an interesting commentary of how legal malpractice rates are determined, see *Professional Liability Insurance – How Much Will It Cost?*, <http://www.abanet.org/legalservices/lpl/insurancecost.html>.

⁵³ \$50,000 to \$150,000 to defend a malpractice claim. Briggs F. Cheney, *Shopping for Professional Liability Insurance: Something Every Lawyer Should Have*, <http://www.nmbar.org/Attorneys/attyforms/LPLarticle.pdf>.

⁵⁴ Also, the American Bar Association website provides an expansive listing of legal malpractice insurance providers by state. Professional Liability Insurance Directory, <http://www.abanet.org/legalservices/lpl/directory/>.

as a legitimate, established business. Unfortunately, the extraordinarily high lease rates, and costs associated with furnishing and maintenance put it out of reach for most lawyers just starting out.⁵⁵

An executive suite or office share arrangement offers some possibilities: the rents are reasonable, and sharing staff and office expenses works well on a prudent budget.⁵⁶ These arrangements also offer the capability for client interviews, and some office complexes even provide shared conference rooms. In situations where the lawyer starts out with a small book of business, and sufficient funds to cover office furniture and six to eight months rent, leasing office space might be a feasible option. But, for the average lawyer transitioning from student to entrepreneur, with the need to stretch each billed dollar as far as possible, working from home may be the preferable arrangement.⁵⁷

The cost savings of working from home can be substantial. Provided the practitioner's home is sufficient in size to accommodate a home office, one of the largest monthly expenses, rent, is completely eliminated. Avoiding the expense of rent not only creates a substantial cash flow cushion, it reduces the overall risk of going solo. Most traditional office space agreements will require a minimum one-year lease. Commitment of this sort is difficult for a solo with so many unknowns outstanding. Officing from home eliminates the need to make such a large commitment so early.

⁵⁵ In fact, only 7% of solo and small firm practitioners surveyed utilized a storefront type office. *Sullivan Survey*, *supra* note 15, at Table 3.

⁵⁶ See Nancy Byerly Jones, *The Essentials of Office Sharing and Executive Suites*, in *FLYING SOLO* 241, 241 (Simmons Ed. 2001).

⁵⁷ In fact, of 119 solo practitioners surveyed, 51 (43%) work from a home office. See *Sullivan Survey*, *supra* note 15, at 5. Interestingly, several of these home-based attorneys reported also utilizing a virtual office. See *Individual Responses*, *supra* note 31 (on file with author). A virtual office "is a combination of off-site live communication and address services that allow users to reduce traditional office costs while maintaining business professionalism." Virtual Office, http://en.wikipedia.org/wiki/Virtual_office.

In addition to the cost savings, working from home offers convenience and flexibility. First, consider the amount of time saved each day by avoiding the commute to and from work. Nationally, the average daily commute to work is just over 24 minutes.⁵⁸ Round trip, including the time it takes to get to the actual office, that's about an hour a day saved by officing from home. Another time saver (and this is somewhat more significant for women than men) is the elimination of the need to "dress up" for work. This is not to say the solo should forgo daily hygiene protocols, but rather that the time spent picking out the right tie, or coordinating skirts with blouses, can be used for more productive purposes. The less time spent commuting and getting ready for work, the more time available for more important things—whether it be work, family, or sleep.

Working from a home office also promotes a flexible lifestyle. Without the constraints of a typical 9-to-5 work day, the solo working from home can work when he or she is most productive. This flexibility also creates the opportunity for midday workouts, grocery runs during off-peak hours, and even the occasional siesta. For parents, it offers the ability to pick up their children from school or day care.⁵⁹ And, in some situations, it offers the parent the option of providing home care.⁶⁰

Of course, there are some negative aspects to working from home. For instance, working from home can be distracting.⁶¹ Whether it's housework that needs tended to, the easy access to television, or the beautiful weather outside, non-work distractions can

⁵⁸ See Press Release, U.S. Census Bureau, Americans Spend More Than 100 Hours Commuting to Work Each Year, Census Bureau Reports (March 30, 2005) ("For the nation as a whole, the average daily commute to work lasted about 24.3 minutes in 2003.").

⁵⁹ See *Individual Responses*, *supra* note 31 (on file with author).

⁶⁰ See Sheila Parrish-Spense, *Single Parent Values the Flexibility of Her At-Home Solo Practice*, WISCONSIN LAWYER, August, 1993, at 42–43 (describes the benefits to parents to having a home-based practice and how an individual can approach it while raising children).

⁶¹ See Erica Pascal, *Home Alone: Part-Time, Home-Based, Solo Practice*, LAW PRACTICE MANAGEMENT, Jan-Feb 1996 at 32–33 ("[H]ome based practitioners must also deal with isolation and distraction.").

reduce productivity flow. Another drawback of working from home is the isolation.⁶² A home office is void of colleagues or coworkers with whom to share professional ideas and gossip.⁶³ There is less support and camaraderie in the home office setting, and this can be a difficult transition for some.⁶⁴ Further, many home workers find it difficult to separate work and home life, which can affect not only productivity, but family relationships.⁶⁵

To capitalize on the advantages of working from home while avoiding many of the drawbacks, it is imperative that these two bits of advice be followed: First, the home office must be separated in some way from the rest of the house.⁶⁶ I once heard an interesting story about a man who telecommuted four days out of the week. This man set up his home office in a detached garage. He would get up, get dressed in business attire, have his coffee and kiss his stay-at-home wife good-bye, then go to his “office” in the garage! This unique approach provided him a mental transition from the “relaxation” mindset associated with home life, to the “work” mindset of the office. Understandably, most solo attorneys may not have a detached garage in which they can convert to an office. However, the basic concept remains: the work space should be separate from the rest of the house—a guest bedroom, the basement, or some other area that can be mentally detached from the home. It is also useful to gently communicate to others in

⁶² *Id.*

⁶³ See Kathy Mount, *No Solo Practitioners is an Island*, LEGAL TIMES, October 4, 1993, at 46 (Mount offers suggestions for dealing with the isolation often felt by solo practitioners).

⁶⁴ *Id.*

⁶⁵ See Jeannette Keton, *Lawyers at Home*, LAW PRACTICE MANAGEMENT, March 1996, at 54–56.

⁶⁶ See Diane L. Drain, *How to Set Up a Small, Efficient Office in Conjunction with Your Home*, in FLYING SOLO 251, 256 (Simmons Ed. 2001) (“For a home office you will need a separate, dedicated room or space. This is to satisfy the requirements of the Internal Revenue Code as well as to assist you in practicing more efficiently and creating the right professional image.”).

the household that interruptions should be kept to a minimum. Often, discussing and even displaying “office hours” is helpful.

The second bit of advice necessary to survive the home office scheme is to get out of the house! It is absolutely crucial to the practitioner’s health, as well as his or her ability to achieve maximum productivity in the home office, to leave the house for at least an hour each day. An easy way to accomplish this is to schedule regular business and social lunches, go for walks, or participate in social and networking groups that meet during the day.⁶⁷ The point is, the successful solo practitioner must network, socialize, and seek fresh air in order to survive the isolation associated with a home office.

Note: Is a Home Office Professional?

Some may argue that officing from home does not exude the level of professionalism commensurate to the practice of law. Admittedly, most consumers likely “expect” an attorney to work from an office because traditionally that’s been the case—plus, that’s what they see on TV. That said, although some clients will expect the attorney to have an office, few will care if he doesn’t. As Andrew Flusche, a solo attorney out of Virginia states:

Consumers don't give a flip what kind of office their attorney has. They want a top notch attorney at an affordable price. They want an attorney who returns their phone calls promptly. They want to be able to email a quick question to their attorney and get a quick response. Consumers want great customer service and solid legal representation.

⁶⁷ *Id.* at 270 (“[J]oin as many state and county bar sections as you can make time for. . . . Become very active in a select few of the organizations you join and build your contacts and reputation through these efforts. Meet others who are in the same situation you are in and make arrangement to cover for vacation and unforeseen double scheduling of court calendars.”).

If anyone asks about my office, I explain that I work from home to save on overhead so I can offer lower rates to my clients. Consumers love that! They don't want to pay for my bloated overhead.⁶⁸

c. Setting Up the Home Office

Whether it's an office in the garage, or some part of the house converted to an office, the next step is to equip the space with necessary office items. Generally, this entails purchasing some office furniture, electronic equipment, a phone system, software, and research materials. Because the office will likely not endure client traffic, décor and aesthetics should sit second chair to affordability and practicality. A large desk with drawers, a comfortable chair, a legal-width filing cabinet, and a bookcase should cover the furniture needs. These items can easily be purchased used for a fraction of the cost of new.

The bulk of the cost of setting up a home office will be spent on electronic equipment and software. The first electronic purchase should be a computer. If a computer is already available, and it is fairly up to date, there is no point in buying a new one. The next big purchase is going to be a printer / copier / fax combo. This item is often thought of as the heart of the law office.⁶⁹ Thus, it is important to purchase something substantial. At a minimum, the machine should offer laser printing, have the capability to print and copy on two sides, and have the capacity to copy up to a hundred pages at a shot and print or copy using legal sized paper.⁷⁰ The typical office supply store will carry such a machine for around \$300-\$800 depending on quality and capacity.

⁶⁸ Post of Andrew Flusche to <http://www.abanet.org/soloseznet/threads/0907/locationlocationlocation.html> (July 2009).

⁶⁹ See *Individual Responses*, *supra* note 31 (on file with author).

⁷⁰ Sipp Externship Notes (2009-10) (on file with author).

Although leasing is an option, most solo attorneys working from home purchase their machines.⁷¹

An office phone line is the next essential piece in the puzzle. As separate business line is a must in order to maintain separation between work and home.⁷² The advantages of the separate line are numerous. It keeps the line from being tied up by others in the household, it enables distinct answering, i.e., “law office, how may I help you,” and it creates the ability to have the line forwarded to voice mail or an answering service during off hours.⁷³ A few solo and small firm practitioners, even those with traditional offices, utilize the benefits of answering services.⁷⁴ Some attorneys forward their phone lines to answering services during off hours only, but others have all calls go directly to the answering service.⁷⁵ The latter approach allows the attorney to limit phone call interruptions—a top productivity killer.⁷⁶ Further, as opposed to standard voice mail, answering services provide a higher level of professionalism. The answering service receives the call as if they were a personal secretary, notifies that caller that the attorney it not available, and takes a message. The service then notifies the attorney that a message is waiting, usually via email or text message.

When running a solo office, the practitioner must be the wearer of many hats. He or she must play the role of secretary, bookkeeper, accountant, paralegal, marketing director, and office manager—oh yeah, and attorney! To help the solo spend more time

⁷¹ In fact, 100% of home based solo attorneys surveyed reported owning their office photocopier. *Sullivan Survey*, *supra* note 15, at 3.

⁷² See Diane L. Drain, *How to Set Up a Small, Efficient Office in Conjunction with Your Home*, in *FLYING SOLO* 251, 261 (Simmons Ed. 2001).

⁷³ *Id.* at 261–62.

⁷⁴ Although, only 5% of solo and small firm practitioners reported using such services. *Sullivan Survey*, *supra* note 15, at Table 7.

⁷⁵ See *Individual Responses*, *supra* note 31 (on file with author).

⁷⁶ As one solo attorney put it, “answering your own calls is a HUGE waste of time.” *Id.*

practicing law, and less time running the business, software companies have produced a line of comprehensive programs to assist the attorney in the day to day activities of law practice. Software programs can assist the solo with billing, client management, data management, marketing, document preparation, data entry, client communication, trust account management, and the list goes on. Some programs are all inclusive and offer most if not all of the above listed features. Depending on the volume of clients and the types of law practice, a solo should consider purchasing both client management and practice management software.⁷⁷

Another major consideration in setting up the home office is legal research resources. In law schools across the country students become familiar with, if not addicted to, the vast capabilities of the legal research tools provided by Westlaw and LexisNexis. Both providers are excellent recourses for legal research, and offer almost limitless access to case law, statutes and secondary resources. Unfortunately, these resources come at a steep price—often out of reach for most solo practitioners.⁷⁸

Although both companies offer flexible rates and packages, the solo practitioner should consider other, cheaper alternatives to use in place of, or in conjunction with these standard platforms. As a first step, the solo practitioner should search to see whether

⁷⁷ When purchasing client and practice management software, it is recommended that the software, at a minimum, be network compatible, have the capacity for document assembly, include time keeping and billing capabilities, have a conflict-check feature, and have a built-in calendaring and docketing function. *See ABA, Practice and Case Management Software: Comparison Chart*, <http://www.abanet.org/tech/ltrc/charts/casemanagementcomparison.html>. Eureka law offices, a father-daughter practice in Lincoln, Nebraska, utilizes Amicus Attorney software to manage their case and client files, and recently added Amicus Accounting to handle their time keeping, billing, and accounting needs. *See Eureka Externship Notes (2009-10)* (on file with author).

⁷⁸ Of the home based solo practitioners surveyed, only 13% reported using LexisNexis, and only 11% utilized Westlaw. *See Sullivan Survey, supra* note 15, at Table 8.

their state bar association provides a free or reduced fee case law database.⁷⁹ In Nebraska, the state bar provides such a database free of charge to every member of the bar.⁸⁰ Although these regional databases may have limited searching capabilities, and often contain only cases relevant to a particular state, this is sufficient for most solo attorneys.

The internet is also a powerful tool for performing legal research.⁸¹ Websites like findlaw.com and Justia.com offer a large national database of case law and statutes. Further, most federal and state statutes, including a substantial amount of legislative history, can be found on government maintained websites at no charge. A major advancement in free online legal research was achieved just last year when Google added state and federal case law and legal journal articles to Google Scholar.⁸² Through this platform Google provides free of charge, law review articles and case law dating back at least 60 years. The database encompasses federal district court cases, bankruptcy, and state and federal appellate decisions.

Another set of resources supplying free access to legal research materials are state libraries, state courthouses, and local law schools.⁸³ Most of these facilities allow public access to all paper forms of case law, statutes and secondary sources. In addition, many

⁷⁹ 60% of solo and small firm attorneys surveyed reported using local bar provided research tools for their legal research needs. *Id.*

⁸⁰ See Nebraska State Bar Association, *Casemaker: Overview*, <http://nebar.affiniscape.com/displaycommon.cfm?an=1&subarticlenbr=107>.

⁸¹ 38% of solo and small firm practitioners surveyed reported using Google and other free online resources for legal research needs. See *Sullivan Survey*, *supra* note 15, at Table 8.

⁸² See Debra Cassens Weiss, *Google Offers Legal Research for the Average Citizen—and Lawyers, Too*, ABAJOURNAL, November 18, 2009, http://www.abajournal.com/news/article/google_offers_legal_research_for_the_average_citizenand_lawyer_s_too/; Carolyn Elefant, *Free Legal Research by Google and What it Means*, myshingle.com, November 17, 2009, <http://www.myshingle.com/2009/11/articles/legal-research-and-writing/free-legal-research-by-google-what-it-means/>.

⁸³ 35% of solo practitioners working from home report utilizing libraries as a means for conducting legal research. See *Sullivan Survey*, *supra* note 15, at Table 8.

provide free limited access to online resources such as LexisNexis and Westlaw. Today, the solo practitioner has an abundance of free legal resources available, and should be able to avoid fee-based services all together.

Other Office Set-up Considerations

In addition to the steps discussed above, solo practitioners will need to perform other standard tasks associated with the formation and operation of a new business. These tasks include, for example, setting up a post office box,⁸⁴ opening a bank account, ordering business cards and stationery, etc. A complete list of these standard tasks can be found in the Appendix.

d. Monthly and Periodic Office Expenses

Once the initial startup costs are calculated and budgeted for, the next items to consider are the various monthly recurring “fixed costs.” Fixed costs are the periodic costs that remain (more or less) unchanged irrespective of the output level or sales revenue of a firm.⁸⁵ Without going into excessive detail, these costs typically include: phone line, internet service, cell phone, legal research fees and general office supplies. In most cases, the sum of these expenses should not exceed \$200-\$300 when working from a home office. Other monthly expenses not included here are advertising costs, discussed in detail *infra* Part IV.

In addition to fixed costs, the solo must account for monthly “variable” costs. These costs include shipping charges, filing fees, travel expenses, outsourced services,

⁸⁴ Because the post office will not accept packages from couriers like UPS and Fedex, it may be worth the extra money to get a private mailbox at a UPS Store or other mailing center.

⁸⁵ Blacks Law Dictionary 398 (9th ed. 2009).

process fees, and other costs associated with the practice of law that fluctuate correspondingly with case load volume.⁸⁶ When practicing in the areas of law discussed below, variable expenses will be minimal.⁸⁷

Finally, the overall budget should include quarterly and annual expenses such as bar dues, malpractice insurance, and various association fees. As discussed below, it is important to network, and be involved in an assortment of business, legal and social organizations. Membership dues to these organizations can add up, making it important to consider the goal behind joining each organization before committing. Another annual expense for the solo attorney is CLEs. Most states require some form of annual or biannual continuing education. Courses usually cost less than \$500.⁸⁸

IV. HANGING OUT THE SHINGLE

In order to attract a sufficient volume of clients, solo attorneys must market themselves—heavily. Essentially, marketing includes any activity intended to “get the word out.” Some marketing methods cost next to nothing, while others are outrageously expensive. In the past, the first marketing step taken by new solos was to purchase the largest phone book ad they could afford.⁸⁹ Today, phone book advertising has become one of the least popular marketing medium for solo practitioners.⁹⁰ Why? Because it is no

⁸⁶ Sipp Externship Notes (2009-10) (on file with author).

⁸⁷ Many of these variable expenses may be billed to the client before they are incurred, such as travel expenses, court reporting charges, and filing fees. Eureka Externship Notes (2009-10) (on file with author).

⁸⁸ Sipp Externship Notes (2009-10) (on file with author).

⁸⁹ See *Individual Responses*, *supra* note 31 (on file with author). See also Deborah K. Hines, *Promoting Yourself and Your Practice*, 2 ANN.2001 ATLA-CLE 2919 (2001) (“In the past, Yellow Page advertising was viewed as an effective means of promoting your firm.”).

⁹⁰ See *Sullivan Survey*, *supra* note 15, at Table 9. In the survey, solo and small firm practitioners were asked to rank the quality of various sources of new business. The quality range included designations of very poor, poor, fair, good, and very good. Of the 148 respondents, only 2 attorneys ranked phone book advertising as “very good,” while 33 gave it a score of “very poor.” *Id.*

longer cost effective. Not only are phone book ads expensive,⁹¹ due to the growth of the internet,⁹² the rise in the number of different phone books published in each community,⁹³ and the hundreds of lawyers already listed in every legal specialty section, phone book advertising no longer makes sense for the new solo practitioner.

Getting the word out can be an expensive task, so the solo attorney should focus only on methods that are cost effective.⁹⁴ The fact of the matter is that most solo practitioners will have more time than money when they start out. Thus, the solo should identify and employ marketing methods which require minimal cash investment and capitalize on the attorney's abundant supply of free time. The most cost effective methods are those that cost very little, yet produce a rich source of clients. Two cost-effective marketing methods employed by many successful solo and small firm practitioners are networking⁹⁵ and internet marketing.⁹⁶ The following sections discuss these two marketing methods.

a. Networking

⁹¹ See Hines, *supra* note 89 (“Yellow Page advertising is not effective in many markets. In fact, some radio and cable television ads are less expensive than advertising a display ad in the Yellow Pages.”).

⁹² See generally Sharon D. Nelson, *Tomorrow in Legal Tech*, TEXAS BAR JOURNAL, March, 2008. See also Eric Kraft, *The Increasing Use of the Internet in the Practice of Law*, 69 FEB. J. KANSAS B. ASSOC. 15, 19 (2000) (“However, Internet advertising can be much more advantageous than yellow page advertising. Web pages can be assembled for minimal expense and can be constantly and immediately updated, as opposed to yellow pages, which are relatively expensive and are only updated once a year.”).

⁹³ See Bill Sikes, *As phone books multiply, so do consumer hang-ups*, USA TODAY, August 9, 2008 at 13. (“Federal rules enacted in the late 1990s required phone companies to provide listings to independent publishers at a reasonable cost and ignited an explosion of competition.”).

⁹⁴ For an interesting article listing a variety of cost effective advertising methods read Larry Bodine, *Twenty Marketing Tips for Solo and Small Firm Lawyers*, LAW PRACTICE TODAY, May 2004, <http://www.abanet.org/lpm/lpt/articles/mkt05041.html>.

⁹⁵ 97% of solo and small firm practitioners surveyed utilized some form of networking as a source of new business. See *Sullivan Survey*, *supra* note 15, at Table 9.

⁹⁶ 90% of solo and small firm practitioners surveyed utilized internet marketing as a source of new business. *Id.*

Networking, for many successful solo practitioners, is at the very core of all business development activities.⁹⁷ Networking goes beyond simply attending a social function or joining a local professional organization. Networking is maintaining regular contact with people for the ultimate purpose of developing business; it is the sincere and constant effort to help others, anticipating that you will, in turn, be helped. Effective networking involves determining a networking objective, developing a plan of action, and committing the time and energy necessary to produce meaningful results.⁹⁸ When networking, it is crucial for the solo to be able explain his or her services offerings quickly, and in simple terms. The recent trend is to develop an “elevator pitch”⁹⁹ to serve this purpose—but this is not recommended here. Although an elevator pitch is great for professional networking meetings,¹⁰⁰ it does not work well in most social networking environments. Instead of using an elevator pitch in these settings, the solo should employ what I call a “conversation sparker.” Here is an example conversation sparker for an attorney working with wills and estate planning:

Potential Client: What do you do?

Attorney: You know how when someone passes away, and the families sometimes fight over the stuff?

Potential Client: Yeah.

Attorney: Well, I work with parents who want to keep that from happening.

Potential Client: So, what do you do for them?

⁹⁷ See *supra* note 95.

⁹⁸ Effective networking requires consistent, and immediate follow-up. See Allison Shields, *Get More From Your Network by Following Up*, LAWYERIST, January 21, 2010, <http://lawyerist.com/get-more-from-your-network/>.

⁹⁹ See *Elevator Pitch*, Wikipedia, http://en.wikipedia.org/wiki/Elevator_pitch.

¹⁰⁰ See *infra* section IV.a.i.

Attorney: It depends on what kinds of problems they face. I draft trusts, build companies to manage family assets, lots of stuff. Basically, I spend a lot of time listening to what they need, and then I do whatever it takes to get it for them.

Q: So, are you a lawyer, a financial advisor, or what?

A: I'm a lawyer, but I try not to let that get in the way.¹⁰¹

Ideally, the solo will have three types of “canned” presentations prepared: a conversation sparker (for social environments), an elevator speech (for presentations), and a firm slogan (for the company letterhead or certain advertisements).

The legal field presents numerous opportunities for networking. This article suggests tackling the networking monster by completing these three tasks: Join and participate in business, professional and social groups, volunteer, and tell everyone you know about your services!

i. Joining Up!

Most cities offer a number of business and social groups for attorneys and other professionals to join. This article recommends joining and participating in one group or association from each of the following three categories: business, professional and social. Additionally, the solo should seek out and join a networking group specifically designed for professionals to network among other professionals.

Business related organizations include the chamber of commerce, local area or neighborhood business associations, and city business development committees. Joining

¹⁰¹ See ABA Popular Threads on Solosez, *What is Your 30-Second Elevator Pitch?*, http://www.abanet.org/soloseznet/threads/1001/30_second_elevator_pitch.html (David Heirse Korn of California explains why elevator speeches are unnatural and why its far better to engage in dialog).

a business group of this type places the attorney among a variety a business professionals *other* than lawyers.¹⁰² Simply joining the group is not enough. In order to establish a name that is top-of-mind, the solo attorney must also volunteer to serve on active committees, attend meetings regularly, and socialize energetically at all organizational functions. After some time, relationships created with other group members will lead to referrals. Business professionals are likely to know a lot of people; and these people are likely to need legal services.

Participating in a law related association offers additional benefits distinct from those from membership within a general business organization. A law related association, comprised mostly of other local attorneys, is a great source of both knowledge and referrals.¹⁰³ Most seasoned practitioners are eager to offer support to young lawyers just starting out. This support can come in the form of general practice advice or in the form of client referrals. Many attorneys are specialists, and provide only a narrow offering of services. When their clients call requesting services in other practice areas, which they often do, the specialized attorney refers the client to another attorney specializing in that particular area.¹⁰⁴ The goal of the new solo practitioner is to work his or her way onto these attorney referral lists. The best way to accomplish this to let other attorneys know who you are and what you do—what better way than through membership in an association made up only of local attorneys.

¹⁰² 15% of solo and small firm practitioners surveyed were members of the Chamber of Commerce. *Sullivan Survey, supra* note 15, at Table 6. Others surveyed reported participating in various specialized business associations and organizations. *See Individual Responses, supra* note 31 (on file with author).

¹⁰³ 79% of solo and small firm practitioners surveyed were members of and actively participated in their local bar association. In addition, 43% actively participated in other law related groups or associations. *Sullivan Survey, supra* note 15, at Table 6.

¹⁰⁴ *See* Sipp Externship Notes (2009-10) (on file with author) (Sipp receives personal injury, family law, and criminal defense client referrals from other attorneys who specialize in other areas like bankruptcy, estate planning, and business law).

Next, the solo attorney should consider joining some form of social group completely unrelated to law or business.¹⁰⁵ A social group will provide an entirely different network of people with whom to socialize, network, and draw business. It is important to note that some social groups are geared more towards networking than others. For example, organizations such as Rotary, Kiwanis, and Lions Club are social and community organizations designed to facilitate both community service and networking. Other groups, such as the ACLU, Amnesty International, and the Humane Society, are more mission oriented. Although the latter groups may place less emphasis on networking, they may still create an opportunity for the solo to socialize and network with a group of people with similar interests.

Finally, the solo attorney should seek out and join a professional networking group.¹⁰⁶ Professional networking groups meet weekly or monthly, usually over breakfast or lunch, for the purpose of referring business to each other. These groups are often limited to one person from each industry or area of practice. For example, there will be one pediatrician, one mechanic, one banker, one investment advisor, etc. Ideally, the new solo attorney should find a networking group where he or she would be “the lawyer.” Membership in a networking group can be an excellent way to establish a new practice. During the meetings, the members usually take turn giving 1-minute commercials, or “elevator pitches,” describing their service offerings. In order to catch and keep the listener’s attention, an attorney should describe actual service offerings and present them in relatable terms. For example, instead of “I practice in the area of

¹⁰⁵ Examples of social groups are: Rotary, Elks, Kiwanis, Lions Club, American Legion, VFW, and the like. For the purpose of this article, social groups also include religious organizations, community organizations, human interest groups, and political organizations.

¹⁰⁶ 45% of solo and small firm practitioners surveyed utilized professional networking groups. *Sullivan Survey*, *supra* note 15, at Table 6.

business law,” the attorney should say, “I offer services to small and medium sized businesses, including business formation, real estate transactions, and contract review.” Or, instead of “I administer intestate estates,” the solo should say “I help families who’ve lost a loved one who didn’t have a will.” Two other tips when presenting service offerings at a networking meeting: Limit service offerings to no more than three (but don’t exclude other services you may offer), and only advertise the services appropriate to your audience. For instance, stating that you offer legal services in the areas of criminal defense, record expunctions, and creditor rights would not be fitting among a group of business owners and other professionals.

In addition to joining and actively participating in the various groups discussed above, there are an abundance of other community networking opportunities in which to participate. Some attorneys grow their practice through connections at church,¹⁰⁷ while others gain clients through book clubs,¹⁰⁸ language clubs, community projects,¹⁰⁹ or sports leagues.¹¹⁰ Another opportunity for networking is through volunteering.¹¹¹

*ii. Marketing Your Legal Services by Giving Them Away*¹¹²

Offering legal services through a legal aid organization is a great way for the solo practitioner to gain experience and access to new clients at the same time.¹¹³ Most pro

¹⁰⁷ See generally Deborah L. Cohen, *Having Faith in Marketing - Houses of Worship Offer Affordable and Effective Advertising Possibilities*, ABAJOURNAL, March 2010, http://www.abajournal.com/magazine/article/having_faith_in_marketing/?utm_source=feedburner&utm_medium=feed&utm_campaign=ABA+Journal+Magazine+Stories.

¹⁰⁸ Only 3% of solo and small firm attorneys surveyed reported that they actively participated in book clubs. *Sullivan Survey*, *supra* note 15, at Table 6.

¹⁰⁹ 12% of solo and small firm attorneys surveyed were members of community based organizations. *Id.*

¹¹⁰ 15% report actively participating in sports and fitness related groups. *Id.*

¹¹¹ 72% of solo and small firm practitioners report having utilized volunteering as a source of new clients. *Id.* at Table 9.

¹¹² For a listing of all legal aid offices by state, visit <http://www.ptla.org/links/services.htm>.

bono projects have systems whereby young volunteer attorneys are matched with more experienced “mentors.” Some even offer excellent training opportunities that can be used as CLE credit. In addition, the agency or clients for whom you have performed pro bono work can be a great source of new clients. For instance, many legal aid offices do not accept fee generating cases. Instead, they refer these cases to private attorneys. These agencies are likely to refer attorneys who they know and trust. Pro bono clients themselves can also be a great source of referrals.¹¹⁴ There is no ethical restriction preventing an attorney from letting a pro bono client know that that he or she also has a private practice—in fact, the solo practitioner should tell everyone they meet!

iii. Spread the Word

Everyone, at some point in their life, will need an attorney. When they do, they are likely to first contact an attorney they know. For those who don’t already know an attorney, they are going to ask for a referral. Thus, the best way to be the one they call is to be the one they know, or the one their friend or relative knows! So, how does the solo attorney let people know about his or her services? Tell them!¹¹⁵ One of the first things an up-and-coming solo attorney should do after receiving his or her bar card is send out

¹¹³ 13% of solo and small firm practitioners surveyed reported actively participating in their local legal aid office. *Sullivan Survey*, *supra* note 15, at Table 6. *See also* Frederick Hertz, *Make Pro Bono Work Count for You, Too*, NEW JERSEY LAW JOURNAL 18 (August 2, 1993) (Hertz discusses how pro bono work can be used to build better relations with local attorneys, improve legal skills, and attract new clients).

¹¹⁴ Carolyn Elefant tells a story about a pro bono client who became an excellent source of referrals. “Years back, I represented a homeless man pro bono in a lawsuit against a hotel for ejecting him from the cafe, even though he was dressed nicely and had money to pay. I won the man a modest settlement which he used as a down payment on an apartment. He found a job at the Better Business Bureau and referred me several paying matters, including one the produced a high five figure jury verdict (triple the settlement initially offered). In short, don’t discount the ability of pro bono clients to refer paying cases.” *See* Carolyn Elefant, *Veterans’ Issues as a Practice Area*, Myshingle.com, May 26, 2009, <http://www.myshingle.com/2009/05/articles/practice-areas/veterans-issues-as-a-practice-area/>.

¹¹⁵ *See* Susan Brickerd, *Small is Beautiful*, NEW JERSEY LAW JOURNAL, January 22, 1996, at 28 (large-firm attorney who converted to solo practice highlights how getting the word out can generate many referrals in the early stages of practice).

announcements to every person they know.¹¹⁶ These announcements should clearly state what services will be offered, and all pertinent contact information.

Another way to become “known” is to be published. For instance, the solo could write an article of interest in the local newspaper about a new law, or an interesting case that was recently decided upon. If that is not an option, writing for a local neighborhood paper or newsletter is a great way to get the ball rolling. In either case, it is important to write only on a topic on which the attorney is familiar, and that will interest a wide population of readers. Offering informational presentations to social groups, colleges, church groups, and other organizations is another way to spread knowledge of the solo’s existence and service offerings.

When growing a legal practice, building name recognition is key.¹¹⁷ When someone in the neighborhood has a legal issue, the solo needs to position themselves as the person to call. When the neighbor’s grandson’s school teacher has a legal issue, the solo should strive to get that referral too.¹¹⁸ Often, the legal service the potential client requests will be outside the scope of the solo attorney’s practice area. Rather than learning a new area of law and trying to be everything to everyone, the solo could refer them to a colleague who specializes in offering that particular service. Although

¹¹⁶ Before sending out announcements, an attorney must ensure that the mailing conforms to his or her state’s rules of professional conduct. *See, e.g.*, MODEL RULES OF PROF’L CONDUCT R. 7.3 (2002).

¹¹⁷ Name recognition results in referrals, and referrals are the number one source of new business for solo and small firm practitioners. *See Sullivan Survey, supra* note 15, at Table 9. The survey results show that 137 out of 146 attorneys responding to this section of the survey found referrals to be a good or very good source of new business. More notable is the fact that not one attorney completing the survey ranked referrals as a poor or very poor source of new business. In comparison, 54 attorneys ranked the phone book as poor or very poor. *Id.*

¹¹⁸ *See* Email to Ryan Sullivan, Student, University of Nebraska College of law, from Duke Drouillard, Solo Practitioner, Drouillard Law (March 8, 2010, 4:31 CST) (“Q: What is the most effective approach you have used for marketing to potential clients? A: Referrals. . . . Meet people and shove your card in their [face]; meet a lot of people. You never know where your next referral may come from; the barista who fixes your lattes, a former schoolteacher, the janitor at your gym, etc. Be nice to everyone, tell everyone what you do.”).

referring away business is hard to do, the solo must consider it more in terms of a trade than a gift. Likely, the next time the referred attorney has a client seeking the services the solo provides, he will remember her generosity.

b. Internet Marketing

The means by which consumers search for lawyers has shifted—people are turning to the internet instead of the phone book to find an attorney.¹¹⁹ Successful attorneys and law firms have realized the importance of marketing their services using the world wide web.¹²⁰ Of course, internet marketing goes beyond the mere design and maintenance of a firm website—the website must be strategically positioned to be “found” by potential clients.¹²¹ The next sections discuss general guidelines for designing and marketing a winning law firm website.

i. Website Design

In an effort to keep costs low, this article encourages solo practitioners to wear many hats, including that of accountant, bookkeeper and secretary. Web designer, on the other hand, is a role best left to the professionals.¹²² Why? Quality and efficiency. A

¹¹⁹ See Standon *supra* note 146. See also *Sullivan Survey*, *supra* note 15, at Table 9 (113 of 146 attorneys ranked the effectiveness of internet marketing as fair or better; conversely, only 26 attorneys ranked the effectiveness of the phone book as fair or better).

¹²⁰ Attorneys surveyed found internet marketing to be the third most effective means of acquiring new business, behind referrals and networking. *Sullivan Survey*, *supra* note 15, at Table 9. See also Hank Brigman, *Proof: Web-savvy Law Firms Get New Business From the Web*, LAW MARKETING, August 5, 2003, <http://www.lawmarketing.com/pages/articles.asp> (“Today a law firm’s Web site represents a significant opportunity to quickly and effectively differentiate a firm through a medium that is increasingly prominent in the law firm selection process.”).

¹²¹ For a listing of articles pertaining to designing and promoting a law firm website, visit <http://www.netlawtools.com/marketing/index.html>.

¹²² Debra Regan, *Internet marketing Tips for New, Small Law Firms*, 11 NO. 16 LAWYERS J. 7, 7 (“You practice law and let others grow your business! Consider outsourcing your internet marketing campaign to qualified experts.”).

great law firm website must convey an extreme level of quality and professionalism. Potential clients expect a law firm website to be slick, free from error, and easy to navigate. Web design experts possess the knowledge and skill necessary to accomplish this—lawyers don’t. And, even if the solo could acquire such proficiency through time and research, this would be an inefficient use of time for someone who could be billing clients at \$150 per hour. Although outsourcing web design may present a significant upfront cost,¹²³ it’s worth the expense.

There are numerous website themes from which a solo practitioner can choose. The predominant theme in today’s market is what has been coined a “firm based” web design. This design places the focus on two things: areas of practice and attorney biographies.¹²⁴ Recently, the market has seen a growth in “information based” themes.¹²⁵ These firm sites focus on providing potential clients with information about particular areas of law. Websites with this theme receive more traffic than firm based themes because they are not just a marketing tool, they are a resource. However, most information based web sites often fail to provide the reader a “reason” to contact the firm. This article suggests a third style of attorney website: a “client centered” design.¹²⁶ The focus of a client centered website aimed at resolving issues, solving problems, and

¹²³ Alan Densmore, a prominent web designer of law firm and other professional services web sites says that a basic, yet professional, law firm website will run a solo about \$800 to \$1200 in up front expenses, and as little as \$10 a month for maintenance. Interview with Alan Densmore (December 22, 2009) (notes on file with author). *But see* Home Page Attorney Café, www.attorneycafe.com. Attorney Café will create a professionally designed law firm web site with no up front cost; however, there is a \$99 monthly maintenance fee.

¹²⁴ *See, e.g.*, Lanier Law Firm Home Page, <http://www.lanierlawfirm.com/>.

¹²⁵ *See, e.g.*, Busby & Associates Home Page, <http://busby-lee.com/bank.html>.

¹²⁶ *See generally* Jeff Lantz, *Creating a Website That Will Resonate With Prospective Clients*, 73 TEX. B.J. 138 (2010).

answering questions.¹²⁷ Rather than generically listing the firm's areas of practice, the client centered website *explains* what the firm does. For instance, a firm based website might state:

Practice Area: Business law

Whereas a client centered web site would state:

Starting a business? We help new entrepreneurs with the legal process of forming partnerships, LLCs, Corporations, and S Corporations.

A client centered attorney website should also incorporate an information sharing component.¹²⁸ In order to generate traffic, the website must offer valuable information that is search engine compatible.¹²⁹ The more traffic a website receives, and the more the site is linked by other websites, the greater the chance that website will be found by potential clients.¹³⁰ The benefits and attributes of a client based theme should be discussed with the web designer as part of the site planning process.

Solo practitioners should also consider building a separate website for each service provided. That is, if a solo practitioner offers two distinct services, a separate distinct website should be designed for each service offered. General firm websites listing several services dilute the potential client's confidence that the attorney is an

¹²⁷ For a good example of a client based estate planning website visit <http://www.drouillardlaw.com/index.html>. On his home page, solo practitioner Duke Drouillard, instead of a bullet listing of his practice areas and law school achievements, poses real-world estate planning questions to his potential clients such as, "Who depends on you?" "Can you protect them?" "Are you prepared?" and "How do you start?" These questions, and the information provided thereafter, are intended to inspire a curious potential client to pick up the phone and schedule an appointment.

¹²⁸ In addition to action inspiring questions posed to his potential clients, Drouillard's website provides detailed answers to questions his potential clients might have. On his home page, he answers questions such as "What is an estate plan?" and "How long does it take to make a plan?" Not only is this information helpful in providing Drouillard's potential clients' with a basic understanding of estate planning, the key words in these question and answers help lead potential clients to his website. When a Google search was performed for "what is an estate plan Omaha Nebraska" Mr. Drouillard's website came up first among the results. Search performed March 6, 2010.

¹²⁹ See *infra*, note 136.

¹³⁰ *Id.* See also Interview with Alan Densmore (December 22, 2009) (notes on file with author).

expert in resolving their particular legal issue. There is little, if any, cross marketing benefit achieved by listing dozens of services on a single general website. Once a potential client finds the firm's website, discovers the firm offers the service they need, and obtains the necessary contact information, they will not likely ever return to the site again.¹³¹ Further, cross marketing should never be the function of a website; this task should be performed by the attorney, in person.

To see why specialized websites are more effective, consider these scenarios:

Scenario #1: John Smith graduates law school and opens a home office offering legal services in the areas of bankruptcy and record expunction. John has a website developed for each service area. Client A wants legal assistance in filing for bankruptcy, so she does a Google search and finds Smithbankruptcylawyer.com. It is immediately clear to Client A that John Smith works in the area of bankruptcy and can provide the service she desires.

Scenario #2: John instead designs a website with the URL: johnsmithlawyer.com. From the name alone it is not clear to Client A whether John provides bankruptcy services. *If* Client A clicks on John's general website, she will learn that he offers bankruptcy, but she will also learn that he offers the completely unrelated service of record expunction. This additional, unnecessary information serves only to weaken the client's view of John as a bankruptcy expert, and offers no cross-marketing benefit. If client A later needs assistance with an expunction, she will either perform another general Google search, or call John and ask him if he also performs those services—she won't go back to John's website.¹³²

Bottom line: Consumers want an attorney who specializes in resolving their *immediate* legal issue—a specialized website provides the consumer exactly what they are looking for.¹³³

¹³¹ See Interview with Alan Densmore (December 22, 2009) (notes on file with author).

¹³² Ideally, she wouldn't need to because John would have made his other areas of practice known while assisting her through her bankruptcy or at the end of the representation when John expressed his appreciation for referrals.

¹³³ See, e.g., Skrupa Law Firm Home Page, <http://www.skrupalaw.com>. Here, the home page makes it very clear to the potential client that this firm specializes in bankruptcy services. In the center of the page it states "Get the Bankruptcy Help You Need Right Now." Also on the home page, under the attorney's

ii. Four Free Tools to Create Website Traffic

1. Free Online Directories

The internet contains a number of highly trafficked free online directories that can be used to market a solo practitioner's website.¹³⁴ Two types of potential clients are likely to use online directories: 1) Those who have already been given the attorney's name as a referral, but want to do some research; and 2) those who are at the initial stages of their search for an attorney. A listing in a free online directory offers additional web presence which increases that chance that the solo's firm will come up in a standard key word search.

2. Blogging and Articles

Blogging and writing articles for various general and legal information based websites is a great way for a solo practitioner to use his or her expertise and free time to increase traffic to the firm's website.¹³⁵ Not only will it provide a means by which clients will find the solo via a topical keyword search, it will also increase the site's search engine optimization (SEO).¹³⁶ The easiest way to start a blog is to use one of several free

name, it states *only* "Nationally Board Certified Bankruptcy Specialist by the American Board of Certification." Although the website also lists practice areas, the practice areas listed all pertain to bankruptcy. When a consumer seeking bankruptcy assistance finds this website, there should be no doubt that they have found what they were looking for.

¹³⁴ For a listing and description of numerous free web directories, visit <http://www.best-web-directories.com/free-directories.htm>. In addition, other websites such as yahoo.com, anywho.com, yellowpages.com, and yellowbook.com list business phone numbers for free and allow businesses to upload brief descriptions of service offered. Many of these sites will even link to the firm's website. The solo attorney should ensure that they are listed on these directory websites, and that the information thereon is correct.

¹³⁵ See ABA, *Blog Technology 101*, <http://www.abanet.org/media/youraba/200808/article12.html>, August 2008 ("[A] blog can attract clients, drive traffic to a firm's Web site, facilitate networking with other legal professionals and establish a lawyer's reputation as an expert in a particular field.").

¹³⁶ Search engine optimization "is making your site and the site's individual pages visible and relevant to both search engines and search engine users." Wendy Boswell, *How Does Search Engine Optimization Work?*, ABOUT.COM, http://websearch.about.com/od/keywordsandphrases/a/search_engine.htm. See also

blogging services available over the web.¹³⁷ Signing up is as simple as entering an email address and choosing a name for the blog. The content of the blog should reflect the solo's expertise and provide information on legal topics relevant to the solo's areas of practice.¹³⁸ In addition to maintaining a blog, the solo should consider contributing informational articles for publication online. Like the solo's blog, the article should be on point, concise, and pertain to the solo's area of expertise.¹³⁹ The solo should post their written work on both general public sites¹⁴⁰ and sites frequented by other attorneys.¹⁴¹ As a final step, the lawyer should add a link to their blog or article on their website, or create an information page and upload the content directly.

3. Craigslist

Craigslist is the world's number one online classified website.¹⁴² Small businesses, both online and off, are realizing the marketing power of Craigslist.org. Founded in 1995 by Craig Newmark, Craigslist.org gets an estimated 20 billion page

Sharon Nelson & John Simek, *Optimizing Your Web Site: The ABC's of SEO*, LAW PRACTICE, April/May 2008, at 18 (addresses the fundamental questions about SEO specific to firm websites); Patricia Della Valle, *Is Your Firm's Web Site Really Producing Results?*, LAW PRACTICE TODAY, November 2003, <http://www.abanet.org/lpm/lpt/articles/tch11035.html> (author explains how to achieve search engine optimization specific to Google).

¹³⁷ Blogger.com, blogspot.com, and wordpress.com are some of the most notable free blogging websites available.

¹³⁸ Fred Dahr, an attorney providing criminal defense and expunction services, maintains an excellent blog on his website which not only establishes himself as a trusted source of information, but positions himself as an expert in the area of criminal defense and expunction law. *See Texas Criminal Law*, <http://texasdefenselaw.blogspot.com/>.

¹³⁹ *See Article Writing for Lawyers in 11 Steps*, <http://www.lawyerbizcoach.com/2009/09/22/article-writing-lawyers-11-steps/>; *see also* Terry Stanfield, *How to Write and Publish Articles on the Internet*, <http://www.webreference.com/promotion/articles/> (author offers tips on how choosing a title, creating a biography, and incorporating keywords).

¹⁴⁰ Websites such as ezinearticles.com, about.com, and helium.com allow individuals to post relevant informational articles with ease, and without cost.

¹⁴¹ The American Bar Association provides numerous online publication opportunities. *See generally* www.abanet.org.

¹⁴² Mike McEvoy, *Search Craigslist Ads – 7 Tools for Faster Searching*, HTS TECH TIPS, November 16, 2009, <http://www.htstechtips.com/2009/11/16/search-craigslist-classified-ads-7-tools-for-faster-searching/>.

views per month.¹⁴³ The Craigslist format is organized by either region or city and connects buyers and sellers in more than 700 communities.¹⁴⁴ Unlike traditional classified mediums, Craigslist ads go beyond typical classified listings for garage sales and used furniture. In fact, Craigslist provides a broad listing of service professionals, including attorneys. For instance, a search under legal services in the Chicago area produced 53 listings for attorneys offering legal services in the areas of divorce, bankruptcy, employment law, real estate law, and custody litigation.¹⁴⁵ Some believe Craigslist has the potential to become the new “phone book”—where people will go first when they need a particular service.¹⁴⁶ Before advertising on Craigslist, the solo should research relevant state ethical rules regarding advertising through classified ads and through the internet.¹⁴⁷ Additionally, Craigslist itself has rules that must be followed. Mainly, rules that prohibit over-posting and spamming.¹⁴⁸ To avoid being “flagged,” a distinctive ad should be created for each city where the solo advertises and the same ad should never be posted two days in a row.

Craigslist ads should be kept simple, yet professional. The ad should include key terms that can help the potential client find the ad, like “bankruptcy help,” “will drafting,” and “criminal record expunction.” At the same time, the attorney should avoid using words or phrases like “I’ll get you your money,” “guaranteed satisfaction” or

¹⁴³ Craigslist Fact Sheet, <http://www.craigslist.org/about/factsheet>.

¹⁴⁴ *Id.*

¹⁴⁵ Search performed January 24, 2010.

¹⁴⁶ See Amy Standon, *The Phone Book’s Days Appear Numbered*, National Public Radio aired January 18, 2010 at 4:00 AM, transcript available at <http://www.wbur.org/npr/122693536>.

¹⁴⁷ For an interesting discussion of the ethical implications involved with Craigslist advertising, see *Lawyers Advertising on Craigslist*, podcast available at <http://legaltalknetwork.com/podcasts/lawyer-2-lawyer/2009/07/lawyers-advertising-on-craigslist/>. In the podcast, J. Craig Williams interviews attorney Susan Beecher, a solo practitioner, and Attorney William Hornsby, counsel in the American Bar Association’s Division for Legal Services, regarding the upside and downside of advertising on Craigslist and the legal ethics issues surrounding advertising on these free online sites.

¹⁴⁸ See Shanon Lewis, *Marketing Your Business on Craigslist*, ENTREPRENEUR, December 06, 2006, <http://www.entrepreneur.com/marketing/onlinemarketing/article171514.html>.

“cheap.”¹⁴⁹ Appropriate keywords are beneficial not only to ensure Craigslist users find the ad, but also because Craigslist ads are searchable through major search engines like Google and Yahoo. To increase the chances of being found through a search engine, the solo should list the legal services offered in both the heading and the description. For the same reasons described above in section IV.b.i, there is no advantage to listing a variety of service offerings in the Craigslist posting. If the firm offers two services that are suitable for marketing on Craigslist, it might be wise to market them separately on alternating days, increasing overall exposure. Finally, the Craigslist ad should provide the potential client with numerous ways to make contact. The ad should display an email address, phone number, and, of course, the firm’s website. The firm’s website should have a tracking program that will allow the attorney to track the volume of traffic generated by each Craigslist ad.

Craigslist may not work for promoting all legal services, and may not be effective in every market. The best way to determine whether a Craigslist ad will be effective is to make two phone calls: One to an attorney listed on Craigslist in the solo’s market, but who provides legal service in a different practice area; and one to an attorney in another market who advertises the same service that the solo is considering advertising. Feedback from these two sources will likely determine whether a Craigslist ad will be effective.

4. Online Social Networking

Social networking websites allow individuals and businesses to create and join online networks and communities. These sites provide the ability to create a profile that lists information about the individual or business ranging from age and gender to

¹⁴⁹ See MODEL RULES OF PROF’L CONDUCT R. 7.1 (2002).

employment status, references, and photos. Social networks also allow users to write blogs, set a brief status message, provide a link to their website, and upload media, including photos and videos. The “networking” aspect is facilitated by allowing members to link their profiles with the profiles of others. These links are referred to as “friends” or “connections,” and enable social networking users to construct their own personal community of family, friends, colleagues and even strangers who may share similar interests.

The most popular social networking sites are Facebook.com, MySpace.com and LinkedIn.com. Facebook and MySpace are predominantly social in nature while LinkedIn is designed to facilitate professional networking. There are also law-specific social networks available such as Legallyminded.com, Martindale-Hubbell’s Connected, and Lawlink.com. Networking online is not unlike networking face-to-face.¹⁵⁰ As with off-line networking, the key is to slowly build relationships and create awareness and name recognition. To accomplish this, the solo should actively invite friends, family, and business associates into their network, regularly update his or her profile, and include content which softly advertises the solo’s services.

V. THREE PRACTICE AREAS SUITABLE FOR THE HOME OFFICE PRACTITIONER

A solo practitioner working from a home office faces a number of limitations not confronted by attorneys working in a firm setting: limited expertise, no support staff, difficulty in arranging client consultations, and limited financial resources. Additionally, a newly graduated solo often has little practical experience or expertise in most highly

¹⁵⁰ For a comprehensive instructional guide to online social networking see *Legal Marketing: Social Media Trends*, NOLO, September, 2009, <http://www.legalmarketingblawg.com/2009/09/legal-marketing-social-media-t.html>.

complex areas of the law. This limits the fields in which the attorney can or should practice. Nevertheless, there are a number of legal services that are practical to offer out of a home office, and require only basic legal knowledge and skills. This article addresses three of these practice areas and discusses why their unique characteristics make them ideal for the home office solo practitioner. They are: expunctions and pardons, bankruptcy, and wills drafting.¹⁵¹ These three practice areas work well because the green solo can offer all necessary legal services from a home office and can charge a flat fee. Further, these niche practice areas require minimal expertise that can be acquired through research. Finally, these practice areas lend themselves to both general and guerilla marketing tactics. Although specific instructions for performing each of these legal services is beyond the scope of this article, the sections below provide a general overview of each practice area, as well as a brief description of various techniques for marketing each.

a. Expunctions and Pardons

An expunction is a process by which an individual's arrest records are erased from law enforcement files.¹⁵² In most states, a person may be eligible for an expunction if he or she was acquitted or if the case was dismissed.¹⁵³ A pardon is an action restoring civil rights lost due to a felony conviction.¹⁵⁴ Although distinctive in function and form,

¹⁵¹ Other areas of practice that attorneys found suitable for newly graduated solo practitioners were: small claims, landlord/tenant issues, divorce and family law, criminal defense, business formation, and contract drafting. *Sullivan Survey*, *supra* note 15, at Table 10.

¹⁵² Blacks Law Dictionary 662 (9th ed. 2009).

¹⁵³ For a listing of expungement laws by state, visit <http://expungement.uslegal.com/expungement-of-criminal-records/>.

¹⁵⁴ Blacks Law Dictionary 1221 (9th ed. 2009).

expunctions and pardons share a common attribute: they are both sought by individuals with criminal histories looking for a second chance.

Expunctions have become increasingly important because of an increase in both the frequency and ability of businesses and employers to perform background checks. After a successful expunction, the individual can deny having ever been arrested, and a subsequent background check will confirm such denial.¹⁵⁵ Pardons too are often sought for employment purposes. In most states, a felony record prohibits a citizen from holding public office, owning a firearm, taking a civil service examination, serving in the military, or holding certain licenses.¹⁵⁶ A pardon will remove these employment limitations, as well restore the citizen's right to vote, to be issued a passport, and to serve as a juror.

The process and requirements for obtaining expunctions and pardons are quite distinct, and vary greatly from state to state.¹⁵⁷ Thus, this article will offer only a general overview of the process for each service.

The Expunction Process: An expunction usually begins by filing a petition with a district court.¹⁵⁸ Next, any government agency that maintains arrest records for the petitioner will be notified of the lawsuit, and then a hearing will be scheduled. If the

¹⁵⁵ See, e.g., TEX. CODE CRIM. P. ART. 55.03(2).

¹⁵⁶ See generally Kathleen M. Olivares et al., *The Collateral Consequences of a Felony Conviction: A National Study of State Legal Codes 10 Years Later*, 60 FED. PROB. 10 (1996). But see Jack B. Weinstein, *The Role of Judges in a Government of, by, and for the People: Notes for the Fifty-Eight Cardozo Lecture*, 30 CARDOZO L. REV. 1 n.632 (2008) (“Since 1997, eighteen states have acted to restore voting rights to convicted felons or to eliminate some of the problems with de facto disenfranchisement, which results from a common misconception that all individuals with felony convictions are barred for life from voting.”).

¹⁵⁷ For attorneys practicing in Nebraska, the following statutes encompass Nebraska laws pertaining to expunctions, pardons, and set-asides: NEB. REV. STAT. § 29-4010 (sexual registration expungement); § 29-3523 (criminal history expungement); § 26-381 (expungement of records relating to violation of Adult Protective Services Act); § 28-721, -723 (expungement of records of child abuse) § 28-2263, -2264 (setting aside probation and conviction); NEB. BD. OF PARDONS GUIDELINES § 001.01–005.01. (pardon policy and procedure).

¹⁵⁸ See, e.g., NEB. REV. STAT. § 29-3523(2); TEX. CODE CRIM. P. ART. 55.02(1).

expunction is granted, the individual has the right from then on to deny that an arrest or criminal charge ever existed.¹⁵⁹ After the expunction is final, it becomes a criminal offense for law enforcement agencies to disclose any records that have been expunged.¹⁶⁰

The Pardon Process: In most states, the pardon process begins by submitting an application and supporting documents¹⁶¹ to the Board of Pardons or the Secretary of State. The Board will then review the application and schedule the case for a hearing.¹⁶² In most cases, decisions by the board are completely discretionary, and by majority vote. The board will consider factors such as subsequent criminal history, ties with the community, and current employment.

Expunction and pardon services are ideal service offerings for a home based solo because he or she can offer these services with zero live client interaction—all steps can be handled through the mail or email.¹⁶³ Further, because of the nature of the work, charging a flat fee for these services is appropriate, and common.¹⁶⁴ Additionally, the knowledge required to perform these services is easy to attain,¹⁶⁵ and clients needing these services can be acquired through a variety of direct and indirect marketing techniques.¹⁶⁶ The two main sources of potential clients are: referrals from criminal defense attorneys, and public record searches.¹⁶⁷ Seasoned criminal defense attorneys have had hundreds, if not thousands of clients over the years. Because some of these

¹⁵⁹ See, e.g., OR. REV. STAT. § 137.225(3). TEX. CODE CRIM. P. ART. 55.03(2).

¹⁶⁰ See, e.g., TEX. CODE CRIM. P. ART. 55.03(1).

¹⁶¹ See, e.g., *Pardon Application Instructions*, State of Nebraska Board of Pardons, <http://www.pardons.state.ne.us/instructions.html>.

¹⁶² In Nebraska, the hearings are held quarterly. It is the policy of the Nebraska Board of Pardons to hold a hearing before granting any request for a pardon. See NEB. BD. OF PARDONS GUIDELINES § 004.01.

¹⁶³ Interview with Attorney Specializing in Expunctions (November 13, 2009) [hereinafter Expunction Attorney] (Attorney chose to remain anonymous).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

clients will be found not guilty,¹⁶⁸ and even many of those that are found guilty will eventually become eligible for pardon, criminal defense attorneys are a great source of referrals for both expunction and pardon services.

Most criminal defense attorneys have chosen criminal defense work because they love the courtroom, hate paperwork, or both. Thus, pardon and expunction work is likely the type of project they will gladly pass off to a new up-and-comer. It is important, then, that the new solo attorney ensure that every criminal defense attorney in town is aware of his or her ability to perform these services. One way to spread the word is to contact the criminal defense attorneys directly and describe these services offered. Another way is to attend social functions and networking opportunities where criminal defense attorneys might be found.

The other method for finding potential clients in need of assistance in filing for an expunction or pardon is to perform a public records search. Depending on the jurisdiction, recent and past criminal court rulings may be available to the public. A solo practitioner with time to spare can spend a few hours a week searching for defendants and ex-convicts eligible for record expunction, a set-aside,¹⁶⁹ or a pardon. Most state ethics commissions place limitations on the form in which an attorney can directly contact a potential client for the purpose of soliciting business.¹⁷⁰ However, direct

¹⁶⁸ When a client is found not-guilty, most state expunction laws allow the individual to immediately file for an expunction of all records relating to the arrest, indictment, and trial. *See, e.g.*, TEX. CODE CRIM. P. ART. 55.01(1).

¹⁶⁹ A set-aside is another criminal record administrative action similar to a pardon whereby, when certain conditions are met, an ex-convict can petition the court to “set-aside” the conviction. Unlike a pardon, a set-aside can usually be requested immediately after completion of probation. *See e.g.*, NEB. REV. STAT. § 29-2264.

¹⁷⁰ *See* MODEL RULES OF PROF’L CONDUCT R. 7.3(c) (2002).

mailings are often allowed as long as the letter contains a conspicuous statement indicating that the letter is an advertisement.¹⁷¹

Record expunction and pardon services can be a lucrative niche for a solo attorney. An attorney in Texas specializing in expunctions charges \$1,500 per case.¹⁷² During an interview, the attorney said “it is tedious work, but I can do 3-5 a week without any support staff. Although I often have to travel some for hearings, I rarely ever have to meet with my clients. They either email or mail me their documents and a check, and I take care of it from there.”¹⁷³ In Nebraska, a Lincoln general practitioner¹⁷⁴ charges \$1000 to assist an ex-convict in filing an application for a pardon. Amanda Venenga, a law clerk who has assisted other attorneys in filing several pardons says: “It only takes a few hours of work, and, because it’s charged at a flat fee, there is no need to keep track of every minute, copy, or phone call. Performing pardons is also rewarding. You get to help people get a fresh start.”¹⁷⁵

b. Bankruptcy Assistance

There are a number of types of bankruptcies available to citizens and businesses, and each varies greatly in form, process, and complexity. Among these, the least arduous, and the most suitable for a newly graduated solo practitioner, are Chapter 7 bankruptcies.¹⁷⁶ The Chapter 7 bankruptcy filing process can be learned through

¹⁷¹ *Id.*

¹⁷² See Expunction Attorney, *supra* note 163.

¹⁷³ *Id.*

¹⁷⁴ This practitioner asked not to be identified.

¹⁷⁵ Interview with Amanda Venenga, Law Clerk (January 22, 2010) (notes on file with author).

¹⁷⁶ Attorneys surveyed found that bankruptcy services are suitable for newly graduated solo practitioners. *Sullivan Survey*, *supra* note 15 at Table 10. More specifically, several attorneys identified Chapter 7 bankruptcies as be highly suitable for newly graduated solo practitioners. See *Individual Responses*, *supra* note 31 (on file with author).

research, and with the assistance of high tech user friendly bankruptcy software programs.¹⁷⁷ Like expunctions and pardons, performing bankruptcies can be done easily from a home office, and can usually be handled for a flat fee based on the complexity of the case.

Bankruptcy is a good practice area for new attorneys because bankruptcy services can be marketed through a variety of low-cost mediums. Also, there is plenty of work to go around, especially during hard economic times. In 2009, over a million people filed for bankruptcy nationwide,¹⁷⁸ including 7,563 bankruptcies in Nebraska.¹⁷⁹ These numbers are likely to remain high for a number of years, providing a steady stream of clients to attorneys offering bankruptcy support.

Marketing bankruptcy services can be accomplished through traditional advertising methods such as placing a phone book or newspaper ad; billboards are also quite effective for this type of service, as are television commercials, and placards on bus stop benches. However, these methods are expensive, and often take months of continued visibility to be effective. Instead, the Spartan solo should first consider low- and no-cost marketing methods: Networking, web marketing, and classified ads. Networking is self explanatory: tell everyone you know, meet, and do business with that

¹⁷⁷ There are numerous bankruptcy software programs available. Here is a listing of websites of a few online companies offering such software: <http://www.ezfilings.com/home.html>; <http://www.lawfirmsoftware.com/>; <http://www.bankruptcysoftware.com/>; <http://www.bestcase.com/index.htm>. For an interesting discussion on Chapter 7 bankruptcy software, see Counsel.net, *Best Low-Buck Bankruptcy Software Discussion*, 2007, <http://counsel.net/chatboards/solo/topic892/4.19.07.08.48.45.html>. For free Chapter 7 bankruptcy forms, visit <http://www.uscourts.gov/bkforms/>.

¹⁷⁸ James Limbach, *One Million People File for Bankruptcy in 2009*, CONSUMER AFFAIRS, October 2, 2009, http://www.consumeraffairs.com/news04/2009/10/one_million_bankruptcies.html (“Consumer bankruptcies totaled 1,046,449 filings through the first nine months of 2009.”).

¹⁷⁹ Matt Olberding, *State Fares Well in Bankruptcies*, LINCOLN JOURNAL STAR (Jan. 10, 2010), available at <http://www.allbusiness.com/government/government-bodies-offices-law-courts-tribunals/13715910-1.html>. In Nebraska, although bankruptcy filings are up over 12% from 2008, Nebraska ranks among the lowest in terms of bankruptcy filing *increases* during the current recession. *Id.*

you offer bankruptcy services. Next to networking, establishing a web presence is the best way to be found by clients in need of bankruptcy services. As discussed above, the internet is quickly and inevitably replacing the phone book as the go-to source for finding an attorney.¹⁸⁰ Maintaining an easily accessible, user friendly, website will work as well as a full page ad in the phone book did 10 years ago. In addition to maintaining a searchable website, the solo should consider placing a professional looking ad on Craigslist, as described above.¹⁸¹ For some, Craigslist itself has replaced the phone book as the first place they look when in need of a particular service. The best part about Craigslist, of course, is that it's free. The caveat is that it's free for everyone, so competition in some regions may be heavy.

A final suggested method for advertising bankruptcy services is Craigslist's off-line cousin: paper classifieds.¹⁸² Although there are costs associated with paper classified advertising, and this medium appears to have lost substantial ground to its online competitors, there are people that still read the newspaper.¹⁸³ Classified advertising costs a fraction of the cost for a standard advertisement, and many papers offer an online version of their classified ads that can be purchased in tandem with the print version. This affordability creates an opportunity to advertise more often, and in a variety of

¹⁸⁰ See *supra* note 146.

¹⁸¹ *Supra* section IV.b.ii.3.

¹⁸² See Philip L. Franckel, *Lawyer Advertising, Where Should Lawyers Advertise?*, <http://www.hurt911.org/lawyer-advertising/lawyer-advertising-basics.html> (“Newspapers generally have classified advertising for professionals which allows you to use an inexpensive classified ad instead of a display ad. Additionally, since the classified advertising for professionals is together in one spot, readers know where to go to find you. While some lawyers use a much more expensive display advertisement in the classified section which may result in more cases, a classified ad will likely result in a lower cost per call. Newspapers are particularly good for niche advertising. For instance, you can choose to advertise in a Greek newspaper which will not only make your advertising more effective, but is also far less expensive than the bigger newspapers.”).

¹⁸³ A survey by Scarborough Research concluded that 54% of Americans report reading the newspaper in an average week. See Project for Excellence in Journalism with Rick Edmonds, *The State of the News Media 2004 – Audience*, JOURNALISM.ORG, 2004, http://www.stateofthedia.org/2004/narrative_newspapers_audience.asp?cat=3&media=2.

papers. When several ads are placed, the attorney must ask each potential client in which newspaper he or she saw the ad in order to track ad placement effectiveness. Depending on the solo's market area, it might make sense to advertise bankruptcy services in surrounding cities and counties. Because bankruptcy services require so few client meetings and hearings, a solo can easily handle cases from afar with very little inconvenience.

c. Will Drafting

What makes will drafting an ideal practice area for a solo practitioners is the abundance of available clients—everyone! Every adult, no matter how modest their estate, should have a will.¹⁸⁴ Where expunction or bankruptcy services appeal only to a narrow group of consumers, will drafting services can be marketed to the entire adult population. Although there are an abundance of attorneys offering will drafting services, the market remains mostly untapped. In fact, nationally, less than half of all adults have a will.¹⁸⁵ And, many of those who have a will are likely in need of an update.¹⁸⁶

In addition to the large population of potential clients from which to draw, will drafting is a service that can be competently provided without a considerable amount of

¹⁸⁴ See Evane Abbassi, *Why Everyone Should Have a Will - Who Will Speak For You When You Can't Speak For Yourself?*, <http://ezinearticles.com/?Why-Everyone-Should-Have-a-Will---Who-Will-Speak-For-You-When-You-Cant-Speak-For-Yourself?&id=2981485>.

¹⁸⁵ DUKEMINIER ET AL., *WILLS, TRUSTS, AND ESTATES* 59 (7th ed. 2005).

¹⁸⁶ Getting married, remarried, or divorced, having or losing a child, adopting, or experiencing major changes in wealth are all reasons a consumer should consider revamping their will. See DUKEMINIER ET AL., *WILLS, TRUSTS AND ESTATES* 305 (8th ed. 2009) (“In all but a handful of states, statutes provide that a divorce revokes any provision in the decedent’s will for the divorced spouse. . . . In a minority of states, a premarital will is revoked entirely upon marriage. . . . A pretermitted child statute, if applicable, results in a revocation of the parent’s will to the extent of the child’s share.”).

training and experience.¹⁸⁷ Although most wills are fairly straightforward and reasonably simple to create with proper resources,¹⁸⁸ some estate plans may be too complex for a green drafter.¹⁸⁹ The solo must recognize when the client's estate planning needs go beyond his or her capacity. When this occurs, the solo should recruit the services and/or advice of a seasoned estate planning attorney who can ensure the client's needs are adequately met.¹⁹⁰

Will drafting can, and usually is, provided on a flat fee basis. Flat fees are highly beneficial for both the client and the attorney. Clients view will drafting as more of a "product purchase" than a service. Consequently, they will expect and prefer a set purchase price rather over estimate based on an hourly rate. The flat fee also lets the client "shop around." This usually favors the solo attorney, who, with his or her low overhead, will often offer the most competitive rate.

Charging a flat fee is beneficial for the attorney because it allows the attorney to benefit financially from past experiences and training. That is, after an attorney has produced a number of standard wills, the amount of time required to create each will diminishes, but the amount he or she charges may remain the same.¹⁹¹ This enables the

¹⁸⁷ See *Sullivan Survey*, *supra* note 15 at Table 10. Attorneys surveyed ranked will drafting third among all suitable practice areas for newly graduated solo practitioners.

¹⁸⁸ Craig Monson, a solo attorney in North East Nebraska recommends purchasing and utilizing a will and trusts form book. Interview with Craig Monson, Solo Practitioner (March 4, 2010) (notes on file with author).

¹⁸⁹ Examples of complex estate plans include those involving fractured families, stepchildren, adopted children, foreign property, shared property, mineral rights and corporate ownership.

¹⁹⁰ Although with enough research the solo attorney could probably handle the estate plan without outside support, it may be more efficient to involve a mentor. The cost of sharing the fee is at least comparable to the cost of the solo's time spent researching the relevant issue. Additionally, the knowledge and experience gained by working with an experienced estate planner is invaluable, and can be used by the solo at no expense when faced with similar issues. Working with more experienced attorneys to learn a new area of the law allows the solo to service more clients and broaden the scope of his or her service offerings. As one solo put it, "partner with another attorney to do harder cases and there is nothing that should be out of reach." *Individual Responses*, *supra* note 31 (on file with author).

¹⁹¹ See *supra* note 30.

attorney to recoup the unbilled hours spent creating the base documents.¹⁹² As long as the flat fees are reasonable, the attorney can charge a full flat fee regardless of the amount of time spent on the will.¹⁹³ Charging a flat fee also encourages and facilitates referrals. It is much more effective when a client tells a friend that “Joe did my will. He charges \$300,” than “Joe did my will. He charged me for two hours at \$150 an hour, but mine was [simple or complex].”

Will drafting is ideal for the home practitioner because the service can often be provided with no more than two client visits.¹⁹⁴ Additionally, because a will is so very personal in nature, most clients will be open to conducting the interviews in their home, and will often appreciate not having to come to an office. Will drafting can be marketed using all of the low cost methods discussed above (networking, referrals, classified ads, web site). Because every adult is a potential client, “spreading the word” is likely the most appropriate form of marketing will drafting services. Although web and classified marketing is effective, it only reaches the potential client who is already seeking will drafting services. To crack into the pool of potential clients who have not even considered the need for a will, the attorney must bring it to their attention. The best way to accomplish this is through conversation. In some cases, all it takes is for the attorney to mention that he or she drafts wills for clients, and the potential clients may say: “Wills huh, I should probably get one of those done. What does it cost?” In other cases, the need for a will must be “created” by the attorney through education. For example:

Potential client: “What do you do for a living?”

¹⁹² ELEFANT, *supra* note 28, at 128 (“While a practicing lawyer can churn out a basic will in an hour or two, a new attorney may need a day for each of the first few wills he or she prepares.”).

¹⁹³ MODEL RULES OF PROF’L CONDUCT R. 1.5(a) (2002) (“A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.”).

¹⁹⁴ See Eureka Externship Notes (2009-10) (on file with author).

Attorney: “Oh, I help people plan for the worst.”

Potential client: “Really, how so? Are you an insurance agent?”

Attorney: “No, I am a lawyer. I draft wills for people with children, or people who don’t want the state to decide where their money goes when they die.”

Potential client: “Really, if I don’t have a will the state decides?”

In the above scenario, the attorney subtly lists the type of people who would need a will: Those with children and those averse to allowing the state to control their estate. Likely, the potential client fits into one or both of these categories and the attorney has now “educated” them on at least one reason why they should have a will.

A Unique Niche Market

Although all adults are theoretically potential clients, and a good marketing program should market to the masses based on this assumption, the solo should also consider a separate marketing plan directed towards a more narrow niche of potential customers. Some estate planning attorneys direct their marketing efforts to people over 60.¹⁹⁵ Other attorneys market only to business owners, or those with a net worth of certain minimum amounts. Another niche, largely untapped, is same-sex couples.¹⁹⁶ There is no question that same-sex couples receive less statutory intestate protection than married couples. For this reason, those in same-sex relationships have an even greater need for estate planning services than heterosexual couples. In most states, if a same-sex partner dies intestate, the surviving partner may have no inheritance rights whatsoever.

¹⁹⁵ See *Individual Responses*, *supra* note 31 (on file with author).

¹⁹⁶ See Mark Roth, *Lawyer’s Specialty: Advice for Gay, Unmarried Couples*, PITTSBURGH POST-GAZETTE, February 27, 2006 at A6.

Further issues arise when children and stepchildren are involved. Nearly all of these issues, however, can be resolved through careful estate planning.¹⁹⁷ Marketing to this group can be accomplished by attending gay-friendly functions, advertising in and writing for gay, lesbian, bisexual, and transgender publications, and becoming involved in the gay rights movement.¹⁹⁸ The focus of the marketing efforts to this population should be education—making them aware of the consequences when no estate planning is performed.¹⁹⁹

Expanding Through Client Referrals

The one downside to will drafting and estate planning is that these services are often rendered only once—there is not a lot of repeat estate planning business.²⁰⁰ To overcome this drawback, attorneys should capitalize on the volume of estate planning clients by utilizing them as a source of referrals.²⁰¹ The very fact that a client is having a will drafted indicates there are surviving relatives. The attorney should hand the client a few extra business cards, and educate them as to why their relatives too can benefit from having a will. Importantly, an estate planning attorney should be aware of any and all conflict of interest and confidentiality issues that may arise when performing estate planning services for multiple family members.

¹⁹⁷ For interesting commentary and articles pertaining to estate planning and same sex-couples, visit <http://www.outestateplanning.com/articles.htm> and <http://www.gaycoupleslawblog.com/>. See also JOAN M. BURDA, ESTATE PLANNING FOR SAME-SEX COUPLES (2004).

¹⁹⁸ See generally, GRANT LUKENBILL, UNTOLD MILLIONS: SECRET TRUTHS ABOUT MARKETING TO GAY AND LESBIAN CONSUMERS (1999).

¹⁹⁹ See generally Trey Ryder, *Marketing with Education, Not Sales*, 82 Women Lawyer's Journal 20, 20–22 (December 1995).

²⁰⁰ Although, if the solo practices long enough, the estate planning performed in his or her early years will likely evolve into a steady, and lucrative stream of probate work. See Interview with Craig Monson, Solo Attorney (March 4, 2010) (notes on file with author).

²⁰¹ In fact many lawyers consider will drafting to be “loss leaders” to attract more profitable business. See ELEFANT, *supra* note 28, at 128.

VI. CONCLUSION

In past decades, going solo was an impractical choice for most recent law graduates: high salaried associate positions with large firms were abundant and solo practice represented unnecessary risk and uncertainty. Today, as legal jobs in all sectors become scarce, graduates will be forced to reevaluate their options. Some graduates will be faced with taking a job they know they won't like. Others may have no offers at all. Circumstances such as these make going solo a feasible, if not the most desirable, option.

Solo practice is not for everyone. It entails tremendous risk, and requires a substantial amount of endurance, fortitude, and planning. For a solo attorney to be successful, he or she must work hard, and work smart. The solo must make careful, educated decisions when establishing the practice, setting up office space, purchasing equipment and software, and marketing the firm. The solo must also select practice areas most suitable for newly graduated solo practitioners. This article recommended three legal services that can best be marketed and performed by a new law graduate without much difficulty. This list is not exclusive, and the solo should also consider his or her personal interests in determining a legal specialty.

Whether by choice or by force, opening a solo practice will not be easy, but nothing worthwhile ever is. As stated by Mahatma Gandhi: "Every worthwhile accomplishment, big or little, has its stages of drudgery and triumph; a beginning, a struggle and a victory." Good luck.

APPENDIX

- Start Up Checklist for Home Office Solo Practitioner
- Notable Example Firm Websites
- Ryan Sullivan, *Solo and Small Practice Office Management Survey, 2009* (with tables and charts).

Start Up Checklist for Home Office Solo Practitioner

- 1) Preliminary Matters
 - a) Make sure the neighborhood allows solo practice
 - b) Check with local bar association for home office restrictions
 - c) Notify homeowners insurance
- 2) Business Formation as PLLC (recommended)
- 3) Open Bank Account
- 4) Set up Mail Box
- 5) Set up the Home Office
 - i) Furniture
 - ii) Electronics
 - (1) Computer
 - (2) Copier/Printer/Fax
 - (3) Phone
 - iii) Software
 - (1) Billing
 - (2) Client management
 - (3) Accounting
 - (4) Word Processing
 - (5) Practice Management (bankruptcy, will drafting, etc)
 - iv) Supplies
 - (1) General office supplies
 - (2) Business Cards
 - (3) Stationery
 - (4) Announcements
 - v) Forms Database
 - (1) Engagement Letters, List of Fees, Retainer Agreements, Intake Forms
 - (2) Pleadings, Motions, Discovery, Affidavits, Subpoenas
- 6) Marketing
 - a) Tell Everyone!
 - b) Join Local Associations / Clubs
 - i) Business Association
 - ii) Professional Association
 - iii) Social Group
 - iv) Networking Group
 - c) Send Out Announcements
 - d) Design and Launch Website
 - e) Start a Blog and Write Articles
 - f) Classified Advertising – On and Off-line
 - g) Volunteer at Legal Aid Office or Take Pro-Bono Work

Notable Example Firm Websites:

nebraskabankruptcyhelp.com

madsenlawoffice.com

drouillardlaw.com

husker-law.com

texasdefenselaw.com

texasexpunctionlaw.com