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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

How To Start Your Own Law Firm

By **Erin Marie Daly**

Law360, New York (December 15, 2010) -- Faced with continuing instability in the legal job market, some lawyers are opting to start their own law firms — an endeavor that can be fraught with challenges. Here, three small-firm attorneys offer tips on the best strategies for successfully striking out on your own in a down economy.

Don't Burn Bridges

Once you've made the decision to strike out on your own, it may be tempting to check out mentally or emotionally from your current job. But doing so is a huge mistake, according to Jeremy Saland, a former Manhattan prosecutor who now practices at Crotty Saland LLP.

Particularly if you're coming from a BigLaw firm, he said, the relationships you've cultivated are going to be essential to the success of your new practice, because that's where you're going to get a lot of your initial business.

“Even if you're tired of being the low man or woman on the totem pole, you have to keep a smile on your face, because these are the people who will be referring clients to you when they can't afford Johnny Big Firm,” he said. “Don't disparage, even if you have to do it under your breath.”

If you do a good job maintaining these relationships — and, of course, if you've cultivated a solid professional reputation — your former colleagues will be more inclined to call you when they can't take on a matter due to conflicts or other reasons.

“Big business for you is small for them, so you want to set yourself up as the go-to person if such a situation comes up,” Saland said. “Have that card ready, answer that e-mail, stay in touch — don't wait around for the holidays.”

Consider The Basics

Amid the excitement of undertaking your new endeavor, it's crucial to start thinking about the nuts and bolts of what it's going to take to launch your own firm — and the earlier, the better.

For one thing, you will need a place to meet clients, and have an address to accept mail, according to Olivera Medenica of Wahab & Medenica LLC.

“Whether you need an actual office space is not an absolute necessity, depending on where you are located,” she said, noting that in some areas it is possible to have a “virtual office” — which means you have a physical address and the option of renting out conference rooms when you need to meet with clients.

Some city bar associations, she said, have centers where small law firm practitioners who are bar members can reserve a conference room to meet with their clients, and it may also be possible to rent out

any of the meeting rooms at the local bar association where you are located.

“There are options in terms of meeting with clients that do not necessarily involve a commercial lease,” she said. “A step up from virtual offices are office suites or renting out an office from another law firm. Those are subleases or licenses to use the space, and can have more flexible terms than a commercial lease.”

Another not-so-exciting — but essential — basic need to consider is whether you'll need insurance, Medenica said. The good news: unless you are doing intellectual property, securities law or entertainment law, insurance rates are generally not cost-prohibitive, she said.

“Although it is necessary to check with your carrier, rates can sometimes begin as low as a couple thousand dollars per year,” she said. “Each year these rates increase as your insurance has to cover more matters taken on by you. It is also possible to obtain insurance for practicing law on a part-time basis, but again, this is something that you need to check with your carrier.”

Define Your Niche

Once you've overcome the mental barriers associated with leaving a comfortable, secure firm job, you'll need to determine what area you're going to practice in, according to Nicole Giacinti, a former associate at Goodwin Procter LLP who now practices at Morris & Giacinti LLP.

“If you know what you are going to focus on, you can begin to plan your marketing strategy before you go out on your own,” she said.

Of course, if you live in a smaller town, you'll find it much easier to bill yourself as a general practitioner — but no matter where you live, it's usually a better option to identify a niche.

“You want to be identified as excelling in a particular area, because it will lead to referrals,” Saland said.

You can choose more than one practice area, he added — just don't go with too many.

“There's nothing wrong with being an immigration and criminal law firm, or a general litigation practitioner who does real estate, for example,” he said. “Cast a wide net, but not too wide: if you claim too many practice areas as your own, other attorneys are less likely to refer business to you because they will fear that you will not reciprocate.”

According to Medenica, even if you may not have a very specific niche, it is possible to define yourself as having one.

For example, she suggested, if you represent businesses on a transactional front, you can present yourself as an “outsourced in-house counsel”; if you have a focus on intellectual property law, you can handle deals involving IP in some tangential way; or if you focus on an industry, you can define yourself through that industry even though you may handle a variety of legal issues.

“The important part in all of this is that you do not want to take on matters you have no knowledge of, unless you are ready to invest the time learning about it — without billing the client for your learning curve — or affiliating yourself with a more experienced attorney,” she said. “This may ultimately force you to focus on a very specific niche over time, but that may not be a bad thing.”

Defining your niche when starting out on your own can certainly be a struggle, Medenica said, and specializing in a very specific area of the law may not be possible when opening up a firm, as clients may come to you for assistance in a related area or an area in which you have no

experience.

“It is a judgment call on your part to decide whether to take on such clients,” she said. “It is always a good idea to work jointly with another attorney with more experience in the matter, in the event you want to take on something that you feel uncomfortable with due to your lack of experience.”

To Partner Or Not To Partner?

You should consider early on in the process whether you should take on a partner to bolster your practice, and if so, who it will be — a decision that should not be made hastily.

“I think it comes down to whether you know someone who practices in your area that shares your same vision for your law firm and that you would work well with,” Giacinti said. “Having a partner is great because you get to share the stress of running your own business, and you have someone to collaborate with on cases and strategy.”

Medenica said choosing whether or not to have a partner is a very difficult process, and noted that although partnership agreements are crucial in managing a partnership, they are only there to protect you if things go bad.

“A partnership agreement cannot protect you from a toxic relationship with your partner, or from losing clients or money if the relationship goes sour,” she said. “Although you may have recourse in court, it is an investment of time and money that you must be willing to make in order to enforce that partnership agreement.”

The key issue, therefore, is finding a partner who complements your practice and with whom you feel you are able to simply get along, she said.

“It is also helpful if they do not have a huge ego, and are willing to get battered a little by the exigencies of small-firm practice,” she said. “The transition can be difficult if someone is coming from a cushy position or large firm. There are no perks, no bonuses, calls sometimes are not returned, and every cent counts when managing a firm. Partners need to see eye to eye on these issues, otherwise the relationship will be very difficult to manage.”

Saland said the ability to generate business is another key factor in considering a potential partner.

“You could be a tremendous attorney, but if you can't get people in the door, it doesn't matter,” he said.

Moreover, he advised, don't go with a partner just because you like the person or he is your friend.

“You need to get along with this person, but it has to be someone who practices with integrity — someone you trust, and who has the know-how and practical experience to make your business work,” he said.

Be Patient And Pick Your Prices Wisely

Especially in the first year, it will be quite difficult to accurately project the profitability and income you can expect to generate, so be patient.

“I think talking to other people who have started their own firms in your practice area is a good way to get an idea of what you'll take home the first year,” Giacinti said.

Medenica noted that in some instances, a client will be paying you a monthly retainer for work done, but litigation can settle from one week to the next, and corporate work can dry out, especially if the client is going out of business.

Once business picks up, you'll need to determine the amount you will charge clients, which will largely be determined by the market.

If you are just starting out, you should remember that you will likely not be able to command the fee of an experienced attorney in that field, Medenica said.

One way to set a price point, she said, is to ask around.

"Attorneys are generally reluctant to talk about how much they charge, but if you network and speak with other attorneys, you will eventually get a good idea of what are the going rates in your market," she said.

Saland advised looking inward to determine what you honestly think you're worth — and what you know your potential client can afford — when setting your service rates. But he said it's a learning process.

"You learn by striking out — if you quote too high, you'll lose the client, but if you quote too low, you'll short-change yourself," he said. "Some clients might even think your low price reflects sub-par work when you are merely trying to be reasonable. Determine what you're worth based on your skill set, and once you've identified your price, stick to it."

But you have to evaluate your client's ability to pay as well, he said.

"You have to have confidence, but you can't perpetrate a fraud on the buyer by demanding a fee that cannot be backed up by your work product and experience," he said. "If your client doesn't have the means, refer them to another attorney who's more affordable — or, if you really want the work, you'll have to accommodate them."

Medenica suggested adjusting fees depending on your surrounding circumstances to take into account the financial difficulties that your

clients may be going through.

“Maybe a discount is in order, or a flat fee for specific services to be rendered, a contingency fee or some other permutation,” she said.

In terms of collections, she said, it's important to keep an open dialogue with your clients.

“If you send out a bill, and the client puts himself on a payment plan, that is fine if they are not piling work on you on an ongoing basis to the detriment of other clients who are paying on time,” she said.

Send out your bills on time, staying late in the office if necessary in order to do so, and issue a reminder every month for outstanding balances, she suggested.

“Make sure that if your client is not following your advice that you inform them in writing of the risks of their course of action,” she said. “If they get a negative outcome, at least you have a written trail that demonstrates you warned them in advance. This will make collecting a more feasible proposition.”

Don't Be Shy

Once your firm is up and running, you're likely going to run into a dry spell before matters start to trickle in. Use this initial downtime to put yourself out in the world in as many ways as possible.

“Join the section at your bar that represents your practice area, but also go to social events for other areas of the law,” Giacinti said. “Those attorneys probably get calls for the area you practice in, and if they know you they will refer you. Write an announcement for your college and law school alma maters. Get in touch with your local law schools and let them know that you are willing to speak on any panels they have that discuss starting small firms or that deal with

your area of the law.”

Medenica said the best way to market your business is to lecture, write and network at industry-related events and bar associations.

“You will not get clients because you are 'fun' to have a drink with,” she said. “You will get clients if someone trusts you, and sees what you are capable of. They can glean your skills from a lecture, a successful case, a referral from someone else, or an article that they read about you or that you have written.”

Social media outlets like Facebook and Twitter, she said, can be used to get a buzz out about you — but should be used as a tool to demonstrate your knowledge on a particular subject.

“Social media is fine as long as it is tastefully done and informative,” she said. “I personally don’t think social media should be used by attorneys to show they are quirky, fun, opinionated on political issues, or otherwise just a nice girl or guy. Attorneys do need to portray a certain sense of gravitas because they are dealing with very important and personal issues for their clients.”

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