



FROM BIGLAW TO...



YOUR LAW!

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*Inspiration &
Encouragement*



I Am Not An Entrepreneur...My Answer to the Most Important Question for Solo Lawyers

Over at his new gig at [Above the Law](#), my blogging colleague and law firm founder/owner Jay Shepherd poses the penultimate question to prospective shinglers: **Do you want to run a business, or do you want to practice law?** For Jay, there's only one right answer: if you want to start a law firm, you've got to want to run a business. Period.



Now, Jay may be on to something. After all, Jay runs a successful, [small employment law firm](#), he just launched a new business, [Prefix LLC](#) to teach professionals how to price their knowledge and he's blogging up at one of the most widely read law blogs while I'm slumming here at MyShingle. Even so, I think that Jay's wrong about prioritizing entrepreneurial drive over love of the law, and I can prove it in a word:

Google.

Founded in 1999, Google is still thriving and growing while [hundreds of other dotcoms](#) launched around the same time failed. The reason? Because unlike most of the 20-somethings of the DotCom era, Google's founders, Sergei Brin and Larry Page didn't started Google simply so that they could own a business or make money. Instead, they were driven by one single purpose: "to organize the world's information and make it universally accessible and useful," which remains Google's [core mission](#) to this day. Of course, great search demands a great abundance of resources – and so Google had to find a way to support those goals. So early on, the company, over its founder's objections, began running the ads that evolved into Google's AdWords program, the primary source of Google's enormous profits. [Source: [Wikipedia](#).]

For Larry and Sergei, passion for search came before desire to run a business (indeed, according to Wikipedia, they nearly sold Google early on because it interfered with their studies). Instead, they followed their passion and then, of necessity came up with a business model to make it work. The same concept applies to starting a firm: you start with a love of the law – a passion or a calling to represent clients, solve problems, or do justice. And then, because you want to practice law, you'll develop the business model to make it work.

Ordinarily, I don't involve myself in the perennial "is law a business? or is it a profession?" debates. After all, different strokes for different folks. But I'm troubled that Jay's advice will deter from solo practice many really good lawyers who simply don't view themselves as business people. Moreover, his advice is particularly dangerous in the current economic client where jobs are scarce, and many graduates with law degrees may not have the option of finding a job no matter how long they look.



Thus, they may settle for doing document review or leave the law entirely, instead of taking a shot at starting a firm – which can better position them to find a job if that’s what they eventually decide to do.

In addition to over-emphasizing the importance of being entrepreneurial in starting a firm, Jay over-glorifies what it’s like to practice law at a job. Jay writes that:

your own law firm is a lousy platform for [practicing law]. Almost any other platform is better: someone else’s firm, a company’s law department, the government, a public-service organization. These are all places where your focus will be on practicing law. Someone else runs the business.

Though it’s true that when you work for others you won’t need to send out bills or manage a trust account, you won’t have the luxury of just practicing law either. Instead, you’ll have to endure sensitivity trainings and office politics or spend hours reviewing documents and toting someone else’s briefcase and subordinating your better judgment over how to serve the client to a partner who’s more senior to you. That’s not my idea of practicing law.

Finally, just as those lawyers who only want to practice may “be miserable” running their own firm, so too, those who open a law practice because they want to be entrepreneurs will also find disappointment. That’s because law makes for an awfully stodgy and slow-moving business. We lawyers are heavily regulated, and for better or for worse, our ethics rules prevent us from implementing many of the innovations adopted in the business world. And frankly, law practice is downright hard: writing briefs or analyses of complex issues, forever trying to find ways around precedent instead of just tossing it aside. In fact, many of the lawyers I’ve met over my years in the blogosphere who tout the concept of law as a business have, not suprisingly, left the law for more exciting and fast-paced entrepreneurial ventures.

As for me, I don’t consider myself an entrepreneur. I’m a lawyer. But I developed entrepreneurial skills of necessity because I knew that starting my law firm represented my absolute last chance at a career in the law. I left my cushy but dull government job too quickly because it bored me, and I got myself laid off from my law firm job because I thought I knew better than anyone else. And suddenly, I was up against the wall and out of choices except to leave the law entirely — before I’d ever had a jury trial or argued a real appellate case or accomplished something with my hard-earned law degree that mattered. And so, reluctantly, I signed a lease for a virtual law office and printed business cards and stationary and dragged myself to networking events where no one would talk to me and [went through all of the steps](#) that I needed to because failure was not an option. That first year was as challenging as anything I’d ever done, but by sheer force of will, I made solo practice work. And if you really, truly want to be a lawyer and you have no other choices, you can too.

But if you want to be a real business owner, don’t hang out a shingle.

Related posts:

1. [Why Lawyers Who Care About SEO Must First Understand How It Works \(and now they can\)](#)
2. [Self-Employed Lawyers Are Happiest](#)
3. [To Martindale or Not To Martindale?](#)
4. [Google Yourself...For Fun and Necessity](#)
5. [More Biglaw Attorneys Downsize to Solo Practice](#)



Biglaw to Yourlaw: A Recipe for Success

Peter Chaffetz and David Lindsey, founders and partners at newly formed boutique [Chaffetz Lindsey](#) could have simply hopped into another big firm life boat after their former firm, [Clifford Chance](#) hit stormy weather last year. Instead, they took another course: they launched a boutique that is thriving even as the economy struggles to recover. This article in the [New York Law Journal](#) reports on the firm's beginnings and subsequent growth.

The *New York Law Journal* article offers a good description of sources of work that are typical for big firm lawyers turned solo. These include:

- 1. Conflicts work.** Chaffetz and Lindsey explain that most of their cases arrive through referrals generated by conflicts. These days, other large firms that the pair viewed as competitors while at biglaw are now regarded as rich referral sources.
- 2. Lower billing rates.** No matter how much the experts try to tell you that price doesn't matter, a smaller firm's ability to charge less than biglaw is an enormous selling point. As one Chaffetz Lindsey client told the *New York Law Journal*: "Given that I was getting the same lawyer [from the large firm] for a lower billing rate, it was attractive to me." In fact, many biglaw turned solos find that clients accustomed to their biglaw billing rates generally send more work to them as solos because it simply doesn't cost as much.
- 3. Lower labor costs and no leverage.** In this market, Chaffetz and Lindsey are able to pay their three associates less than the prevailing starting strategies. For larger matters, rather than gear up with new hires, the firm has made arrangements for added support from a Buffalo, New York based firm, where rates are lower.
- 4. Less overhead.** Chaffetz & Lindsey aren't a virtual practice. Still, they've managed to locate below market rents because of the glut of office space.

Recipe for Success: Perhaps, Chaffetz & Lindsey are experiencing uncommonly positive growth because of longstanding industry connections. But their recipe for success is common: low labor costs, reduced overhead, mining conflicts and lower billing rates. Biglaw lawyers considering going solo would do well to take a page out of Chaffetz & Lindsey's cook book.

Bonus: [More resources on biglaw to solo.](#)

Related posts:

1. [Can An Hourly Rate Ever Be Excessive?](#)
2. [LAST CALL for Biglaw to Yourlaw.](#)
3. [Jobs At Biglaw Limited – So Why Is This News?](#)
4. [Is Biglaw Planning on Changing the Rules of The Game?](#)
5. [From Biglaw to Yourlaw](#)



The Page Between Biglaw and Solo Practice, Between Life and Death

Even though I reside in Bethesda, Maryland and practice appellate law in Washington D.C. just like appellate lawyer Mark Levy, the former [Kilpatrick Stockton](#) attorney [who took his life after his firm downsized](#), our paths never crossed. As a biglaw attorney and a small fry in a highly stratified town like Washington D.C., lawyers like Mark Levy and I travel in different circles, attend different conferences and represent different types of clients. Yet in an odd turn of circumstances, our worlds nearly collide this month on the pages November's [ABA Journal](#), which reports on Mr. Levy's tragic suicide in this article, [A Death in the Office](#) and interviews me (as well as some of my solo colleagues) in this piece [So You Want to Go Solo? Are You Sure?](#) just a few pages later.

In reading about Mr. Levy, oh, how I envied his career. After all, what appellate lawyer walking this planet wouldn't covet a CV that included a prominent position in the Clinton administration, high powered and likely lucrative jobs at AmLaw 100 firms and most of all, multiple arguments before the Supreme Court? If I'd ever met Mr. Levy at a function here in D.C., I'm certain that I would have peppered him with dozens of questions about his cases, his appellate strategy and at what rate your heart pumps or your stomach flips over when you stand before a podium where few lawyers have gone before, with the prospect of vindicating a client or making history.

At the same time, I'm also certain that many of Mr. Levy's colleagues at the big firms where he worked throughout his career wouldn't have shared the same curiosity about my career. Most likely, if we'd met, they'd tolerate a polite handshake before hightailing over to someone more important, or even ditching me to chat with a close colleague whom they just saw a few days earlier. Perhaps a few of the more adventurous would politely take a few minutes to listen to me chatter away about my "little law practice" and how I leverage technology and social media to serve my clients. But back at the office, they'd heave a sigh of relief about not having to aggregate and manage a half dozen small clients for an appeal (as I often do to make appeals and federal court cases affordable) or fritter away valuable billable time blogging or playing on Twitter in a desperate effort to compensate for the kind of credibility and connections that biglaw automatically confers.

These days, the arrogance of many (certainly, not all) biglaw attorneys no longer offends me or hurts my feelings as it did fifteen years ago when I was starting out. What bothers me more is biglaw attorneys' utter lack of curiosity about how the other side of the bar lives, and indeed, the unbearable obliviousness to any aspect of law practice that doesn't involve big law. Because it's those attitudes that leave lawyers like Mr. Levy feeling as if they have no alternatives – that unless they practice at a big firm, they simply don't count as a lawyer.

To those who would peg me as a cheerleader for the solo lifestyle, rest assured, my career and life are far from perfect. I'll probably never argue a case before the Supreme Court or earn the salary of a biglaw attorney or head up an office within an administration. But on most days, I like what I do and I earn a living doing it. I [help clients solve problems](#), I've made some [great friends through online communities](#) and built opportunities for myself – like writing a book – that I never imagined I could do, all without compromising [time with my daughters](#). Surely, this counts for something.

In death, just a few pages separate my story in the *ABA Journal* from Mr. Levy, just as in life, roughly eight blocks separated my D.C. office from Kilpatrick Stockton's D.C. location. Yet despite the short geographic distance, Mr. Levy was never able to cross the abyss that separated my world from his. But perhaps other lawyers like him will take a moment to flip a few pages forward in the *ABA Journal* and see that outside the darkest tunnel, there's a whole world of lawyers who exist outside biglaw and even though for many, it's a last resort, the last place on earth they imagined they'd wind up, perhaps it's not such a bad place to be.

Related posts:

1. [Hey Biglaw – Where Were You When It Mattered?](#)
2. [No, I Don't Hate Biglaw If It's A Passion](#)
3. [Blawg review #35 and Worthless Advice](#)
4. [The Other Side of Biglaw Salaries](#)



How David Beats Goliath Is the Story of How Solos Thrive

How is that [solo and small firm lawyers are thriving](#) at a time when [biglaw is crumbling](#)? Why does the the spirit of [optimism](#) still prevail among most solos even as our large firm colleagues experience [hopelessness](#) and [panic](#)?

Over the past few months, I've pondered these questions, but I've never seen the answers articulated as powerfully as in this inspiring *New Yorker* piece by Malcolm Gladwell, forwarded to me by a reader, on [How David Beats Goliath](#). (Full disclosure: I'm a raving Gladwell fan as evidenced by earlier posts, [here](#) and [here](#)). As Gladwell explains, David beats Goliath for the same reasons that solos succeed: (a) by playing by their own rules and (b) through sheer grit and dogged effort which trumps ability every time.

A. By Their Own Rules

Gladwell describes that Davids don't just beat, but dominate Goliaths when they avoid engaging Goliaths on their terms:

In the Biblical story of David and Goliath, David initially put on a coat of mail and a brass helmet and girded himself with a sword: he prepared to wage a conventional battle of swords against Goliath. But then he stopped. "I cannot walk in these, for I am unused to it," he said (in Robert Alter's translation), and picked up those five smooth stones. What happened, Arreguín-Toft wondered, when the underdogs likewise acknowledged their weakness and chose an unconventional strategy? He went back and re-analyzed his data. **In those cases, David's winning percentage went from 28.5 to 63.6.** When underdogs choose not to play by Goliath's rules, they win, Arreguín-Toft concluded, *"even when everything we think we know about power says they shouldn't."*

The same holds true for solos. If we try to compete for business head-on against biglaw with fancy offices and a highly leveraged associate system and expense account lunches and costly yellow pages advertising, we'd suffocate under the weight of our overhead. Moreover, clients would have no reason to engage us – they'd just as well hire a real biglaw firm rather than a pallid imitation. So instead, successful solos have created our own playing field, filled with virtual offices and client portals and alternative billing and education-based marketing through blogs and ebooks that offer value to clients without breaking the bank. Consequently, even with the economy spiralling downward, solo and small firms are still attracting business.

B. Grit and Determination In many circles, big firm lawyers are considered ["the Elect" or "the Chosen"](#) by virtue of sheer intellect alone that motors them seamlessly through top tier law schools, Law Review and federal clerkships to \$160,000 a year jobs. I have friends who've taken this path and I won't lie: there are many more days than I'd like to admit that I envy their talent and the seeming effortlessness of their rise to the top. But at the same time, I realize that the reason that my solo colleagues and I are still standing when so many big firm lawyers are not is because at the end of the day, what matters is effort, not talent. Gladwell offers this example:

Consider the way T. E. Lawrence (or, as he is better known, Lawrence of Arabia) led the revolt against the Ottoman Army occupying Arabia near the end of the First World War....But when Lawrence looked at his ragtag band of Bedouin fighters he realized that a direct attack on Medina would never succeed.... Instead of attacking the Turks at their point of strength, Lawrence reasoned, he ought to attack them where they were weak—along the vast, largely unguarded length of railway line that was their connection to Damascus....

When they finally arrived at Aqaba, Lawrence's band of several hundred warriors killed or captured twelve hundred Turks, and lost only two men. The Turks simply did not think that their opponent would be mad enough to come at them from the desert.

This was Lawrence's great insight. David can beat Goliath by substituting effort for ability—and substituting effort for ability turns out to be a winning formula for underdogs in all walks of life...

It makes no sense, unless you think back to that Kentucky-L.S.U. game and to Lawrence's long march across the desert to Aqaba. It is easier to dress soldiers in bright uniforms and have them march to the sound of a fife-and-drum corps than it is to have them ride six hundred miles through the desert on the back of a camel. It is easier to retreat and compose yourself after every score than swarm about, arms flailing. **We**

tell ourselves that skill is the precious resource and effort is the commodity. It's the other way around. Effort can trump ability—legs, in Saxe's formulation, can overpower arms—because relentless effort is in fact something rarer than the ability to engage in some finely tuned act of motor coordination.

Many of the solos whom I know who eventually succeed quite frankly, aren't the sharpest tools in the shed. Yet, they are persistent and they are dogged and they are willing to work round the clock, if necessary, to make their firms succeed.

In an age where we strive for [Four Hour Work Week](#) and instant notoriety in [140 characters or less](#), effort is neither hip nor sexy. But as Gladwell (ironically, one of the hippest writers I can think of) repeatedly emphasizes, relentless effort explains how David beats Goliath and how lawyers succeed as solos.

Related posts:

1. [Million Dollar Award for Solo Co-Counsel](#)
2. [Have We Reached The Solo Practice Tipping Point?](#)
3. [What David Swanner's Giving Away, and Not Just for Holiday Gifts](#)
4. [Does Being A Lawyer Make You Want to Dance A Jig? Maybe It Will If You Start Your Own Firm?](#)
5. [Small Firms Fighting Big Companies](#)



Solos Do Everything Biglaw Does, Only Backwards and in High Heels

Many large firms assume, wrongly, that solo and small firm lawyers don't handle complex issues. Truth is, many of us do. But unlike biglaw which has the luxury of researching and strategizing about these issues in a vacuum, we solo and small firm clients do all that, plus tend to our clients' needs.

Consider the emerging litigation arising out of Madoff's Ponzi scheme. As I posted over at [Legal Blog Watch](#), at least a half dozen large firms have created practice areas to assist clients impacted by Madoff's fraud. However, while large firms are targeting and will likely represent the big fish – the large, institutional investors or banks who put money in Madoff funds and now face liability for failing to exercise due diligence — solos are representing [Madoff's individual victims](#). In representing either large banks or individual investors, lawyers will tackle incredibly complicated issues such as unraveling complex transactions or developing viable defenses to liability or [theories of recovery](#).

But whereas biglaw's job ends with the legal issues, as the [Florida Business Journal](#) reports, solos are also helping clients with the personal carnage of Madoff's misdeeds. Among other things, solos are playing the role of social workers and job counselors. From the *Business Journal*:

[Guy Fronstin](#), a solo practitioner quoted in the article who is helping 50 groups of investors explained: "One client has to go back to work ... This guy's money is going to run out in 30 days. I think we've found him some work." Fronstin is also helping his clients deal with the psychological impacts of the Madoff fiasco. One Fronstin client, 85-year-old Adele Fox, invested \$50,000 with Madoff because a relative of hers was Madoff's accountant. Fox received distributions from Madoff every three months, and now she's terrified that she may have to disgorge that money if Madoff is brought to justice. Another client has been forced to make a substantial life change, selling an expensive condo and moving into publicly-subsidized housing.

In many ways, biglaw is like Fred Astaire – both great at what they do. But don't forget, in many cases, just like [Ginger Rogers](#), we solos do everything that biglaw does, only backwards (in that we're often on the other side of the issues), in high heels (in that, we often teeter precariously as we strive to get the most out of our clients' more limited budgets) and with real live human beings to whom we're accountable. Can't get much more complex than that.

"Every day, we leave our imprint on the human heart, in a way that counts so much more than we could ever realize." MyShingle, [9/08/08](#).

Related posts:

1. [They Could Have Stayed At Biglaw...But Didn't](#)
2. [Looking for a New Practice Area...Just Pick Up the Newspaper](#)
3. [Refunds for Shoddy Service – If It's Good Enough for Biglaw, It's Good Enough for Solos](#)
4. [What the Paul Hastings Associate's Performance Review Shows About Law Practice](#)
5. [Would Biglaw Pay More to Help A Legal Aid or Solo Attorney?](#)



Tribute to Joe Flom: Skadden's Solo Role Model

As solos, mega-firm [Skadden](#) is perhaps one of the last places we'd ever think to look for a role model. But being solo doesn't just mean working for oneself. Solo is a state of mind; a combination of vision, hustle and sheer doggedness that together, convert adversity into a best friend.

That's the story of Joe Flom, [Skadden's](#) last living name partner who passed away yesterday at the age of 87. Back in the day, when mega-firm Skadden was [nothing more](#) than a trio of three fellows named John, Marshall and Les, they [took a chance](#) on a Harvard Law School graduate named Joe Flom who couldn't find work anywhere else and liked him well enough to work odd jobs to afford his \$3600 salary. Meanwhile Flom pitched in wherever he could: when the firm brought on litigation work, Flom litigated and when another partner brought in tax work, Flom became an expert in tax. But it wasn't until 1955, seven years after he was first hired that Flom found his calling, mergers and acquisitions. M&A wasn't much of a practice area at all back then – it was a rough-and-tumble brawl of a practice area that big firms wouldn't touch — so Flom had the field all to himself. And the rest of course, is history.

As the [obituaries](#) bear out, Flom was many things: a big firm lawyer and innovator, a humanitarian and philanthropist (his firm funded 620 [fully funded legal aid fellowships](#)), a father, grandfather and husband. But make no mistake: he was also a solo.

Related posts:

1. [Is \\$400 an Hour Pro Bono?](#)
2. [Don't Just Step Off the Partnership Track: Bypass It Entirely](#)
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THINKING
OUTSIDE
THE BOX



TRADITIONAL
THINKING

New Law
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Solos Can Provide Cover to DLA Piper Clients Who Can't Pay Its \$200k Cover

So, last week's big blogosphere news was that the [DLAPiper](#), the [world's largest law firm](#) has announced a mandatory minimum \$200,000 [annual cover charge](#) for clients. New clients unwilling to commit to spending \$200,000 annually on fees won't be served, while existing clients who don't meet the minimum billings requirement may be asked to leave. Ron Friedmann at [Prism Legal](#) believes that the minimum charge is legal. Ron writes that there are hidden costs when large firms handle lots of small matters, because of the inefficiencies that occur when lawyers switch from one project to another. In addition, Ron notes that DLAPiper's minimum cover represents an intentional effort to position itself as a "bet the farm" kind of firm, rather than a law factory. On the other hand, John Wallbillich of [Wired GC](#) expresses some concern that a mandatory minimum will put a damper on associates' client development efforts, since most of the matters they're likely to bring in won't make the \$200,000 cut. Or, the policy may encourage associates to take their 3 small clients whose billings total \$150,000 and leave DLAPiper to start a virtual firm, where they can keep most of what they earn.

What these commenters haven't considered, however, is that for large clients, DLAPiper's cover may actually represent a bargain. After all, we don't know what clients will actually receive in exchange for the \$200,000 minimum. It may be that DLAPiper will offer \$300,000 worth of service to clients who are willing to lock in and pre-pay the \$200,000 minimum. Between the cash-flow benefit of receiving \$200,000 up front and use of offshoring or second-tier contract lawyers in house, DLAPiper could still earn a decent profit, even while providing a "volume" discount.

Meanwhile, DLAPiper's minimum cover proves a boon for solos and small firms, who never had much of a shot at the \$200k matters to begin with. After all, most solos and small firms can make a feast of DLAPiper's \$199,000 crumbs. So here's my message to DLAPiper: if you want to evict those low-rent clients, we solos and small firms stand ready to take them in. Sure, they won't have the luxury of a global brand or fancy office, but they'll find high-quality, streamlined service and most importantly, lawyers who are grateful for their patronage.

Related posts:

1. [DLAPiper's \\$200k Cover Charge Part II: Ethics Issues](#)
2. [A Plug for Small Firms for Big Clients](#)
3. [IF YOU'RE GOING TO FORCE PRO BONO, DON'T MAKE IT EQUITABLE](#)
4. [Can Small Fry Catch Big Clients? That's My Shingle's Raison d'Etre](#)
5. [Biglaw is Selling Connections. Can You?](#)



Solo, Leverage Thyself (and Diversify Too); Biglaw, Take Heed!

For the past few decades, biglaw had a good thing going: a seemingly sustainable [pyramid scheme](#). Large firms hired top talent and fed their appetites and egos with top salaries and assurances that these new associates constituted the cream of the legal caste system. Then, the firms turned around and billed the heck out of their young subordinates, racking up huge PPPs with a sense of arrogance and [entitlement](#) that blinded them to the possibility that this highly leveraged model [could ever fail](#). Too bad biglaw never took the time to observe or learn from us savvy solos.

See, because we solos don't have an army of associates against which to leverage our hours, we learn very quickly to leverage ourselves. What that means is rather than rely on costly, highly paid labor to amplify our billable time (not hours, time – which is my second point), we solos use technology and outsourcing to extract more value out of each hour of work we perform. With a virtual assistant (and I have an excellent one), I can hunker down and focus on client work that demands my unique expertise, while my assistant can keep my trade association (another revenue maker) up and running or ensure that I'm constantly submitting proposals for work from new clients (yes, I know RFPs aren't ideal, but that's how certain aspects of the energy biz work). As a result, even while I'm working on one project, I'm generating or at least stirring up the potential for revenue from others, so I'm super-charging the value of my time. Just as partners do with associates, only that comes at a much higher cost.

But we solos don't just implement principles of leverage. Those who are most successful also diversify (which is also another way to leverage our time, as I discuss below). While I'm sure that biglaw will insist that “hey, we diversify also. Look at all these practice areas we offer – employment law, probate, corporate securities, etc....,” that's not what I mean by diversity. Instead, I'm referring to the concept of diversity as applied in the investment context — as a means to spread risk around. An investment portfolio that holds stock in 50 different high tech companies may seem diverse because of the number of different holdings – but most of us realize that it's not, because the portfolio places all bets on one industry. By contrast, a portfolio with just 5 investments but all in different instruments of varying risk (*i.e.*, stock, mutual funds, bonds, gold or real estate holdings) may seem more limited in terms of holdings, but is actually more diverse because of the different character of each investment.

Like the high tech stock portfolio, biglaw's so-called diversity is illusory. What's the point of offering 50 different practice areas if they're all premised on the billable hour? When the economy tanks as it has now, clients reach a point where they can't afford any of the firm's offerings. In short, multiple practice areas don't provide much of a hedge against a poor economy because when the economy hits rock bottom, all of those services are priced way out of most clients' range.

By contrast, smart solos diversify – for real – both in fees charged and products and services offered. As to fees, most solos offer a variety, from billable hour to flat fees to phased fees (flat fees for different phases of a protracted process) to value based billing or reduced fees with success bonuses and of course, the good old contingency fee. Different fee structures mean that clients can always find some service in their price range, which insulates us in a downturn. Few solos I know (myself included) who offer these varied billing structures have even had to cut rates much, if at all even in the midst of this economic turmoil.

Fees, however comprise only one component of diversification. Solos are also diversifying the products they offer, many times through leveraging existing expertise. For example, many family law or estate lawyers provide full service to clients, but also offer unbundled service to clients who can't afford or don't want more. Unbundled services diversify a practice and guard it against economic downturn, but it's also a form of leverage: because lawyers already have deep familiarity with certain practice areas, it doesn't take much effort to squeeze more value out of that knowledge by providing it in an unbundled package. [Tollbridge agreements](#) which provide a small service on an ongoing basis are another way for lawyers to diversify their revenue stream.

Diversification can also take the form of different side businesses. In my own case, in addition to my law practice, I generate a small amount of revenue from this blog (which I hope to increase over the next few months) as well as from work with a [trade association](#) that I formed. Some lawyers offer for-fee seminars on their practice area, coach other lawyers, [help them market law practices](#) or build [legal research and writing outsourcing services](#). Some even go so far as to [develop software products](#) or [other technology](#) that enable

lawyers to run practices efficiently. Some solos ghostwrite for other companies or even operate businesses totally unrelated to law practice (such as party planning or leasing companies) that bring in money without detracting from the practice of law.

So to my fellow solos, I say, “leverage thyselfes!” I’d say the same to biglaw, but I know that despite my inclusion as an [ABA Top 100 Blawg](#) (had to throw that in somewhere, but it’s the last you’ll hear of it), that there’s no one at biglaw listening to a solo like me.

Related posts:



1. [Ideas for the Firm of the Future + One: Diversify Your Offerings](#)
2. [Richard Susskind & The End of Lawyers: What It Means for Solos](#)
3. [How Tollbridge Businesses Can Provide An Annual Revenue Stream for Solo and Small Firms](#)
4. [The Whole Pig](#)
5. [Starting A Law Firm: Creating the Marketing Portfolio](#)

Can Outsourcing Innovation Make Biglaw Firms Heros?

I've been enthralled by the concept of large firms outsourcing innovation to small fry ever since I first [posted about the topic](#) in 2008. As I describe (very rapidly!) in my [IgniteLaw](#) presentation, outsourcing innovation is a win-win for both sides of the bar: the big firm gets the benefit of a new practice area at a low cost while the solos can attract a steady stream of revenue that enables them to get their practice off the ground. Outsourcing innovation can take lots of forms; in some ways it resembles the franchise legal services business model that [Professor Larry Ribstein](#) described in his [presentation](#) at Georgetown Law School's Symposium on [law firm evolution](#).

But in addition to the obvious profit motive for outsourcing innovation, turns out there may be a benevolent reason as well. This week's [Business Week](#) summarizes a talk by Harvard Business School competitiveness guru Michael Porter, who argues that corporate investment in small business in inner cities can "give purpose to capitalism and represent our best chance to legitimize business again."

Just as the public image of corporate America has taken a beating in the recession, big law too has lost its shine. Yet big firms are comprised of smart lawyers who like corporate leaders have much to offer. By outsourcing innovation to small firms and solos – for example, funding solos to devise innovative and profitable ways to deliver affordable legal services to the poor and middle class (instead of [just paying unemployed lawyers to volunteer for legal aid](#)), large firms could reap the benefits of new business models and help a new generation of lawyers in the process. What do you think?

Related posts:

1. [Why Not Outsource Innovation to Solo and Small Firms?](#)
2. [Outsourcing: It's Not Just for Biglaw](#)
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4. [Outsourcing to India, Three Years Later](#)
5. [Failing To Make Opinion Available on Outsourcing Is Just So ABA](#)



From Biglaw to Yourlaw

Law may be governed by precedent, but oh how soon we forget. Once upon, the behemoth law firm [Skadden, Arps, Meagher & Flom](#) was just a trio of fellows named Marshall, John and Les who had the crazy idea to hang out their own shingle. Yet now, forty years later, as the economy tanks and jobs in the [legal industry](#) decline and young associates yearn for better work-life balance, large firm attorneys rarely consider solo practice as an option. Why is that so? Below, I'll discuss some of those reasons.

First, many large firm attorneys never cross paths with a solo en route to their firm. How do I know? Because before I embarked on my own journey as a solo, I didn't know a single lawyer who opened their own practice. Moreover, many of the so-called top tier schools, from which the majority of large firm lawyers hail, don't just lack resources or information on starting a law firm, but indeed, regard solos as a strange species from another planet. One reason why starting a firm eventually became a reality for me was sheer happenstance: I'd met a solo energy lawyer who worked opposite to me when I was at a federal agency, and saw that it could be done. It wasn't until I actually opened my firm and got it up and running that I discovered the [hidden network of underground solos](#) that I'd never noticed before.

Though the blogosphere has done much to bridge the gap between large firms and solos in the profession, its reach still hasn't yet spread that far because we follow different sites. Most large firm attorneys favor blogs like [Above the Law](#) or [WSJ Law Blog](#), while most solos read the multiple blogs on starting a firm as well as lots of the so-called thought leaders in the marketing, social networking, entrepreneurial and high tech circles (I can furnish my faves if you're interested). Even though I've been blogging at MyShingle for almost six years and it's my flagship site, I'm surprised that among my biglaw buddies, I'm better known for my postings at [Law.com's Legal Blogwatch](#). Parallel universes, a colleague recently observed.

Second, myths abound about independent practice – from both the biglaw and solo side of the sphere. Many at large firms assume that solo lawyers are scraping by or representing clients who can't afford to pay. And while that's true in some cases, many solo lawyers make out quite well, especially if you factor in the number of hours that they work compared to their large firm colleagues. As for some of the resources available on starting a firm, many do not address the issues unique to former biglaw attorneys who seek to open a practice. I know that when I started my firm, Foonberg's classic, [How to Start and Build A Law Practice](#), while incredibly useful for nuts and bolts (plus, reading it made me feel part of the solo tribe), the book didn't resonate with me since I realized that joining a local rotary club or chatting with my accountant wasn't going to help me build my practice. In fact, that's part of the reason that I wrote [Solo by Choice](#): to discuss ways to move from a large firm to independent practice.

Truth is, like anything else, moving from biglaw to your law comes with pros and cons, some of which I've listed below:

Pros:

–**Practice Area:** At biglaw, you've probably developed a useful practice area expertise in matters such as complex litigation, regulatory issues, insurance or defense side employment for which you can command high rates. Let's face it, it's easier to get a practice off the ground when you can handle matters for the types of clients don't flinch at a \$20,000 retainer.

–**Lower Rates** Many new biglaw to solo lawyers report that if they're able to take just a single client with them, that client will typically send much more work than it ever did when the lawyer was at biglaw. The reason should be obvious: you can probably charge 50-75 percent of your large firm rate and still come out better off. Use these "anchor" clients to your advantage and come up with long term arrangements to lock them in at a lower rate to give yourself a stream of revenue in the early months.

–**Possible high end contract work** Even if you can't find any clients in your practice area, you may be able to provide of counsel or high end contract work (i.e., at rates of 3-5 times the document review price) to other firms. I should note that even in the waning economy, it is virtually impossible to large firms to outsource specialized work. (though you might try to convince law firms to outsource innovation to you – an idea that occurred to me after seeing this post on how countries are [outsourcing innovation](#) to the US (HT [www.twitter.com/lizstrauss](#))

–**You Stand Out:** As I said at the outset of this post, many biglaw attorneys couldn't even name three solos in their community. And in moving from biglaw to yourlaw, that's a good thing because you have a built in

source of referrals. Likewise, if you clerked for a judge and have a good relationship, he or she may have cases to refer as well.

But your referral pool isn't limited to your high-fallutin' contacts. You probably know plenty of administrative and tech staff from your firm who may need help or have friends who do. My very, very first case was referred to me by they guy in our firm's copying office, who had a colleague who'd been arrested for fare evasion.

–Good financial footing Having worked at biglaw, you may have been able to save a bit of a nest egg, or at least make a considerable payment down on loans. And if you negotiate wisely, you can probably come up with even more cash to get started. Many of the firms laying off associates or deferring start dates are offering decent sized severance packages, with 3-6 months of pay. Add that to unemployment (yes, you should apply for unemployment – you are entitled) and vacation time, and negotiate benefits such as firm payment of COBRA or bar dues for the year, and you've got a nice financial cushion to ease stress during your first few months.

–Lots of options – It may not seem like it now, but as a large firm lawyer starting a firm, you have a safety net. The economy travels in cycles, and I've seen times like this before during the course of my 20 year career. It always picks up. So if you start a firm and it's not for you, in most cases, you can always go back to the biglaw track. Don't listen to what others tell you about how hard it is to return to a large firm – I've seen lots of people do it. In fact, that was my plan when I started my firm in 1993- to create my own practice and avoid a gap on my resume while I rode out the recession. But 15 years later, I'm still here.

Cons

No one to show you the ropes: When you start a firm out of biglaw, you won't know other solo attorneys who can recommend the best way to get yourself on the court appointment list or where to find cheap office shares (if that's the route you decide on) or who's the cheapest malpractice insurer. For that, read my tips on finding your way into the [hidden network of underground solos](#).

Moreover, you'll find that biglaw practice lacks the collegiality of the solo and small firm world. Whereas if you call a solo or small firm lawyer to help you out with a filing, they'll likely send you a sample or mark up your draft, unfortunately, most of your former colleagues at biglaw won't share as nicely.

No real practice experience:

Here, try taking local courses sponsored by pro bono organizations – you'll find them on topics like bankruptcy, family law and trusts and estates. You'll meet other people in the class and learn what you need to do from practitioners.

Clients don't always want solos Those who aren't familiar with the irrationality of biglaw large corporations (staffed with former biglaw attorneys), don't realize that many times clients simply do not want to hire solos. As someone trying to promote a biglaw practice, you will find yourself competing head to head with large firms and often losing out, no matter how hard a sell you give on client service or lower costs. For many former large firm lawyers, this phenomenon can be demoralizing, but hey, it is what it is. And instead of complaining about the problem, as some are inclined, find a way to cure it, for example, by teaming up with other independent lawyers to bid for a client.

The Money Many former biglaw solos do well, often exceeding their biglaw associate salary within 2-3 years out (more if they change practice areas completely, less if they bring an anchor client). But, if you worked at a large city firm where partners are taking in \$1 to \$2 million/year that kind of income may be hard to match. It's certainly not impossible, but if that kind of money is important, you may find yourself frustrated in your own practice.

Please chime in with comments if you have anything more you'd like to add to this conversation. And if you want to be inspired, see [this past collection of posts](#).

Related posts:

1. [LAST CALL for Biglaw to Yourlaw.](#)
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3. [Can Small Fry Catch Big Clients? That's My Shingle's Raison d'Etre](#)
4. [Would Biglaw Pay More to Help A Legal Aid or Solo Attorney?](#)



Solo Snags A Client from Biglaw Firm Willing to Work for Free

It's always inspiring to learn about a solo who snags a plum client in a well-publicized case. But the accomplishment is even sweeter when the solo beats out a major law firm that – get this – was willing to work for free.

Though this kind of scenario doesn't occur as frequently as many solo boosters would have you believe, it does happen – and in fact, just did. Yesterday, the City of Harrisburg voted to retain Bryn Mawr, Pennsylvania solo bankruptcy practitioner, [Mark Schwartz](#) to represent the City in filing for Chapter 9 restructuring, according to [AmLaw Daily](#). Back in 2010, when the City first considered the Chapter 9, it interviewed a number of firms, including mega-firm [Cravath](#) to advise on a potential filing. But with rates ranging from [\\$345 an hour for associates to \\$975 for the lead partner](#), Cravath's fees proved too rich for the City, which had received lower priced bids from Pennsylvania firms. Undeterred, Cravath offered to [handle the work pro bono](#) and won the job.

But in the end, Cravath couldn't keep the work. Instead the City council chose Schwartz, who agreed to reduce his \$575/hr billing rate to \$300/hr, because it wanted a lawyer who could focus solely on the bankruptcy and who was also familiar with Pennsylvania's constitution and inner workings of the state government. Moreover, even though Cravath's lawyers worked for free under its pro bono arrangements, the City was still required to pay costs, which amounted to a whopping \$34,000. With expenses like that just for background research, the City probably figured that for the price of expense account meals and...(and, what else? What kind of project could run up \$34,000 in costs unless it involved a month of international travel?), it could get a month's worth of legal work out of Attorney Schwartz.

The timing of this story couldn't have been better, as it comes at a time when I've had some doubts about solos' ability to compete with big firms that will undercharge to get a client through the door. For example, as I noted in my column at [The Xemplar](#), one AmLaw 100 firm has offered to handle incorporations for companies for \$250 – which granted, is more than Legal Zoom, but probably far less than what an average priced solo would charge. The City of Harrisburg's decision to hire Schwartz shows that there's still a market for reasonably priced solos with bespoke talents. And also, when clients go with a big law firm that promises a free ride, they get what they pay for (second class status). As the City of Harrisburg learned, there's no such thing as a free lunch – except the lunches that the Cravath partners feasted on, courtesy of the City.

Related posts:

1. [Free Foreclosure Training for Maryland Attorneys/Why Pro Bono Is A Win-Win](#)
2. [Even As Biglaw Gets Bigger, Opportunities for Solo and Small Firms Remain](#)
3. [Please Don't Call This Pro Bono](#)
4. [Small Firm Does Pro Bono](#)
5. [A Law Firm That's Out of This World \(at least, its fees are\)](#)



Why Biglaw Billing Is Like Brown M&M's

In the context of \$201 million in legal fees, a superfluous \$1600 charge — for a fancy dinner and reading a newspaper article — is chump change, something that wouldn't have registered a blip on the client's radar screen but for this [New York Post](#) article. Yet while the monetary value of the \$1600 charge may not be great, the symbolic value is enormous because it stands for everything that's wrong with the way that biglaw bills clients.

First, a bit of background. A few days ago, the [New York Post](#) ran a story on the “legal billing blitz” stemming from Ground Zero worker lawsuits. According to the report, firms like [McDermott, Will and Emery](#) and others hired to represent the City owned WTC Captive Insurance Company, ran up a “blizzard of charges” totaling \$201 million, including items like:

\$409: Call to Captive CEO and “read article in New York Post.”

| \$1,252: *Dinner for eight at Giovanni Ristorante in Midtown after court hearing.*

Frankly, if this firm represented me, I'd fire them. Why? First, because a lawyer who isn't reading several dozen newspapers and blogs daily through a newsfeeder – and instead, reads these materials only when they're billable – lacks curiosity and initiative — two traits I value in a lawyer. And a law firm that would make clients pay for a lavish meal that the lawyers themselves could have readily afforded themselves has such a sense of entitlement that it's willing to put its own interests before those of its clients.

Small actions often have big meaning. Perhaps the best example of this is the popular (and true) [story about the rock band Van Halen and its “no brown M&Ms” standard contract clause](#). Under the terms of Van Halen's contracts, venues hosting the band's concerts were required to provide a bowl of M&Ms backstage, *with all of the brown M&Ms removed*. The “no brown M&M” clause was typically buried in a huge contract that contained pages and pages of other technical requirements that the band needed in place for its performance to run smoothly.

The ban on brown M&Ms wasn't about the band members acting like divas, but rather, as explained by David Lee Roth, served an important function:

So when I walk backstage if I saw a brown M&M in that bowl...well, line check the entire production Guaranteed you're going to arrive at a technical error. They didn't read the K guaranteed you'd run into a problem. Sometimes it would threatened to just destroy the whole show. Something like, literally, life-threatening.

A few brown M&Ms isn't much in the greater scheme of things – but for Van Halen, they served as proof that show organizers couldn't be trusted to follow directions. Likewise, \$1600 hardly amounts to anything when it's buried in \$201 million worth of law firm bills. But it speaks volumes for the way that biglaw treats its clients. Just like it took a single straw to break the camel's back, or a single brown M&M to throw David Lee Roth of Van Halen into a rage, perhaps this \$1600 charge will make big firm clients wake up and realize that large firms are so myopically focused on billing that they can't even think for a non-billable second what those bills say about the firm, its values and its treatment of clients.

Related posts:

1. [Hey Lawyers – What Ever Happened to Value Billing For Legal Services?](#)
2. [Boo to the Billable Hour: A Book Review](#)
3. [Billing Methodologies Don't Act Unethically. Lawyers Do.](#)
4. [Billing Alternatives For Solos](#)



Boutique Practice: Leaving the Land of Loss Leaders

The twenty-first century version of [loss leaders](#), big-law style, is nothing more than old fashioned price cutting wars, observes Toby Brown at [Three Geeks and a Law Blog](#). A loss leader refers to a pricing strategy whereby a product is advertised below cost to lure customers in the hopes of selling them more profitable, big ticket items. As Brown points out, biglaw's so called loss leaders – deeply discounted M&A deals and large dollar, complex litigation cases — are in fact, nothing more than big-ticket items being passed off at bargain basement prices. Rather than stimulate clients to spend more money as is the case with a true loss leader, discounting big ticket items only gives client a continued expectation of lower prices. As Brown puts it:

This is akin to the car dealer selling Escalades at a loss, hoping you'll buy ... maybe some nicer wheels? Law firms using this technique are expecting the customer to be so happy they come back next year and buy another Escalade – at full price. The likelihood of this: Zero.

Of course, some big firm lawyers are abandoning the loss leader. How so? By leaving the land of the loss leader entirely and starting their own boutique practices, as described at [Law.com's Small Firm Business](#). Many of these lawyers want to provide better value to clients – not just in the form of superior service, but also at lower, more flexible rates. And they aren't able to do so in the confines of biglaw. From the article:

If the lawyers who started their own firms had different personal reasons for leaving their old firms, their business rationales are nearly identical: It's all about value. The recession has increased clients' price sensitivity, creating an opening for smaller firms with lower, more flexible costs. Boutiques cater to cost-conscious clients by lowering overhead expenses, slashing rates and offering alternative fee arrangements, while providing the same legal services that their founders offered at their old firms.

Once free of biglaw's overhead, bureaucracy and love affair with the billable hour, these lawyers are free to come up with pricing mechanisms that are at once more creative and lucrative than the loss leader. In fact, matters like litigation, which many lawyers believe are toughest to “flat fee” - are actually the easiest to price, according to former Shearman partner, Steven Molo, now principal at [Molo Lamken](#) had this to say:

“Trials are the easiest things to budget for,” Molo says. “If it's an eight-week trial, you can charge a client a flat fee per week.” Clients then make bonus payments depending on the trial result or the amount of settlement. “From the client's perspective, it makes all the sense in the world, because they know going into something what it's going to cost,” says Molo. He used alternative fee arrangements occasionally at his former firms, Molo says, although it was more difficult because the larger firms were more dependent upon the billable hour.

Not all boutique lawyers save costs through flat fees. Some of the lawyers mentioned in the article have cut their billable rates by as much as 40 percent, moved to cheaper office space in the suburbs and rely on contract lawyers instead of full time, high cost associates. Other lawyers have changed the way they practice; for example, culling arguments to streamline litigation instead of adopting a scorched earth, no holds bar approach for every matter.

As these new boutiques thrive, many other large firm lawyers may decide to take the same approach. After all, why work for a loss at someone else's firm, when you can win big on your own?

One cautionary note: biglaw attorneys considering this approach may want to act sooner rather than later. After all, you never know when the [bar might change the rules of the game](#).

Related posts:

1. [Some Real Numbers for How Much Should A Solo Lawyer Charge](#)



Upstart Outsmarts LegalZoom

If you thought that lawyers couldn't effectively compete with low-end, quasi-legal providers like [Legal Zoom](#), think again. There's a new upstart service, aptly named [Upstart Legal](#) that's come up with one formula to take on non-lawyer alternatives.

The brainchild of attorney John Gerber, UpStartLegal.com offers a web-based, legal package that gives entrepreneurs the legal documents they need to start and run their businesses reports the [Philadelphia Business Journal](#). The package, [which costs \\$395.00](#), includes LLC formation, non-disclosure agreements, federal and state tax identification number registration, service contracts, partnership agreements and ~~subcontractor agreements~~. While ~~Upstart Legal's package~~ costs slightly more than than Legal Zoom's [Express Gold Service](#), it includes the same key materials, plus the added assurance of quality control by an attorney with twenty years of experience with start-ups.

From a consumer perspective, the upside to using UpstartLegal is clear. But lawyers like Gerber benefit too. Because UpstartLegal [leverages Gerber's experience and knowledge](#) and automates the preparation process, the marginal cost of adding the service (after the start up costs of set-up) is close to zero. Meanwhile, Gerber ~~gets the opportunity to capture start-up clients that~~ could not otherwise afford his service. And at some point, these companies might grow up and graduate to using Gerber's full service firm, Gerber Legal.

Lawyers can try to [sue companies like Legal Zoom](#), but competition from non-legal sources is not going to go away. As I wrote over five years ago, rather than try to beat these companies into submission, lawyers should find ways to ~~compete with them~~, and let market forces handle the rest.

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3. [Can Small Fry Catch Big Clients? That's My Shingle's Raison d'Etre](#)
4. [Hey, Legal Malpractice Insurers – How 'Bout a Little Help to Us Solos?](#)
5. [Do They Always Dance With the One Who Brought Them?](#)



Some Real Numbers for How Much Should A Solo Lawyer Charge

You've heard all of the advice on setting rates for your services before. Stuff like,

Pricing is an art, not a science.

Don't charge less than every other lawyer in town.

Price your knowledge, not your time.

All great advice, if you only had benchmarks. But where to find them? You can ask what others charge on a listserv without risking violations of price-fixing or antitrust laws. Having a friend call around to other firms seems underhanded, and is most likely unethical since it's a deceptive practice. Looking on other lawyer websites isn't much help because lawyers don't post their rates. Of course, you could hire someone to help you set fees, but unless they've got experience in your geographic and practice area, they may not provide much value.

So here are some resources that might offer better guidance:

1. [Laffey Matrix](#) The Laffey Matrix lists rates available for recovery of fees under attorney fee-shifting statutes. Although the rates scale high and many courts [downgrade or reject Laffey rates](#), it provides a context for demonstrating the reasonableness of your rates to clients.
2. [Rate Driver](#) RateDriver is an app that churns out hourly fees based on practice area, city and size of firm. The app, which costs five bucks, is based on data collected from an analysis of \$4.1 billion in legal invoices generated by over 3500 law firms between 2007 and 2009. Though skewed towards bigly practice areas, I've found that RateDrive will generate fairly accurate results for solos if you (a) choose the associate rather than partner category for consumer-oriented practices or less than 8 years out of school (I know, very demeaning!) and (b) approximate the appropriate category of practice (e.g., choose litigation for family law, corporate and general for bankruptcy, etc...).

The drawback to these resources is that they work only for hourly billings. Here are some ideas for flat fees:

[Flat Fee Family Law Calculator](#) Developed by Massachusetts small firm lawyer, [Gabriel Cheong](#), this calculator is a masterpiece. Not only does it generate flat fees, but it shows the items that inform the rate, raising it up or down. Even if you don't practice family law or if Gabriel's fees don't work for your practice or geographic area, check out this calculator to gain an understanding of the mindset for setting flat fees. Kudos to Gabriel for sharing his calculator publicly.

Rate schedules – Many firms that handle flat fee commodity work offer rate schedules – like [Simplicity Law](#) or [Upstart Legal](#). You could even use [Legal Zoom's](#) pricing menus as a benchmark – because you may find that the service isn't as cost-competitive as the LZ advertising suggests.

Any other resources for real numbers on what lawyers charge? Send them my way

Related posts:

1. [More on Lawyer Rates](#)
2. [Can An Hourly Rate Ever Be Excessive?](#)
3. [Real Life Marketing Lesson: Are You Charging Clients Like American Airlines?](#)
4. [Bill Less and Prosper!](#)
5. [Some Open Questions for Flat Fee Aficionados and Ethics Gurus](#)



Your Realization Rates May Make You Realize That Flat Fees Often Make More “Cents”

As a solo or small firm lawyer, you’ve probably heard the term “involuntary pro bono.” That’s what happens when you sign up to take a case, collect a retainer, exceed the retainer and the client stops paying the bill on the eve of trial when it’s too late to pull out.

Well, turns out that big law has the same problem, different name. As bloggers [Tom Kane](#) and [Patrick Lamb](#) discuss, large firm realization rates have dropped to an all time low, with big firms collecting just 85.4 percent of revenues billed. As Allison Shields [astutely observes](#):

When lawyers write off or write down their fees – or when clients pay only a portion of the lawyer’s bill, aren’t both lawyer and client saying that the hourly fee really doesn’t mean anything, and that there is a particular (fixed) fee that is ‘fair’ for the work?

Ironically, the reason that lawyers resist flat fees is because they’re afraid that they’ll be shortchanged – for example, that they’ll charge \$10,000 for a matter that ultimately takes thousands of hours. And while that’s a risk, so too is the possibility that clients won’t pay their bills in spite of the [best precautions](#). And while some clients simply won’t pay because they’re cheap, others run out of money because their lawyer never offered an honest evaluation at the outset of how much the case might cost.

Somewhat counter-intuitively, flat fees give lawyers more control – not so much over the duration of a case, but rather, over the amount of work that the lawyer will perform. Let’s say for example, that a lawyer agrees to represent a client in a divorce proceeding. The lawyer could assess a fee that would specify that it covers the hearing and up to three contested disputes that might arise in the course of the case. If the opposing counsel (or your own client for that matter) decide to pursue a scorched earth policy and litigate every single discovery response or issue arising under the separation agreement, that activity would fall outside the scope of the fee arrangement and would cost extra. By contrast, if the matter is resolved with just one hearing, the lawyer would come out ahead. And if the matter involves three hearings, the lawyer will at least recover a fee that he or she was willing to accept under the agreement.

Now, imagine how this scenario would play out without deliverables and price specified up front. The lawyer would (in many instances at the client’s direction, no less!) file five or six motions, the client would run out of cash after the fourth and the lawyer would be stuck. Or, the lawyer would file a third motion but the client didn’t realize at the beginning that the case would involve so much time and still runs out of money. Or – even in a best case scenario where a client can keep pace with payments, the lawyer would find himself nagging the client on a monthly basis to replenish the retainer.

I’m not suggesting that flat fees work for all cases because they don’t (one of my colleagues who handles complex and unpredictable litigation matters experimented with [phase fee billing](#) with mixed results). In my own case, I’ve had problems with fixed fees where I’ve quoted a certain rate and but then outsource work to a freelancer or paralegal who works hourly and whose rates don’t necessarily align with my budget. Still over all, I favor the flat fee as do my clients because it gives them certainty while it forces me to puzzle through the intricacies of a case at the beginning so that the case runs more smoothly.

For those of you who have written off the idea of flat fees, take a look at your realization rate. You may just realize that you won’t fare any worse – and at times, may come out ahead – with a flat fee rather than hourly billing.

What’s your experience with flat fees and hourly billing? In particular, I’d be interested in hearing how solo/small firm realization rates compare to the 85.4% rate reported by [larger firms](#). Please post comments below

Related posts:

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2. [Some Open Questions for Flat Fee Aficionados and Ethics Gurus](#)



Pay for the Product, Legal Service is Free or Pay for the Legal Service, Product is Free?

In my [last post](#), I discussed different types of freebies that lawyers offer as incentives to encourage existing clients to send or refer more work. But lawyers — and quasi-legal providers like Legal Zoom — are also using free to generate new clients.

Many lawyers — from solos to behemoth firms — are giving away forms and templates free in the hopes of selling their services. As I posted [here](#), large firms are offering small business toolkits replete with forms and term sheet generators at no charge. The firms figure that most start-ups aren't going to be able to afford any law firm, much less a mega-firm. So rather than offer service for free, which can be a costly proposition, the firm makes available high quality forms which don't cost anything to replicate once they're developed. Clients who use these forms are more likely to seek out the firms' assistance when they're ready to hire. And because those clients bring forms that the firm prepared, the firm can help them more efficiently than if it had to revise someone else's DIY product.

Of course, it's not just mega-firms that give away forms; many solos offer forms free as well. Sam Glover makes free debt collection defense and FDCPA forms available on his [Caveat Emptor](#) blog while my free [e-book on Landowners' Rights In a FERC Pipeline Certificate Proceeding](#) includes several sample interventions that landowners can copy and file at FERC. Making forms available not only increases the likelihood that landowners will hire me when they reach a critical point in the process, but it also ensures that when they come to me they've preserved their rights so that I can actually aid them effectively.

There's nothing to lose in making forms available for free. For starters, as the cost of production approaches zero, consumers will be able to find forms free at any site — so it might as well be yours. Six months after I published my Landowner Guide, FERC (to its credit) has made available some fairly detailed sample interventions as well. Moreover, many of the consumers who seek out free forms either because (1) they have no intention of hiring a lawyer in which case you won't get the work anyway or (2) they want to learn more about what is involved in the process, and will hire a lawyer if a form is too complicated to manage on their own.

On the flip side, [Legal Zoom](#) is taking the opposite approach to free. With Legal Zoom, consumers pay for the form (and assistance filling it in) — but for some of the LZ services such as [wills](#), a lawyer's assistance is included for free (well, for an extra ten bucks along with other upgraded services). So basically, LZ customers pay for the product and get the service free.

It's always been easy to write off clients who go to Legal Zoom, since most likely they were never willing to pay for attorney services anyway. But now that LZ is giving away legal service, some of the clients who may have been willing to pay a lawyer even if it posed some financial hardship will look to Legal Zoom instead.

As I see it, lawyers have two choices. First, lawyers can simply refuse to compete with free by mastering their practice area so as to capture the market for the kinds of bespoke, tailored services that simply can't be provided at no charge (just as a specialized, solo bankruptcy lawyer [snatched a plum matter from a big firm](#) working largely pro bono). Otherwise, lawyers need to accept that they're going to have to give something away to compete with Legal Zoom or with other lawyers who are doing the same. Lawyers don't necessarily have to give away forms free — they can offer free consultations to discuss options with clients; maybe even agree to review, for free, DIY documents and make recommended changes (for which clients will need to pay). Lawyers can even develop high quality forms and give away the service — for example, answering questions — as part of the package.

But at the end of the day, lawyers who don't have a bespoke option on their menu need to, every once in a while, offer a free lunch. To paraphrase New Hampshire's state motto, in world where clients are accustomed to powerful tools like Google Voice and dropbox and Gmail all at no choice, lawyers just may have to give free [legal services] or die.

Related posts:

1. [Ohio Bar Won't Allow Lawyers to Say They Offer Cut Rate Service](#)
2. [A Great Pro Se Idea](#)



How Cutting Costs Make A Difference in Your Bottom Line

Most solos realize that cutting overhead can substantially increase our bottom line. That's why increasingly, many solos favor [virtual offices](#) over costly downtown space, or prefer to outsource projects to deal with short term work spurts to avoid adding new staff. But if you're still not convinced that cutting costs can make a real difference in your income, consider the example of [Google](#) (disclosure: my husband is a Google employee). According to this [news item](#), even in this tough economic climate, Google managed to increase revenues and profits by slowing recruitment (hiring 519 people compared to 2130 the previous quarter) and downsized some of the selections in the free employee cafeteria (though if they have, my husband hasn't really noticed).

Of course, cutting too much from the budget can hurt you in the long run. Below the jump are some suggestions for where you may be able to cut:

1. Office rental: If you're having trouble making rent each month, maybe it's time to revisit that expense. Moving from an office rental to a home office or home and virtual arrangement can save several thousands of dollars a year, not to mention the stress and worry of paying rent each month. For some lawyers, the home solution isn't feasible because of lack of space or feelings of isolation, while others may use the office just enough that a per-diem office arrangement wouldn't represent any real savings.

Alternatively, perhaps your office is large enough to accommodate two desks and your landlord will let you share your space with another lawyer – for instance, you'll take Mondays and Wednesdays, your sublessee can have two other days and you can trade off the last. The arrangement will cut your rent in half and create a good deal for another lawyer. Just be sure that if you adopt this approach, that you secure your files and don't share computer equipment.

2. Malpractice Insurance Back after 9/11 in a similar economic climate, I opened what I thought was my renewal letter and discovered that my insurer was going out of business, and the company to which my account would be transferred was planning to double my rates. By then, I had joined Solosez, and after asking around, collected rate estimates from a few companies, including CNA. The CNA coverage was even less than I'd been paying under my original policy, plus gave me more coverage with a smaller deductible! I've been with CNA ever since, and have recommended the company to other lawyers.

Even if you can't find a cheaper insurer, there are other ways to lower your rates short of dropping the policy entirely — which incidentally, is not a wise choice in these troubled times, when clients are all too eager to sue or grieve lawyers who achieve poor results. For example, you could increase your deductible or perhaps, lower coverage limits if you still feel sufficiently comfortable with the resulting added risks. Don't, however, drop the component of coverage that provides representation in grievance proceedings. Again, in times like this, clients are more likely to grieve lawyers, and you don't want to find yourself naked, without representation before a disciplinary committee.

3. Staff I know that in this climate, no one wants to cut employees. But if the choice is between paying your employee's salary or preserving the economic viability of your law firm, you need to choose the latter.

Many experts recommend cutting the ties with an employee entirely rather than trying to offer accommodations such as part time hours, since the employee could retaliate and do damage on the job. You'll have to use your judgment here as to whether cutting back hours will work for a given employee. If you feel you need to make a clean break, but you still have administrative tasks that you can't manage on your own, you can hire a virtual assistant or part timer to fill the gaps.

4. Legal Research Costs: These days, lawyers need some kind of computerized legal research service, but unless you specialize in legal research and writing or handle a large volume of complex federal matters, you can probably get by without top of the line service. These days, many state bars offer research packages like Casemaker, Versuslaw or Fastcase as a free or nominally priced benefit of membership. For most lawyers, particularly those with exclusively state practices (I still don't full trust the comprehensiveness of the federal district court databases on any of these sites, though they've improved considerably), these low end tools, supplemented by a visit to a law school or public library to use the free Westlaw kiosk, should suffice.

As for lawyers who require specialty databases (in my case, energy regulatory), consider single library

subscriptions which give much of what you need day to day. Or if you can't get by with less than the best, see if it's possible to pair up with another solo to split an account.

5. **Marketing Costs** A downtime is certainly NOT the time to cut down on marketing costs. But, it is a terrific time to review the results you've obtained from past efforts. If, for example, you spend \$400/month on Google search terms and never snagged a single paying clients, drop the service. Or perhaps you're spending a couple of hundred dollars a month on lunches and bar networking events, again, without much result. Why not turn lunch into a cup of coffee (much cheaper) or invite a group of people you want to meet to low priced happy hour or a brown bag presentation at your office. You'll get to reconnect with colleagues and save yourself the price of a bar event where you likely come away empty handed. And review all of the bar dues that you pay — some may not yield much of a return, so now's the time to withdraw. You can always return when business picks up again.

6. **Supplies** As a solo, you may not buy enough of anything to really save on supplies – but at least, you can find ways to reward yourself a little. Sign up for incentive programs at stores like Staples or Office Depot, or take advantage of coupon programs on line. Every few months, you'll get coupons or gift certificates that will let you splurge on something for yourself or your staff.

7. **Technology** There are many, many free applications available online from project management web apps to billing to word processing programs. Some may not be at all adequate for your needs, but others will help fill the gaps until cash starts to flow. Take the time to see what's out there before thumbing your nose at it.

8. **Make Due** Yes, you want to upgrade to the new version of the iPhone or junk your laptop because the battery doesn't last as long as it once did. Do you need to make those changes now, or can you get by until the economy picks up? For example, while laptops are cheap, you can cure the battery problem by simply buying a second battery which is less expensive than a new machine. As for the new phone, will looking cutting edge really increase your business? In some practice areas it might, but in others, clients simply don't notice.

The same goes for clothing. If you work from home, you really don't need all that many suits for work. You may grow tired of wearing the same outfit several times a month, but if you're not seeing the same people, no one will notice.

These are just some suggestions – you, my readers, most likely have many more, so share them below.

Related posts:

1. [Malpractice Insurance: Don't Start Practice Without It](#)
2. [Why Sponsorship on Lawyers.com Is Not Worth \\$900/Month](#)
3. [Complete v. Cobble v. Cutting Edge: Law Practice Management in the 21st Century](#)
4. [A Home Office Still Needs to Be An Office](#)
5. [Would You Hire An Unemployed Lawyer As A Volunteer?](#)



A word cloud of design and marketing terms. The words are arranged in a roughly circular pattern, tilted at various angles. The largest word is 'Marketing' in a bold, pink font. Other prominent words include 'design', 'advertising', 'flyer', 'business', 'concept', 'webdesign', 'designer', 'communication', 'pixel', 'arts', 'website', 'CMYK', 'modern', 'graphic', 'decorative', 'creative', 'poster', 'model', 'form', 'sketch', 'picture', 'internet', 'idea', 'world', 'style', 'frame', 'project', 'software', 'target', 'printing', 'paint', 'engineering', 'fashion', 'drawing', 'dream', 'modeling', and 'perspective'. The colors of the words vary, including shades of pink, green, yellow, and grey.

How Grunt Work Can Get You Grand Work

Conventional wisdom recommends that lawyers involve themselves in organizations like bar or trade associations — either by joining the groups or offering to speak at events — to demonstrate legal and leadership skills and build relationships with colleagues and potential clients through regular contact. Trouble is that this advice is easier said than done. Most bar associations are already top-heavy with lawyers, and plum speaking engagements typically go to those with long tenure. Likewise, lawyers have infiltrated many trade associations, so much so that there's a waiting list even for lawyers willing to speak for free.

So what's a lawyer to do to get a foot in the door? The answer may surprise you. Instead of pitching your legal services to a group, you're better off volunteering to do the scut work. For example, many associations don't have a list serve or easy way to communicate with members. As Jonathan Stein describes in this [GP Solo article](#) (September 2011), it's simple to set up a listserv using free, out-of-the-box tools. Though Stein talks about creating a listserv for a group of colleagues, his tips are equally relevant to a lawyer who seeks to start a list for an existing organization.

Another option to get some visibility within an organization is to volunteer to set up and manage a website, blog, electronic newsletter or Facebook page. Surprisingly, even as social media has gained traction, there aren't many lawyers who have the ability to set up a website or blog or social media presence. If you can offer these skills, you'll make yourself indispensable. In fact, one reason that I was able to get in on the trade association that I co-founded, the Ocean Renewable Energy Coalition (OREC) is because I was able to set up the organization's website, which took the group through its first two years.

Doing grunt work doesn't just give lawyers a way to contribute to a group but puts you at the center of the action. When you run the website, other members of the organization need to be in touch to send postings or share information on upcoming activities. The frequent contact will keep you at the front of their mind for potential referrals.

Lawyers can also look to non-legal work to reach out to clients who are regularly bombarded with invitations to estate planning and long-term care seminars. Instead of sponsoring yet another legal educational seminar, why not sponsor an event on a related topic that will attract your target audience. So, for example, if you seek to represent elderly clients, how about holding a mini-class on how to use Facebook to stay in touch with family, or 10 Ways a Grandparent Can Use an Ipad with Grandchildren? A firm targeting small business clients, authors or entertainment industry clients could sponsor an event on marketing with social media. Of course, you'd still distribute your law practice materials and mention your practice, but the non-legal activities would draw potential clients in the door.

At one time, being a lawyer was a value add; a qualification that would get you on a non-profit board or trade association steering committee or an opportunity to present at a CLE. Now, with so many lawyers, from large and small firms, angling for work, many of these opportunities are no longer readily available. That's why lawyers need to consider non-law related ways to get in on the ground floor. Call it doing the grunt work, but your willingness to get your hands dirty can lead to far grander work in the long term.

Related posts:

1. [Diving for Lawyers](#)
2. [Guest Post, New York Bankruptcy Lawyer Jay Fleischman](#)
3. [Some New Networking Ideas](#)
4. [The Art of the Chart](#)
5. [Law Practice Building Idea: Join a Non-Profit Board](#)



Unleash Your Inner Scholar: Why Solos Should Write A Law Review Article

Seems that [ATL Editor David Lat](#) is concealing a dirty little secret [underneath his robes](#). As you know, by day, David toils as a mild-mannered blogger exposing the secrets of, and dishing out biting commentary on AmLaw 100 firms. But after hours, he busts out his secret inner scholar and transforms into a veritable [Volokh](#), authoring real published scholarly articles like [this one](#) or [this one](#) that have more words than readers.

While I have no idea what compels David Lat to dabble in legal scholarship (perhaps it's that same cleansing instinct that drives people to crave salad after a long junk food binge), writing law review articles makes sense for solos, particularly those who compete with large law firms or generate business from referrals from attorneys or judges. I fully recognize that the advice to write a law review article seems counter-intuitive at a time of [declining journal circulation](#) not to mention [diminished attention spans](#). Even so, allow me to make my case for the law review article in the most un-scholarly way possible: the [top ten](#) (or in this case, the top eight) list.

1. An endless source of content : You've heard the saying that content is king; the only food source that will sate the ever [ravenous search engines](#). At 12,000 words or more, packed with footnotes and case citations, law review articles offer an [everlasting gobstopper](#) of content for blogs, online publications and document archive platforms.

For starters, you can upload the article to your law firm website, as I did at my [site](#) with my recent law review article, [The Power of Social Media: Legal Issues and Best Practices for Utilities Engaging Social Media](#). To further enhance your article's online visibility, you can also post it at document archiving sites like [Scribd](#), [Docstoc](#), and tag your article with keywords that users might use in searching for information on the topic. If you're more interested in putting your article in front of other lawyers and corporate counsel, post it on [JD Supra](#), which will mention your article in one of its regular press releases, and also post it as part of the Legal Updates on LinkedIn.

But wait – there's more! Because most law review articles are so ginormous, you can hack 'em up into dozens of bite sized pieces that can be distributed around the internet. For articles of interest to corporate counsel, consider submitting a shortened version of your article to [Lexology](#), a web-based service that delivers legal analysis to corporate law departments. Other article publication options include trade association newsletters (often published online), one of law.com's many publications, [Huffington Post](#) or [e-zine](#).

If you prefer to build content on your own site, you can re-purpose a law review article as a series of blog posts. And if your article concerns a topic that's in flux – for example, an appellate decision pending Supreme Court review or an emerging area of law like online defamation or social media in employment law – you can produce a series of "pocket parts" (as I've done [here](#)) to continue to update readers about on-going developments.

2. An excuse to toot your own horn Lawyers will issue press releases on just about anything, from the importance of avoiding drinking and driving on New Year's Eve to announcing availability to comment on a case (As an aside, search the term "lawyer" [here](#) for the sublime to the ridiculous in lawyer press releases). But publication of a law review article, particularly one on a current topic or in a prominent publication could potentially justify a Press Release. If a press release is too much, you can still announce your article on Twitter, Facebook, Linked In and other social media channels.

3. Repurpose work product : In some of your cases, you may have an opportunity to brief a current issue where the circuits are split or even make precedent on an important issue. Rather than let all of that good research go to waste, you can quickly recycle the material into a law review article – and hire a law clerk or contract lawyer (see point #5 , below) for supplementary research or citations. Bear in mind that if you decide to write about research that you previously performed for a client, you should avoid commenting on any confidential issues unique to your client's case, writing about a case that's still ongoing or taking a position adverse to the one that you publicly advocated for your client.

4. Collaborate with a potential referral source or client If you're a new lawyer eager to impress an

experienced colleague in the hopes of attracting referrals, or angling to lure corporate business, use a law review article as a way to collaborate. It's a technique that worked for Mark Hermann while he was at a firm, and one that he [recommends](#) now that he's in-house. Co-authoring an article provides a tangible benefit to your prospect and gives them an opportunity to have a first hand look at your work product.

If you choose the co-authorship approach, though, you'll have to take the initiative and follow through on getting the article done. While some co-authors will happily shoulder their share of work and dutifully meet deadlines, others will expect a free ride. So be prepared to draft the bulk of the article, play taskmaster to ensure that your co-author provides timely feedback, and submit the article for publication. The co-authorship process can be aggravating, but when your co-authors will be beholden to you forever once they see their name in a byline.

5. Help out an unemployed law student, new grads or contract lawyer Even if you've already preliminarily fleshed out a topic, a law review article will still require research assistance in the form of literature searches, cite checking and footnoting. Many of these tasks are well suited for law students, new unemployed graduates or junior contract lawyers. For a few hundred dollars, you can finalize your research without losing work time and help out a law student or another lawyer with a little bit of cash, research experience and a print acknowledgment to add to their resume.

6. Impress those big law colleagues OK, I know that many of you solos don't give a hoot about what big firm lawyers think of you. And if you don't get any business from large firm lawyers, that's fair enough. But for many lawyers, particularly those who either [leave big law to strike out on their own](#) or otherwise work along side large firms, big law attorneys can serve as a lucrative source of [small case or conflicts referrals](#). But even if large firm lawyers know you via an introduction from another colleague or a bar event, they may not end cases your way without some assurance that you're capable of handling them. In these cases, the law review article can help vouch for your competence.

7. Change and influence the law Granted, with blogs and social media offering a platform for exchange of and exposure to ideas, law review articles carry less weight than they did years ago when [this article](#) that I authored served as the basis for legislative change a few years later. Still, many judges still look to law review articles to support judicial opinions that set new precedent so if you feel strongly about an area of the law that should be changed, a law review article offers that possibility.

8. Escape that inferiority complex Instead of constantly comparing yourself to "law reviewers" – either by boasting about how you're so great while they're slaving away as drones at big law, or claiming that they're a bunch of snot-nosed, self-entitled losers, just write a damn law review article and cure yourself of the green-eyed monster once and for all. You'll see that writing an article is basically the same thing as writing a brief, something you do everyday and that getting it published is even easier since journals are so desperate for content that they'll print anything with lots of footnotes (most law professors, it seems [would rather blog](#)).

So come on – you've already tried the pricey directories, the expensive marketing gurus and for-fee SEO. What do you have to lose by taking a walk on the wild side and letting your inner scholar hang out?

Related posts:

1. [Free Teleseminar December 15: From Big Law to Your Law, 3 Years Later](#)
2. [Choosing a new practice area: Consider family law](#)
3. [In House Counsel Looking for Deals...Why Not With Solos?](#)
4. [LAST CALL for Biglaw to Yourlaw.](#)
5. [What GCs Don't Like About Their Lawyers](#)



Two Different Business Models of Free – Frequent Buyer Benefits

As I mentioned in [Marketing by the Numbers](#) video, it's 11 times more expensive to generate new clients than to attract business from existing clients. Existing or former clients already know you, so you don't have to convince them to hire you. At the same time, because your clients are constantly inundated with marketing materials from other firms, unless you find a way to stay on their mind, they may not think to call you with a problem or refer you a case. [Newsletters](#) are one way to stay in touch, as are alerts on new legal developments and even birthday and [holiday cards](#). [Tollbridge agreements](#), *i.e.*, which are essentially service contracts for an annual review, will keep clients up to date on new developments. Also, if structured properly, tollbridge agreements can even generate a steady stream of revenue for your practice.

When it comes to plum clients who account for a significant percentage of your revenue, you'll need to up the ante by offering added benefits to reward extra expenditures and loyalty (consider it a frequent flyer program for law firms). Mark Hermann, biglaw partner-turned-inhouse counsel and [Above the Law](#) blogger raves about the [free quarterly meetings](#) provided by one outside firm handling a major matter for his company. The firm will fly its team to the corporate client's headquarters at no charge to meet both with the in-house counsel directly involved in the litigation as well as other senior managers who may have suggestions on ways to minimize costs or strategies to pursue. The firm doesn't charge for the quarterly meetings and covers its own travel costs.

Although Mark Hermann had never heard of this type of program before, other firms offer similar concepts. For example, Texas-based MWR Legal provides outside general counsel services to companies, which include [complimentary General Counsel Meetings](#) throughout the year as a forum to discuss new ideas and concerns, to brainstorm, or just to reconnect and touch base.

What freebies do you offer to keep your clients coming back with more business and referrals? Post your comments below.

Related posts:

1. [How Tollbridge Businesses Can Provide An Annual Revenue Stream for Solo and Small Firms](#)
2. [It's Never Too Early To Think About Starting A Business](#)
3. [In House Counsel Looking for Deals...Why Not With Solos?](#)
4. [The Whole Pig](#)
5. [FREE Webinar on Branding an Image for Attorneys](#)



Make Your Website More Inviting By Inviting Interaction

We may be living in a [Web 2.0 world](#) characterized by interactivity and user-generated content, but you'd never know it, looking at many lawyer websites and blogs. Most lawyer sites are decidedly first generation, serving either as glorified online brochures or a skeleton for SEO-keywords rather than offering a robust and multi-dimensional user experience. Though admittedly, adding interactive features as recently as four or five years ago required special programming skills and cost a pretty penny, today, free and low cost tools abound. And most of these tools are simple enough so that lawyers with average tech skills can install them on their own, or [delegate the work](#) for minimal cost to a virtual assistant or college student.

So let's get started. In the first part of this post, I'll describe some of the reasons that lawyers should consider adding interactive features to their websites. In the second part of the post, I'll catalog the different types of features available, and offer a couple of examples. Finally - because we're all lawyers here - I'll briefly identify some of the ethics issues to address when making a website or blog more interactive.

I. The Case For Increasing Interactivity

Interactive websites benefit both lawyers, prospective clients and the public. Some interactive tools help educate users. For example, [autoresponders](#) support education-based marketing initiatives by making it easy for prospects to sign up to receive a newsletter or an information-packed [e-book](#). Online quizzes and assessment tests enable users diagnose, at least preliminarily, whether they have a legal problem that warrants retaining counsel.

Interactive tools don't just educate clients, though. An action as simple as enabling comments on blog posts can help lawyers understand if they're getting their point across or help identify other concerns. Forms allow lawyers to gather preliminary information about clients even before they call for an appointment. And surveys can provide lawyers with feedback from clients that lawyers can then use to further improve their practices and quality of service provided.

Interactive tools also facilitate immediate responses. On-site chats, "call us" buttons and self-scheduling calendars let clients get in touch right away, while their matter is still urgent, to set up an appointment or get a quick answer.

Finally, if nothing else, there's a certain "gee-whiz" quality to interactive tools. They're just plain neat - and convey an air of sophistication to many clients, even though they're cheap and easy to implement. As a result, these tools will set you apart from the competition and impress clients and colleagues.

II. Types of Tools To Incorporate

There are literally, dozens of interactive tools and widgets that lawyers can deploy on their websites, with new ones frequently emerging. In this section, I'll identify some of the types of interactive tools that you might incorporate along with some of the examples that I've personally used or seen employed at other sites.

1. Comment Features

On the interactivity scale, comments rank fairly low. A comment section is most appropriate on [blogs](#); it allows users to participate in an online conversation about a post or ask additional questions. Most standard blogging platforms include comments as a default feature; however, you can also install a third party platform like [Disqus](#) to support comments. Third party comment platforms can make a comments section more dynamic, by enabling participants to receive notice when new comments are posted, and to reply directly to a specific comment. (I recently installed Disqus over at my home blog, [MyShingle.com](#)).

2. Forms

Emails are somewhat interactive - and indeed, most lawyers include an email address on their websites so that clients can get in touch. But often, emails invite lengthy rantings or omit important details that you may need to decide whether to pursue a client further. In contrast to email, forms provide a more effective means to gather preliminary information from a client because you can identify the information that you want the client to provide. Sometimes, that information may be as basic as their city and state so that you can figure out whether their matter occurred in a jurisdiction where you're licensed to practice. A form is also conducive to providing more explicit instructions; for example, you can include disclaimers next to certain questions reminding clients not to provide too many details to avoid compromising confidentiality.

Some blog platforms, such as Word Press, support [contact form plug-ins](#). Though my law firm website, [CarolynElefant.com](#) came with a Word Press plug-in form, my personal favorite is [Google's free form generator](#), which [you can embed in any website](#).

3. Autoresponders



Register to receive the password for access to MyShingle's gated content!

Name:

Email:

State where you practice:

I am currently : (choose one)

[We respect your email privacy](#)

Auto-responders do exactly what the name implies: they provide an automatic response to emails generated through a collection form that appears on the website. If you've ever been asked to complete an online form to register for a newsletter or to

download an e-book, you've probably seen an auto-responder in action. At left, you can see an example of an auto-responder that visitors to my home site, MyShingle.com use for [registration](#).

Because auto-responders send an automatic reply to users, they are more dynamic than forms, which simply capture information but require a manual response. For that reason, auto-responders are useful for distribution of educational content, like newsletters or e-books, because once a user supplies the information requested on the form, the auto-responder will automatically send out the ebook or newsletter without need for human intervention. In that way, an auto-responder can help lawyers control distribution of valuable materials - for example, you can, as lawyer Jay Fleischman describes at [LegalPracticePro](#), use an auto-responder to efficiently dispense information over a set period of time to keep your name in a client's mind. Auto-responders may also deter competitors from downloading your work since they'll have to use their name to retrieve it (true, they can create an alias name and email, but that involves an additional step).

One of the most popular and widely used auto-responders is [Aweber](#), which costs around \$200 annually. Aweber supports multiple releases and also includes templates that you can use to set up e-newsletters. [Constant Contact](#) is another inexpensive service for newsletter or event registration, with different pricing options starting at as little as \$15 per month. If you're not ready to commit financially, [MailChimp](#) offers a limited free auto-responder and newsletter service for up to 500 subscribers.

4. Assessment Generators and Quizzes

Should I Outsource Work To A Contract Lawyer?

NOTE: You do not have to provide your name or email to rec results!

Check each statement that was true for your practice during past two months:

I turned down or referred but more than 3 matters that I would have otherwise handled if I had the time.	<input type="checkbox"/>
I worked at least two full weekends and/or two evenings past 9 p.m. on a weekly basis.	<input type="checkbox"/>
I canceled two or more lunch dates with useful contacts, networking events or skills courses that are important to my practice that I would have attended if I had the time.	<input type="checkbox"/>
I posted four times or fewer to my blog.	<input type="checkbox"/>
I put off development of new marketing materials that I would have completed if I had the time.	<input type="checkbox"/>
I missed two or more family or social events because I was working.	<input type="checkbox"/>
I had to write off at least four hours of time a week due to writers' block or other productivity issues.	<input type="checkbox"/>
I failed to return client phone calls or emails within the period of time specified in my retainer letter because I was too busy.	<input type="checkbox"/>
I had to seek an extension of time to comply with a mandatory filing deadline because I was too busy to meet it.	<input type="checkbox"/>
I overlooked a filing deadline because I was so overloaded that I did not see it on my calendar.	<input type="checkbox"/>
Your Name: <input type="text"/>	
Your Email: <input type="text"/>	
Get Score <input type="button" value="Submit"/>	

Assessment tests and quizzes serve as a fun way to engage clients at your site by teaching them about the law. For example, you might create a quiz on the structure of the Supreme Court or the Bill of Rights as a public service to educate clients about the law. There aren't many online quiz creators, but one that is free and works for this purpose is Quibblo.com.

Somewhat different from a quiz about facts, an assessment test can also help clients determine whether they need to hire a lawyer. For example, a bankruptcy lawyer might create a test that asks clients about their ability to pay their bills or whether they are subject to pursuit by debt collectors, and assign points for each answer. Depending upon the number of points, the answer key might suggest that a client consider the bankruptcy option (as discussed in Part III, you'd want to include extensive disclaimers and caveats as part of the test, to avoid having a client believe that it constitutes legal advice).

The best out-of-the-box online tool that I've found for assessments is the [Assessment Generator](#). Robust and easy to use, the Assessment Generator lets users create five different types of assessment tests (the example above is one that I created [here](#) at MyShingle, that lawyers can use to evaluate their need for a contract lawyer). There's a free version of the Assessment Generator available; the more full-featured version costs around \$10 a month.

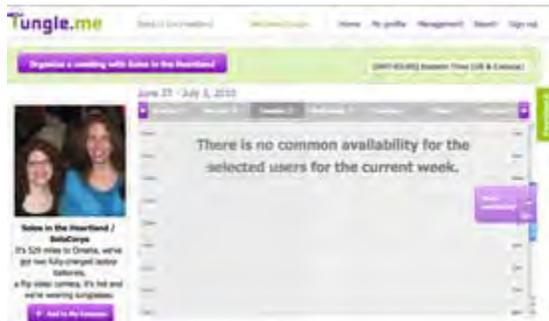
5. Surveys and Polls

Like quizzes, polls can entertain site visitors - for example, soliciting their opinion on anything from political issues (Do you agree with the President's Supreme Court nomination?) to personal

preferences (How many hours a week do you spend on Facebook?). Several blog platforms offer poll plug-ins, but you can also create and install your own with services like WidgetBox.com. With polls, users can vote and then see the results of the poll after voting.

Surveys are a little different from polls because users won't automatically see results. You might include a survey at your website for clients to provide you with feedback on your firm. In addition to using Google Forms (mentioned previously) as a basis for a survey, you can also try Wufoo or Survey Monkey, both of which offer a limited free option.

6. Online Scheduling



Are you losing clients because you don't have the staff to answer your phones and schedule appointments promptly? One interactive tool that can remedy lack of staffing is a do-it-yourself scheduling system installed at your site. Scheduling systems are basically an online calendar where prospective clients view your available openings and set up their own appointments. The calendars are set up so that only the site owner can view the names and information associated with the appointments; site visitors don't have access to this private information.

There are plenty of options for online scheduling, and many are free, including Tungle.me (displayed above), Doodle.com and Scheduly.

7. Call Me Buttons and Live Chat

Ideally, your website should provide multiple ways for clients to contact you. Most sites include phone numbers and emails - but if you're not available, the client will still have to wait for a response. That's why you might consider getting a free Google Voice number to use as a "call me contact" at your site.

Previously in beta and available via invitation only, GoogleVoice is now open to all. Google Voice allows users to create a "Call Me" button which can be embedded in your website. When users click the button, they'll be connected to your Google number, which in turn, you can set up to re-direct to another phone number - thus, increasing the chance that you'll be available to take the call when it comes in.

Equally interactive is live chat, another feature that can be installed at a website - and a concept that I discussed about a year ago here at MyShingle. With chat-ware, users can type in a question at your site and you or your staff can supply an immediate response. Live chat options include ZohoChat and BoldChat, which costs around \$300/year.

III. Ethics Caveats

Any blog post on interactive websites for lawyers - even one as lengthy as this one - is not complete without a discussion of ethics issues. Below are some of the ethics red flags that interactive technologies may raise, and suggestions on best practices for addressing them:

1. Creation of Attorney-Client Relationship/Legal Advice: One potential ethics risk of interactivity is that the immediacy of the communication may create the perception of an attorney-client relationship. Or, a client may believe that the attorney is providing legal advice. For example, consider a situation where a client asks a specific question in the comments section of a blog or through live chat. If an attorney replies and provides suggestions, a client could rely on that advice - and the attorney could face malpractice exposure if the advice turned out to be incorrect. To avoid any perception that a communication at the website constitutes legal advice or gives rise to an attorney-client relationship, lawyers should include appropriate disclaimers.

Likewise, if you include an assessment generator at your site on a topic like whether a prospect qualifies for bankruptcy, include caveats to clarify that the test provides guidelines - it is not a definitive diagnosis of a legal problem (nor is it legal advice) and that all cases are different.

2. Confidentiality & Conflicts Issues: Clients may assume that information collected in forms will be treated as confidential. If you are using a free form generator, the information that you gather may not be fully confidential - and the client should be advised of that risk. At the same time, you should limit the type of information that you collect to begin with - never ask potential clients to provide social security numbers or extensive details about their claims through a form that is not secure.

3. Unauthorized Practice of Law (UPL)

Some of the communications that you receive at your site may involve individuals in jurisdictions where you're not licensed to practice - and potentially trigger UPL claims. Make sure that your site is clear on where you are licensed to practice, and avoid substantive responses on matters that are outside of your jurisdiction.

IV. Conclusion

As I've posted repeatedly, many lawyers focus myopically on [SEO](#), without any thought to how to convert transient visitors into paying clients. By inviting interaction, lawyers can make their websites more inviting and impressive to visitors, and in doing so, improve their chances that short term visitors will eventually become long time clients.

Market Your Practice On The Government's Dime

If the costs of marketing your law practice have you crying “Uncle,” why not call on Uncle Sam instead? Government funded resources and events – from reports, workshops and rulemakings – are a treasure trove for solos and small law firms who want to track trends, identify and educate themselves on potential new niche practice areas or are simply in search of interesting tidbits to share at their blogs or in client newsletters. Best of all, they’re [free](#)! Below, I’ve listed some of my favorite government resources along with suggestions on how to use them in your practice.

1. GAO Reports

The Government Accounting Office’s (GAO) [reports](#) are a great source of information for solos and small firms on a [wide range of issues](#), like employment, veterans and social security benefits, energy and environmental and consumer credit. Recent reports addressed topics like [Deceptive Marketing Practices on Herbal Supplements](#) (could potentially help firms with a niche – either advising those who market supplements or representing victims of deceptive ads), [Factors Affecting the Financial Literacy of Individuals with Limited English Proficiency](#) (another potential niche area, not to mention interesting fodder for a blog post) or [Debt Settlement: Fraudulent, Abusive, and Deceptive Practices Pose Risk to Consumers](#) (great information for those who represent consumer clients). GAO Reports are indexed by topic and [date back to 1971](#).

2. Census Reports

Though the census is getting a good deal of exposure since 2010 is a data gathering year, most lawyers don’t think of it as a resource for demographic data or trend tracking. But let’s say that you want to build a practice that serves elderly clients. Wouldn’t it be invaluable to know the population growth for this target? That’s the kind of information that you can find at the [U.S. Census site](#). And you can also take advantage of [projections](#) that the Census provides for users.

3. FTC and Government Workshops

Attending [conferences](#) is a great way for solos and small firms to learn about new practice areas and catch up with colleagues and meet prospective clients. Unfortunately, many trade shows and bar association events can be pricey and the quality of presentations is mixed. So instead of attending one of these events to get your quota of face time and CLE, consider a government sponsored workshop. The [Federal Trade Commission](#) offers a [variety of workshops](#) on neat topics like [privacy in the Internet Age](#). The FTC workshops are often attended by businesses and others with an interest in FTC policy, making them a great place to pick up clients.

The FTC workshops are held in Washington D.C., but if you’re not located here, not to worry. Across the country, many state and local agencies routinely hold workshops on upcoming RFPs or to announce new policies. In addition, local school and zoning boards hold hearings as well (conveniently, often in the evening) – and you might even be able to obtain additional exposure by [covering a local event for the New York Times blog](#).

4. Federal Register and Regulations

If you represent clients in matters governed by federal law, then the *Federal Register* can supply a rich source of updates for your blog or website. In addition, by keeping clients up to date on proposed rules, they may ask you to intervene in the proceeding on their behalf. Tracking the Federal Register and new regs is easy these days; you [can search the Federal Register or subscribe by email or RSS feed](#). Or check out the user friendly [Regulations.gov](#), another source of information on government rules.

5. Pew Research

The [Pew Research Center](#) is a 501(c)(3) non-profit, not a government entity – close enough since it’s the beneficiary of government support through the tax code. I realize that’s a stretch, but I wanted to find some excuse to include the Pew resources and studies related to [topics](#) like technology, immigration and the law as well as coverage of social and demographic trends.

Now, readers, it's your turn. What free government resources do you routinely use in your practice? Looking forward to your comments below.

Related posts:



1. [Lawyers Serving Those Who've Served](#)
2. [No Need to Niche Alone: Collaborative Niche, the Firm of the Future](#)
3. [Is A Civil Suit Preferable to Bar Regulation?](#)
4. [Let's Just Authorize Unauthorized Practice Once and For All](#)
5. [Why You Should Register for MyShingle](#)

Biglaw is Selling Connections. Can You?

In the past, I've recommended [Meetup.com](#) as a resource for solo and small firm lawyers seeking [speaking engagements](#). Meetup.com makes it easy to find one of thousands of groups that meet locally and which might have an interest in hosting a legal speaker on a relevant topic.

Though I know of many solo and small firm lawyers who've tried Meetup.com as a marketing resource, I must confess that I didn't realize that large firms were using it as well. So I was interested to see this [video clip](#) from a Silicon Valley New Tech MeetUp hosted by [DLA Piper](#), the world's second largest law firm. In the clip, the lawyer emphasizes DLA's deep roots in the Silicon Valley (a global law firm with local presence) and describes the legal tools that the firm can offer clients (IP, corporate, etc...). But the lawyer's major selling point is the firm's Venture Pipeline, a program where the firm helps clients connect with potential funding sources. Talk about a value add.

Many solo and small law firms try to position themselves to work for start-ups, believing that newer companies will find small firm rates more appealing. But for many start ups, cheaper rates in the short term pale by comparison to the promise of big money in the longer term, particularly if the firm has proof that it can deliver.

What value add can you offer your clients besides great service or top notch representation at reasonable rates? After all, competence and good service are the bare minimum, while reasonable rates, if nothing else, are an ethical imperative. So, if you represent start-ups, can you, like DLA Piper connect them with funding sources or other folks (say, journalists or PR people or potential joint venturers) who can help them get their business off the ground? If you work with non-profits, can you put your clients in touch with folks in their field who might be interested in serving on their boards or making donations? If you work with regulated entities, can you make introductions to regulators and show your clout, which I've posted on previously [here](#)?

DLA Piper isn't resting on its laurels as a big firm with a big name. As the video shows, their lawyers propose to bring something extra — the promise of cash and connections — to start-ups. You may want to rage against biglaw poaching your clients, but in my view, DLA Piper is an example of a large firm doing marketing right (I'm not talking performance because I can't speak to the effectiveness of the Venture Pipeline. Just marketing). If you haven't thought about what kind of value-add you can bring to clients — not just through the attorney-client relationship but also outside of it — then your clients just might seek out law firms that have.

Related posts:

1. [Cool marketing lessons from an Ivy League drug lawyer and an offbeat U-tube commercial](#)
2. [Update on Video](#)
3. [Book Trailer for Solo By Choice: Proof of Concept and Work in Progress](#)
4. [Lawyers & Video: Interview With Gerry Oginski](#)
5. [What With Biglaw Layoffs and Rate Hikes, 2008 Will Be A Banner Year for Solos](#)



Can you find cash for your clients?

Are there cases that you'd avoid to handle but your client can't pay your fees? Before you send the client packing, consider whether there are ways to cover the costs of the case.

I'm not talking about litigation finance companies which can fund personal injury matters but come with their [own set of perils](#). However, if you're a little creative you may find ways to get yourself paid so that your client doesn't have to.

1. Insurance Coverage: Ask clients who are being sued whether they hold an insurance policy that covers legal fees, or alternatively whether they have coverage through an employer or business. If a client has coverage, hopefully, the policy allows for choice of an attorney. But even if it's likely that a client will be required to use an attorney selected by the insurance company, inquire about coverage anyway. If you don't and instead, take the case on the client's dime, you might find yourself in the [unfortunate situation](#) of litigation boutique [Zuckerman, Spaeder](#) which has been sued by former client, professional wrestler Hulk Hogan for malpractice and overcharges to the tune of \$1 million. Hulk Hogan claims that the firm charged \$1.5 million to defend Hulk Hogan in a civil lawsuit arising out of his son's car crash, and failed to disclose that Hulk Hogan's insurance company would have paid the entire cost of his defense.

2. Fee Shifting Statutes: There are many fee shifting statutes under state and federal law which provide attorneys' fees to prevailing parties. Some, like Section 1988 (attorneys fees in civil rights cases) are fairly well known, while some are fairly obscure (right now, I'm pursuing fees under the Uniform Relocation and Real Property Acquisition Act that surprisingly allows for recovery of fees not just against federal agencies in takings cases but also against private parties which have a condemnation right under federal law).

3. Intervenor Fees: The California Public Utility Commission offers [compensation to intervenors](#) in proceedings before the commission. Are there similar programs in your jurisdiction?

Fee shifting statutes or public compensation programs are far from perfect. First off, with few exceptions, you need to meet the definition of prevailing party to qualify for fees. And even if you do, your opponent will likely challenge your request or you'll have to wait to collect. In addition, most fee shifting statutes still require you to provide an hourly accounting of time; a request for flat fees probably won't pass muster (I'm all for flat fees but I'll leave it to true rebels to try to convince a judge to award fees when a flat fee bill is submitted without any hourly accounting. I'd rather get paid).

Do you have a favorite fee statute for getting paid? Send your tips below. I'll feature the best tips and profiles of those who offered them in a follow up post.

Related posts:

1. [Some Open Questions for Flat Fee Aficionados and Ethics Gurus](#)
2. [Making Your Clients' Cases Pay for Themselves](#)
3. [West Virginia Implements Malpractice Reporting Requirement](#)
4. [More on Lawyer Rates](#)
5. [Malpractice Insurance: Don't Start Practice Without It](#)



Lessons from Retailers: Marketing in a Time of Less Than Plenty

Though we lawyers prefer to think otherwise, for many consumers and small businesses, legal services are a discretionary expenditure. In times of less-than-plenty, consumer clients may decide that estate planning can wait, while small businesses may choose to make do with do-it-yourself contracts even in complex situations where retaining a lawyer would make more sense. Couples are even [putting off divorce](#) in part because of the costs associated with the divorce process itself!

So what can lawyers do to make procurement of legal services more palatable for clients in lean times? For starters, they can take a lesson from some of the initiatives that retailers are adopting to retain customers and stimulate sales in the holiday season. I've listed some of these measures below, and I'll leave it to you to determine whether these ideas can work for your practice:

1. Show Clients Your Budget Options

Not surprisingly, upscale grocery store [Whole Foods](#) (dubbed [Whole Paycheck](#) by some) is suffering in this economy. Sure, folks always need to eat, but when you're unemployed, the first items cut from the grocery list are discretionary luxuries like imported cheeses or handmade pastas. So rather than risk losing to pedestrian grocery stores those customers who once willingly shelled mega-bucks for these kinds of goodies, Whole Foods has shifted its marketing to highlight its best values for customers, reports the [Washington Post](#). Now, Whole Food gives "Value Tours" of its stores to teach customers about saving by buying in bulk and dispenses tips on finding bargains on its blog. And for the holidays, the store is promoting a list of environmentally-friendly gifts that cost less than \$20. Though teaching customers to cut costs may result in less profit for Whole Foods, in the long run, the strategy allows the store to retain customers who will merrily resume more lavish spending when the economy turns around.

Lawyers can implement a Whole Foods-like strategy by identifying ways for clients to keep their legal fees low. Perhaps a client can't afford your deluxe estate planning package right now, but can pay for the bare essentials. When the economy improves, the client might decide to pay for an upgrade. For some cases, clients can save money by doing some of the legwork themselves. You might, for example, tell corporate clients that you can draft their incorporation papers but let them take care of the filing on their own to save extra fees.

Or instead of charging clients each time they call for a status update, you could implement a secure online portal or project management tool (such as [Basecamp](#) or [Zoho](#)) where clients can check on the progress of their case themselves or download documents rather than calling you.

2. Layaway Plans

This holiday season, retailers are increasingly reviving an old payment strategy, according to [istock Analyst](#): the layaway plan. Under a typical layaway plan, customers select the item they want to purchase, which the store sets aside or "lays away." Every week or two weeks, the customer makes an installment payment for the item -- for example, in the case of Boscov's Department store, a customer must pay either 10 percent or \$5 every two weeks until the merchandise is paid off, at which point it is released to the customer. There is no charge for the

Boscov layway program, though there is a \$5 cancellation fee if the customer decides midway not to make the purchase. Since many customers cannot qualify for credit cards, or prefer to reserve credit cards for emergencies only, layaway plans allow customers to budget and pre-pay for items that they could not otherwise afford.

Like a layaway plan, allowing clients to pre-pay for legal services in installments offers a way to ease the burden of fees. Clients would deposit money into a lawyer's retainer account where it would be held in trust until sufficient funds are collected to pay the cost of the work. The lawyer would render the service then release the money from the trust account. (Of course, you would want to check your local bar rules to determine whether anything would prohibit this kind of arrangement).

Even if you don't adopt a fully pre-paid plan, you can also accommodate clients by allowing installment payments or spreading out retainer payments, as I described [here](#) earlier. Though some argue that accommodating clients with flexible payment plans minimizes the value of legal services or is tantamount to negotiating a fee with clients, clients will ultimately appreciate flexibility in tough times.

3. Bring Out the Bargains

With holidays around the corner, many retailers are offering major bargains, reports [Business Week](#). Apparently, deals of half-off and more are flourishing in many industries, particularly in apparel and electronics.

Of course, slashing costs like [Crazy Eddy](#) (whose prices were [IN-SA-A-A-A-ANE!](#)) isn't necessarily a wise idea when applied to legal services as opposed to products. If you cut your rates to \$100/hr, you'll have a hard time raising them back up to market when the economy turns around. At the same time, there may be ways to offer bargains that may serve as a loss leader in the short term, but can help build your customer base longer term.

Consider the [Free Trademarks for Start Ups](#) program that's being offered by attorney [Erik Heels](#) of the [Clock Tower Law Group](#). Basically, if you're an already incorporated start-up, Heels will file your first trademark for free. Heels is also up front about his motives:

Why I am doing this? Based on a survey that my firm conducted, each company has, on average, *four unregistered trademarks*. So I'm counting on your future business, as well as your referrals. I'm being straight with you. I'll trust you to be fair with us.

Are there one-time services that you could offer at no cost (and limited malpractice liability)? What about a very basic will, or a straightforward LLC formation? Even if the clients whom you service do not hire you, they may keep you in mind to refer to colleagues or friends.

Most lawyers make the mistake of thinking short term. They worry that by cutting fees today, they will limit opportunities tomorrow. By contrast, retailers realize that taking a hit in the short run buys something more important down the road -- goodwill. And if lawyers can generate good will by helping clients save a few hundred dollars on legal services when times are tight, then they'll receive as much of a bargain as they give to their clients.

Law Practice Building Idea: Join a Non-Profit Board

If you're a solo trying to break into a new practice area, beef up your existing corporate experience or learn new skills, then serving on a non-profit board may be just the ticket. This piece from [Fast Company](#) touts the many professional benefits of serving on a non-profit board which include:

- 1. Learn about an issue outside of (or complementary to) your area of business expertise—whether it's housing, healthcare, the environment, economic development, healthcare, or education, just to name a few.*
- 2. Gain new perspectives by engaging with people from diverse backgrounds, including board and staff members, the nonprofit's funders, and the community it serves. This can help enrich your awareness of your business's and clients' broader base of customers and shareholders here in the US and globally.*
- 3. Better understand the role and responsibilities of corporate governance by serving on a board yourself.*
- 4. Experience the perspective of the CEO and board of the corporation, including the actual responsibility of envisioning the organization's greater potential, and creating and achieving the organization's revenue/business model.*
- 5. Have an opportunity to step up to lead, by chairing a committee, or serving as an officer; you will learn how to build consensus through process, and you will understand what it means to be accountable to the community that your organization serves.*

So how can a lawyer go about finding a position on a non-profit? Though you can take the extreme step that I did and co-found your own association (it's really not that hard), there are plenty of opportunities to serve on existing non-profit boards, as well as plenty of guidance on how to do so without exposing yourself to liability. I'll discuss these resources after the jump.

1. What kind of board do you want to join? Before committing the time to serving on a board, think about what you wish to accomplish through service. If you're trying to increase your stature in the community or build contacts with potential clients, identify non-profits which are complementary to your practice area – so for example, a lawyer focusing on special needs trusts might want to serve a non-profit that helps the disabled. Alternatively, if you have a passion outside of the law, such as cooking or music, you may want to serve on the board of the community orchestra or local soup kitchen. Here's more information about [choosing a board that's right for you](#).

2. Finding a non-profit board: Take a look around your community; non-profits dedicated to a variety of disciplines abound. Perhaps you already know someone on a board whom you can contact directly or you can write to the non-profit and inquire about volunteering to serve. You can also try sites like [Board Net USA](#), a website which matches volunteers with non-profit board positions or [Idealist.org](#), which has a searchable database of volunteer positions.

3. Who else is on the board? Once you've identified a board, take a look at the composition of members. If you're a tax lawyer with a primary motive of business development and the board is already populated with three other tax lawyers with similar practices, you may want to consider another non-profit opportunity. Likewise, if the board is primarily comprised of college students and your practice is focused on representing small businesses, that board may not be the best choice.

4. What should I do to apply? Boards desire different skills but generally, conscientious hard workers are always welcome. In addition, any potential fund raising contacts that you might have could come in handy.

You can tout your legal skills and practice experience in applying, but bear in mind that ultimately, as a Board member, you cannot offer legal advice which would create a conflict of interest.

5. What do I need to know to serve on a Board? Perhaps most importantly, you need to know how to stay out of trouble. Though serving on a Board has benefits, it can also trigger potential liability. You'll want to evaluate whether state law confers immunity on non-profit board members, whether the non-profit holds an insurance policy for Board members and whether your service will affect your malpractice insurance.

Of course, you also need to know about the organization and how it is run. [Boardsource.org](https://boardsource.org) offers a fairly comprehensive list of [questions to ask before you serve on a non-profit board](#) as well as many other resources that can assist you if you do accept a Board position.

Have you served on a non-profit board? What's your experience been? Please share in the comments below.

Related posts:

1. [Oh, Biglaw: Why Pay \\$60k for Lawyers to Do Non-Profit Work When You Could Pay Them To Build A Lucrative Practice?](#)
2. [Utah Offers Formal Program, But Nothing Precludes You From Building Your Own](#)
3. [Going Solo Right After Law School](#)
4. [Teaching What It's Like to Work For Biglaw: Seems Like a Silly Idea, But Not For the Reasons You'd Think](#)
5. [Could You Be A Front for A Firm?](#)



How Tollbridge Businesses Can Provide An Annual Revenue Stream for Solo and Small Firms

Yes, I still read the local newspaper (in my case, the [Washingtonpost](#)) in hard copy every so often, and today I came across this [article](#) on the value of annuity contracts — or as Warren Buffett calls them toll bridge businesses — to small service providers like heating or air conditioning contractors.

So what's a tollbridge business? Essentially, it provides a service — often one that's a low cost — that you pay for with some regularity. But the benefit of tollbridge businesses is that they provide a steady stream of revenue between major tasks and further, increase your [stickiness](#) to your customer. Here's a tangible example from the article:

I [writer] wanted to know more about these tollbridge businesses so I called Ken Tucker and asked him how much my heating and air conditioning service agreement — and the 700 other customers who have them — contributes to the bottom line at his company.

“The service contract is our bread and butter,” said Tucker, who is 45 and a native of Silver Spring. The 700 contracts bring Tucker about \$140,000 a year, or less than 10 percent of the \$2 million in gross revenue the company collects. But it leads to a lot more money because it keeps the company in regular touch with its customers. And on many visits, technicians find something additional you need (remember my coils?).

“These are the people we take care of,” said Tucker. “My mantra is repeat customers. They are customers who, if they ever need to have equipment, we are the first they look at.”

The money helps his cash flow too. “We bill those service contracts out March 1 and Sept. 1, and it increases our cash flow before we stock supplies for the season. So when I have to buy my heating supplies to stock my trucks, I use the cash flow from the September service contracts.”

He said his goal is to double the number of service contracts to 1,500 a year. That would bring him around \$300,000 in reliable cash.

Can lawyers implement the “tollbridge business” concept? Absolutely, but it needs to be well conceived. I know many lawyers who've attempted to sell “outside counsel” arrangements, charging a set fee for a certain number of services, but who haven't succeeded because the work scope was too ill defined. To make the tollbridge concept work, it's better to focus on smaller tasks, that are definitive in nature and follow up on tasks already performed. Consider:

—After incorporating an LLC, offer an annual corporate check-up to ensure all annual corporate paperwork is filed and that there haven't been any changes to the LLC structure.

—For trust and estate clients, an annual check up to review the plan and determine whether any updates are needed to reflect changes in marital status, acquisition of new property or changes in the law.

—For bankruptcy or consumer credit clients, an annual post-filing monitoring report of credit status.

—For divorce clients, an annual review of terms of separation and determination as to whether any changes or amendments are required.

As for pricing the service contracts, if you're thinking billable hours, I'd make them approximate an hour or two of time, if you use flat fee or value billing, set them at a cost to approximate other comparable type services or to reflect the value to the client. Finally, you'll want to check your bar's rules to determine whether you can treat the service contract fees — which are essentially, an advance of fees — that may be considered property of the lawyer immediately upon receipt. (see, e.g., [DC Bar Ethics Opinion 264](#) for some of the ethics issues involved in these arrangements). If you need to put these fees into a trust account, these tollbridge plans lose some of their value as a revenue stream.

Related posts:



1. [Two Different Business Models of Free – Frequent Buyer Benefits](#)
2. [Solo, Leverage Thyself \(and Diversify Too\): Biglaw, Take Heed!](#)
3. [The Whole Pig](#)
4. [Ideas for the Firm of the Future + One: Diversify Your Offerings](#)
5. [Solos Can Provide Cover to DLA Piper Clients Who Can't Pay Its \\$200k Cover](#)