

From Biglaw to Yourlaw

*You've always believed starting a firm is a last resort.
Here's why it may be the ONLY resort in these changing
times.*



by Carolyn Elefant

Overview

There's only one goal that I want to accomplish in this e-book: to convince you to seriously consider the option of starting a law firm. I don't care whether you actually start a firm or not. Or whether you conclude that starting a law firm simply isn't the right choice for you. Or if after reading all of this, you decide to pack up your talent and your potential and leave the law for other greener pastures in another profession.

All I ask of you is to evaluate the option of starting a law firm and to do so from an *informed* perspective. I want you to set aside the propaganda you've heard on either end – whether it's (1) the negative stereotypes about solo practice that you've been fed in law school or by your bosses or colleagues or (2) the false promise of four hour workweeks and gazillion dollar practices that legal marketing experts and gurus hawk to desperate lawyers. Instead, I want to share both the downside of starting a practice as well as the enormous possibility and do so against the backdrop of the seismic changes – from economic downturn, to 1762 lawyer layoffs in 2008 and crumbling law firms to technological innovation and social media – that are forcing the legal profession into the twenty-first century.

Here's what this e-book is intended to do:

1. Provide an overview of the changes in the legal profession and show what they mean for the future of biglaw and for *your* own future at biglaw (Chapters 1, 2).
2. Dispel myths of going from big law to solo practice without overplaying the upsides (Chapter 3).

Enjoy with my best wishes for a fulfilling career no matter where you land. Don't sell yourself short.

A handwritten signature in black ink that reads "Garouf Elefant". The signature is written in a cursive, slightly slanted style.

The Writing on the Wall

Chapter 1

Biglaw is falling, fast. In the past three months alone, Heller Erhman, Thelen Reid and most recently, Thacher Profitt, firms roughly 500 lawyers in size, collapsed like a house of cards as rainmaking partners jumped ship and efforts at merger failed. As of this week, the lawyer body count for 2008 stands at 1762, all victims of layoffs at 52 firms nationwide during the past year. [Source: <http://lawshucks.com/layoff-tracker/>]

Let's face it -- for the past few decades, biglaw had a good thing going: a seemingly sustainable pyramid scheme. Biglaw paid top dollar for newly minted lawyers from elite schools and charged every second of their sixty hour billable weeks to clients whom they'd convinced to pay a premium for pedigree. While associates toiled and clients subsidized their training, firms gleefully racked up huge profits with a sense of arrogance that blinded

them to the possibility that this highly leveraged model could fail.

But just like Nero who fiddled while Rome burned, even now, biglaw remains astonishingly oblivious to its fate. Instead of making structuring changes to an antiquated business models, firms are pinching pennies by stocking lavatories with cheaper quality toilet paper, stopping payment for lawyers' bar dues, deeply discounting fees and of course, axing associates to stay afloat in the short term.

In the meantime, firms have given little thought to whether corporate clients will ever again be willing to pay exorbitant rates or subsidize \$160,000+ associate salaries even when the good times roll again. **Have you thought about what will happen to you if biglaw never recovers?**



Are You Ready to Be A Dinosaur?

Chapter 2

Even if you love what you do at biglaw, you must face the reality that you may need to do it elsewhere. The signs that biglaw's days may be numbered are everywhere. Consider:

In a prescient blog post of May 2007, (http://blogs.sun.com/dillon/entry/the_way_of_the_mastodon), Sun Microsystem General Counsel Mike Dillon predicted that biglaw would soon go the way of the mastodon. Dillon described that through the Internet, he could assemble his own team of experts without the need for big law to play the role of aggregator. Dillon also criticized large firms' antiquated business model, which "which derives its profitability from growing scale and raising hourly rates," and wrote that these days "will soon be over."

Richard Susskind's new book, *The End of Lawyers?* argues that technology will ultimately lead to the commoditization of routine legal work and technological advances will erode and displace much of the work that lawyers perform. Loss of large scale, repetitive legal tasks will force large firms to rethink the billable hour model which depends on leveraging large numbers of associates and economies of scale.

Clients are beginning to reject the concept of paying premium fees for large firm services. They're demanding discounts and micromanaging work, insisting, for example that firms no longer staff projects with lower level associates and specifically asking firms to outsource discovery to India.

If you're currently employed at a firm, open your eyes and look around. Has your firm been discounting rates – and if so, how long can it continue to do so? What kinds of profits per partner (PPP) will firms report for 2008? Has your firm lost clients? And do you believe that those clients will return even when the economy picks up again?

You can stick around and watch your firm evolve backwards into a dinosaur. But if you think that you can improve the way we practice law and serve clients, if you feel frustrated at enormous opportunities that your firm is overlooking, *then why not give it a try on your own?*



Dispelling the Myths of Solo Practice

Chapter 3

This chapter will dispel some of the myths associated with starting a practice. And myths do abound, purveyed by those with an agenda.

Law schools and big law attorneys will pile on the negatives of solo practice either because they themselves don't know any better or envy those who have the guts to give it a try.

On the other hand, beware the marketers and gurus hocking their wares. Many don't know the first thing about the unique challenges and opportunities of moving from biglaw to yourlaw, yet they'll try to convince you that you can work four hours a week and earn millions...so long as you purchase their special \$10,000 silver bullet marketing program.

Myth #1: Solo practice is just for losers who couldn't find another job.

Many lawyers choose to start firms for a variety of reasons – to get time in a court room, to find work life balance or because they have an entrepreneurial spirit. But even if you come to solo practice involuntarily doesn't make you a loser. Hey, once upon a time, Skadden, Arps, and Flom were a trio of lawyers who couldn't find jobs at big white shoe law firms. Today, the firm that they started is one of the largest in the country. Some losers.

Myth #2: Sure, solo practice is a great if you want to write wills or litigate petty debt collection cases for consumers, but I actually like the complexity of my big law practice area and don't want to give it up.

Who said anything about giving up your practice specialty? If anything, having a large firm specialty gives you access to well paying clients that solos who serve consumer clients lack. For example, if you're able to bring even one small client with you, you'll have a steady stream of revenue right out of the gate. Moreover, most solos who come from large firm practice report that clients send them more work as solos because they're more affordable.

Do you have concerns about staffing projects? These days, you can hire top credentialed lawyers to handle projects on a contract basis, and partner up with other solos to bring expertise that you may lack.

Myth #3: Corporate clients won't hire a solo and there's no other demand for my big law practice area.

First, in an economic downturn, corporate clients are fast departing from the "no one got fired for hiring IBM" approach. Plus, having worked at a large firm, you can offer the pedigreed credentials that many large firm clients feel comfortable with.

Second, even if corporate clients don't want to hire, other options abound. With technology changing and a new political administration, new companies and industries will emerge that even today we cannot imagine. A solo colleague of mine who represented telecom clients at an AmLaw top ten firm has made a cottage industry of representing clients in an emerging area that didn't even exist when he opened his doors.

Small and new companies aren't the only option, though. Why not offer your biglaw experience in an of counsel capacity to mid-sized firms? Or provide legal services on a contract basis in a sophisticated practice field. Specialized contract lawyers can command over \$100/hr for work on a contract basis.

Myth #4 I'm accustomed to earning at least \$200,000 a year with a bonus. I can't possibly match that salary as a solo.

First of all, are you even getting that bonus this year? Thought not! True, you may be earning \$200k now, but with the economy in its current condition, how long will it last? In addition, how many hours a week are you working to collect that paycheck? If you're spending 60 hours a week between office and

commute, your \$200k salary translates into a measly \$70/hr.

Second, you need to think long term. Perhaps you're making \$200,000 today. But what about five, seven or nine years down the line if you don't make partner – a likely scenario in these tough times. Without a robust portfolio of business – which can be tough to develop at a time when partners are holding their clients close to the vest – you're toast. By contrast, if you start a firm today and take a pay cut, but develop a real book of business and a specialty, your salary potential and opportunities are unlimited.

Finally, while some solos struggle and don't earn anywhere close to \$200,000, particularly right out of the gate, others do earn that much and more. In most instances, those solos who thrive financially without working back-breaking hours use virtual assistants and contract lawyers to leverage their time or rely on a portion of revenue from contingency or incentive based fees.

Myth #5: My firm told me that I lacked talent, so how can I possibly work for myself?

Come on – isn't that the pot calling the kettle black?! Despite all of their advantages – millions in revenue, expansive lines of credit and a deep pool of smart lawyers – your firm couldn't figure out a way to stay afloat? And so it's blaming you when you had neither the control nor resources to address the firm's situation.

In addition, keep in mind that sometimes, we simply don't perform to our potential in certain environments. Perhaps the constant stress of potential job loss hanging over your head adversely

affected your performance. Or maybe your firm wanted you to undertake certain tasks that you regarded as superfluous, intended simply for the purpose of jacking up the client's bill, so you didn't follow through on them. Trust me, in your own practice, things will be different since every bit of your effort inures directly to *your* bottom line, not someone else's. That thought should give you incentive to perform at the levels you know you're capable of achieving.

Myth #6: One benefit of biglaw is that I can focus on the practice law, not deal with all that administrative and marketing stuff that I'll have to do on my own.

So, you never spent a day at biglaw at a gender sensitivity class? Lunching with summer associates? Hearing a speaker on a dull topic? Truth is that at biglaw, you spend a good deal of time on non-legal matters.

Still, your point is well taken. Starting a firm means that you need to handle tasks like law firm administration and finding clients on your own. But these chores aren't as distasteful or scary as you might imagine. New software as a service practice management tools are cheap, inexpensive and make law firm administrative tasks like billing, conflicts checks or even trust account management nearly as easy as managing your email.

Moreover, the Internet opens multiple possibilities for marketing a firm – for example, if you enjoy writing, you could start a blog to market your practice. If you hate bar networking events, you can

connect with other lawyers on listserves or through social media. *Trust me, you can build a successful practice without ever once running a cheesy TV commercial or yellow pages ad or schmoozing at weekly networking events. And if you don't believe me, I can refer you to at least one hundred other lawyers on Twitter whom I consider friends or collegial relationships who have done just that. (follow me @carolynelefant).*

Myth #7 I'd be willing to try consumer practice areas like wills or trusts, but you need special expertise to handle those matters and I don't even know anyone who practices in these areas to ask.

Ironically, in some ways, starting a practice after life at biglaw puts lawyers at a disadvantage because they lack the practical skills and local contacts that many of their solo and small firm colleagues acquired in law school or through membership in local practice bars.

Still, the experience and contacts are hardly unattainable. Many bars and pro bono organizations offer training on a variety of topics such as criminal defense, wills and estates, bankruptcy and family law. Often, the courses are taught by experienced practitioners, carry CLE credit (which many of you need anyway) and will tell you exactly what you need to know. In many ways, these courses are like a bar review course, except for actual practice. Supplementing in-class courses are online trainings and webinars and blogs, which also offer a wealth of information on many topics.

One change you'll find between big law and the solo and small firm community is that most solos readily share information. On list serves like Solosez or Twitter, you can find other lawyers willing to

respond to questions and assist with problems. There are also many specialty bar associations that provide training materials that will help you learn different practice areas. Finally, don't forget – much of your big law training such as research skills, writing and analysis – will help you distinguish yourself even in new practice areas.

Myth #8 I'd love to consider starting a firm, but I just don't have the money. There's office space, computer equipment, legal research tools and administrative support, not to mention my huge student loans.

Money doesn't guarantee success in starting a business or a law practice. Remember all of those dotcom ventures like pets.com or etoys.com that started out with millions in venture capital? Where are they now? By contrast, most of today's Internet success stories – think YouTube initially grew on their own using cutting edge technology to build sites without relying on VC and teams of developers.

Point is, you can start a law firm incrementally. In fact, it's never been easier. You don't need to start with Class A space in a fancy building – you can rent a small space with other lawyers or if it suits your lifestyle, work from home and meet clients in a virtual office. As for computer equipment, technology is so advanced, you can literally run a law firm off of a smart phone and a laptop. Legal research costs are competitive as well – you can often negotiate deals even with providers like LEXIS or Westlaw or team up with a few colleagues to share the costs. Starting out, you may not need administrative support at all, but if

you do, there are many highly experienced virtual assistants who can help with a variety of tasks at rates ranging from \$25 to \$75 an hour.

As for student loans, you can defer them for up to six months. Not an ideal solution, but at least you buy some breathing room. With interest rates declining, you may be able to refinance at more favorable rates or take out a line of credit. You can also apply for small business loans.

The good news is that most solos report that at a minimum, they are able to cover their expenses by the end of year one and start generating profit by year two. Most importantly, you are building equity, equity in yourself as you identify and capitalize on new opportunity. And that's the best return you can hope for.

Myth #9 I'd like to make the leap, I would. But in these troubled times, I don't want to lose the security of a law firm position.

Ah, good old security. Sounds nice, but that concept is going the way of the dinosaur in biglaw. Perhaps, there was once a time when law firms took care of their own or made good on their word that every lawyer hired would stand a credible chance of making partner simply by working hard enough. But these days, rainmaking partners jump ship at the first sign of trouble and firms ax associates to preserve partner profits. Ultimately, the security that law firms offer is false, a pallid skeleton of the camaraderie and collegiality of days of yore.

One thing that's not myth at all is that solo practice doesn't offer any security. Not an iota. You get by on your skill and persistence and sheer doggedness. Any day you open for business, you could find that all of your clients have left and you have to pick up and start all over again. It's that realization that you could lose it all any second, that gives you the determination to do your job well enough to make sure that never happens – and it's the recognition that you built a law firm out of nothing once that gives you the confidence to know that you could do it again, if you had to.

Have I Convinced You?

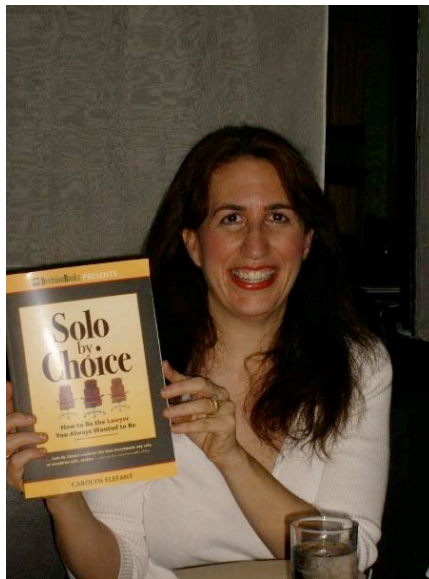
Conclusion

At the beginning of this e-book, I asked you for a chance. A chance to make the case for starting a law firm as a viable option to large firm practice. I know that many of you have considered this question before, and I won't be so arrogant as to assume that my e-book has changed your mind, and that you'll jump ship over to the solo side tomorrow. But if I've opened your eyes just a little bit, if I've gotten you to include "starting a firm" on the scale along with going in-house, going to government, doing contract work or changing the profession entirely, then I've done what I set out to do.

Now, I want to hear from you...If I've gotten you thinking about, or tempted by starting a law firm, let me know. Please drop me a line at elefant@myshingle.com and provide me some feedback on my e-book or tweet me on Twitter at @carolynelefant. For more of my writings on making the transition from biglaw to your law, please visit

MyShingle at <http://www.myshingle.com/articles/biglaw-practice-and-issues/> or take a look at *Solo by Choice*.

About the Author



Carolyn Elefant is an attorney with her own practice, the Law Offices of Carolyn Elefant in Washington D.C. where she specializes in energy regulatory and enforcement matters, emerging renewables, appellate practice and select Section 1983 civil rights matters. Elefant is also an internationally recognized marine renewables expert, having pioneered this practice specialty 15 years ago as a young lawyer. Elefant co-founded and serves as counsel to the Ocean Renewable Energy Coalition, the national trade association for marine renewables in the United States. You can find her online at <http://www.avvo.com/attorneys/20036-dc-carolyn-elfant-888937.html> or on Twitter at @carolynelefant, among other places.

Intent on making the solo practice option more appealing and accessible to lawyers, Elefant created MyShingle.com over six years ago. Since then, the site has inspired dozens of lawyers to start their own practices and has served as a resource to assist them in doing so.

In January 2008, Elefant published *Solo by Choice: How to Be the Lawyer You Always Wanted to Be*, a book on why to consider the solo option and how to leverage twenty first century technologies like outsourcing, alternative billing, collaborative technologies, social media and Internet to start a successful law practice. Elefant also co-blogs for Incisive Media's law.com Legalblogwatch.typepad.com.