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How to launch your plaintiff law firm

Launching with confidence requires a plan.

Here are five key requirements with a handy checklist

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Maybe you want a different mix of cases – to start trying some of those cases that have always interested you so much, but which you have seldom had the opportunity to pursue. Maybe you want to make the big decisions on cases without running them up anyone’s flagpole. Maybe you want to focus strictly on practicing law, without any of the politics of integrating into partnerships and firm cultures that are not your own. Perhaps you want to set your own hours, spend more time with family and friends, or

generally enjoy more of a “lifestyle” practice than you can when others are setting expectations for you. It could be you want the attorneys’ fees portion of your next big settlement or judgment to go into your pocket – instead of vanishing into the general operating budget – or you want to feel what it is like for your hourly billing rate to be the amount you are really making, per hour, for your labors. Maybe you want all of these things – as I did.

Regardless of how you got here, now you are starting your own practice. I am here to tell you how you can make it a success from the start.

Key #1: Appreciate your friends

You might be tempted to think that, now that you are out on your own, you can do it alone. You can’t. In fact, you need your friends now more than ever.

The old adage goes, “Dance with the girl that brung ya.” The same lawyers who have mentored you until now and helped you build up your knowledge and reputation, to where you feel confident enough to start your own business, remain an invaluable source of wisdom and referrals. Certainly, you will not start on the right foot in your practice by burning those bridges.



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Take your old bosses and colleagues to lunch and pick their brains. If they started their own practices, how did they do it? If they joined existing partnerships, what makes those partnerships successful (on their better days)? What are the areas of practice that are potential growth areas? Do they need any help from co-counsel on cases? Can your friends send you those potential clients with decent claims who they just do not have time to handle? By showing your continuing respect, hopefully, you will get a measure of “buy-in” to your new enterprise from your old mentors and colleagues. They will root for you and will feel justly proud to be a part of your success when you make it. In exchange, the least you can do is show continuing respect and gratitude. I have been blessed to co-counsel and take regular referrals from the firms where I worked before going out on my own.

Likewise, your non-lawyer friends can be a big source of support. Do you have a friend who is a graphic designer, who might make you some letterhead and envelopes? Do you have a friend who is a web designer, who might help you build your site? Does anyone have an old but serviceable printer he is not using? Maybe friends will help you meet some of your early needs “on spec” while you are starting out – and you can repay them when you start to thrive, not only with appreciation and money, but with bartered services or referrals.

Furthermore, you want all of your friends outside of your legal specialty – lawyers and non-lawyers alike – to see you as their “go-to” person for issues in your field. Everyone knows someone who is having a job problem. There are probably some hours of free advice-giving in this, but there are also probably, over the years, some great cases that will come to you simply by being known as the “employment law” or “PI” guru in your circle of friends.

Key #2: Launch with confidence

Starting your own firm is a big deal. Act like it. When you send that announcement email or card to everyone you know, saying that The Law Office of [Your Name] is open for business, you are hoping to get some responses saying, “I have a friend who might call you,” or, “I’ve got a potential case I want to send you.” You should be ready to start representing clients from day one. Make sure the pieces are in place. The buzz and outpouring of support that you hope to generate by starting your own firm will dwindle over time, as people become used to the idea of you being out on your own, so do not waste the opportunity presented by your launch.

Put time and energy into developing a strong website. These days, the first thing potential clients and potential referral sources will do is to check you out online, whether it’s on your website, Facebook page or LinkedIn profile. So, look legitimate. We are lawyers, so perhaps our websites do not need to have as many bells and whistles as if we were starting advertising or graphic design businesses, but they must deliver content that projects confidence. Study law firm websites you admire, figure out what types of content you want to include, find a designer, and get yours done. Write plenty of content, too – the more unique, fresh content is on your site, the better your site will do with Google and other search engines. Have a blog, and list your site and blog wherever you can do so for free. Without being an expert in Search Engine Optimization, I can say from experience that the best way to keep your site near the top of the rankings is to have continually new and original content with lots of links to and from other websites. Did you write an article for this magazine? Link to it (www.plaintiffmagazine.com). Also, your email address will look better if it is YourName@YourFirmName.com, than if it is YourName@gmail.com.

Before you launch, figure out where you are going to operate your firm. Can you share space with other attorneys? As I write this, it is for the first time in many years a renters’ market – there is plenty of space available, for cheap. Can you house your firm with fellow plaintiffs’ lawyers, so that you have a built-in network for idea exchanges or referrals? Does it make more sense for you to work from a home office and rent an executive suite/virtual office on a part-time basis for depositions and the like? Since Covid, we know that remote work as an attorney is not only possible, but commonplace.

Buy or borrow a scanner, printer, and copier. Get your letterhead, envelopes, and signature block ready. Get your Employer ID Number and open your bank account, including the IOLTA (trust) account, so you are ready to take checks from retainer or hourly-paying clients, or clients who will advance costs. Set up your malpractice insurance, and, if necessary, your general-liability insurance. Update your address with the State Bar and the state and local trial-lawyer organizations.

Are you taking any clients with you from your last job (hopefully, with the blessing of your former employer)? If so, have your representation agreement ready for your firm’s first clients to sign. The State Bar has templates of sufficient agreements on its website which will give you a starting place – <https://www.calbar.ca.gov/about-us/forms>.

Your early clients are coming to you with serious, often life-changing concerns, whether from the loss of a job or a motor-vehicle accident. They will not find it quaint to learn that they are among the first customers of your new enterprise, still getting its feet wet. As much as possible, you want to project that yours is a well-oiled machine, worthy of trust, from your first day in business.

Key #3: The hedgehog concept

Consider practice area flexibility, versus the “hedgehog concept.”

There is a still-popular business text by Jim Collins called, *Good to Great*, which



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has, as one of its takeaways, that you should have your “hedgehog concept” – that, like the unglamorous hedgehog, you have one thing you do, which you do very well. (In the hedgehog’s case, apparently, she is able to roll herself into a spiky defensive ball, so that the much more clever and glamorous fox can never harm her.) Collins’s premise is that the businesses that out-compete similar businesses are those that do not pursue a new and high-profile endeavor that comes into vogue each month or year, but those that have a clearly defined, central concept, and stick to it.

This may work for your new firm. Maybe you really excel at representing federal employees before the Merit Systems Protection Board. Maybe you really excel at proving liability in slip-and-fall cases. Maybe you are starting your new firm so that you can really start to focus on those cases in the specialized practice area which you enjoy most. If you become *the* leading practitioner in any one area, such that when someone says, “employment discrimination,” or “insurance bad faith,” they think of your name, then you will likely have great success.

However, this may not work for you in your first year of practice. Or, you may not want to be pigeon-holed into one type of practice, which might become tedious to you. For me, the recipe for success at the outset was my ability to be flexible in what kinds of cases I was willing to consider taking, within the scope of plaintiff-side employment law, so that those firms with well-developed “hedgehog concepts” could send me all the cases that came to them but were outside of their narrow focus area. Severance negotiation for an executive caught in a layoff? Whistleblower retaliation against a county employee who exposed a timecard fraud scheme? Federal employee whose civil service rights were violated? Misclassified executive assistant? Wage/hour class action by parking attendants? Bring it on.

You may be interested in taking some section 1983 civil rights cases, or some

tenants’ rights cases, or consumer class action work, or get involved in some bankruptcy representation, to change your mix of cases or bring in another practice area that might have a good chance of some steady cash flow. As for me, if a worker had a good employment case – or even just a bad job situation in which they could use some help – when I was starting my own firm, I wanted to talk to them. I may or may not have taken their case, but I wanted – and still want – my inbox to be full. As my practice has gained in prominence, I have been able to be highly selective – to the point of taking perhaps one or two in 100 intakes that come to my firm – but I continue to welcome a wide range of calls and emails.

Some people will say that the key to succeeding in your own firm is good case selection. Maybe so. But other keys to succeeding in your own firm are to keep the phone ringing, and to stay working. If you are working – even on a demand letter and negotiations – then you at least have a chance at helping out a client and getting paid. If you are sitting around waiting for the perfect case, then – until you get the perfect case – you are just sitting.

Key #4: Ensure pipeline diversity

Part and parcel of “Key #3” is pipeline diversity, which is “Key #4.” Now that you have your own firm, it is up to you to decide how you get paid on your cases. Whether you decide to hone a clear “hedgehog concept” from the start, or open yourself up to a wider array of cases, try to make sure that you have a good blend of cases that pay you now and cases that pay you later.

Maybe you came from a firm that largely takes on big contingency cases. In your firm, you can decide, case by case, what arrangement to make with the client. In the beginning, you might take smaller retainers, or offer a reduced hourly rate, to get someone to sign the dotted line on the representation agreement, and get cash in the bank, or offer a lower percentage contingency to attract cases which might

otherwise not come your way. Or, you can offer a blend of a small retainer and a reduced hourly rate, or a larger retainer up front for someone who can afford it, whose case presents more risk/less chance of success. You can charge a flat rate for well-defined work such as severance negotiations or seek to take a piece of the net gain from your representation – i.e., she was offered \$25K before you stepped in and got her paid \$50K, so you take a percentage of the \$25K difference.

Perhaps you can sign up some contract work to help more established practices, to keep money flowing into your business and strengthen your network. Try asking for a reduced hourly rate with a chance to recover your full billing rate if the case is settled or favorably adjudicated. Maybe you can be put on a small salary as Of Counsel to a firm, and provide ongoing assistance on a part-time basis, even as you spend most of your time managing your practice.

By mixing hourly-paying work with retainers, contract or part-time work, and the long-term contingency cases, which might pay you in six months, a year, or several years, you will have the peace of mind, as your business grows, that you are going to be able to keep the lights on, but also have the prospect of a big payoff down the line. There is no shame in admitting that you did not start your own business just to grind it out for peanuts the rest of your career.

Key #5: Be a presence

Now that you are starting your own firm, you are starting a brand name. You want [Your Name] Law to be known and well regarded. Of course, this does not happen overnight, but it does not have to take 20 years, either. You may or may not have felt that you were buried behind the scenes previously, but regardless, you are now front and center.

Your efforts at branding your firm depend on, first and foremost, bringing clients good results. If you settle a lot of cases for good value, or win big verdicts, or succeed on tricky motions with



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published precedents set, then your efforts will speak for themselves. However, providing successful representation is not the only key to developing a presence.

Leave a good impression on co-counsel, or even opposing counsel – who sometimes know about and can refer the best cases. Get involved in your local or state trial-lawyer associations. Participate in conferences. Speak to law schools, clinics, and seminars. Write amicus briefs and articles for popular legal publications (like this one!) or law journals. Take every opportunity to network with the top practitioners in your specialty who are always looking for a good lawyer that might be taking on new cases they don't have the time to handle.

For my specialty, employment law, the State Bar (now California Lawyers Association) Labor and Employment Law Section, NELA and CELA have been especially valuable to me. Being active in these organizations, I feel that I have

access to the best legal minds around. Participation in such groups will help you realize, as I did, that – even as you start your new firm – you are never alone.

To-do list for day one at your Law Office

- ___ Website up and running, and looking good.
- ___ New email address with the name of your firm.
- ___ A business address.
- ___ Westlaw or Lexis subscription.
- ___ Billing software.
- ___ Office computer with backup drive.
- ___ Scanner, printer, copier (all-in-one available).
- ___ Plenty of copier paper and toner.
- ___ Employer ID number for tax purposes.
- ___ Checking account with your firm's name.
- ___ IOLTA (trust) account for client deposits.
- ___ Malpractice insurance.
- ___ Liability insurance.

___ Update Bar and NELA, CELA, other organizations with new address.
___ Representation agreement drafted.
___ Letterhead, envelopes, and business cards.

- ___ New office phone service.
- ___ New office cell phone/portable emailing device.
- ___ Rolling briefcase.
- ___ Launch email/card to friends, family, colleagues, former opposing counsel.

Note: Versions of this paper have been previously published at conferences of the State Bar Labor & Employment Law Section and the National Employment Lawyers Association.

Bryan Schwartz is about to begin his 14th year of running Bryan Schwartz Law (www.BryanSchwartzLaw.com). So far, so good.



Schwartz

