

## Assessing the Risks and Rewards of a Solo Career

According to the U.S. Bureau of Labor Statistics, about 25 percent of attorneys are self-employed.<sup>1</sup> Many solo practitioners say that they prefer to be the master of their destiny, and many clients prefer the reduced rates and personal treatment available from a solo practitioner. The big firm pyramid does not suit all attorneys or clients.

At a big firm, the lowest compensation goes to those at the bottom of the pyramid and the highest to the top, which is reserved for equity partners. Most attorneys occupy the bottom. As associates climb up, their salaries increase. However, toward the top of the pyramid, compensation approaches the billable rate, and the firm's profit margin diminishes. The more senior a lawyer becomes, the less profit an equity partner makes from his or her billed hours. This is why many big firm lawyers are let go in their 7th through 10th years. (On the other hand, many big firms lose money training new lawyers who leave after only four or five years). Given the realities of the pyramid, many attorneys who work for big firms begin to sense, sooner or later, that they are just grist for the mill. This is why many leave in their fourth and fifth years. Moreover, after a few years, many feel confident enough in their legal abilities to go solo.

### Doing the Math

A solo practitioner billing at \$250 per hour (and working 1000 rather than 2000 hours) can earn a gross income of \$250,000. Thus, a solo can gross about the same as a big firm lawyer while working half as much. A more ambitious solo could work 2000 instead of 1000 hours per year and gross \$500,000. What is more, the solo can be his or her own boss, set his or her own hours, and work from home in pajamas and bunny slippers.

And for as little as \$350 per month (a little over an hour's worth of work) the solo practitioner can lease a virtual office with call forwarding and use of a conference room as needed. However, major issues remain for the would-be solo's consideration.

First, the solo practitioner may not fill a full book of business. Few clients are willing to pay \$250 per hour forever. Landing one client for one job certainly seems possible, but since overhead is ongoing, so too must be the solo's stream of income. This is especially true for solo personal injury lawyers who must have significant capital to advance costs to fund litigation, which is usually taken on contingency.

Building a client base that can sustain a law practice can be a very slow process involving a major commitment to networking, which many lawyers consider to be beneath them. Attorneys who cannot ask for business may not be candidates for solo practice. Those who can market themselves have myriad networking opportunities, including joining bar associations and committees in their areas of practice, joining the boards of organizations, and attending sponsored events. These activities are generally scheduled after hours, however, and can extend a working day well into the night.

### Running a Business

A second issue is that a solo without clear priorities risks creating a private hell. Most lawyers become lawyers because they want to practice law. Lawyers often find that they want nothing to do with the tasks involved in running a business. These include case management, human resources, collecting on accounts receivable (a major time vortex), office administration, fixing the copy machine, and all the other basic business operations that are necessary for a firm to thrive. Also, unless you have an MBA, you can expect to need to

learn a lot about how to operate a business.

In 1989, author Stephen Covey published a bestseller called *The 7 Habits of Highly Effective People*.<sup>2</sup> The habits are in harmony with what Covey calls natural law. One of these laws is best illustrated by Aesop's fable of the goose and the golden eggs.

You probably remember the story of a poor farmer who discovers a golden egg in the nest of his goose. He cannot believe his good fortune and becomes more incredulous the next day when he finds another golden egg. Day after day he awakens to rush to the nest. He is becoming rich, and it all seems too good to be true. Impatient with this morning ritual of retrieving the golden egg, the farmer decides to kill the goose and get all the eggs at once. But when he opens the goose, he finds it empty. There are no golden eggs and no way to get them anymore.

Covey suggests, "[W]ithin this fable is a natural law, a principal—the basic definition of effectiveness. Most people see the effectiveness from the golden egg paradigm: the more you produce...the more effective you are. But, as the story shows, true effectiveness is a function of two things: what is produced (the golden eggs) and the producing asset or capacity to produce (the goose)."<sup>3</sup>

Covey warns, "If you adopt a pattern of life that focuses on golden eggs and neglects the goose, you will soon be without the asset that produces the golden eggs. On the other hand, if you only take care of the goose with no aim toward the golden eggs, you soon won't have the wherewithal to feed yourself or the goose. Effectiveness lies in the balance..."<sup>4</sup>

Unfortunately, balance is often woefully lacking in the lives of solo practitioners.

The third and most important consideration is the reality of the lives of many solo practitioners. Although some no doubt work

**R. J. Molligan is a solo practitioner specializing in tort and business litigation. She is also current co-chair of Solo and Small Firm Practice Committee for the Women Lawyers Association of Los Angeles and is a member of the American Board of Trial Advocates.**

## Effectively Handling High-Profile and Celebrity Cases

contentedly in bunny slippers, more often than not, financial stress is a big part of the equation. This can and does lead to depression, which can lead to drug and alcohol abuse and even suicide.

The *California Bar Journal* states, “Although attorneys who practice in large firms also feel intense pressure to...produce heavy billable hours, they usually do not struggle with the same kind of financial pressure a sole practitioner faces. ‘A sole practitioner has to be in charge of marketing, human resources, business development and information technology at the same time he has to be an attorney....’ Faced with such pressures, some succumb to the temptation to self-medicate.”<sup>5</sup>

In 2003, the California Legislature established the Lawyer Assistance Program, which is a confidential service of the California State Bar that helps judges and lawyers with substance abuse and mental health concerns such as anxiety and depression. The program’s 2009 report states, “Consistent with a trend that started in 2003, 60 percent of the attorneys who entered the structured recovery component during 2009 have a mental health diagnosis [primarily depression] either singularly or in combination with a substance abuse diagnosis.”<sup>6</sup> According to the report, nearly three quarters of those who sought help for depression and substance abuse were solo practitioners. In addition, the study found that more than four out of five are male. Significantly, 58 percent of the participants were over the age of 50—a testament to the cumulative nature of stress.<sup>7</sup>

Life can be overwhelming for the solo practitioner who must be the rainmaker, the office administrator, the copy maker, the hole puncher, and the person who does all the legal work. This may explain why only 25 percent of the legal population is self-employed.

Is going solo really worth it? For many solo practitioners, the answer is still yes. However, this response is more typical of lawyers who have left big firms. Whatever your decision, remember to be good to the goose. ❖

<sup>1</sup> U.S. BUREAU OF LABOR STATISTICS: LAWYERS, 2010-2011 OCCUPATIONAL OUTLOOK HANDBOOK.

<sup>2</sup> STEPHEN COVEY, *THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE: POWERFUL LESSONS IN PERSONAL CHANGE* 54 (1989).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Nancy McCarthy, *Statistics tell story of stress, addiction in lives of lawyers*, CAL. BAR J. (Nov. 2000), available at <http://archive.calbar.ca.gov/calbar/2cbj/00nov/page1-1.htm>.

<sup>6</sup> LAWYER ASSISTANCE PROGRAM, 2009 ANNUAL REPORT 7 (2009).

<sup>7</sup> *Id.*

Society, and the legal profession, are fixated on high-profile cases. Although the infamous O. J. Simpson case in 1994-95 riveted the nation like no other previous case, high-profile and celebrity cases have always had a prominent role in U.S. history. Lawyers who find themselves in a case that is generating intense media interest should proceed proactively on a number of fronts.

First, it is essential that the lawyer not lose focus. No matter how intense the media spotlight may be, the most important person in the courtroom is the client. Every decision a lawyer makes should put the client’s welfare before the lawyer’s.

While I was defending actor Robert Blake in his homicide case, he told me that cameras were like a drug—and no one is immune. He was correct. For whatever reason, lawyers have a tendency to change their countenance and alter their values when cameras loom. This is dangerous.

Many of the reasons behind this phenomenon begin with societal values. On some level, most human beings seek recognition and approval—consciously and subconsciously. The boundaries of this need may extend no further than one’s immediate social group, such as a school, club, athletic team, or professional association. However, this desire for recognition is reaching absurd heights in a culture that seems to have gone beyond the goal of 15 minutes of fame to constant 24/7 celebrity. Social media—including Facebook, YouTube, and other Web sites—are enabling everyone to obtain some form of celebrity status.

But lawyers have a unique role. When we represent clients, we have their lives and welfare in our hands. What we do can save or destroy someone’s life, financial welfare, rep-

utation, and freedom. It is paramount that the lawyer’s approach to the media constantly and consistently places the client’s interest ahead of the lawyer’s.

Trials are won in the courtroom. The lawyer’s primary focus should be on 13 individuals—the judge and the jury. If a trial lawyer forgets this cardinal fact and wastes too much time on media strategy and its inevitable component of self-promotion, a winnable trial can easily be compromised. The best public relations for a lawyer is a reputation for professionalism and success. Never violate court orders or the canons of professional ethics.

Media outlets are powerful. They have an enormous capacity to influence public perception. The media’s goal is never justice. Ratings, revenue, and advertising dollars are the media’s only concern. They will constantly look for the entertainment value in criminal and civil cases and exploit whatever furthers their profit.

It often becomes necessary for lawyers to calculate how best to “spin” their client’s position. Before a lawyer can effectively do this, he or she has to understand not only the client’s case but also exactly who the client is. You cannot humanize someone that you don’t understand. Great effort must be made to study the facts and evidence as well as the client’s personal situation.

### Developing a Media Strategy

Lawyers tend to be more effective at mastering cold evidence than understanding humanity. Law school does not train us in compassion, empathy, sympathy, and human emotion. But these are often the ingredients that affect media strategy the most.

In preparing a media strategy, first create a list with two columns—positive and nega-

**Thomas A. Mesereau Jr. is a partner in the firm of Mesereau & Yu, LLP, in Century City. Mesereau has represented numerous clients in high-profile cases in California and the Deep South. Among his clients was Michael Jackson, who was acquitted on all charges in a criminal trial in 2005.**