



ILLINOIS STATE
BAR ASSOCIATION

GENERAL PRACTICE SOLO & SMALL FIRM

The newsletter of the ISBA's Section on General Practice, Solo & Small Firm Section

Special issue in memoriam of MATTHEW A. MALONEY Section Chair 2006-2007 1945 - December 25, 2007

By Donald A. LoBue, Chair

The Bar Association lost a good friend when Matt Maloney of Princeton, Illinois passed on December 25, 2007. I knew him as a member of the General Practice Solo & Small Firm Section Council. I did not do many things with him socially nor do I know a lot about his family life, but I will tell you I miss him already.

He was Chairman of the General Practice Committee in 2006 - 2007. He was the individual we looked to for input on legislation and for long-range planning ideas. Somehow, he seemed to be able to read almost every bit of legislation the ISBA forwarded to us for comment and had meaningful commentary on all of it. He could provide

biting commentary, but still make you laugh.

He was concerned about bringing legal services to the solo practitioner and small firms who served communities outside the larger metropolitan areas. He was emphatic about presenting CLE programs in the smaller communities using local lawyers and local judges. The local bar associations continue to thank us for providing these programs to them.

Matt once told me he spent part of his vacation every year at the annual meeting. He liked being a lawyer and participating in bar activities. It was a part of who he was.

He was one of those people you just

knew was a good lawyer. He gave you a sense of confidence that things would turn out the way they should. You were willing to accept the consequences of the judicial system, good or bad, when you were in his care.

I viewed Matt like an older brother. He had a little more experience than I did, but was willing to share the wisdom he had acquired from that experience with you. You liked being around the guy. Those of us who have had the privilege to know Matt have been enriched by his life and feel diminished by his passing.

We miss you, Matt. You are in our thoughts and prayers. God speed to you and your family.

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Matt Maloney – A passion for the law

By John T. Phipps, Co-Editor

Matt Maloney was a passionate lawyer. He was the kind of lawyer who was fair and also tried to do the "just thing." He was a zealous advocate for his clients, the down-trodden, and the solo and small

firm practitioner in smaller counties.

He died unexpectedly on Christmas Day, 2007, at his home at the age of 62. He left us far too early. I have known Matt for over 20 years and was blessed to have had untold numbers of

discussions about law, philosophy, and many other subjects with him. He was a frequent contributor to this newsletter and wrote many thought-provoking articles. His articles frequently were the kind of "let's look at what we're doing and why are we doing this" or "what is being a lawyer all about," which tweaked an area we need to look at. With an impish grin and twinkling eye, he could raise the most complex issue in a discussion with "have we thought about this..." then he would come out with some profound insight as to the real issue and how to solve it in a reasonable way. He was a lively participant

in section council meetings and did an outstanding job as chair of the section this past bar year. He did remarkable work with the Bar on legislation with his timely insights and comments and his tireless efforts to help make legislation reasonable and workable. Matt's contributions to the organized Bar and the lawyers of this state are far beyond what many of us will ever know because he worked in the background in so many areas.

He was the kind of lawyer that was concerned about justice. He thought about people, and particularly the "little people." He was a consummate trial

lawyer; he used his skills to better the life of those that were disadvantaged. We shall miss his articles. We shall miss his company. But we will most of all miss his passion for the law and his concern for justice.

Matt Maloney was a great lawyer who performed. He will be missed. Those of us who had the chance to spend time with him or be his clients, were more than blessed with his friendship and his life. It was far too short, but for the time he lived, Matt Maloney made a difference. We should all be so blessed.

I hung my shingle: What I've learned in two years of solo practice

By Peter R. Olson, Chicago

Editor's Note: In this issue in honor of Matt Maloney, we have included only the article by Peter Olson. It contains some of the kinds of advice Matt was famous for, but most importantly it concludes with an observation of the joy of taking responsibility for your practice - something that Matt excelled at.

In April 2005 I made the jump to sole practitioner, leaving the security of law firm life to create my very own legal services business; I hung my shingle. It was an exhilarating decision filled with both excitement and trepidation as I started my first business. I had been a licensed attorney for not quite two-and-one-half years when I made the jump, with a small firm background in suburban Cook County. I started my practice in Chicago's Loop and I practice primarily in the domestic relations, elder and real estate law fields.

I want to share what I've learned. Particularly in the current tough job market for new law school graduates, I expect that there may be many involuntary sole practitioners entering the practice of law. You can do it! These are some tips of what worked and what didn't work for me.

1. Life Circumstances (primarily financial). My focus here is your financial stability as you start your solo practice. Ideally, you have a spouse or significant other who is working full-time in a steady, income-producing job and is providing health benefits. Also, if you're right out of law school, perhaps you live with your parents for six months to one year to eliminate housing costs. Although I was married when I went solo, my wife wasn't working at the time and it surely added to the financial pressures. Jay Foonberg in *How to Start and Build a Law Practice* suggests having at least one year's worth of living expenses saved before starting a law practice (or having a spouse or significant other earning an equivalent amount).

2. How & Where to Office. These first two points are likely more important than the remaining eight combined; the amount of money and overall risks at stake are large and an error can be fatal. I started my solo practice in a "Space for Services" arrangement on State Street in Chicago. I had my office in a suite owned by an older attorney and my "rent" was 30 hours of legal work per month. He had a very full practice and I along

with a number of younger attorneys assisted him. I strongly endorse this sort of set-up if you can find it. It kept my expenses down and allowed for good learning and mentoring experiences. Unfortunately, my landlord closed this office after my having been there only about six months. Following this office closure my firm was located in a traditional rent-paying location. However, starting October 1st of this year, I transitioned to a home office. In retrospect, once the "Space for Services" arrangement fell through I should not have rented office space. My experience has been that there's very little need for a physical office and it wastes critical dollars. In my practice, with regular court appearances and real estate closings and 21st century technology, I've found that in-person meetings with clients are virtually non-existent. Also, our administrative staff is off site. That said I would strongly oppose having client meetings at your home. I anticipate using "temporary" office space at places like Regus (Regus.com) or My Office Suite (myofficesuite.com) for future client meetings when necessary.

3. When to go Solo. I went solo some two-and-a-half years after becoming a licensed attorney. I would advise

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against going solo right out of law school if you can avoid it. Let's face it, although improving with increased amounts of clinical education, law school remains primarily a theoretical education. Most newly minted graduates don't know how to practice law. Thus you must learn the practical skills of lawyering after law school. This is best done on an employer's dime and under the supervision of an experienced practitioner. I think two questions should be asked before making the jump to solo practice: 1) Do you have a relatively high degree of expertise in two-three areas of practice so that you're confident advising clients on your own? 2) Are there immediate client prospects (i.e., income sources) when you open your firm's doors? Personally, when I hung my shingle I was working on some 20 client files as an Associate Attorney at my previous firm. Some five clients chose to follow me to my new firm which provided some initial income to ease the transition. Finally, I would strongly suggest you seek out good mentors both for practice specific matters and for the business of providing legal services. Both the Illinois and Chicago Bar Associations have created mentoring programs in recent years. I can't imagine that most lawyers wouldn't be honored to assist a less experienced lawyer learn the ropes.

4. Pre-Launch Tasks. Although your law firm will be constantly evolving as a business, I think there are certain tasks that must take place before opening your doors. It's unlikely that your phone will be ringing off the hook your first day as a sole practitioner, however, you do want to hit the ground running and be ready to service clients. First, register an Internet domain name for your firm and preferably an additional domain name or two for practice specific blogs (see below). If you're not on the Internet you're invisible. And if you're not optimized for search engines, primarily Google, you're not much more visible. Also, you need a mailing address whether a physical office, a business "image" address or a simple post office box along with a telephone and fax number plus an e-mail address. All of the above are important because this information should be on your business card. Low tech business cards are still very effective for in-person marketing. You should also take out a malpractice insurance policy effective the day you open your doors. This is critical for

personal liability protection but also because it's going to be required for bar association referral services which you should also get signed up for up front. Also do a mass mailing to everyone you know with an introductory letter regarding your new law practice including several business cards. Finally, you should make sure that you have a more experienced attorney to consult as you deal with areas of uncertainty. This might be a friend, a bar association mentor or at a minimum membership on an attorney list serve such as the discussion groups offered through ISBA.

5. Naming your firm. I think there are three primary directions to consider in firm naming: founder/partner last name(s), geographic location or practice area(s). I obviously chose the last name option: The Olson Law Firm, LLC. I'm beginning to favor the use of a practice area in a firm's name. Nearly everyone is using a name or names in a firm's name. Take a walk around any town square of a county seat and you'll see innumerable law offices. As a non-lawyer consumer, how would you tell the difference? I think the use of a practice area in a firm name will differentiate you. Or perhaps a combination such as The Family Law Offices of Peter R. Olson. I think the value of including a city's name in your firm's name would be particularly useful for search engine optimization for the consumer who types "Glenview lawyer" into Google, for example. In large cities I don't think this would be effective. If you want to be real innovative and aggressive in opening up marketing channels, use more than one technique simultaneously. In other words, you might have a Website or a yellow page ad for both the John Doe Law Firm and then have a separate marketing stream for the Des Plaines real estate law office.

6. Business Entity choice. Let's start with liability basics; unlike a non-legal business an attorney is restricted in his ability to limit liability. An attorney cannot limit his liability for liability relating to negligence in the practice of law. However, an attorney can limit his liability when it comes to contractual or employment-related matters. For sole practitioners, a Professional Corporation (P.C.) or Limited Liability Company (L.L.C.) are your likely business entity options. The Limited Liability Company, created in 1994 in Illinois, is a form of business entity that combines the lim-

General Practice, Solo & Small Firm

Published at least four times per year.

Annual subscription rate for ISBA members: \$20.

To subscribe, visit www.isba.org or call (217)525-1760

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ited liability of corporations with partnership treatment for federal income tax purposes (see 805 ILCS 180). Meanwhile, a Professional Corporation is a corporate structure for professionals such as lawyers, accountants or doctors. Illinois permits the operation of professional businesses in the corporate form under the Professional Service Corporation Act, 805 ILCS 10/1. Liability protection is identical under each entity, but the P.C. requires greater formality in terms of annual meetings and issuance of stock. As for costs, the P.C. requires an initial \$150 filing fee to the Secretary of State and a \$75 annual report fee. The L.L.C. costs \$500 initially to file plus there's a \$250 annual report fee. I started my practice as an L.L.C. I don't think that the formation of a business entity is critical for the new solo practitioner. Practically you may not have any employees and few long-term contractual obligations. That said, beyond issues of liability, I think there are perception advantages to using a business entity for your firm. I think there's an advantage to have clients perceive that you're running a serious business versus just a single lawyer toiling away by himself. Further, you as the firm's founder must realize everyday that you're running a serious and competitive legal services business.

7. Client Referrals. As mentioned above, one thing I did initially was to send a mass mailing to virtually everyone I knew with an announcement (business cards enclosed) that I was opening up a law practice. This is a "must do" and we still get calls from people who mention that they saved a business card and now they're calling because they have a legal problem. I also sent a mailing to some 250-500 lawyers announcing the opening of my practice and offering to be available for court coverage and referrals. This reaped surprisingly few benefits.

Perhaps six months into our practice I started using LegalMatch.com as a referral source. This is a commercial, Internet-based, geographic-specific legal matching service. Clients enter their case information and I respond online. LegalMatch does generate a high volume of referrals and they do market themselves aggressively through the various Internet search engines. The downsides are referral quality and cost of the service. For this current year we paid \$5,000. I am also a referral attorney of Pre-Paid Legal, Inc. The only

thing I'd say is it's free. I've gotten 3-5 referrals through it. As one of their referral attorneys you simply agree to give a slight price break to their referrals.

Bar association referral services give you great bang for your buck. I think these are critical because people who don't have lawyers in their social networks call bar associations for referrals. Secondly these are typically only \$50 to \$75 annually. I've gotten good referrals from the Northwest Suburban Bar Association and the Illinois State Bar Association services.

Other professionals are another critical referral area. If I had to generalize, some of the above areas are good and useful for the person starting a firm and early in their career. These last two (clients and professionals) are referral sources more critical for my current and future planning and will potentially be the most lucrative referral sources. In the residential real estate area, you get most of your referrals from real estate agents. Other lawyers are also starting to be critical referrers. I think this takes time but once you have some good lawyers who know what you're doing this may be the best referral source going. Get to know lawyers who practice in different legal fields and geographic areas and refer cases back and forth. Along this line, you should develop a nice "lawyer referral file" of your own because you're often a referrer too.

Finally, I don't think current and former clients are too helpful right up front because you either have few or no people in this category, but, over time this becomes the most important category. This is the category I consider most critical right now. After 2.5 years as a sole practitioner, we have a mailing list of 500 or so former clients. We have started a quarterly client newsletter to reach out to this group better. We also do the occasional "targeted" mailing of articles I write that address a specific area of law.

8. Billing & Collections. Since our inception, we've billed clients monthly and use QuickBooks Premier: Professional Services Edition for billing/accounting. It allows for hourly billing and you can provide written description for each entry. Bills are sent out religiously the first day of the month with a self-addressed stamped envelope enclosed (make it easy for clients to pay you). We do accept credit cards.

After some time our accounts receiv-

ables became higher than I liked and we've made changes. First, once a client hasn't made a payment after the 30-day grace period, one of my assistants begins to make weekly calls to that person; these are non-threatening calls just reminding people that we haven't seen their payment and asking when we can expect it. This little change has been surprisingly effective. We've also begun using an outside collection agency. The stages we go through with an unpaid bill are: start phone calls after 30 days without payment, collection letter stating that we'll be sending to collections soon at the 60 day mark; and send to collection agency if there are no payments after 90 days (slightly different procedures if the case is in court presently). One other wrinkle we've added of late has been to include coupons in our monthly billing package. I'm still unsure about this. Does a coupon make us look too much like a fast food restaurant? I do know that multiple clients have come to us directly from our coupons. Lastly, if possible, wall yourself off from collections. Obviously I'm entering my billing time for legal work. But maybe it's just me but I don't like doing collections nor does it feel too comfortable for me on the one hand to be dealing with traumatic and personal legal issues with a person and then simultaneously calling them about the \$500 they didn't pay last month. Collecting is critical for your business. Create a policy that you and clients are aware of and follow it. Have non-lawyer staff follow-up on collections if at all possible! Looking toward the future, I am intrigued by the possibility of totally outsourcing billing to a company like TimeBillers, Inc. (www.timebillers.com).

9. Staffing. When I initially went solo I had no staff; I shared a receptionist answering my phone. Although I thought it necessary at the time, working without any administrative staff leads to lawyer unhappiness, is a cause of bad client service and poor communication (the primary cause of ARDC complaints) and is just bad business. No, I'm not suggesting you run out and hire some seasoned legal secretary for 40 hours per week with health benefits. What I am urging is for you to consider the use of virtual workers whether a legal assistant or law school student researcher on a part-time basis. With 21st century technology it's simple to forward phone calls to an off-site employee and to share computer net-

work resources over the Internet. As a business matter, without any support staff I'd guess a lawyer can spend only 20 percent - 25 percent of his time on billable legal work. The more non-billable work you can delegate to non-lawyer employees the more profitable you will become.

10. Blogging. Nothing has raised my individual profile more than blogging. For all you Luddites out there a blog (short for Web Log) is a frequently updated Web-based journal or diary, often hosted by a third party. For the majority of my Firm's existence, I've published three blogs: Solo In Chicago, Closing Real Estate In Chicago, and The Illinois Family Lawyer. Their usefulness is wide-ranging but I think two uses are critical: marketing and the sense of "community" they provide. As a marketing tool, a blog allows you to exhibit your authority regarding legal subject matter through regular postings discussing legal matters. Further, regularly updated blogs will effectively enhance search engine rankings for both the blogs as well as your "static" firm Website. Using a free service such

as Blogger.com is an easy way to get started. I am regularly interviewed in the legal press and have been profiled in multiple publications; none of this would have happened but for my presence in the blogosphere. Second, there is a wide-ranging and extremely active group of solo and small firm bloggers across the country. Without listing them all, let me say that nothing inspired me to hang my shingle more than these lawyer bloggers.

Let me be frank in closing, although I've attempted to be positive and encouraging in this article, it would dishonest of me to not state clearly that starting a solo law practice is tough, there will be some lean years and it's not for everyone. It's not something to do on a whim for six months to a year. I think you have to be committed to sticking it out for three to five years to really give it a fair shot. Jay Foonberg says that it took him five years before his cumulative earnings as a self-employed lawyer equaled what his cumulative earnings as an employee with a firm would have been. You need to be entrepreneurial. As a lawyer employee one might spend upwards

of 75 percent of time in the practice of law. As a sole practitioner, marketing and business development come first; you need clients in order to actually be practicing law. You have to enjoy leadership and responsibility; the buck stops with you. But it's rewarding, you'll build something that's yours. And there's no failure. Several years in solo practice provides a breadth of experience not found in the typical Associate Attorney role. As Abraham Lincoln advised, your desire to succeed is one-half of the battle. Go for it!

About the Author: Peter R. Olson (petero@olsonlawfirm.net) is the founder and a member of The Olson Law Firm, LLC with offices in Chicago, Oakbrook Terrace, and Schaumburg. His law practice is focused on elder, family and real estate matters. He is member of both the I.S.B.A.'s Law Office Management/Economics and the General Practice, Solo and Small Firm Section Councils. He blogs at Solo In Chicago (soloinchicago.blogspot.com), Closing Real Estate in Chicago (closingonrealestate.blogspot.com) and The Illinois Family Lawyer (familylawyerillinois.blogspot.com).

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January 2008
Vol. 36 No. 4