



By Jeffrey Isaac Ehrlich
Editor-in-Chief

Starting a solo practice – one lawyer's odyssey



In February 2006 I took the plunge into solo practice, and started my law office from scratch. In this article I will detail a number of the decisions I faced, how I resolved them, and how – after almost a year and a half – those decisions seem to have worked out. I offer my experience less as a how-to guide than simply a documentary, with the hope that there may be lessons for other lawyers who want to start their own firms. I am certainly not holding up my experience as a model. I am sure that at many junctures I could have made smarter, more economical choices. The most I can say for myself is that, almost a year and a half later, I do not look back at any of the decisions I made with major regret.

Where to locate?

In the generation since I became a lawyer, computers have revolutionized legal research. Law libraries can now reside on disk or on servers accessed through the Internet. As a result, it is now

possible – at least physically – to practice law almost anywhere. Lawyers no longer need to locate their offices near a law library. But that does not mean that it is practical for a lawyer to locate anywhere. Important factors in figuring out where to locate include where you live, where your clients are likely to be, the commute, your budget, and what your clients will think of your office.

I believe that clients want to be impressed by the lawyer they hire, and that this desire should play a role in selecting an office location. A lawyer can be impressive in a number of ways – including reputation, force of personality or intellect, or previous success. The surroundings a lawyer chooses will necessarily play a role in how clients, potential clients, and even opponents will view them.

This does not mean that the most expensive, most lavish space is necessarily the best space. Making a good impression is important but so is staying in business. Leasing space that you cannot

afford is an easy way to drive a new practice into the ground. But it is important to find space that reflects well on you.

So decide where you want to be, where it makes sense for you to be, and shop around for a deal. Look for sublets from other lawyers or professional suites.

What did I do? I live in Claremont and wanted to work close to where I live. I was lucky enough to find a small office suite in a 1914 Victorian-style house which had been converted to offices. I lease two offices: one for me; one for my fabulous paralegal, Isabel. Space is tight, but we function. I have leased a storage unit nearby for storing closed files and files I do not need in my office. I would like more space, but for now it works.

As my lease came up for renewal, I looked into moving into newer, bigger, space in one of three very attractive new buildings in Claremont that are under construction. But this presented a puzzle I could not figure out how to solve. The

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lessor wanted a seven-year lease. I might have been able to shorten the term some, but I was still looking at a four or five-year commitment.

How much space will I need in five years? I have no idea. I have no plans to build a large firm, but I can easily see adding a lawyer or increasing the size of my staff. Without some way to forecast what I needed, I was unwilling to enter into a long-term lease. I will try to muddle through until I have enough of a feel for where my practice is heading before I make that kind of commitment.

Banking/Finances

New practices seldom make much money at first, so you will need to finance the practice in some way until the practice starts to generate income. You can finance it from your savings, try to obtain a loan, or use some combination of revenue sources.

There are a handful of banks that have some interest in providing financing to plaintiff firms. A good place to start is to check the list of exhibitors at the CAALA Annual Convention in Las Vegas.

I had a long-standing relationship with Washington Mutual when I started my practice. I thought that this would stand me in good stead when I approached it about minor financing — enough to help buy some computers and office equipment. I also wanted a firm credit card. I was wrong. WAMU's position was that since I was a new business, they would not extend me credit on any basis — not even a credit card with a \$250 limit. Nothing. I have since received a call from a business development manager at WAMU who tells me that it has changed its attitude and is now cultivating smaller start-up businesses.

Fortunately, there were other companies with a more generous approach. American Express offered me a \$15,000 unsecured credit line as did Bank of America, even though I had never dealt with them. I chose to lease my computers (through Dell) and my copier (through Imaging Plus).

You will also need a business checking account, and a client trust account. I opened mine at WAMU before I learned

that it considered me the worst credit risk imaginable. Right now I plan to switch, but I have not had time to change banks. Maybe the hard feelings will fade. More likely, on any given day I will have more important things to do than open new bank accounts. WAMU: banking by inertia.

Equipment

Every law firm needs computers, telephones, a copier, a printer, a scanner and a fax machine. These can be stand-alone or multifunction machines. When I started my firm, I wanted to use Macs instead of PCs. While I was shopping, a salesman showed me how to connect two Macs into a network. It was so easy, I knew that even I could do it. But I went with PCs anyway, because I had no confidence that I would be able to find the practice-management software I wanted that would run on a Mac. I suspect that this problem may have been solved when my PC leases expire next year, since Macs now run on Intel chips and can run Windows in native mode. I will do the research before I renew, but there may be Macs in my future.

I ended up leasing a couple of Dell business computers which I networked together. I was able to accomplish that myself as well, but not nearly as quickly and easily as I could have done it on a Mac. Later on, when I *upgraded* my practice-management software, I bought an entry-level server. More on that later.

My experience with my computers has been okay. I have not had any hardware problems. But a few weeks after I installed them, I started to have some intermittent problems with my computer. I do not even remember what it was doing. I spent a fair amount of time with Dell support, and they finally told me that I would have to reinstall Windows to fix the problem. They were willing to walk me through it right there if I wanted. They said it would take a couple of hours.

Luckily, before I accepted that invitation, I asked whether this would necessitate wiping out all the data on my hard drive, and reinstallation of all the software. Since they said that it would, I ended up hiring the guy I use for my computer issues to do it for me. It ended up costing a few hundred dollars for his

time, but he was able to save everything I had while he reinstalled all my other programs. It was worth having someone skilled do it for me.

I spent a fair amount of time researching copiers online. I wanted one that would scan as well as copy, and I wanted it to be fairly fast. Nothing is worse than standing at a slow copier. Speed is expensive, though, so I had to find a happy medium. Through trial and error in some showrooms, I figured out that, at least for me, the magic threshold was about 35 copies per minute. Anything slower seemed really slow. Anything faster was a nice luxury but not essential.

I learned that there is a booming market in reconditioned copiers that have come off lease. You can find many sites on the Web that offer deals, and most are affiliated with a leasing company as well. The trick is that you will also need a service contract for the copier. Most of the companies that do the reconditioning do not do the servicing, and many companies who do the servicing will not service a machine that they did not recondition.

I am not sure how I settled on it, but I narrowed my search to a Ricoh Officio, a digital machine that copies, scans, prints and faxes. You can get it equipped with a document feeder and a finisher that collates and staples. I wanted the 1045, which copies and scans at 45 copies a minute (cpm). But the 1035, which is the same machine, except that its copier engine is slowed down to 35 cpm, was a better deal. The chip that slows down the copy function does not affect the scanning, so it scans faster than it copies.

I ended up making a choice I was very happy with. I found Imaging Plus (www.imagingplus.com), which gave me a good deal on a 1035, was willing to lease to me, and does the servicing too. The service has been solid and the copier functions well.

Telephones were easy. You arrange service with the phone company, and then you can buy phones at Staples, Office Depot, etc., very reasonably. You plug them in, and they work.

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Insurance

Often, when I rent a car, I am struck by how complicated it seems to be for the person handling the transaction. It seems as though I am the first customer who ever rented from the company. Buying malpractice insurance was sort of like that. I figured that insurance companies who write legal-malpractice insurers would pretty much have the process down. Wrong again.

You do not actually buy your insurance from the company. You find a broker who takes your application and then gets quotes from various companies. Then you select the policy you like best. (Which is sort of selecting which painful dental procedure you would prefer; the choices are all unpleasant.) I found that not all brokers are willing to follow up. I made several calls. Only some returned my calls. Of those who did, only one actually followed through the whole process and got me a quote. He deserves a mention for this: Greg Evans at Dominion Insurance.

None of the applications is geared toward a new practice. They all ask you questions that make no sense when you are starting out, such as how much money you will make the first year, and what percentage of your cases will fall into the arbitrarily narrow class of cases that do not really dovetail with your practice area. Evidently, there is business-litigation, personal-injury litigation, and insurance-defense litigation. But appellate work as a subgroup does not exist, nor does insurance bad-faith litigation.

The application requires that you cut and paste the text of a letter they send you onto your firm's letterhead. This is fine, except that it assumes you have settled on your new space and purchased letterhead by the time you are arranging your insurance. Fortunately, satisfactory *letterhead* can also be generated on a computer using Microsoft Word.

If you lease equipment, the lessor will want you to have insurance on the property and your leased premises. A decent policy will cost about \$600 per year.

In California, if you have an employee you can qualify for *group* healthcare coverage. This is a good news/bad news

situation. The good news, which is very good, is that group plans are guaranteed issue. They cannot exclude you based on your medical condition. This is a lifesaver if you or someone in your family has an illness since health insurers these days will refuse to cover almost anyone who is not in perfect health if they apply individually. The bad news is that your coverage is subject to ERISA and will cost a fortune. Health insurance is my second-largest monthly business expense.

There are not many choices in this area. Odds are you will be limited to choosing between Blue Cross, Blue Shield, Aetna, Health Net, Pacificare and Kaiser. It pays to look carefully at what is offered, because there are huge differences in coverage.

Finding a good broker is a big help here. I started with someone who only gave me two choices, which he did not explain very well. I went back to someone I had done business with years ago, who gave me far more options, and much better information. (Sandra Ashton-Phillips, www.ashtonphillips.com).

Library/Legal research

By the time you are in a position to start your own law practice, you will have your own preferences between Westlaw and Lexis. Both offer reasonable fixed-fee deals for sole practitioners. The best deals are to be had when you are actively comparing one with the other. Once you are locked into a contract, they are less aggressive in discounting their services.

Buy the biggest, broadest plan you can afford, because the meter runs very, very fast when you go outside of your plan. I'm a Westlaw guy. For one not-so-low monthly fee, I have access to all state and federal cases and statutes, legislative history materials, Witkin and the Rutter treatises, and more. But if I find something I want to look at that is outside of my plan, I pay something like \$250 per hour to access it.

Having access to treatises on line is helpful, but sometimes there is no substitute for leafing through pages. I find that for most treatises, it is much easier to find things if you are holding the books. So, it makes sense to buy the hard-copy ver-

sions of the books you know you will use all the time. I also find the West soft-cover codes indispensable. West is very eager to open an account for a new practice.

Employees/payroll

Isabel is my paralegal and office manager. She is worth her weight in gold. Fortunately, she is quite small. An employee's salary will be the largest single expense you have each month, and it is tempting to try to save and figure you will do it all yourself at first. My experience is that, even if I could do it all myself, it would take me so long to do it, that I would not be able to get my legal work done.

Hiring an employee makes you an employer. That means taxes, tax forms, and rules you have never heard of, but with which you must comply to stay out of jail. There is a good solution: Paychex, or some other company that does the same thing. For a very nominal fee, they take over all the payroll aspects of being an employer. All you have to do is have enough money in your bank account to cover the cost of each payroll check. They do the paperwork, file the tax returns, and give you more reports than you will know what to do with. They even give you the binder to put the reports in.

Practice management software

It is possible to manage a law firm with only paper, pencils, a calendar, and filing cabinets, but it is easier to do it with a computer. You can manage your calendar and contacts with Outlook, your time-keeping with Timeslips, your files with Word or WordPerfect, and your accounting with Quickbooks. But by doing it this way, you have several databases, which may or may not interface. I wanted to avoid this and to have a single database for all the parts of my practice.

This meant I needed to buy law-practice management software. I tried to find some that worked on Macs but only found one, and I was not convinced by its demo that I would like it. So this is what forced me into having to use PCs for my practice. There are several options for PCs.

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Years ago, I used Amicus Attorney to manage my practice. I found it intuitively designed for lawyers, and I would have used it again, except that it did not offer an integrated accounting function. Instead, you would run a separate accounting program, which meant an entirely separate database, and then use a third program to allow the two databases to talk to each other. I tried this on the demo, and since I could not make it work easily, I gave up. In the interim, the company that makes Amicus has acquired a company that makes accounting software, and they are working on (or may have created by now) an integrated package that runs on one database. If so, it would be worth checking out.

I started off with PC Law, a Lexis product. It was cheap — only about \$250 per seat, and it was easy to learn. It worked very well for the back-office part of the practice; that is, for the billing and accounting. It had an incredibly ugly interface, which seemed designed in the early 1980s, when the height of graphic design was to make the display look exactly like green and white-striped ledger paper. But it was fine, except for one flaw I could not get past. There was a problem in the calendar module.

I like to see what projects and deadlines I have coming up. I am used to using the Outlook Task List and Calendar for this. PC Law has a similar function, but it will only display work that was due in the next 90 days. I could live with this. But the problem was, if something was due 91 days after it was calendared, it would remain invisible on the display until the 90th day, and then pop up with one day left. We worked with tech support for many hours to try to determine why the system was doing this, but we never got an answer, and more importantly, we never got a solution.

I could have simply used Outlook for all our calendaring and relied on PC Law for everything else, but this seemed inelegant, and I was determined to have an integrated system. So I turned to West's system, called Prolaw.

Prolaw is a heavy-duty database with a practice-management shell that ap-

pears to have been designed years ago, before all Windows programs were designed to function more or less alike. For this reason it is the least intuitive computer program I have ever tried to use. For me, at least, no function is obvious, and the help menus are seldom helpful in any way. No software program I have ever used has made me feel so stupid. Even after I have used a function a few times, I am not quite sure I can repeat the feat again.

Prolaw can manage a sole practice or a multi-city megafirm. It is completely scalable: just add more computing power and more copies of the software. All this power and flexibility is why it is so frustrating to use if you are trying to use it to organize your practice. It can do almost anything; you just have to know what you want it to do, and how to set it up to do it.

It was several times more expensive than PC Law, and that was before I purchased a server and created a client/server network, instead of simply hooking my machine up to Isabel's in a peer-to-peer network. I upgraded so I that I could have "bi-directional" Outlook support, meaning I could enter things in Outlook and have them show up in Prolaw, and vice versa. After all that, I am not sure I actually have that.

Prolaw integrates very tightly with Windows. The *save* command now requires that you fill in a host of fields in the database so that Prolaw can keep track of the document. What you thought of as *save* before Prolaw is now called, *save local*, meaning to save without entering the document into the database. Any document in the database is now identified simply by a number; no more descriptive file names. But Prolaw makes up for this by keeping track of where every document is, keeping it linked to your file, and in its proper place. Prolaw can index every readable document in the database and allows full-text searching.

Prolaw clearly degrades the speed of my computer, so that opening documents and particularly switching between open documents can be maddeningly slow. I am sure that this is nothing that a server upgrade could not fix.

I am still trying to figure out how to use Prolaw months after it was installed and after Isabel and I finished the 15 hours of on-line tutorials that you must complete before you begin to run the system.

I know I sound unhappy with it, and so far I am. But I have seen what Prolaw can do, and it is really quite amazing. A lawyer who has been using it for years showed me how his practice is set up, and my jaw dropped. It keeps track of *everything* — every document; every e-mail, every letter; every phone message, every piece of evidence — *everything*. Files can be organized to correspond exactly to paper files, but nothing falls out and nothing is lost. Print out a page from a document production, and it will show you who produced it, what file it belongs in, and what page number it is.

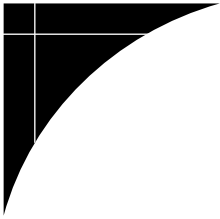
The user can search using Prolaw's full-text searching and find any document in the system or can use database queries and search by field. When cases settle, with the touch of a button Prolaw generates closing statements, writes the appropriate checks, pays the liens, and closes the file. When documents come in that trigger deadlines, he identifies the type of document (say, interrogatory response) and Prolaw calendars every applicable deadline, down to the last day to request a handicapped-accessible courtroom for the hearing on the motion to compel.

Someday, I hope to learn how to make it do these things for me. Little by little, I am learning its interface and its quirks. I am about to hire a consultant to work with us for a day or two to show us how to make it work for us. He described the program as a huge set of tinker toys, which would allow you to build almost anything — if you had the plans.

An interim conclusion

Overall, I am reasonably satisfied with the choices I made. I wish that my best decision was not which copier to lease. I wish I was better organized, and that I knew how to use Prolaw to address my organization issues without having to

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pay another consultant to show me. But most of all, I am pleased and proud that a year and a half into this venture, I am still in business. Work is starting to come in more regularly, and the cases are get-

ting better. This just might work out. Stay tuned.

Jeffrey Isaac Ehrlich is the principal of the Ehrlich Law Firm, in Claremont. His practice involves appellate work for plaintiffs' trial

lawyers, and the occasional insurance bad-faith case. He is the editor-in-chief of this magazine.

