



THE LAWYER AS ENTREPRENEUR

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Much has been said and written about lawyers as entrepreneurs. Definitions and opinions abound. Do you have an entrepreneurial spirit and mindset? Does it really matter? It depends on the environment in which you are practicing law. And it will determine whether you survive, thrive, or suffocate in your environment.

Let's identify what we mean when we refer to the entrepreneurial lawyer. As mentioned, definitions are numerous. Some are limited in vision, and others are expansive in scope. The most prevalent definitions include

- One who has the mindset of an owner, rather than an employee
- One who is optimistic at the core; who examines the playing field and sees opportunity hidden among the risks, uncertainty, and ambiguity
- One who always has “antennae up”, so as to recognize opportunity and pursue it vigorously, without being deterred by a lack of resources, and despite risks, has self-confidence in the ability to succeed
- One who encounters inefficiency, imperfection, or a vacuum, and responds by innovating to create a unique, marketable solution
- One who recognizes and/or creates differentiation from the competition
- One who has the ability to find and retain clients

Jonathan Fields is a lawyer turned award-winning author and entrepreneur. In his article “*Why Most Lawyers Make Terrible Entrepreneurs*” he makes strong argument that most lawyers have the cards stacked against them when it comes to being entrepreneurial, but that the cards can be reshuffled with work on the lawyer's part.

Fields contends that the way that lawyers are taught to think and view the world “shuts down nearly every entrepreneurial instinct.” The lawyer's job is about identifying possible risks for clients, and guarding against them. The lawyer works to remove ambiguity and uncertainty for clients. Certainly, if the lawyer fails in

this regard and the client's deal goes badly, the lawyer will receive blame for the resulting disaster. For this reason, many lawyers have gained the reputation of being overly cautious deal-breakers, rather than deal-makers. They miss the point that the client *needs* to make deals to have a successful business.

A real entrepreneur, according to Fields, understands risk, and is “pathologically optimistic” and “believe the impossible can be done on an almost irrational level.” If you desire to become more entrepreneurial, to be a deal-maker instead of a deal-breaker, you have to first admit you have a problem. As Fields says, you have to “shift from being a failure cop to a professor of possibility.”

So how does all this relate to being successful and happy in your career? First and foremost, you need to know where your inclinations lie. Based on how entrepreneurial you are, you will suffocate in some environments, and thrive in others.

If you are willing to do the work to become more entrepreneurial, or if you are naturally so, you will thrive in your own practice, or in managing a practice group at a mid or large firm. By definition you must, in both environments, have the vision to create a market position, grow a book of business, and have an ownership mentality. For those at mid or large firms, additional skill sets will include the ability to inspire and lead a group of individuals who prefer autonomy to compliance. Yes, the old “herding cats” is what we're talking about.

Those who head out to start their own firms, whether solo or small practice, are usually the most entrepreneurial. They often step off a platform and perform a triple Lutz into the water, with little regard for the risks and unknown. They are buoyed by sheer optimism. They know somehow they will rise to the surface of the water, and take that deep breath of satisfaction.

Solo and small firm owners have the strongest entrepreneurial spirit, highlighted by an amazing degree of self-confidence. They must not only be able to identify opportunities and grow and retain a client base, but they must also somehow differentiate themselves from others, particularly their larger firm competition, all while successfully managing the day-to-day operations of a business. While successful rainmakers and practice group leaders at mid and large size firms may be the Fred Astaire of lawyer entrepreneurs, solo and small firm lawyers are the Ginger Rogers of entrepreneurs; they must do all the same, but backwards and in high heels (metaphorically speaking)!

Non-entrepreneurial lawyers, on the other hand, will do their best work, and feel most comfortable in in-house positions, or as service partners or senior associates at mid to large size firms. Of course there are exceptions; there always



are. Sometimes an entrepreneurial lawyer in an in-house counsel role serves as a key visionary and facilitates significant changes in focus, operation and success of their employer.

For those who already are, or eventually become comfortable as service partners, there are inherent risks downstream. [Note: for a copy of “*The Bloom is Off the Rose: How Service Partners Can Delay Premature Wilt*,” which originally appeared in the July 5, 2010 issue of *The Pennsylvania Bar News*, send an email request to lawpractice@pabar.org.] What leads most lawyers down the path to service partner is a lack of ownership mentality, and an inability or disinterest in building their own book of business. My very strong opinion, which is shared by many smart consultants in the legal industry, is that ownership mentality can be developed in most, and anyone can learn to market if they are *willing* to learn.

A common complaint I hear is that today’s young lawyers just don’t have an ownership mentality. That means different things, depending on the context. For most it is an expression of frustration that many young, talented lawyers are taking no interest in attracting and retaining clients. A wider interpretation is that they also have no interest in some day managing the business aspects of a firm.

What is not said, and not understood by most law firm partners, is that today’s marketplace is far different from what they experienced upon entry. We are in, at best, a stagnant marketplace. While there are and always will be hot growth areas, for the most part practice areas are highly saturated with competition, and client demand is stagnant or shrinking.

In other words, carving out a niche and acquiring new clients and referral sources is a highly daunting task nowadays if starting from scratch. One must be much more than a skilled technician with a decent bedside manner. One who is not naturally entrepreneurial will be unable to compete successfully in this marketplace without being shown the techniques and given tools, and in some cases, given coaching assistance as well, to learn how to apply the techniques and use the tools.’

A SLAW blog post of April 1, 2011 entitled “*The Toughest Challenge for Lawyers: Learning to Be an Entrepreneur*” offers some solid suggestions. The following quote reflects a successful strategy to build ownership mentality, which I have put into effect for many clients over the years:

“Firms should be as transparent as possible about what it costs to run the firm. Associates need to see how their hourly rates, prompt billing, control over non-billable time — all impact the financial



viability of the firm. In other words, the earlier they start to think like owners and less like employees, the sooner they will start to act like entrepreneurs.”

I have also worked diligently to encourage development of strong mentoring relationships at firms for non-technical skills, and the engagement of coaches for those who express interest in marketing but lack the innate ability to do so.

Okay you gray-hairs or no-hairs, stop right now. I can sense you thinking “It doesn’t work – if a lawyer doesn’t have the natural ability to market, don’t waste your time. Cut him or her loose.” With all due respect, you’re wrong. You’ve been proven wrong by thousands of lawyers who have managed to learn and apply what did not come naturally to them. Those who, through sheer force of will, and with some guidance and training, have developed sufficient entrepreneurial skills to be successful in their own right.

Over the years we have all encountered lawyers who have misunderstood themselves. After all, frequent introspection is not characteristic of most attorneys. So we’ve seen attorneys leave firms to become solo, only to discover they are miserable for one reason or another, often having nothing to do with earnings. Some continue to suffer, while others admit they are not in a good environment, and return to a firm or go in-house. Others err on the opposite end of the spectrum. They spend years, often whole careers, feeling like the proverbial salmon swimming upstream. They are constantly silencing the voice inside them which says they can do better on their own in terms of work environment, positioning, or quality of life. Those expensive golden handcuffs cause many to live out their lives quieting the whisper of discontent. Others, seemingly suddenly, dive off the high board into unknown waters with an eerie, almost incomprehensible confidence and optimism. If you ask most later on, they will only lament how long it took them to take the plunge.

For those of you who believe you are entrepreneurs, or desire to learn to be entrepreneurs, and are thinking of taking that leap off the high dive, let me offer a few words of advice. These suggestions were gathered from the strongest entrepreneurs I know: members of the Solo & Small Firm Section of the PA Bar Association. To those members I posed this challenge: “Please take a look down memory lane and tell me about the mistakes and risks you encountered at start-up, and in retrospect, what you would do differently if you were doing it all over again.” Here are some of the thoughts that came back:

- Have a good five-year financial plan prepared in conjunction with your bank and CPA. Do NOT abandon your non-practice activities to work in your office. They can be another source of new clients.



Remember, you are human and need to have a life. [Marion Laffey-Ferry]

- Don't play with the tax man, and do what your accountant says. Remember, all the money you hold is not yours. [name withheld]
- Don't take on clients who have been "fired" by other lawyers. Don't dabble in areas where you lack expertise. [Thomas Wilkinson, Jr.]
- Don't take on every prospect who walks in the door. I had such a fear of not being able to pay the bills that I thought quantity of clients was more important than quality of clients. While I still struggle to say "no" to potential clients, I know that some clients will cost me more of my time and my sanity than is worth the fees I earn by agreeing to represent them. [Ryan Dansak]
- Bad business is worse than none. [Norma Chase]
- Two of my biggest mistakes: 1) Undercharging 2) Failing to collect fees upfront. What I did right: 1) Not incurring any debt with my practice. Therefore after things got rolling, I never felt pressured to take problem clients or cases with law unfamiliar to me just to make a buck. [Mary Margaret Boyd]
- I made the mistake of not getting (or even knowing about) your packet of information, which would have saved me a great deal of time and effort learning everything on my own. Your packet for start-up solos is an excellent resource of information newbie solos should all have. [Nancy Lanard]

Do you have an entrepreneurial spirit and mindset? Perhaps now you have a better idea. If you encounter a problem and it provides inspiration and opportunity rather than insurmountable obstacle, you no doubt are. If you are yearning to do it "your way" you may be. If you have no interest in running a business, or making rain, you're not. If you have interest in these areas but don't know how to go about it, you can learn and grow your entrepreneurial mindset with willingness and some hard work.

At the end of the day, it's not a question of good or bad, better or worse. It's about knowing yourself, and purposefully seeking out the best environment for you. Life is too short to be miserable going to work day after day. Or putting forth less than your best effort because your heart isn't in your work. Remember, if you need someone to talk to about this, I'm just a phone call or email away.



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