

The Practice of Law is a Profession *and* a Business— And That’s a Good Thing

Last year, I had the honor of being sworn in as a member of the New Hampshire Bar. At the swearing-in ceremony, the state’s chief justice admonished new admittees to remember that the practice of law is a profession, not a business. The chief justice was echoing a traditional distaste for commerce that is well-known to the legal profession.

For generations, our profession’s leaders have been lamenting the trend of law firms toward a business model. However, the profession’s negative notions about business no longer hold up to scrutiny. The vast majority of flourishing businesses today are successful because their leaders engage in sound, ethical business practices. Indeed, embracing outmoded ideas about what business is really about can actually hinder a lawyer’s professional development.

According to the U.S. Bureau of Labor Statistics, three out of four lawyers practice privately. In other words, whether they are partners in law firms or practicing as solos, they are running small businesses. They must know and apply good business practices. Yet lawyers learn virtually nothing about running a business in law school or in continuing legal education courses. Furthermore, as the New Hampshire chief justice’s remarks indicate, leaders of our profession do not encourage lawyers to focus on the business side of law practice—despite the fact that devaluing the business side of the practice puts lawyers and their clients at risk.

Professional malpractice insurers concur. A legal malpractice auditor recently told me that the overwhelming majority of malpractice claims do not involve errors in the law but, instead, result from poor business practices such as failing to keep track of deadlines, failing to return phone calls, not providing services promised, or not billing correctly in a timely manner.

Owners of faltering businesses may be tempted to take shortcuts with services or products, overcharge customers or shortchange employees. A lawyer in private practice is no different—the

temptation to take shortcuts can be irresistible if his or her business is not making a profit. However, failure to make a profit rarely has anything to do with legal skills—it has to do with a lack of business-related skills, such as implementing sound planning and budgeting procedures, realistic pricing of services, good billing and collection practices, hiring and properly managing good employees, and keeping expenses in line.

It naturally follows that instead of denigrating the business side of law, leaders in our profession should emphasize and support sound ethical business practices that strengthen professionalism. They can do so by advocating the following:

- Recognizing and proactively supporting the idea that good business practices and professionalism go hand in hand;
- Providing continuing business education for lawyers on setting up and running a successful small business, including budgeting, preparing financial statements, properly pricing services, and hiring and managing staff;
- Providing mentoring and other support tools for lawyers who need help with the various business aspects of their practices.

Support for teaching business skills to lawyers and improving the business practices in law firms everywhere will ultimately reduce ethical violations and malpractice claims and will, more importantly, benefit our clients, which is the true purpose of practicing law.

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