



## Best of the Listserv

Question:

Good Monday everyone!

I just joined this group and I wanted to say, I really enjoy all the opinions and ideas that are expressed here. I am currently practicing trademark infringement litigation (lord help me) but what I have really wanted to do my entire career is family law. How did you all get started? I have no experience in the area and I have always been afraid to take the first step from the area of law that I was first pushed into three years ago to the one I am really more interested in practicing.

Suggestions? Thanks,  
*Mandi Marie Martini*

Answers:

Well... I started my family law practice when I went solo in February 2005, having never seen a family law case in my life. But, I knew several lawyers who practiced nothing but that, and I bought a book or two.

I advertised and did a little word of mouth to get my first couple of cases. (I still do not have many cases, and it will be a while before I can do nothing but f.l.) I knew in the early going that I had the choice to pick and choose cases, so even though my phone was not ringing off the hook or my door being beaten down by hordes clamoring for my skillful insight into their marital relationships, I picked and chose.

I did not take a couple of cases because I knew the cases would be too complex for me at my level of skill. I stuck to relatively simple cases, because those are the ones in which it is easier to apply the rules (the fact patterns tend to be simpler).

The other thing I did was be brutally honest with potential clients. I told them upfront I was not the most experienced attorney in town, but I was not afraid to ask questions: I let them know they could fire me any time they liked, and I was confident I could handle their matter. Finding out the basic nature of their issue before the appointment gave me the chance to bone up.

*Good luck! Barry Kaufman*

Best advice I can give you Mandi is to make a commitment to do family law, and nothing else, if that is what you really want to do. That means you need to start turning down those IP cases that are probably lucrative for you now.

A couple of years ago, I made the decision to go exclusively domestic relations after having done several years of general practice where family was only about 25 to 30% of my practice.

I choose to bite the bullet by spending what I needed to spend to develop my skills and turning away a fair amount of money in other cases so that I could "open the space" for the divorce cases to come in. They did not flood in, but the cases did start to pick up, and now my boat is pretty much full with about as much as I can handle. In sum, my suggestion is....

If you want to practice family law, DECIDE, and then do it. If you want to practice IP, then do that. But ultimately, if you really want to practice in one area of law, you need to cut the umbilical cord of any others you are currently practicing in, in order to create the space to do your new practice. I liken it to quitting smoking; sure cold turkey is tough, but it's really the only way it ever really gets done.

*Best of luck, Roger R. Harada, Esq.*

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Welcome. Are you a "people person?" Do you like to watch Divorce Court, Judge Judy, Cheaters, Boston Legal and Desperate Housewives? Answering yes to those two questions is a good start.

Is there a mentoring program for lawyers in your area? Joining the family law section of the local and/or state bar is an excellent place to pick up the vibes of the practice. As a whole, we are a very congenial group – it is FAMILY law after all – and have a vested interest in training/working with attorneys who also know what they are doing. Exactly where do you practice? City? State?

Build your resume. Write for the local bar, etc. Writing articles about a family law case is a GREAT way to learn more about the area of practice.

The ABA has some excellent publications dealing with the basics of the practice.

Wow, there is so much to tell. It can be stressful at times but it can be very rewarding.

My teenage daughter has told me she is determined to become a lawyer. Not necessarily family law, but a lawyer. She said she has felt no pressure from me to go into law (that is not my style - to pressure her into anything) but she did recently tell me "Dad, I see how happy you are with what you do." . . . from the mouths of babes.

Never, ever, ever be afraid to ask a question.

I am sure you will get other great input from others on this listserv.

My last bit of advice for today that I learned a long, long time ago: The number of general complaints from clients is inversely proportional to the fees you charge. If they think they have a "cheap" lawyer, they will treat you like a "cheap" lawyer.

*David N. Schaffer*

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O.K. Some more advice. Judges do not run the courtroom – the clerks do. YOU do not run your office, the secretaries do. Treat support staff like the gold that they are. (Please do not share this with my secretary!)

The best thing I ever did was find a Mentor (of course joining this list is great too!) If you can find a Mentor, you have someone to hold your hand over the abyss. (You know when opposing counsel sends you a letter citing the Quackenbush rule and you are scratching your head going Huh! A mentor will explain that locally the Quackenbush rule means. . . .) Mentors will tell you which opposing counsel can be trusted to hold to their word and which ones you have to save every envelope, facsimile transmission sheet and follow up with 15 confirming letters. A good mentor will refer you cases that are too easy or low budget for the mentor, but are right up your

alley. The best mentors will instill you with the confidence you need to handle that first BIG scary case. A good Mentor will take you to the bar functions and introduce you to everyone! If the Mentor is well respected a little of their shine will rub off on you. (Be VERY careful not to tarnish your mentor's shine.)

A Mentor will also tell you what other attorneys are saying about you. This can be very important. Your reputation precedes you into every case and every Courtroom.

How do you find that Mentor? Luck, black magic, lighting candles... Try going to Court and watch the attorneys in front of the Judge and in the hallway with other counsel. Attorneys who are greeted by other attorney's as "Sir," "Counselor," "Madame" are good ones to watch. Attorneys that the Judge greet personally. Attorneys that the Judge doesn't tell to shut up are good. Attorneys that are greeted warmly and whom opposing counsel keeps smiling at even when their back is turned are good.

*Good luck and welcome to the Monkey House! Kristin Schuler-Hintz*

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Welcome to the practice. But are you sure you want to do this? I am the son of a very successful patent and trademark lawyer. I grew up with his war stories. He always enjoyed what he did and it was financially rewarding. It always sounded to me like a pretty good gig. If I were qualified to do so, I might have gone into that area. In family law, you get a lot of distraught clients, people who might otherwise be pretty good folk reacting to the high stress of a divorce. Are you ready for weepy or demanding calls at any hour of the day or night? Are you ready for clients who take you for granted and don't pay your bills? Are you ready for the responsibility you will have in litigating the future of innocent children? Are you ready for judges who get put in the divorce division because they don't have enough ability or clout to get a better assignment? (I've gotta be careful here, especially since my local colleague David Shaffer will probably read this. Most of the judges we deal with here in the western suburbs of Chicago are very good. By the way, David's advice is good as always.) Do you want your friends and relatives to look at you like you've lost your mind when you tell them you want to switch to family law? We had an associate some years ago who came to our firm because she wanted to get into family law and we are very strong in that area. She was an excellent lawyer, graduated from Northwestern and Wash U. Law. She handled a number of divorce cases and actually tried some. Finally she decided that it was just too unpleasant and stressful and switched to estate planning.

On the other hand, helping people through the terrible experience of divorce can be very rewarding if you can handle the big negatives. I never thought I would enter this area of practice but here I am and I am happy. As David says, you've got to be a people person.

I did mostly commercial litigation until I moved out to the 'burbs in 1988. I kind of got into family law by accident. I knew how to try cases. I was prevailed upon to try some family law cases including a couple of custody matters. I kept winning them and the rest is history. If you have good litigation skills, you're off to a good start. Any area of substantive law can be learned. Go to seminars. Hang out with family lawyers. Ask questions. I am always a soft touch for any young lawyer who has questions. You made a good move to join the ABA, this section and the listserv. There are a lot of really smart, experienced people here.

I would add one note of respectful disagreement to my learned colleague, Roger Harada. One of the things that keeps me sane is that I still practice commercial litigation. You can't be a generalist any more, but a small number of somewhat related specialties keeps things interesting.

Good luck and feel free to avail yourself of the broad and deep knowledge available on the list.

*Timothy B. Newitt*

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Do take some good CLE courses, and study/read a lot! "Self-help" books on divorce, custody are great general reading. I do a lot of custody work and they have helped me better understand how to make the process as least painful as possible for the children. Usually clients are very open to my advice when I couch it in terms of what's best for the children.

Also do learn when/how to make appropriate referrals to mental health counselors. Most folks going through divorce can benefit from counseling. One way I manage to keep my sanity is to remind myself that I can only help the client with the legal aspect of their work; it's not my job to help them with the emotional part (although certainly I try to be empathetic and supportive throughout the process).

There is an excellent book published by ABA I think on the psychological aspects of representing divorce clients.

*Good luck, Virginia Hager*

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Great advice here from Tim, and I agree, you don't have to go too narrow. I do a bit of ADR work on the side, and I also take select real estate disputes (usually domestic related) to keep me up to speed in real estate law as well. So to the degree I came across as "abandon everything else," well, I like to hold myself out that way, but it doesn't mean I do so totally. Ask me what I am at a party and my answer will be "a divorce attorney" plain and simple.

There are a lot of collateral crossover fields, and I know a few really good domestic relations attorneys who also practice in those fields as well. The most common crossovers I see are: wills, trust and estate planning; taxation; bankruptcy; real estate (my limited choice); admiralty (nah, I am just kidding on that one, checking to see if you're awake); and criminal. I have also seen other lawyers also do what I would consider non-crossover areas such as PI, worker's comp and employment, and in that regard, I guess there is no reason why you couldn't continue to do IP and do family, however, my experience is that the attorney's who try to do too much, including non crossover areas, have themselves spread thin and are therefore not the best family law lawyers. At the end of the day, your market should make that choice, and some folks from small towns can't be that narrow. However, assuming you are working somewhere where you can make a living as an IP lawyer, then I would think you certainly can "specialize" in family.

Family law is a bit of an abyss, once you really get into it. The nuances of valuations, custody, pensions, and taxation issues can fill the rest of your carrier in research, and you will never get it all.

*Roger R. Harada, Esq.*

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Not to blow my own horn (If I don't, who will?) but I wrote a book a few years ago, with my friends Steve Kolodny, Barbara Stark and Alan Kornitsky, about how to organize your office for a family law practice. It was published by Lexis and may be very helpful. As I recall (I'm in Prague at the moment) it's called Divorce Practice.

*Lynne Gold-Bikin*

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Especially in Family Law - it is vital to your own sanity to remember that your client is not your friend and opposing counsel is not your enemy.

Every client will come to you with a story. Some parts of it will be true, some parts of it will be relevant and the two don't always coincide. You will need to hone your judgment. In addition, don't be a cheerleader for your client. Like it or not - family law clients often need to hear hard cold facts - some of which they may not like. You don't do your clients or yourself any favors by promising things you can't deliver.

Don't ever forget that you can often get as good a result for your client via a civil and professional approach to the opposing lawyer as you can with the loud Rambo tactics. Also keep in mind that the lawyer you are needlessly blasting may be the same person from whom you may want a favor or professional courtesy in the future.

Finally, always play by the rules (which means you first have to know the rules.) The judges will quickly learn who is prepared, has met the disclosure and filing deadlines, etc. Judges are more pleasant to people who have followed the rules and clients are unimpressed (to say the least) if their lawyer is getting reamed by the judge for some missed deadline or other infraction.

*Kathy Hogan*

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Another thing . . .

Family law work is like life in the ER. People come to you traumatized, angry, offended, injured and so forth. You can become so "dedicated" that you begin to lose sleep and work too much. Yes, attorneys who work too much become ineffective and lose touch with reality and their family. Make sure you have personal boundaries such as you will take frequent small vacations (mental health time), you will take summer and holiday vacations, you will not work past (whatever time your family has dinner), you will not sacrifice family time or your own physical health. In the beginning of my career, I was very emotionally committed to my clients. I couldn't help but think about cases all the time. Then I realized that they weren't paying me for my thoughts off the clock. I became stressed out and kept a notebook by my bed because I would wake up at night and have a thought about something useful in a case. I lost a lot of sleep like that.

Know your limitations and have reasonable expectations. Don't give more than you are reasonably expected to give. Have a sense of humor above all else and hang out with other attorneys who are wiser because they have been there.

*Good luck. Susan J. Ralston*

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All lawyer members are invited to join the "famlawesq" email discussion list to discuss current topics in family law, share ideas, provide and receive referrals and network. Student members are invited to join the "famlawstudents" email discussion list; all Section members are welcome to join the "famlaw" and "famlawlpn" discussion lists. To subscribe to a discussion list, please send an email to [TUfamilylaw@abanet.org](mailto:TUfamilylaw@abanet.org) with your email address and full name and put the list(s) you would like to join in the subject line.