As a lawyer starting a law practice or starting a career as a lawyer, it is important to understand that the profession of law is not a business and to understand the reasons law is not a business.

In my opinion, those who call the profession of law a “business” insult and demean the legal profession and you as a lawyer, in addition to simultaneously displaying their own lack of knowledge of the differences between a profession and a business.

A business, by definition, has only one goal: the making of profits. As you may have learned in your course on Corporations, in many if not most or all jurisdictions, a corporation is prohibited from giving money or anything of value to a charity unless there is both an enabling law and a special provision in the corporation’s charter or bylaws allowing the giving of funds or services to charity. A corporation’s directors will be held accountable to prove that what they call “social responsibility” is in fact a tool to make more profits. The expression “Business is business” means that there is no room for public service or social responsibility or sentiment if it interferes with making profits.

In the profession of law, lawyers give substantial amounts of pro bono time in the pursuit of public service. A business, in contrast, has absolutely no social or pro bono responsibility unless it chooses to have one, and in many cases will have social responsibility only as a form of advertising to earn more profits. The public understands that the legal profession does pro bono work without expectation of monetary reward and respects the profession. The public would not look to a “business” of law for pro bono assistance nor respect a legal “business.”
Helping the poor is an obligation to the lawyer. The poor can be ignored by a business if there is no money to be made from them.

Lawyers have “clients.” A client, by definition, is dependent on the superior knowledge of the professional to give advice and act only in the client’s best interest. The relationship is fiduciary and beneficiary. Businesses have “customers.” The relationship is Caveat Emptor. The business in selling goods and services to the customer has no fiduciary obligation to the customer and is free to act in the best interests of the business’s profits rather than the best interests of the customer.

A business can charge all it can get away with. A lawyer’s fees must be reasonable; they cannot be unconscionable. A business can sell the names of its customers. A lawyer cannot divulge confidences or client names.

The legal profession is governed by ethical rules going back two thousand years in history requiring the lawyer to act in the best interests of the client. Failure to act in the best interests of the client can result in loss of license to practice. A business is free to do anything it wants to do, whether or not in the best interests of the client, subject only to the outer limits of lawsuits without any loss of license to continue its activities.

The legal profession has a responsibility to uphold and defend the constitution and to serve the public. A business has a responsibility only to make money.

Success in a profession is measured in excellence of performance in the broadest sense, service to the community and advancement within the profession. A large income may accompany you when you are successful as a lawyer, but income alone is not the measure of success.

A professional has preliminary training and education, intellectual in nature, involving knowledge and learning in addition to skill. A business person has no intellectual or educational requirements. Only those skills necessary to making profits are required of a business person.

The profession of law seeks to resolve and end disputes rather than encourage and prolong disputes in the best interests of the client, even though ending the disputes may not be in the best financial interests of the lawyer. A business would be expected to prolong and exacerbate disputes to get more money from the customer.
Do not listen to the siren song of those who attempt to morph the profession of law into a business. They may be nonlawyers trying to sell some product or service to the new gullible lawyer, promising profits to the lawyer if only the lawyer will buy their goods and services. A few are lawyers not licensed to practice in any U.S. jurisdiction, who may or may not understand the history of our ethics and the reasons for the rules. A few may be apostate lawyers who may or may not find it easier to make money if not encumbered by legal ethics.

It is accurate to state that businesses have some things in common with professions. Businesses and professions both require efficient management of resources. Use and management of staff, technology, and capital are requisite to survival and success in both businesses and professions. A horse has some things in common with a mule and they may be similar in appearance. Having some things in common does not make a horse a mule or a mule a horse any more than having some things in common makes a profession into a business or vice versa.

You have been educated and trained and have been examined on matters of Constitutional Law. You understand and appreciate the importance of the 1st, 5th, 6th, and 14th Amendments, in addition to the basic Constitution. You understand our judicial system of courts and the role of courts and lawyers in preserving the confidence of the American public. You understand the words “Rule of Law” and all its benefits to America and the world, and the price we lawyers have to pay to preserve and improve it. You know the ethical prohibitions of the profession and their history, and you know the rules of court. It is unlikely that most of those who proclaim law to be a business like any other business are knowledgeable in these areas. If you allow others to violate the rules in a search for profits, they might lose a fee or a sale, but you stand to lose a license. You take regulated Continuing Legal Education courses to stay current, either voluntarily or because you have no choice. These courses are normally regulated as to content and quality.

People who have not been adequately trained in the American legal system cannot possibly understand all that is required. There is no reason they should. Unlicensed people have no Continuing Legal Education requirements, whether they are from a foreign jurisdiction or never did or no longer do have licenses to practice law anywhere in America.
Many occupations in their businesses have some form of continuing education requirements by various names and of varying quality, but not in those areas needed by lawyers.

I want you to earn a good living. I have always earned a good living and have educated my children and provided for my retirement. I have taken many good vacations, often to bar association conventions, accompanied by my family. I enjoy my life and career and have always made the time to “give back” to our profession. I want the same for you. That is one of the reasons I have written this book and may be one of the reasons you have purchased this book. Don’t be misled by the false prophets of profit. Law is a profession not a business.

There are only three professions: Law, Medicine, and the Clergy. All three have in common the benefit of secrecy and confidentiality with the client, the patient, or the penitent, with immunity from process for communications. All three require putting the interests of the client, the patient, or the penitent ahead of our own. All three require helping people we personally would prefer not to help. Unlike a business, there is very little room for “We reserve the right to refuse service.”

Other occupations and enterprises may call themselves “professional” (professional gardeners, professional barbers, professional musicians, professional accountants, etc.). Simply calling oneself or one’s business or occupation “professional” does not make the activity into a profession.

I repeat: There are only three professions—Law, Medicine, and the Clergy, and for each there is a feeling of being called to help people and to make a difference in the lives of people.

If you treat the profession of law as a profession, you will be a happy person and you will earn a good living over a long period of time. You will make a difference in the lives of people and in our society. At the end of the day you will feel good about what you are doing.

If you believe that law is just a business with the goal of making money, ultimately you will be unhappy, no matter how much money you make. You would be happier and make more money by giving up your law license and doing something else without public service obligations and without ethical restrictions. If you don’t feel a calling to help people and to make a difference, and are only interested in making money, you are in the wrong place.
If you do feel this calling, you are in exactly the right place. Take issue with those uninformed people who would slander our profession and demean you by calling it a business. I am confident that I have made my feeling and opinion quite clear. I am not a Pollyannish person or looking at the world with rose-colored or antiquated glasses. I am giving you the benefit of five decades of my experiences and knowledge, as well as the experiences of many other successful people.