

CHAPTER 1

Jumping into the Deep End

IT IS NORMAL TO BE afraid when starting your own practice or specializing in a certain field, as both pursuits carry risk. Simultaneously starting your own practice and specializing in one area may be a little too much risk all at once, unless you have a well-established reputation or are independently wealthy.

Fear is the biggest obstacle to success in any enterprise. It is the biggest obstacle to lawyers contemplating starting their own business or specializing. Fear can be a healthy warning sign, but usually it is a nonproductive, negative, paralyzing force. I am sure you have heard the saying “Fear is false evidence appearing real.”

You have all the training, skill, discipline, and drive that it takes to start your own business. Look at what is driving your fear. Ask yourself, “What is the worst thing that can happen if I start my own business?” Maybe it is not making as much money as you want or need, and after some months you may decide to discontinue the effort. But you will still be a lawyer. You will still have the ability to catch on with a firm and earn a living. At worst, you might incur debt from the experiment, but that would simply be the fee you have to pay for the experience.

DEVELOP FAITH

Many people freeze up at the thought that they have no guarantees of sufficient business to make the leap. Certainly, that is a concern in some situations, such as for a person right out of law school or a person who has no history with family law. Otherwise, any lawyer who is deterred from starting a family law practice

because he believes he needs a guarantee of sufficient business is failing to see the number-one principle of life: In life there are no guarantees.

Think about how many established, major corporations have failed in the last year, businesses whose success you might have viewed as guaranteed. Even McDonald's has experienced sales downturns from time to time and must scramble to keep business flowing. The answer is that any business must operate on faith—faith that the universal forces will send business month in and month out.

In his book *How to Get Rich*, Donald Trump has this to say about faith:

I can remember a time when I had a choice to make, when I was billions of dollars in debt. I had to take one of two courses of action: a fearful, defensive one or a faithful, riskier one. I carefully analyzed the situation, realized what was causing the uneasy feeling of fear, and immediately replaced it with blind faith, simply because I had nothing else to go on at the time. Then I resolved that as long as I remained disciplined, things would work out.¹

Several years ago, I made the decision to elevate my practice level. After consulting with several members of the American Bar Association (ABA), Section of Family Law, as well as my personal coaches, I increased my hourly rate, raised my retainer, and established a threshold for the type of case I would accept. I boxed up my corporate notebooks and sent them back to established clients and said, "Sorry, I am no longer doing this kind of work." I made the commitment to refer personal injury and other business—no matter how good—to other lawyers. I am sure you can imagine the fear I had about destroying the perfectly good business I had developed over the previous ten years. But I knew I had studied the situation and had sought good advice. And I knew I felt the calling to create a truly special practice. So, I went forward on faith. The point of recounting this story is that there are times in your practice when you must take risks if you want to improve your business. I am not telling everyone to throw out perfectly good business for no reason.

On the second day of the plan, I had a new client interview with a local businessman. I really wanted his business. When the time came to tell him my retainer, the blood seemingly drained from my body and I flinched, but an inner voice commanded, "Do it!" My consciousness ascended over my body and I watched, almost as a third-party observer, as my mouth opened and I said, "We ["we" being me, of course] require a large retainer." I was sure he could see me cringing as the words left my mouth. Instead, he pulled out his checkbook and said, "I expected that," and then: "Who do I make the check out to?" With the increased retainers, I opened two more files *that week*.

The decision to increase your business profile is a difficult one and should come only with careful examination and thought. It should be done for the purpose of improving the overall service of your firm to all of your clients by providing you with the means to meet their expectations.

■ RELEASE THE RESULT AND STAY IN THE MOMENT

Any sports enthusiast knows that an athlete cannot perform if she is worried about the result. For example, any golfer knows that the worst thing to do is think about the final score at any time during the round; this is true whether one is playing well or poorly. Contemplating the final score destroys the ability to perform properly on the shot at hand. My golf pro used to tell me, “Hit it and forget it.” This applied whether the shot was good or bad.

Similarly, any musician knows that fear will choke the performance if he concentrates on anything other than the next note. Any tennis player knows that fearing that a shot will go out is the surest way to hit it over the line. So release the fear about the result and take it one step at a time.

■ COACH YOURSELF

When you make a significant move in your life, you must coach yourself. You must remain positive. You must use every technique available to buoy yourself. When I started my own practice in 1988, I wrote an inspirational message on a note card and put it in my pocket. Whenever I felt a tinge of fear, I would pull the card out and speak the reaffirming quote out loud.

In 2008, the great recession struck, negatively impacting my high-asset divorce business. In 2009, the BP oil spill destroyed the economy of South Mississippi, also negatively impacting my business. One of my coaches gave me the phrase *Just look for the next case*. This phrase was designed to keep me focused on the present instead of to fear the future. Later, I read the story of a woman who had been buried in the ruins of a hotel destroyed by the earthquake in Haiti. When asked how she survived, she said, “I just kept telling myself, ‘Look for the light.’” She finally found the light after three weeks of being buried in rubble. I pasted the phrase *Look for the light* on my desk in front of me. It seemed that any issues I might have with a difficult economy paled in comparison to someone buried in rubble with little hope of recovery.

Use only positive language in your speech, even to yourself. Your brain is a computer that accepts programming from what it hears from your mouth. Do not use negative language or generalizations. Do not allow yourself even to say, “This is a bad day.” It will cast your brain’s thoughts (program) in the negative. Instead, say something like, “I have had some challenging things happen today.”

■ ACT DELIBERATELY AND QUICKLY

Once you have decided to make a move in life, such as starting your own family law practice, keep in mind that delay and indecision are your enemies. Take action. Investigate. Research. Arrange. Do it now! Delay destroys confidence, allowing obstacles to form. Speak to few people about it. Of course, the caveat is to not act so quickly that you will be unprepared.

It is also important to focus on just the next step in front of you. When lawyers contemplate a practice change, they often think way too far into the future and scare themselves out of making change. For example, when I talk to lawyers about making the change from billable hours to value pricing or flat fees, they fail to take any action because they fear the impact it will have on their practice. I tell them not to worry about changing their entire practice. Just take the next case and experiment with a flat or alternative billing fee. Then take the next one and then the next one. You will learn as you go. Sure there is risk, but it is important to focus on the next step and not ten years down the line. Thinking too far ahead and trying to be perfect cause paralysis.

■ READ JAY FOONBERG’S BOOK

Jay Foonberg is a lawyer in California who wrote a book for the ABA’s Section of Law Practice Management called *How to Start and Build a Law Practice*.² His book is written in a conversational way and contains the information needed to start any law practice.

■ ENDNOTES

1. DONALD TRUMP, *HOW TO GET RICH 72* (Random House 2004).
2. JAY G. FOONBERG, *HOW TO START AND BUILD A LAW PRACTICE* (American Bar Association 5th ed. 2004).