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The Legal Leap: From Law Firm to Solo Practice – A Lawyer’s Guide to Ethically Launching a Solo Practice

For many attorneys, the decision to leave a law firm and start a solo practice is both exhilarating and daunting. Whether driven by a desire for autonomy, a more flexible schedule, or a specific vision for client service, the transition from firm life to solo practice involves more than just a change of address. It requires careful planning, a deep understanding of professional responsibilities, and a proactive approach to law office and risk management.

This article explores the ethical, legal, and practical considerations lawyers must address when leaving a firm to start their own practice, with a focus on best practices and the relevant American Bar Association [“ABA”] Model Rules of Professional Conduct [“MRPC”].

When a lawyer departs a law firm to establish a solo practice, two of the most critical ethical obligations they must navigate are maintaining client confidentiality and managing conflicts of interest.

Ethical Duties When Departing a Law Firm

Client-Centered Duties When Departing a Law Firm

When a lawyer departs a firm, a client’s interests must be safeguarded through clear communication and a responsible transition of representation. Two key rules govern this process:

MRPC 1.4: Communications¹ requires lawyers to keep clients reasonably informed about the status of their matter and to promptly comply with reasonable requests for information. When a lawyer is planning to leave a firm, this rule mandates:

- **Timely Notification:** Clients must be informed of the lawyer’s departure as soon as it is reasonably practicable. This ensures they are not surprised or left in the dark about who is handling their case.
- **Client Autonomy:** The communication must make clear that the client has the right to choose whether to remain with the firm, follow the departing lawyer, or seek new counsel altogether.
- **Neutral Tone:** The notice should be factual and non-coercive. It should not disparage the firm or pressure the client to make a particular choice.

ABA Formal Opinion 489² counsels that the firm and the departing lawyer should work toward a “joint communication” to all clients with whom the departing lawyer has had significant contact as it presents a unified and professional message. However, the departing lawyer and the firm may communicate the lawyer’s departure unilaterally, provided it complies with ethical standards and avoids misleading or self-serving language.

¹ ABA Model Rule of Professional Conduct Rule 1.4

² See ABA Formal Opinion 489

MRPC 1.16: Declining or Terminating Representation³ governs the ethical obligations when a lawyer declines a representation. It includes both mandatory and permissive grounds for withdrawal, but most importantly for departing lawyers, it outlines the steps required to protect the client's interests during the transition. Some key provisions of this process are the following:

- **Reasonable Notice:** Lawyers must give clients adequate time to find new counsel. Abrupt departures that leave clients unrepresented can constitute ethical violations.
- **Surrender of Property:** All client files, documents, and property must be returned upon request. This includes both physical and digital records.
- **Refund of Unearned Fees:** Any unearned portion of advanced fees or unused expenses must be promptly refunded.
- **Avoiding Prejudice:** The lawyer must take all reasonably practicable steps to avoid foreseeable prejudice to the client's legal position.⁴

From a practical standpoint, if a matter is pending before a court, the lawyer may need court approval to withdraw, especially if the withdrawal could delay proceedings or harm the client's case. Additionally, the departing lawyer should coordinate with the firm to ensure that no deadlines or obligations are missed during the transition. Lastly, if the client chooses to follow the departing lawyer, a new engagement agreement should be executed, and the lawyer must ensure that all prior obligations are properly concluded.⁵

Confidentiality and Conflicts

When a lawyer departs a law firm to establish a solo practice, two of the most critical ethical obligations they must navigate are maintaining client confidentiality and managing conflicts of interest. These duties are governed primarily by ABA MRPC 1.6: Confidentiality of Information, 1.9: Duties to Former Clients, and 1.10: Imputation of Conflicts of Interest: General Rule.

Under MRPC 1.6,⁶ a lawyer must not reveal any information relating to the representation of a client unless:

- The client gives informed consent;
- The disclosure is impliedly authorized to carry out the representation; or
- The disclosure is permitted by specific exceptions outlined in the rule.⁷

The implications of this rule are three-fold for the departing lawyer. First, with regard to client notification of the impending departure, a lawyer must avoid disclosing any confidential information about other clients or firm matters. Communications should be limited to factual, non-prejudicial information about your departure and new contact details. Second, even internal discussions with your former firm about client transitions must respect confidentiality. You may only share information necessary to facilitate the transition and only if it does not compromise the client's interests or violate privilege.⁸ Lastly, ensure that any client files, notes, or digital records you take with you are transferred with the client's consent and in compliance with data protection standards. Unauthorized copying or removal of client files, even if you were the primary attorney on the client matter, may be problematic.

MRPC 1.9⁹ addresses the continuing duty of loyalty and confidentiality to former clients. Specifically, it prohibits a lawyer from:

- Representing a new client in the same or a substantially related matter in which the interests are materially adverse to a former client, unless the former client gives informed consent, confirmed in writing.
- Using or revealing information relating to the representation of a former client to the disadvantage of the former client, unless the information has become generally known or the client consents.

For example, you represented a corporate client in a complex intellectual property dispute while at your former firm. After going solo, a new client approaches you to handle a patent matter against that same corporation. Even if the new matter seems unrelated, if it involves similar technologies or legal strategies, it could be considered "substantially related." Without the former client's written consent, taking on the new client might violate MRPC 1.9.

From a practice standpoint, the departing lawyer needs to be mindful of and implement the following into their new solo practice:

- **Conflict Checks:** Before accepting new clients, conduct thorough conflict checks against your former firm's client list. This is especially important if you handled sensitive or high-stakes matters.
- **Screening Procedures:** If you hire staff or associates from your former firm, ensure they are screened from matters that could pose a conflict based on their prior work.
- **Client Consent:** If a potential conflict exists but the client is willing to proceed, obtain informed written consent from all affected parties.¹⁰

³ ABA Model Rule of Professional Conduct Rule 1.16

⁴ See ABA Formal Opinion 513

⁵ For more information, please refer to CNA publication, *Plan Your Route Before Getting Out: Attorney Withdrawal*.

⁶ ABA Model Rule of Professional Conduct Rule 1.6

⁷ For more information, please see CNA publication, *Conflicts of Interest*.

⁸ Please refer to CNA Publication *Lawyers Tool Kit 5.0: A Guide to Managing the Attorney-Client Relationship* for templates for sample notice letters.

⁹ ABA Model Rule of Professional Conduct Rule 1.9

¹⁰ For template examples of conflict waiver letters, please see *Lawyers Tool Kit 5.0: A Guide to Managing the Attorney-Client Relationship*.

MRPC 1.10¹¹ extends the conflict rules to all lawyers in a firm. When you start a solo practice, this rule becomes relevant if you bring on other lawyers or staff who may have conflicts from prior employment or you are joining a new firm (even temporarily) and must assess whether your prior representations create conflicts for the new team.¹²

Best practices when considering imputation of conflicts are the following:¹³

- **Conflict Management System:** Implement a robust system for tracking and identifying potential conflicts.
- **Ethical screens:** If you work with contract attorneys or former colleagues, establish ethical screens to prevent the flow of confidential information.
- **Documentation:** Keep detailed records of all conflict checks and client consents. This documentation can be critical in defending against future malpractice claims or disciplinary actions.

Fiduciary and Contractual Duties to the Firm

Lawyers owe a fiduciary duty of loyalty to their law firm, which exists independently of the ethical duties owed to clients. This duty applies to all lawyers in a firm – partners, associates, and of counsel – and is rooted in agency and partnership law. It requires that lawyers act in good faith and avoid conduct that would harm the firm's interests, particularly during the sensitive period leading up to their departure.

Fiduciary Duty of Loyalty

Lawyers must avoid actions that could be seen as undermining the firm's interests before departure. This includes not soliciting clients or staff before giving notice, not taking firm property or proprietary information, and not using firm resources to prepare for the new practice. For example, departing lawyers may not take proprietary information or firm-owned materials, such as templates, research memos, or internal databases, unless they are publicly available or the firm grants permission. While lawyers may take general knowledge and skills, they cannot take client lists or confidential firm strategies. Departing lawyers should avoid any conduct that could be seen as deceptive or self-serving at the firm's expense. Courts have held that even passive concealment of plans to compete can violate the duty of loyalty if it harms the firm's business.¹⁴

Notice and Transition Planning

While the ABA MRPC do not explicitly require lawyers to give notice to their firm before leaving, doing so is widely recognized as a professional obligation and is often required by employment or partnership agreements. You will want to check your agreement

for specific notice requirements (e.g., 30 or 60 days) and any post-departure obligations. Advance notice allows the firm and the departing lawyer to coordinate the transition of client matters, ensuring that no deadlines are missed and that clients receive uninterrupted representation. Further, notice gives the firm time to reassign cases, notify staff, and manage internal logistics. It also helps avoid disruption to ongoing matters and reduces the risk of conflict or confusion. You may want to consider developing a transition plan that includes a timeline, client communication strategy and file transfer protocol as well as keeping records of your notice, client communications, and any agreements with the firm regarding the transition.

Malpractice Insurance Considerations

When a lawyer leaves a firm, their malpractice insurance coverage under the firm's policy typically ends on the date of departure. However, legal malpractice claims often arise months or even years after the work was performed. To protect against this risk, departing lawyers should consider purchasing tail coverage. Tail coverage allows you to report claims made after your departure,¹⁵ as long as the alleged malpractice occurred while you were still covered under the firm's policy. Further, if you are not immediately starting a new practice or obtaining new coverage, tail coverage is critical to avoid a coverage gap.

Once you begin practicing independently, you will need to secure a new malpractice insurance policy tailored to your solo practice. This is not only a best practice but may also be required by your jurisdiction or necessary for client trust and professional credibility. In determining what coverage limits best suit your new practice setting, choose limits that reflect your area of practice and risk exposure. A trusted professional liability insurance agent and carrier are vital to assessing your new firm's unique potential exposures. As you establish your new law firm, selecting the right malpractice insurance carrier is a critical decision – one that goes beyond simply fulfilling an annual requirement. It's about forming a strategic partnership that supports your practice when it matters most.

When evaluating carriers, consider their long-term commitment to the legal market, the breadth and relevance of their coverage options, and their proven expertise in claims management. Leading providers like CNA distinguish themselves by working closely with insureds throughout the claims process, offering guidance and support during challenging times. For solo practitioners and small firms especially, malpractice insurance should be a dependable resource – not just a line item on a budget. Understanding a carrier's capabilities and approach to client service ensures you're choosing a partner who will stand by you when you need them most.

¹¹ ABA Model Rule of Professional Conduct Rule 1.10

¹² For more information on imputation of conflicts and effective screening, please see *From Here to There: Elements of an Effective Screen When Onboarding a Lateral Hire*.

¹³ Id.

¹⁴ See *The Bothwell Law Group, P.C. v. Bracker*, 1:15-cv-02795; *In re Maciasz*, M.R. 23960

¹⁵ For more information on tail coverage, please see CNA publication, *Avoid a Sad Tale: Why Retiring (and Other) Lawyers Need Tail Coverage*.

Setting Up a Solo Practice

Launching a solo law practice is not just a legal career move – it's also an entrepreneurial venture. A well-thought-out business plan is essential for setting clear goals, managing resources, and building a sustainable practice. Below are the key components to include in your business planning process:

Define Your Practice Areas and Target Clients

Start by identifying the legal services you will offer and the clients you intend to serve. This will shape every other aspect of your business.

- **Practice Areas:** Choose areas where you have experience, interest, and market demand (e.g., family law, estate planning, immigration, small business law).¹⁶
- **Client Profile:** Define your ideal client. Are they individuals, families, startups, or nonprofits? What are their legal needs, income levels, and preferred communication styles?
- **Geographic Focus:** Will you serve clients locally, statewide, or virtually across jurisdictions? Are you properly licensed in those jurisdictions?"

Marketing and Client Acquisition Strategies

A solo practice thrives on visibility and trust. Your marketing plan should outline how you will attract and retain clients.¹⁷

- **Branding:** Develop a professional name, logo, and tagline that reflect your values and services.
- **Online Presence and Website:** Create a user-friendly, mobile-optimized website with clear service descriptions, contact information, and a blog or FAQ section. Update your profile on LinkedIn and other legal directories. Consider starting a blog or newsletter.
- **Networking:** Join local bar associations, attend CLEs, and build referral relationships with other professionals.

Budget and Financial Projections

A realistic financial plan helps you manage cash flow, set pricing, and plan for growth. When getting started, you want to consider the startup costs such as office type (e.g. virtual or physical), office setup, malpractice insurance, licensing fees, website development, and marketing; operating costs, e.g., rent, software subscriptions, phone/internet, CLEs, and administrative support; revenue projections, pricing strategy, and how you will bill, e.g., hourly rate, flat fees, contingency fee, retainers, etc. You may even want to consult with or retain an accountant to assist with budgeting and tax planning.

¹⁶ For more information on the dangers of dabbling in your practice, please see CNA publication, *Dabble Dabble Double Trouble: Mitigating the Risks of Dabbling In Your Practice*.

¹⁷ For more information on the ethical obligations in lawyer advertising, please see ABA Model Rules of Professional Conduct 7.1-7.3 and CNA publication, *A Brave New Advertising Rule: Ensuring Success & Avoiding Pitfalls with Legal Advertising in Emerging Formats*.

Technology, Office Setup & Support Staff

Choosing the right tools and workspace is crucial for efficiency, professionalism, and compliance. Determine how you will practice and decide between a virtual office, co-working space, or traditional office. Consider client accessibility and privacy when making this determination.¹⁸ Invest in a reliable laptop, printer/scanner, phone system, and backup drives as well as secure, cloud-based practice management software for case tracking, billing, calendaring, document management, storage, accounting, and communication. Working with a competent IT professional is an essential step in setting up a new law practice.

Hiring competent support staff is not just a convenience – it's a cornerstone of long-term success. Your staff will often be the first point of contact for clients, manage critical administrative tasks, and help ensure that deadlines, filings, and communications are handled with precision. A well-vetted, skilled team can dramatically increase your efficiency, reduce risk, and allow you to focus on high-level legal work. Conversely, poor hiring decisions can lead to costly errors, reputational damage, and unnecessary stress. Taking the time to thoroughly vet candidates for competence, professionalism, and alignment with your firm's values is an investment in the stability and growth of your practice.

Legal Structure and Compliance

Starting a solo law practice requires more than just legal knowledge – it demands careful attention to the business and regulatory framework that governs professional services. Choosing the right legal structure and ensuring compliance with ethical and administrative rules are foundational steps in launching a successful and sustainable practice.

Your business structure affects your liability, taxes, and operational flexibility. Common options for solo attorneys include:

- **Sole Proprietorship:** The simplest form, requiring minimal setup. However, it offers no personal liability protection, meaning your personal assets could be at risk in the event of a lawsuit or debt.
- **Professional Limited Liability Company (PLLC) or Professional Corporation (PC):** These structures provide limited liability protection and are specifically designed for licensed professionals. They often require registration with your state's Secretary of State or equivalent agency and must comply with professional entity regulations.
- **Limited Liability Partnership (LLP):** Less common for solo practitioners but may be relevant if you plan to partner with another attorney.

In making this determination, you will want to consult a business attorney or accountant to determine the best structure based on your goals, risk tolerance, and tax considerations.

¹⁸ For more information on office sharing, please see CNA publication, *Office Sharing and Professional Responsibility*.

Once you have selected your law firm structure, you need to register your business entity with the appropriate state agency (e.g., Secretary of State), obtain an EIN (Employer Identification Number) from the IRS for tax and banking purposes; and check for local business licenses or permits, which may be required depending on your jurisdiction and office location. Lastly, you will need to ensure that your law license is active and in good standing with your state bar or licensing authority.

Two other items to consider in this process are compliance with your jurisdiction's (1) trust accounting rules and maintenance of funds held on behalf of a client or third party and (2) advertising and solicitation rules including disclaimers on your website and promotional materials.¹⁹

Ignoring Mental Health: A Hidden Risk in Solo Practice

While solo practice offers autonomy and flexibility, it also brings unique mental health challenges. Without the built-in support systems of a firm, e.g., colleagues to consult, shared responsibilities, and structured schedules, solo lawyers can experience isolation, burnout, and chronic stress. Ignoring these risks can lead to diminished performance, ethical lapses, and even malpractice claims.

Solo practitioners often feel pressure to be constantly available to clients, especially when starting out. It is easy to fall into the trap of working nonstop, especially when you're responsible for every aspect of your practice. However, lack of boundaries can quickly lead to exhaustion and resentment. Some practices that you can put in place at the outset to lessen these risks are the following: consider your office hours and communicate them clearly to clients; use separate work and personal devices or phone numbers to avoid constant interruptions; schedule non-negotiable personal time for meals, exercise, and rest; and do not be afraid to say no to clients or cases that do not align with your values, capacity, or expertise.

Solo does not have to mean alone. Building a support network is essential for both professional development and emotional resilience. Join local or virtual bar associations or solo/small firm sections. Find a mentor or someone who has walked the solo path and can offer guidance, encouragement, and perspective. Participate in listservs or online forums where solo lawyers share advice, resources, and camaraderie. And lastly, consider therapy or coaching, especially during high-stress periods or major transitions. Many state bars have lawyer assistance programs (LAPs) that provide confidential mental health support.

Your mental health is not separate from your legal practice; rather, it is the foundation of it. By prioritizing your well-being, you not only protect yourself but also serve your clients more effectively and build a practice that is both successful and sustainable.

Conclusion

Leaving a law firm to start a solo practice is a bold and rewarding move, but it must be done with care, integrity, and foresight. By understanding your ethical obligations, securing appropriate malpractice coverage, and implementing best practices, you can build a successful and sustainable solo practice that serves your clients and protects your professional reputation.

Solo Practice Checklist

1. Pre-Departure Planning

- ☐ Review your current employment or partnership agreement for notice requirements and restrictions (e.g., non-compete, non-solicitation).
- ☐ Notify your firm of your intent to leave in a professional and timely manner.
- ☐ Identify clients with whom you have a significant relationship.
- ☐ Prepare a joint or individual client notification letter (ensure compliance with ABA MRPC Rule 1.4/state equivalent).
- ☐ Coordinate the transfer of client files with client consent.
- ☐ Avoid taking proprietary firm materials or confidential information.

2. Ethical and Legal Compliance

- ☐ Review ABA MRPC Rules 1.6, 1.9, and 1.10 regarding confidentiality and conflicts.
- ☐ Conduct conflict checks for all new and prospective clients.
- ☐ Draft and use engagement letters and fee agreements.
- ☐ Set up a trust account (IOLTA) and understand trust accounting rules.
- ☐ Register your new practice with the state bar and obtain necessary licenses.

3. Malpractice Insurance

- ☐ Confirm the end date of your current malpractice coverage.
- ☐ Work with your broker to confirm retention of sufficient insurance to cover prior acts at your former firm.
- ☐ Obtain new malpractice insurance for your solo practice.
- ☐ Understand your policy's limits, exclusions, and reporting requirements.

4. Business Formation and Administration

- ☐ Choose a business structure (e.g., sole proprietorship, PLLC, PC).
- ☐ Register your business with the Secretary of State and obtain an EIN from IRS.
- ☐ Open a business bank account and trust account.
- ☐ Set up accounting and billing systems (e.g., QuickBooks, Clio).
- ☐ Create a business plan with financial projections and marketing strategy.

¹⁹ For more information on websites, please see CNA publication, [Law Firm Website Woes: Educating and Disclaiming Prospective Clients](#).

Solo Practice Checklist (continued)

5. Office Setup

- ☐ Decide on a physical office, virtual office, or home office.
- ☐ Purchase office equipment (computer, printer, scanner, phone).
- ☐ Set up secure internet and data backup systems.
- ☐ Choose practice management software.
- ☐ Ensure compliance with data security and client confidentiality standards.
- ☐ Properly train support staff on their responsibilities.

6. Marketing and Client Development

- ☐ Build a professional website with contact information and services.
- ☐ Create business cards, letterhead, and branded email.
- ☐ Set up a business profile and legal directories.
- ☐ Join local bar associations and networking groups.
- ☐ Develop a content strategy (blog, newsletter, social media).

7. Practice Management and Operations

- ☐ Establish a calendaring and docketing system.
- ☐ Create templates for intake forms, retainer agreements, and invoices.
- ☐ Develop internal procedures for file management and client communication.
- ☐ Set up a secure client portal for document sharing and messaging.
- ☐ Schedule regular time for CLE and professional development.

8. Risk Management and Quality Control

- ☐ Implement a system for tracking deadlines and statutes of limitations.
- ☐ Use checklists for case workflows and client onboarding.
- ☐ Document all client communications and advice.
- ☐ Conduct periodic file reviews and audits.
- ☐ Stay current with legal ethics opinions and malpractice trends.

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