**The Path Through Private Practice**

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Our experience has convinced us that lawyers derive much satisfaction from becoming lawyers and using their legal training. Unfortunately, some aspects of private practice conflict so much with professional and personal goals that many lawyers begin to believe that the solution for them is to "leave the law". The more likely solution, however, is a transition to other practice settings -- at least as a first step toward greater satisfaction.

Based on that, an underlying assumption of our approach is that lawyers should make a transition to a position that is as close as one can get to the one they are in, minus the unacceptable features or aspects. Not throwing the baby of satisfaction out with the bathwater of complaints requires some careful analysis of how careers develop in private practice.

Assume that there are three broad streams of legal careers, each with smaller tributaries. Two streams constitute the pursuit of litigation and corporate practice within either law firms or other organizations. While the different settings are significant to the lawyers who choose them, those lawyers remain faithful to the body of skills they acquired in their early years of competency building and specialization. The third broad stream includes all those working in more broadly defined, "hybrid" roles. This group uses the skills and interests developed before and after legal education to expand their occupational roles. They may range from venture capitalists to "public interest entrepreneurs," but they will always see the law as a single cornerstone of their professional life, not as the main edifice. All three streams frequently split between the for-profit and non-profit sectors, (but may come together again in the careers of some individuals). The more stable separation is always between "traditional" and "non-traditional lawyering." Your task is to try to anticipate and understand how your career will flow through this system.

To help you, we offer the following model of the transition from (or through) private practice. It emphasizes two work factors, process and content, both of which relate to goals. Career decisions of young attorneys in the early stages of private practice are more influenced by process of legal work because of competency concerns, i.e. the need to master new skills. Content, the affairs and concerns of clients, becomes more important as lawyers establish skills and begin to shift their focus to the arenas in which those skills may be applied. Values come to the forefront as lawyers begin to recognize the importance of factors they had overlooked or ignored in the competency-building stages. Whether you are beginning in private practice or are more advanced, you may want to take the following steps in analyzing the process and content factors in your work, looking at your firm's ability to supply and nourish the skills and values important to you.

**Step 1: - Process and Skills**

First decide between litigation and transactional work, or re-examine your commitments in those areas. If you like dramatic stories with complicated fact patterns, especially those involving conflicts between people; if your communication skills are primarily rhetorical; if you fall easily into the adversarial mode and are concerned to vindicate important rights, then clearly litigation will seem most appealing.

If your instincts are constructive (in the literal sense of liking to put things together), and your competitiveness is expressed through strategic alliances rather than outright conflict, and if you are drawn to economic and financial data, then a corporate, transactional practice will seem most appealing. This may also appear to be a viable option for those suffering from litigation weariness --- dissatisfaction with the limits of litigation as a method of conflict resolution.

Unless your firm is an all-purpose firm with flourishing departments with high reputations in both areas, you may need to move to another firm with more opportunities in litigation or transactional work. Whether there are more opportunities for you may depend, however, not so much on the specialties of given firms as on their organizational structure. Interestingly, structural factors that effect how you do your work often go beyond process to questions of personal value. In that case, you will have to consider different types of law firm in the next step of your analysis.

**Step 2: - Content and Values**

If process is not the issue, then perhaps there is a problem with the content of your present practice. You may be a victim of litigation promiscuity - dissatisfied with indiscriminate litigation as opposed to fidelity to advocating for a single cause or institution. Or worse, you may suffer from litigation conflict - the feeling that you are constantly on the wrong side of every issue. Perhaps you enjoy business practice, but feel that little is really at stake in the ebb and flow of massive mergers and acquisitions; that you would much more enjoy working with small businesses or start-up ventures, if only because you can deal directly with the clients whose livelihoods depend upon your services.

In another firm you might derive satisfaction from litigating where you would represent individuals in cases involving domestic abuse, employment discrimination, medical malpractice, toxic pollution, accusation of a crime, or injury from a defective product. Or, from the business side, you might enjoy helping a small business deal with oppressive environmental regulatory restrictions more applicable to big business.

This is the point where the structural, organizational aspects of law firms come into your analysis. Not accidentally, there is a (very) rough correlation between size of firm and size of client. Even in larger firms, focused, specialty practices tend to coalesce into small practice groups. In either case, size of work group may be vital to both the how and what of your career. You may be using the skills you want to use; but the problem may be that you find that your personal goals of autonomy (wanting to have control over your life) and feeling good about where you work (liking the people, being treated with dignity, and being able to be yourself) are not likely to be reached in a large organization. You may complain that big, hierarchical law firms not only demand extraordinary hours from their associates (and partners), leaving you with little control over your life, but they also establish a standardized culture of thinking, acting and behavior brutally in conflict with your beliefs. Explore litigation and commercial practices in small, entrepreneurial firms before you give up on private practice outright.

**Step 3: - Leaving Private Practice**

There may be NO Right Law Firm. The preceding alternatives fall short of meeting your needs. You face the crucial decision of whether to remain in a law firm setting or to leave. This takes slightly different forms for litigators and transactional people.

As a litigator you may have decided that the problem is the nature of litigation practice in law firms of any size: the limited incentive to promote conflict resolution, and too much of a commitment (or need) to service all comers. Both dissatisfactions can be resolved by the main alternative to private practice, going to in-house counsel (broadly defined). In-house, one can attempt to practice preventative litigation and devote one's energies to the interests of a single client.

At this point, the "business" of the client become critical, and content contends with process for importance. If so, the lawyer must make the basic decision between:

Step3a: - working for for-profit or non-profit organizations, and within those categories pick an "industries" area or an issues domain, e.g. pharmaceutical manufacturing, food and drug regulation or children's rights. She must further decide whether litigation is to continue as her primary focus, or whether she seeks a broader approach to advocacy and conflict management within these industries or domains. If so, she is moving towards a general concern for strategically advancing the goals of an organization or towards using her skills and interests in counseling, teaching and writing to direct its educational mission.

The issues for transactional attorneys in firms are similar. They may become dissatisfied with the limited emphasis on the legal structuring of deals and be increasingly drawn to the broader business strategy considerations that drive the deals. One might call this weariness of due diligence. The lawyer becomes aware that she has interests or skills in financial analysis or strategic planning which transcend her narrower contributions. The promiscuity misgivings of the litigators have their parallel in the transactional lawyers' frustrations with not having an investment (financial or emotional) in their client's business, particularly if it involves products or services with a strong inherent appeal. Once again, working "in-house" is the main alternative. Once again, content considerations become important as the lawyer looks for a business or activity whose values and goals will be compelling. Once again, the lawyer must make a decision between

Step 3b: - working for for-profit or non-profit organizations, since financial and administrative skills have applications in both worlds. Here, the lawyer decides if she continues with an emphasis on corporate legal practice in-house, or whether she seeks a broader approach to supporting the financial and managerial functions of the organization to which she has a commitment.

**Step 4: - Leaving the Law**

Does a lawyer ever leave the law? For some time, it may be unclear whether we have "left the law" or feel the need to do so. Eventually, the "hybrid" jobs that evolve from non-firm settings may bear little resemblance to earlier career incarnations. Even so, we carry within us the salt of the oceans that first gave birth to life. Legal education and experience color the execution of many jobs that may be approached from different professional backgrounds. We have dealt with these alternatives in previous columns; the specific analysis applicable to the decision to leave the law will be the topic for the future. Until then, we hope this discussion has helped you to trace the paths through private practice with a clearer gaze.