

Starting your own Practice, Starting with Yourself

Jenice L. Malecki, Esq., Malecki Law, © 2005

The most valuable assets to any practice are the lawyers that make up that practice. It sounds basic, but can be easily overlooked and underestimated. Everything you need to be successful is in your reach, but you must reach out to get it. What follows are my top ten recommendations for starting and maintaining your own practice. Naturally, every lawyer envisions a different practice, has different experiences, expectations and tolerances. Some lawyers want a few good clients, others want as many clients as possible. Any of these tips can be tailored to meet your needs and, by all means, are only beginning suggestions.

This article also assumes that you have decided the type of practice you want to maintain, have narrowed the fields of law you want to focus on (not too narrow, but not too expansive so that you get involved in situations that you are unfamiliar with and can make costly mistakes in time or law) and are approaching the experience with an open and positive attitude.

No. 1 Tip: Let Everyone you Ever Knew or Wanted to Know Know!

Starting and maintaining a law practice is like any other business, it depends on selling product and getting clients. It goes without saying that your product must be good, but even a good product will never get utilized unless people know about it. Moreover, you absolutely never know from where you might be securing your first or next good client. They sometimes come from the least expected and weirdest places. The best clients usually come from referrals, as they have an immediate comfort level: "someone else says this attorney is good." In mining your contacts, reach far and wide.

a. Mailings: Everyone you Ever Knew

When I started my practice, I sent out a mailing to everyone I ever knew since elementary school, my friends' friends, my relatives, everyone I had ever worked with anywhere, my former adversaries, regulators, etc. Anyone I could think of. I sent these mailings, not once, but every time I had a shred of news. Mailings can include announcements about your practice, holiday cards, articles you authored or are quoted in, notices or other information about the law or your practice. I still send out several mailings a year.

b. Alumni & Reunion Services: Everyone you Wanted to Know

If you do not have the names of everyone you remember from school (or even if you do), there are alumni and reunion services like Classmates.com, which have message boards and send out mailings, have local reunion and alumni events. Go to these events and participate. When you are starting a practice, you have some time, use it to get your name out there.

c. Telephone, Organizations & Lunch: Talk to People

Friends, family and colleagues want to help you, let them. In order to help them help you, you need to get your message out to them. You need to engage them in what you are doing. Everyone is very busy today, but if you call someone, or meet them for lunch, you can get them excited about what you are doing and they will be more motivated to help you. Moreover, you are making sure they remember you and know what you are doing. They may also have helpful suggestions. Listen to what people have to say and decide for yourself. Similarly, showing up at industry seminars, meetings and parties will help you get re-acquainted with people not in your "inner circle," but who might want to be. Further, call people who you deem to have succeeded, meet them for lunch, coffee or just a short visit at their office if they are too busy and pick their brain. They will more likely than not be willing to help.

Tip No. 2: Get Involved

Get involved in trade organizations as much as possible. Go to meeting at the New York State, City or County bar associations. Join sections dedicated to the work you do and volunteer on projects. Take an interest in advancing the interests of lawyers similar to yourself and you will develop strong new allies. From these people you can be the recipient of wonderful referrals, especially when client conflicts arise. Lawyers want to refer cases to people that they know will handle the matter with the care of a person dedicated to the type of law that they do, as well as someone whom they feel personally comfortable with in doing so.

Tip No. 3: Get a good website

Websites are important today and can serve three purposes:

a. **Show Who You are and What You Know**

A website today is like a good business card. It gives the client something to look at that describes your practice and you. Moreover, depending upon how much information you are willing to share and how much time you are willing to devote to developing the site, it can give the client an indication about your methodologies, style and acumen. It feels to a client like something concrete that they can hold on to. If you do not like talking about yourself or answering questions about your experience, a good biography section can help you avoid awkward questions by informing the client before you even meet them. Getting clients in the door is step one, keeping them there is step two.

b. **Generates Business**

A website will likely not generate business on its own; however, there are definitely services available to promote your site. Companies like FindLaw and Martindale Hubble provide these services, as do technology firms at various sizes. They will even create websites for you at minimal time commitment or you can create a listing to refer people to or where people are searching for lawyers. However, if you do advertising, being able to list a website will increase the value of any advertisement, as people are drawn to going to websites over just making a call blindly.

c. **Case Management**

A website can also help manage your practice. It can provide information about the progression of the types of matters you handle, so that clients have a foundation before and after you meet with them that will, hopefully, lessen the need to repeat yourself and start from "square one" with each client.

Tip No. 4: Advertise Wisely

Advertising can be a useful tool and will depend upon the type of business that you maintain. While the yellow pages may be good for personal injury lawyers, it may not be great for corporate lawyers. However, corporate lawyers may do well advertising in the Wall Street Journal. It is all about finding your audience.

Look at what your colleagues are doing and try different things. Don't sign long term contracts blindly, do negotiate with advertising salespeople and don't be afraid to ask questions of them and your colleagues. Different things work for different people.

Tip No. 5: Join Bona Fide Referral Services

The New York City and New York County lawyers associations maintain a great referral service: "Legal Referral Service." Other organizations also maintain referral services and lists of lawyers, such as AARP, Public Investors Arbitration Bar Association and others.

While you may not support your entire practice with these services, developing a practice is the product of many lead sources.

MALECKI LAW **Tip No. 6: Be Ready for a Rough Start**

Unless you are very fortunate, it takes time to build a practice, so build your support system. Have some money saved up to get you through tough periods and get your cheerleaders ready. It takes courage to start a practice and if have made it to this step, congratulate yourself.

a. A Story from the Trenches

I had no plan to start my own practice. I was a securities lawyer for about eight years before starting my practice. The firm I was at was downsizing and I took a modest package. I took a few months off, and then I did some work with the City of New York at the request of a friend that needed help when the City was going through the police brutality scandals.

I knew one thing: I never wanted to work at another law firm again. My experiences were not awful, actually, I had a lot of freedom at the last firm that I worked at, but I knew I needed more freedom.

Clients and colleagues started calling me about work (my first matter yielded me less than \$1,500 – I was thrilled). A friend at the time suggested that I start a practice. Influenced by the power of suggestion, I said “why not.” I rented a desk at a larger office for \$750 and off I went. My planning was over several weeks -- I simply jumped in the pool feet first, so to speak. The first year (which was half a year); I believe I earned about \$30,000. Clearly, I did not live off of that, I lived off a meager savings and meager severance, as well as still paying student loans amongst all my other bills. This is why you need to be prepared; however, I never looked back and have done (much) better every year consistently.

MALECKI LAW b. Keep Overhead Low

To manage the rough times, it is necessary to keep your overhead low. Find shared space and use your advertising and marketing dollars wisely. Start small and modestly, you can always upgrade your practice. Clients and colleagues will understand if you do not start your practice at the Trump Towers. While it is likely important to find a good working space, do not over commit yourself.

Tip No. 7: What you Know: Experience, Models and Reality

I saw few people start a practice right out of law school and even fewer succeed at that. Personally, I believe you need to gain experience, not only legally, but from a business perspective, by watching and learning other lawyers before starting a practice.

Prior law firms I worked for had different business models. For example, at one small general practice I worked at, it maintained a community base and did things like send out yearly small token gifts to clients to keep the firm in the clients' minds for friend and family referrals, repeat business, etc. That firm refers me business still today. I am highly specialized, they are not. When they have a matter in my area, where they do not practice, they send it to me. Other firms I have worked at me sent me cases that they could handle, but had conflicts between clients. It is not always possible, but it is best not to burn bridges, but to maintain good contact with all the lawyers you know, good sources of referrals.

Other firms I worked out focused on being in the press and speaking at seminars, as well as sending out newsletters. Again, you need to tailor your business model to your desired client base. In either case, you need to keep yourself open minded and flexible. You will likely have to make changes to the types of clients and matters you are handling, at least in the short term. In any event, your goals need to be realistic.

Tip No. 8: Be Prepared to Work Hard

As I stated above, you may not get paid a lot in the beginning, but get ready to work a lot. Eight hours will not be enough. Working for yourself, at least in the first few years, is the hardest job you will ever have. You will have many roles:

a. Salesperson:

As stated above, it is your job to sell yourself or create an environment where others will do it for you. You need to bring in the business and then execute the business.

b. Lawyer:

You need to execute the work, very well.

c. Manager:

You will be in charge of managing your office: finding an office, getting malpractice and liability insurance, calendaring everything, conflict searches, retainer agreements, updating retainers and hourly rates, ordering supplies, managing phone calls and sifting through mail and e-mails, as well as billing for the work. Never let a client get too far in the hole, or you will be digging yourself out of it. Be prepared to spot and get rid of problem clients.

c. Book-keeper:

You will be in charge of managing client funds, escrow activity and tax issues.

Tip No. 9: Get Help When you Need It

At some point, you will probably have a difficult decision: do I want to do all the work and make all the money or pay for someone to help. Get someone to help you; it will increase your profits and personal life in the long haul. You will need help at some point and help can come in many forms:

a. Part-Time Help

Start small and start with part-time help. Try not to spend money on head hunters from the outset, but ask friends and colleagues for references. If you are not successful that way, headhunters can be helpful.

b. Interns and Work Study

Law schools and colleges are eager to get their students working. They sometimes contribute to the hourly rate you pay the student through work study programs. Mine these opportunities. Do not feel uncomfortable calling career service office to make postings, get resumes and even for direct referrals from the work-study or career service offices. This help can be effective, as students are very eager, and cost-effective. It is very important to screen a number of candidates until you feel comfortable with a student that seems committed to the job. The best candidate is no necessarily one with experience, but the one who wants the job the most.

When you are ready, an associate is a great asset. You will have more time to go out and get more business. The associate can help you do the work. Even a first good draft can really move your practice along and help you regain the life you lost building your practice.

Tip No. 10: Be Good to Your Clients

Be good to your clients. Give them freebies, discounts and kind words. Clients pay your bills. They are also your future. They have friends and colleagues. Treat all your clients with the same level of service and respect, whether their matter is large or small, as you never know who they know that may need your service. More importantly, though, it is the right thing to do.

One caveat: on occasion, you will be confronted with a new or existing client that is giving you a bad feeling, a hard time or some other issue. Make the hard decision to turn the client away or transition the client in a reasonable and documented manner to another attorney. You do not have to take every client. Sometimes personalities do not match in a material way, or the client does not respect you enough to pay you. There will be more clients, no matter how much you may feel you need the one that is giving you the headache.

Starting my own practice changed my life and changed me. It took time, but I now have a better quality of life. It also made me stronger as a person and as a lawyer. Having the ultimate responsibility for everything and meeting that responsibility is a wonderful feeling.

HELPFUL LINKS:

INDUSTRY & GOVERNMENT LINKS

US Small Business Administration
26 Federal Plaza
New York, New York

www.sba.gov

www.sbaonline.sba.gov

www.business.gov

Workshops, Seminars, Pamphlets & Development
Assistance for Funding and Expanding

212-264-4354 General Information
212-264-4507 Business Counseling
212-264-1481 Loan Assistance
212-264-9487 Marketing & Consumers
212-264-4322 Minority Business
212-624-1481 Women's Business
U.S. Dept. of Commerce

www.doc.gov

NYS GOV'T INFO LOCATOR
1-800-732-7232
212-417-4000

<http://Dos.state.ny.us>

NYS Division for Small Business
Department of Economic Development
212-827-6150

www.dos.state.ny.us/corp/corpwww.html

MALECKI LAW

NYS Small Business Referral Service
212-618-6618
NYC Commercial Property Leasing
212-863-5000

Consumer Fraud & Crime Victims
1-800-771-7755
NYC Department of Consumer Affairs
212-487-4444

<http://www.ci.nyc.ny.us/consumers>

BANKING, FINANCE & LOANS

NYS Banking Division

<http://www.banking.state.ny.us>

NYC Department of Finance
718-935-6000

<http://www.nyc.gov/finance>

INSURANCE

NYS Department of Insurance

<http://www.ins.state.ny.us>

LICENSING & PERMITS

1-800-342-3464
NYS Licensing
42 Broadway, 5th Floor, NY, NY
212-487-4436

MARKETING DEMOGRAPHICS

<http://www.fedstats.gov>

MALECKI LAW

PRESS RELEASE COMPANIES

<http://www.prnewswire.com>
<http://www.businesswire.com>
<http://www.mediainfo.com>

NEWS RESOURCES

<http://newslink.org/>
<http://www.ajr.org/>
www.wsj.com
www.nytimes.com

SITES FOR WOMEN IN BUSINESS

Nat. Organizations for Women

www.now.org
www.nownyc.org
www.womenonwall.com

NYS Division for Women
212-681-4547

NYS Human Rights Division
Sex Harassment Hotline
1-800-427-2773

NYC Commission on the Status of Women
212-788-2738

www.nyc.gov/html/csw/home.html

NY Women's Bar Association
212-752-5544

MALECKI LAW

EMPLOYMENT ISSUES & DISPUTES

US Equal Employment Opportunities Commissions (EEOC)
1801 L Street, NW
Washington, DC 20507

www.eeoc.gov

202-663-4900

US Department of Labor

www.dol.gov

Statistics
212-337-2400

Workers' Compensation
1-800-347-1997 General Information

Unemployment

212-306-7500 General
212-306-7686 Discrimination
212-No2BIAS Bias Complaints

www.oag.state.ny.us

Equal Employment Practices Commission
212-240-7902

Department of Labor
212-416-8700

www.labor.state.ny.us

MALECKI LAW

NYC Human Rights Division
40 Rector Street
New York, New York
212-306-5070

www.nyc.gov/html/cchr/html/main.html
(click on Human Rights Division in Agency List)

HUMAN RESOURCES TRAINING

www.fairmeasures.com

TAXATION ISSUES

US Internal Revenue Service

<http://www.irs.gov>

1-800-829-3676 Forms
1800-820 Information
NYS Department of Taxation

www.dos.state.ny.us

1-800-641-0004 Real Estate Taxes
1-800-462-8100 Income Tax Forms
1-800-225-5829 Income Tax Information
1-800-443-3200 Refunds
NYC Department of Finance

<http://www.nyc.gov/finance>

Business Tax Forms
1-718-435-6739
1-718-935-6000 Information

SMALL BUSINESS CHECKLIST

Questions To Answer Up-Front:

- Have you made a Business & Marketing Plan?
- Have you Chosen an Accountant & Bookkeeper?
- Have you Chosen an Insurance Agent?
- Are you looking at Commercial Real Estate Leasing and do you know what is negotiable?
- Do you have the Necessary Licenses to Operate your Business?
- Do you have or anticipate Employees?
- How are you going Protecting Yourself and Your Business?
- Are Your Trademarks & Servicemarks Registered?
- Is Your Work Copyright Registered?
- Are Non-Disclosure Agreements in Place?
- Do Non-Competition Agreements Expire? When?
- Do you have Agreements with your Clients and other Businesses to Insure you Get Paid and Don't Get Ripped off?
- What are Your Financing Obligations?
- Have you though about Start-Up Incentive Programs?
- What Are Your Client Deadlines?
- Have You Documented Your Work & Client Contacts/Issues?
- What Supporting Documents Do You and Others Have?

FINANCIAL SERVICES INDUSTRY EXPERIENCE & MEMBERSHIPS

Ms. Malecki has a uniquely diverse background with significant experience representing clients in the securities and commodities industry issues as well as general corporate and real estate matters. Ms. Malecki is "AV Rated" practice by Martindale-Hubbell, the authoritative source for information on the worldwide legal profession, indicating "very high to preeminent legal ability and very high ethical standards as established by confidential opinions from members of the bar." She is also a referred attorney by the New York City and New York County Bar Associations. Ms. Malecki hosts a website that provides information and resources to links dedicated to the securities industry: www.AboutSecuritiesLaw.com.

In the financial sector, Ms. Malecki has handled numerous contested governmental, regulatory, self-regulatory, arbitration and litigation proceedings, including appeals where necessary. She has fought for her clients to receive NASD membership status and increased ability to compete in the industry, as well as counseled them through audits and investigations. She has also negotiated with various governmental, regulatory and self-regulatory bodies in settlements, consent orders and pleas. Ms. Malecki has also represented banks, brokerage firms, industry professionals and private investors in arbitration, litigation, mediation, corporate management, contractual negotiations and employment issues in various forums nationally and internationally.

Ms. Malecki is an NASD Arbitrator and has served as a Chairperson to arbitration panels. She is also a member of the *Public Investors Arbitration Bar Association*, *Securities Industry Association*, Legal and Compliance Division, the Legal Committee for the *National Association of Investment Professionals*, and the *New York County Lawyers Association Securities and Exchanges Committee*. Formally and informally, Ms. Malecki regularly meets and conferences with staff from the New York Stock Exchange, American Stock Exchange, National Association of Securities Dealers, New York District Attorney's Office and Securities and Exchange Commission, individually and in groups, to discuss current regulatory issues.

NOTABLE SPEAKING ENGAGEMENTS, CITATIONS, CASES & CLIENTS

Ms. Malecki regularly speaks as a Panelist at seminars including twice at "SELF-REGULATORY ORGANIZATION PRACTICE: EXAMINATIONS, INTERVIEWS, HEARINGS, AND APPEALS," Association of the Bar of the City of New York. Ms. Malecki also taught a course at The Learning Annex entitled *Understanding Wall Street and Avoiding Securities Fraud*. Ms. Malecki speaks at public and private bar association seminars: "Knowing What to Look For: Getting the Documents that Can Win Your Case," (panelist and written submissions), Public Investors Arbitration Bar Association, Annual Securities Law Seminar, October 21, 2004; "Discovery: Securities Arbitration

2004, A Primer for the Practitioner," New York State Bar Association, October 26, 2004, (panelist and written submissions); "Self-Regulatory Organization Practice: Examinations, Interviews, Hearings and Appeals," Association of the Bar of the City of NY, December 2002 & February 2003. Ms. Malecki also taught a course at The Learning Annex entitled **Understanding Wall Street and Avoiding Securities Fraud**. She spoke at the *Public Investors Arbitration Bar Association, Securities Industry Association* seminar, as well as a New York State Bar Association sponsored seminar, both in October 2004.

Ms. Malecki has appeared on Bloomberg Television numerous times and has been cited in many articles including "Former Tyco Chief Denies Stealing from Company," *LA Times*, (April 28, 2005); "NASD Discovery Abuse Plans Seen By Some as Not Addressing Real Cause of Problem," *Securities Week*, Vol. 31, No. 4 (Jan. 26, 2004); "NASD Sparks Controversy as it Seeks to Address Discovery Abuse During Arbitrations," *Securities Week*, Vol. 30, No. 46 (Nov. 17, 2003); "Summary Judgment Gives Rare Victory to Employee with Oral Contract," *Securities Week*, Vol. 30, No. 40 (Oct. 6, 2003); "Case Now on Appeal has Potential to Open Door for Mastershares Suits Against Prudential," *Securities Week*, Vol. 30, No. 12 (March 24, 2003); "NASD Information Disclosure Critics Say Disciplinary Information on Members Is Lacking," *The New York Law Journal* (June 6, 2002); "Spitzer Claims Merrill Lynch Misled Investors," *The New York Law Journal* (April 18, 2002), "THE STRIP: Harrah's Execs Sold Stock Before News," *The Las Vegas Business Journal*, (July 19, 2001) "Former Compliance Chief Fights NASD; Says Court-Appointed Counsel Was in Charge," *Compliance Reporter*, a publication of Institutional Investor, Inc. Vol. V, No. 5, p. 1 (March 2, 1998). She is also quoted as an arbitrator in "Want to Sue Your Broker?" *Diversions Magazine*, (February 2000). Ms. Malecki has had noteworthy cases and has been cited in articles including "Sad Sack vs. Steve Geppi," *The Comics Journal*, (October 19, 2000); "Law Suit Accuses Geppi of Stealing Art Work," *Baltimore Business Journal*, (November 2000); "Geppi Accused of Stealing, Selling Original Art," *Fandom.com, Comics Newsrama* -- Vol. 239845.

Throughout her career, Ms. Malecki has worked on many notable and reported cases, including Duzenbury v. City of New York (a recent police brutality case), In re Moe Rimson & Co., In re G.K. Scott, In re Crazy Eddie Securities Litigation, In re Salomon Brothers Treasury Litigation, In re Gitano, In re Homeowners Bank Securities Litigation, In re Checkers Securities Litigation and In re Cedar Hill Cemetery Litigation. She has also worked on industry, employment and contractual matters involving the self-proclaimed "SOES Bandit," Harvey Houtkin, of All-Tech Investments, Inc., a day trading firm, and Datek On-Line brokerage firm. She worked closely with present and former members of the Board of Directors of the NASD.

EDUCATION

Ms. Malecki is a graduate of Manhattanville College (Bachelor of Arts, Philosophy, *cum laude*, 1988) and New York Law School (J.D. *cum laude*, 1991). She was an editor of New York Law School's *Journal of International and Comparative Law* and attended a certificate program at the National Institute of Trial Advocacy.

CLERKSHIP

Ms. Malecki clerked for Magistrate Judge James C. Francis, IV, at the U.S. District Court, Southern District of New York, where she researched and wrote on various topics in civil and criminal law, with a particular emphasis on intellectual property issues relating to *Colorforms*, as well as attended trials, bail hearings, motions, conferences and mediations with Magistrate Judge Francis.

EMPLOYMENT HISTORY

Since 1985, Ms. Malecki has worked and apprenticed in the legal field at Curtis, Mallet-Prevost, Colt & Mosle researching and writing on corporate, prisoners' rights and political asylum issues; Ernst & Young, a then big-five accounting firm, in the General Counsel's Office, researching and writing regarding on issues involving intellectual property, bankruptcy, securities and professional negligence. Since graduating law school in 1991, she has represented clients at Ezra & Howe on a variety of entertainment contracts, civil and criminal matters; at Sirota & Sirota in class action securities litigation, arbitration, disciplinary proceedings and appeals; and at Singer Frumento LLP. (and its predecessor firms) in various corporate, securities, banking, employment and real estate issues.

BAR ADMISSIONS

Ms. Malecki is admitted to practice law in the following jurisdictions:

- New York;
- Massachusetts;
- District of Columbia;
- U.S. Court of Appeals, Second Circuit;
- U.S. District Court, Southern District of New York; and
- U.S. District Court, Eastern District of New York.

VOLUNTEER ACTIVITIES

Ms. Malecki volunteers at the New York City Board of Education as a tutor in English, History, Economics and Political Science.