

# The ElderLaw Report

*Including Special Needs Planning*

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## Why I'm Not Crazy to Have Returned to Practicing Law

*By Jan Copley*

I sold my estate and elder law practice, effective January 1, 2010. On June 30, 2010, I walked out of the office of the firm that purchased my business, thinking I was done with the law forever. Then, on January 1, 2013, having changed my mind, I opened the Pasadena Law Group and returned to practicing law.

I've had people (that is, other attorneys) tell me I'm crazy. Yes, practicing law can be difficult. The time demands can be exhausting. There's a lot of potential liability. Sometimes it's hard to make money.

So why would I want to return to such a life?

### Why I Changed My Mind

When I was thinking of leaving the law, I used to say that one of few things I liked about my practice was yacking it up with my clients. In the estate and elder law world, we can generate a lot of intimacy in our conversations with our clients. After all, they are telling us about their family secrets, about their assets, and about their hopes and plans for the future and for their loved ones. My clients expressed a lot of appreciation for the conversations and the planning we did for them, which made me feel good.

When I wasn't practicing, I found I missed my clients—a lot. Even though I was working as a practice management coach, somehow I didn't generate the same intimacy or gratification from working with my coaching clients. Nor did I derive the same satisfaction from the volunteer work I did.

I also missed the intellectual challenge that comes from practicing law. We tend to forget it, but what we lawyers do is hard and what we lawyers do is important. We balance human emotions with the various rules imposed by laws and regulations, and those laws, regulations, and

emotions may conflict. Sometimes we must tell people we can't do what they want.

However, I find that as an estate and elder law attorney, most of the time I can put together the pieces of a puzzle and come up with a plan that solves a client's problems. I really like doing this. I also really like the sense that I've been able to genuinely help someone by creatively using my knowledge and expertise. Practice management coaching did not provide me with the same puzzles or challenges.

### What I'm Doing Differently Now

I did not make the decision to return to practice lightly. I spent a lot of sleepless nights trying to decide if I was making the right choice. I realized that if I decided to practice again, I needed to make a commitment for a significant period of time. It wouldn't be fair to my clients or to the people around me to start again and then decide I didn't like it and quit again!

I also realized that I needed to address why I was unhappy with my previous law practice and to structure my new practice to avoid the stresses that caused me to sell. I realize now that it wasn't my frustration with the law that caused me to want to sell it—rather, it was the pressure of running my business the way I had structured it. I decided that in my new practice, I would focus on what I like and, to the extent possible, avoid the things that I found stressful and that I don't like to do.

I previously ran a law practice with a fairly traditional structure. I hired people—a director of client relations, two directors of client services, and two part-time associates—and tried to push the work down to lower-paid employees. The result of this was that I carried a lot of overhead. I was the one responsible for bringing in the revenue to pay everyone, as well as covering the rent, professional liability

insurance, and all the other expenses that go with running a law business.

I realize now that the responsibility that went with covering my overhead was exhausting. When I decided to return to practicing, one thing I chose to do differently was to be more focused on reducing my overhead, even if it meant breaking some of the traditional rules about structuring the business.

I now have a business without employees. It's not that I didn't like or don't appreciate what the people who worked for me did — I'm very appreciative of all their efforts and I'm still in touch with them. However, I now have much more flexibility in my practice. If I want to take time off or if business is slow, I don't have to worry about keeping people busy and covering payroll and I don't have to take on matters just to continue to meet my overhead.

Yes, but what about my goal to focus on the things that I like to do and to structure my practice to minimize tasks I don't like? I deal with this by taking more advantage of outsourcing opportunities now. One of my former employees does data entry and document formatting for my estate planning and trust administration documents on an as-needed basis. I work with a marketing company that does all my search engine optimization (or SEO) work and provides a blogging service so I can focus my marketing activities on face-to-face interactions with potential referral sources. I use the services of an independent probate paralegal. I work with a company that handles funding my clients' assets.

You may reply that all those services cost money. That's true. But, if I don't need the services of someone right now, I don't have to carry the cost of having an employee on my payroll until I bring in the next matter and I don't have to lay off someone. I pay for services as I need them, rather than as fixed overhead. I find that in the long run, the cost and the stress levels of working with outside contractors is lower.

I have also benefitted from technology that has been developed over the last decade. I don't need as much office space as I used to because with paperless technology and cloud storage, I don't need a bunch of file cabinets. I limit my monthly rent overhead to an executive suite. I use a cloud-based case management system, which means I can access client information from anywhere in the world that has an internet connection and I don't need a dedicated server any longer. I use Dropbox to share documents with my remote assistant, rather than a standalone computer and logmein.com, as we did previously. My high-speed desktop scanner means I no longer need to pay monthly rent for a large copy machine.

## Some Things That Enabled Me to Return to Practice

I did a couple of things when I sold my first practice that enabled me to return to practice when I decided to do so. First, I never took tail coverage on my professional liability insurance, instead maintaining my coverage at a reduced rate. I didn't do this with the idea of hedging my bets. Rather, I found that with estate and elder law planning, things came up after I had stopped practicing, and I had to deal with client issues, even though I had sold my practice to another firm. I figured it would be best if I maintained my coverage, at least for a while.

It turns out that if I had taken tail coverage, I probably would not have been able to return to practicing. My insurance agent told me that if I took tail and then started practicing again, my tail coverage would be revoked and my carrier would feel no obligation to provide me with new insurance. So, paying reduced rates for coverage during the years I did not actively practice turns out to have been money well spent.

I signed a non-compete clause as part of the sale of my practice, promising not to open a competing business in Los Angeles County and surrounding counties for two years from the date of the agreement. I had no intention of returning to practice when I signed the agreement and the two-year period had lapsed before I decided I wanted to practice law again. However, when the time came to start my new business, I was not restricted by the terms of the non-compete agreement.

One other thing that enabled me to start my new business was confidence I had in my ability to do so: I knew that I had created a viable law practice before and that I could do it again. I now know that it takes time to develop a relationship with someone to the extent that he or she will have the confidence to direct work your way. I have a better idea of what to say as part of developing that relationship. I also have a better ability to realize there are some people— referral sources and clients—with whom I don't want to work.

## How It's Working Out

When I decided to return to practice, I did so with the resolution that I would not be doing so as a hobby. If I am going to run a business, I plan to make money at it; otherwise, I'll find something else to do.

I am pleased to report that my new business experiment, with its untraditional structure, is working out well. In fact, it has been quite gratifying.

Many of my former clients have chosen to work with me again. I am busier than I expected to be. Because I sold my business, I was not able to solicit my former

clients; however, under the law, I could give notice to individuals with whom I had a personal relationship. I live and work in Pasadena, so I run into clients and former clients all the time. I'm not hard to find, either; my marketing company makes sure I have a robust presence on the internet.

I also find that clients remember the people they worked with, and, if they are treated well, they respond with great loyalty. Apparently, we did a good job of that in my former business, because many, many people have come in to have their plans updated. It's quite gratifying. It's also a lesson—one of the best ways to build a successful, profitable business is to show a genuine interest in your clients and to treat them with courtesy and respect.

I have had similar experiences with my referral sources. I thought that they would think of me as the flakiest person ever — after all, I stopped practicing and returned to it three years later. It turns out I was wrong. Rather, people were interested in my career shift, but continued to respect me and have continued to refer business to me.

Because my new business, with its lower overhead, gives me flexibility that a more traditionally-structured business would not, I find that I can be choosier about the new matters I accept. I have taken to heart the maxim that “you don't lose money on cases you don't take.” I have decided to retire from any form of litigation. I have handled my last conservatorship case. I may be done with straight probate cases; the only time I will take one on in the future is if it involves a substantial estate and I have confidence in

the personal representative. I do quite a bit of triage on the initial calls I receive (I answer my own phone); if any red flags rise during the call or an initial meeting, I will refer it to another attorney. I have resigned from a couple of matters. I have no reason to take on a case or a client with the potential to make me miserable.

My new business is also quite profitable. My gross revenue is higher than I thought it would be and my net revenue is as good as when I ran my more traditionally-structured business. I attribute this to a couple of factors. First, I am assertive about my pricing. I don't want to work with people who don't want to pay me what I think my services are worth. And, because I control my overhead well, there is room for lots of profitability.

I initially thought that I would work four days a week with my new business. That turns out not to be the case; I find that I am working five days a week, although I only see clients and referral sources on Tuesdays and Wednesdays. However, I can shut the place down and go on a lengthy vacation if I want to. Over the past year, I've also had to deal with my own time-consuming elderly parent issues and the current structure of my business enables me to take the time I need to spend with my mother.

Most importantly, I am happier. I am enjoying my practice more than I did previously. Returning to practice was the right decision for me.

*Jan Copley is the principal of the Pasadena Law Group in Pasadena, California.*

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