

**A Law Career Is the Smart
Way -**

to Avoid the Evil Economic Trio
of Outsourcing, Globalization
and Declining Standard of Living

Carl E. Person
Attorney at Law

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Dedication

This book is dedicated to students between 16 and 25 years of age who could use some guidance in coping with career choices in a dramatically changing economy.

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Forward by the Author

I have spent more than 40 years in the practice of law, while watching the nation's economy and standard of living decline for most Americans. My experiences and insight can be of great value to students who are at the crossroads of career choices. The Law has and will continue to have great potential for persons who learn the important lessons at the outset of their career, rather than accumulating those lessons over a 40-year period.

This book is for persons thinking of becoming lawyers; students already in law school; lawyers starting out in the profession; lawyers seeking to change careers; persons interested in becoming self-employed or who are dissatisfied with being self-employed; and anyone worried about career choices because of the Evil Economic Trio of Outsourcing, Globalization and Declining Standard of Living.

The book provides information and insight of value to anyone wanting to escape from the trap of declining employment opportunities, even if the person has no interest in becoming a lawyer or taking any law courses. Specifically, chapters 2, 3, 7, 8, 10, 12, 13, 16, 17, 18, 20, 21, 22, 23, 24, 25, 27, 31 and 34 (19 of the book's 34 chapters) would be of most interest (and hopefully great value) to persons seeking careers other than the law.

Introduction

This book explores the legal field from a variety of standpoints, to provide an orientation to students who are trying to decide how to earn a living and at the same time do something interesting and worthwhile, and avoid getting hurt by the growing evil trio of globalization, outsourcing and an ever-decreasing standard of living. The book necessarily covers a variety of areas to be able to give readers the promised information and orientation.

We will discuss the problems associated with selecting law as a career and the choice of law schools; how to prepare for and take the required Law School Admissions Test; the types of law courses which could be of greatest use to the student after he/she starts practice of the law; the various ways in which lawyers practice their skills; and how to set up a successful law practice and earn a living as an individual practitioner of law (which is the status today of about 53% of practicing lawyers in the United States).

It is my hope that by sharing with you the valuable information that I have gained in my 40 years of law practice that you will avoid mistakes and setbacks most young people make when starting a career in law, and that this information will help you in becoming an effective and financially successful practitioner of law.

Chapter 1 - The Best Law School Is Probably among the Worst for You

The so-called "best" law schools are fairly easy to identify. Applicants categorize a law school by desirability and reputation, and the law school's rejection rate completes the process. Harvard, not surprisingly, has more applications and the highest rejection rate, which enables one to predict that Harvard Law School is considered one of the "best" in the nation. As a graduate of Harvard Law School I am quick to agree with such assertion, but upon reflection I would like to discuss what this means to a prospective student. There are four main points to consider:

- The additional costs to attend Harvard Law School in comparison to lower-cost law schools.
- The quality of the student body and its impact on the typical Harvard Law student and graduate.
- The quality of the teaching staff in comparison to lower-cost law schools.
- The value of representing to the world for the rest of your life that you are a graduate of Harvard Law School.

Please note that what I say about Harvard Law School is equally applicable to the other "best" or "1st Tier" law schools, including Yale, Columbia, Michigan, NYU, University of Virginia and Stanford. For a list of all ABA-approved law schools as well as a list of all law schools, whether or not ABA-approved, see www.hg.org/schools.html.

Additional Costs

The most decisive difference, looking back, is the additional money to be spent in attending Harvard Law School. These amounts need to be compared and the differences added up to determine how

much additional cost you would have over a three-year period. Thus, compare tuition:

- \$35,000 per year at Harvard Law School
- \$46,000 per year at nearby Suffolk Law School
- \$26,000 for non-residents at the University of South Dakota Law School
- \$45,000 at Pace University Law School

Rent in or near Cambridge, Massachusetts may be substantially higher than in the other areas under consideration. Travel expenses should be compared, as well as an estimate of the amount of money you may have to spend to keep up with the more affluent students with whom you become friendly. The affluence of my best friend at Harvard was beyond my ability to match, dollar for dollar, and I was not happy with permitting the friend to pay for my costs. I let the friendship expire gracefully as the best solution (and am now sorry that I went that route).

When adding up these costs, you would find that going to Harvard might cost you an additional \$25,000 per year, or \$75,000 over a 3-year period. This amount is presently not deductible from a tax standpoint, for the student's parents, or the student when using employment income to pay off student loans. Thus, the parents and student combined have to earn an additional \$150,000 plus interest on student loans to pay for the extra cost of Harvard. This amount is generally not justified for most persons. It represents a luxury tax far exceeding the predictable value of the "best" legal education.

An effort has been made to try to determine the value of going to a top-tier law school. A 1996 or 1997 study by the Internet Law Resource Guide entitled "Cost-Benefit Analysis of American Law Schools", recognizes the lack of important data to

arrive at any reliable conclusions. See www.ilrg.com/schools/analysis.

Quality of Student Body at Harvard

The quality of students at Harvard Law School was quite high. Harvard reduced the quality somewhat by accepting students from colleges where the most outstanding graduates were not as outstanding as the best graduates of the top colleges. For this reason, you will find that there are students at Harvard Law who are typical of students found at lesser law schools. There are certain types of students at Harvard you might like to befriend, such as offspring of kings, presidents, governors, Senators, billionaires, millionaires, Fortune-500 presidents, Fortune-1000 Presidents, and other famous persons. Some people who were befriended at law school by offspring of the famous may have gained a head start over other classmates, by having some doors or opportunities opened for them through these high-level contacts. But I haven't seen any major instances of such accelerated paths to success. It is hard to evaluate how much money someone should spend to join this law-school roulette game, and I suggest that betting tuition of \$150,000 of your unearned money is a bad wager.

The quality of the student at Harvard is said to rub off simply by listening to the brightest students sound off in the 125-student lecture hall, or in the 4-8 student study groups, or in answering questions after class. I found that listening to others who have read the assigned material is of little advantage over studying the material yourself, and coming to your own conclusions. Why waste time finding out what others think? Listen to the discussion in class, but don't be overwhelmed. Some of the students have an advantage, which may seem like superior intellect, when in fact it could be a strategy. I know. I played the game. During the summer preceding my first year at Harvard Law

School, I bought each of the assigned textbooks and read the first 100 pages or so in each, to give me a better insight into legal matters than 95% of the students who waited until the first day of class to open any of the textbooks. Also, I bought Benjamin Shipman's hornbook on Common Law Pleading (1923 edition), which discussed each of the different types of civil claims a person could make hundreds of years ago, through which our legal system has evolved. My payoff occurred during the first week of class. When the torts professor asked the 130 students if anyone knew the meaning of "detinue", I waited for several students to be shot down after giving the wrong answer. When no one else was willing to suggest an answer, I raised my hand - the only hand raised among 130 of the "best" law students in the country. (Our 1st-year class of 523 students was broken down into four sections with about 130 students each.)

My answer astounded the class as well as the professor, Bobby Keaton, who was later appointed to the Supreme Judicial Court of Massachusetts. It created enough commotion after class for Professor Keaton to announce at the beginning of the next class that a certain student's answer at the last class session was not something that any student should know. That the student (*i.e.*, me) had advanced knowledge, which in due course would no longer be of any significant advantage to me.

Oh, you are asking what I gave in answer to the professor's question? Having remembered my recent reading of Shipman's Common Law Pleadings, I said that detinue is a form of action in common law for the return of personal property which is being unlawfully detained by the defendant, and that detinue as a form of common law pleading had variations called detinuit and detinet, which I also explained. When I finished, the professor asked me how I had learned this, and I said "Well, I was reading Shipman's book on Common Law Pleading the other night....", and I heard the class groan. I

realized that that the class had just come to the conclusion that I was the student who everyone had to work hard to beat. One of my friends came to my dormitory room that night and told me that he had called home to tell his mother that he was quitting Harvard Law School, because the pressure on him to put in extra hours of study was too great. I quickly talked him out of doing this and explained what I had done.

The truth is that no matter how hard I worked, I could only rise to a certain level in the class, and some of my classmates were able to do much better than I did, without trying as hard. In my first year, I wound up about 70th in a class of 526 students, some of who dropped out along the way.

I believe the value of having high-level classmates is highly over-rated. Through study you can achieve the level of education you need to become a good lawyer at any law school. You do not need to have anything rub off from classmates who through family or inherent ability are more fortunate than you in association, name, wealth, education or intelligence.

Quality of the Teaching Staff

I am sure that the quality of the teaching staff is very high at Harvard, but I do know from experience that some of the most well known professors at Harvard and other law schools are not able to teach very well. This causes great disappointment for students who signed up for the star professor's class without realizing that the star did not shine as a teacher. On the other hand, it is a pleasure being in a class where the professor is bright, highly accomplished, famous, and able to use these and other factors to give you one hell of a course.

It is not worth \$150,000 just to have several outstanding professors during your three-year law program. My vote is to save the money, if money is important to you.

Value of Professional Lifetime as Harvard Law Graduate

I have no statistics to prove what I have concluded, which is that over my professional lifetime I have not been helped substantially by my Harvard Law degree. Let me tell you where the degree helped and hurt. Getting your first job in a major law firm or as a clerk for a judge is a lot easier when you are graduating from Harvard Law School and have good grades. If you go to a lesser law school, you will probably obtain higher grades than if you went to Harvard, because of the quality of the Harvard student body, but this is offset with higher grades from one of the "lesser" law schools. I want to make it clear that I am not denigrating these "lesser" law schools. I think they are better for most law students, anything to keep the cost of a legal education down to something affordable, to make law school available to persons who otherwise might not attend. Most of the time when you are performing as a lawyer or interacting with clients, the law school you attended is not an important factor, and in many instances the clients have no idea, and do not bother to ask. If you want to practice law in Tennessee, go to one of the three law schools in Tennessee (Vanderbilt University School of Law; University of Tennessee College of Law; or University of Memphis Cecil C. Humphreys School of Law). A Harvard law degree is often no more helpful to you in Tennessee than a Tennessee law school degree. A highly accomplished law school record will get you to the same place with larger law firms. George Mason University School of Law has a great reputation from New York to Virginia, but outside the northeastern corridor, it's barely known.

The main difference, it seems to me, is that law firms seeking to employ recent law-school graduates would like to hire graduates of top law schools, because of the impression it makes when they list their associate lawyers, junior partners and senior partners and their law schools. Obviously, there must be some belief that graduates of better law schools tend to be better lawyers, although I'm not sure how this is to be proven, and it all may be in the minds of the clients.

In any event, the high cost associated with attending one of the "best" law schools does not seem worth the foregoing advantages. The value of money in a declining economy warrants selection of a law school primarily on the basis of cost, and a willingness to work hard in any law school to become a good lawyer. The amount of money saved and student loans avoided will be well appreciated and will help finance the young law-school graduate while trying to establish a law practice. More will be said about this in other chapters.

In my partial 1997 e-book entitled "DROPPING OUT - a Self-Help Strategy to Increase Your Standard of Living and Quality of Life", I devoted Chapter 2, entitled "Free Schools Instead of Private Schools" to the high costs of K-12 schooling and a college education and how an "equivalent degree" instead of an actual college degree would be a good solution for the growing problem of excessive college costs. My partial e-book is published at www.lawmall.com/droppout.

Chapter 2 - Foreign Outsourcing Hands Out Economic Gold Nuggets - Rightfully Belonging to American Workers - to American Businesses Competing Vigorously to Grab the Nuggets and Injure the American Economy

Foreign outsourcing has to be understood in order to deal appropriately and effectively with the problem. Outsourcing of American jobs to foreign countries has caused a loss of millions of jobs in the United States with many more millions of jobs getting set to leave, now that foreign outsourcing is catching on among more and more American businesses and business persons.

In effect, we have a tidal wave of monumental proportions, which is descending upon American workers, including professionals and self-employed persons, seriously threatening to devastate the standard of living for these persons who already are suffering from a declining standard of living.

The best way to understand the economics of outsourcing is to consider that foreign outsourcing is no more than economic gold nuggets, properly earned and owned by these working Americans. These nuggets are lined up on a table in the public marketplace and available for any American-based business or businessperson to steal without any possible criminal or civil sanctions.

Imagine if you will, on your way to work each day that you travel by a table upon which gold nuggets are lined up, with a sign saying:

"Please do not take any of these valuable gold nuggets; but if you do take any of the nuggets, there will be no criminal charges pressed against you and you probably will not be liable in any civil lawsuits."

Some businesspersons will pass by the table without taking any of the nuggets, believing that the sign has erroneous information, and that somehow there may be a trap for businesspersons who succumb to temptation and take some of the nuggets.

Other persons may understand that these nuggets were earned by and belong to the workers of America and that it is unfair to them to steal any of the nuggets, even though the nuggets are sitting there, most surprisingly, with no governmental or other protection.

But there are other persons - businesses and business persons - who have been taking nuggets from the table for a long time without any adverse consequences, and in fact they have been obtaining higher profits, higher stock prices, and favorable treatment in the financial press as a result; and what is most devastating, the major media are urging them to take as many nuggets as possible through their typical support of outsourcing and globalization.

When smaller, less sophisticated businesses see that the major businesses are taking the nuggets and getting much richer as a result, the taking of the gold nuggets starts among the lesser businesses in the country and the nugget-stealing activities finally reach the smallest businesses in the country.

You must understand that outsourcing, when done appropriately from a business standpoint, creates much higher profits for the owners of the business. Therefore, outsourcing becomes an economic necessity for businesses or else they end up being put out of business for failure to remain competitive in the costs of doing business and the profits to be earned from the businesses. Without competitive costs and profits, the businesses not taking the nuggets predictably will fall behind the other competitors and sooner or later go out of

business, or sell out to the competitors who are willing to steal the nuggets.

The problem of foreign outsourcing does have a solution, which will be discussed in the next chapter. Meanwhile, you might as well start thinking about whether you, as a potential businessperson (including lawyer) would take any of the gold nuggets if given the opportunity.

Remember, however, that if you decide to take the nuggets you have to acknowledge to yourself, at least, that you are stealing them from American workers who are being told by politicians and the monopolized press to wait 10 or 20 years until a small portion of the stolen gold nuggets may be returned to them (without interest), if they are still living.

Outsourcing is affecting virtually all areas of business and the professions, including the legal profession. As I am writing this book, the leading providers of continuing legal education in the profession, The Practising Law Institute and West Legal Center CLE Courses, are offering the following course in New York City: Outsourcing and Offshoring of Legal Work Today 2004.

Forrester Research, an organization which has been following and reporting on foreign outsourcing, reported in May, 2004 that its 2002 estimate of the number of white-collar jobs which U.S. companies are sending overseas was underestimated by 33%. Forrester Research had estimated that 588,000 jobs would move offshore by the end of 2005, but updated that number to more than 800,000 jobs.

Outsourcing is not our country's only problem. We have a monumental and ever-increasing balance of trade deficit. In March 2004, the Commerce Department reported a \$46 billion deficit, with a 4.6% increase in March imports and a 9.1% increase compared to February. American exports grew to a

record \$94.7 billion, but America imported (or supported foreign employment) with \$46 billion dollars in imports in excess of American exports. If foreign employees received \$3,000 per year, this would mean 15,000,000 foreign jobs. At \$10,000 per year of compensation for foreign workers, the number of foreign jobs represented by the deficit would amount to 4,600,000. These figures do not take into account the cost of raw materials, which if taken into account would reduce my two estimates.

Chapter 3 - The Evil Trio of Outsourcing, Globalization and Declining Standard of Living

I'm venturing into a political thicket at this point, meaning that what I'm going to say will be accepted by many as the truth, and perhaps rejected by as many as contrary to popular economic views. Yet, there should be some value to the reader to have one interested person's analysis of outsourcing, globalization and declining standard of living.

First of all, setting aside all the contrary productivity arguments, most Americans are able to say, unfortunately, that they have experienced or are experiencing a decline in their standard of living. In other words, most Americans find that if they are working at all they are working more hours for less money, or they are working an insufficient number of hours for an insufficient amount of money. Many have more debt than ever before, and the debt is becoming so oppressive that they are considering bankruptcy to obtain some relief. Some say that their jobs are not secure, that they have less medical insurance than in prior years, that they have very little to fall back on for retirement and medical emergencies, and that good jobs are harder to find.

The Government issues statistics which tend to say that everything is fine from an economic standpoint, especially because the stock market when adding to the wealth of the already wealthy will enable more jobs to be created; and that persons with low-level jobs or who are without jobs today should hold their breath because, in the long run, high-paying jobs will be plentiful and that such jobs will not be outsourced to other countries. I can only report what I have experienced, which is that the economy is not doing very well

for most Americans, and that we are working harder for less money, with little hope of any turnaround in the next five to ten years.

I am taking this analysis into account when advising persons to seriously consider a career at law, if they have the capability and interest. The license and skills of a lawyer will enable you to take advantage of situations that 99% of the people in this country will not be able to do. The law provides an edge that can make a great difference in a declining economy.

Outsourcing of jobs is taking place because there are no government officials, policies or rules that prevent or require compensation for the transfer of American jobs to foreign countries. In fact, there is a policy of having U.S. citizens pay their tax dollars to support the transfer of U.S. jobs to foreign countries. Who benefits when U.S. jobs are transferred to foreign countries? Clearly, the persons losing their jobs are not the immediate beneficiaries, and are probably not going to be found 10 or 20 years later to be any type of long-term beneficiaries either. The immediate beneficiaries are the major corporations such as American Express, Microsoft, Bank of America, IBM, Ford Motor Company, Radio Shack, McDonald's, Polaroid, and many others. See the list of 500 American corporations transferring jobs to foreign countries - published by CNN commentator Lou Dobbs.

www.cnn.com/cnn/programs/lou.dobbs.tonight

By hiring low-cost labor in underdeveloped, third-world countries, major corporations decrease their U.S. payroll expense (including high hourly wage, overtime, medical, dental, retirement, sick leave, vacations, overhead, unemployment taxes, withholding taxes, other taxes and related costs) and pick up foreign counterpart employees at about one-tenth the cost, for an immediate bottom-line annual saving of tens of millions of dollars or more in many cases, causing the value of their

stock to go up while the economic future of the fired employees and their families is destroyed. The workers in the foreign countries prosper with the additional jobs and are encouraged to better themselves and compete for even higher-level U.S. jobs. Somewhere along the way prices for goods and services in the United States are supposed to reflect these lower costs, so that the cost of toothpaste, shirts, shoes, automobiles, planes, movies, DVD's, food and gasoline should be reduced in price; but if this occurs, any price reduction is offset by increased profits for the major corporations, and perhaps not even given at all, to the extent that the corporation enjoys a monopoly and does not need to pass on any savings to its customers. For the ultimate consumer of these outsourced goods and services, they are obtaining lower prices, to some extent, but are losing any advantage of lower prices because of the loss of jobs, the reduction in salaries, and the lower standard of living, which is being forced upon Americans by reason of outsourcing and globalization.

I hasten to add that outsourcing to foreign countries is, in many instances, a necessity for businesses, to enable them to reduce their costs and stay competitive with others who have already begun to reduce their costs and presumably prices by outsourcing to foreign countries. Outsourcing to businesses is almost like breathing. It is something the business has to do to stay alive. On the other hand, outsourcing is no more than escaping from the rules and regulations of the United States to enable businesses to buy goods and services provided by businesses that are subject to less stringent, and therefore less costly, rules and regulations. The rules and regulations we deem essential or useful for supporting the American way of life have a cost. The rules should apply to all businesses if they continue to apply to the activities of American residents. You can't have it both ways.

The lawmakers cannot impose high taxes on American residents and then let business go to other countries to hire the personnel they need to conduct their businesses in the United States.

Accordingly, certain steps need to be taken, and you have to be the judge of when and what effect this will have on your career. These steps, which are highly political, are to have a combination of

- (i) Reduction of federal and state-imposed requirements across all of the nation's activities such as OSHA workplace requirements; level of taxation of income of individuals and profits of businesses; wage and salary standards (perhaps by adopting my favorite proposal that anyone should be able to hire up to 3 individuals without having to comply with any withholding, reporting, insurance or work-standard laws, rules or requirements other than age and minimum safety requirements - I believe that this would be a national apprenticeship program creating millions of jobs leading to great potential within the nation's small business community); overtime payment requirements; mandatory pension or health-care requirements; social security and other deductions from workers' salaries and wages; and the overall hassle created by government for business whenever it hires any employees;

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- (ii) Change our federal and state laws including student-loan laws, requirements for institutions to be given the right to grant degrees; the excessive, crippling regulation of for-profit vocational schools to foster competition in education in the United States, to enable the United States to regain its position as the leader in high-tech education, which leadership has been forfeited to India in general and its seven Indian Institutes of Technology in particular; human persons in the United States who do not own a major newspaper have to be able to open up training programs without years of delay and millions of dollars in cost designed to prevent them from competing with non-profit colleges and universities more interested in protecting their monopolies and protected professorial employment than in providing the changes in educational offerings needed to meet the needs of a fast-changing marketplace;
- (iii) Imposition of taxes, tariffs or other costs on any businesses to the extent they outsource their purchase of any goods or services to companies which do not use American employees or include the sales of such goods and services in income-tax returns for that year

filed with the United States Internal Revenue Service;

- (iv) Substantially modify the country's involvement with the World Trade Organization, GATT, NAFTA and other treaties which result in outsourcing on one hand and an inability by the United States to cope with the problem;
- (v) Prepare and publish statistical data showing which businesses are involved, and the extent, in outsourcing their purchases to foreign countries, to enable the public to take appropriate action such as publicity, boycotts, refusal to apply for employment;
- (vi) Passing laws and rules which give labor organizations more clout and ability to organize, to offset the decline in importance of the individual employee to multinational corporations;
- (vii) Provide total financing by government of federal elections, to reduce the control, which concentrations of capital have over the country and its legislative process and executive branch.

There are other things that need to be done as well. The American system is complicated, which

causes businesses to flee from it when hiring and spending, but run to it when seeking protection and taxpayer money. This is no more than selling in one market and simultaneously buying in another (or arbitraging), to profit from the disparity. We have to eliminate this disparity so that businesses in America and those selling to Americans make a fair contribution to support the American way of life. Instead, they are destroying the American way of life by taking advantage of rules created for them by their sponsored governmental legislators and officials, and doing so at an enormous profit that is confiscating the nation's wealth for the benefit of the greediest major corporations.

Outsourcing occurs because our government has demanded too much protection for employees. This has caused the costs of employment to go sky high for employers. Companies reacted to this by doing a lot of temp hiring in order to avoid paying for benefits given to regular company employees. From use of temps we shifted to having goods made in other countries, in order to take advantage of their lower labor rates - a direct result of lesser government regulation for employee welfare, which caused a loss of jobs in America. I can't tell people not to buy cars made in Japan, especially if there is a \$2,000 difference. The world market forces us as rational people to pay less when it is lawful to do so, and let the rules be established by Congress. People probably think, "If Congress didn't want us to buy goods at lower prices, Congress would have stopped allowing import of these foreign goods." Congress is not stopping the import of foreign goods and it does not look like it will in the near future. Politicians succeed in covering up the truth because not many people take the time to learn what is happening. Instead they accept what the media present, even though they suspect that a lot of what they are told is not accurate.

To Americans, globalization is the opening up of American borders for almost any country in the world to compete for the sale of products and services to Americans, thus enabling such countries to have their industries supported by sales to the most important market in the world. These sales, such as the lower price for shirts and toothbrushes when buying such goods at Wal-Mart, are often made at attractive prices to Americans, but accompanied by millions of American businesses going out of business, firing their employees, and requiring the employees to compete for lower-paying service jobs at the retailers which caused them to lose their jobs in the first place.

Government officials, economists and politicians claim that America will prosper in the long run from globalization. The truth is that the major corporations profit immediately from globalization while American citizens suffer the costs. The government officials, economists and politicians give their support to globalization because they are paid in one way or another to provide the intellectual support for the greatest theft which has ever occurred in the history of the world - the transfer of the world's largest economy to other countries and to major corporations. This in turn deprives U.S. citizens of government protection and of a social and economic safety net.

Solution

The solution, it would seem, is to impose taxes or other penalties on companies that transfer jobs to other countries, and to impose a charge on sales of foreign goods and services to the U.S. market. These amounts could be used to reduce the impact on the victims of outsourcing and globalization. Another part of the solution is to create an efficient tax collection system in which each major corporation pays the correct amount of taxes and is not allowed to avoid U.S. taxes by allocating its income to other countries and expenses to the U.S.

Presently, there seems to be no ability of the Internal Revenue Service to audit the tax returns of major corporations, so that whatever the major corporations report and pay is pretty much the final word.

The word "protectionism" is bandied about, with proponents of outsourcing and globalization arguing that to do anything to control outsourcing and globalization would be the imposition of trade barriers or "protectionism". Yet, every country except the U.S. has established sufficient barriers of one type or another so that the United States ends up with the trade deficit and these trading partners end up with multi-billion dollar trade surpluses.

It appears to me that the major corporations in the United States prosper from outsourcing and globalization while the U.S. as a whole goes further into debt. If you can put it all together, it seems that globalization and outsourcing transfers the wealth of America from its citizens into the hands of the major, multi-national corporations. This practice should be stopped if America is going to have any chance of correcting this imbalance and massive drain on future generations.

Chapter 4 - The Most Compelling Reason to Attend Law School

Think about why you are choosing a career as an attorney. Why not that of teaching, or business, medicine, engineering or some other discipline? Many students enter law school without a full understanding of what will be expected of them: a stressful schedule, long hours of studying, researching, reading and writing about legal issues, substantial amounts of time in court, and speaking before an audience. However, people who are willing and able to put the effort into a legal career have an advantage the non-lawyer does not. People who seek a career in law do so because of the income potential and/or because they have political ambitions that may be better realized in this line of work, but I want to discuss how a legal career can help the economy and quality of life for the nation.

Political Opportunities

Law school provides a language and thinking skill that is useful throughout the economy. When I attended Harvard Law School, I saw as classmates the sons of kings, governors, Supreme Court justices, senators, congresspersons, judges, Fortune 500 Presidents and C.E.O.'s, Fortune 1000 Presidents and C.E.O., university presidents, doctors, lawyers, owners of highly profitable intermediate size businesses, professors, scientists, investment bankers, and others. What is it about law school that results in their graduates becoming dominant or disproportionately represented in the House of Representatives (158 of 435 or 36%) and Senate (53 of 100 or 53%), state legislative bodies (New York 34% in 2001; California 22% in 2001), 25 of 42 U.S. Presidents (or 60%)?

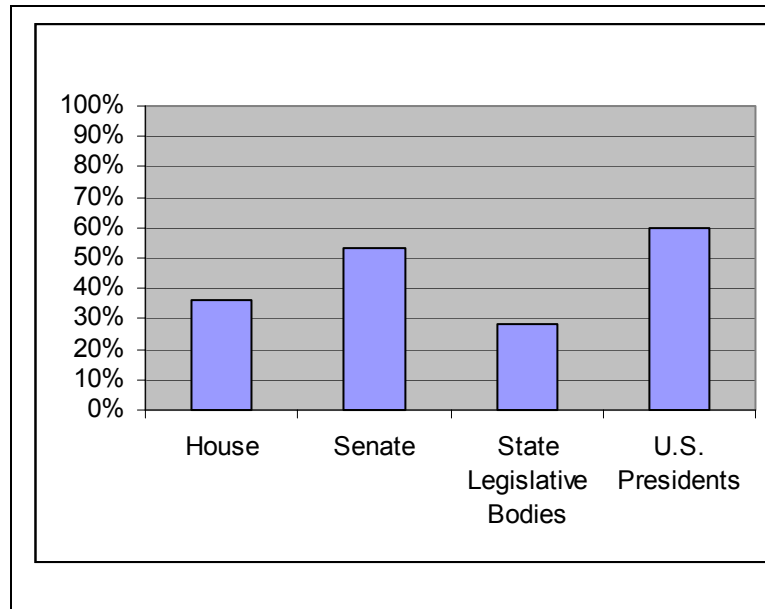


Figure 1: Representation of Lawyers in Political Office

Those seeking nomination as candidates for President and Vice President comprise a high percentage of lawyers. Presidents and C.E.O.'s of the largest companies and the wealthiest persons in the country are lawyers. Strangely enough they are also commonly noted among the persons accused of wrongdoing. It seems logical that having a legal background gives high probability for financial or political success. What is it about legal training which makes this so? The answer is the ability to think as an attorney, the skill of knowing when you know something and when you don't, and the ability to solve problems which most other persons are not able to solve.

While manufacturing jobs are declining, there is an increased need for lawyers in government, administrative agencies, in-house counsel, plaintiffs' and defendants' representation, non-profit

groups, and educational institutions to settle the economic distortions and injuries caused by the world's transition from a manufacturing economy to a globalized, information-based economy.

Pursuing Other Interests

A licensed attorney has the opportunity to practice his or her legal skills on a part-time basis while pursuing other business, political or social goals. Attorneys Louis Nizer and Scott Thurow have become highly successful book authors. New York University Law Professor, Bruce C. Ratner, is also a real estate developer and recently he purchased the New Jersey Nets basketball team.

Income Potential

Starting out as an individual practitioner is a low cost endeavor for an attorney because of the minimal amount of capital needed to start a law practice. You may need an office, or you may choose to work from home. You may need to advertise, but for the most part, you can obtain clients through friends, relatives, and past associations. It may be time consuming, but it's relatively inexpensive. Your costs of production are your brain and a copier/printer from an office supply store.

More than 50% of all lawyers in the United States are individual practitioners. One of the best ways to start your own practice is through court appointments whether it be criminal or guardian ad litem, or receiverships. You will gain cash flow as well as trial experience. Though payments may be small, they are a guaranteed and steady source of income. Fees may be set as a flat fee per trial or as an hourly rate for time in and out of court. In Tennessee, state appointed work is \$40 an hour, and federal is \$100 an hour. In comparison, an associate attorney in a major law firm works an average of 2500 hours per year for an annual salary of approximately \$175,000. This equals approximately \$70 per hour. Attorneys employed in law

firms, corporations or government agencies earn far higher salaries than average. Attorneys often bill between \$150 and \$800 per hour for their services to pay for the rent, telephone bill, data processing services, legal research services, and secretarial and messenger services.

The chart on the next page was derived from The United States Department of Labor reports the wages earned averaged across the U.S by occupation in 2002 as to selected occupations. I suspect that pilots and navigators do not work a 40-hour week, whereas lawyers often work far more than 40 hours per week.

Occupation	Hourly Rate
Physicians	\$51.66
Lawyers	\$44.02
Teachers, college and university	\$39.97
Financial managers	\$36.34
Dentists	\$35.51
Engineers, architects & surveyors	\$26.88
Computer programmers	\$24.84
Civil engineers	\$23.82
Registered nurses	\$23.82
Writers, authors	\$23.47
Respiratory therapists	\$20.28
Real estate sales occupations	\$19.13
Securities & financial services	\$43.42

Figure 2: Wage Chart

Improving the Economy

Being a lawyer gives you an edge when it comes to making a difference in the nation's economy. When you have legal skills and know the lan-

guage, you will be able to start and maintain businesses, buy and sell real estate, as well as participate more meaningfully in litigation. We'll cover this in depth in chapter 15.

I'm sure you're convinced by now that the income potential is quite adequate and that being an attorney has its advantages for pursuing your business, political or social goals, as well as having an impact on the economy of our nation. Next we'll look at how to prepare yourself for law school.

Chapter 5 - Preparing Yourself for Law School

Once you have committed to all the challenges presented by a career in law, you should consider where to get accurate information about individual law schools. Additionally, you'll need to know how law schools select students from among the thousands of applicants each year. The best sources of information are law school catalogs and reference books that outline admissions criteria for the law school. Visit the Law School Admissions Council (LSAC) online at www.lsac.org to learn about annual law forums given throughout the country that allow prospective students to speak with representatives from approximately 150 accredited law schools. Law schools also have open houses once accepted, where you can meet current students and faculty, and visit the campus.

Law schools consider many factors when evaluating applications, such as a student's Law School Admissions Test (LSAT) score, undergraduate Grade Point Average (GPA), the college attended, the major course of study, degrees earned, participation in college activities, community service or work experience, professional training, letters of recommendation, family background, state of country of residency, and any other considerable or distinctive circumstance presented in the application. Most law schools also require personal statements, which are considered and given various weight by admission committees. Some law schools require a personal interview, to ensure that the student does not have some disabling quality in spite of being highly eligible on paper. According to Harvard admission policy, individual cases are reviewed by at least two readers of the Admission Committee and decision is based on all available information. Gender and ethnicity should not be a factor considered in admission decisions; however unconstitu-

tional violation of this practice has been under attack within the past ten years.

There were 148,014 LSAT tests administered during the 2002-2003-test year, from June 2002 to February 2003. There were 423,929 Graduate Record Examinations (GRE), about 60,000 Medical College Admission Tests (MCAT), and 230,000 Graduate Management Admission Tests (GMAT) during the same one-year period. Today and since 1991, the LSAT scores range from 120 to 180. From 1982 to 1991 LSAT scores ranged from 10 to 48, and from inception in 1947 until 1982 LSAT scores ranged from 200 to 800. Currently (in 2004), Harvard Law School has a LSAT minimum score requirement of at least 165 out of 170 possible, and the GPA score must be 3.6 or higher.

Even though LSAT and GPA scores alone do not fully or adequately summarize information about individuals, the applicant's LSAT score and his or her undergraduate GPA are the two most important factors considered in admission to law school. The LSAT is weighted greater than half of the total points at some schools, while other schools give the most weight to undergraduate grades. Knowing the law school's policy beforehand will allow you to begin preparation for the application process during your undergraduate training. The higher the LSAT and GPA numbers, the better chance of acceptance you will have at any law school. These numbers are also considered upon application for key scholarships. Therefore, do everything you can to earn the highest LSAT and GPA, but at the same time realize that high scores on the LSAT are probably not an indication of an applicant's future success as a law student or lawyer. It is a test of how well you take tests, and to some extent that is what law school grades are about.

I am asked whether a student should take any courses to prepare for the LSAT. The answer to this question is, "Probably, yes." I chose to give

myself a course without any formal instruction, by reading review pamphlets and taking the practice tests. But it probably is better to do this with a group, to ensure that you do enough preparation. Hundreds of sample LSAT questions are available for download and practice by you at www.testprepresearch.com. Also, www.lsatscenter.com/lsat-page4 has seven tips to help persons taking the LSAT. Other information about the LSAT is quickly available to you by making an Internet search for "LSAT". One word of caution here: you can order old actual tests from the Law School Admission Council at www.lsac.org and prepare by taking them, but you have to beware of the sample questions. They may become less predictive as time passes by and subtle changes are made in preparing new LSAT's. One student I know averaged ten points higher on the sample questions than he did on questions from actual tests.

Useful sources of information about the LSAT are included in Appendix A to this book, entitled "LSAT Test Preparation Resources".

Above and Beyond the Numbers

For most law school applicants the best preparation for law school probably takes place without much thought. Law schools want students who can read and write English, have an ability to organize materials, and have been able to pursue as far as possible whatever special interest the student may have that enables them to experience the unknown and make analyses and judgments to the best of their ability. Courses in English and English literature are useful, as well as courses in mathematics and biology. Mathematics helps to develop abstract reasoning; biology helps students in organizing a field of endeavor; and English and English literature help to develop the student's ability to read, understand the material, and be able to dis-

cuss the material intelligently. Above all these skills you must have the ability to write well.

Law schools are also thinking about the future of the school and therefore are apt to favorably consider students who have a good record of participation in non-academic pursuits. Being involved in extracurricular activities such as college golf, the debate team, drama clubs, and pre-law clubs can add a needed dimension to your application. Serving as a student leader, and participating in a variety of academic organizations and activities such as study-abroad programs may be demanding, but they demonstrate that you are highly motivated and that you work and associate well with others in a variety of interests. Overall, it shows that you are committed to learning and hard work, and that you will likely succeed in the challenges of law school. But remember that involvement in extra-curricular activities does not justify low grades. The best advice I can give is for you to pursue your interests in college as far as you can go, and to try to keep your grades up at the same time - which for some students are conflicting objectives.

Most law school applicants have impressive resumes, meaning your competition is strong. Thus, keep your GPA high, take the LSAT preparation course, do well on the LSAT, be involved in extracurricular activities but realize that in doing so you probably have learned very little that is of long-range value, other than learning how to play the system. For many persons graduation from college is the end of formal schooling and there is little pressure for many of such persons to try to get high grades, especially in the final year or final semester when job applications and grades have already gone out to prospective employers. But for those going on to medical school, graduate school or law school, there is a continuing need to keep the grades as high as possible. It is unfortunate for many students that grades have such a

great importance, because college should be the place where the acquisition of vast amounts of information and insight should be taking place, but because of the pressure for grades too many students focus on writing down, studying and regurgitating what the professor has said is in the books he has studied, without the student finding the time to go to these books and find out for himself/herself. The daring student who searches for knowledge is apt to lose out on grades, and be rejected by advanced-degree programs in favor of less-educated, but higher-graded students. The system penalizes the more educated person for lacking the discipline to make less out of college than is possible. Yet, all is not necessarily lost for such free-spirited students. The same search for truth can be put to use in lesser law schools, with the result that you can obtain a better education at lower cost, if you are willing to accept lower grades and a lesser law school as the tradeoff.

Chapter 6 - What Are the Best Courses for a Law Student?

You may be undecided about your career while in undergraduate school. Therefore, it is very important to take courses in a variety of subjects until you identify an area of substantial interest. Most importantly, pick something you like, but also you might consider picking a course of study which will allow you to earn a higher GPA. The most popular majors are history, political science, English, science, engineering, and mathematics, but a recent trend shows students now entering with business or accounting majors. A good pre-law study program is one that requires substantial reading and writing, oral negotiation, analytical reasoning, and problem solving. In order to develop a rapport with those who have seen and evaluated your academic performance, it may be helpful to take several courses with the same professors. This will benefit you when you submit letters of recommendation from your professors to the law school.

The first year of law school offers little or no flexibility in course selection, but by the time you register for classes in your second year you may have tentatively decided what type of law you wish to pursue. Lawyers, like doctors, are becoming more and more specialized. Some deal with contracts, others with corporate or business law, some with real estate, taxes and licenses, media and entertainment. If you have a career goal in mind, you have an ideal opportunity to choose courses that will be beneficial in the type of law you plan to practice.

There are some limitations of which you should be aware. If you obtain employment with a major law firm, you will probably wind up doing what the firm wants you to do rather than what you would like to do. Or, if you go into practice for

yourself, you might wind up doing what your few clients want you to do rather than what you would really like to do. Thus, no matter what courses you take in law school, there is an excellent chance you will wind up doing something different, and have to learn whatever law you need to know after you have graduated from law school.

The best courses for a student to take while in law school are often required, such as contracts, torts, and real and personal property. These three or four courses are usually the most important courses in helping the law student learn how to think like an attorney, and to acquire the needed intellectual tools such as legal words, phrases and doctrines for use in analyzing problems from a legal standpoint. Accordingly, most law schools require students to take a prescribed curriculum for the first year or first two years of law school, with electives coming during the last year or last three or four semesters of law school.

By the time you begin taking electives, you should have an idea as to what type of law you want to practice. If you are going to be an intellectual property lawyer, you need Patents, Trademarks and Copyrights; however, if you want to be a trial attorney, you probably shouldn't think about taking such courses. Additionally, if you're not going to do any transactional law, there's really no need to take any international classes. Here are a few choices in elective studies:

- Conflicts of laws, a course which explains how to determine what laws apply when a transaction involves more than one state or country
- Constitutional law (which is generally a required course, but I'm just trying to make sure)
- The Uniform Commercial Code (UCC) contains multiple sections, and is usually

taught in various parts such as Transactions, Secured Transactions, Negotiable Instruments and more.

- International law with emphasis on the World Trade Organization, the European Community, and various international courts
- Business planning (under whatever name, which integrates taxation, securities law, antitrust law and business law)
- Intellectual Property Law (including Patent Law, Copyright Law, and Trademark Law) and
- A course teaching trial and/or appellate practice.

All the above is assuming you are in law school. But, you haven't arrived there yet. Next we'll consider the best economical path to reach law school entry.

Chapter 7 - Consider Whether a High-Cost College Education Is Really Necessary

The 2005 edition of the annual ranking of the nation's top law schools released by *U.S. News and World Report* gave this year's highest honors to Yale, Harvard, Columbia, Stanford and New York University - the same schools that have taken the top 16 slots on the list since 1987 when the magazine began ranking graduate schools. The measures of quality used are:

- LSAT scores (50%)
- The school's academic reputation
- Undergraduate GPA
- Employment rates at graduation
- Passage of the Bar Exam
- Proportion of applicants accepted for the fall semester
- Expenditures per student
- Results of surveys among deans, faculty members, judges and lawyers

Some law school professors recoil at the rankings because they believe them to be flawed due to the fact that the LSAT scores are weighted so heavily, and because there is room for manipulation of the scores. Also, *U.S. News and World Report* is known to make changes in the ranking method from time to time. Much of the rankings come from answers supplied by surveys given to lawyers and judges across America in which they are asked for an opinion about the school's reputation. While reputation is an important factor in choosing a school, there are schools with excellent reputations within their community or state that may not be well known nationwide. Without significant research, judges and lawyers may not have sufficient knowledge about all 180 or so American Bar Associa-

tion (ABA) approved law schools to make a fair comparison. Therefore the law schools with the most prominent reputation continue to rank highest year after year and insure their "stardom" status. The complete *U.S. News and World Report* law school rankings are available at http://www.usnews.com/usnews/edu/grad/rankings/law/lawindex_brief.php.

Just because a law school is ranked low on the *U.S. News and World Report* annual ranking report, or is less expensive, doesn't necessarily mean that you would receive an inferior or inadequate education by attending that school. In fact, it is time to question whether college and its attendant costs are appropriate for someone considering college. If money is no object, then the analysis offers very little. But if money for the student's family or for the student is an important factor, it is quite possible that attending college could be the biggest mistake of the student's life.

The analysis goes like this. We assume that a student comes from a family for which the costs of college would be a financial burden on the family, and that the family could use the money for other purposes. Or, at the other extreme, the family has so little money to contribute that the main cost of college will be on the student through student loans and employment both while attending college and during summers.

There are other ways to obtain the equivalent to a college education such as through self-study, through business or other experience, and through selecting specific courses of interest at a publicly supported college or university, or through Internet offerings, which are worth exploring. An MIT professor has put on line, for free, his first year course on Physics. In due course, a person could put together an Internet college curriculum, and in some instances a degree can be obtained. See the website of the University of Arizona for

more information. www.law.arizona.edu/. We will look at more closely at this option in chapter eight. Let's look at the economics of attending college. Typically, the annual cost will be the sum of:

- Tuition - about \$25,000 per year in many colleges;
- Living expenses - about \$15,000 per year;
- Travel expenses to and from college - about \$2,000 per year; and
- Lost opportunity to earn income - we'll put this in at \$30,000 per year - for a grand total (pre-tax) of about \$72,000 per year or \$288,000 for the 4-year period.
-

Let me ask you something. How would you like to obtain \$288,000 (\$144,000 after income taxes) to start your earning career? By not going to a traditional college, and based on these assumptions, you or your family would be saving and/or earning an additional \$288,000 for the 4-year period in which you do not go to a traditional college. The difference between \$288,000 and \$144,000 is important. If you had \$288,000 available to develop a business opportunity for yourself starting at graduation from high school, you would not pay tax on the \$288,000 because it would be sheltered as a business expense, and could be used to finance a business for you while you are taking a college curriculum on a part-time basis.

Why is there any difference today from what I would have suggested a few years ago? (I would have urged readers to go to college.) The difference is that employment for most people is no longer something which can be counted on. Corporations hire and fire persons according to how profitable it is

for the corporation regardless of the injury and ill will this creates among the employees. The employees are cast aside and they are told, "Don't worry. In the long run there will be more and higher-quality jobs for everyone, and your loss of employment for 10 or 20 years is just a minor inconvenience you have to experience in order that the large corporations can maximize their present profits and the economy may prosper 10 to 20 years from now." If it is true that highly educated persons are being fired without the ability to obtain a comparable job, or even a job paying 50% or more of the salary of the job just lost, one has to truly look at whether a college education is a good investment.

What good is it for you to pay \$288,000 to prepare yourself for a career, which has no guaranteed future? What if instead of going to a traditional college full-time, you start your own business? You may go to college part-time, or online, or you may work through some type of self-study program while you earn an income working for yourself. This will set the framework for being self-employed, which is where you're headed anyway, and still move you toward your long-term goals. By doing so, you will have greater control over your income and future than if you go the route of working for someone else. When you're employed by someone else, your needs are subservient to their needs, not because they're evil, but because you are a factor of production, and that is what you have chosen. There are some benefits to working for someone else though - life is typically simpler because your office is provided for you, you have health care and other benefits, and paid vacations. Still the better advantage comes when working for yourself. Consider that you will be able to start off with a \$288,000 immediate advantage, plus interest on the \$288,000 that you would have paid by the time you paid off the loan. This could add up to another \$112,000 just to even things off. Thus,

you are dealing with \$400,000 as the cost of getting an education, which will get you a few years work, and with a potential for loss of employment in ten years or so. It would be much better to take the \$400,000 and put it to work on your behalf at the beginning of your career, rather than to go through the traditional lifetime of employment, home ownership, and accumulation of \$400,000 by the end of your career.

Instead of taking a traditional college curriculum, you should focus instead on taking courses which will give you the skills you need to conceive, develop, finance, manage and grow businesses for yourself over your lifetime. You may be wondering how you will become a successful lawyer if you don't go to college or law school. It theoretically can be done but please note you are not being encouraged to take this difficult, problematical route. Read on.

Chapter 8 - How Does the No-College Option Impact on Going to Law School?

My concerns over the high costs of a legal education caused me to write about the high costs of a college education (see my e-book at www.lawmall.com/droppout/dropch01.htm) and to ask whether it is economically wise at this stage of the U.S. economy for a typical student to go to college. Along with the high costs of a college education, the resulting employment may provide an insufficient income to pay off the student loans normally taken to cover the cost.

If a student at the college-entry crossroads does not plan to go to a professional, business or graduate school for an advanced degree, the student should seriously consider whether college is a necessary expense. If he or she decides to attend college the cost should be reduced to a much smaller amount. This can be done through self-study, employer-sponsored education, low-tuition governmental colleges, scholarships, and online colleges.

But if a student wants to go to law school, medical school, business school for an MBA degree, or any number of other advanced degrees, college is far more important, and probably cannot be avoided. Still, one must decide whether there is a need to go to the "best" law school for the advanced degree. If a low-cost law school is acceptable in obtaining a college degree, this option should be explored. The rest of this chapter will consider the situation of a student who wants to first go to college, and then on to law school.

Abraham Lincoln did not attend law school. Instead, he taught law to himself while becoming a legislator in Illinois. In 1836 he was admitted to

the Illinois bar. The first law school in the United States (Harvard) was already in existence, founded in 1817 but did not admit women until 1953. Numerous other law schools were founded during the next 100 years after Harvard was founded. During the 1920's the American Bar Association started its program of accrediting law schools in the United States. This was followed by most states requiring graduation from an ABA-approved law school as a requirement for taking the state bar examination.

In most states today you cannot practice law as a licensed attorney unless you have attended a law school approved by the American Bar Association (ABA) and have passed a state bar examination or the Multi-State Examination. To be accepted at an ABA-approved law school you need to be nearing completion of a college degree, or as some law schools allow, nearing completion of three years of college credits. Entry into an ABA-approved law school after completion of only three years of college is unusual, and probably should not be considered an option for you, except to save on educational expenses.

You may want to earn your 4-year degree at a low-cost college located near your home to allow you to reduce your education costs as much as possible. The problem with this, however, is that you will tend to have greater difficulty in obtaining admission to the top law schools if you attend one of the "lesser" colleges. Part of the reason for this is that the 1st-Tier law schools do not have enough experience with graduates of lesser colleges to be able to assess your law school prospects, while students from Harvard, Yale, Princeton or Columbia are more of a known factor to the law-school admissions personnel. Thus, efforts at reducing your college costs could force you into thinking of attending one of the "lesser" law schools.

I would like to make it clear that a "lesser" college or "lesser" law school may be the best

choice for you, when taking all of your circumstances into consideration. Your license to practice law will not be endorsed as "lesser" lawyer, and whether you are equal to, worse than or better than the average lawyer is something that is dependent more on you than on any particular law school or college you may attend.

If you select your college and law school with economy in mind, you will have more money available at the outset of your career, which might enable you to prosper more quickly than your counterparts who took the higher cost educational route. These savings on educational costs may be able to provide you with the financing you will need to build your law practice and develop any business or investment opportunities as early as possible, to take advantage of the compounding effect.

If you have a foreign law degree and some years of experience, you may be able to convince the licensing authorities to give you a license because of your background. When I was an associate attorney in a firm then known as Mudge, Stern, Baldwin & Todd, an attorney by the name of Richard Milhaus Nixon joined the firm as a top partner. The only problem was that he was admitted to the bar in California but did not have five consecutive years of practice in California. An application had to be made to the licensing authorities in New York to waive the 5-consecutive-years requirement. His application was granted. The licensing authorities have a substantial amount of power to do whatever they want because the only possible opposition to an application for a license to practice law in the state is the licensing committee itself. If you make your application showing good reason why you should be admitted to practice in a state, including your equivalent education and experience, you could well have your application granted.

An alternative path to obtain a license to practice law, but one which is seldom used, is to "read law", also known as clerking or apprenticeship. In New York, when one clerks, he or she has to first complete a full year of an ABA-approved law school, and then go to work for a specific New York licensed and practicing attorney who agrees to oversee your clerkship and provide guidance and instruction to help you become qualified to practice law. When I started a school for paralegals in New York during 1972, the number of persons registering their clerkships increased ten fold, which caused the rule to be changed to required at the outset of the clerkship at least one year of successful study in an ABA-approved law school.

At the end of your apprenticeship, usually four years or more, you will be allowed to take the bar examination. However, each state has a right to regulate its own terms, which New York does with its 1-year ABA-law school requirement. In Wisconsin, graduation from a Wisconsin law school is all that is required to become a lawyer. There is no bar exam.

Additionally, to give yourself legal training, you have several options. You may use self-study by purchasing the law books used by law-school students, or you may enroll in a correspondence course, or you may utilize the newer Internet law courses. You would only visit the physical premises of the school to receive your law degree.

Let's take a closer look at "reading law" or clerking. This is essentially an apprenticeship, with the student being attached to a single lawyer. Reading law was originally the way in which persons acquired legal training when there were few law schools in the U.S., and this became a way for persons to study for the state bar examination without having to go to law school. The clerk or apprentice works for pay (usually) in the office of his or her lawyer sponsor, doing work for the lawyer of a

paralegal nature, with the lawyer being available to give instruction, direction and review of the work. After working hours, the clerk will probably hit the law books to learn as much as possible. It is unreasonable to expect that a busy lawyer will actually hold one-on-one classes for the clerk. Reading the law books is the formal way for the clerk to obtain the needed instruction.

One major disadvantage in reading law is that the work of many lawyers is repetitive, and often done by a paralegal. The clerk in training will be given more repetitive work (something which is easier for a paralegal to do), and the lawyer will do the novel and more difficult work, with little or no input from the clerk. This is due to the economics of practicing law. The lawyer really doesn't have the time to spend providing an education to the clerk, and the clerk should be happy that the lawyer agreed to the clerking arrangement, perhaps not fully realizing how much work could be entailed if the lawyer really taught the clerk what the clerk needs to know to pass the bar examination.

In theory, the clerk is expected to ask questions of the lawyer supervising the clerk's work, but the clerk cannot expect to be rotated into different parts of the firm. One reason for this is that clerkship is generally with a single sponsoring lawyer, and for another reason, the larger the law firm the less one could expect to have any clerks in training. A clerkship from the standpoint of the sponsoring attorney is a source of low-cost labor, especially if the lawyer is not too busy. But if the lawyer is very busy, the clerkship will turn sour because the attorney will need his/her time to tend to business of the clients, and not to giving one-on-one instruction to a law clerk in training.

A clerkship is similar to what a newly graduated law student goes through when starting employ-

ment with a major law firm. The law-school graduate is not a licensed lawyer and won't become such until about six months or more after graduation from law school. During this pre-admission period, the law-school graduate is functioning as a paralegal, and requires more supervision than an experienced attorney. One difference, however, is that recent law-school graduates are generally rotated through the different parts of the major law firm, to give them some insight and experience in these different fields of law.

Other differences are that the person who reads law may not be able to obtain a license in other states that do not allow clerkships. Also, law firms, and corporate and government employers may be reluctant to hire a lawyer who did not attend or graduate from law school.

For any trainee, whether clerk or law-school graduate, the ability to work on real legal problems, with knowledge about the applicable law relating to the problems, is valuable experience, and helps to develop the clerk, paralegal, law-school graduate and attorney. The main objectives for the head of the law firm are to have the work done quickly and correctly, with the least amount of costly supervision.

Reading law as a pathway to practice of law is disapproved by the American Bar Association. The ABA states in its 2003 Code of Recommended Standards for Bar Examiners: "Neither private study, correspondence study or law office training, or age or experience should be substituted for law-school education."

Since each state has the right to regulate its own laws, seven states - Vermont, New York, Washington, Virginia, California, Maine, and Wyoming - consider reading law as an acceptable preparation for taking the bar exam. However, only three states - California, New Mexico, and Washington, D.C. - allow someone with this preparation to

take the bar exam. In California, students of independent law study must take a test at the end of their first year. If they pass, they will not be tested again until they take the bar exam - which by the way is notoriously challenging. Students who read law in Vermont only have to submit bi-annual progress reports on the skills and subjects they've been studying. All other states abide by the American Bar Association's (ABA) requirement to restrict bar access to those with a law school education.

Those states that allow apprenticeships are not about to change their policy. However, apprenticeships are not likely to be permitted in other states despite the fact that they offer a practical way for those who live far from a metropolitan area or whose family obligations and financial constraints prevent them from taking the traditional path into the legal profession. What is more likely is that law training through internet courses will ultimately be the means for many lawyers in the United States to get their legal training. But this will take years and various legal battles involving ABA standards and state adoption or rejection of the ABA standards.

These current limitations imposed by the ABA and most states greatly limit the number of people who can enter the legal profession. For persons who don't want their activities subjected to legal review in a lawsuit, the restrictions are desirable. For persons who cannot afford needed legal services, the restrictions help to deprive them of their rights.

Reading law is not for everyone. It takes a lot of focus and self-discipline, probably more than students develop while attending law school. Remember, the bar exam is the same for students who read law as for students who attended ABA-approved law schools.

If you live and want to practice in any of the seven states that accept reading law as preparation for taking the bar exam, you may have a less prestigious resume, but if you work for yourself, and not for a law firm, you probably will not detect any difference. The benefits are that you will be eligible to take the bar exam without going to (or graduating from) law school; you will be able to obtain your law license; you will be able to start your own law practice; and you will save a lot of money in the process, which you can invest in your law practice or in various business pursuits.

Chapter 9 - Low-Cost Legal Training at the Nation's First Internet Law Schools

Law school is expensive and yet it makes sense today for students to attend an American Bar Association (ABA) approved law school for any of the following reasons:

- State bar examiners will not permit you to take their bar examination unless you have graduated from an ABA-approved law school (or have read law in one of the few states which approve this method of becoming a lawyer).
- Major law firms and the nation's higher court judges generally hire graduates of the nation's 1st-tier law schools.
- Corporate employers and some clients seeking to hire or retain an attorney have very little opportunity to hire or retain an attorney who is not a graduate of an ABA-approved law school (setting aside the small number of lawyers who qualify by "reading law" or "clerking" and the graduates of some law schools in California which are not ABA approved); and
- The value of association with classmates and the freedom to devote full time to legal studies in a concentrated period.

However, those people who do not desire to practice law but still want a law background for personal use need not attend an ABA-approved law school, with its rigid attendance requirements and

higher costs. It is far more practical for them to obtain a legal education by alternative means: reading law or clerking; law schools (with classrooms and classes) which are not ABA approved; and law schools which provide their instruction through online, internet courses.

An alternative law school is a non-traditional legal education acquired by distance learning, correspondence course, Internet, or on a campus that allows for evening classes with extended years of study. There are many advantages to alternative law schools:

- These schools have more comfortable rules of admission and will admit students with an associate's degree or (in some instances) without the requirement of a college background.
- Most do not rely on the LSAT in determining your eligibility for enrollment. In fact, many do not require the LSAT. This is a sure advantage to those brightest people out there who simply do not do well on standardized tests.
- Most alternative law schools do not require a face-to-face interview or essay requirements for admissions, and those that do place less emphasis on interview results than traditional law schools.
- The costs for alternative law schools is less than \$5,000 per year and most offer financing and deferred federal student loans. Concord Law School charges about 25%

of the tuition charged by Yale Law School (see www.concordlawschool.com).

This gives many people the initial ability to enter law school. However, once you're admitted you should expect to work hard to prove you've got what it takes to make it. Some states (but not many) will allow you to take the bar exam after having successfully trained through an alternate law school. Make sure you investigate the law of the state in which you intend to obtain the right to practice law before making any law school decisions.

Internet College Courses

Many people are taking advantage of educational opportunities via the Internet. Most traditional colleges have some type of distance learning program, telecourses via cable television, correspondence courses, or virtual classroom programs available in which students may earn a degree in the comfort of their home, during hours that best suit their job and family situations. People are earning degrees in this way who never would be able to attend on-campus classes. Most state colleges in the Southern Association of Colleges participate in the Regent's Online Degree Program (RODP), a fully-accredited Bachelor of Arts degree obtained completely online. The credits are completely transferable among all the participating institutions. The degree is the exact type of degree that on-campus students receive covering the same course material and requiring comparable amounts of study time. Many students take a mixture of online and on-campus courses for their RODP degree. If you haven't finished your undergraduate work, this educational option is worth investigating.

Law courses over Internet are offered with the same flexibility as the undergraduate courses. The student studies at whatever time of the day,

night or weekend is suitable to the student. The direct costs to the supplier of the courses are minimal since the courses are pre-recorded. Due to this fact the course prices could become very low indeed, perhaps even for free if tied in to some other commercial objective of the provider.

I obtained a license from New York State and the United States Department of Education (student-loan programs) to teach first year law in my school, *Paralegal Institute*, and had more than one hundred students who took the course. I patterned the course after the 1st-year program I had taken at Harvard Law School, including the use of updated versions of the same law books. It was exciting to me to have persons who did not intend to become lawyers take and profit from these first-year law courses. These courses, particularly contracts, torts, personal property and real property are the most influential in teaching law students how to think like lawyers. Internet could provide the same courses at a much lower cost than I had to charge when providing live instruction, by licensed lawyers, in a licensed school premises, and significant overhead expenses to be met.

By making downloadable law courses available at little or no cost, the nation, or English-speaking world for that matter, can have the opportunity to obtain a free legal education, and in due course the graduates of the free internet law schools will make demands to take the state bar examinations without a law degree from an ABA-approved law school. The value of such free law courses would not be to train lawyers for the nation, but to train persons in the language and method of law to enable them to be better in their businesses and professions than persons who lack such training. It should be noted that business schools are providing more legal training and law schools are offering more business courses - in what may be a race to the same educational goal, an

appropriate mixture of business and legal education.

Concord Law School was the first Internet law school. Educational corporation, Kaplan Higher Education, Inc., which is owned by the Washington Post Company owns it. During November 2002, it had a live graduation ceremony in California at which 10 of the 14 first graduates of the school attended to receive their Juris Doctorate (J.D.) degree, which is equivalent to an LLB, bachelor's of law degree. Today, Concord Law School has nearly 2,000 enrolled students from all 50 states and about 15 foreign countries. Most states will not allow Concord graduates to take the state bar exam, because Concord is not ABA approved. As mentioned before, California and several other states do not require graduation from an ABA-approved law school to take the state bar examination.

For articles about Concord Law School, go to wired.com/news/school/0,1383,56512,00.html and www.law.com/jsp/article.jsp?id=1039054542141.

The Concord correspondence program is a four-year course, although few students actually complete the program in four years. Tuition is \$7,350 per year, times four years, thus \$29,000 for the entire four years. This is about 1/4th of the tuition charged by Yale Law School (\$38,000 per year, or \$114,000 for the 3-year curriculum). Concord, taking in tuition of about \$15,000,000 per year, will have competition, causing an erosion in tuition, and in due course it can be expected that someone will offer a law-school curriculum for \$1,000 per year or less, possibly for free, if the course provider can figure out a way of tying in something else, such as placement of its graduates with law firms, government agencies or businesses for a substantial fee.

Another law-school correspondence program, also based in California, is at William Howard Taft

University. The program is also four years in length, leading up to a J.D. degree. The tuition is about \$5,000 per year, or a total of \$20,000 in tuition, which is about 17% of the \$114,000 in tuition charged by Yale Law School. For further information about William Howard Taft University's J.D. correspondence program, see www.taftu.edu/lw1.htm.

Name of Institution	Annual Tuition	3 years
Suffolk Law School	\$46,000	\$138,000
Pace University Law School	\$45,000	\$135,000
Yale Law School (3 year program)	\$38,000	\$114,000
Harvard Law School	\$35,000	\$105,000
South Dakota Law School	\$26,000	\$ 78,000
Concord Correspondence Law School (4 years)	\$ 7,350	\$ 29,400
William Howard Taft University	\$ 5,000	\$ 15,000

Comparative Cost of Law School Tuition

Legal training at costly ABA-approved law schools may not survive the economic revolution, fueled by internet.

You may be interested to know that a high percentage of the costs imposed on ABA-approved law schools by the governing body are the number of volumes of law books that the ABA-approved law school must have to seek and retain ABA approval. When I litigated the issue of whether the ABA could regulate paralegal schools arguing that the ABA should not regulate lawyers as well as competing paralegals, I learned that the ABA required law schools to have more than one million law books, or not bother to apply for approval. I doubt whether those requirements have changed today, even though

many lawyers no longer use law books and rely instead on LexisNexis and/or Westlaw for most of their legal research requirements.

I was able to set up my 1st-Year law program with only six law books for use by the lawyer/instructor. Students were required to buy their law book (1 per course) at the bookstores servicing the various law schools in New York City.

It is unlikely that the internet law schools have any significant law school library, especially since their students only show up in school to receive their law degrees after completion of their studies.

The non-ABA law schools providing classrooms and classes undoubtedly do not have one million or more law books, which is the first reason they do not qualify for ABA approval. The question, of course, remains: for what purpose does the ABA establish each of its rules, especially the rule requiring law schools to have more than one million different books in their respective law libraries.

Many readers of this book may not recall that there was a time when internet did not exist, and that Westlaw and LexisNexis did not exist (they started during the 1970's), and that the only source of legal information for lawyers and law students was law books. Requiring one million books or more under these circumstances may not have been unreasonable. But requiring one million books today, including facilities for storage, use and updating, and with appropriate library personnel to facilitate such use, is clearly unnecessary, and a waste of law school assets which might be better devoted to more practical activities such as moot courts for trials and appeals.

An interesting ABA requirement is that a law school have a high percentage of its graduates who pass the bar examination on the first taking. The

national average for all ABA-approved law schools in the United States is approximately 73% (washingtontimes.com/metro/20030623-114249-4126r.htm). The University of the District of Columbia Law School (David A. Clarke School of Law) during June, 2003, was denied full ABA accreditation because its bar-examination passing rate had dropped to somewhere between 25% and 48% for first-time takers.

This requirement compels ABA-approved law schools, especially law schools seeking ABA approval, to restrict their admissions to students who admissions personnel feel are more apt to pass the bar examination on the first taking, rather than what qualifications the applicants have to provide assistance to parts of society who generally have no legal representation.

The development of alternative law schools is no more than a predictable reaction to excessive regulation by the ABA, which is enforced by most of the 50 states by not permitting graduates of non-traditional law schools, including persons who have "read law", to obtain admission to the bar.

These barriers in due course will be lessened, particularly as persons achieve financial success and professional through the alternative route.

Harvard Law School states as of April, 2004:

In 1723 Harvard University had seven volumes of common law in its Library, but no law school. Today the Harvard Law School Library ... holds more than one and a half million books and manuscripts.... The formation of the Law School was first announced in July 1817, with the promise that the students would "have access to a complete law library." In those days \$681.74 * * * was sufficient to provide a good beginning library.... (Source:

www.law.harvard.edu/library/about/history/special_history.php)

Yale Law School, as of June, 2002, stated in a Yale Job Announcement:

THE [YALE] LAW LIBRARY AND UNIVERSITY
The Lillian Goldman Law Library with a collection of over one million volumes and volume equivalents houses one of the world's finest collections of printed legal materials. (Source: lawlibrary.ucdavis.edu/LAWLIB/june00/0019.html)

Even the top ABA approved law schools complain about the ABA accreditation process. In a July, 2001 article entitled "Is It Time To Dethrone the ABA?", author Mathew Staver stated:

The deans of 14 law schools, including the University of Chicago, Stanford, and Harvard, sent a letter to the deans of all ABA-accredited law schools, calling for a reformation of the accreditation process. The open letter criticized the ABA, stating that the accreditation requirements were often used to suppress legal education.

The ABA has historically attempted to restrict entry into the legal profession and has attempted to eliminate competition among law schools. Complaints about the ABA accreditation process caught the attention of the United States Department of Justice, which filed suit against the ABA, alleging that the ABA's accreditation activities violated federal anti-trust laws. (Source: www.lc.org/radiotv/nlj/nlj0701.htm)

A history of the ABA's accreditation process, which provides the ABA's justification for imposing national standards on most of the nation's law schools and their students, has been prepared by the ABA's principal enforcer and advocate of ABA domination of the accreditation process.

The article, by ABA educational consultant James P. White, entitled "History of the Administration of the American Law School Accreditation Process" can be found at <http://www.aals.org/2000international/english/historyofadmin.htm>.

In summary, White argues that letting the ABA decide these standards relieves the states from having to make these decisions about the lawyers and law schools servicing the states.

Chapter 10 - The Little-Known Secret for Being Able to Get Things Done

Here is something of value to you at any stage of your career. It is the ability to get things done. There is a way of getting much accomplished in little time but few people can articulate it. I came across the secret by necessity. I want you to learn the secret now, without having to learn it the hard way.

I am known in the field of antitrust litigation for being able to do a totally impossible amount of work in the required time, and do so as an individual practitioner without any employees - legal assistants, secretaries or otherwise. During a recent 1-week period before a major trial, the defendants hit me with one summary judgment motion per day, each of which had to be answered in about one week because of the forthcoming trial. I was able to prepare my response to one summary judgment motion per day, for six straight days, and serve the response on the four defendant law firms, and file the response with the court clerk, with a courtesy copy to the judge, with each response consisting of about one Xerox box of documents. I did this each day for one week, accomplishing what anyone in litigation would be quick to say is impossible. Of course, I had the proper equipment, consisting of a fast printer and access to a nearby 24-hour Kinko's for other copying. But the main point here is that I was already equipped to handle this series of daily summary judgment motions from my years of experience and ability in scheduling things to do.

I have developed an unusual work principle: Never to do anything that you have to do, only the things you don't have to do! Why this method of seemingly procrastination? Because the things you have to do will get done at the last minute, leaving most of your time to do new things, which oth-

erwise you would never have the time to do. Think about this for a minute. If you spend all of your time doing the mandatory tasks, you will never get around to doing those things for yourself that you would like to do.

By putting off the things which you will have to do at some point, and instead choose to do things which will move you forward in other areas, you will enable yourself to become highly productive while accomplishing the things you have to do in due course - such as responding to six summary judgment motions at the last minute. Try this principle:

- Put down on your agenda the things that you have to do at some point.

- Prioritize each of those tasks and estimate how long it will take you to do each one if you wait until last moment.

- Create another list of things that you want to do, but are not required to do, and start doing them, in the order of their priority, or importance to you.

- At least once per day determine your priorities and adjust your list. You will come to realize that some of the things which are now voluntary, become "required" later on, and you'll be able to get those done, in due course, by waiting until the last moment. This is an effective work cycle, which enables you to continually add new projects while taking care of the old, and will make you far more productive than most people you know.

- Every once in a while you'll have to stop doing your "want-to-do" list and take care of the occasional thing on your "have-to-do", but doing it only at the last moment, in order to give you as much time as possible to work on other voluntary matters.
- It is very important to refer to your calendar at least once per day to make sure you don't miss court conferences and other appointments, or to see if it is time to start another project on your mandatory list.
- Manage your workload by focusing on what you're doing at the moment. Set aside everything else while working on that one job.

This is probably the basis for the saying that a busy person can always fit something else into their schedule, whereas persons who are not very busy often can't find time to do something more than the single project which occupies most of their time. These principles work for me, and there is no reason why they won't work for you. Try these prioritizing principles and see for yourself how well they work. You should find that you can do three to ten times more things than you are getting done now.

Chapter 11 - Additional Ideas for Your Legal Toolkit

I have more than 30 years of experience in creating new concepts for the legal profession in general, and litigation in particular. I have handled many different types of cases over these years, with an emphasis upon civil rights litigation, and antitrust and other commercial litigation.

During the past ten years or so I have been writing about different topics of interest to me as a lawyer, and have been posting them on my www.lawmall.com website. At this time, I have more than 60 websites under the Lawmall banner. I would like to expose you to some of these ideas and suggest additional solutions to problems you may have in your law practice. The covered topics are diverse and not readily organized. Here are some of the concepts you will find in my www.lawmall.com website:

- How to finance your client's litigation by selling shares in the client's lawsuit, which I have done through appropriate filings with the New York Attorney General and the United States Securities and Exchange Commission - see www.lawmall.com/rpa/rpafinan.html
- Economic reasons why to live and work in a small town rather than a high-cost large city, with the town providing financing for your law practice - see www.lawmall.com/droppout and www.lawmall.com/dropch20.htm

- How to stop globalization - see www.lawmall.com/wal-mart
- Why payment to major corporations by cities, towns and counties to purchase jobs for the area is outrageous and illegal - see www.lawmall.com/jobtheft
- Why Kmart has no hope of continuing in business in competition with Wal-Mart - see www.lawmall.com/doomsday
- Thoughts about Enron www.lawmall.com/enron and Arthur Andersen - see www.lawmall.com/andersen
- Complaint filed on behalf of a Catholic priest against the Roman Catholic Church (Archdiocese of New York) alleging fraudulent inducement to becoming a priest and turning over his considerable assets to the Church - see www.lawmall.com/files/tg_compl.html
- Intervention before the Federal Communications Commission on 1st Amendment grounds, as a member of the radio audience, to try to save the Howard Stern Show from being taken off the air - see www.lawmall.com/hs
- Why notaries public should be eliminated - see www.lawmall.com/lm_notar.html

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- How all major retailers in the United States are operating at a substantial loss, while destroying independent distribution businesses - wholesalers, jobbers and retailers, as well as manufacturer suppliers - and the American standard of living; also, I describe what I call the secret, "DNA Code" needed to ascertain the favored, illegal prices involved - see my website at www.lawmall.com/rpa and www.lawmall.com/rpa/rpa_dna3.html.
 - How the criminal process is an outrage and converts a sizable and growing portion of the United States population into ex convicts, and (for some) disables them from voting which prevents them from helping to correct the growing problem - see www.lawmall.com/pleabarg
 - How to develop your creativity - see www.lawmall.com/files/pamphle5.html
 - How to sue an errant prosecutor in spite of the prosecutor's "absolute immunity" from suit
 - How the United States is burning from a standard-of-living standpoint and nobody is doing anything about it - and why - see www.lawmall.com/droppout/dropch01.htm
 - How to protect yourself as a tenant from being evicted by your landlord if you should decide to buy and "harbor" a pet

prohibited by your apartment lease - see www.lawmall.com/petlaw

- How under present law (*i.e.*, without any statutory or constitutional changes) a person or group can convert a small town (3,000 to 7,500 residents) into a community supporting all small businesses and professionals, and provide financing to each, for the profitability of the entire community - see www.lawmall.com/droppout/dropch20.htm
- The type of lawsuit in which your client can obtain a recovery calculated in amount by the following formula: maximum of 9,000 times each dollar of damages suffered during a typical day; for your information, a typical days' business loss for an injured store will range from at least \$100 to several thousand dollars or more - see www.lawmall.com/rpa/rpa9000x.html
- Why there is no constitutional right to a jury trial - see www.lawmall.com/lm_torttr.html - section entitled "Summary Judgment - Taking Away Right to Jury and Non-Jury Trial"
- Why juries should be told they have a right, with impunity, to nullify a judge's jury instructions to them and arrive at whatever verdict they deem appropriate - see www.lawmall.com/juryduty
- How the threat of "sanctions" is used to prevent injured persons from obtaining re-

dress for their legitimate grievances, but has no effect on the wrongdoing of major corporations - see www.lawmall.com/lm_torttr.html - section entitled "Present Sanction Rules"

- The best investment opportunity in the United States - \$1 Purchase Price Can Buy a Viable Claim for \$1,000,000 to \$100,000,000 in Potential Recovery; see the script of my 29-minute radio infomercial entitled "1,000,000 Fortunes Looking for Their Rightful Owners", at www.lawmall.com/rpa/infomer6.html
- A list of different causes of action which should be considered when suing for the destruction of a business - see www.lawmall.com/tortmall

The foregoing examples of my published concerns and the application of legal principles to these concerns show you the need and versatility of legal skills in today's society. Such skills should enable one to accomplish more, and make more improvements for the country, than a person without legal skills.

Chapter 12 - How to Be Inventive as a Lawyer - and Effective or Dangerous as an Opponent

I remember a conversation with one of my opponents more than 30 years ago. He told me that the entire opposing antitrust team in his law firm was anxiously waiting to see what inventive responses I was going to make to their motion to dismiss and/or for summary judgment. This was my first lawsuit, but apparently I had shown inventiveness in the papers I had previously served and filed in the action.

About 10-15 years later, I wrote a pamphlet on "How to Be Creative", and later published the pamphlet in my website at www.lawmall.com/files/pamphle5.html. I suggest you read the pamphlet for additional discussion of creativity.

Regarding creativity in the law, one should start out with a full toolkit of legal concepts. These should be acquired during your first and second years of law school studies since you won't have as much time after graduation to learn as many legal concepts in as short a period of time. These concepts are in the form of:

- federal and state constitutional provisions

- federal and state statutes

- rules of civil procedure, rules of evidence, rules for appeals, individual-judge rules, court rules

- legal doctrines arising out of English common law, which you will learn in your 1st and 2nd-year law courses and can be supplemented by such books as *Shipman on Common law Pleading* and *Pluncknett's Concise History of the Common Law*
- more recent doctrines often reduced to statute or rule, such as who is an "insider", who is a "sophisticated investor" to whom you are permitted to offer unregistered securities for investment; and perhaps thousands of other legal concepts
- as well as concepts you can add to the law. For example, I'm responsible for creation of the concept of selling shares in lawsuits to finance the litigation, and for the concept of a secret "DNA Code" which needs to be broken to determine the illegally-low prices at which manufacturers are selling goods to the nation's major retailers

The purpose of these concepts is to be able to think like a lawyer, be able to apply concepts to given factual situations, and to be able to write and talk to opponents and judges with this verbal shorthand and represent the best interests of my clients. For example, "1st Amendment" probably brings to my mind more than it would to yours. I think of "access to the courts and to government agencies", "freedom of speech", "freedom of religion", "freedom of the press", the "freedom to assemble peacefully" and whether one has standing to assert any of such rights derived from the 1st Amendment to the United States Constitution, which reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Many judges have a larger collection of active legal concepts than I have compiled during my practice. The reason for this is that judges, or at least federal judges and higher state court judges, have to be familiar with the concepts in a wide variety of legal fields and the areas in litigation, at one time or another. It is further support for my belief that high-level judges have the largest vocabulary on average, with lawyers coming in second. The reason for this is that higher-level judges (such as federal judges and high-level state court judges) come into frequent contact with most aspects of society and learn the words and concepts used in these different areas

Life is complex and it is unfortunate that it takes a long time to put everything together, and finally see the big picture. By then it is sometimes too late for you to take advantage of your newfound knowledge. However, without a full legal toolkit of concepts you will be missing some possible solutions that research alone may not uncover. If you don't know what you're looking for, you may not accidentally happen across the concept. You are much better off starting with as many concepts as possible. The facts with which you are presented may suggest applicable concepts for you to consider, use, or reject.

Inventiveness among fighter pilots is similar. Fighter pilots learn as much about fighter characteristics as they can. These characteristics are referred to as the pilot's performance "envelope". They learn how to make use of the charac-

teristics, then push against the outer limits of the restraining envelope to achieve air superiority over an adversary.

A lawyer has his or her own performance envelope. This envelope contains the various rules, canons, regulations, statutes, doctrines, constitutional provisions and customs, which provide a wealth of choice for the attorney. Within these choices some attorneys do better than others. Some attorneys do not try to be different or push the envelope because it could lead to criticism or sanctions, or because it would take extra work. Other attorneys push the envelope and find possibilities of problem solution that other attorneys don't see at all.

To be an inventive attorney, you should learn your craft, that is the legal doctrines and how to apply them, and come out of law school with a full toolkit of concepts; and then have fun in finding the right combination of concepts and "inventiveness" to solve the problems of your client. When developing your inventiveness it helps to test your inventiveness as much as possible. You'll need to have an exploring mind, to wrestle with legal problems not formally presented to you, and to actively find legal problems in the daily news or wherever you go. Some lawyers say this inventiveness is obvious, others say is not obvious, and others say is not possible or is frivolous.

Here's an example of inventiveness: I was listening to the Howard Stern Show on a Friday morning in March, 2004 and heard Stern complain that it looked like his show, the top radio show in the nation with an audience of about 15 to 18 million listeners, was going to be taken off the air. The show had already had been taken off six stations owned by media giant Clear Channel Broadcasting, but Viacom's Infinity Broadcasting still aired his show on 34 Infinity Broadcasting radio stations. The problem, according to Stern, was that

the Federal Communications Commission had levied fines against the two broadcasting networks for alleged obscenity or indecency of several shows, and that the FCC was telling the broadcasters that Stern was next on their hit list.

Although there was a theoretical right to appeal the levy of such fines against the broadcasters, the FCC in the past had made it clear that it would hold up all licensing transactions so that licenses would expire without renewal and licenses could not be sold or bought during the time any appeals were taking place. Stern stated that this extortionate threat to withhold licensing renewals forced the two broadcasters to do what the FCC wants, which was to get rid of the Stern Show, probably because Stern was now advocating that his audience vote against Bush and for Kerry in the November, 2004 Presidential elections. Clear Channel Broadcasting, with its 1,200 licensed radio station and a stock market capitalization of about \$24 billion, could not run the risk of losing its licenses, and Infinity Broadcasting, as part of Viacom, with a \$65 billion market value, was thinking the same thing.

They could not appeal to the courts to try to get a ruling that the FCC was violating the Constitution in a variety of ways (appellate process could take about 2 years) without running the grave risk of losing billions of dollars in market value due to loss of broadcast licenses by non-renewal.

Stern said there was no way to appeal from the FCC's fines because the two networks were unable to risk the threatened loss, and they were capitulating to the FCC by taking Howard Stern off the air. When Stern said the broadcasters could not appeal, I considered this a challenge, and asked myself, Why not? Within 1-2 minutes I mentally reviewed my toolkit and pulled out the following relevant doctrines:

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- (viii) 1st Amendment rights - freedom of speech; right to petition the Government for a redress of grievances
 - (ix) Appearing and speaking as an audience member to pursue such constitutional claims
 - (x) Audience member is the other side of the coin from the broadcaster and should have similar rights to have no unconstitutional censorship
 - (xi) Intervention in the FCC fine proceedings as an "interested person"
 - (xii) Extraordinary common law writ of "Quo Warranto" which challenges a judicial, or hopefully quasi judicial, body by claiming that it has no authority or jurisdiction to act in a certain way, requiring the FCC to demonstrate to the contrary
 - (xiii) To take up on appeal upon adverse FCC decision and
 - (xiv) Standing as "aggrieved party" to take up on appeal.

By seeing how someone other than the two broadcasters could take an appeal, I recognized that I could appeal without fearing any loss of broadcast license. The only FCC licenses I have, I

think, are the right to use my cell telephone and a radio-frequency device to open my car door. I'm unaware of any renewal proceedings involving public users of such FCC-regulated devices.

Three days later, on a Monday, I had completed and mailed my Petition to Intervene, my accompanying declaration (which is an affidavit but using no notary public), and memorandum in support of the petition to intervene as an interested person in the proceedings pursuant to which the FCC was levying fines against the two broadcasters. (The FCC "lost" the papers as soon as they were delivered by the Post Office to the FCC.) You can read these intervention papers at www.lawmall.com/hs. There are two sets, one for each of the two broadcaster proceedings.

Another example of inventiveness was:

- My offering of shares in lawsuits (see www.lawmall.com/lm_finan.html and www.lawmall.com/files/suit_oc2.html)
- My lawsuit on behalf of a priest against his church for fraud and breach of contract www.lawmall.com/files/tg_compl.html
- My suit for lawyers to establish their 1st Amendment right to advertise their practices.

Of course, you don't win all the time when relying upon inventive pleadings to find a solution. But inventiveness is needed when most lawyers would say that no relief is possible. Accordingly, I urge you to really study your law books while at law school and fill up your toolkit. You will be well rewarded over the years.

Chapter 13 - How to Prosper While Millions of U.S. Jobs Are Disappearing

What many people think they know about the economy is almost as sacred to them as their religious beliefs, and nothing a writer can say will convince them to consider their beliefs as invalid. However, I believe I understand why millions of jobs are being lost in the United States, and if I am correct, you have an opportunity to prosper from the onset of your career, because of the economic opportunities that exist. If, however, I am wrong, I don't think you will be any worse off.

From my own insights, which nobody else to my knowledge has ever discussed, I am stating that by the nation's deliberate failure to enforce the nation's antitrust laws, hundreds of thousands of small businesses are being crippled and destroyed without having the stock market show this injury to the economy. When small businesses are unable to compete, they must close their doors. The major retailers pick up their customers, and show increased sales and profits that seem to indicate that the economy is forging ahead. Increased stock market prices indicate that wealthy shareholders are getting richer.

The Bush administration tells people that they will be best served by giving their money to the rich, so the rich can open up new factories in China, and sell less expensive goods to people in the US, and that in 10-20 years or so there will be enough rich Chinese wanting to buy goods or other things made by US residents, at which time (20 years from now) the payoffs will begin for US residents. But it is not true that the economy is getting any better for most Americans.

My contribution to the continuing debate is my insight from a rare viewpoint inside the nation's antitrust laws. Persons holding public de-

bate about our economy are leaving out some important factors, which render their conclusions highly suspect if not obviously erroneous. First, there is respectable opinion supporting my overall views. For example, Congressman Maurice Hinchey (22nd NY Congress. Dist. - the "Silk Stocking District), on January 20, 2004, who said in part:

The president seems not to have noticed America's declining standard of living. On his watch the median household income fell significantly for the first time since 1991. The only real growth in incomes was among the richest five percent of households, while everyone else's essentially stayed even or fell. The number of people living below the poverty level grew for the first time in six years and is now almost 12 percent of the population, and consumer debt has topped \$2 trillion for the first time....

The President and his political supporters and paid economists have overlooked the damage to our economy and its people in the process. Unless we look at the destructive side of economic growth we are deceiving ourselves. We don't have real growth. Instead we have business piracy by reason of antitrust violations, which creates a false impression about the state of the economy. Consider that:

- wages are declining for millions of Americans
- business opportunities are also declining because of difficulty competing against monopolists across the various industries

- persons are borrowing against their home equity to pay their bills
- college tuition is going up whereas wages for which persons are being educated are going down
- credit card debt is at an all-time high as are credit-card delinquencies
- persons are resigned to the fact that they can't get a decent paying job are removed from the federal list of unemployed persons.

Taking all of this into consideration, you can easily come to the conclusion that many Americans have a declining standard of living at the same time that the rich are getting richer. This is very predictable under classic economic analysis of monopolies, which have as their purpose the restriction of production, the reduction of labor costs, the increase of prices and profits, and the elimination of competition, not necessarily in the order I've stated. I know that the average reader will not grasp the meaning of what I am saying, and if the reader does happen to understand what I'm saying he or she is not apt to agree with me.

The view of major corporations, major media, and the politicians who are put into office by those two categories of business is that the loss of millions of jobs in the United States during the past several years has resulted from "productivity gains" (*Business Week*, 3/22/04, p. 36, cover story by Bruce Nussbaum, a Special Report entitled "Where Are the Jobs?" - Economic growth is very strong, but America isn't generating enough jobs. Many

blame outsourcing. The truth is a lot more complicated. Only 300,000 jobs are lost due to "outsourcing" of jobs mainly to India - at p. 40).

The argument for productivity gains is this: as more computer hardware and software is utilized, there is a reduced need for labor. Therefore, workers are not being rehired to fill the millions of jobs, which were terminated when the country's economy was in a downturn. Now that the economy is improving, according to *Business Week*, the customary rehiring of the fired workers is not taking place. The reason they say is because "productivity gains" enables the major corporations to do without these employees. One key reason is that employees cost a high premium, including pension contributions, holidays, payroll taxes, and especially medical and dental programs.

I see "productivity gains" and outsourcing as a result of violations of the nation's antitrust laws. These violations enable the economy to become more concentrated while heading towards monopolization in tens of thousands of product, service and geographic areas. [Under antitrust law, you do not have to monopolize in every square inch of the United States; you can be found guilty or liable for monopolizing or attempting to monopolize gas or food or building supplies in an appropriate area surrounding a town, for example.] The resulting decrease in production, decrease in labor required to produce, and increase in monopolizing profits, bring productivity gains which are no more than the spoils of illegal business conduct resulting in monopolies or conduct having a tendency to monopolize.

I realize I have a decidedly minority view that is kept from you by the major media - participants in the monopolization, or should I say re-monopolization, of America, but let's look at the nation's merger and acquisition policy. Back in the 70's and 80's many mergers would not be allowed be-

cause of their tendency to monopolize or because they would in fact result in a monopoly in one or more "markets". A market is a category of products or services in a defined geographic area, such as bicycles (product market) or legal services (services market) in the United States or in New York City (geographic market). Since President Reagan's administration, virtually all proposed mergers have been permitted, resulting in much greater concentration of the economy and the immediate termination of tens of thousands of employees for each major merger.

Prior to the merger, these tens of thousands of employees were needed and gainfully employed, but by reason of merger, a "productivity gain" was created by enabling one huge corporation (the combined two corporations) to do the work of both the pre-merger corporations, with tens of thousands of fewer employees. *Business Week* and President Bush call this a productivity gain, because it results in lower costs for the combined corporations, higher profits for the combined corporation, higher stock price for the owners of the stock of the two corporations, and greater ability to force suppliers to reduce their prices to the combined corporation. This requires that the suppliers eliminate employees and outsource some of their work to countries such as India, which have a lower hourly rate for employees.

How many employees have been let go because of mergers during the past ten years? First of all, how many mergers have taken place during the past ten years? Let's assume there have been 5,000, and that each merger resulted, on the average, in a reduction of 1,000 employees, for a total of 5,000,000 employees lost to mergers during the past ten years. As an example, Verizon Telecom division reduced its workforce by 22,000 employees during 2003. These jobs would not have been lost if the Federal Trade Commission enforced the laws prohib-

iting mergers which either create a monopoly or have a tendency to monopolize. As a result of the MCI/WorldCom merger in late 1998, 3,700 jobs were eliminated. The 2003 merger of Hewlett-Packard and Compaq resulted in elimination of 15,000 jobs. Bank of America's 2004 merger with Fleet will result in elimination of 11,000 jobs. Wells Fargo Bank's acquisition of First Interstate Bank during 1996 resulted in elimination of 1,750 jobs with a total of 16% of all jobs at the acquired bank to be shed by the end of 1996. An e-article by Todd Spencer, dated 10/1/02 in Salon.com, entitled "Radio Killed the Radio Star" estimates that

Consolidation has resulted in 10,000 layoffs, the demise of a beloved trade magazine [Gavin, 3/02], and a decline in programming quality. But industry execs are fat and happy - 10,000 radio-related jobs lost in total.

The argument on behalf of permitting mergers is, basically, that it is a good thing for the economy to have companies become more competitive through merger-related cost reductions, including termination of thousands of jobs. But the mergers are occurring on the high end, with the largest corporations growing larger, and making it more difficult for smaller competitors to compete. If you take mergers to the extreme, where there is only one corporation remaining in business, such as a single bank or a single telephone company, you would be able to eliminate perhaps 10,000,000 to 20,000,000 more jobs, and you would have fantastic productivity gains by the remaining corporation. This would be evidenced by huge increases in profits, massive reductions in expenses, and hefty price increases of stock value. But the profits go to the remaining corporation. There is no requirement to have the one remaining corporation pass on its alleged efficiencies to consumers, and without competition there is no market mechanism to keep

the monopolist's prices in line. The advantages of a lot of corporations competing with each other not only include lower prices and higher quality of services, but more employment throughout the nation. The government's policy of permitting all types of mergers is no more than a government licensing of monopolies with predictable reductions in employment and a lower standard of living for most Americans.

But mergers are not the only antitrust area where the United States government is encouraging the destruction of jobs. The main area is in the failure by the Justice Department as well as the Federal Trade Commission, since about 1970 (starting with the Nixon administration), to enforce the Robinson-Patman Act. The Robinson-Patman Act prohibits sales of goods to major retailers at per-unit prices lower than the price paid at the same time by their competitors, except if the entire difference in per-unit price is cost justified (and some other exceptions). A summary of various aspects to the Robinson-Patman Act is available at <http://www.businesslaws.com/elssamp18.pdf>. Also, see my website at www.lawmall.com/rpa.

Wal-Mart, founded in 1962, now has about 1.2 million employees, up from several thousand employees during the early 60's. For every Wal-Mart job created, approximately three jobs or small-business ownership positions are destroyed, as well as three jobs or ownership interests, which were paying more than twice as much per hour. Therefore, for the 1.2 million jobs added by Wal-Mart during the past 25 years, there has been a loss of about 3.6 million jobs. The same is true for other major retailers, such as Home Depot (100,000 employees), Bed Bath & Beyond (23,000 employees), Barnes & Noble (50,000 employees), AutoZone (50,000 employees), Toys-R-Us (114,000 employees), Target (306,000 employees); Costco (80,000 employees), and Loews Home Improvement (100,000 employees), Blockbuster (82,000 em-

ployees), and BJ's Wholesale Club (17,000 employees). Wal-Mart together with these 10 other major retailers - with a total of more than 2,000,000 employees - caused a loss of about 6,000,000 employees (including small-business owners) during the past 10-15 years. *Business Week* 3/22/04 states that "2.7 million positions lost since the recession hit in early 2001" (p. 39) and that "productivity is growing even faster now than in the late 1990s. And it's a real job killer this time: A one-percentage point increase in annual productivity growth costs about 1.3 million jobs." (p. 40). *Business Week* failed to take into account that growth caused by violation of the antitrust laws created the phenomenal job loss. The antitrust laws were enacted to protect smaller businesses. The failure to enforce these laws has greatly affected unemployment and the nation's economy. By allowing mergers of all types to take place, and by permitting major retailers to buy goods at about half the price per unit, millions of jobs will be lost as smaller competitors will be forced out of business, causing them to terminate their millions of employees. For every job created by a major retailer, there is a loss of about three jobs with independent distribution competitors.

As to outsourcing, the 300,000 jobs identified by *Business Week* are also a result of the nation's failure to enforce its antitrust laws. Outsourcing occurs mainly by major corporations. Smaller corporations don't have the incentive or assets to focus on purchasing in multiple countries, and they tend to be more considerate of their employees and the community in which they are based, unlike major corporations, which have no allegiance to any of the thousands of locales in which they establish their outlets. If the nation enforced its antitrust laws, by stopping mergers of major corporations and by requiring manufacturers to sell to competing customers at the same per-unit prices, there would be no job loss in the United

States, and corporations would be putting on more employees to offer unique types of services to compete for sales to the consuming public.

You may be asking, "How does this lesson in economics apply to me, as I'm trying to decide whether or not to attend law school?" It does so in many ways:

- The more concentrated the economy becomes, the more dependent the major corporations are on legal services to protect their monopolies, in front of Congress, the regulatory commissions, and in private litigation.
- The more concentrated the economy becomes, the more opportunities there are for lawyers to commence private lawsuits on behalf of injured businesses and communities against major corporations for violation of the antitrust laws.
- As the economy declines, there are more and more persons in financial trouble for which legal services will be needed. Terminations of employees give rise to legal issues that need legal services to resolve.
- Concentration of the economy also seems to be a predictor of increased charges of criminal conduct, with the need for more prosecutors and more defense lawyers.
- As the economy becomes more technical, there is an increased demand for intel-

lectual property lawyers, to work in the areas of patent applications, patent lawsuits, trademark applications and trademark lawsuits, and copyright litigation.

I remember a story related to me by one of my Harvard Law School classmates. He told me about his father, who became a lawyer and shortly thereafter took on a client. The client was an Indian tribe, for whom he commenced a lawsuit for some type of historical mistreatment and/or improper taking away of land belonging to the tribe. According to his son, this was his only client and only lawsuit. He won the action (probably by settlement), received an enormous fee (probably a contingent fee) making him at least a millionaire. He retired from law within several years after receiving his license and became President of Brigham Young University. Winning one case, the man was set for life to do whatever he pleased.

The traditional white-collar professionals such as lawyers, accountants, managers who depend on a corporate job and salary for their income will tend to suffer reductions in income and opportunity as corporate America "right sizes". This is the term media apologists call corporate outsourcing used to obtain lower cost labor through mergers and terminations of excess employees. Jobs increasingly make jobholders the victim of economic forces. Yet, there are some jobs that tend to do well in spite of the economy. For example, medical advances are taking place which extend lifetime averages and increase the number of senior citizens in society. This creates a demand for more medical and technological professionals to deal with the increasing medical problems of the elderly population. Medically-related jobs will attract more people from other sectors of the economy. Unfortunately for them, the persons who decide that becoming a part of an ever-growing medical bureaucracy is better than their middle management employment with corpo-

rate America may not understand what is happening in the medical area. They may have a mistaken belief that corporate America will treat medical technicians better than lawyers or managers. In fact, it is doubtful that medically-related jobs are immune from these economic forces.

The best way not to be victimized is to become self-employed. That is what I'm advocating here - self employment rather than corporate employment, and a legal career has many advantages over other types of self-employment. I'm advocating law school over other advanced degrees or professional schools, and I'm advocating low-cost law schools over first-tier law schools for those who can't find a spare \$150,000 (really, \$300,000 before taxes) to go to Harvard or Yale. In other words, one needs to become self-employed, and one of the best, most versatile and economically-rewarding self employments is that of a solo attorney.

Succeeding in business is not easy, and it certainly does not help to create ironclad rules that limit the businessperson. I am not suggesting that you boycott all multinational corporations and monopolistic corporations. You cannot run your life purchasing only the products produced by corporations which treat everyone fairly (which you might see as a level business playing field for Americans as consumers and Americans as workers). You can protect your own personal interests from being diminished by understanding the economic forces at work and acting out of enlightened self interest. The purpose of this book is to point out things that people should know to be able to make better choices that will enable them to have a better economic future.

A career as an attorney is accompanied with the benefit of being one of the highest paid professions in the United States. Along with the

great opportunity for meaningful, consistent, and long-term self-employment, the attorney has the ability to improve the economy and the way we do business by enforcing rules protecting competition when the government itself refuses to do so. This is not likely to change in the near future.

Chapter 14 - To What Extent Is the Value of Your Legal Skills Vulnerable to Foreign Outsourcing?

Americans studying for a career in engineering, systems analysis, computer repair, programming or other technical fields are concerned that their prospective career may depreciate in value due to the increasing practice of foreign outsourcing. This is so especially because technical skills become obsolete and younger persons often have better skills in new technologies. Also, India is training these replacements at low cost. A person who was trained years ago in Fortran or COBOL would not be able to compete in today's internet-oriented marketplace without undergoing a time-consuming and costly upgrade in training.

The same is not true for most lawyers. Legal training is not rendered obsolete with the passage of time because it is more related to the study of English or the study of pure mathematics than it is to the study of specific computer languages. We have been trained in a language and method, which continues to be used over the years, and in most cases the longer a person has practiced law the more valuable his/her skills become. Thus, there is no predictable obsolescence.

It is, however, a legitimate concern to wonder about the extent to which a costly legal education and legal skills could become subject to competition from persons with the same or similar skills located in lower-cost English-speaking countries such as India. This fear is exacerbated by the probability that legal skills will be available for anyone to acquire without any need for licensing as a lawyer in the United States through low-cost or no-cost Internet courses.

During the 1970's I started a 1st-year law course for paralegals, and have seen law courses

made available on the internet, including law-courses which suggest they can qualify their enrollees for taking a bar exam in one or more states. With the possibility of having groups of foreigners trained in United States law, what risks are there for reducing the value of one's training and licensing as a lawyer in the United States?

To start answering this question we need to analyze the extent to which a lawyer's services require or benefit from the physical presence in the United States of the lawyer. This is the main advantage of the state-licensed lawyer. Two requirements must exist for an individual to be allowed to represent a client before a court or governmental agency. The representative must be a licensed attorney and must make a physical appearance before the court or agency. These two requirements prevent most legally trained persons located in foreign countries from competing for this type of work. Thus, appellate argument, trial work, criminal proceedings, government agency proceedings, pre-trial appearances before court during the discovery phase of litigation are instances where foreign outsourcing seems to be impractical, if not impossible. Even though appearances by telephone or video conference call are becoming more prevalent, the requirement of state licensing as a lawyer prevents foreign-licensed lawyers located in foreign countries from competing for this type of work.

Probably of greater importance is the desire of persons obtaining legal advice to be able to speak in person with the lawyer, to visit his or her office, and to show and discuss documents. It is very important to get to know and trust the lawyer with whom important confidences will be divulged, and in which many cases the life, liberty and property of the client will depend. Creation of the attorney-client relationship is enhanced by the attorney's presence in the nearby area, while foreign-located lawyers will have a more difficult

time competing for clients due to their inaccessible distance and lack of state licensing which creates an inability to do the whole job.

Inevitably a significant amount of foreign outsourcing can be expected to take place that will reduce the demand for legal services from attorneys located in the United States. On the other hand, any such outsourcing will tend to decrease the overall cost of legal services and make them more available in the United States.

This is the same argument used by those who support globalization of the economy and raises serious political issues for many. Whether or not you are in favor of outsourcing and globalization, you must recognize the problem, and understand that these forces do have an effect on your prospects for employment, business, professional career, and standard of living.

It is safe to say that the value of a state license to practice law will be far less vulnerable than the skills of a U.S. resident who creates websites or does computer programming for a living. Already, there has been a massive movement of website creation and other programming and data-entry business to India and other English-speaking countries, with the result that programmers in the United States have been forced to reduce their hourly rate or legal-task charges to be able to remain competitive.

As a licensed lawyer in the United States, you would be able to compete more successfully if you learn how to integrate outsourcing of legal skills, either to persons in the United States or to persons outside of the United States, and keep down your overhead costs of running your practice. Also, you should learn how to purchase the services you need from independent contractors. This will enable you to provide overall legal services to your clients on a competitive basis - at a cost and

value to your clients which will enable you to attract clients, grow your practice, and increasingly profit from your practice.

Unless the rules are changed, American businesses and professional firms are going to have to outsource to save money and remain competitive, whether we like it or not. Outsourcing and obsolescence will not be problems for you if you understand and deal with legal-skill outsourcing on a business-like basis. Don't disregard the threat, but use it as a tool for remaining competitive and creating success for your law practice.

Proper Outsourcing for Legal Skills

There are three types of legal skills for which outsourcing is possible: (I) licensed-lawyer legal skills; (ii) law-school-trained legal skills; and (iii) paralegal skills.

At some time in your law career, you may need to hire an attorney to appear on your behalf before a court or agency, or to take/defend a deposition for one of your clients, or to conduct a trial, or argue an appeal, or to make appearances in court in another state admitted "*pro hac vice*" meaning "for this occasion". A state-licensed lawyer from any state in the United States is permitted to practice law in any other state for the purpose of a single case, on a *pro hac vice* basis, upon application to the court for *pro hac vice* status.

There may be instances where you want a person who is a law-school graduate to do work for you, but such person does not need to be a licensed lawyer, and theoretically could be a United States law-school graduate practicing law in India or other foreign country.

This type of outsourcing is what I could realistically do as an antitrust lawyer. Most plaintiffs in the United States cannot afford to pay the \$300 to \$1,000 per hour demanded by the establishment economists retained by major corporations

in the lawsuits I bring against them. Having economists residing in India do that work for \$15 to \$25 per hour is very appealing to me and the causes I espouse. You could retain a legally trained person living in India to assist in your legal research or international problems without having such person be admitted in the United States as a state-licensed attorney. Thus, you would be outsourcing for those skills to obtain a more competitive price for the delivery of legal and legally related services to your clients.

In making your outsourcing decision, you will have to consider the cost of time differentials; the increased administrative work for yourself; the added time and money to be spent in either air expressing documents to India or reducing the documents to image files and emailing the data-processing files to India; and the complications in dealing with the foreign attorney's reduced familiarity with United States practices, legal concepts and language.

Most of the foreign outsourcing, it seems, will be in the areas of computerized legal research of legal issues and in dealing with organization and summarizing of documents produced in commercial litigation or in the highly visible criminal cases against high officials accused of stealing from public corporations.

Before going to trial in February of 2004, John Rigas and two of his sons, Michael and Timothy, obtained the Bankruptcy Court's permission for Adelpia Corporation to pay their criminal lawyers at least \$29,000,000 to defend the defendant trio from criminal charges brought in September, 2002.

The case involved review of millions of documents and undoubtedly a significant part of the \$29,000,000 was or could have been sent to India for cataloging the documents into a system that would enable Rigas' numerous lawyers, paralegals,

accountants, economists and experts to easily locate specified documents when desired.

Someone (usually, a paralegal) has to look at each document and extract its essentials, such as its date, its physical appearance, the type of document, to whom it was sent, who created the document, its title, the number of copies, the subject matter, the relevance to specified issues in the case, and whether the document is privileged or not. Thus, each page will cost about \$2 or so to process in this fashion, and the production of millions of pages of documents will involve many millions of dollars of paralegal time to process.

If you had the choice of hiring persons in the United States at \$25 per hour or going to India and hiring persons at \$3 per hour, you undoubtedly would hire the \$3 per hour person. Most Americans skilled enough to do the demanding task would not be willing to work for \$3 per hour. As a predictable result (which is ominous for the economy and social interests of most human beings living in the United States) the work is going to India or other less-developed countries with lower wage rates.

You might wonder how the litigation support personnel of the Indian contractors can transport millions of documents to India for their review. It is easy, but documents cost time and money, which need to be taken into account. While a Xerox copy of each of the documents is being made, a .tif, .pdf or other image file is captured for each document for about a penny or two per page. These image files are then put into a CD Rom and flown to India. If speed is important, the image files are sent by satellite uplink as the image is being created, thus enabling the Indian contractor to obtain the documents as fast as anyone else. Thus, distance means little when dealing with documents, because they are just "information", which can be easily sent by electronic means after conversion to image files in the United States.

By the way, this suggests that there will be a continuing, high demand for persons in the United States to operate foreign-made copiers and image-creating equipment, at perhaps \$6.75 per hour, without fear of significant foreign competition.

This does not mean that the Rigas defendants would hire Indian lawyers to present them in their criminal proceedings. No, you can rest assured that they have retained one or more of the top law firms in the United States to represent him, but these law firms will outsource some of the legally-related work to other countries.

Outsourcing to foreign countries can be a valuable resource for an individual practitioner or small law firm, enabling them to handle matters that they are otherwise not equipped with permanent staff to handle. So, rather than viewing outsourcing as a threat to one's practice of law, outsourcing can be a competitive benefit, and certainly can be required if you are to remain competitive.

Outsourcing seems to be no more to United States lawyers and law firms than an extension of the legal assistant or paralegal field to other countries, with personnel working on an independent contractual basis, to lower the costs of such work for the ultimate user - the clients.

Although I see benefits for businesses, hospitals, law firms, medical firms and other professionals to use foreign outsourcing, I also see the economic calamity which will result to workers in the U.S. Workers, you should understand, do not outsource directly because workers are not direct purchasers of labor to any great extent (setting aside homeowners in San Diego who rely upon Mexican illegals to perform lawncare services). Employers are the entities which outsource for labor and rack up enormous profits in doing so.

Of course, workers do a substantial amount of indirect and unknowing outsourcing when they buy products, such as automobiles, television sets, DVD players, food and clothing. But it is often unclear how much foreign labor is involved in the product being purchased.

Accordingly, for the most part, U.S. workers are the intended victims of foreign outsourcing, and something must be done by the government to create a level playing field in the U.S. between consumers (which are mostly workers) and businesses, which engage in outsourcing for less expensive labor, but sell their foreign products to U.S. consumers (workers). A level playing field (in which businesses provide jobs at meaningful salary levels to legal residents of the U.S. in proportion to sales made in the U.S., and pay U.S. taxes in such proportion as well) requires that the U.S. government rules and enforcement (or at least legislation which encourages private enforcement of the needed rules). Another way to impose a level playing field, in absence of governmental rules and enforcement, could be through public activities on internet, using weblogs and RSS (Really Simple Syndication) updates by email to enable U.S. consumers to boycott businesses which do not conduct their operations in the U.S. as a level playing field.

Chapter 15 - How the Economy Affects Demand for Legal Services

Traditionally, investors have learned that certain categories of stock are immune to an economic slump, or in fact do well in bad economic times. Public-utility stocks are such an instance. During bad economic times, many families have no extra money to go on vacations or to waste on dinner in an expensive restaurant. Instead, they stay at home and consume more electricity.

Ironically, people will still go to the movies. The motion picture industry is recession-proof. In bad times, the poor, underemployed and unemployed needing some relief from their adversity will find it in the Hollywood type movies, where they get to see a glamorous life as they would like to experience it, and where everything turns out well. It gives them a short break from reality before returning to their economic problems.

An occupation that seems virtually depression-proof is nursing. There has been an unsatisfied demand for nurses at all stages of the economy. One does have to wonder whether third party financing of nursing services will continue to pay as much for nurses in spite of the increasing demand, and especially when more unemployed office and factory workers, including males, turn to nursing to earn a more secure living. In fact, even registered nurses have been hit hard over the past few years with domestic "downsourcing" (my coined word), in which hospitals, health maintenance organizations (HMO's), medical offices and other medical-service organizations in a never-ending search to lower their labor costs are using the following types of lower-paid employees to do work which was previously being done by nurses: interns, practical nurses, volunteer nurses, orderlies, prisoners, persons sentenced to community service, orderlies, EKG technicians, nursing assistants,

medical assistants, nurse technicians, patient care technicians, nurses aides.

Legal services are needed at all stages of the economy. When the economy is going full speed ahead, we have exorbitant legal fees being earned by lawyers who set up mergers and acquisitions. In good and bad times there are winners and losers, and lawyers are needed to handle legal work involving insolvency, loan renegotiations, mortgage foreclosures, business contractions, and lawsuits commenced out of economic desperation. In good economic times, thieves have a lot to steal; and in bad economic times, more persons may have to resort to stealing to survive. Lawyers are needed to defend alleged criminals and prosecute them during good and bad economic times alike. Lawyers are needed to enforce civil rights when governments and corporations fail to abide by the law, which happens in both good and bad times. Bad times often result in lawsuits by economically desperate persons who otherwise would not resort to the courts. There is a tendency in the United States today for reducing the Constitutional and other rights of Americans, which undoubtedly will lead to significant litigation requiring lawyers to resolve regardless of economic times.

I don't believe there is a lack of legal work at any stage of the economy. There is a required adjustment to set hourly rates which people can afford, and solo practitioners are better able to offer low hourly legal rates than major law firms with their higher cost structure. It is quite possible that part of the nation's restructuring will occur in the legal industry, with low-cost individual practitioners being sought to perform specialized tasks for short periods for major law firms trying to cut their overhead expenses (which you should note is another form of outsourcing). Many law firms charge perhaps \$300 to \$600 per hour or more for their legal services, when solo practitioners often work for \$150 to \$300 per hour, and

could drop their rates if necessary to compete for business in bad economic times.

Marketing Tools

How would you like to reach prospective clients for your legal services and only pay \$.05 or \$.10 when they elect to visit your website to read your promotional material? Here is a relatively new and special marketing tool that first hit the market in late 2002. It is quite useful, I believe, for new attorneys. What I'm referring to is Google's AdWords. To see how it work go to www.adwords.google.com/select. Google offers great search capabilities in the shortest period of time and Google AdWords offers great promise of very specific marketing. Basically, the advertiser, whether lawyer or plumber or computer repairperson, bids for words and phrases. A lawyer interested in finding clients for creating of wills or trusts would buy an ad for the keywords "create wills trusts" and bid anywhere from \$.05 to \$.10 per click. When someone types in "create wills trusts" in their Google search, the lawyer's ad would appear alongside the search results. You only pay the \$.05 or \$.10 if the Google user clicks on your ad and is thereby referred to your website offer, as an attorney, to create wills and trusts for clients in New York City, for example. One hundred referrals would cost the attorney \$5 to \$10 and presumably out of 100 (or even up to 1,000) referrals, the lawyer advertiser could expect to get at least one paying client. AdWords allows you to place the ads locally, where the cost per clickthrough would be less, and the ultimate response higher. By using AdWords to market your services (including price competition), you should be able to develop a clientele and even go into other areas of law. Google's AdWords is a phenomenal marketing concept and you disregard it at your own professional peril!

I have been an interested follower of legal-services marketing. In 1975, I brought the first action by any attorney in the United States for the right to advertise as an attorney. In 1977, the United States Supreme Court held, in *Bates and O'Steen vs. State Bar of Arizona*, 433 U.S. 350 (1977) that lawyers in the United States had a 1st Amendment right to advertise, in spite of the bar-association Code of Professional Responsibility which prohibited lawyers from advertising. Google's AdWords has the potential for being the most important marketing tool for individual practitioner lawyers and small law firms because of its low cost, its highly-targeted client leads, and its flexibility of attracting prospective clients locally, area-wide, nationally and internationally, according to the attorney's needs.

I see that the demand for legal services will be strong in good as well as in bad economic times, and that you can get an edge over other attorneys to capture a fair share of the available legal business by using some inventiveness, including Google's AdWords. Also, look for the same thing with Yahoo's Overture and other search engines (including the rumored new search engine being developed by Microsoft for use with the next version of Windows, unless antitrust issues prevent such tied-in use).

Chapter 16 - The Opportunities in America Today Are Readily Available to Persons Who Do Not Seek or Require Others to Pay Their Way (through "employment" providing a guaranteed salary, regular vacations, cost of living adjustments, health plan, and retirement benefits)

The opportunities in America today are readily available to persons who do not seek or require others to pay their way such as through employment that provides a guaranteed salary, regular vacations, cost of living adjustments, health plan, and retirement benefits. Understandably, one of the most difficult things in the world for most Americans is to leave the security of a good-paying job, regular salary review and merit raises, cost of living adjustments periodically, attractive surroundings, costly lunches (paid by the employer, hopefully), regular vacations, personal days off, low or no-contribution medical and dental plans, end-of-year bonuses, and substantial retirement benefits. Just reciting all these things makes my mouth water for the good old days, where employers had more jobs offering these attractive benefits than there were qualified persons willing to accept.

Although individualists made America great, the country has become soft, with more and more opportunities created during period after the end of World War II from the 1950's up to the early 1990's, when globalization had finally been felt as a force. Globalization is an effort by employers to get away from these benefits outlined above, because they are costly, and to some or to a great extent undermine the ability of employees to produce in relation to what they cost the employer.

It is great being an employee. Just show up, pretend you are doing something useful such as

shuffling papers, having extended telephone conversations with unknown persons, preparing reports based on information provided to you by others, and generally brownnosing your way up the corporate ladder of success.

But all of this is coming to a fast end. Corporations no longer need middle management. The top guy (*i.e.*, the one who is in a position to and sometimes does steal the most) is perfectly capable with his/her top lawyer and treasurer able to manage the company, which has accounted for a loss of untold numbers of middle management jobs. Corporations have gained their wealth from increasing market power within their industry through mergers and acquisitions of dubious legality under the nation's antitrust laws. These corporations are trying to get away from sharing this wealth with their employees by a series of tactics including but not limited to:

a. Cutting back on college recruitment programs, or not bothering any longer to recruit at colleges and universities for many types of positions

b. Cutting back on employee salaries by firing some employees and having the "lucky" remaining employees pick up the work of the fired employees, sometimes with a reduction in pay for the lucky employees

c. Termination of 20%, 30% or 50% of their employees in the United States to be able to show immediate profitability of the corporation, which immediately drives up the price of the stock, and enables the corporation to buy more companies with the corporation's higher-priced stock, and gives the C.E.O., top lawyer and Treasurer theoretical justification for another

round of productivity bonuses while the terminated employees are unable to continue paying their mortgages, auto loans, school tuition, food, clothing, medical, dental, insurance and other costs

d. Merging with competitors to be able to increase their prices and profits, and eliminate a significant percentage of jobs, and decrease the salaries for the remaining employees, and show huge "productivity", justifying tens of millions of dollars in merger bonuses to the key people at the top of the growing multinational conglomerate

e. Bringing in management consultants to have key employees explain what they do, to enable the corporation to teach these skills to less-costly persons located here or abroad

f. Identify which jobs in the United States can be done at a lower price by persons in India, Mexico, China or other countries, and then outsource such jobs by setting up companies in these other countries to do the work there, at a lower price, than the cost of having the corporation's own employees do the job in the United States (but still believe it is ok to continue to market their goods to such terminated employees)

g. Set up whole plants to do the whole job in foreign countries, with resulting release of all plant personnel in the United States.

With friends like this, who needs enemies?

The problem with being an employee in actuality and in concept is two-fold: (i) it is easy being an employee - just do what you are told. In fact, you might even believe that if you try to do something on your own you might be criticized by your supervisor, or your supervisor's supervisor; and (ii) the benefits are handed to you each week without any worry, and without you having to do anything above the call of duty to earn them.

Almost everyone wants to be a highly paid employee. Isn't that the American dream for most people. They do not dream of being a Bill Gates. Instead, they dream of having a job which pays them well, is secure, has all the other benefits, and hopefully it may be something at times which you would like to do.

High schools try to prepare people to get jobs, or to go to college, which in turn try to prepare people to get jobs or to go for a higher degree, which in turn is to try to prepare graduate students for jobs. Everything is Jobs!, Jobs!, Jobs! The country is based on jobs. Student loans are intended to help people borrow money, train themselves at their own expense, so they can offer themselves to the multinationals to get their jobs.

Most of us have been browbeaten to think jobs, jobs, jobs. That's the focus of education, and it is the focus of government policy to support persons with jobs, who are seeking jobs, who have lost their jobs, who do not qualify for jobs. Very little is done about the other side of the market: self-employment.

Japan has an apt phrase for the corporate employee: a "salaryman", one who is earning a salary. The term is derogatory. Although I'm not a psychologist or psychiatrist and I do not know the average psychological profile of employees, I suspect that the personnel departments of the major corporations have a pretty good idea what profile they want in their employees. A good employee must be

reliable; dedicated to the job; willing to work for far less than they can earn if they were smarter about employment and self-employment matters; acceptant of the fact that they are never going to get rich by being an employee; someone who gets the job done without question and with as little supervision as possible; someone who is a team player and will not blow the whistle on the higher-ups if the employee senses that something is being done illegally; willing to put in extra hours for little more than the possibility of a thank you from the supervisor, who probably is plotting how to replace the employee with a younger, lower-cost substitute; someone who cannot be allowed to be indispensable because this might encourage the employee to ask for additional compensation.

In addition to the above traits or features of being an employee, the typical employee is deathly afraid of having to rely upon himself or herself to provide the monthly income needed for the family to survive or live comfortably. It is this fear that forces the employee to put up with the unpleasant aspects of being an employee.

But what is so bad about being self-employed? I was an employee from age 9 (starting with a newspaper route) through age 32, at which time I went out on my own, and I have been self-employed ever since, for more than 35 years.

Many employees are finding out that they have to become self-employed. Some corporations are converting jobs into positions for independent contractors, which means self-employment. The corporation does not have to use all of the time of the independent contractor, and the independent contractor is usually free to look for and accept non-competing (or non-conflicting) work. For employees or future employees who have not yet been forced to think about self-employment, you have a fantastic

opportunity available to you, which I will try to describe.

First of all, if you sit down and study your own situation, you can figure out how to make enough income through self-employment to survive, at a minimum. Perhaps you will have to cut back on some of your expenses (such as expensive clothing needed to impress your supervisor and fellow employees; travel expenses to and from work; expensive luncheons; donations to charities designated by your employer), but if you want to earn money to survive there are many things you can do to accomplish this goal, without any realistic fear of not being able to do so. Of course, I'm assuming that you don't have some kind of disability that would require special consideration. I know that one of the most successful computer persons is wheelchair bound, and this places no apparent limitations on the quality, quantity and remuneration of his work. The United States by accident or otherwise has become a service oriented economy. When someone thinks about trying to create self-employment, he/she should start off by thinking what type of service could be provided. You have to think about finding a need for some type of service, and then figuring out how you can supply such needed service, and to do so with an appropriate profit. You have to figure out how to reach the intended market for your services at a cost that would leave you, after performing your services, a sufficient profit after paying your marketing and other expenses.

What type of services would people need? Why not ask yourself what things have you postponed doing because you didn't want to do the task yourself. Is this something that you might be able to do as a business for others? Here is an idea. What about providing a service of going through someone's home and putting everything up for sale on ebay (except items specifically excluded by the home owner), and then arranging for the sale, and taking a 33-1/3% commission on all sales. Could you

do that? How much money would be involved in a single household? How much of your time would it take to do this for a single household? Would it be profitable? Or, do you need 50% to make it work?

If 1 household would take about 1 month to do, how many households would you need in the course of a year to provide yourself with a reasonable income through self-employment? Is this something that you could train others to do, and franchise them under your name, or perhaps (and I caution you about this) put them on as employees? Ouch! I have an ingrained sore spot when it comes to employees; a feeling which is based on the fact that from a small employer's standpoint the employee seems to wind up with more than the employer and works a lot less with no capital invested and no risk of loss.

An entrepreneur needs to be organized, to be able to outline what needs to be done, put the outline in order of priority, and then motivated enough to go to the top of the list and start doing each item, one after another, until the list is completed. This is all there is to being an entrepreneur. You have to do for yourself what your employer does for you when you are an employee. The employer has to spend time trying to figure out what he/she wants the employees to do to carry out the plans of the employer. All you need to do is to elevate yourself to the role of your employer and do for yourself what your employer does for you as an employee. You need to plan and execute, with the purpose of doing some defined repetitive tasks that result in more income coming in to you, as the business owner, than you spend in creating the income. This difference is your combined wage and profit.

When employment opportunities are declining, self-employment looks a lot more attractive. This does not mean that self-employment is better only

when employment gets worse. No, self-employment is better at all times, but you have not been forced to consider self-employment because of the lure of all those benefits that have been promised through employment. Now that the benefits are slipping away, through outsourcing, globalization, and a declining standard of living (for employees), you are being forced to look into the more difficult alternative of self-employment. But you have to realize that self-employment can give you 10 to 100 times the amount of income as produced by the job you might prefer to maintain or obtain. The problem is that you are no longer as apt to be offered or kept in such job, and a wise person will recognize the jeopardy you are facing, and deal with it by getting control over your income by becoming self employed.

The rest of this book provides many of the tools and insights you will be able to use in changing or heading to self-employment.

Chapter 17 - How Economic Indicators Can Help Make Your Career Decisions

In this chapter I discuss information you can use to tip the scales in your favor in making your career choices, both now, and later in the market-place for legal services. This will enable you to compete most effectively in the overall market for earning a decent living. I have had experience in this self-employment market I am advocating. I haven't had a "job" or paycheck since 1968 (36 years ago).

The U. S. Government creates and disseminates statistics about the economy. These statistics and others are evaluated and processed by a non-profit, tax-exempt organization called The Conference Board, Inc. Public releases of weighted statistical data known as "U.S. Leading Economic Indicators and Related Composite Indexes" is released monthly as "economic indicators". The Conference Board reports which of 21 indicators are "leading" (*i.e.*, predictive of the direction of the economy), which are "coincident" (*i.e.*, confirmatory of the present state of the economy), and which are "lagging" (*i.e.*, indicators which have not yet caught up to the current economic condition).

Although the government, financial press, major corporations and the mainstream media pay much attention to the conclusions of the Conference Board and others based on these and perhaps other indicators, the truth of the situation seems to be that "The Emperor has no clothes." The figures are not revealing as to what is really happening with the economy.

Conclusions that we have come out of the extended economic downturn do not ring true to the many tens of millions of people in the United States who see the economy still cycling downward for them.

These 21 "economic indicators", for your information, are:

- Average weekly hours, manufacturing
- Average weekly initial claims for unemployment insurance
- Manufacturers' new orders, consumer goods and materials
- Vendor performance, slower deliveries diffusion index
- Manufacturers' new orders, non-defense capital goods
- Building permits, new private housing units
- Stock prices, 500 common stocks
- Money supply, M2
- Interest rate spread, 10-year Treasury bonds less federal funds
- Index of consumer expectations
- Employees on nonagricultural payrolls
- Personal income less transfer payments
- Industrial production
- Manufacturing and trade sales
- Average duration of unemployment
- Inventories to sales ratio, manufacturing and trade
- Labor cost per unit of output, manufacturing
- Average prime rate
- Commercial and industrial loans
- Consumer installment credit to personal income ratio and
- Consumer price index for services.

For the February 2004 indicators, numbers 1-10 were listed as "leading"; numbers 11-14 were listed as "coincident"; and numbers 15-21 were listed as "lagging". The indicator "Employees on nonagricultural payrolls" (#11) was given 21 times more weight than #2, "Average weekly initial claims for unemployment insurance", and 14 times more weight than #15, "Average duration of unemployment".

From the start, you can see there is no emphasis or urgency about unemployment among the people who prepare and present statistics on how well the economy and government is doing. They are concerned only with the continued and increased profitability of the major multinational corporations. The weighting and other manipulation of data can be of no higher quality than the underlying data, and the weighting process. The weighting process seems to slight the concerns of tens of millions of Americans - those being underemployed, unemployed, or without unemployment insurance benefits.

The 21 indicators are also inaccurate, without question, in various respects. Numbers 1, 3, 4 and 5 do not include small business figures. Number 2 does not show unemployed persons whose unemployment insurance has lapsed. Number 7 (stock prices) fails to have any offset for small businesses driven out of business or unable to compete with major corporations; small businesses are not public but they have "value" as privately-held companies, which values have been lost to their owners but not reflected in the indicators. Number 11 (employees on nonagricultural payrolls) does not include small-business payrolls, or small-business owner distributions in lieu of payroll.

Numbers 12, 13, 14, 16 and 17 do not include small business or other non-public companies. Number 15 (average duration of unemployment) fails to take into account underemployment, such as a \$30

per hour unemployed worker who temporarily (he/she hopes) takes \$6 per hour employment. Such person is considered to be employed, but he/she considers it to be serious unemployment, working for less value (*i.e.*, salary plus benefits including health insurance coverage) than someone receives who is on public assistance or welfare.

Numbers 18 and 19 (average prime rate) reflect a failure by someone to understand that small business borrows on credit cards at 20% instead of slightly above prime. Number 20 fails to take into account that for small business there is often no difference between personal and business borrowing. And, number 21 fails to take into account the price for services provided (or no longer being provided) by small business.

These indicators may have some value to major corporations, because they assume for the most part that the only part of our economy, which counts, is major public corporations. But the rest of us are being misled, and not represented by, the statistics. Still, we are being told, what's good for the major corporations is good for the rest of us in the United States. It is clear that the long-enduring saying "What's good for General Motors is good for the whole country" no longer applies, and statistics and other things prepared for and from the standpoint of major corporations are selling the rest of the country down the river.

Instead of the statistics being compiled by the Conference Board, a single shortcut indicator could be developed, which would be less costly to administer, far easier to understand, and get right to the point. This shortcut indicator would reflect the changes in the net worth of individuals living in the United States who own one or more oil wells anywhere in the world. This would probably give a closer approximation of how the United States economy is performing in directing most of its benefits to the major multinational corporations and other

persons who are rich and powerful. The value of this type of "oil-well economic indicator" to rank and file Americans is worse than nothing. It is destructive of their standard of living, and their constitutional rights as citizens of the United States.

These published statistics on the economy are falsified, and if prepared for a public company's filing with the Securities and Exchange Commission probably would result in civil and/or criminal fraud charges by the SEC against the multinational corporate publishers of such statistics.

Incidentally, if it is illegal for Martha Stewart to lie (not under oath) to governmental officials, why aren't government officials even more liable criminally for lying to members of Congress and to other governmental officials, through their fraudulent statistics? The false published statements are used by the press to assure rank and file Americans that the economy is doing better, and encourage them to wait politically (for the economy to improve) and become concerned instead with non-economic political issues, because "You'll soon get your share of the economic pie." Actually, the economy is disintegrating or devouring itself by massive handouts to the rich, which are paid with borrowed funds, and progressively cripple the economy in the future. The assets and opportunities owed by the government to its citizens are being turned over by governmental policy to the rich and impoverishing the government and its citizens as a result.

The rich are getting richer but leading economic indicators say that this aspect to the economy is good, impliedly for all. But it is not. It's only good for the rich. The rest of us know that we have a major problem. We are experiencing a decline in standard of living and a decline in job and business opportunities. By reason of the

increasing concentration of the economy, citizens are not as free today to run with a new idea, because of the possible need for involvement of major corporations to make the idea a success. This major problem needs to be addressed by you so you can adjust your career plans to the grim economic directions, which we now clearly see.

As we have seen, the economic data being presented to us is not only of no positive value, it is very dangerous, because it is justifying a hands off, laissez faire attitude, which is letting the value of America be transferred to major multinational corporations and super-wealthy individuals without any responsibility for creation of more employment being assumed by them. These current statistics and indicators have no value in determining whether the nation's wealth is being used to maximize the share of the economic pie for rank and file Americans. You should not give much credence to the present statistics of the government and the Conference Board when planning your career. Even the persons who create and use these figures have no idea how to improve the economy making use of such statistics, or else they are prevented by the threat of ostracism from speaking out and letting the public know the truth.

The governmental and Conference Board statistics and indicators are false, misleading and inadequate because:

- They recognize the rebuilding of a building or bridge as a plus to or new asset of the economy without offsetting the dollar amount of loss to the economy when the replaced building and bridge were destroyed by terrorists (a double accounting problem).
- The dollar amount spent to investigate, prosecute, incarcerate, clothe, feed and supervise criminal defendants has the same

weight in the statistics as amounts spent to cure cancer or give instruction to public school children, with governments increasing their expenditure on the former and decreasing their expenditure (actually or proportionally) on the latter.

- There are no offsets for losses sustained by a small privately held company to reduce the increased sales and profits and stock values of the larger companies, which drove them out of business, because of the government's failure to enforce the nation's antitrust laws.
- Major corporate waste and fraud are included as assets to the economy because of the failure to deduct such amounts from the major corporation's sales. Also, various fines levied against major corporations are probably not accounted for properly; even if the fine is deducted, the activities for which the corporation was fined are not estimated and deducted. In other words, successful corporate scams are assets, and the impoverishment of the people as non-assets are excluded from the statistics.
- The value of daycare services provided by friends and family for free (as desirable assets for the economy and standard of living) are not included as part of the gross national product, whereas when such services are purchased they are included. Either the services are valuable or they are not, and inclusion or exclusion should be

consistent, to enable us to get a proper picture of the economy.

It should be noted that the gross national product is considered by many to be the most important indicator of the economy. But the GNP is flawed as we have just seen. Billions of dollars in losses to corporation shareholders and mutual fund shareholders have been lost due to illegal market timing of transactions, kickbacks, excessive commissions, but the lost amounts are carried as assets and a plus for the economy. Very importantly, more than one hundred billion dollars per year (my estimate) in late charges and overdraft fees imposed by banks, credit cards, financial institutions, landlords or others are included as an asset and plus for the economy, when you and I know that these charges are outrageous, unfair, confiscatory, highly usurious (often exceeding 1000% interest on a true annual basis), and devastating to many of the persons who are forced to pay the amounts. Overdraft charges, ATM fees and bounced-check fees by banks amount to \$30 billion in 2002, not including any late charges imposed by the banks.

What is needed is an analysis of the economy from the standpoint of receipt of valuable goods and services, and exclusion of expenditures having little or no value to United States residents or citizens. Perhaps foreign transactions should be analyzed and adjusted in "indicators" to reflect their reduced value or detriment to the United States economy.

In light of the fact that the governmental and Conference Board statistics and indicators about the economy are false and misleading, you need to look for other data to help you with your career planning and other decisions. You cannot look to unemployment statistics, because they are false and cover up the real situation. On March 5, 2004, the United States Department of Labor, Bureau

of Labor Statistics, reported that there is a national unemployment rate of 5.6%, but callously excluded from this figure:

- Persons who have stopped looking for a job because of the belief that they cannot find something better than poverty-level employment;
- Persons who three months ago (being terminated by the employers) were earning substantial salaries and now have been forced to accept slightly higher than minimum wage, of about \$6.00 or so per hour (resulting in millions of underemployed persons). The underemployed persons who earned \$30 per hour before and \$6.00 per hour now should be included in economic indicators as 4/5ths of 1 unemployed person. This would add millions to the ranks of the unemployed and probably swell our unemployment figures to 15% to 20% or more, and increasing daily.

Wouldn't it be helpful instead to have statistics which say that, on the average, every employed person in the United States has 3/10ths of a fulltime job (with "fulltime job" defined as \$50,000, \$40,000 or \$35,000 per year, depending on the local cost of living differences)?

If I were trying to put together statistical indicators for most individuals in the United States as well as for small business, I would think about gathering and featuring statistical data about Americans, as follows:

- Number wanting work but who have no work;
- Number of underemployed persons and the extent of such underemployment (e.g.,

1/5th employed if was earning \$30 and now earning \$6 per hour);

- Number of persons unemployed or underemployed who are no longer receiving unemployment insurance;
- Number of jobs that have been lost cumulatively from a specified date (say 1/1/01) by reason of mergers, acquisitions, consolidations;
- Number of jobs and small-business ownership positions which have been lost, cumulatively, due to growth of major retailers such as Wal-Mart, Sam's Club, Home Depot, Bed Bath & Beyond, Auto-Zone, Barnes & Noble, Toys-R-Us, which are forcing manufacturers to sell goods to them at substantially lower prices than the same goods are being sold to smaller competitors;
- Number of stores close by major retailers and number of jobs lost because of inability to compete with Wal-Mart;
- Statistics which monitor the financial condition of towns, professions, businesses, newspapers, radio stations, property values, tax receipts within an area of 25 to 35 miles surrounding each Wal-Mart store;
- The dollar amount of costs imposed on communities and residents by the business practices of Wal-Mart and other major retailers, including the amount of sales and real estate taxes taken by them; the amount of food stamps given to employees of Wal-Mart and other major retailers; the amount of non-paid medical services provided by the local government or local charitable medical facilities to the employees of Wal-Mart and other major retailers;

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- The costs and time incurred by persons seeking employment;
 - The dollar amount of profits of major corporations together with the dollar amount of taxes paid by the corporations;
 - An evaluation of the efficiency of the court systems not from the standpoint of the number of cases which have been terminated, but from the standpoint of the length of time, the costs to both sides, and the extent to which justice was obtained for the parties;
 - Outsourcing of jobs to other countries, broken into countries and reasons for outsourcing and the identities of the companies doing the outsourcing;
 - Purchase of jobs by one city or county, which really amounts to the stealing of such jobs by one city or county from another;
 - The nation's trade imbalance and specific laws or rules that seem to be responsible for it;
 - How much each of the top corporations in America is obtaining from the United States government through payments or tax relief;
 - The impact of higher and lower taxes on employment and unemployment;
 - Changes (usually a decline) in union membership;
 - Real estate and other court foreclosures;
 - Bank charges broken down, including ATM fees, late charges, account service

fees; overdraft fees, insurance fees for overcharge privileges;

- Bankruptcy filings for individuals and small business;
- Average wages covering all employees, by category;
- Average reported earnings by owners of small business and other categories of expense such as automobile, travel, entertainment;
- Health insurance coverage and amount of medical care not covered;
- Savings of individuals broken down by categories such as home ownership, amount in banks, amount in stock, amount in bonds, amount in pension plans; other assets, and net worth;
- Overtime figures including related loss of fulltime jobs;
- Annual income figures for individuals and for families;
- Job loss and reasons for the loss and whether the lost jobs are recoverable;
- Outstanding credit card balances;
- Unpaid student loans which are not in default and unpaid student loans, which are in default;
- Amount paid during the year on student loans and what percentage such payments represent of the payer's overall income;
- Details of what constitutes a minimum standard of living and a poverty-level, and the percentage of persons in the United States who fall within these two categories;

- Cost-of-living figures adjusted for differences between living in large cities and living elsewhere in the United States; and
- Credit rating changes for individuals and small business.

These are just some of the economic indicators, which to me seem a better indication of the economy from the standpoint of individuals, small businesses, the unemployed, the underemployed, and the United States Constitution. For example, a higher true unemployment rate is an indicator or predictor of a reduction in wages and further reduction in the American standard of living.

What are some of the predictable consequences if the country's economic direction (*i.e.*, increasing concentration of the economy) does not slow down then cease and finally reverse its direction? Wal-Mart and other major retailers will put independent wholesalers, warehouses, jobbers and retailers out of business, as well as many of the nation's manufacturers who sell to Wal-Mart; and later large retailers such as AutoZone, Barnes & Noble, and Home Depot will be forced out of business, which we now see happening to Kmart, Toys-R-Us, KB Toys, F.A.O. Schwartz, Ames and even the largest of supermarkets (especially in the West coast). Major retailers (especially Wal-Mart) will cause the towns which they "serve" to experience a decline in land values and tax base for the host governments (both as to real estate taxes and sales taxes), and business opportunity, and a decline in employment opportunity, salary and standing of living; and an increase in health and welfare costs for the host governments and their residents.

Most of these problems are not the result of "globalization", but the failure by the U.S. gov-

ernment (mainly the Justice Department, Federal Trade Commission, U.S. President, and appropriate members of Congress through their committee memberships) to enforce the nation's antitrust laws. Also, the federal courts have made their contribution by ever-increasing the requirements for plaintiffs making antitrust claims.

How should someone read the economic indicators I have listed, if they were made readily available? I would read them as "true" or "false" indicators or evidence of whether one has the luxury of being an employee or whether it is necessary for such person to become self-employed, as protection against further decline of the economy and deterioration of the person's present employment situation.

As an aside, I always believe I had an excellent Plan of Last Resort if the economy found no more use for me. My plan, something akin to a laundromat of last resort, which I think others might consider and adopt, is:

- Purchase a used United States Postal Service step van at public auction for \$200 or \$300 or so. Make any needed repairs to make the van dependable - including the heater.
- Equip the truck with mobile fax, telephone, email and Internet facilities. Also install a printer for printing out invoices or receipts, and marketing materials.
- Purchase various tools required for your new field of endeavor and hang them from the inside walls in the back of the van.
- Retain a few high school students to distribute printed material about your new, mobile business from door to door in a specific area, such as 10 residen-

tial blocks, advising the dwellers that you are in their (or perhaps you should say "our") community each day ready to do anything you want on an hourly basis, with a 1/2 hour minimum. Payment is to be made on the spot upon completion. You have your own tools and will not need to use any tools of the homeowner or dweller (something which you should feature in your marketing, to overcome the immediate fear that a stranger might steal the dweller's tools if permitted to use them).

The activities I have in mind for this business of last resort include: taking the dweller's automobile into a dealer for repair; changing storm windows; clearing an area in the basement; disposing of trash accumulated in the basement; placing unwanted items for sale on ebay; assisting the dweller's son or daughter in a research project; mowing the lawn; determining what type of printer would be most appropriate by studying features on copiers within the dweller's price range; shopping for food; plastering a wall; moving furniture around - you get the point. You'll do anything lawful for \$15 or \$20 per hour, cash in hand.

Let's take it from the standpoint of a family where the mother is busy as a teacher and the father is working in construction. When both are working, there is ample income being earned; what they need is time, and you are offering this couple, at a fair price, the opportunity to get things done which they really do not have the time or inclination to do. They would like to have certain tasks done and in fact, probably have some "to do" tasks on a list. You can tap into that ready market for your services, but you should be ready to ad-

advertise that you will do anything, and follow through on your promise.

You should charge perhaps \$15 or \$20 per hour to break in to the market (and 40 hours per week at \$20 per hour is an appealing \$800 in cash for your new business), with the expectation of charging more in due course. If you do this, you can expect that by word of mouth referrals, and by repeat demand from satisfied customers, you will be getting your 40 hours per week of work, and in fact you will have hours of work piling up which you cannot readily do.

At this point, I suggest, you mark up your rate another \$5 per hour, and expect (or possibly hope) that you lose some of the demand. Later, you can mark up your work another \$5, to perhaps \$25 or \$30 per hour. This increase in your hourly rate would be to eliminate the excess hours of demand that your skilled and convenient services would undoubtedly generate. You will be able to regulate the demand for your time through this pricing mechanism, and perhaps find a price that provides the number of hours of work you really want to put in each week.

You would use your fax, telephone, email and Internet facilities to receive and accept or reject and schedule job offers and jobs, and to give references to others in the community for whom you have worked.

Finally, you should not hire any employees because of the difficulties in supervision; liability, insurance and tax factors; theft of your part of the customer's payment or from the home of your customers; and recurrent loss of the employees when they quit and become competitors for your customers and prospective customers.

This is a service, which most Americans could use, and many are willing to pay a good hourly rate

to avoid doing these often tiring and unappealing services themselves.

Do not wait for any governmental action to be taken to cure these problems. First, it probably won't happen. You have to make it happen for yourself. I believe you should reduce your living expenses and perhaps take in boarders or be one yourself, and give time to develop a long-term source of income for yourself by the development of your law practice, or some business such as real estate in which your legal training will give you an advantage.

Remember, college and university costs are rising, while wages and employment opportunity are falling, which will put a squeeze for years on students who borrow \$20,000 to \$100,000 or more to pay the high costs of college or advanced-degree education, only to find that the jobs available for persons with such education do not pay enough for them to live comfortably and still pay off the student loans plus interest (with after-tax dollars). You have got to consider self-employment and do it early, before getting trapped in a few years of very high income and the resulting costs to you (*i.e.*, losing the first years of your professional life and becoming a non-equity partner or not being allowed to remain employed at all at the law firm).

Also, consider that gradually the government and economy are taking away the safety net for Americans, by a reduction of unemployment benefits, reduction of welfare benefits, increased hassle to obtain assistance, and even the threat of reduction of Social Security and Medicare benefits. All of this points to self-employment rather than seeking to be a jobholder. There comes a point at which you must cut your losses as an employee or job-seeking person, similar to the way employers save money by terminating employees. You need to cut your employee losses when the amount of effort you need to

repeatedly search for a position, work hard to try to keep the position, and worry over the prospects for losing the position due to circumstances not under your control become less productive than devoting the same time, energy and concern in developing your own opportunities, as an "employee" of your own business. At such point, wherever it is, you might as well use the energy and time in creating work for yourself in one or more business activities.

There can be as much work involved in trying to find and hold a job, but failure to find a meaningful job results in economic losses and frustration, because of your lack of control. In self-employment you have the control and you can prosper by diligent pursuit of your career goals.

Remember, colleges and universities are spending their multi-billion dollars in funding to train persons to become employees of major corporations and government agencies, so the corporations and government agencies can spend less time and money in training newly-hired personnel. The colleges and universities are putting in probably less than 1% of their effort in giving entrepreneurship training. In other words, the colleges and universities are using governmental and charitable (tax-saving) donations to prepare students to become employees, only to find that these corporations no longer want these trained persons. Meanwhile the colleges and universities have failed to train their students for the ever-increasing eventuality of unemployment and underemployment.

There is substantial room for growth for entrepreneurs because the market is not saturated with them, and perhaps in the long run, in the absence of major corporations, there would be no question that the economy could permit almost everyone capable of working to be an entrepreneur, doing whatever was needed for which other entrepreneurs were willing to pay a reasonable amount.

How can available statistical information or indicators help you in your career choices? They can help by having you assess the direction the economy is taking, and determine the impact such direction or tendency would have on your career choice alternatives. Simply put, if the available indicators point out an increasingly-bleak employment market, you should think about offsetting this by becoming self-employed.

There is a simple way for you to look at statistics, especially the ones that I'm suggesting should be obtained and evaluated each month. One example of economic simplicity is found in the Robinson-Patman Act, which prohibits price discrimination by manufacturers selling goods to competing retailers or wholesalers. The statute covers "goods" but not "services".

Everything being sold in the United States, according to the Robinson-Patman Act, is either "goods" or a "service", but not both. The predominant one is the correct category for the item. This is a simple "Yes" or "No" economic analysis. Another simple "Yes" or "No" analysis is found in litigation, where something is admissible if it tends more so than not to assist the trier of fact in proving something.

Borrowing from these two "Yes" or "No" examples, it seems that the best way to look at the economic indicators is to ask whether the indicator tends to support self-employment for you, or whether it tends to suggest that getting a job is better. Take, for example, the presumed fact that more persons are on unemployment this week than last week. I would say that this fact directs me toward self-employment. You will have to answer this for yourself, but it seems clear to me that many more people than ever before are going to become self-employed, whether they like it or not.

And a career as a lawyer is among the most rewarding careers.

Chapter 18 - The Number One Rule for Your Financial Success: Treat Internet as a Required Language and Learn It

This chapter is for the unemployed and under-employed waiting for the right type of employment to come along. I hate to suggest this, but it is entirely possible that you will have to wait a long time. Your skills are becoming more and more obsolete as time goes on, and your increasing age is becoming a serious liability, because of related higher costs in any employer programs for retirement and health insurance. You might even view your situation as being a citizen of ancient Rome and observing that nobody is doing anything to save the Roman Empire while it is being destroyed through its excesses. *Der Fall Roms*, by A. Demandt (1984) listed 210 reasons for the decline of the Roman Empire, including destruction of the political process and destruction of the middle class.

The salvation for you and millions of others, in my opinion, is in self-employment. Government still doesn't get the picture (but that is perfectly understandable when you realize that the persons running the government understand the truth, that the government is being run for their benefit and not for the benefit of the nation's workers).

I'm not talking about the lack of effective training programs to enable unemployed persons to obtain employment from unwilling employers. Instead, what the government should be doing is to train people to live without employment (*i.e.*, without a "job"), and to learn instead how to live via self-employment.

Jobs are not everything, although to you it may seem otherwise. We are trained early in life and through college and higher studies to think that getting and keeping a job with an employer is

the goal in life. Recently, we find that we can't count on a job being there, and that employers are not committing themselves with their employees through thick or thin, till death do they part. No, employers are firmly wedded to the principle that employees are assets, to be discarded when appropriate, and regardless of the devastating consequences to the individuals.

You have to recognize that profit-making corporations, particularly the large, multinational corporations, deal very shabbily with their employees, and do so because of the corporations' perceived need to maximize their current profits to remain in favor with shareholders and market analysts. If a C.E.O. doesn't pay attention to this basic concept of profits now, he/she may be terminated as C.E.O. in favor of someone else who'll do what is necessary. You might view C.E.O.'s as today's highly paid counterparts to executioners of years ago. You don't have to work for companies with that orientation, and at the same time you don't have to sign on for a lifetime of working for government (with its civil service protections and excessive pay scales, including healthcare, vacation and retirement programs).

The opportunity for you to consider is to work for yourself, where you become your own employer, and to base your employment on Internet. To do this you'll have to update your skills and learn about Internet and websites. Internet and websites are as important to you as the English language.

Some things can't be proven until it's too late to be of any help. My thought that Internet should be considered a necessary language is one of such things. Internet needs to be studied and mastered as much as English if you want to ensure your success in the new order of things, including the ability to write and use interactive websites.

Let me explain why I have come to this conclusion after more than three decades of legal and

business experience. The first thing I want to do is take all government work out of the picture for a variety of reasons. Civil service employment for a government agency generally involves less work for more money and increasingly is becoming more desirable employment. This is so particularly because of the benefits, including (i) costly medical and drug programs; (ii) costly retirement benefits; (iii) civil rights that prevent a protected government employee from being fired without due process of law even if the protected employee is unwilling or incompetent; and (iv) increasingly higher wages through union pressure in spite of a declining economy.

On the other hand, bureaucracy can be a dead weight on our society, taking too much out of the economy in comparison to what it does for the economy. Part of the problem is that a bureaucracy cannot solve problems as well as an individual focusing on the problem. Another problem is that bureaucracy is not more than the other side of the coin of monopoly and functions similarly, through monopolistic practices including corruption, to stifle the economy.

The private side of the economy is what I'm advocating for you, but this has its own difficulties for you to master. Increases in technology make it increasingly difficult for individuals to compete on their own, and this is made more difficult by the increasing monopolization of the economy. There is also an attitude or understanding which may account for the failure of many people to try to compete. For example: disappointment because of employment terminations, outsourcing, lower wages and benefits; declining standard of living; persons are concluding that hard work clearly doesn't pay and are looking for some other way - such as to turn to poker, short-term stock-market trading and other gambling activities or public assistance. The increasing cost of education is another

factor, because the education being purchased at very high cost does not provide sufficient return to justify purchasing the education in many instances.

For whatever reason, employers are finding it difficult to find employees willing to do the low-level jobs. The higher the aspiration and education of a person the less willing that person will be to accept physically-demanding, low-paying jobs. This has apparently attracted many people from south of the border (as well as from other countries including India, Pakistan and Haiti) to immigrate to the United States, legally or illegally, to accept such jobs, which are far more rewarding than the jobs or other opportunities available to them in their countries of origin. America has imported economic slaves to do the undesirable work similar to the way in which such work was done, through slaves, in ancient Rome. Thus, America has lost a training ground for the American Work Ethic. The jobs which years ago attracted my contemporaries and me are not of interest to children and young adults from age 10 to 21 or so.

I started my employment career in North Platte, Nebraska at age 8 or 9 delivering newspapers in the afternoon while riding my bicycle. I went from there to peeling potatoes in a diner in East Northport, Long Island, New York, and setting up pins in a bowling alley several miles away. I've cut my share of grass and washed and changed storm windows.

But these jobs are no longer sought by the offspring of U.S. citizens, and the work is being given to immigrants at low wages and with the promise in due course that their offspring will not have to do such work. Without a training ground for the American Work Ethic, the ethic has declined, and replaced to some extent by hope that the politicians from both major parties will make good on their political promises to turn the economy around

and ensure that everyone who wants to work can get a good job. Meanwhile, many people are without a job or a good job.

There are others, however, who are enjoying prosperity with their employment. High economic returns are going to persons who were lucky to be in the sectors of our economy which are growing far faster than others:

Stealing multinational corporate assets by top officials of multinational companies

High tech relating to the information age and Internet

Gaming companies (to which one might add unsophisticated investors' trading and other stock purchases)

Investment banking that takes percentage fees from multi-billion dollar merger, consolidation or acquisition transactions

Investment community that cons people into putting their money into bad investments and then takes large fees whether or not the investor makes money

Inability to earn a living through creativity (creating songs, books, magazine articles, toys, games, screenplays, plays, TV show ideas, patentable inventions, copyrighted works) because of the declining number of markets in what is becoming a "winner take all" economy, furthered by the concentration of the mass media (TV stations, radio stations, newspapers, major magazines, motion picture theaters, legitimate theaters and other markets for individual creativity) which reduces the ability of a creative person to sell and get paid for his/her work, and forces such persons into looking for minimum employment at Wal-Mart or Home Depot when finally realizing that their dream can-

not be accomplished, and that a lifetime of economic impoverishment awaits

Failing public schools which do not prepare many of our citizens to compete and earn a decent living, but which prepare them instead for figuring out how to get more public assistance than their "entitlements" would warrant

Increased taking of the income from employees through excessive taxes needed to pay unwarranted amounts to multinational corporations and other non-needy persons.

What has been lost during the past several decades is the ability for millions of Americans to earn a living by lots of hard work employing the American Work Ethic. Doing it by superior performance in a "job" is no longer working out; and trying to compete in an ever-increasingly monopolized economy is not working out.

Let's say you accept most or some of the above. What can you do about it? Here is what I suggest, and you will have to determine for yourself whether my ideas are workable for you or anyone else, for that matter. As said before, I am excluding government employment, whether in the military, governmental agency, courts, executive branch or legislative branch, or such governmental jobs as working for the police department, public school system, sanitation, public assistance, or attempting to get on public assistance (welfare) rolls and staying there as long as possible. Governmental employment often pays in excess of the wages and salaries being earned by private-sector taxpayers, which makes it more difficult to get the governmental job. Government work used to pay less because you could count on keeping it during bad times, but during good times government-employee unions had a cozy arrangement (or even conspired) with local politicians to keep increasing salaries for local governmental employees, who in turn could be counted on to support the re-election aspirations

of their friendly politicians. The *New York Post* during 2003 announced in a headline, front-page story that the payroll costs for each NYC fireman was \$123,000; for each New York City policeperson was \$118,000; and for each NYC schoolteacher was \$78,000 (including benefits such as retirement contributions, sick pay and healthcare). I talk with New York City taxicab drivers who help to pay these governmental salaries and learn from them that they earn about \$8 per hour, or about \$100 per day for a 12-hour day, with no sick pay, retirement fund or healthcare, which amounts to \$600 per week for a 6-day week, and \$31,200 per year for the work which is about twice as many hours as the police, firepersons and teachers in New York City.

Instead of "employment", I am thinking that persons should focus on marketing themselves or their products and services through Internet. Learning about websites and marketing of websites can enable you to find persons willing to pay for whatever goods and services you decideto sell.

Of course, you must decide what you want to do based on your perceived ability to market your goods or services using Internet.

You should view Internet as a language of economic life, and you must learn this language as quickly as possible, and try to guide your economic activities to make use of the language for the marketing of your goods and services. The persons who did this right away wound up owning Yahoo, Google, Amazon and ebay. But there are millions of additional opportunities for individuals, mostly at a much lower scale.

My own lack of what I refer to generally as "internet skills" resulted in the loss of an ideal opportunity for me to accomplish my 20-year old aspiration of creating a system for buying and selling everything (which for years I had called "Bargain Data", and had stored relevant documents in

various files labelled "Bargain Data"). Instead I watched ebay enter into "my field" and do in its own way what I had planned and worked on for years.

I did not have the ability myself to write the code necessary to create the desired website and failed in my efforts to retain programmers who could do what I want within the price range I could afford. If I had been able to write in the languages of CGI-Perl, Visual Basic, Java, and C++, I could have been the owner of my own version of ebay (under a different name, of course, and before ebay got started). The name I finally chose was eclads.com, short for e-classifiedads.com. The inactive website is still there, at www.eclads.com.

Years ago, I even wrote and filed a patent application for eclads, in which I made claim to a search method which if used by search engines would enable a desired reference to bubble up to the top of millions of other references found during the search. Apparently, the patent application is still pending.

I knew from my past legal representation of creative persons that their lack of certain skills was causing them to be unable to obtain income for their ideas. Inventors who created toy and game ideas were having their ideas ripped off, used by others who saw them in their non-developed, raw form (often on in a 1 or 2-page letter describing the idea). The successful merchants of toy and game ideas were not necessarily the persons who came up with the valuable ideas, but the persons who either came up with or stole the idea and with model-making skills created a working model of the idea. This working model sold the idea and often resulted in huge monetary rewards in the form of toy or game royalties for a model-making thief. I am telling you this because you need to know that having an idea is one thing, but selling it is another, and website development is a skill which you should have to be able to implement ideas you have about

marketing goods and services, or creating systems to enable others to do things more effectively.

The government talks about spending large sums of taxpayer money to retrain unemployed persons in light of our new economy, and persons who are on unemployment, or unemployed and no longer on unemployment, or persons who are underemployed listen to these political promises and wonder when the retraining will be provided to them. What they should wonder is whether the training they might get would have any value at all. Most training programs are not successful. They result in excessive numbers of slightly trained persons for the training-field selected, and no trained persons for the thousands of other fields.

I created a program to overcome that problem, and received the necessary bureaucratic approvals from the federal, state and private regulatory groups involved. I called it the Personal Assistant Training Program. This program had a multi-disciplinary curriculum to give graduates of the program the insight and skills to be the number 2 person in a small business, dedicated to saving the time of number 1. Compensation in theory WAS to be determined by the number of hours per week of number one's time which number 2 could save. The excessive regulation of all for-profit vocational programs in New York and many other states brought this program to an end, to enable students to attend non-profit training programs, which were less successful and less innovative, but had more political clout.

The lack of any training programs to start you on your way may well be a good thing, because government-approved training programs are far more political (*i.e.*, payoffs to politicians' sponsors and friends) than they are of substance and benefit to the trainee and country. You might be much better off creating your own training program, which

could be far more valuable to you than being thrown in a training program to teach 10,000 persons the skills needed to repair automobiles or bicycles. You can start your retraining program right now. The information you need is in books and manuals you can buy and often in websites for free, which material you can read yourself and learn the skills you need to know. It doesn't cost much money for you to get the retraining, and the program for you begins today, if you want.

What is it you need to know? You need to know how to create a website including features which will allow you to communicate with your prospective customers. You can hire someone to do this for you to get started, but in the long run you are much better off knowing how to do this yourself, to be able to cut your costs of marketing and testing new products and services in which you are interested. By knowing the language of internet you can sit down and develop an idea without having the barrier of trying to find someone at an appropriate cost do that work for you, on a delayed basis. Also, it goes without saying that you will need to be able to use a computer, as part of the required "internet language". A useful technique for you to use is to look at many websites, especially persons offering the type of goods and services you may have in mind for yourself. See what they do in their websites and use the best features in your own website. In other words, if you are selling elephants, you should use a search engine such as Google or Yahoo and find websites offering elephants, and see how it is being done. As the second Google entry, I found "Elephants for Sale" at sanwild.org/files/ELEPHANTSFORSALE.html.

Within about 3 TO 5 hours of INTERNET exploration, you can probably determine what specific skills you would need to be able to write your own website. You should talk with programmers, look at magazines covering the field, and look to new books and manuals covering the subject. There is website-

writing software such as ASP, Frontpage and Dreamweaver that can start you off, but you need far more than a program to be competitive.

Opportunities abound, but many persons (probably including you) do not know how to take advantage of them. One opportunity, I think, is to offer electrical, plumbing and contracting services in communities where it is difficult to obtain such services (such as on Nantucket and Martha's Vineyard, two islands located a few miles south of the southern tip of Cape Code, Massachusetts, where it often takes a year or more to complete a new home or major repairs to a home). Homeowners in Northern New Jersey and other parts of the country are experiencing similar problems in trying to obtain some of these services.

Electricians, plumbers and contractors can find a market for their services by scouring Internet for opportunities, and using Internet to offer their services to the communities that have shortages. In the fields I have mentioned, local licensing laws would probably require the electrician, plumber or contractor to work under the license of a locally licensed electrician, plumber or contractor, for a percentage, of course. You might want to think of something mundane, such as the purchase, repair and resale of used vehicles. Internet can help you determine the amount you should pay for a vehicle and an estimate of the cost of parts you would need, as well as the hours of labor involved, to enable you to buy and repair used cars (or other fixable items) on a potentially profitable basis. Then, you should use Internet to figure out how best to sell your repaired vehicles, e.g., offering them on ebay Motors or other websites for the buying and selling of used automobiles. You could use Internet to obtain a copy of the R. L. Polk automobile registration data for your area and use this as a list for purchasing old

cars and reselling your repaired cars.
www.polk.com/news/releases/2003_0129.asp

Internet permits a person to focus on a narrow field of endeavor. A local manufacturing plant (if any are left at all) could specialize in making T-shirts for obese people or see-through T-shirts for the more daring, younger, female seashore enthusiasts; and use internet to sell the local plant output, profitably. You have to be creative, and run through hundreds of possibilities to see what may be of interest to you and possible under the circumstances. You might want to buy the remaining worldly goods of recently-deceased persons from the estate executors or banks, paying a wholesale price because of your willingness to take many assorted items, and then offer these items at competitive retail prices using internet, or setting up a warehouse to sell these items by inviting persons through internet to travel to the warehouse "and walk away with unbeatable bargains", or something like that.

The reason you are not making money (if this is true) is probably that you never thought of buying old cars for repair and resale. All of us have thought of this directly, or indirectly, such as when deciding how much in repair costs we should absorb in preparing the family car for resale or trade. No, it's not the idea of offering your electrician services if you are an electrician. The thing which is holding you back is your lack of understanding of how internet can permit you to successfully market your services or repaired cars, or other goods, and how you personally can write the necessary words on a daily basis into your website to enable you to do the needed marketing, without paying the high costs of expensive programmers to do what essentially are very simple tasks.

The work ethic in America is declining, I believe, because our educational system has not taught everyone the expanded terms and concepts

needed to use Internet as I have suggested above. Internet should be viewed as an extension of the English language, and something which everyone needs to know to be able to pursue whatever they choose to do, whether that consists of teaching, acting, painting, raising funds for charity, selling used cars, selling legal services, selling a book or report, raising money for a candidate for office, selecting the right school for your children or right area for purchasing (or, hopefully not, renting) your home, or setting up and running a school or law practice. The income-producing activities which all of us have learned to do have a declining market caused by the increased concentration of our economy which makes competition more difficult for the smaller companies and individuals, and because the manner of marketing your goods and services has changed to an internet-based method of marketing without anyone ever having told you about this, or trained you to use the internet to permit you to sell your goods and services and earn a living in the process.

I cannot prove most of the above; it is something which years of experience have told me is by and large correct. It is also something that you should understand and come to grips with. Instead of waiting for government to come knocking on your door to offer you the appropriate training, you should start a program of economic self improvement by

Assessing your interests and skills and what things you might want to do as an entrepreneur to earn a living for the rest of your life, or until you change into something else

Learning how to create and use websites to offer your services

Learning how to use Internet and other means of advertising and public relations activities to market your website and your services.

The alternative is for you to look for a job with someone who is doing what you are reluctant to do. I would even say that this might be a good idea, if you can get a job with someone who will give you the training and experience you need to go out and compete with the employer later on. What is more apt to happen with employment is that you will be given a narrow job and be unable from such job to put together everything you need to do for yourself what your employer with many employees is doing successfully for itself.

If you have any questions about this chapter, the author will be happy to talk with you and try to help you see what directions you might consider for yourself. Please communicate with the author (Carl E. Person) by sending an email to him at carlpers@ix.netcom.com.

Chapter 19 - Huge Fortunes Are Made or Lost Based on a Law or Legal Issue

Law plays an important role in creation of wealth, as we'll see shortly. The process of creating wealth, or to put it more crassly, getting rich, is not difficult to understand in concept. Create a scarcity, by hook or crook, and you'll be able to create wealth by charging more for your goods or services than you would otherwise be forced to charge if you were facing effective competition. What is better than to obtain an edict from the potentate, king, Congress or administrative agency giving you or your company the sole right in the United States to sell your specific type of goods or services? The ancient Greeks understood this, and granted monopolies in the marketplace or "stoa" for one Greek citizen to sell only green olives, and another citizen (probably from a different political or economic interest) to sell only black olives. The penalty for invading the other olive-seller's monopoly was probably loss of the exclusive license and transfer to a high-paying position in the local university, but the penalty for those competing while having no license to sell either type of olive was probably banishment, forfeiture, imprisonment, loss of civil privileges or something else. This method ensured that the government's monopolies had value to the lucky monopolists who were undoubtedly kicking back a percentage to a friendly ruler or other official.

Things are no different today. You merely have to look around to see how the grant of exclusive licenses winds up with monopolistic positions. There are too many to list, but I'll name a few for your understanding: Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corp. (Freddie Mac), National Association of Securities Dealers, Inc. (NASD), degree-granting colleges and universities, Clear Channel Broadcasting

(with 1,200 FCC-licensed radio stations - employing about 50% fewer persons to run the 1,200 stations than were used to run those stations prior to their acquisition by Clear Channel), Viacom's Infinity Broadcasting with more than 185 FCC-licensed radio stations), National Geographic Magazine (granted tax-exempt status to enable it to engage more successfully in its business); public school systems; patented medicine such as Lipitor and Viagra; and many others instances of monopolistic grant.

In each instance, the public (meaning you and me) is wholly or partially prohibited from competing, thereby foreclosing us from engaging in business activities of varied types.

There is a saying about being tortured and finally killed with 1,000 thin knife slivers, and this is basically what is happening to our economy. Every corporation with major political influence obtains enactment of legislation or rules giving it protection against competition, which prevents you and me from competing in that area, and reduces our opportunities and income, while at the same time requires us to pay an even higher price for the products and services which are being sold through the protected, monopolizing business activities of the favored few.

Congress for many decades, and state legislatures for equally as long, have been dividing up our country to the favored few, in exchange for campaign funds to get elected to manage this great national giveaway program - giveaway to the rich, that is. What this giveaway program has done is put the country into massive debt for future generations to pay off with hard work; assuming there are any jobs remaining for the non-privileged masses. It also prevents you and me from engaging in competitive business opportunities, and reduces the availability of employment by reason of the customary activity of monopolists (which is the cutting back of production). Additionally, it reduces the

salaries when jobs are available because of the artificially high demand by unemployed and underemployed for jobs caused by the governmental activities, which encourage the termination of employment.

Slowly but surely this program changes this country into one where the top 1 to 2% of exceedingly wealthy people control the government directly by their own personal election, or indirectly through election of not-so-wealthy puppets wanting to get closer to the trough to join the upper 1 to 2 percent. The rest of us are then increasingly hard pressed to pay tuition, medical and dental bills, and save for retirement.

"Law" is how this allocation of wealth takes place, law applicable to transfer or direct wealth to the favored few. I'd like to explain how some fortunes have been made based on a specific law, interpretation of a law, or by a legal issue, to get you to realize how important law is in the creation of wealth, particularly your own wealth.

The greatest wealth of all has been created by a point of law for persons who live forever. By this I'm referring to the nation's major corporations and the world's multinational corporations. Through their expenditure of moneys in the right places, they have obtained rulings from the highest court in the land that corporations are "persons" and entitled to most of the constitutional rights that have been given to human persons under the United States Constitution. The constitutional rights of human persons were created because of the determination that human persons needed these minimum rights to live their human existence. But corporations came along and purchased decisions, which gave them these same rights without the same need for them.

Corporations don't have medical expenses or burial expenses. They last forever. They don't eat

and don't need vacations. They don't get injured running machinery. In fact, corporations have no bodily or "corporeal" existence. They are only a piece of paper called a "charter" or "certificate of incorporation" but we have given them the status of human beings under law and they are literally destroying the economy for the human persons.

The amount of wealth that the non-human persons have accumulated is probably in the range of 90% of the nation's wealth. This percentage estimate disregards the pieces of paper called "stock certificates" held by stockholders, who do not get the trillions of dollars of assets held by the corporations or the huge salaries and perks of the corporations' officers and directors.

There has been no greater transfer of wealth under law than the way that corporations have acquired most of the wealth of the wealthiest country in the world. And all of this was based on a single point of law: that a "corporation" is a "person" under the United States Constitution and entitled to the same rights and benefits (by and large) as the human persons (and their human condition) for whom the Constitution was created.

Prior to these Supreme Court decisions granting near human status under the United States Constitution to mere pieces of paper (corporate charters), corporations were usually licensed by state legislatures to do business for a limited number of years, after which the license to do business expired automatically and the corporation was required to dissolve, and the assets were required to be distributed to the human owners of the corporation. Perhaps there is a need to have some type of "sunset" legislation applicable to major corporations, requiring them to undo their concentrations of capital after 20 years or so of business activity, to give others a chance to play the game for the next 20 years.

Another big steal has been the merger and acquisition activities of these non-human persons, a process by which the wealth created by the invention and hard work of humans is transferred upstream to the major corporations and through additional mergers and acquisitions to the few remaining multinational corporations which own the world.

The process is based on law, as follows: Large corporations evade their duties under the nation's antitrust laws by financing the elections of persons who permit a policy of non-enforcement of the nation's antitrust laws. This drives smaller companies out of business, and makes them candidates for takeover by the larger companies, at a low price because the acquired companies will probably fail in the long run.

The acquisition is made with stock of the acquiring company which is artificially high, and enables the acquiring companies to snap up companies with issuance of a piece of paper called a "stock certificate" instead of paying money for their acquisitions. You and I, on the other hand, if we wanted to buy a casket company or software company, have no publicly traded stock as currency for the purchase of companies. Instead, we would have to pay cash, of say \$50,000,000 (earned net after payment of roughly the same amount of income taxes), which you and I don't have.

Thus, the legal act of becoming a public corporation creates a type of money not recognized in the Constitution (creation of money being the exclusive right of Congress - Art. 8, Sec. 8, Cl. 5 "To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures") which enables major public companies to buy anything they want for a piece of paper, where you and I are forced to pay government-created cash or "coin", which we don't have. These mergers and acquisitions wind up (as desired) eliminating com-

petitors, monopolizing their markets, eliminating opportunity, and jobs, and increasing prices, profits and "productivity" for the monopolists. This drives down salaries, and increases the monopolists' profitability at the expense of you and me and our economy as a whole. Whatever increase you see reported in the economy (called "productivity") is little more than the shifting of assets out of your pocket and our country into the bank accounts of the multinational corporations.

But let me get more specific. John N. Mitchell, former industrial development bond attorney in New York City, created a presidency for Richard M. Nixon based on Mitchell's willingness to render his legal opinion about a truly debatable point of law. (See Appendix D for additional details about Nixon and Mitchell.)

Under the Securities Act of 1933, municipal bonds were exempt from registration under the 1933 Act because they had the full faith and credit of the state or local government which issued them, which of course meant that the government's power to tax real estate, incomes, sales receipts, vehicles and other things was the real asset backing the municipal bonds and needed no formal prospectus approved by the Securities and Exchange Commission (the "SEC") to describe the bundle of rights the bondholder was buying.

Mitchell recognized that the registration of securities with the SEC was too costly for smaller state and local governments to afford. (Also, you should know that the costs are far too much for small businesses to afford, which is why they cannot become public companies and compete in the purchase of companies through issuance of securities). Mitchell came up with this legal idea and succeeded in putting it across. He gave his legal opinion, and got away with it, that industrial revenue bonds, such as New York City raising money by issuing bonds to purchase subway cars, were the equiva-

lent, under the Securities Act of 1933, of municipal bonds and therefore did not need to be registered with the SEC.

Nobody stopped Mitchell from doing what he did, probably because through his activities he quickly became the attorney for many towns, municipalities, cities and other governmental entities for speedy raising of needed capital by the issuance and sale of industrial revenue bonds which were backed by less than the full faith and credit of the town, county, city or municipality. Hundreds of billions or even trillions of dollars exchanged hands by reason of Mitchell's legal idea, which created an exemption from onerous legislation, which at the time was making it impossible for most small businesses to raise money through a public offering.

Mitchell found a way for small government entities to raise money without having the debt show on the books of the government entity. The importance of points of law and legal issues for business success cannot be overstated.

A Harvard Law School classmate of mine pushed a multi-trillion dollar point of law successfully. I remember when this was taking place. The case is called "*Carterphone*", and it broke the monopoly of AT&T, which at the time owned all of the Bell Operating Companies.

For years, AT&T had maintained that nobody could attach any equipment - meaning, a telephone manufactured by someone other than Western Electric, a telephone-manufacturing subsidiary of AT&T - to any of its telephone lines, which were the only telephone lines in the United States, without having a harness or interface situated between the equipment (non-AT&T telephone) and the AT&T line which connected someone to an AT&T central office.

The *Carterphone* decision in the late 1960's recognized that the harness or interface requirement of AT&T, which it had been requiring for years to keep control of its telephone-manufacturing monopoly, was a farce and that no protection was needed for the lines. Perhaps today there could be some legitimate concern about terrorists finding a way to destroy all telephone lines through a single terrorist telephone connected to the system - but it's too late for AT&T to argue that point. *Carterphone* held in effect that others could make and sell telephones, which AT&T had to permit its customers to buy and connect to AT&T's telephone lines. This initially created billions of dollars in new and improved telephone equipment, and companies competing with AT&T for development of new types of telephones, and for the offering of competing dial-tone service (MCI) and ultimately led to the breakup of AT&T into seven Baby Bells.

At this time there is a possibility that AT&T, having fallen off the wall and taken a great fall, will put it all together again. Based on this single point of law, that AT&T had no right to bar non-AT&T telephones, the largest monopoly in the United States was broken up.

A point of law led to the award of the Presidency of the United States. During the election of 2000, the United States Supreme Court, in a highly controversial decision, held that Florida's counting of the votes would not be set aside, regardless of who was disenfranchised in the process. Imagine the Presidency dependent on such a narrow issue. The public thought that the Presidency depended on the issues presented to them during the presidential election proceedings, but they were wrong.

Fortunes can be lost on a point of law. Martha Stewart has lost perhaps \$100,000,000 (at least as of the writing of this book) because of the dubious principle of law that in spite of our laws prohibiting perjury (*i.e.*, lying under oath), you

cannot lie when not under oath while talking to a public servant such as a policeman who asks if you are intoxicated, or a corporate official who denies in a letter to a Congressional committee that the company is doing anything wrong, or to a low-level investigator from one of perhaps 10,000 government agencies and asks whether you are doing anything wrong.

The prosecutor needed to find something against Martha and pushed a new, dubious point of law, and destroyed a billion-dollar business and its primary shareholder in the process.

Another point of law is requiring Americans to pay hundreds of billions of dollars per year in excess prescription costs because of a rule or law prohibiting importation of the branded medicines into the United States, because such importation would reduce the enormous profits of the large pharmaceutical companies.

Every time we talk about a specific point of law, we see the nation's human persons losing billions of dollars. No wonder our economy is declining. It is being transferred to these large corporations through points of law. The Securities laws of the nation are so onerous and unworkable for small business, that an exception was found which enabled small businesses to raise money without violating the Securities Act of 1933. This Securities Act requires all public offerings of securities to be registered in absence of applicable exemption from registration. The technique was to sell franchises to permit the franchisor's business to be operated by a franchisee in a specific geographic area. The franchisor then tried to sell hundreds of franchises, and use the moneys received to finance the franchisor's business.

Later, after the business was dramatically expanded, many franchisors started to buy back these franchises or announce that they were termi-

nated for failure of the franchisee to abide by all the arduous rules and regulations set forth in the franchise agreement. This point of law, that the sale of franchises is not the sale of securities, resulted in trillions of dollars of franchises, and caused various states to enact statutes protecting franchisees from exploitation.

The nation's automobile manufacturers were probably the nation's first highly successful franchisors. McDonald's and various motel chains followed this. What we see is that our nation of laws often over-legislates and cripples the economy, and that persons who figure out how to bypass the crippling law or rule (through legal skills, whether licensed or not) can establish entirely new industries having a trillion dollar impact on our economy.

One wonders in the first place whether the laws being overcome are actually needed, for example the Securities Act of 1933 which since 1933 has prevented small businesses from raising money, especially when coupled with the state "blue sky" laws which often are draconian in their efforts to prevent legitimate small businesspersons from expanding their businesses and hiring more employees.

I have been at the epicenter of one specific point of law that has been successful in crippling the United States. This point of law is the regulation by states of for-profit schools, prohibiting for-profit schools from offering new courses until after about one to two years of delay to prove that the course would be useful to have, and by such time you can also prove that the course is obsolete.

The state's highly excessive regulation of private for-profit vocational schools is done deliberately to prevent them from succeeding, a point which was told to for-profit school owners by the head of a Senate Committee regulating education in New York. He told us that for-profit vocational

schools have better courses and are more effective in getting students, which causes government-financed schools to lose students and the federal student-loan money that each student brings in.

This, according to the Senator, forces the New York Legislature to increase its funding of the less effective, government financed schools, and causes the tax bill of residents of New York State to go up, to pay these higher educational costs. What I have learned, of course, is almost unbelievable, but I happen to know that this is true. I was a for-profit school owner at the time and knew that you cannot survive because of New York State's excessive regulation of for-profit (proprietary) vocational schools. Such excessive regulation caused me to close my proprietary school after 18 years of operation.

India (a country notorious in prior years for many levels of crippling bureaucracy) set up an "autonomous" university of seven technical schools under the name Indian Institute of Technology, which are comparable, by reason of the autonomy, to American proprietary schools. These seven spectacular schools for the training of software engineers are located in Delhi, Bangalore, Bombay, Kanpur, Kharagpur, Madras and Guwahati, and have been training tens of thousands of persons at low cost to write software and perform software engineering tasks.

The main purpose is to take jobs away from Americans who are forced into attending the less effective, more costly government-financed schools, instead of having free enterprise determine the curriculum and cost in an unregulated market. India produced almost twice as many software engineers each year than universities in the United States. In New York State as in most other states, the persons who control higher education (the degree-granting schools with which proprietary schools are

in competition) do whatever they can to regulate proprietary schools out of business, and at the same time exempt the degree-granting schools from such regulation for their vocational programs.

Also, rules and regulations have been adopted which prevent proprietary schools from becoming degree-granting schools. Proprietary school regulation has taken place during the past 30 years. Today in America the effect of this state policy, which prevents competition in proprietary vocational education, is possibly the main reason that software jobs going to India. America's governmental bureaucracy (consisting of the tenured higher education gang) made sure that private schools were unable to provide needed computer training to large numbers of Americans at a price they could afford, and as a result, the prize for computer training has gone to India and its unregulated schools.

Let's look at another scam, based on a point of law. The states have been pretty good in enacting usury laws that prohibit financial institutions and other lenders from making usurious charges when lending money. The major banks and credit card companies, however, have made an end run around these state prohibitions against usury by having a federal statute enacted which preempts such state regulation in all matters relating to charges by federally-charged banks and associated credit card companies, thereby enabling the banks and credit card companies to charge billions of dollars in late fees often at rates of interest equivalent to more than 1,000 percent true annual. These late fees, I believe, have single-handedly been responsible for perhaps 25 percent or more of the profitability of banks. I have not researched this statistic, because it is a moving target and steadily getting worse, with the lessening of competition among banks.

Paul Allen became the third wealthiest man in the world (\$28 billion, behind Bill Gates and Larry

Ellison) through his activities in financing companies, including Microsoft, with private placements that are exempt from registration. Allen, then taking the companies public through registration, transformed his investment at \$.01 per share - yes, a penny per share - into a market value of 5,000 times as much, or \$50 per share - overnight. What a way to make money! It all depends on having a license to sell shares publicly, which from the issuer's standpoint (*i.e.*, the company going public) requires registration of the securities offering with the SEC and 50-state blue-sky administrators.

From the underwriter's standpoint this requires various licenses as a "broker-dealer" and "securities salesman". Financing is replete with points of law which bar most persons from selling securities publicly and allow a comparatively few to reap trillions of dollars in benefits from their licensing monopoly or oligopoly.

Various fortunes have been made in infomercials, in which an advertiser has purchased use of various radio and television stations for a 29-minute or 1-hour or other period of time to air the advertiser's own privately-created program. This opportunity first became possible upon change by the Federal Communications Commission (the "FCC") or Congress of a point of law. Until such change, broadcasters were required to limit their paid commercials to about 16 minutes per hour, as I recall. But the FCC dropped that requirement and this immediately, for those who understood what the change in law meant, opened up the opportunity for persons to buy the entire output of a licensed radio or television station, without any FCC rules prohibiting such extended commercial broadcasts. With this change of rule, infomercial entrepreneurs started creating, shooting and broadcasting lengthy commercials on such things as sets of knives, courses on how to buy real estate with no money down, and

courses on personal success or improvement, just to name a few.

In New York City, there is a rule that is used by some landlords to put huge amounts of taxpayers' money into the landlords' pockets. This program is one which pays landlords \$5,000 per month to rent an apartment for someone who is broke and in need of public assistance. I believe the problem is that most landlords do not want to run the risk of destroying the rental value of their apartment building by renting to public-assistance tenants, and the landlords who make a calculated financial decision to run this risk then demand a high monthly rent, or do not make any apartments available for this public-assistance purpose. Once public-assistance tenants get in, other tenants probably make plans to leave, and finally the landlord is forced into renting solely to public-assistance tenants. The problem may well be that the city agency is unable to determine (although it has the facts) when a landlord has reached the point of no return, at which time the city agency should be reducing the amount it pays to much lower levels. Or is someone getting money under the table? Probably the latter.

The problem of Howard Stern is based on a point of law. Howard Stern is the nation's most successful radio show host, with an audience of about 15,000,000 different persons each week for his daily show. The point of law is what constitutes "obscenity" or "indecentcy". Howard Stern is bolder than most widely syndicated radio show hosts and presents material that a priest would not present to his parishioners, other than as examples of things to avoid. But 15,000,000 persons including myself listen to Howard Stern, who has probably amassed a fortune of up to \$50,000,000 or more for himself during his 10 to 15 years on the air.

Infinity Broadcasting Company, owner of many FCC radio and television licenses, as broadcaster

of the nation's most successful daily radio show, has undoubtedly taken in more than one billion dollars in advertising income through the Howard Stern Show. All of this wealth is based upon an understanding of this following point of law: Obscenity is impossible to define in any meaningful way.

The highest court judges have argued and struggled for years to try to create workable standards and have failed, leaving the regulation of shows such as the Howard Stern Show up to the FCC, which until early 2004 has done nothing. Now that we are in an election year, and there is a large number of religious right voters clamoring to be heard, the FCC is issuing fines against Infinity Broadcasting Company and the larger Clear Channel Broadcasting to force them to take Howard Stern and similar shows off the air, or risk losing their multi-billion dollar radio and television licenses. The point of law remains. The FCC is not the final authority, but if Infinity or Clear Channel appeals, the FCC is telling them that they will lose their licenses.

I filed a petition to intervene in the fine proceedings before the FCC, as an "interested person" - of the human type who can hear and understand, because I can appeal the FCC rulings without fear of losing any necessary FCC licenses. The only FCC licenses I have relate to my car-lock opener, my cell telephone, and my computers, but no radio or television broadcast licenses.

A current point of law could result in World Trade Center (WTC) owner Silverstein Properties, Inc. getting two \$3.55 billion checks, rather than one if resolved in its favor. [Apparently, Silverstein is going to have to win an appeal to obtain the two checks.] The issue is whether the two planes which were deliberately flown by terrorists into the two World Trade Center buildings were a single "occurrence" or two "occurrences" under

Silverstein's insurance policy covering certain types of destruction to its two WTC buildings on 9/11.

A lot of money in our economy depends on these various points of law.

Mexicans have become adept at utilizing one specific point of law to wreak havoc with the United States trucking industry. Under NAFTA, Mexican nationals are given the right, as their businesses exist, to compete in the United States for business.

This has caused Mexican truck owners to bid for and get many transportation jobs in the United States. The reason is that their trucks are unsafe. Mexican owners using low-cost Mexican labor have little expenditure for maintenance, and are able to operate at lower costs than American trucking firms. Because of this, the Mexican truckers are the lowest bidder and win numerous trucking contracts as against the competition of higher bidding American companies with much higher maintenance and labor costs to cover. I presume that the concept of "person" has been extended to Mexican corporations.

An interesting point of law created the number one or two most successful company in the United States - Microsoft. (I'm not sure which is first, Microsoft or Wal-Mart.) Years ago, before releasing its first "PC" (personal computer) for sale to the public, IBM needed an operating system for the computer and retained Bill Gates for a fee, as I recall, of about \$25,000 to write an operating system for the new PC. Bill Gates, I understand, contracted the writing of the software out to someone else. In Gates' contract with IBM, it was stated (and here is the point of law involved) that Bill Gates had the right to market the same software that he was creating under a name other than "IBM DOS" (IBM Disk Operating System). Bill Gates founded Microsoft Corporation and quickly published the same disk operating system under "MS DOS".

A few years later, when IBM believed that it was a good business decision to stop making PC's, IBM stopped making and selling PC's and stopped installing IBM DOS in any computers. This left Microsoft with a monopoly on the prevailing software for PC's being made by anyone other than IBM (except for Apple).

Microsoft has turned this contractual provision of copyright ownership essentially into one of the two most successful companies in the world. One wonders if the contractual provision was an accident, something that a lawyer put in without any prior negotiation between IBM and Gates. But the one-liner probably is the most valuable one-line contractual provision in history.

Kaplan Educational Centers is using a point of law to achieve its success as a proprietary school. It doesn't have to worry about excessive governmental regulation. The Washington Post Company (owner and publisher of the highly influential newspaper *The Washington Post*) owns it and if anyone screws around with Kaplan they are apt to wish they had not.

Thus, what one learns from one's experience in the proprietary school business is that you need to find someone such as a national newspaper or head of the mafia to provide the protection you need in America to operate a proprietary school in competition with the higher-educational monopolists.

Someone who recognized that preparation of payroll each week was killing the profits of small business made another huge fortune. I know. In 1972, I hired a woman for \$300 per week merely to create her own payroll and the payroll of perhaps 20 others in my employ. She needed training and didn't do a very good job, more because of the complexity of payroll than any inability or unwillingness on her part. I saw right away that I couldn't

handle payroll internally and came across PayChex, a newly founded company, which specialized in preparing payroll for companies having one or more employees. PayChex, founded in 1971, now has a market value of \$14 billion. Not bad for the simple idea to help persons comply with the complicated payroll and related tax laws.

Some fortunes are based on a very simple idea. One of them was the idea of marketing orange juice. Tropicana has protected itself from serious competition by a statute which gives a company the right to exclusive use of a trademark. In Tropicana's case, the trademark, not surprisingly, is "Tropicana", which is one of the strongest trademarks in the country, at least in many large cities. In New York, people who buy orange juice in supermarkets or convenience stores want Tropicana, and for years have not been friendly towards other companies such as Minute Maid trying to sell non-frozen orange juice in competition with Tropicana.

The point of law is a trademark, which is how many successful companies market products without significant competition. One such company is 3M with its "Post-It" line. Customers want the Post-It brand, and others are having trouble competing in this market of selling this type of product, probably because the Post-It trademark also describes the product, and nobody but 3M is permitted to sell such products under the Post-It trademark.

Another example is the Hasbro game Monopoly, which anyone could manufacture in its original form (see www.antimonopoly.com) but could not sell under its descriptive name Monopoly because the Monopoly trademark belongs to Hasbro. The Monopoly trademark is Hasbro's most important asset, it appears, having lasted longer than anything else which Hasbro is marketing.

Protection for a song is provided by statute, the Copyright Act. One song alone, *Imagine*, has produced revenues in excess of an estimated

\$50,000,000 for the human and corporate persons which have interests in the copyright to the very popular Beatles song composed and sung by John Lennon.

Another point of law is the judicial system, in which the cost to benefit from one's rights is prohibitive, thereby causing all of us to lose rights because of our inability to enforce them. The recent "Tyco" criminal trial which resulted in a mistrial during early April 2004, cost the prosecution \$14,000,000 and probably twice as much for the defense.

This cost of determining rights in court causes you and me a loss of our rights and transfers them to the persons who have the money to win in court. This is a point of law, that the one who has the most money to spend has a much better chance of winning in the present judicial system, both civil and criminal law except for insured cases, where the insurance companies generally expect to settle each case and are only haggling about the amount.

Finally, investments in "derivatives", which amount to trillions of dollars per year, are based on a point of law, which is that securities can be split by contract into a variety of components, to enable persons to buy the component really desired and not the others. This leads to numerous market distortions, and can hurt the less knowledgeable investors.

It reminds me of the underwriting technique in the 1970's of offering a package of something like three shares of stock and a 5-year option to purchase one share of stock for \$2.00, at a price of \$3.03. This pricing led persons to believe that each share was being sold for \$1.00, and that the price for each of the three options was \$.01. This led sophisticated persons into encouraging persons who bought the package to sell the option for a low

price, such as \$.01 to \$.10 each, when in fact the options were worth substantially more. Points of law can be used to obscure value and create opportunities for more knowledgeable persons to virtually steal your savings.

In summary, fortunes are made and lost because of specific laws, rules and interpretations of them. The businessperson having a better understanding of law is better able to protect himself/herself from loss and better able to profit from the information deficiency of others. You are much better off in anything you do by having a legal background than in not having a legal background, whether or not you obtain a law degree or decide to practice law.

Chapter 20 - Comparing Law School with MBA Program

Many persons considering whether to attend law school are also considering other professional options, particularly an MBA degree (Masters of Business Administration) and a career in business. To help you in your comparison of these competing professional programs, I have prepared the following comments.

First of all, an MBA degree ordinarily takes two years of fulltime study, whereas a law degree takes three years of fulltime study. As an interesting aside, when I graduated from Harvard Law School it was commonly known that any Harvard Law School graduate could be readily admitted into the Harvard MBA program. I did give this some thought, but chose not to take this career path.

I believe the present job (employment) and business (self-employment and solo practitioner) markets favor a legal background. However, this is a difficult thing to pin down because of the number of variables and the lack of statistics for the self-employment and business markets.

It seems to be easier to establish an enduring practice as a lawyer than to start up an enduring business as a graduate of an MBA program. Businesses seem to have greater vulnerability than a law practice. Another point to consider is that it takes far less money to start a law practice than it does to start up many different types of businesses. For example, a lawyer might be able to start up his/her law practice with a cash outlay of \$10,000, whereas to become the owner/operator of a single taxicab business, the cabbie has to lay out about \$100,000 - a new cab costs \$30,000 or more, insurance approximately \$5,000 per year, and \$50,000 as a down payment on the required taxicab medallion.

It is relatively easy to put together the financing for a solo law practice, but it is far more difficult to obtain financing for most businesses. One reason is because most small businesses require capital to support multiple employees.

There appears to be a surplus of business school graduates on the employment market. I have not been able to determine the actual state of the marketplace for employment of recent law school graduates. Tuition is less for the MBA program because the program is only 2/3rds as long as the law training.

MBA training, quite importantly, is far less oriented to small business and small-business entrepreneurship. This forces the business school graduate to become an employee, if he/she wants to make use of his training. With legal training, however, more than 50% of the nation's law graduates go into law practice for themselves. Each of these practices is comparable to a small business.

Finally, the name of the University granting the degree seems to be far more important for the graduate receiving the MBA degree than the graduate receiving the law degree. This is so because a higher percentage of MBA holders end up working for big business, where the name of the business school counts. Most clients of an individual practitioner are probably unaware of the lawyer's alma mater.

From the standpoint of entry-level income, the top law firms were paying \$140,000 for the top law-school graduates during 2000. In 2000, recent law-school graduates hired by the largest law firms in New York were being paid \$125,000 per year. In 2002, law-school graduates who obtained non-governmental employment started off with an average salary of \$90,000 per year, with 89 percent of the law-school graduates obtaining employment shortly after graduation.

In 2002, graduates with MBA degrees had an average starting salary of \$78,000, according to estimates published by the Graduate Management Admission Council. Average starting salaries for MBA graduates Harvard, Tuck, Wharton and Columbia exceeded \$100,000. The "signing bonus" averaging \$10,000 (median) augmented the starting salary, and ranged from \$1,000 to \$90,000 when given.

According to *Business Week* in the issue dated June 2003 the top business school graduates (Stanford) with an MBA degree are starting out at \$100,000 per year plus bonuses. With bonuses and other additional compensation, the starting salary often rises to \$125,000 per year or more for graduates of the top MBA programs.

Chapter 21 - The Paralegal Field - Comparing It with the Legal Field

I have been associated with the paralegal field before existence of the field was known to my state bar association. Back in 1972, I founded the Paralegal Institute, located in New York, New York, which was the second paralegal school in the United States. The first school was a training program founded about seven years earlier in Philadelphia. My first student was a 70-year old male Chinese lawyer. Also, a captain from the local New York City police station took and successfully completed the paralegal program.

As part of the creation of a new field of employment in the United States, I had to be very careful in what I said about paralegal activities in comparison to legal activities or the "practice of law". As it turned out, the more research I did as to what constitutes law, the more I wound up finding out that the definition of the "practice of law" is circular.

The practice of law is defined as "the rendering of services which need to be performed by a licensed lawyer". Everything else is not the practice of law, and paralegal services fall within this excluded category.

Actually, because of the circular definition, you probably haven't been able to tell what are legal services and what are not. If a client is at trial and a recently-hired law school graduate is asked to and does prepare a memorandum of law for use at the trial, does this constitute the practice of law? Is there a difference in outcome if the graduate has already been admitted to the bar? The answers are: the preparation of the memorandum of law was not the practice of law because it was prepared for and used by licensed lawyers. If, however, the non-admitted graduate had prepared the

memorandum to provide directly to a client of the firm, without any prior review by a licensed attorney, this would probably be the unauthorized practice of law by the graduate, and possibly by the law firm itself if it authorized this act.

Basically, a paralegal can do anything that a licensed lawyer is permitted to do other than accept a legal fee, appear on a client's behalf to argue or try a case in court, or give legal advice to the client without supervision by a licensed attorney unless there is a prior review and approval of the non-lawyer's work by a licensed lawyer.

When a paralegal does legal research into a specific issue of law and an attorney in the firm, at the same time, does the same research, there is a difference to be respected by the persons involved and the firm, if everyone wants to stay away from charges of unauthorized practice of law.

Other lawyers can do the work of the licensed lawyer without any review. Sometime a lawyer may feel that a review is desirable, or a higher attorney in the firm wants to have a review for whatever reason such as to be doubly sure that the conclusions in the memorandum are accurate or at least supportable. The work of the paralegal, everyone knows, has been done without the paralegal having been tested by a bar examination to have the skills deemed necessary to practice law. As a result of this deficient background the paralegal may have omitted essential research or come to the wrong conclusions. A lawyer in the law firm would ordinarily want to review the memorandum and add his/her two cents perhaps by having the paralegal change the memorandum in certain respects so that the firm and its clients can rely on the recommendations or conclusions contained in the memorandum.

There are some exceptions to the rule that a non-licensed lawyer is not able to represent a client in court. As the movie *Legally Blonde* points out, a law student (at least in Massachusetts) is

able to conduct a trial with the client's knowledge and consent and provided a licensed lawyer is supervising the non-lawyer's activities. In New York, the highest court, New York Court of Appeals, does not permit non-licensed persons such as law students to argue cases before it, but lower courts in New York (*e.g.*, the Appellate Division for the Second Department - see January, 2003 "Student Practice Order") does permit law students to argue appeals.

The major difference between being a licensed lawyer and being a paralegal is the receipt of legal fees. Only the licensed lawyer can ask for and receive legal fees, amounting often to hundreds of dollars per hour.

Paralegals will either work as employees for a lawyer or law firm for an hourly rate of somewhere between \$10 and \$75, perhaps more for a paralegal who functions as office manager for a large law firm.

Paralegals who do work as independent contractors have to be careful if they do any work directly for non-lawyers, because of the ever-present danger that they may be charged with the unauthorized practice of law.

The hourly rate which a paralegal can command, as an independent contract, is undoubtedly below the amount which a licensed lawyer could command for the same work. After all, if the compensation were the same, most persons would usually choose to hire the licensed lawyer.

Chapter 22 - Don't Be Sucked in by Graduate Programs and Advanced Degrees Leading to Tenure in Academia

Outsourcing has hit academia in a big way, so be very careful. Graduate programs and advanced degrees supposedly leading to university teaching positions and ultimate employment tenure are growing, but the promised tenured teaching positions are disappearing from academia faster than United States software jobs are being outsourced to India.

Let me start off with the promise or allure which drives many people to take higher degrees for the explicit purpose, understood by themselves, to qualify them ultimately for an assistant, associate or full professorship and accompanying tenure, with all the trappings.

The trappings for tenured professors include:

1. Job security wherein the university is unable to terminate your services without undergoing costly, time-consuming, lengthy and often unsatisfactory proceedings under the contracts which provide tenure to the core professors in a university. This job security is backed up by the university's accreditation in one of various regional accrediting organizations which includes the protection of professors as part of the essentials for accreditation.
2. Peace of mind not having to worry about demotion, loss of income, competition.
3. Status in the academic community and possibly elsewhere as a tenured professor.

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4. The forum to pass on what you know, including life as a tenured professional, to the younger generation, who will during your contacts with them hold you in much higher regard than you may come to hold yourself.

 5. The opportunity to pursue pure knowledge for the sake of knowledge without the pressure of having to find economic relevance to justify your pursuits.

 6. The ability - as soon as you have made your educational/employment decision [oh, oh! there's that word "employment" - you, the reader, should be prepared to hear something negative, based on what you have already read] - to become more like a monk in a well-financed religious order, and put aside all concerns of how you are going to earn a living for the rest of your life.

 7. The expectation of earning, ultimately, as you work [well, put in your time, as someone does in the military] your way up to the top of the academic pecking order, far more per hour of actual work than you could ever reasonably expect to earn otherwise, in absence of serious and sustained competition in a free market. The average full-time professor in the United States earns about \$60,000, for about 200 hours of instruction per year (which means an hourly rate of \$300, which does not include the time the professor takes to walk to class or the time spent thinking about what to teach, or the two hours per week spent with students during the professor's scheduled office hours).

8. Having an office, including a desk, chairs, book cases, filing cabinets, tables, copying equipment, computers, software, broadband access to internet, programmers to make adjustments to your computer settings, computer repair, computer insurance, faxing, and other services which self-employed persons have to pay for themselves.
9. A considerable amount of time to devote to earning money out of school, in ways which have very little to do with helping your students, by looking for and obtaining consulting work to render services to someone looking for academic support for a point of view (such as the oil industry looking for support that the use of oil for fuel has nothing to do with any global warming), consulting services which can pay between \$200 to \$1,000 per hour, more or less.
10. The time and opportunity to do research using free labor (your fawning students) to help you write academic papers or even popular books to add to your prestige as a person of the academe and even augment your income more quickly than reaching the top of academe.
11. Obtaining lower-cost or no-cost tuition to help you reach your goal by signing on as a "TA" or teaching assistant or graduate assistant or teaching fellow, which gives you the opportunity to teach university students before you have fully learned what to teach, in exchange for a massive reduction of tuition and possibly in exchange for free room and board as well.

These are some of the well-known benefits which drive non-competitive persons into the academic community. Because the benefits are so excessive (although much less than the benefits taken by C.E.O.'s of large public corporations), they are far in excess of reasonable compensation for the work involved. But, then, that is what tenure protects, if you get tenure.

I forgot to say, at the outset, that there are perhaps 100 persons seeking each tenured university position, and that most of the persons working their way up the ladder reach an invisible ceiling, with no real hope that their advanced degrees will ultimately be rewarded with the tenure objective which caused them to take the advanced degrees in the first place.

Colleges and universities are tightening up with the granting of tenure, and are increasingly using non-tenured persons to teach their classes, including teaching assistants, graduate assistants, teaching fellows, part-time instructors, full-time (but non-tenured) instructors, and non-tenured assistant, adjunct, associate or other professors.

After spending five to ten years pursuing advanced degrees, the non-tenured assistant or adjunct professor finally realizes that he or she has been had. This scam could have been avoided by looking at how many advanced degrees are awarded each year, and how few tenured positions open up each year, and how few persons with advanced degrees are able to find relevant employment outside of academia.

The desire to become a university professor is understandable. Tenured professors are paid perhaps 5 to 25 times more than the untenured instructor. It is advantageous to the universities as well to have a body of teaching slaves who believe that if they perform well and do so for ten years or so that they will be permitted to join the exclusive club of tenured professors.

But colleges and universities see tenure as an obligation which limits the school and permits tenured professors to teach poorly, if they wish, knowing that their tenure cannot be taken away very easily. Colleges and universities therefore want to eliminate tenure to enable themselves to hire more-qualified instructors, whether or not they have the higher degrees, and to eliminate the ever-increasing payroll and associated payroll costs, similar to the way major businesses outsource their work to foreign countries to be able to avoid the high costs of payroll and payroll taxes in the United States. In other words, colleges and universities want to become more like for-profit trade schools but without taking on the for-profit's business-killing governmental regulation.

If I were considering the possibility of spending my life trying to work up the academia ladder, to obtain the goal of tenured employment, at this stage of the United States economy, I would have to reject the employment goal because the rules are changing, and colleges and universities are not very forthcoming about these changes. You can expect instead to have a series of under-paying teaching positions, requiring you to move or to work miles away from your home, for perhaps \$20,000 per year, with no ability to pay off student loans taken out to pay for part of your ten years of higher education. There are others willing to teach for less who are presently located in the United States. But, with Internet courses the competition will soon be felt from persons in other countries offering what you teach for \$10 or \$100 per course, starting at any time of the day, week, month or year.

For persons interested in looking into some of these changes, look into the unionization of the temporary or "adjunct faculty" at NYU, and the strike of teaching assistants and graduate assistants at Columbia University.

As I have been saying, obtaining a degree in law seems a lot more promising than many other areas of possible endeavor, including the road to tenured professorships.

The average person with a graduate degree devotes about 13.5% of his/her income to student loan repayment, and another 10 percent of the income to paying income taxes to enable the 13.5% to be paid after taxes. This is because repayment of student loans is not a deductible expense.

Chapter 23 - Understanding the Media Attacks against Lawyers and "Frivolous Lawsuits" or "Let's Kill All the Lawyers"

In a democratic country, lawyers are dangerous to persons with wealth and power, which accounts for William Shakespeare's famous line, in *Henry IV*, "The first thing we do, let's kill all the lawyers." The people in power own the media and are advocating greater restrictions on (*i.e.*, the killing of) lawyers. You don't really need to be told anymore. You get the point by now. But I will complete the argument anyway.

For those practicing law, continual press reference to "frivolous lawsuits" and the continual press attack against lawyers are understood as political posturing and without substance. But for those seeking to study law, these attacks may result in the unjustified discouragement of students from seeking a legal career.

Lawyers are frequently classified as liars, thieves, crooks, sharks, unprofessional; persons who would sell their own mother or do anything else for money, and other unprofessional categories. As a whole there is probably the same tendency for wrongdoing among politicians, accountants, doctors, priests, steelworkers, secretaries, policepersons, nurses; football, baseball and basketball players; corporate C.E.O.'s, star performers, truck drivers, millionaires and even billionaires.

When you read the attacks on lawyers, you have to remember there are many lawyers who are trying to do their best, and are seldom singled out for praise, but on occasion are subjected to professional disciplinary proceedings. For example, if a lawyer has a corporation and signs a corporate check which is returned for any reason at all, such as another check having been returned which creates insufficient funds for the corporation, the lawyer

can have proceedings brought against him for disbarment. Yet, you don't see any disbarment proceedings against lawyers who participate in stealing hundreds of billions of dollars from the public. This is the context in which I have to operate! To such extent, the attacks singling out lawyers are unwarranted and should be substantially discounted. There are evils in all fields, and additional rules and regulations trying to rein in lawyers from being human beings will probably result in no overall benefit to society.

What would make a difference, however, is the ability for injured persons to obtain relief in court (a far more effective deterrent for all categories of persons, including lawyers), but that is a story to be developed at another place and time.

Any apprehension about attorneys' unprofessional conduct should be related to instances where there is potential for enormous damages to the economy (which some well-placed lawyers are highly capable of creating), and to the lack of measures to oversee or deter such lawyers from these economy-destroying, multi-billion dollar activities.

There seems to be little or no supervision of lawyers in the most critical areas of our economy, such as judges, attorneys and law firms for major corporations, federal and state prosecutors, and lawyers as elected legislators or governmental officials.

Judges perform their work with no effective oversight (the United States Supreme Court, for example, is far more of a legislative body than a court rendering justice to persons failing to get justice in the lower courts).

State and federal appellate courts do not correct most of the errors of lower-court judges, and in fact probably correct only 1 error out of 10,000 or 100,000 erroneous judicial decisions (a

pure guesstimate by me based on more than 40 years of litigation experience).

The type of accountability which is needed would be persons in the courtroom (provided with duplicate sets of all litigation papers), reading, seeing and hearing what is taking place, and arriving at their own conclusions as to whether justice was rendered, with appeals to a 3-member panel of these oversight personnel.

Maybe this is not the best solution, but something is needed to enable the judicial system to work better than it does.

Let me now present what I believe is the typical judge's view. For each of the many cases assigned to any one judge, the judge believes that he is doing the best he/she can under these adverse circumstances.

From the judge's standpoint, there is not enough time to render justice. This suggests that there is a need to employ far more of our economy in support of the judicial system - say 5% of the economy - in order to make the other 95% most efficient. Today, the judicial system probably is financed with about 1-2% of the economy, with far too much directed to questionable criminal prosecutions and resulting incarcerations.

Lawyers for major corporations have little or no effective accountability to persons outside their corporate structure, and the "accountability" appears to be anything but professional. Instead of requiring lawyers to adhere to their professional standards, the corporate structure places enormous financial pressure on the in-house attorneys to win at any cost, in furtherance of the three overriding corporate objectives: profits, profits and profits.

The major trials involving corporate greed taking place at the writing of this book could have been prevented if lawyers for the major corpora-

tions involved had followed the teachings of their profession instead of ratifying whatever the greedy corporate presidents and C.E.O.'s presented to the in-house lawyers for legal approval (and intended insurance) against possible criminal charges. If lawyers for major corporations were held more accountable, there would be far less corporate crime.

The best way to have accountability, I think, is to encourage (rather than to discourage with charges of "frivolousness") lawsuits to impose substantial civil liability in favor of injured persons for these professional failures. Many hundreds of billions of dollars would be saved for shareholders and the economy in general.

Federal and state prosecutors are free to bring frivolous criminal proceedings against anyone they select, and at the same time they are free not to bring any legitimate criminal proceedings at all against major corporate wrongdoers or prominent politicians. This is called "prosecutorial discretion". In fact, prosecutors are allowed to bribe witnesses against a criminal defendant (see my website, www.lawmall.com/criminal in which I cite judicial decisions to justify my statement: "It is lawful for federal prosecutors to bribe witnesses, which results in countless convictions based on purchased false testimony."

The effect of excessive prosecution by the nation's prosecutors has resulted in a present prison population exceeding 2,000,000, which is ten times more in percentage than the prison population of other leading countries. We now have 5,000,000 ex-convicts, whose lives have been destroyed and whose families have been adversely affected, creating additional members of the prison population in due course, in an ever-increasing downward spiral.

What we need is an independent agency of government to keep prosecutors in check, by having access to the information upon which prosecutors base their prosecutions, and by auditing prosecutions in

various respects to ensure they were done according to law, with appropriate penalties to be meted out for prosecutors who commit prosecutorial misconduct and abuse.

Perhaps the best cure of all would be to require prosecutors to seek budgetary approval for the long-term costs of their prosecutions (e.g., \$40,000 per year in incarceration charges times 30 years of life expectancy or a budgeted \$12,000,000 expense to put away a person selling 2 or 3 ounces of marijuana for the 2nd or 3rd time). If the public were given its financial choice of incarceration or 5 new schools, the public would know what to do. But since we can absolutely count on our elected legislature and other officials in doing the wrong thing for the public, you should invest in prison-construction companies rather than school-construction companies.

Lawyers as elected legislators or as elected governmental officials should be required to conduct themselves according to the standards of the legal profession. This means, for example, that they should not be able to lie to the public about the economy, or about jobs, or about taking money in exchange for favors, and similar matters. Why Martha Stewart can be sent to jail for making a non-sworn statement to a governmental official, while government officials are permitted to make unsworn lies about the economy to the public, is an incongruity in the law which I don't understand. What's good for the goose should be good for the gander.

There does exist a way to make a complaint against judges, lawyers and prosecutors, but such complaint systems seldom result in any discipline against any of these leading lawyers. This results in an unwillingness for most people to even think of making a complaint.

You should understand that major corporations do not complain about the professional wrongdoing of their lawyers to any professional disciplinary committee. Instead, they fire or demote the lawyers. It is the average unknowing citizen, believing the worst about lawyers, who make complaints about individual practitioners and small law firms to the professional disciplinary committees, set up and run under the direction of by the judges appointed by the politicians in power.

Most of the disciplinary activities are directed against individual practitioners, who as a group do not represent established interests, in what amounts to a type of reprisal by the powers that be for not working within the system which protects its lawyers.

Thus, the media attacks against lawyers are hollow and suppressive of the public's interest, and lead to expensive, diversionary litigation of whether something is "frivolous" or not (when "frivolous" is something as elusive to determine as beauty, truth and obscene). This deprives the public of the limited monetary and legal resources available to them to seek redress of their grievances through the courts.

The media owners and managers would much rather win libel litigation against themselves through abusive practices by their lawyers - than have a legal system in which all lawyers, including their own, abide by the rules.

What you should learn from the foregoing is that if you represent the poor, you have to be more professional than if you represent the rich.

The often-mentioned problem of "frivolous litigation" is a non-problem, but it sounds convincing to persons not trained in the law. The complaint about frivolous litigation essentially is that lawsuits are brought which have no basis, either in fact or in law. The media will discuss the

huge sums of money spent to defend these so-called frivolous lawsuits, hoping that rules will be passed reducing the ability of small people to bring lawsuits of any kind, whether frivolous or not. No rules are necessary and would be detrimental to the public's interest.

Courts are readily equipped to deal with so-called frivolous lawsuits. The tools are a "motion to dismiss for failure to state a claim" and a "motion for summary judgment". All any defendant needs to do to get rid of a frivolous lawsuit is to make a motion to dismiss, if the suit is frivolous as a matter of law.

For example, if a lawsuit by a priest alleges that the Roman Catholic Church breached a contract with him to become a priest (based upon which he turned over all of his property to the church), with a promise by the Church that he will be kept by the church for the rest of the priest's life, the issue may well be a legal issue, with the facts assumed to be true by the Court. Thus, the Court will read motion papers (which took about 8 hours of a lawyer's time to prepare, for a \$2,400 legal fee) and decide the legal issue of whether a priest should be able to sue his church for relief.

As a quick check on your own understanding of "frivolous", what is your gut reaction to such claim by the priest? Is the priest's claim frivolous or not? Do you believe such a claim should be allowed without attempts to sanction the priest's attorney for filing a "frivolous" lawsuit? Should this type of lawsuit be barred by imposing sanctions on the impoverished priest and his attorney for having made the claim in court? The answer in the case is that the priest did in fact have a valid legal claims against the church, but the court held that he waited 20 years too long to commence his lawsuit. For a copy of the complaint

(redacted to eliminate identities), see my website at www.lawmall.com/files/tg_compl.html.

The other remedy for frivolous litigation is a summary judgment motion, which is where a defendant (usually) sets forth in sworn affidavits the facts showing that the alleged factual claims in the complaint are not true and demands a summary judgment dismissing the complaint without any further proceedings. The plaintiff then has to present affidavits showing that there are material issues of fact which need to be resolved by a jury (or judge acting as a trier of fact). If the judge rules that the plaintiff has not shown facts which if found to be true would entitle the plaintiff to a judgment in the plaintiff's favor, then the judge will grant a summary judgment motion and dismiss the complaint.

Frivolous as well as non-frivolous cases are dismissed by summary judgment motion all time, and there is no need for the media to urge that additional restrictions are needed on plaintiffs or their attorneys.

The real problem, never seen in the press, is that too many cases are dismissed under these two types of motions. Very few cases are tried in relation to the number of cases brought. This means that cases are ended, usually, without a trial. Judges have too many cases on their calendar and they are required to report the number of cases which have been terminated, by any means.

The ways in which cases are terminated are: (i) by trial, judgment and possible appeal - small percentage of cases; (ii) by settlement before, during or after trial - vast majority of cases; and (iii) by grant of a defendant's motion to dismiss or motion for summary judgment - too high a percentage. It is in this area of dismissal by the judge where the rights of plaintiffs are being taken away. This does not mean that every grant of a motion to dismiss or summary judgment is errone-

ous, but my own considerable experience has demonstrated to me that many of these premature terminations of lawsuits are not well founded, and are generally adverse to the plaintiff when granted, and deprive the plaintiff of his/her constitutional right to a jury trial by the expedient of ruling (without justification) that there are no factual issues to be tried.

From the judge's standpoint, however, they are left with too many cases to which justice is supposed to be rendered, and the only thing the judges can do is to terminate some of the cases which, under existing law, should really be decided at trial; further, the judges might well say that they select the weaker plaintiffs' cases for termination. It should be noted that this process of terminating cases prematurely rarely is applied to terminating defendants' defenses and granting a termination in favor of the plaintiff.

Something needs to be said about "sanctions". Sanctions are imposed by judges against lawyers, mainly, but in some cases against the client as well. Most of the sanctions, perhaps 90% or more, are against plaintiffs' lawyers or the plaintiffs themselves, which gives you an idea how unfairly sanctions are employed. Another aspect to sanctions is that the sanctioned party or lawyer is often required to pay the legal fees of the other side.

Imagine being hit with sanctions to pay the \$28 million in legal fees paid to the attorneys for Rigas and his two sons. A plaintiff often has an attorney working on a contingent-fee basis or for a very small legal fee in comparison to the legal fees being paid by the defendants in the same case. It is fair to say that in many instances in commercial litigation the plaintiff's lawyer is paid what amounts to about 1% of the legal fees being paid to the defendants' attorneys, so that a plaintiff, sanctioned 90% of the time, could be hit with a

\$10,000,000 sanction. But, if the defendants' attorney or defendants get hit with a sanction, they would have to pay about \$100,000 which they could well afford, unlike the plaintiff or plaintiff's lawyer.

Sanctions have a chilling effect upon commencement and continuation of a lawsuit, and little or no effect upon abusive defense of a lawsuit.

Accordingly, sanctions are quite discriminatory, put a damper on the 1st Amendment rights of plaintiffs and their individual practitioner attorneys to have access to the courts, and should be abolished on Constitutional grounds (1st Amendment).

The constant threat of sanctions against plaintiffs and their attorneys stifles the commencement of lawsuits needed by society to perform the constitutional function of the courts, and to check excesses of the legislative and executive branches of government. Use of sanctions to stop frivolous litigation is destructive of the constitutional power of the judicial branch of government, and enables the rich and powerful to extend their control over the government and exploitation of the economy.

In summary, the media attacks against lawyers are unjustified and designed to increase the concentration of the economy and help the rich get richer, and such attacks are predictable tools used by the nation's major broadcasters and newspapers to take away the 1st Amendment rights of the public to have access to the courts for a redress of their grievances against the major, multinational corporations and their successful efforts to increasingly dominate and exploit the nation's economy.

Chapter 24 - Every New Lawyer Should Own a "Laundromat" or a "Single-Borrower Bank"

I have been telling law students and others for years that to be able to start a law practice on your own and turn away from "secure" employment with a law firm, court, government agency or corporation, the new attorney needs to own or set up a "laundromat". I include actual laundromats within the meaning of "laundromat" but really refer to a way of obtaining the volume of quarters or money you will need to (1) pay for your living expenses, including the mortgage you will have on the purchase of your first home; and (2) the expenses of starting up and running your new law practice.

Upon reflection, a large number of credit cards in good standing with ample borrowing power is just as good, if not better (because they would allow you to spend more time working for a higher hourly rate, in comparison to time spent in other monetary pursuits having a lower hourly return).

A laundromat, as I see it, is something which the owner can visit each day, to grab a pocketful of quarters to meet these daily expenses of life. There are other types of laundromats - such as driving a taxicab, working part-time for a law firm, doing independent work as a self-employed paralegal, or even managing real estate. Some law students are fortunate. They can count on their parents to be their laundromat.

Probably the best way to finance your start up business is to carefully use your credit-card borrowing capability (let's call it your "Single-Borrower Bank") to tide you over the first year of solo law practice, after which further borrowing will probably be unnecessary.

You may disagree with this concept, especially if you have a lot of student loans outstanding, so let me explain. Persons who are new to

the business world may think that all they need to do to get started with some new business activity is to take out a loan, and what is more appropriate than going to a bank to get a loan? That is what banks are for, right? Not true. In life, you will find out that banks only lend money on unsecured loans when the proposed borrower can prove, beyond a shadow of a doubt, that he or she has absolutely no need for the loan. This is standard bank lending policy.

Newly-licensed dentists are bankable, and can obtain up to about \$500,000 (averaging about \$250,000) in dental-office equipment upon their signatures alone, without posting collateral. But lawyers cannot.

A newly-graduated law-school student most likely will not have enough assets to secure a bank loan.

Many persons graduating from law school have already accumulated \$150,000 in student loans, which have to be paid off over a number of years. Unless the law graduate has another source of funds, such as a trust fund or wealthy parents, the gathering of some additional money to get started in the profession is essential.

Taking out a bank loan, as I said, is not possible, and there are no "student loan programs" available for the entrepreneur lawyer starting his/her own law practice.

The best thing available to the law graduate is a lot of credit cards in his/her name (*i.e.*, your "Single-Borrower Bank"), acquired while still in college or law school, and kept up to date with enough use to sustain them, and regular, timely payment of all charges. This will give you a substantial credit rating and borrowing power to enable you, as a law-graduate entrepreneur, to have enough capital to finance your new law practice for a year or so.

The start up costs of a solo law practice are low enough to enable the graduate to use credit cards to purchase needed equipment and begin immediately investing his/her time in earning \$150 to \$300 per hour and paying back the loans faster and with less interest. This is much more valuable than loans taken out for 1st-tier law school expenses, amounting to about \$40,000 per year.

Loans whether from the bank or through credit cards are a necessity to get the business going and on a break-even basis as soon as possible, but the credit card route is by far the best way to go for a person who has no money or other bankable assets to back a secured bank loan.

Once break-even status is achieved, the business could survive forever. The entrepreneur has the remainder of his/her life to get the business profitable. A "manager" may be hired to work on the individual expense items and market the business to increase the profitability to higher levels.

One more reminder to readers is that many student loans may be avoided if the student chooses to attend a local, less costly law school instead of the costly 1st-tier law school. By the time of graduation, it's too late to warn students about taking out loans to support a too-costly legal education. The damage has already been done.

Chapter 25 - The 1st Thing to Do Is Purchase a Home for Yourself

For most Americans, the purchase of a home is the most expensive thing ever bought throughout their lifetimes - and for good reason. It represents the largest part of the net worth of most Americans who have a positive net worth.

Some people wait until it is financially and occupationally convenient for them to buy their first home, but this is probably the worst mistake they can make in the never-ending search for financial security.

A first home (whether house or apartment, but not a trailer home) should be bought as early as possible, probably at the time a student seeks to enter the world of employment or business. Prior to such time, the student is either living at home or in a temporary college environment, with the rent or mortgage payments being paid by the student's parents. But when the student first ventures out to start his/her first job, or leaves the parents' house to pursue business opportunities, the first thought should be to purchasing and living in his/her own home. This is possible to do with a down payment and mortgage.

How to minimize the down payment if necessary is discussed in various advertised courses on how to buy real estate with no money down. You can buy one of these courses (such as Carlton Sheets' course), which originally sold for hundreds of dollars, for about \$5 to \$25 on ebay.

The main reasons for buying real estate as early in your career as possible are:

- Real estate as an investment has traditionally increased in value, fueled in part by inflationary governmental practices of spending borrowed funds and

repaying these loans with inflated dollars.

- Real estate is a leveraged investment, with the amount of increase in value being a very high percentage of the money invested (*i.e.*, the down payment).
- Money spent for rent is gone forever, with no contribution toward the renter's net worth.
- Money spent for rent is not deductible from an income-tax standpoint (and don't even try to take a legitimate deduction of 10% for space allocated to your business, because such deduction may trigger a more costly audit of your tax returns - unlike the tax returns of C.E.O's of major corporations who obtain millions of dollars of corporate benefits without paying any income taxes on such benefits).
- Real estate as an investment has tax advantages not available in other investments, which often enables the owner to sell the real estate and invest the proceeds in other real estate of a similar character (residential, vacation, or commercial) and not pay any income tax on the profit realized from the sale.
- Monthly mortgage payments are tax deductible to the extent of interest, as a 30-year mortgage is almost all interest at the start of the 30-year period, and only reaches 50% interest during the 21st year of mortgage pay down.
- Your expenses for maintaining or improving the house or apartment may have favorable tax consequences (as a deduction from income, or an addition to

cost of the capital asset), whereas the same is not true for expenses of a renter.

- The ability to have and present a strong financial statement for possible use if you need to borrow a significant amount of money at some point in your career (possibly to get you or a family member out of jail).

Real estate investment (using mortgages) is a forced savings plan requiring you to pay off each month a small part of the outstanding amount of the mortgage, and is far more effective than a voluntary savings program (where you withhold, say, \$100 to \$300 from each paycheck); by already owning the real estate, your monthly saving is immediately invested in the real estate, unlike your withdrawal of \$100 to \$300, which usually has no effective place to be invested and will have virtually no compounding as a result.

The most important thing to remember is the effect of compounding. If you buy your first piece of real estate at age 50, in comparison to age 20, the difference will probably be this: If in 2005, at age 20, you put down \$25,000 (a 20% down payment) to buy a \$125,000 house or apartment, and you take out a mortgage for the remaining \$100,000, the \$125,000 over the years may appreciate at a compounded rate of about 3% per year (national statistics for the past 30 years) so that by year 2035 the real estate should have a value of \$312,510 (which is a return of 1250% on your original \$25,000 down payment).

You might view your mortgage payments as "rent" with a tax advantage of substantial deductibility in comparison to a renter who buys his first real estate in the year 2035. Thus, by buying real estate at the outset of your career, you can expect to have a net worth of \$312,510 (and fully paid

home) within 30 years, at a cost of \$25,000 today. But the person who waits 30 years to buy the same home has to pay full value for the home, or \$312,510 in contrast. Of course, I am not taking into account the amounts paid to reduce the principal amount of the mortgage because such amounts would have been spent in rent if the real-estate purchase had not been made. Do not forget this advice.

You can be ultimately guaranteed of becoming financially successful merely by doing nothing more than putting home purchase at the top of your list and buying a home for yourself at the outset of your earning career. Time will provide the increases in value, almost guaranteed. See for yourself the value of \$100,000 invested starting today for a 5-year, 10-year, 15-year, 20-year or 25-year period, at annual compound pre-tax rates of 5%, 10%, 15% and 20%.

	5%	10%	15%	20%
5 yrs	\$127,630	\$161,050	\$201,140	\$248,830
10 yrs	\$162,890	\$259,370	\$404,560	\$619,170
15 yrs	\$207,890	\$417,720	\$813,710	\$1,540,700
20 yrs	\$265,330	\$672,750	\$1,636,650	\$3,833,760
25 yrs	\$338,640	\$1,083,470	\$3,291,900	\$9,539,620

Figure 3 Interest Table

[source:
[www.uic.edu/classes/ie/ie201/discretetcompoundintere
sttables.html](http://www.uic.edu/classes/ie/ie201/discretetcompoundintere

sttables.html)]

In contrast, if a person starts off his career today with \$1,000 in invested money, and through growth of the investment is able to double his investment 10 times, the \$1,000 becomes \$1,024,000 (\$2,000, \$4,000, \$8,000, \$16,000, \$32,000, \$64,000, \$128,000, \$256,000, \$512,000, \$1,024,000), with doubling taking place every so many years, according to the average annual com-

pound rate of return (I'm assuming pre-tax return). Under the Rule of 70-72, money doubles in approximately the number of years calculated by dividing the rate of return into 70 or 72, whichever the case may be, so that an investment at 10% would double every 7 years, and 10 doublings (to take \$1,000 up to \$1,024,000) would take 70 years.

Teachers, firefighters and law enforcement officers have found this compound effect to be of great monetary value to them. With their secure jobs and fairly high reliable incomes as well-paid public servants, they tend to buy houses earlier than persons struggling for success in highly complex business or employment situations, many of which are often located in cities where real estate is expensive, and tend to defer purchasing a home because of these circumstances and the need to employ capital elsewhere to fund their careers.

Purchasing your first home is an important "must do" item for many. The first rule should be to get the real estate purchase out of the way, at the outset of your career. This will generally provide more net worth over the years than business opportunities which often fail and employment careers which are cut short by such things as obsolescence of skills, mergers, corporate thievery, outsourcing, your physical disability, lack of motivation - you name it. In fact, you might as a lawyer be interested in pursuing a regular program of acquiring real estate over your legal career, at the rate of perhaps 1 home, apartment or commercial property every 4 or 5 years or so.

When cab drivers tell me they have no money to buy real estate, but do have a plan to get rich by buying \$5 or \$10 in lotto or lottery tickets every day, I point out (and describe below) how they can convert lotto or lottery gambling into real estate investment almost seamlessly.

The problem with real estate, after finding some real estate to purchase, is obtaining the down payment. The best source of capital for persons seeking to open up a small business are credit cards. While in school, a student can accumulate 10 to 15 credit cards and use them to make some purchases, and regularly pay each credit card company, probably keeping a small balance outstanding. The student will find in 3 to 4 years that he/she will have more than \$100,000 in borrowing power with the 15 credit cards (an average of \$7,000 per card), which credit cards can be used to borrow \$25,000 for a down payment on real estate, and the \$5 or \$10 per day of Lotto or lottery habit - or \$150 to \$300 per month (assuming no offsetting winnings) can be used to pay the credit card companies, thereby converting a bad Lotto or lottery habit into a valuable real estate investment program for the taxi driver.

So, when starting out, make sure your first order of business is to get started in real estate, with the purchase of your own home. Statistically this will do more to secure your financial future than anything else you can do.

When you have completed law school and have your law degree, you are still 6 to 18 months away from getting your law license. You have to take and pass the bar examination, and then qualify for admission, and be actually admitted. You should use these interim months to start the real-estate side of your life, and don't be afraid to call upon the personal bank which you carry in your pocket (consisting of the 10-15 credit cards giving you a borrowing potential of perhaps \$100,000 to \$150,000).

Chapter 26 - Learning How to Practice Law through a Shared-Office Practice

Self employment in the legal field is commonplace, with more than half of the nation's practicing lawyers practicing as solo practitioners, and an additional number of lawyers practicing in small law firms in which there are more partners (*i.e.*, self-employed persons) than associate attorneys (*i.e.*, employees).

I started out my legal career working as an associate attorney for one of the top ten law firms in New York City instead of going out on my own, which took 6 years for me to muster up enough courage to do. The thought of being on your own as an attorney can be frightening and overwhelming, because of the numerous things that you imagine you do not know.

You should know that the number of things you do not know is highly overrated, and that you can go out on your own as a self-employed attorney (after receiving your license to practice law, of course), safely and profitably, without wasting years of your life trying to fit into the needs of a major law firm and their major multinational corporate clients.

The difficulties you will experience as a single practitioner include the acquisition and management of various support services needed in your solo practice. The main services you will need are:

- Office space
- Desk, chairs, tables, and filing cabinets
- Telephone lines for telephone, fax equipment and DSL or other broadband line for internet access
- Copier, scanning and copying services

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- Printer and printing services
 - Computer(s) and computer installation, upgrades and repair services, as well as computer programs and assistance in learning and using the programs
 - Computerized broadcast fax capabilities
 - Receptionist to greet visitors, answer the telephone, take and give messages, and coordinate your activities
 - Secretarial help
 - Paralegal or legal assistant help
 - Attorney help
 - Investigator and trial preparation services
 - Clerical services to file papers in court and obtain papers from court files
 - Process server
 - Managing clerk or office manager help
 - Accountant and tax help
 - Messenger services
 - Supplies and purchasing of supplies
 - Legal and other research help
 - Free advice from attorneys you know and to whom you provide reciprocal free advice
 - Conference room
 - Overflow work to provide source of needed income

A solo lawyer such as myself does not have any one source for the above list of professional needs. But a new lawyer can acquire this desirable professional environment without having to become an employee of a law firm. He/she can look for and rent office space for the new law practice in a

suite of offices being used or shared by solo lawyers, often from three to fifteen lawyers.

This shared-space, shared-expense arrangement, depending on the services wanted, will range from about \$1,000 to \$2,000 per month. Because the office space is only for attorneys, most of the available shared-office space will be advertised in any newspaper or journal for lawyers in the area. You can probably get started on a month-to-month basis, with perhaps a deposit of one or two months as security, plus one month's rent paid in advance.

Presto! You have the support services you will need in your new practice, especially the company of lawyers with some experience who will show you the way. You can use these attorneys to help you decide how to handle a problem, how to prepare an affidavit, motion, complaint, will or trust agreement, and who you can retain to provide investigative, secretarial, research or paralegal services on an hourly basis, when needed. The great thing about this is you do not have to be alone when starting out. You can have your own law firm environment while maintaining your practice as a sole practitioner.

The important thing for you to look at is the costs, and your sources to pay these costs while developing your law practice.

At \$200 per hour, it would take 7.5 billable and paid hours to pay for your monthly shared-office expense at \$1,500. It will take another 20 hours per month of billable and paid hours to cover your personal living expenses of, say, \$4,000 per month (\$48,000 per year) before taxes.

Having these law-firm services available to you is an overhead cost which you have to meet, and without such availability of services you would probably be in no position to seek and obtain cli-

ents willing to pay you perhaps \$150 to \$250 per hour for your legal services.

Chapter 27 - The Advantages of Having No Employees in Your Law Practice

Do you have any idea what it costs today to have a single employee, especially if the employee is a highly skilled lawyer, paralegal or legal secretary? Let's take a lawyer, who will want and expect a minimum of \$75,000 to \$100,000 or more per year (which is less than the "going rate" paid to recent law-school graduates by the nation's top law firms).

You have got to double the dollar amount to take into account payroll taxes, administrative costs, additional overhead expenses needed to provide office space and office services to the employee, and particularly the loss of your valuable legal time which you need to spend in servicing your employee.

Most of us cannot afford to spend an extra \$150,000 to \$200,000 or more per year, which forces us into practicing as solo practitioners.

It was clear to me, and others in the legal profession that you cannot compete unless you are very large, or very small. The reason that large firms can compete is that the main clients are other major corporations which themselves are getting larger through acquisitions, mergers and practices, which put their smaller competitors out of business. This forces smaller firms to merge into larger firms to continue their law practice thereby making it possible for them to compete.

These major corporate clients have an ever-increasing array of problems, both in the United States, and in perhaps every other country in the world. The managers of these corporations cannot become expert in all fields of law and in all countries each having different laws. Accordingly, the head of the corporation, or perhaps the board of directors, appoints a favored major law firm with

the duty of representing these diverse interests (or specialized group of diverse interests) of the corporation. This thrusts upon the law firm the requirement of staffing the firm to be able to do anything the corporate client directs or requests, so that from the corporation manager's standpoint the major law firm provides "full service" to the corporation and its managers (within the scope of the representation). The firm's managing partner merely makes a single call to the chosen law firm to start the purchase and receipt of legal services needed to cure virtually any of the 1,000,000 problems which could arise at any time within such scope of representation.

Smaller law firms too often had to tell these growing corporations that the smaller law firm was unable to do the legal work needed because it did not have attorneys experienced in many of the needed areas of law. As a result, these smaller firms lost legal business and had to merge with larger law firms to save many of the legal positions involved.

On the other hand, an individual practitioner can become specialized in a field of law (with a "boutique" practice), and obtain referrals of legal business by intermediate firms who lack the expertise or by major firms whose experienced attorneys are too busy.

The advantages of a major law firm are that it represents the rich and a small but valuable portion of the clients' wealth is given to the firm's attorneys, unlike attorneys who work for government, or defend the poor and downtrodden.

But there are advantages for the solo practitioner without any employees:

1. The solo attorney does not have to earn legal fees to cover payroll for any employees.
2. The weekly or periodic creation and disbursement of payroll is a thing of the past.

3. The attorney does not have to obtain and pay for any disability insurance to cover any employees who may become disabled, or pay the increased premiums for any higher-than-expected disability claims.
4. The solo attorney does not have to obtain any unemployment insurance.
5. You don't have to defend against any frivolous unemployment claims, or pay any additional premiums for an adverse claim experience.
6. The often-devastating payroll withholding taxes are of no concern, including the various payroll tax returns.
7. You don't have to hire PayChex or similar payroll services firm and deal with them each week, particularly when you are involved in something else.
8. You don't have to worry about W-2 forms and their distribution to employees with copies to the Internal Revenue Service.
9. You don't have to advertise for, interview, select, supervise, promote, and fire any employees; and
10. You don't have to worry about any audits or surprise audits or filling out forms from government agencies involved with employment and employees.

Instead, the way of doing business as a solo practitioner with no employees is either to (i) obtain and use office-sharing space with other attorneys, or (ii) to independently search for, use and create a running contact list of persons and companies who will provide you the goods and services needed to run your law practice.

For example, you may create sources for obtaining temporary help of attorneys, secretaries, paralegals, messengers, computer repair or programming personnel, accountants, bookkeepers, tax attorneys, and website creators, to name just a few.

Here are some of the advantages if you operate without employees:

- Without employees, you will not have to supervise, hire or fire any employees, and you will be able to devote your time according to your own preferences, instead of the demands of employees. The problem with employees is that they make demands on your time, which the employer has to meet if the cost and value of the employees is not going to be wasted.
- Without any employees, you do not have to show up to work on any particular day, and can have a more flexible work and vacation schedule.
- Without any employees, you are more able to use your home as your office, which you can't do very easily with several employees to consider.
- Being a solo practitioner without employees keeps your overhead expense to a very low level, and enables you to last a longer time with a given amount of available capital (such as your 10 or 15 credit cards).
- Most clients should be willing to accept non-affluent offices for you as their lawyer because of the quality of your services and their cost.

However, having a low-budget law practice could cause loss of a major client. I know. Years ago, after prevailing by favorable settlement in a commercial lawsuit, the owner of the settling defendant gave me a call and said he wanted to meet with me for the possible purpose of hiring me as his attorney. We made the arrangement for him to meet me at my place of business (a school, in which

I maintained my law practice on a low-budget basis). At the appointed hour, someone came up to the office door, read that it was not the offices of an attorney (but instead a postsecondary school) and walked away without ever calling me again. Sometimes appearances are everything.

Chapter 28 - How Most Lawsuits Are Brought to a Conclusion - by Settlement

For persons not trained in law, there is a tendency for them to believe that a lawsuit - their lawsuit - should be handled by a lawyer who commits himself/herself to "going all the way" and to not give up until the case is either won or lost after all motions, trials and appeals. This shows a complete lack of understanding of how litigation actually works, and is piece of client baggage that should be identified and then discarded.

If a lawyer had to fight every case through all levels for possible relief, the cost of the litigation would usually far exceed any possible recovery. The client's attorney would incur the wrath or ill will of at least one judge for refusing to settle when an appropriate offer of settlement has been made. Of course, "appropriate" means different things to different people. But when a client just refuses to settle at all, various problems will arise, especially for the client.

Litigation lawyers know that most cases are settled instead of tried (referring to those cases which are not dismissed by grant of a motion to dismiss or motion for summary judgment). The courts without question do not have the time to permit each non-dismissed case to go to trial. If a judge has a calendar of 200 cases that are not to be dismissed, and if each case takes two weeks to try, the judge knows that he/she has to get case terminations to reduce this huge demand for his trial time. Thus, judges try to facilitate settlement at different times, and in different ways. But make no mistake; all judges want as many cases to settle as possible. Their sanity may well depend on enforcement of this principle.

All judges are amenable to any party's suggestion that the parties engage in non-binding me-

diation to try to resolve the case. This is called a settlement process. Judges' rules often require the parties to engage in settlement discussions and to report the results to the judge.

Immediately prior to commencement of trial, the judge will try to get the parties to settle. Especially during the trial itself, there often will be efforts to settle, with the judge usually being willing to assist, if wanted by the parties.

Even during appellate proceedings, the parties are often encouraged to try to settle the case, but for a lot less than the case might have been settled for prior to the verdict and judgment from which the appeal has been taken.

The entire judicial system for handling civil cases depends on settlement of most cases. Now, the criminal side has gone even further, using the extortionate threat of a very long prison sentence if the criminal defendant loses the criminal trial. As an alternative, 98% of the persons indicted in the Southern District of New York agree to "settle" these criminal proceedings against them by accepting a "plea bargaining agreement". This requires the criminal defendant to swear, under oath, that he/she committed the crime for which the plea is made, even if in fact the crime was never committed (true in many instances).

An attorney has time limitations similar to the judge and cannot spend all of his/her time on one case, to go from motion to motion, court to court in an attempt to win 100%. Usually, there is no such win without a costly price. The price of a no-settlement policy is that the top skills which are needed for other clients are not available; continuation of the lawsuit adds more costs and legal fees for both sides, often where the defending party pays far more in legal fees than it could have paid to settle the case. This happens quite often. There is also the risk to a non-settling party that the opposing lawyer may be inventive

enough to actually win the case which the non-settling party thought could not be lost by it. This could be a disaster for such party and its attorneys.

The solution for all is to settle cases on reasonable terms, and you must ensure that your clients are aware of this problem before agreeing to represent them. You and the client may have wholly opposite views and the need to settle, and this would result in hard feelings, additional work, additional costs, the risk of obtaining no relief at all, and possible complaint by a dissatisfied client to the judicial group exercising disciplinary powers over attorneys.

Understand the limitations of litigation and make sure your client does too. The pre-trial discovery process is used to give both sides an opportunity to see what cards the other side is holding, as well as to see the weaknesses or strengths in your own case. All of this leads up to settlement discussions in most cases, without any trial or appeal. This is the way most civil cases are brought to a conclusion.

Chapter 29 - Your One Biggest Mistake Could Be in the Field of Law You Select for Yourself

I have practiced law for more than four decades (since 1962) and can tell you that the greatest mistake made by a significant percentage of attorneys is their choice of field in which to practice law. There are perhaps fifty major fields of law (such as real estate, trusts and estates, immigration, banking, securities, corporations, contracts, Uniform Commercial Code, and antitrust). A list of the 34 fields of law recognized by the ABA for "specialty" advertising by attorneys is set forth in Appendix B hereto, entitled "34 Fields of Law for Specialization by Attorneys". Also, see Appendix C, entitled "Useful Websites for Law School Applicants and Students.

But each of these major fields or areas has more specialized fields making literally hundreds of fields of law from which to choose. For example, real estate has many sub-fields, such landlord and tenant, mortgages, real estate investment trusts, commercial, residential. At the other extreme it is also said that each lawyer becomes so specialized in what he or she is doing that each lawyer practices in his own field of law, so that there are as many fields of law as there are practicing attorneys.

Rather than trying to cover all fields of law, I am going to cover only those areas that I would avoid if I were just starting out and were going to choose a field of law.

I'll give the reasons for this "AVOID" designation. Also, I am going to identify some fields of law which today seem to be among the "BEST" fields of law for selection - together with my reasons.

I base my AVOID as well as BEST designations on:

- ability to earn large amounts of money
- personal satisfaction
- monetary and other costs
- predictable delays in achieving success
- working conditions in the field

First, I will discuss some fields I suggest that you AVOID:

Employment by Major Law Firm

Employment as an associate attorney in a major law firm. Although such employment itself is not a "field" of law, it nevertheless has major drawbacks which need to be discussed. When I went to Harvard Law School, the focus of many of the top students and others was to obtain employment with a major law firm in a major city. Little was done by the law professors to discourage law students from seeking employment with major law firms. The main reasons for seeking employment with a major law firm, looking back, seemed to be:

- Following the crowd; many of the leading students were seeking such jobs and I supposed I should be doing the same
- Proving my worth to fellow students by obtaining such employment. (I was the first in my graduating class to obtain employment with a major law firm, which gave me some immediate, but short-lived, recognition)
- Highest starting salaries in most areas of the country (although I did turn down a higher offer from a corporation which wanted me to be its spy in a Caribbean country (offering me a 10% salary premium, five servants, a lavish house, and weekly parties and other so-

cial events at which I was to keep my fingers on the pulse of the country, to protect the corporation's extensive interests in the country)

- The imagined possibility of becoming a partner. After all, how could anyone who was able to get into Harvard Law School not be able to become a partner after an additional 8 to 10 years of hard work?
- Doing legal work of the highest caliber, at least this is any major law firm's point of view
- Doing legal work for some of the top clients in the world
- Being part of the major legal issues of the day
- Preparing for higher positions entrusted to law firm partners, such as a judgeship, nomination to run for Senator, or even to run for Governor or President; and, if everything else fails, to be placed in a highly-paying legal position with one of the law firm's top clients (to help ensure that the corporate client remains as a client of the law firm).

Belatedly, you learn the truth about employment in a law firm:

- The legal work you do is what the firm wants you to do, not something which you necessarily have any interest in doing
- You may have to work about 2600 billable hours per year, or about 54 billable hours per week (for 48 weeks), to be able to avoid criticism by the law-firm management, and getting that many

billable hours requires you to put in a significant number of additional, non-billable hours

- The amount of money you earn is far more than you could get elsewhere, but when you take the number of hours you have to work into consideration, the rate per hour becomes something less than overly generous, and high taxes also take away a substantial part of the gross salary
- The main problem is that with all your effort, including the best 8 to 10 years of your professional life, you probably will not make partner, no matter how hard you work, and no matter how brilliant you may be. In law school we had a joke about one of our classmates, Charlie Patterswaithe (not his real name); Charlie was brilliant but weird, and the joke was that if Charlie were to be hired by a major law firm he would be placed in the library, away from any client contact, and every now and then the managing partner would call to Charlie, through a flexible tube connecting to the library, and say something like "Hey Charlie, two trusts, make them revocable", indicating the kind of repetitive, unimaginative tasks which could be assigned to lawyers who were not on the fast track to become partner
- Making partner today in many major law firms is of little substance, because most "partners" are "non-equity partners", who have no participation in firm profits and have no more than the dreaded "senior associate" status under another, more palatable name, which tends to mislead clients that they are

working with a "partner" when in fact the lawyer is not a partner, but someone who has been rejected for full, equity partnership status

- Most lawyers have to leave the firm because they do not make equity or non-equity partner within 8 to 10 years. After leaving, it is very difficult for them to obtain the same high income elsewhere. This results in a decrease in salary and hopefully a reduction in the amount of work put in per week
- Major law firms do not generally want an associate attorney to bring in business because the type of business is usually too small and unprofitable for the firm. Additionally, it causes the attorney to divert his/her time and attention away from the firm's higher paying, more profitable matters
- Major law firms are held together by the select group of clients which use the firm. The associate is probably never going to obtain control over any of these clients, which means the associate will have little leverage in trying to become an equity partner
- Equity partners may earn \$1,000,000 to \$5,000,000 per year whereas the non-equity partners may be paid about \$200,000 to \$250,000 per year. If you are living in a major city and considering the amount received after taxes, this is not very much money, especially for the amount of work involved
- You have little discretion, and have layers of lawyers above you telling you what to do and how to do it, and cor-

recting your work to conform to what the partners want

- You are told on one hand that "pro bono" work is encouraged by the firm, such as unprofitable work of a semi-charitable nature helping indigent clients with criminal, housing or other legal matters which they cannot afford to purchase in the legal market. It gives you some experience at a higher level than you otherwise are getting in the law firm, but this type of experience reduces your ability to perform billable hours for the firm, and is often a source of conflict between the associate attorney and the firm partners
- For most associates, the 8 to 10 years or fewer is an overly-expensive training ground which deprives them of the younger years in which they could have established a practice of their own. The 8 to 10 years of excessive salary often results in the attorney spending such salary in a higher lifestyle (including more costly cars, mortgages and education), and an inability to reduce such lifestyle to start up a practice after leaving the major law firm.

Landlord-Tenant Law

I have been there for several years and I can tell you that landlord-tenant law (L&T) is one of the worst areas of law in which to practice. There are a few reasons:

- Most tenants cannot afford to pay the high hourly rates which other areas of law command, so that L&T lawyers make less per hour

- The L&T courts are a nightmare for many lawyers because of the large number of cases which run through the L&T courts. This results in frequent appearances in a given case (say 3 or 4 days in a row), and having frequent appearances in other cases on the same days before different L&T judges. The L&T lawyer is floating around from courtroom to courtroom in one or two buildings, trying to find his/her clients and witnesses and keep them available while the lawyer is going from courtroom to courtroom on different matters, and forcing other lawyers and the judge to wait until the L&T lawyer winds up back in the courtroom where others are waiting
- The results in L&T court are sometimes too fast and unmindful of legal rights, with the dominant landlords prevailing over the hapless, impoverished tenants
- L&T judges have too many cases and are too often interested in getting rid of their case load than in giving justice to the many landlords and tenants which the L&T system brings before any given L&T judge
- Many landlords and tenants do not have the money needed to pay for the legitimate costs of litigation and as a result L&T lawyers wind up getting less than they should be earning. It's difficult to tell a judge during the middle of trial that the lawyer does not want to continue with the trial because the client is falling behind in promised payments; and the old saying in the profession that all the attorney has to do is mention "Mr. Green" (re-

ferring to being unpaid) to obtain release from the case is not true generally; the lawyer continues representing the client even though the lawyer is unpaid

- The volume of cases needed to survive in an L&T practice will make you unable to do anything but L&T cases, because of the numerous times each case is put on calendar call, often to be adjourned to another day - but the lawyer still has to be there. Stay away from an L&T practice.

Small Claims Practice

Although there are very few lawyers making a living out of small claims, I would like to emphasize how uncivilized the small claims process is in many states. Depending on the statute governing small claims courts, there is a vast number of cases (millions of them), in which the plaintiff is seeking \$30 or perhaps \$200 or up to \$1,000 or more. In Manhattan, New York, small claims court is held from about 6:00 p.m. to 9:00 p.m., Monday through Friday, and about 200 persons show up in the single courtroom, to wait for their case to be called. In most cases, the case is adjourned to another day, so that the client and his/her attorney (if any) have to come back another day and wait again, only to have the case adjourned another time. These adjournments occur especially when one of the parties demands that his/her case be heard by a real judge, (deciding under the rules of law) instead of a lawyer serving as an unpaid arbitrator (deciding under arbitration rules). If, however, you wanted to spend a lot of time sitting on a courtroom bench and do a lot of reading, perhaps this type of practice would be for you. There could be a substantial amount of money made by a single lawyer (appearing in one courtroom only), if he/she charged \$50 per client, and had 20 clients

each day. This would amount to \$5,000 per week, or \$250,000 per year. But it would be a nightmare, with inadequate preparation; inability to handle multiple arbitrations at the same time; costs of an office to handle that many clients and to keep track of all the adjournments, witnesses, experts and the like for so many tiny cases being tried at the same time. Stay away from small claims court, especially as a favor to a relative or friend. It is a major waster of legal time.

Bankruptcy Practice

Many of the problems of the L&T and small claims courts take place in the federal Bankruptcy Court. I have been to all of these courts, and know. Bankruptcy Court involves a substantial number of cases being heard by a single Bankruptcy Judge each day. This requires about 30 to 40 people to wait up to 3 hours or so before their case is heard and/or adjourned. Also, each case has a great risk of being called three or more times in a short period, unlike most other litigation matters. Because of this frequency of court dates within a short period of time, a bankruptcy lawyer does not have the time to take other types of cases which are heard in courtrooms located in other buildings in the city. For lawyers representing individuals filing for bankruptcy, the main problem is that you are dealing with an impoverished clientele, and it is difficult to make any money with that type of client. The major corporations which go bankrupt are a different matter. They have assets to protect and the large corporate creditors hire major bankruptcy or other law firms to represent their interests, and the amount of money they take from the bankrupt corporation can amount to tens or hundreds of millions of dollars in major bankruptcy cases. But these amounts are not available to the small practitioner, who would not have major creditors as clients. Stay away from bankruptcy law is my advice.

Collection Practice

In a declining economy, payment of rent, mortgage, credit cards and other bills is slowed down and sooner or later some of these unpaid bills get referred to a collection attorney (or collection agency, which hires a collection attorney) to commence an action against the person who has insufficient moneys to pay all of his/her bills. Collection attorneys and agencies work on the principle that they can collect only a percentage of the amount owed. They use costly litigation to force debtors to pay money they don't have, and naturally the client can't afford, to avoid the high, added cost of obtaining an attorney to defend them. Much of a collection practice is causing misery to extort payments from persons who really should go into bankruptcy, but are reluctant to do so. I would stay away from a collection practice if you want to sleep at nights.

Antitrust Law

I have spent years in antitrust law, and can say that major law firms have made hundreds of millions of dollars defending the lawsuits I have brought, but my clients have not been as fortunate. Antitrust law has changed during the years from 1970 when I started my first antitrust action, to the present. What was a viable antitrust lawsuit back in the 1970's, became less so during the 1980's and non-viable in the 1990's to the present. The antitrust statutes have not changed in any material respects. But the judges and courts have. For that reason it is not generally worthwhile to practice as a plaintiffs' antitrust attorney unless the clients are willing to pay huge fees with far less probability of victory than in other areas of law. With every passing year the courts place more obstacles on the antitrust plaintiff, making it almost impossible to prevail in any case in the long run, because of the vast amount of technical doctrines which the courts have created in recent

years as obstacles to prevent recovery. In the long run, if you go far enough up the judicial ladder, any antitrust case is apt to be thrown out of court. Furthermore, they take years to resolve, unlike almost any other type of litigation. If you are getting paid by the hour to defend an antitrust case as major law firms do, antitrust litigation is a major money-maker for them because continued violations of the antitrust laws by their clients are major money makers for the clients. But the victims of antitrust violations and their attorneys working on a contingent-fee basis are not in a rewarding field of law, usually.

Contingent-Fee Litigation

Some contingent-fee cases should be avoided. We have already discussed antitrust cases. But there are others, especially commercial cases. The reasons for this are that, generally, commercial cases are not defended by insurance carriers acting under insurance policies, and instead major law firms are retained without any insurance coverage to pay their huge legal fees, which firms often use commercial litigation as a cash cow.

Thus, major law firms tend to overwork commercial litigation through excessive discovery practices. They will take 20 hours of deposition when one hour would suffice. They will take depositions of 30 different persons when five persons would suffice. They do this saying that they would be remiss if they did not do everything available to their clients, but the truth seems to be that the major law firms unnecessarily increase the costs of litigation for the purpose of depriving plaintiffs of their day in court, which enables their major corporate clients to win on grounds other than the merits of the case.

Plaintiffs are generally individuals or small businesses which cannot match the corporate defendants dollar for dollar (or spend \$1,000 for every

\$100,000 spent for defense by the corporate defendant), and the best defense of the major corporate defendants often is to use excessive litigation, making it impossible for the plaintiffs to have their day in court because they are too busy reacting to the excessive demands of the defendants.

As to contingent-fee litigation generally, it should be noted that judges and juries tend to show little mercy for the owner of a multi-million dollar, 30-year old business which has been destroyed by the illegal acts of a major corporate defendant. Instead, juries and judges are turned on by a broken leg or other personal injury, and will award the person with a broken leg 10 or 100 times the amount they will award to the owner of the destroyed multi-million dollar business.

A lot of this is the result of three factors:

Insurance carrier and insurance counsel involved in the broken-leg case whereas major law firms and no insurance are involved in the destroyed business case

Judges seldom throw out personal injury cases and let the juries decide them, whereas most judges routinely throw out commercial cases by granting motions to dismiss and motions for summary judgment

The courts are much harder on proof of liability and proof of damages in commercial cases than they are on such proofs in personal injury cases. As a result, one can generalize that it is not a good business practice to take plaintiffs' commercial litigation on a contingent-fee basis.

Criminal Law

Criminal law has become a vast wasteland of politics, extortion, other prosecutorial abuse, and wholesale injustice. I have written about this at length in several websites:

www.lawmall.com/abuse (1998 website entitled: "Prosecutorial Misconduct Website - To Expose

Prosecutorial Corruption and Related Loss of Constitutional Rights and Report on Relevant Cases Imposing Liability for Prosecutorial Misconduct")

www.lawmall.com/criminal (2001 website entitled: "Criminal Prosecution Reform Website: The Worst Federal Prosecutorial Abuses and Misconduct with Suggested Remedies")

www.lawmall.com/forfeit (2001 website entitled: "Forfeiture Statutes for Ex Parte Attachment by Prosecutor/Government of Criminal Defendant's Assets Used in Alleged Criminal Enterprise; Litigation Techniques for Opposing Attachment and Obtaining Return of Attached Family Real Estate, Bank Accounts and Other Property; Focusing on Prosecutorial Abuse and Misconduct") and

www.lawmall.com/pleabarg (2002 website entitled: "Plea Bargaining: An Unconstitutional Delegation of Judicial Power to the Executive Branch of Government; a Free-Market Solution to Unconstitutional Plea Bargaining").

Many criminal lawyers, to make money, usually have to sell their client down the river by urging him/her to plead guilty, in what is referred to by many as a "Fee and Plea" type practice, where such criminal attorneys accept as many fees from their criminal defendant clients as they can, and when the money runs out they switch to the "Plea" aspect, recommending to the client that he/she plead guilty (whether guilty or not), because of the extreme difficulty in beating the house (*i.e.*, the prosecutor) when the deck is stacked in favor of the dealer. Thus, virtually all criminal defendants are told they should take a plea and end the criminal litigation by accepting a conviction and probable jail sentence. The alternative is a costly fight which they usually can't afford, against odds which they can't beat, involving an appellate system which is of little use. The only thing they can do once singled out for criminal

proceedings is to plead guilty, whether guilty or not, and then in an effort to get a reduction of sentence agree to testify (often falsely) against their friends and associates, who then have to do the same thing - all through criminal lawyers. It's one hell of a system, with the United States winding up with 10 or 20 times as many people in jail as other developed countries. I can't really recommend that type of practice to anyone, either on the defense side (for the "Fee and Plea" practice) or on the prosecution side, in which they win cases through extortion, procuring false testimony, prosecutorial abuse, and a court system and political client which favors putting and keeping people in jail, whether or not they are guilty.

The "BEST" Fields of Law:

There are many good fields of law and I can only point out some facts which might help direct you into certain fields which seem to have far more promise than others.

Personal Injury

As said before, it is much better to represent a human being who has suffered personal injury than it is to represent a human being who has had his business destroyed. Thus, personal injury work is remunerative, although I suppose it doesn't offer the same degree of satisfaction as some other fields of law.

Contingent-Fee Litigation

This can produce high incomes for the right type of cases. Some of the factors to consider are: (1) the cost and number of experts - personal injury is far less costly and requires fewer experts than antitrust or other complicated commercial litigation; (2) trial work as distinguished from taking a case from beginning to end is a faster way to make money because cases are settled generally at or during trial, and often not prior to such time. This means that the attorney who de-

velops a case for a 2 or 3-year period will split his fee with the attorney retained to try the case, so that the trial attorney may get paid within 1-2 months after taking on the case whereas the originating attorney gets his/her compensation after 24 to 36 months. It can be much more remunerative trying to specialize in trials, or appeals (where the dollar amount can be collected in advance) than in taking the case from one end to the other.

Major Public Corporations

Actions against major public corporations and their officers and directors for violations of the securities laws seem to be an excellent field of law in which attorneys can and do prosper, and do have a major social redeeming value in controlling the excesses of persons who control public corporations for their own benefit.

Patent Law

For the technical-minded attorneys, you should give consideration to patent law, either in prosecuting patent applications or in pursuing or defending patent litigation. Because of the technical aspects to the practice, most lawyers are not qualified to do this, and there seem to be excellent income possibilities to be carved out of the patent law field. Bear in mind, of course, the adverse aspects of commercial litigation from a contingent-fee standpoint.

Real Estate Law

I have to point out real estate law, not because of the money you could make in helping other persons with their real estate transactions, but in what you could do for yourself as a real estate lawyer in buying and selling real estate for your own account without having to find, supervise and pay a lawyer to do the work for you. The amount you can save in legal fees (together with some credit-card borrowing) could be enough to make repeated

down payments on real estate purchases for your own account.

Investment Law

You might consider any field of law in which you might wind up with an investment interest, such as specializing in oil and gas transactions, or in real estate deals, or in mergers and acquisitions. The problem is, however, that most of the important deals run through major law firms and an individual practitioner would have little possibility of getting any of these transactions, other than real estate transactions.

Trusts and Estates

Trusts and estates traditionally has been a quiet way for lawyers to earn a good living. It requires a lawyer to develop a clientele over a long period of time, usually by preparing wills at comparatively low hourly rates in order to attract and keep clients, then inventory the clients (by keeping their signed wills in the attorney's safe, waiting for the client's death and economic gains which flow to the patient attorney as a consequence), and get the real income from representing the estate or testamentary trusts after the client dies. I have worked in trusts and estates and I view it as tedious work, requiring a lifetime of dedication to build up and to obtain the rewards, but there is the often non-litigious aspect which may make it appealing to persons who do not want to engage in heated, time-consuming, intensive litigation. Of course, there will be some contested litigation, but this can be handed out to lawyers specializing in such litigation.

An "INTERMEDIATE" Field of Law:**Domestic Relations**

Domestic relations law covers divorces, separations, adoptions and guardianships, with most of the money for lawyers being made with divorces. I have no experience in this field, but I have heard numerous complaints from practitioners in the field. Attorneys for the spouse with most of the assets (usually the husband) complain about the incessant calls from the client and nitpicking about anything and everything the opposing spouse is doing. These calls come at all times of the day, night, weekend and holidays, without relief. Similar calls are being made by the wife to her counsel. Attorneys for the husband (*i.e.*, the one with the most assets) seem to fair much better because their client has the money and can pay the lawyer right away. Counsel for the opposing spouse (*i.e.*, the wife) often have to wait until a court rules on attorney-fee applications, making such representation less desirable for attorneys who can't afford to wait, and presumably offset by requests for inflated hourly charges where the wife has little incentive to argue against. Another criticism by attorneys in the field is that there is far less legal work involved with the attorney often doing little more than holding the hands of the client. Celebrity divorce lawyers, such as Raol Felder, probably make several million dollars per year or more.

This should be contrasted with attorneys handling brain-damage cases on a contingent-fee basis, where the leading attorney in the country appears to be making about \$20 million per year before expenses. I had one case with him in which our client (a young boy borne with a brain injury) obtained a jury award of \$67,000,000 (the amount

needed to maintain the client over his expected lifetime), which was settled for about \$8,000,000. One should seriously consider this area of law or something similar, where the costs are low and the returns are exceedingly high. Physicians supply the medical insight needed to determine and prove the cause and extent of injury.

If you have any questions about any type of practice, just send me an email, to carlpers@ix.netcom.com, and I will let you know what I think about the field and what opportunities there may be for you in such field.

Chapter 30 - 1st-Year Budget for Individual Practitioner

Students in college and law school have little or no idea of the costs of running a small business. This is probably because they never owned a small business; their parents worked as employees of a major corporation or a government agency; and the student (including myself when a law student) had no thought of going out into practice on my own.

Most students want nothing more than a JOB working for someone who could worry about getting clients, paying the expenses of law-firm operations, and producing a profit from operations.

Yet, I have seen that becoming an employee at the outset of one's legal career can have disastrous consequences for the lawyer's career. There is ample evidence to suggest that for many new attorneys it would be better for them in the long run of their careers to start out on their own, and not take a detour of three to ten years or so working for someone else.

For someone wanting to consider the perhaps scary prospect of NOT looking for a job while in the final year of law school, there is the need to consider the financial aspects of going out alone.

The first problem is whether or not the law-school graduate passes the bar examination on the first attempt. I have to make this assumption, but want to point out that a certain percentage of persons taking the test do not pass it on the first try (about 25%) or even on the 2nd try (37%). (source:

<http://www.ncbex.org/stats/pdf/2003stats.pdf>) In the event that delayed admission to the bar does occur because of not passing the test on the first round, the student will probably have to obtain employment to enable the graduate to retake the test

and wait the longer period until obtaining the license to practice law. It will be more difficult to obtain employment as an associate attorney at such late date, especially when you have already failed your first taking of the bar exam.

The Budget

You will have to add your personal living expenses for the period starting at your graduation from law school. Below is a chart of capital expenses generally not covered by a shared-office arrangement:

Capital Expenses:

Computer	2,000
Printer, Fax, Scanner	500
Copier	500
Calling Cards	60
	<hr/>
	\$3,060

Here are your anticipated monthly expenses:

Monthly Expenses:

Rent or Shared-Office Rent	1,500
Monthly services	300
Legal Research	100
Telephone	70
Messenger	20
Copying	50
Advertising/Marketing	200
Disbursements Outlay	100
Credit Card purchases	300
Supplies	100
Taxi, Bus, Subway	150
Postage	50
Federal Express	30
Bank Charges	30

\$3,000

This budget is a fair approximation of your anticipated costs during each month of your first year of practice, but they could rise dramatically over the months if you take contingent-fee cases and lay out the disbursements without reimbursement for a significant period. Deposition transcripts

may cost about \$1,000 for each day of deposition, for example.

Expert witnesses often cost thousands of dollars. You should be careful not to take cases in which you would be required to provide financing for them beyond your means. It can prove disastrous to your practice, the case and even your health and family relationships, and to make things worse could lead to malpractice claims in court and to the regulatory group handling complaints against attorneys.

Chapter 31 - How to Finance the Start of Your Law Practice

The first thing you need to know about the practice of law is that it does not occur at the time of your graduation from law school. For some graduates, it does not occur until 1-2 years after graduation, and for a few it never happens due to repeated failures to pass the required state bar examination (in all states but Wisconsin).

About seventy percent of law-school graduates taking the bar examination shortly after graduation pass the exam the first time. It is to these persons that my discussion on financing is directed. Others will have to make estimates based on the added time before law practice begins, since this is the first time that the law-school graduate is authorized by law to accept a legal fee.

For the 6-month period or so between graduation and admission to the bar, the graduate will have to support himself/herself without any incoming legal fees. This can be done in various ways, but generally by looking for and accepting employment with a court, law firm, corporation or government agency during the 3rd year of law school, with employment to commence within a week or so after graduation from law school.

Although the graduate is hired as an "associate attorney", the truth is that without taking and passing the bar exam, the graduate is only a paralegal or legal assistant, and is not authorized to practice law or take a legal fee. The graduate's salary is not a legal fee because it comes from the employer, and not from a client seeking legal advice. The problem with obtaining employment to commence upon graduation is that the student is already deciding, as a practical matter, not to open up his/her own law practice with all of its startup financial headaches. He/she is accepting instead

what can amount to a very high salary, such as \$175,000 per year (the "going rate" for new associates in New York City during 2004 for the top law firms).

This is a lot of money and ordinarily cannot be duplicated by someone starting out in practice - especially since the start is delayed by six months or more.

Yet, there are some things you could do to make it more feasible for you to open up your own practice instead of going to work as an associate attorney. The first thing for you to consider before selecting a law school is whether you want to be saddled with \$100,000 in debt (government-guaranteed student loans, college loans, parent or relative loans) which will require about \$20,000 per year of pre-tax income to service. If you choose a low-cost law school and live at home, you can possibly get through law school without any significant debt, and not need the \$175,000 per year job to pay off student loans.

During the 6-month period before getting your law license, you should plan to get a job, to earn as much as you can. You will need this money later.

As an aside, I have been telling people over the years that to practice law on your own, after graduation from law school, you need to acquire a "laundromat" for yourself, one which permits you to pay your living expenses while trying to develop a paying and profitable law practice as an individual practitioner. See chapter 24 for details on starting a laundromat.

I urge lawyers to consider the value of taking cases at the start of their careers without insisting upon being paid the prevailing hourly rate being charged by others with more experience. If you can offer your services at a low hourly rate, or on a contingent-fee basis (perhaps with a single

payment up front), you can rapidly acquire the legal experience which it takes other lawyers several years or more to acquire.

If you share office space and services with other lawyers, you can have lawyers around you who can help you answer some of the questions you will have about getting started as an attorney, and these same attorneys will probably be a source of income for you (when they see how good you are in the field you select), and of course you will want to refer matters to them in their fields of expertise.

The most important source of capital for starting your law firm can be from credit cards. Starting before law school, you should get many credit cards (perhaps 8-15 in number), and use them carefully, developing a good credit rating by using the cards and paying the monthly amounts on time. If you use a credit card while at law school or college, you should try to have the card in your own name, so that your history of payments creates a credit record for you, instead of just part of the credit record of your parents. If you do this for the 3-year period of law school, and perhaps 1-2 years before law school, you may well have the ability to borrow from \$2,500 to \$20,000 on each of the cards, or about \$100,000 to \$150,000 to finance your law practice. You could even refer to your collection of credit cards as your own "Single-Borrower Bank".

Credit cards are expensive (involving about a 20% true annual interest charge), but so are lawyers, and the income you can make as a lawyer should be far more than necessary to pay off the credit cards. Remember, you don't need to borrow \$100,000 at the outset. You only need to borrow what you need, which keeps the actual interest to be paid as low as possible, but which will still amount to about 20% true annual.

Thus, in summary, you can put together the wherewithal to start up your own practice after graduation, without taking time off to work as an employee. Quite often lawyers who work as employees are given work which is of little interest to the lawyer, and the lawyer is seldom given anything of the type which motivated the lawyer to go into law in the first place.

Try to get through law school without owing any money by picking a low-cost law school near your home, and live at home; obtain summer employment and save your money; get a "laundromat" going for yourself; go into shared offices with other single practitioners; and use credit cards wisely to finance your practice during its formative first and second years.

Try not to get trapped in the rat race to become an equity partner in a major law firm. Many firms will only take one out of eight associates into full partnership. The other associates will be put on a "senior associate" or "non-equity partner" basis, or asked to leave. In many cases a lawyer leaving a major law firm is unable to find employment paying as much as the firm he/she has just left. The reason for this is that major law firms pay very high salaries to attract and keep associates, but when they are done with them that high salary is out of line with what other persons pay who also hire attorneys, and the departing associate finds that he/she has spent the best ten years of his/her professional life, failed to become partner, and may have some difficulty getting started elsewhere.

Chapter 32 - Some Important Skills You Should Have to Compete as an Individual Practitioner of Law

If you have sufficient money, you don't need as many skills to compete effectively with more highly skilled competitors. Your money can buy the skills you need. Attorneys, whether partners or associates, who work for a major law firm do not have to have as many skills as a single practitioner because the major law firm can afford to hire hundreds of different skills when needed for any of its partners or associates.

However, the individual practitioner with a limited budget will not be able to afford to hire an independent contractor to do everything that needs to be done. To the extent the individual practitioner is able to do things himself/herself, there is a desirable saving of money, and probably a major saving of time involved in trying to find, supervise, and compensate someone else to do the work.

The main skills that the individual practitioner should ideally have are:

- The ability to type quickly and accurately
- An ability to set up and operate fax machines, computers, printers, copiers
- The ability to use specialized software or languages such as Word or WordPerfect (word processing); html and variants (to create basic websites), TaxCut or similar program (to prepare annual income tax returns), PowerPoint (to prepare and make presentations), Fox-Pro, MS Access or other database software (to work with databases), Lotus or Excel (to work with spreadsheets),

EasyCD or similar software (to create or copy CDRoms); WinFaxPro (to send broadcast faxes to computer lists of clients or prospective clients)

- Driver's license (to drive to court, see clients, gather evidence)
- Some basic programming capability with C++, ASP, Visual Basic, CGI, MS SQL, Adobe Acrobat, and other languages and programs to be able to deal with data and create interactive websites for communicating with clients and prospective clients; and (vi) research capability using internet search engines as well as LexisNexis or Westlaw and other databases.

Major law firms have the luxury of providing many of these services to their lawyers, which make the lawyers more efficient, but this adds substantially to the overhead. This seems to be the reason that law firms are merging with each other and becoming much larger - to be able to add additional services for their lawyers.

As it is today to compete in the law, it seems, you either have to be very large or very small. The reason that you have to be very large is that you have to provide the full range of services (overall or in a "practice group") that very large corporate clients demand. This demand requires law firms to hire (or enter into an independent contractual relationship with) more and more specialists in law and support services.

On the other hand, more than fifty percent of the legal profession is comprised of individual practitioners, which is the smallest unit of law. My law firm is among the smallest in the nation, without any employees, yet I handle some of the largest cases. Because I work alone, without any lawyers, paralegals, programmers, secretaries,

janitors, receptionists, messengers, handypersons, office managers, librarians, clerks, electricians, information specialists, computer repair persons, systems analysts or others I have to either do these things for myself, hire an independent contractor to do the work, or do without the services.

Some friends have suggested that my low-budget legal warfare is the legal equivalent of guerrilla warfare. My law office environment is so small that it is difficult to find me. I am free to be in other places without worrying about any employees and whether they are working.

Chapter 33 - How You Can Acquire Far More High-Level Experience as a Lawyer than Many of Your Classmates

You have to understand that newly hired attorneys working in large law firms are not permitted to do the work of partners, non-equity partners, senior associates or associate attorneys having two to seven years experience. The newly-hired law school graduate is given low-level things to do, including legal research, preparing of memoranda of law which reduce the research to writing, to make the research available over the years to others in the law firm, to file papers, to create and mail out Uniform Commercial Code UCC-1 Financing Statements for filing, to proofread documents prepared by others, to look at hundreds of thousands of pages of documents being produced in discovery and other things which the same person was asked to do before being admitted to the bar.

During the first year of employment, the recent law-school graduate, who may not have passed the bar examination or may still be waiting for formal admission to the bar, will probably not get to speak to any clients. This is reserved for attorneys far higher up the pecking order.

To alleviate the customary frustration and disappointment for the new attorneys, they are permitted high level contact with impoverished, non-paying "pro bono" or charity clients, and allowed to spend some time developing skills which the law firm probably will not get to use for its paying clients.

The newly graduated law student is in an entirely different category, assuming that he/she has passed the bar examination and has been formally admitted. The formal swearing-in to the bar sets the day upon which the law-school graduate is first permitted by law to provide legal advice and accept

a fee from a client for services rendered. These are the two primary components of "practicing law".

Instead of having no client contact and no opportunity to give counsel to clients or make legal decisions for them, the new lawyer could perform such services, assuming he/she can acquire clients who want to have a lot of contact with their attorney of choice.

Whereas, a first year law-firm employee of a in a major law firm would not be drafting any agreements to acquire a company, the solo practitioner will have to do it because he/she has nobody else to do it.

The solo will have to prepare a complaint, file it in court, appear before the judge for conferences and to argue motions, and appear before the judge daily during trial, and the appellate court to argue appeals - all during the first year or two of practice while the counterpart attorney is still doing legal research and writing memoranda of law or other lesser but necessary activities for the major law firm.

It is easy to see that a new attorney will acquire more skills and have a greater need for learning in the first years as a solo practitioner than in the first years as an employee of a major law firm.

How do you acquire clients for whom you perform your professional activities? I can't give you complete answers, but advertising, attending parties, direct mail solicitation, referrals by clients and other attorneys, clients referred by office-sharing attorneys, and through publicity are some of the ways. The most important way to get massive experience at the outset is to do contingent-fee litigation, where you get clients by not charging them a legal fee until you win (which generally means settlement of the case). Major law firms rarely take contingent-fee litigation, but

defend many contingent-fee lawsuits for a huge hourly rate for each of the five to twenty lawyers involved in the case.

I wonder how many lawyers are involved in representing John Rigas and two sons against criminal charges when during a 2-year period the lawyers were paid almost \$30,000,000. At the rate of \$500 per hour, \$30,000,000 represents 60,000 legal hours; at the rate of 2,500 hours per year, this represents 24 full-time years of legal work (accomplished in 2 years). If each lawyer worked fifty percent of the time on the Rigas case, this meant that about 24 lawyers were working on the case, give or take a few.

Your job is to try to earn through selected contingent-fee cases and your inventiveness as much or more per hour as the major law-firm partners or senior associates. Your choice of cases may well be the deciding factor. See Chapter 29.

As a solo practitioner you will be able to practice high-level law right away, and your opponents may be some of the most skilled lawyers in the major law firms in commercial litigation. Or they may be lesser skilled defense lawyers, if lawyers selected by insurance carriers for such times (when the clients are insured) defend your cases.

I'm referring to motor vehicle cases, slip and fall cases against businesses, product liability cases against manufacturers, and other tort litigation or by government attorneys when you are suing government agencies or employees for violation of the civil rights of your clients.

At any rate, you will be facing worthy opponents most of the time and you will have an opportunity to learn the tricks and techniques of the defense, which will enable you to develop inventive countermeasures on behalf of your clients and your practice.

Chapter 34 - Communications with the Author Are Invited - and Responses by Him Can Be Expected

For many years I have been responding to questions from persons who have read my website material at www.lawmall.com. I try to help each caller and never for a fee. In many instances, I try to give the caller help when the caller or a close relative or spouse is caught in the criminal process. Usually, this is where some element of prosecutorial abuse is apparent and, predictably, the criminal attorney is refusing to do anything to help.

Once in a great while a caller may turn into a paying client, but rarely. As a lawyer in the field of antitrust, other commercial and civil rights litigation, I don't have time for more than a few active cases at any one time. But I do try to put my knowledge, training and experience to work to give some valuable assistance.

For example, some callers need to learn how to find an attorney. I have developed an unusual way by which this can be done. Essentially, to find an attorney willing to work on a contingent-fee basis, which for many cases is difficult, and I recommend that the caller hire an attorney (someone other than myself) for several hours, paying the attorney's hourly rate to prepare a complaint for the caller.

The attorney will be able to cut through the substantial amount of irrelevant facts supplied by an anxious or over-eager caller and will put the caller's claim into legalese which another lawyer can read quickly and without wasting his or her time pouring through a lot of irrelevant documents and facts. The retained attorney may perhaps decide to put his/her name on the complaint and file it, now that the preliminary work has been done.

This filing attorney hopes that perhaps the case will result in a quick settlement for him and a comparatively high hourly rate.

Usually, this is not the case, but you never can tell. As to the importance of pleadings (*i.e.*, the complaint, answer, reply and any counter-claims), you might want to read my website article entitled "Drafting of Civil Complaint: the Highest Leverage Obtainable in a Lawsuit", at www.lawmall.com/lm_draft.html. I make the point that lawsuits are governed by pleadings, especially the complaint. The complaint should be considered a "game plan" for the litigation, and if the complaint is faulty, the case may well have no future. Every lawyer and client should recall that in litigation the complaint is almost everything, and be guided accordingly.

Inventiveness is my stock in trade, and I suggest that this is, or should be, similar to other attorneys trying to do the best for their clients. Hopefully I will be able to create a solution larger than the legal components needed to find a workable solution, or at least a solution that has possibilities in a bleak situation for the client.

I'm offering that same free service to you, as a reader of this book. Consider me as another resource to you. Of course, after a certain amount of assistance I would probably start imposing some limitations or obstacles, or even say, "I have no idea what you should do."

I invite you to communicate with me to discuss any of the matters raised in the book or in any of my websites. You can reach me by email, at carlper@ix.netcom.com or by telephone (at my office in New York City), 212-307-4444. Don't be surprised when I, instead of an intermediary, pick up the telephone.

Appendix A - LSAT Test Preparation Resources

I know about LSAT test preparation. I took my first LSAT without any preparation. In fact, at the time I took my first test I had no high school diploma; I was a high-school dropout; I had served almost 3 years in the U.S. army, mostly in Okinawa and without any formal education (the Army refused to let me attend high school classes with civilian dependents); and I had completed less than one year of college. My test results reflected this poor academic background, and I got a 542 out of the then maximum score of 800.

I knew that to get into a good law school I had to do something to improve my LSAT score, and I started reading test preparation manuals and taking the various objective tests which they provided. I learned how to take these objective tests. Also, as I was getting into self-improvement, I read a book entitled *How to Stop Forgetting*, by Dr. Bruno Furst, and spent a considerable amount of time learning and using his principles for improving one's memory. Also, I started reading material with an eye on improving my vocabulary. Each time I came across an unfamiliar word I spent the time to look it up and add the work to my vocabulary. Meanwhile, I was taking physics, chemistry and calculus, which began to awaken my mind in these demanding areas. I did not sign up for any LSAT courses, and am not sure at this time whether there were any such courses to sign up for.

I took the LSAT again, and scored 670 out of 800, which was substantially better than 542.

I applied to every one of the then top 10 law schools, and was admitted to each of them, most with a scholarship. I turned down all acceptances except the school of my first choosing, which was Harvard Law School, and as to Columbia Law School I declined the acceptance with the arrangement that

the seat would be given to my classmate and friend at Long Island University, which it was.

My struggling resulted in improving my vocabulary which enabled me to deal more readily with concepts that I now understand, and in improving my ability to take tests of the LSAT type. Experience with these types of tests is the easiest way to do better than others (including myself as to the first test), because it allows you to be more confident and gives you more time to answer the questions because you already know the rules; and some of the same questions you answer will be on the real test to be taken. You can't help but do better with preparation. Of course, the preparation doesn't make you any smarter, but I compare it to going to a foreign country - you will get along better in China when you speak Chinese, and you can view the LSAT as something similar to China where you will get along better if you already speak the language and are familiar with the territory.

Over the years I have seen development of formal test preparation courses, and sent my son to one to prepare himself to take the SAT for college admission. He scored 800 on the verbal SAT and on the Math II SAT test he also scored 800, which I like to say is equivalent to a 1600 out of 1600.

The main LSAT test preparation courses seem to be:

Kaplan, see www.kaptest.com and TestMasters, see www.testmasters180.com

LSAT questions are available for download and practice by you at www.testprepresearch.com.

Also, see www.lsat-center.com/lsat-page4.

There are many others. Locate them by searching for "LSAT test preparation" and your search engine will not only display the websites of many such test preparation services, but AdWords 2-line

and 4-line advertisements (called "sponsored links") from a number of them, including the above-mentioned two.

There are any number of LSAT test preparation manuals which you can obtain at your local bookstore, or you can order them through www.Amazon.com.

Appendix B - 34 Fields of Law for Specialization by Attorneys

Disciplinary Rule DR 2-105 of the Code of Professional Responsibility, which has been adopted with various changes in all states, lists about 34 fields of law as to which a lawyer may advertise that he/she is "specializing" (although only up to 3 fields of law). These 34 specialty fields (as DR 2-105 is adopted in Iowa) are:

DR 2-105 Fields of law for limiting practice:

Administrative Agency Matters

Admiralty

Antitrust and Trade Regulation

Appellate Practice

Banking and Creditor Law

Constitutional Law

Consumer Claims and Protection

Corporate Finance and Securities Law

Corporation and Business Law

Criminal Law

Debt and Bankruptcy Matters

Domestic Relations and Family Law

Environmental Law

Health Law

Immigration and Customs

Insurance

International and Foreign Law

International Trade and Investment

Job Discrimination and Civil Rights

Labor Law

Legislative Matters

Military Law

Municipal and Local Government Law and Finance

Pension, Profit Sharing and Employee Benefit Plans

Personal Injury and Property Damage Claims

Public Utility Matters

Real Estate Law

Social Security Disability

Taxation Law

Trademarks and Copyright Matters

Transportation Law

Trial Practice

Wills, Estate Planning and Probate Matters

Workers Compensation

Appendix C - Useful Websites for Law School Applicants and Students

For persons interested in applying to law school, and for law-school students, I highly recommend that you look at the following websites:

1. Internet Legal Resource Guide, www.ilrg.com, which maintains a lot of interesting statistics and compilations of information.

2. Hieros Gamos, calling itself "#1 Legal Research Center", including a list of 70 areas of legal practice, and various items of interesting data under the heading "Law Student Center". See www.hg.org.

APPENDIX D - How a Wall Street Legal Practice Based on a Single Point of Law Resulted in the Election of President Richard Milhaus Nixon

Within each of the major fields of law there are sub-fields in which attorneys voluntarily restrict their practices, without advertising that they are specialists or "concentrating" in the sub-fields of law. Years ago, when spending most of my time as a "Securities Lawyer" in the preparation of prospectuses and offering circulars for public offerings of securities, I testified before the Securities and Exchange Commission that even though I was an expert in matters involving the Securities Act of 1933 (which regulates public offerings of securities), I was not an expert in the Securities Exchange Act of 1934, which regulates the issuers of securities and the exchanges on which their securities are being traded. Even within the Securities Act of 1933, some lawyers know more about "private offerings" than about "public offerings".

One of these sub-specialties under the Securities Act of 1933 helped to make a U.S. President. I know, because I was very tangentially involved. I was working an associate attorney at Mudge, Stern, Baldwin & Todd, during the summer between my first and second years of law school, and later, upon graduation from Harvard Law School in 1962. On the day John F. Kennedy was killed (by someone other than Lee Harvey Oswald, it seems clear), I had a 4:30 p.m. meeting scheduled with Richard M. Nixon, who had been brought in as a top partner to the Mudge firm. Nixon was unable to make it to the meeting because he had been in Dallas that day (which very few people knew at the time) and when he returned from Dallas and arrived at Idlewild International Airport (later renamed JFK International Airport), Nixon was seen by reporters prior to their receipt of the news flash that JFK had been shot in Dallas. Upon hearing the news, various

reporters chased after Nixon, and diverted him to the Hotel Waldorf Astoria in Manhattan, where he spoke to the press about JFK's death. Thus, my meeting with him was cancelled.

The next business day, November 25, 2003 (a Monday), I started working for Satterlee, Warfield & Stephens, a law firm whose top partner (former New York City Police Commissioner Vincent Broderick) became counsel to the Warren Commission which investigated the killing of President Kennedy. The Commission never learned (apparently) that Nixon had been in Dallas on the day of JFK's killing. Nobody asked me. If asked I would have said that he was meeting with our client, Tennessee Gas & Transmission Company.

Anyway, Nixon at the time had been defeated by JFK in Nixon's first attempt at the Presidency. The top shareholder and C.E.O. of top client of the Mudge firm (at which I worked up to the day of JFK's assassination) insisted that the law firm hire Nixon as a partner, which it did.

I left the Mudge firm on the fateful day, November 22, 1963, to go to the Satterlee firm, after turning down an offer by Caldwell, Trimble & Mitchell to work as an associate attorney in preparing bond issues for municipalities throughout the United States. Bonds issued by municipalities were exempt from registration as securities under the Securities Act of 1933 if the bonds were backed by the municipality. This was a major legal issue which attorney John N. Mitchell developed into a big legal specialty for himself and his firm, and encouraged the Mudge firm (with Nixon as a very new partner) to acquire Mitchell, his firm and national municipal bond practice (or more specifically, industrial revenue bonds which Mitchell pioneered).

Nixon was no dope. He readily saw that Mitchell knew and was the attorney for most of the bond-issuing cities, towns and counties in the United States, which meant that Mitchell was very politically connected in all parts of the country. Thus, Nixon appointed Mitchell as his campaign manager for Nixon's next (and successful) campaign for the Presidency, and after winning the election appointed Mitchell as Attorney General of the United States. And, as you know, Nixon resigned in disgrace for what one now sees was pretty trivial in comparison to what others in a similar position are now doing, and Mitchell wound up in jail for conspiracy, obstruction of justice and perjury for his role in the Watergate break-in - all because of a sub-specialty of law under the Securities Act of 1933.

APPENDIX E - Information Sources

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