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# Self Employment -

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

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Note: A substantial part of this book has been published in 2004 under the title *A Law Career Is the Smart Way - to Avoid the Evil Economic Trio of Outsourcing, Globalization and Declining Standard of Living*. Also, Appendix D, a pamphlet entitled "How to Develop and Market Your Creativity--(A Self-Improvement Manual on Creativity)", is published at the author's website, [www.lawmall.com](http://www.lawmall.com). This new book ("Self Employment ...") is a revision of "A Law Career ..." intended for all persons facing important career choices, and explains why self employment and no traditional college education are the correct career choices for many tens of millions of persons to make.

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

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*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, and more particularly to persons (including parents and relatives) trying to decide whether a traditional college education is worth the price.

### Special Thanks

Special thanks are given to Yvonne Perry for her editorial and layout assistance in the preparation of the earlier book *A Law Career Is the Smart Way*. [www.yvonneperry.net](http://www.yvonneperry.net)

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### Forward by the Author

I have spent more than 40 years in the practice of law representing small businesses, and I have spent almost as many years conceiving, developing and managing various businesses as a self employed person. During this period, I have watched 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. Jobs are no longer a reasonable goal for many Americans. Instead, for reasons explained in the book, the goal for tens of millions of Americans should be self employment, without time off for acquiring a college education (unless you have already been through college). Self employment will have great potential for persons who learn the important lessons about self employment at the outset of their career, rather than accumulating those lessons over a 40-year period of working for various employers.

This book is for high school seniors, high-school graduates and other persons thinking of attending college; college students thinking of going to a professional school or obtaining an advanced degree; students already in college or a post-graduate curriculum; high-school or college graduates working for employers; job-holding high-school or college graduates and others 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.

### Introduction

This book explores self employment 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.

We will discuss the problems associated with self employment and employment. We will look at various ways by which you could become self employed, and the reasons for not accepting employment as part of a meaningful career. Also, we will look at the market for self employeds and the differences between self employment and employment.

It is my hope that by sharing with you the valuable information that I have gained in my 40 years of self-employment and small business experience (including the practice of law) that you will avoid mistakes and setbacks most young people make when starting a career, and that this information will help you in becoming an effective and financially successful self-employed businessperson.

There are approximately 135,000,000 non-agricultural workers in the United States, plus or minus a few million (which difference enables the unemployment rate to be reported at somewhere between 5.6% and 10%, but is probably worse, if underemployment, job duplication, and persons no longer seeking employment are taken into account. Self employment is estimated to be equal to about 10% of the employed (13.8 million persons or 10.2% of U.S. workers according to the AARP Policy Institute (see Appendix A, paragraph 5).

An increasing number of persons have become self employed, mostly against their will, I suspect. But the time has come for persons to seek self-employment in able to adjust to economic realities, including outsourcing, globalization and declining standard of living. Also, there is

the real threat of 2.5 billion Chinese and Indians entering the global economy to compete with the rest of the world.

There are things which you must do to protect yourself, and your children, from the economic adversity which is heading our way, with increasing intensity and no letup in sight. You have to learn the new rules and then apply them, which for many persons will require them to revert to the slowly-disappearing American tradition of independence, hard work, measured spending (or should I say frugality), and Yankee ingenuity.



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## Chapter 1 - Are You Suitable for Self Employment and Financial Success?

This book discusses why millions of present employees, and millions of persons hoping to become employees, are making a bad decision. The economy is changing, and with these changes the concept of "jobs" and "employment" have changed, without most persons understanding in what ways, and how an individual to protect himself/herself can adjust to these changes and avoid the evil economic trio of outsourcing, globalization and declining standard of living.

There are about 138 million non-agricultural workers in the United States, plus or minus a few million, and there are currently self-employed persons (which I'll generally refer to as "self employed") in a number equal to about 10.2% of the 138 million, which translates to about 13 to 14 million self employed, and increasing daily.

The increases in the ranks of self employed are occurring for a variety of reasons, some good, and some bad. Persons wanting to work at a high-paying job find that they are out of a job and have to turn to self employment to earn a living. Other persons see the writing on the wall and head immediately for self employment, instead of wasting years working for various employers who, in the long run, can be expected to boot them out of their employment when it is profitable to do so for the employer, regardless of the years of loyalty and enormous amount of lost opportunity and equity of the long-time employee.

A tidal wave of new workers is becoming available to employers throughout the world, with perhaps 2.5 billion workers from India and China making their bid to compete for jobs from any and all sources, at effective hourly rates which are perhaps 1/10<sup>th</sup> of the hourly rate being paid to em-

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ployees in the United States. These sources of low-paid workers are made available easily, rapidly and at little expense to major multinational corporations, and less so if at all to small businesses in the United States.

Employees in the United States have little chance to profit from the work of this low-cost foreign labor, but does obtain a temporary advantage of lower prices in Wal-Mart and other multinational retailers, in exchange for helping to destroy the American economy, in what amounts to a bargain with the Devil for all Americans.

There are three main objectives of the major multinational corporations: Profits, Profits and Profits. Nothing else is sacred, such as loyalty to employees, loyalty to the area in which the corporation operates, or loyalty to the country (U.S.) which enables it to prosper while destroying the economy of the United States in its race to gather in as much profit as it can regardless of the costs to others. After all, isn't this what corporations are supposed to do?

The multinational corporations have no need to comply with the nation's antitrust laws, which could stop the worst of the multinationals' activities, but the persons elected to power with the multinational's campaign donations see fit not to file suits to enforce the nation's antitrust laws, and instead are fighting other battles which wind up to the economic benefit of many of the multinationals.

Is there any difference expected with small businesses including self employeds? Aren't they apt to injure the economy as much if given the chance?

I believe the answer is "No", that small business and self employeds are more responsible to their employees and communities in which they operate. I have seen small business owners refuse to

sell their businesses (and forgo millions of dollars) because the multinational purchaser would not promise to retain all or most of the current employees. You could not expect such loyalty from a multinational, to whom money and profit is everything.

Local small businesses over the years have been an important and continuing part of the communities in which they operate, and because of their presence as human beings and leaders in the community they are far more reluctant to injure the community, and when they do leave town it is usually because they have tried against all odds to cope with the economic difficulties but in the long run a move to another place (often another country) is the only way to save the business.

With all these decisions being made by multinationals and small businesses, the employees are pretty much left out, and often left out in the cold, with no jobs, no income and miserly severance benefits after many years of loyal service to the multinational or other corporations.

There are additional reasons why small businesses are not as ruthless with their employees, including the fact that small businesses require a higher percentage of high-level, multi-skilled officers or employees who are not readily replaceable, and any move would cause a greater disruption to the small business than to the faceless multinational which operates anywhere in the world to maximize its profits for its faceless shareholders and over-reaching high officials. Small businesses are more apt to share the wealth and gross profits with non-shareholder officers and employees, and are not as inclined to transfer operations elsewhere to avoid this division of gross profits. Small businesses are more like a family and last longer in trying to fight off adversity and competitive threats.

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Self employment is no more than the entry level for small business. Successful law firms, public relations firms, accounting firms, data processing firms and others do not refer to themselves or their owners as "self employed", even though obviously the owners of small business are in fact self employed. Instead, it is useful to consider persons just starting out in business, and especially when they have few or no employees, as self employed. This makes me wonder whether the number of self employeds is really closer to 20 million, for probable failure to include the controlling owners of all small businesses up to a certain size as self employeds.

The advantages of being self employed are numerous, and will be discussed throughout this book, but the main advantages, I believe, are that self employment enables people to avoid the high, stifling cost of a fulltime college education, permits individuals to get started right away in building business equity for themselves without taking time out to go to 4, 6 or 7 years of fulltime college, get a job, work for so many years, and then get fired, an overall delay in starting the person's self-employment career of perhaps 10-15 years, with far less time and inclination to make a success out of self employment.

The personal characteristics which I believe are indicative of success include in no particular order:

Self-starter

Organized

Responsible

Sets and follows priorities

Versatile

Rolls with punches (not getting overly depressed when adversity strikes)



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Multi-disciplinary skills

Ability to see what is needed

Hard worker

Able to work long hours, including evenings and weekends

Able to work under circumstances which causes blurring of work and non-work activities

Understanding family

Good health

Intelligent

Skilled in English language

Knowledgeable about corporations

Knowledgeable about computers and some programming

Able to do word processing, spreadsheet analysis and some database activities

Good deductive and inductive reasoning

Personable and even tempered

Good people skills

Minimal bad habits

Capital sources

Quick to see areas for improvement

Empathy for others

Ability to deal with legal problems

Able to get appropriate perspective

Ability to find, train, motivate and retain good employees

And about 1,000 other characteristics.

Self employment is a way of life, which leaves you free of being told what to do, but which saddles you with the burden of having to make hun-

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dreds of decisions and follow through, to be able to create a product or service, find the market for such product or service, and profit from the activities, while always trying to improve your products and services.

Small business has a major advantage over large corporations, which is that generally most of the new ideas and new employment comes from small business. Isn't it better that you be the owner of a small business, than to be the employee of any business?

The exception, which I should point out, is working for government. What is better than working hard in self employment or working for a heartless corporation is getting a high-paying job with any government agency, most of which have combined rates of pay, including retirement, personal days, sick days, vacations, health plans, dental plans, and other benefits, which make such employment very attractive - a lot of pay for doing very little, in many cases. All of this excess is paid for, of course, by the nation's employees and self-employed, including small businesses. Multinationals have pretty much given up on making their proportionate tax contribution.

An important fact for you to know is that college usually does not teach a trade to its students, and instead gives them an education, which the multinational corporations use as their primary selection factor for hiring of new employees each year. With certain exceptions, such as professional school, mathematics, the sciences and computer technology and programming, most of the courses taken in college have very little to do with earning a living, and a high-school senior not intending to go to a professional school or get an advanced degree, and instead become self employed, can probably skip a formal, fulltime college education with little loss and many benefits, as I will discuss.

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## **Chapter 2 - Loss of Traditional Career Expectations: Rewarding Job, Middle Class, Security, Economic Freedom to Pursue Interests**

The country is changing and the promises and expectations from past years are no longer applicable. To be able to take the steps needed to protect yourself and your family, you first have to be able to identify the problem.

I see the problem that employment no longer exists for most persons in the United States as employment existed 10 to 20 years ago. We have had a continual downgrading of employment over the past 10-20 years with the result that the expectations which the nation's employees had are no longer valid. These expectations include job compensation including some participation in the employer's profits; employment to last until retirement if desired by the employee and if the employee adequately performed in the job; a relationship with the employer which entails fair treatment and not one in which the employer is constantly trying to find fault with the employee to enable the employer to terminate the employee and find a younger, lower-paid perhaps foreign employee as a substitute; focusing on short-range profits to benefit high officials and shareholders at the expense of employees; disregarding the human values involved and treating employees instead as interchangeable parts which can be moved about at the employer's will, regardless of the human costs involved.

It is important that these changes in the job marketplace in the United States be acknowledged by the reader, because failure to recognize these new conditions makes it less likely for the reader to see the importance and urgency of the plan which the reader needs to develop and follow to be able to recover from this growing loss.

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By understanding that employment opportunities are declining in a variety of ways, some subtle, some not-so-subtle, there will be an increased appreciation of the book's discussion on what can and should be done to fight back.

A cherished tradition in the nation has been to send children to college before they enter the job marketplace, with the belief that college prepares people for the better jobs available with major corporations and government agencies.

It is no surprise to many college graduates that their years of study has prepared them not at all for the employment market, and that employers no longer hire college graduates to the same extent or with high starting salaries. The value of higher education in the marketplace generally has gone down, while the costs of education continually increase. This should cause the reader to wonder what college really does for the student, and whether college is really necessary.

Most persons view college as the ticket required to get a good job, and for many years this was the case. At this time, this aspect to a college degree is fading somewhat. There are too many college students who are unable to get a job sufficient for them to maintain a middle-class standard of living and, at the same time, pay off the students loans they took out to pay for the college education.

Let's look at the problem from a different approach. If a person plans to become self employed, what obstacles will be encountered if he/she has no college education.

Let's take real estate, for example. If a non-college person bought real estate, improved it, and now wants to sell it for a large profit, does the lack of a college degree become an obstacle in receiving the high price?

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If you are publishing a magazine on "Stopping Spam and Viruses", does anyone ask you whether you went to college?

If you are renting an apartment in a residential building owned by you, are you going to be asked if you went to college?

As self employed persons have learned, whether you went to college or not is not high on the list of subjects which have to be addressed to make a sale or obtain a new customer or client.

Education is available in a variety of ways today at little or no cost, in comparison to the costs of going to traditional, campus-life college. Courses of instruction can be obtained through "distance" education offerings (correspondence and/or online), through books, through low-cost community colleges, through high-school adult-education programs, and even through non-credit "audit" courses at expensive colleges and universities.

College students generally have no idea about the cost of education or the expectations for those with college degrees, and often are not able to make sound decisions about college without input from their parents.

Other than the obstacle of trying to convince someone that a college education is too expensive in a variety of ways (including time and money), there is the further perhaps more important obstacle of trying to overcome a person's fear about becoming self employed.

An employee's role for years has been fairly enticing, with plenty of money, plenty of time off, plenty of upward mobility, huge benefits including time off, long vacations, medical and dental plans, retirement plans, insurance plans, and various other benefits which organized labor was able to get from employers, which benefits often trickled

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down to non-organized employees in other industries.

At this time, corporations have undergone a critical and continuing review of their bottom line, and have decided to do away with as much of these costs as possible, in a variety of way.

A lot of this pressure to reduce costs is a result of competitive forces. *Business Week* magazine reported in its July 19, 2004 cover story article "The Benefits Trap" that many of the nation's largest corporations, facing competition from younger companies not saddled with benefits from the past, are looking to get out of paying such benefits, possibly by going into bankruptcy.

To shift from being job oriented to being self employed is much easier at the outset of one's career than later on, after the monthly overhead has been acquired. Persons first entering the career market (for either a job or for self employment) have an easier transition, because less money is needed. But an employee trying to change from a job to self employment after 20 years is going to have a much tougher time, with a substantial amount of belt tightening to make things work out. An adequate supply of credit cards would be useful to help in the transition.

The transition must be made by millions of persons, and needless to say the persons who get their first will probably do better than persons who wait. The transition requires discipline and organization. You need to think out your priorities and accomplish them, step by step.

In light of the declining expectations of employment today and in the foreseeable future, you should consider whether college is really necessary and what can be done to keep these costs down.

### **Chapter 3 - Why Fulltime College Is Not a Reasonable Choice for Most of Today's High-School Graduates and Fulltime College Students**

Self employment is the way for most Americans to cope with the massive economic changes which are taking place. But this change of one's life from employee to self-employed requires a review of some other aspects of your life. Among the most important (meaning, costly) things to consider is education, mainly college, but in some cases advanced degrees for law, business or medicine.

College is no longer an economically viable option for many Americans, especially those who are to become self employed, which means that many Americans thinking of college should rethink their position.

I am not a disappointed college graduate or a former student abused by part of the educational system.

In fact, I have a total of about 41 years association with schooling, including nursery school, kindergarten, 1<sup>st</sup> through 12<sup>th</sup> grades (dropping out of the 11<sup>th</sup> and 12<sup>th</sup> grades before joining the U.S. Army when I turned 17); 4-year college degree from Long Island University (which I did in about 2-1/2 to 3 years); law degree (3 years, Harvard Law School, on scholarship); 1 year of teaching in the evening at Long Island University; and 18 years of ownership and management of Paralegal Institute in New York City, as one of the founders of the paralegal field.

I know quite a lot about schooling, as a student, instructor, career-field creator, and school owner.

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My school, Paralegal Institute, was authorized to accept students who paid for their tuition with student loans.

With all of this experience in mind, including the experience I have had as a self-employed person from 1968 to the present (a period of 36 consecutive years), heavily involved in litigation of economic and antitrust issues, I have come to the conclusion that because of the way the economy is heading, a college education will turn out to be a very bad investment for millions of college-bound persons.

The economy in the United States is increasingly concentrated, with the rich getting richer, and outsourcing and globalization is rampant and growing - all of which reduces the opportunities and expectations for Americans through classic "employment" in the private sector, and is resulting in an ever-declining standard of living for most Americans. [I mention the private sector because the public sector will lag far behind these economic realities, and provide excellent jobs for years for the lucky persons having such jobs, who are being and will increasingly be overpaid for their work. This means that employees, homeowners and citizens will increasingly be taxed to finance these excessively-paid public jobs.]

Instead, as I discuss in this book, the way to avoid the "Evil Economic Trio of Outsourcing, Globalization and Declining Standard of Living" is to become self employed, and do so as soon as possible, and to avoid the delays and costs of a formal, fulltime, costly 4-year college education.

A high-school graduate at age 17 has 48 years of self-employment (before reaching age 65). By starting early with his/her career, the recent high-school graduate can gain an additional 4 years of self-employment in comparison to someone who goes fulltime to college, and already have a busi-



ness started by the time the college-student counterpart has finished college and is looking for a job. In many instances, the college graduate may not ever catch up, particularly because of being saddled with costly student loans which have to be paid with after-tax employment income.

I have been worried about the high cost of education for years, and have had an insight to education not shared by 99.99% of the people in the United States. This insight comes from my creation, ownership and management of a proprietary school in the United States for 18 years. Also, the school was licensed, accredited and authorized to have its students obtain federal student loans.

I more than most persons understand the costs of education from the school's point of view, and I have determined (several years ago) that it is time for parents and prospective college students to question whether college and its attendant costs and lost opportunity is an appropriate investment of time and money.

If money and financial security are of no object, then my 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 fulltime college could be the biggest mistake of the student's life, and a mistake for the family, as well.

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

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selecting specific courses of interest at a publicly supported college or university, or through Internet (online) 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. Look at [www.law.arizona.edu/](http://www.law.arizona.edu/).

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 4 years.

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 fulltime 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 full-time 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 income taxes 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 courses or the equivalent on a part-time basis.

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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

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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.

My concerns over the high costs of higher education caused me to write about the high costs of a college education (see my e-book at [www.lawmall.com/droppout/dropch01.htm](http://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 costs of repaying student loans.

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, em-

ployer-sponsored education, low-tuition governmental colleges, scholarships, online colleges and evening college courses or their equivalent.

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.



#### **Chapter 4 - The Best, Most Expensive Colleges Are Probably among the Worst for You**

I am not advocating that you obtain no part of a college education. Instead, I am trying to say that the way colleges and universities have developed in the United States, the cost of attending them is too high for the returns expected as a graduate of such institutions.

There are less-expensive ways to obtain the education acquired by the better college students: (i) you can buy the books and study them during your spare time, generally focusing on what would be useful to you in your self-employment activities; (ii) you can enroll in college courses through internet (e.g., University of Phoenix Online, founded in 1978, claiming to be the nation's largest private university - [www.ol.uophx.edu](http://www.ol.uophx.edu)) and obtain your education and degree on a low-cost basis, and at your convenience; or (iii) you can go to a local college, evening session, provided the tuition charges are reasonable (and you might consider community college offerings for part of your part-time, evening educational endeavors).

Over the years, the things you need to know will be learned by you mainly through self-instruction, with multi-year formal educational programs not providing very much of your needed fund of information and education.

Thus, when I urge people not to go to traditional fulltime college, I mean don't go to college at which the cost is high, including the costs of living on campus, the tuition, travel to and from home, and keeping up with other students.

Instead, you should become career-oriented right away, and get involved in activities leading into self employment, and along the way pick up

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whatever college education or its equivalent you can grab along the way, without regard to degrees or the institutions issuing the degrees. You need education, at low cost, rather than a fancy degree and probably less education, at a much higher cost.

There is no need to purchase a degree from a fake university to prove yourself in the self-employment market.

If, on the other hand, you want to go to medical, law, business or other professional school, you probably are forced into choosing your college based on other considerations.

I chose my college, Long Island University, because no other college in the nation (of those that were contacted on my behalf) were willing to accept me, and Long Island University turned out to be an excellent college for me to attend, especially considering that every one of the 7-8 top law schools to which I applied accepted me, usually with a scholarship.

When adding up the high costs of a traditional 4-year residential college education, you would find that going to a top college might cost you an additional \$25,000 per year, or \$100,000 over a 4-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 \$250,000 plus interest on student loans to pay for the extra cost of a top (or expensive) college. This amount is generally not justified for most persons. It represents a luxury tax far exceeding the predictable value of the "best" legal education.

In any event, the high cost associated with attending one of the "best" or expensive colleges does not seem worth paying, particularly if you are going to become self employed. The value of money



in a declining economy warrants selection of a college primarily on the basis of cost, and a willingness to work hard in any college setting to obtain the desired education. The amount of money saved and student loans avoided will be well appreciated and will help finance the self-employment ambitions of the student.

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](http://www.lawmall.com/droppout).

Most applicants to the top or more expensive colleges have impressive resumes which means your competition is strong. Thus, you take the SAT preparation course, do well on the SAT, and are involved in extra-curricular 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.

It is unfortunate for many college students that grades have 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

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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 colleges, with the result that you can obtain a better education at lower cost, if you are willing to accept lower grades and a lesser college as the tradeoff. The term "lesser" is probably wrong to use because "lesser" really means "better" in the new economy with which we are dealing. In this new economy, not only are multinational corporations reviewing and reducing their expenditures, but the new economy requires humans to do the same thing, even though this reduces their purchases from the multinationals and others. With expectations of less income, you cannot expect humans to increase their expenditures.

#### **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.

College does not prepare you for self employment or for employment for that matter, but the inadequacies are less seen in employment where the demand and expectations of college graduates are less than in self employment. A degree from a top college or university will help you get a job more readily, if a job is what you seek, but the degree doesn't fool anyone, especially when you are self employed and nobody asks if you have a degree or where it is from.



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**Chapter 5 - 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**

Self employment is the best way for an individual to cope with the evil of outsourcing, for reasons which will be discussed. Meanwhile, I want to discuss outsourcing.

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:

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*"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 (or self-employed professional such as a 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 bal-

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ance 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.



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## Chapter 6 - The Evil Economic 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

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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 of self employment in business or in a profession (such as law), if they have the capability and interest. Self employment 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 more than 800 American corporations transferring jobs to foreign countries - published by CNN commentator Lou Dobbs.

[www.cnn.com/cnn/programs/lou.dobbs.tonight](http://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 (including self employed businesspersons and professionals), 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

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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;
  
- (ii) Change our federal and state laws including student-loan laws, re-

quirements 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 (such as *The Washington Post*) 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;

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- (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 ar-

bitraging), 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 what might be considered as 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 nor 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 presents, 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

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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. Ten percent (10%) of China's sales to the United States are sold to Wal-Mart, enabling China to distribute its goods in ever part of the United States (in contrast to you and me, who probably have no significant market for what we do).

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.



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## Chapter 7 - 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, leav-

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ing most of your time to do new things, which otherwise 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

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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 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.



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## Chapter 8 - Additional Ideas for Your Self-Employment 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 self-employed businessperson and lawyer, and have been posting them on my [www.lawmall.com](http://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 self-employment activities. The covered topics are diverse and not readily organized. Here are some of the concepts you will find in my [lawmall.com](http://www.lawmall.com) website:

- How to finance civil litigation costs by selling shares in the 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](http://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 self-employment business activities - see [www.lawmall.com/droppout](http://www.lawmall.com/droppout) and [www.lawmall.com/dropch20.htm](http://www.lawmall.com/dropch20.htm)

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- How to stop globalization - see [www.lawmall.com/wal-mart](http://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](http://www.lawmall.com/jobtheft)
  
  - Why Kmart has no hope of continuing in business in competition with Wal-Mart - see [www.lawmall.com/doomsday](http://www.lawmall.com/doomsday)
  
  - Thoughts about Enron [www.lawmall.com/enron](http://www.lawmall.com/enron) and Arthur Andersen - see [www.lawmall.com/andersen](http://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](http://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](http://www.lawmall.com/hs)
  
  - Why notaries public should be eliminated - see [www.lawmall.com/lm\\_notar.html](http://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](http://www.lawmall.com/rpa) and [www.lawmall.com/rpa/rpa\\_dna3.html](http://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](http://www.lawmall.com/pleabarg)
  - How to develop your creativity - see [www.lawmall.com/files/pamphle5.html](http://www.lawmall.com/files/pamphle5.html)
  - How to sue an errant prosecutor who is going after a small business person 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](http://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

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prohibited by your apartment lease - see [www.lawmall.com/petlaw](http://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](http://www.lawmall.com/droppout/dropch20.htm)
- The type of lawsuit in which you, as a small business person, 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](http://www.lawmall.com/rpa/rpa9000x.html)
- Why there is no constitutional right to a jury trial in the United States - see [www.lawmall.com/lm\\_torttr.html](http://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](http://www.lawmall.com/juryduty)

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- How the threat of "sanctions" is used to prevent injured persons (usually small businesspersons) from obtaining redress for their legitimate grievances, but has no effect on the wrongdoing of major corporations - see [www.lawmall.com/lm\\_tortr.html](http://www.lawmall.com/lm_tortr.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 transcript of my 29-minute radio infomercial entitled "1,000,000 Fortunes Looking for Their Rightful Owners", at [www.lawmall.com/rpa/infomer6.html](http://www.lawmall.com/rpa/infomer6.html)
  - A list of different causes of action which should be considered when a small businessperson is suing for the destruction of the business - see [www.lawmall.com/tortmall](http://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. Accordingly, I suggest that as part of your educational activities tailored to your business needs you consider taking two highly conceptual law courses: contracts and torts. These two courses will let you begin to think like a lawyer and understand more of your business environment than many persons in business.



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## **Chapter 9 - How to Be Inventive as a Self-Employed Businessperson - and Effective or Dangerous as a Competitor**

I remember a conversation with one of my lawyer 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 "HOW TO DEVELOP AND MARKET YOUR CREATIVITY--(A Self-Improvement Manual on Creativity", and published it at [www.lawmall.com/files/pamphle5.html](http://www.lawmall.com/files/pamphle5.html). I suggest you read the pamphlet to help you develop business ideas for your self employment (see Appendix D).

A major difference between ordinary employment and successful self employment is in the area of creativity. Ordinary employment often penalizes employees who can't control their creativity and are constantly trying to have the employer change its established ways. On the other hand, self employment usually requires creativity in various areas of the business, to be able to succeed.

### **Find a Need and Fill It**

When trying to figure out what type of self employment you could create for yourself, one good method is to look around for a need which cries out to be filled, and then try to fill such need.

An example of this comes to mind from the current newspapers, in which public schools from grade K to 12 are under attack for failing to deliver the required educational services and results. Years ago I made the following proposal to New York City, which received major publicity and

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was treated seriously by New York City. I proposed to take welfare recipients off of welfare through a training program I put together for such specific purpose, and all I wanted was to be able to run the program without interference (other than to ensure I wasn't picking the easiest persons to training), and upon succeeding for any person is removing such person from the welfare rolls, I was to receive an agreed upon percentage of the moneys saved by the government agencies involved. I believe that such a program could be implemented today, especially because the local governments (which only pay 5% of the total welfare costs) have more say in how welfare reform is to take place.

In a larger sense, what I have done is to conceive of a service business which could be carried out on a contingent-compensation basis, to ensure that the purchaser of the services get what it has been promised.

Another aspect to my proposal is that I was dealing with a monopoly, and any time you can spot a monopoly (in this case the government's monopoly on servicing and training welfare recipients) you can rest assured that there are areas of inefficiency which could be the basis for self-employment, to make the monopoly more efficient.

#### **Find a Monopoly and Fight It**

I have changed the wording somewhat of "finding a need" to reflect that there could be one or more opportunities for business and self employment when looking at a monopoly. Monopolies are often lax on providing service (such as government agencies) because, after all where else could somebody go to obtain the monopolized product or service? Thus, a business and self-employment could be built on providing services which a government agency or rule does not take the time to provide. One such business idea would be to take motor vehicles to an inspection station for inspection, which means providing the time to travel to the customer's home or

office, drive the vehicle to the inspection station, make sure that you have arranged whatever appointment may be required, wait in line for the inspection to take place, then return the vehicle to your customer. A better business would be to offer the same service for obtaining repairs and other servicing of vehicles, using internet, telephone and fax to obtain good rates, and thereby relieve your customers of the time-consuming task of keeping the family vehicle(s) inspected, repaired and serviced. You probably would want to specialize in a defined area to maximize the profitability of such self-employment activities. A word of caution here: make sure you have insurance coverage which would apply only after exhaustion of the customer's insurance.

#### **Gray-Area Activities Produce Higher Profits**

There are three major areas in which businesses of all types can be roughly categorized: (i) perfectly legal or "white-area" businesses (such as selling newspapers, magazines and candy at retail from a store on Main Street, or operating a restaurant, or washing and cleaning automobiles with appropriate licensing and water-saving procedures); (ii) clearly illegal or "black-area" businesses (such as trafficking in drugs, stealing cars for chop shops, or selling pornography involving underage children); and (iii) questionable or "gray-area" businesses in which what you are doing may or may not be illegal but is carried out without potential competitors fully understanding what you are doing (or by how much you are profiting).

Profits attract competitors, especially when the business is legal, which under economic theory drives the excess profitability out of the business and gives the businesses only a fair return on their invested capital. Illegal businesses can give a long term in jail (except in some notable instances where the businesses have financed high-level politicians in their never-ending quest to remain in public office). Gray-area businesses are

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the most desirable because they have higher profit margins and profits in comparison to perfectly lawful businesses, and very limited possibilities of criminal charges when compared with obviously unlawful businesses.

Of course, what we are talking about is having the self employed person becoming responsible for making some legal decisions, or relying upon an attorney to render the appropriate advice. I believe it behooves anyone in business to have some legal training, with the best probably being a course in contracts and another course in torts (which are civil wrongs). Such courses will help you understand legal advice a lot better.

In Chapter 16 below, I discuss fortunes which were made based on a point of law.

Years ago, when internet was starting up for popular use, spamming was highly frowned upon, but not illegal in the sense that one could go to jail for spamming. Most of the new internet users (including myself) respected what we learned from old timers about the internet which was that spamming was not in good taste, and avoided spamming as a result. Also, we avoided spamming for fear that our internet provider might shut down the connection if it kept getting spamming complaints.

Nevertheless, many persons did spam and continue to spam, making sufficient profits to encourage them to keep up with their spamming activities. Recently, a statute (the federal Spam Act statute, effective 1/1/04) was passed which makes a lot of current spamming activities illegal. This federal statute, which preempts conflicting state legislation, changes spamming from a gray area activity to a black area activity.

The nation's major retailers have been working in a gray area for years, purchasing their inventories of goods at lower prices than the prices being paid per unit by their independent competi-



tors, in what appears to be wholesale and continuing violations of the federal antitrust statute known as the Robinson-Patman Act. The major retailers would argue that they are trying to take advantage of the statutory defense of "meeting competition". An interesting point is that none of the major retailers is aware of the price at which they purchase their inventory for resale because the price requires information on about 100 different elements of price. The manufacturers are also unable to identify the price at which they sell specific items to the major retailers. Without anyone knowing what price any major competitor pays and major manufacturer, it seems hard to believe that there is any legitimate defense of "meeting competition". Thus, through this gray area hundreds of billions of dollars flow from U.S. manufacturers to the nation's major retailers each year, which favored pricing drives independent wholesalers, jobbers and retailers out of business, and severely weakens the nation's manufacturers, in due course.

You might be wondering what gray areas there are for you to exploit? They are all over the place, waiting for you to recognize that there is a legal issue involved in the legitimacy of the business.

For example, a person who decides to buy used cars, make repairs (or remanufacture the cars to certain standards), then offer the cars for retail resale may have to cope with whether any laws regulating automobile manufacturing have to be followed, or whether the person is required to obtain a used-car dealer's license and have premises which meet OSHA standards, just to name some of the issues. Yet, for a period of time, a person could engage in buying, upgrading and reselling automobiles for profit without anyone understanding that the business is (or may be) a gray-area business.

I like this particular idea, of obtaining old cars in areas of the country where the cars can be acquired inexpensively, transporting the cars

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(which probably cannot be driven reliably) to the businessperson's remanufacturing facility, ordering used parts from junk yards throughout the country at very low, competitive prices through internet (where the winning junkyard bidder puts the part on the back of a truck and ships it to the purchaser in the same day). Finally, the cars as remanufactured are then shipped into areas of the country where used-car prices are the highest. A knowledgeable car-industry client of mine years ago wanted to start up a major car remanufacturing operation but died before he was able to raise money for the idea.

Another good idea for self employment, in my opinion, is to sell your services to homeowners for the offering and sale of virtually everything in the home, at the right price, through [www.ebay.com](http://www.ebay.com), [www.half.ebay.com](http://www.half.ebay.com) and other internet sales outlets, for compensation ranging from about 25% to 50% of the moneys obtained from the sales. Imagine what type of system you could develop to be able to post thousands of items for sale by a single person within a short period of time, and the logistics needed to ensure you can deliver on a timely basis to be able to avoid censure or worse shutting down by the sales websites involved.

When thinking about what you might want to do for your own self employment, I suggest that you consider such things as:

Your own education, work experience, and interests

The things which irritate you the most, but not enough for you to actually do anything about it (such as fixing a non-operating window in your car or taking the car radio into a shop for repair), or finding a repair firm willing to do lesser repairs. You might think about creating a database of service and repair personnel as the main part of your business in getting things done for persons who

lack the time to do the lesser, annoying things for themselves.

Don't overlook websites and website marketing. I think there is a market for collecting and selling information about the rates and charges with commercial banks and with credit card companies, so that the website, for a fee (payable through PayPal or a major credit card) would enable an interested person to determine (through a formula available on the website) which credit card company and commercial bank in the area offers the best deal. You could show how users might be able to save up to a \$1,000 per year or more by using your site for the low fee of, say, \$10.

For copywriters, graphic designers, other artists, programmers, lawyers, and other professionals, there is a website available through which you can offer your services. Founded in 2000, the website was named [www.A2Zmoonlighter.com](http://www.A2Zmoonlighter.com), and during the past year or two it changed its name to [www.guru.com](http://www.guru.com). It has more than 366,000 freelance (self-employed) professionals, and more than 30,000 employers and businesses (including my self-employment business). Guru states in its website as general information:

*Guru.com is the world's largest online marketplace for freelance talent. Through our free service, employers find top freelance and contract talent locally or globally. Guru.com's Web-based marketplace directly connects businesses with freelancers who specialize in over 160 professional categories including: website design, programming, graphic design, business consulting, and administrative support.*

Not only is Guru.com a resource for you, it is instructive on what possibilities exist for self employment by you making use of a website.

I have said elsewhere in this book, and I am going to say it again at this point, that there are three languages which you need to know to have the

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best chance for business/self-employment success: (i) English, (ii) Law, and (iii) Website design and creation and related programming.

You do not need to go to college to acquire these skills. You can acquire the second and third skills through books and courses, and I presume you already have the first skill, but if not you should also work on that skill (English).

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.

I like to consider that I carry in my head a reasonably full toolkit of concepts which I can apply to analyze prospective business possibilities.

I have acquired this toolkit over a long period of time (starting with law school) and have added to my toolkit through courses, representation of clients, developing new business concepts without actually starting the business, and by actually starting various businesses (the longest one, my law practice as an individual, self-employed lawyer, since 1968, and my second longest one, Paralegal Institute, for 18 years starting in 1972).

The more experience you get the more concepts you will have in your toolkit.

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 characteristics, 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 (often no more than gray areas) that other attorneys don't see at all.

To be an inventive businessperson, you should learn about business, marketing, production, website design, and legal doctrines and how to apply them, and then have fun in finding the right combination of concepts and "inventiveness" to create an interesting and profitable self-employment situation for yourself.

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 business problems not formally presented to you but to do so for fun and challenge. You might find business problems to "solve" in the daily newspapers or wherever you go.

Here's an example of what I refer to as 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

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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 (legal) toolkit and pulled out the following relevant doctrines:

- (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.

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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](http://www.lawmall.com/hs). There are two sets, one for each of the two broadcaster proceedings.

Other examples of inventiveness are:

- My offering of shares in lawsuits (see [www.lawmall.com/lm\\_finan.html](http://www.lawmall.com/lm_finan.html) and [www.lawmall.com/files/suit\\_oc2.html](http://www.lawmall.com/files/suit_oc2.html))
- My lawsuit on behalf of a Roman Catholic priest against his church for fraud and breach of the priest's original contract [www.lawmall.com/files/tg\\_compl.html](http://www.lawmall.com/files/tg_compl.html)
- My suit for lawyers to establish their 1<sup>st</sup> Amendment right to advertise their practices.



Of course, you don't win all the time when relying upon inventive business practices. But inventiveness is needed to find a new gray area to exploit. Accordingly, I urge you to learn about business so you can apply what you learn inventively, hopefully for gray-area profits. You will be well rewarded over the years.

Inventiveness gets an assist when concepts are clearer, and because business has so many rules and regulations better business decisions are made when the applicable rules and regulations are known. It makes sense for a person going into self employment to spend some of his/her time taking a course or two in law (and I recommend contracts and torts, with civil procedure probably as a third course). Sociology 101 and Roman History are less important in paying your rent and maintaining your standard of living than a course or two in website programming and law.



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## Chapter 10 - 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 II 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-

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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,

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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 because 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 (ser-

vices 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 prohibiting 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

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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](http://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 employees), 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

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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 have self employment as my career goal?" It does so in many ways:

- The more concentrated the economy becomes, the more power the major corporations will have to lower wages in the United States and purchase goods and services from third-world countries at wage rates which cannot be met in this country. To put it another way, jobs as you know them are on the decline, together with the standard of living of persons who depend on jobs to earn a living.
- The more concentrated the economy becomes, the more opportunities there are for self employed businesspersons to find a need and fill it, or find a monopoly and fight it, as the basis for profitable self employment.

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 professional success of my classmate's father can and should be achieved by persons who become self employed and work at becoming successful. Jobs are increasingly less apt to lead one to

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financial success, as I see the overall economic picture.

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 corporate 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. Self employment is not inconsistent with college and advanced degrees, such as a law degree or architect's degree. 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

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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 a self-employed businessperson has a great opportunity for long-term and consistent profitability when the self-employed person works diligently in his/her chosen business activities. These prospects for self employment are not likely to change in the near future.



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## Chapter 11 - To What Extent Is Your Self-Employment Activities 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 persons with business skills. Business skills can and should be kept up to date. They should not be rendered obsolete with the passage of time because business skills are more related to the study of English or the study of pure mathematics than to the study of specific computer languages. Businesspersons through training and experience develop insights and skills which continue to be used over the years, and in most cases the longer a person has practiced his/her business skills the more valuable the skills become. Thus, there is no predictable obsolescence for the skills of a business person.

The problem of outsourcing and globalization remain, however. Whereas an employee cannot defend himself/herself from loss or depreciation of employment due to outsourcing and globalization, the same is not true of a self-employed person. The gold nuggets of outsourcing are available for the self employed persons to take, as long as the law permits such taking without restriction.

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When you as a self-employed businessperson put together the elements of your new business, you are going to have to figure out what aspects, if any, you may have to purchase through outsourcing, such as design work, website design, call center staffing, troubleshooting - and equally important what aspects of your business cannot profitably use outsourcing, because of language, cultural and time differences, among other factors.

You would think that lawyers are immune from outsourcing, but this is not true at all. Legal skills in due course will be acquired by English-speaking persons in other countries through internet low-cost law-course offerings, which will enable foreign workers to do many of the tasks at far lower cost than paralegals perform such tasks today.

Inevitably a significant amount of foreign outsourcing can be expected to take place that will reduce the demand for legal services from attorneys and paralegals 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 to small business owners including self employed persons.

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 small business in the U.S. dependent on varied skills 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



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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 small business owner in the United States, you would be able to compete more successfully if you learn how to integrate outsourcing of various 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 small business. Also, you should learn how to purchase some of the services you need from independent contractors. This will enable you to provide overall business services to your customers on a competitive basis - at a cost and value to your customers which will enable you to attract new customers, grow your business, and increasingly profit from your business.

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 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 business.

In making your outsourcing decisions, 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 foreigners' reduced familiarity with United States practices, business concepts and language.

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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 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.

Outsourcing to foreign countries can be a valuable resource for self employed persons or small businesses, enabling them to handle matters that they are otherwise not equipped with permanent staff to handle. So, rather than viewing outsourcing solely as a threat to one's business, outsourcing must be viewed as a potential competitive benefit, and certainly outsourcing may have to be used by you if you are to remain competitive.

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.

There is a real threat to American workers, first hitting employees, and then self employed persons, which is the 2.5 billion workers in China

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and India who are beginning to reach out for global employment or self-employment opportunities. This means offering their goods and services at far lower prices than could be offered in the United States using American employees and self employed persons because of the need for these persons to obtain enough income to pay their mortgages, student loans, and other living expenses at rates which enable the suppliers and their employees to do the same.

Because of the government's actions, every country in the world is able to access this market at prices which are a bargain, but at a cost which is destroying the American economy, or destroying it more quickly than it might otherwise be affected in the long run.

Self employment enables a person to fight for his/her income in whatever ways they devise, unlike employees who without any fault of their own, or any option to prevent the inevitable, wind up getting pink slipped, terminated, fired or whatever other term is used to refer to the economic disaster, thereby forcing the former employee to becoming a self-employed person far later than this should have taken place.

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## Chapter 12 - How the Economy Affects Demand for Small Business Goods and 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,

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orderlies, EKG technicians, nursing assistants, medical assistants, nurse technicians, patient care technicians, nurses aides.

Legal and legally-related 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 and supporting services 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.

Self employment will be needed to provide services even in downturns of the economy. Persons holding jobs tend to lose them in such downturns. But small businesses are able to adjust their rates to continue their business dealings, and to look for and exploit new areas at all times, which an employee cannot do.

I don't believe there is a lack of work at any stage of the economy. There is a required adjustment to set hourly rates which people can afford, and self employed persons are better able to offer low hourly legal rates than major corpora-

tions with their higher cost structure. It is quite possible that part of the nation's restructuring will occur in the services industry, with self-employed persons being sought by larger businesses to perform specialized tasks for short periods for the larger businesses trying to cut their overhead expenses (which you should note is another form of outsourcing).

### **Marketing Tools**

How would you like to reach prospective customers for your self-employment goods or 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 self employed persons trying to start up a new business. What I'm referring to is Google's AdWords. To see how it work go to [www.adwords.google.com/select](http://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 self-employed person interested in finding customers for vehicle repair services would buy an ad for the keywords "car repairs" or "vehicle repairs" and bid anywhere from \$.05 to \$.10 per click. When someone types in "car repairs" in their Google search, the 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 a service company to facilitate car repairs for customers in Brooklyn, New York, for example. One hundred referrals would cost the self employed person \$5 to \$10 and presumably out of 100 (or even up to 1,000) referrals, the advertiser could expect to get a number of paying customers (and later referrals).

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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 business services (including price competition), you should be able to develop some customers. Google's AdWords is a phenomenal marketing concept and you disregard it at your own small-business peril!

I have been an interested follower of professional advertising. 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 1<sup>st</sup> 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, small law firms and other self-employed businesspersons and professionals because of its low cost, its highly-targeted customer leads, and its flexibility of attracting prospective customers locally, area-wide, nationally and internationally, according to the businessperson's or professional's needs.

I see that the demand for self-employment services will be strong in good as well as in bad economic times, and that you can get an edge over other small businesses to capture a fair share of the available 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).

Self employment out of necessity increases during bad times, with reduced income or profit ex-



pectations, but this is better than an unemployed person having no income at all, and it enables a creative self-employed person to compete for income and do better that way, especially in comparison to the unemployed who ran out of options.



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**Chapter 13 - 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.

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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.

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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

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survive there are many things you can do to accomplish this goals, 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 cau-



tion 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

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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.

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## Chapter 14 - 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 marketplace for small-business goods and 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.

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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

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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

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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

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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

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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;
- 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;

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- 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

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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. government (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

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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 residential 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 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.

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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 high income as an employee (if you are lucky) and the resulting costs to you (*i.e.*, losing the first years of your self-employment life and becoming a non-equity employee or not being allowed to remain employed at all by your employer).

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 frustra-

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tion, 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

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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 self-employment career in a field of interest to you could be a most rewarding career.



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## Chapter 15 - 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

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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 assis-

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tance. 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 cannot be accomplished, and that a lifetime of economic impoverishment awaits

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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 decide to 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.

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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](http://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 multidisciplinary 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.

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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](http://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.Net, 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](http://www.polk.com/news/releases/2003_0129.asp)

Internet permits a person to focus on a narrow field of endeavor. A local manufacturing plant

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(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](mailto:carlpers@ix.netcom.com).

## **Chapter 16 - 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, and there is good reason for me to urge you to learn the language of law as part of your business education.

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 Asso-

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ciation (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 com-

petitive 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.

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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 activ-



ity, 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

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acquisitions wind up (as desired) eliminating competitors, 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 issu-

ing bonds to purchase subway cars, were the equivalent, 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 require-

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ment 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 terminated 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

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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.

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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

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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

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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.

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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 manufacturer in its original form (see [www.antimonopoly.com](http://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 taken some law courses than than in not having such law courses.



## Chapter 17 - Comparing Law School with MBA Program

The message of this book essentially is that most persons should forget about going to an expensive, campus college and instead should start immediately with self employment and acquire whatever additional education you need through low-cost internet or community-college courses.

I am sure that some of the readers of this book are not only considering costly college, but are thinking about going to law school, business school (MBA) or other graduate 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

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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.

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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 18 - The Paralegal Field - Comparing It with the Legal Field

The paralegal field is one in which self-employment is possible.

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 usually 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 also do work as independent contractors (as self-employed persons) and 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 19 - 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:

- 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.
- Peace of mind not having to worry about demotion, loss of income, competition.
- Status in the academic community and possibly elsewhere as a tenured professor.
- The forum to pass on what you know, including life as a tenured professional, to the younger generation, who will during your

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contacts with them hold you in much higher regard than you may come to hold yourself.

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

- 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.
- 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.
- 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

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

Of all people, small businesspersons have need of attorneys, but generally find that they are too expensive to use in litigation, particularly.

Small businesses with insufficient use of litigation attorneys probably agree, without thinking, with the news media hype that there should be restraints imposed on lawyers because of instances of frivolous litigation. It's strange that these same advocates of stifling litigation attorneys have no insight on how to stop or penalize the high corporate officials who deal with corporate funds as if they belonged to the high official.

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 become self employed, these attacks may result in the unjustified discouragement of self-employed businesspersons from using lawyers to protect their businesses.

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

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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.

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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 corporations 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](http://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 2<sup>nd</sup> or 3<sup>rd</sup> 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

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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 a lawyer which represents the poor has to be more professional than if he represents 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

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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](http://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 erroneous, 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

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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 (1<sup>st</sup> 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 1<sup>st</sup> 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.



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## Chapter 21 - Every New Self-Employed Person Should Own a "Laundromat" or a "Single-Borrower Bank"

I have been telling students and others for years that to be able to start a business or law practice on your own and turn away from "secure" employment with a major corporation, government agency or large law firm, the new attorney or businessperson 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 business or 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 or other business, or even managing real estate. Some students are fortunate. They can count on their parents to be their laundromat.

Probably the best way to finance your start up business or law practice 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 self employment, after which further borrowing will probably be unnecessary.

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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 high-school, college or law-school student most likely will not have enough assets to secure a bank loan.

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

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

The best thing available to the 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 sub-

stantial credit rating and borrowing power to enable you, as a graduate entrepreneur, to have enough capital to finance your new business or law practice for a year or so.

The start up costs of self-employment business or 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 as a lawyer or other significant sums as a businessperson, and paying back the loans faster and with less interest. This is much more valuable than loans taken out for 1st-tier college or 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 or practice 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 college or law school instead of the costly college or 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 college or legal education. The damage has already been done.

A final reflection upon loans: Repayment of student loans is not avoidable through bankruptcy, unlike credit-card loans used to start your small business. This is a significant further reason to avoid high-cost college, refuse a job, borrow responsibly using your credit cards, and start as

early as possible with self employment using these loan proceeds which can be avoided in the event of your business failure.

There may be some legitimate reason for the U.S. Government to clamp down on use of Bankruptcy Court to avoid payment of student loans, but this becomes an oppressive governmental policy when the U.S. Government fails to support policies which prevent the loss of jobs in the United States.

Also, it is not unfitting to reduce the income of institutions (student-loan supported colleges and universities) which provide the government-financed platform for economists and others to offer their paid opinions in support of the ever-increasing concentration of our economy and destruction of the American Way of Life.

## Chapter 22 - 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

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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 deduc-



tion 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.

One cautionary note, however, is that real estate seems to be at its high at the writing of this book, and can be expected to come down in price in the near future, especially since the Federal Reserve increased the discount rate at the end of June, 2004 by  $\frac{1}{4}\%$ .

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 1 Interest Table**

[source:  
[www.uic.edu/classes/ie/ie201/discretetcompoundintere  
sttables.html](http://www.uic.edu/classes/ie/ie201/discretetcompoundintere<br/>
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 compound 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 self-employment career, at the rate of perhaps 1 home, apartment or commercial property every 4 or 5 years or so.

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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.

## **Chapter 23 - The Advantages of Having No Employees in Your Business or Professional Practice**

Do you have any idea what it costs today to have a single employee, especially if the employee is highly skilled? 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

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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 program-

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ming 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



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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.

Of course, there are fundamental differences between a law practice and a business. The main one is that it is more difficult to obtain repeat sales of the same item in a law firm, which requires as a result that the employees be of much greater skill (ordinarily) than the employees of a business which makes and sells millions of the same items. Thus, the no-employee suggestion is far more applicable to a small law firm than it is to a small business for the newly self-employed. The value of the self-employed's business will probably depend on the number of employees which can be put to work profitably. But at the outset, while trying to establish the new business, the newly self-employed person should try to keep all expenses, including payroll, to a minimum.



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## **Chapter 24 - Litigation May Be the Only Way for Self-Employed Persons to Obtain Resolution of Some Problems**

A lot of reference has been made throughout this book to lawyers and litigation, and I want to try to bring together some useful thoughts about civil litigation relating to self-employed persons.

There is no category of litigation relating to self-employed persons, but self-employed persons will wind up in the courts, either as plaintiff or defendant, more frequently than a typical employee of a major corporation winds up in court, and should be prepared to do this as part of the activities of being in business.

Large corporations, financial institutions, and their controlling persons and other wealthy and powerful persons are not shy about using the courts, for almost any reason, including obtaining the U.S. Presidency for Bush II; evicting impoverished tenants who have fallen behind on their monthly rent; stopping small businesses from using a trademark which allegedly dilutes a trademark owned by a major corporation; obtaining an injunction and penalties from parents of children who downloaded songs for free using Napster; Wal-Mart suing Visa and Mastercard for charging excessive fees for debit-card transactions; and Wal-Mart suing Amazon to prevent Amazon from using the services of a handful of Wal-Mart's data-warehousing employees who Amazon had lured away from Wal-Mart.

From time to time a self-employed person may find himself/herself in court as a defendant, when refusing to give in to demands made by a former employee, a landlord, a contracting party, a bank or other creditor, or even a passer by who allegedly slipped and fell on an icy sidewalk.

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Courts are for resolution of non-political problems, and you have to view the courts as one of the tools or parts of your business.

The mafia doesn't need the courts to enforce obligations. They have their own judicial system which ensures compliance with mafia rules and regulations.

Use of the courts to enforce or obtain rights is most important for the weak, powerless and oppressed in our society. Large corporations have the power to get what they want without litigation, but a small businessperson seeking the same treatment from government officials or others will often get no answer to a reasonable request.

Farmers were driven off their farms in the United States by practices of major corporations which could have been opposed in the courts and which might have saved farmers from losing their farms. But the farmers never went into court as plaintiffs to enforce their rights under the federal Robinson-Patman Act. See my "farmgate" website on what farmers could have done at [www.lawmall.com/farmgate](http://www.lawmall.com/farmgate).

Your business may well depend on having you file an action to stop someone from stealing what you have done - *i.e.*, trying to take away customers, business and profits from you using practices which are unlawful under one or more laws or legal doctrines.

You should be prepared to defend your property and business from such injury by going into court when necessary to obtain the necessary relief. This is what business is all about. It is often foolish to refuse to go into court, especially to be able to continue saying "I am very proud that I have never had to go into court during the 10 years that I've been in business." Businesspersons who think like that are apt to lose their businesses.

Your business is your financial security and you, and you alone, must protect that business from unwarranted loss and destruction, which means you should be prepared to use the courts to enforce your rights when it is reasonable to do so. You have to weigh the costs and benefits, of course.

At times I have had to counsel small business persons that the value of what they are trying to protect exceeds the money they will have to spend to defend themselves, or to commence and maintain an action to stop someone from injuring their business. In such cases, I suggest they find something else to do, because the value of what they have is not worth the cost it would take to save the property.

It is important for you as a prospective or actual self-employed person to understand not only why lawsuits are needed, but how lawsuits are ended. Lawsuits can last a long time, but they generally do not. My first lawsuit as a litigating attorney lasted 18 years. But most lawsuits end within the period of a several months up to a year or so.

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 such anti-litigation baggage should be 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 plaintiff'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

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party to litigation just refuses to settle at all, various problems will arise, especially for the party.

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 (made through the party's attorney) that the parties engage in non-binding mediation 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 refuses to settle, goes to trial instead, and loses the criminal trial (which is apt to happen). 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 your attorney may want you to understand this fact before agreeing to represent you in a lawsuit to be commenced by you. You and your lawyer may have wholly opposite views on 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 you, as a dissatisfied client, to the judicial group exercising disciplinary powers over attorneys.

Understand the limitations of litigation. 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, with resulting reduction in litigation costs in comparison to litigation which "goes all the way", without settlement.



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## Chapter 25 - How to Finance the Start of Your Self-Employment Activities

The first thing you need to know about self-employment is that profits are not made right away. It may take some time for income from the new enterprise to cover the related expenses. This means that you will have to support yourself with other funds for a period of time. This can be done in various ways, such as by obtaining suitable employment which gives you the freedom to start up and run your new business, by funds obtained from willing parents or from trust funds of which you are a beneficiary.

Yet, there are some things you could do to make it more feasible for you to open up your own business. The first thing for you to consider before deciding to go to college 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 college with evening classes and live at home, you can possibly get through college without any significant debt, and not need a high-paying job to pay off student loans.

As an aside, I have been telling people over the years that to practice law on their own, after graduation from law school, they need to acquire a "laundromat" for themselves, one which permits them to pay their living expenses while trying to develop a paying and profitable law practice as an individual practitioner. See chapter 21 for details on starting a laundromat.

The most important source of capital for starting your new self-employed business can be from credit cards. While in college or while working in a job for an employer, you should get many credit cards (perhaps 8-15 in number), and use them

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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 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 perhaps 1-2 years before starting your self employment, 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 new business. 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 the income you can make from a small business 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 business, without taking time off to work as an employee.

If you do plan to obtain a college degree, you should also plan to get through college without owing any money by picking a low-cost college near your home, and live at home, or enroll in a low-cost online college; obtain summer employment and save your money; get a "laundromat" going for yourself; go into shared offices with other small businesspersons, if appropriate for your type of new business; and use credit cards wisely to finance your new business during its formative first and second years.

## Chapter 26 - Some Important Skills You Should Have to Compete in Business

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. A single employee of a major corporation does not have to have as many skills as a self-employed individual because the corporation can afford to hire hundreds of persons with different skills when needed to carry out the corporation's business.

However, the self-employed person 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 self-employed individual 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 self-employed individual should ideally have are, probably:

- 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

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or copy CDRoms); WinFaxPro (to send broadcast faxes to computer lists of customers or prospective customers)

- Driver's license
- 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 customers and prospective customers; and
- research capability using internet search engines.

Some of these skills can be purchased as needed. As an individual practitioner of law I work alone. 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.

I suggest that when starting your self-employment business you keep your expenses, including your monthly running expenses, to a bare minimum, to give you an extended period of time to search for and reach profitability. At that point, you can take a break from entrepreneurship and put on your manager's hat to take your business into increasing levels of profitability.

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## **Chapter 27 - The Most Compelling Reason to Attend Law School**

As long as you are thinking about your career, let me put in a plug for the legal field. You have seen from other parts of this book that law is an integral part of business, and I have emphasized your need to take some law courses to orient you to the way lawyers think.

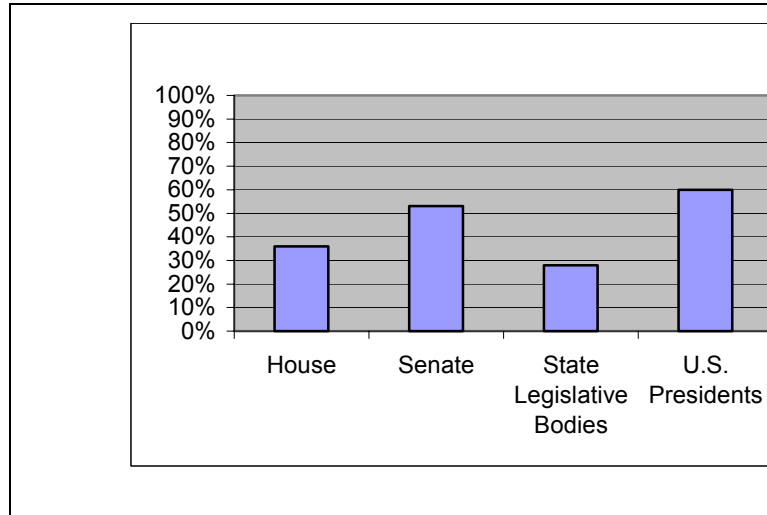
Why not consider attending law school and obtaining a law degree. Many persons have done this or are currently doing this, especially with the new online law schools.

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 2: 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

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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.



<b>Occupation</b>	<b>Hourly Rate</b>
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 3: 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 language, you will be able to start and maintain businesses, buy and sell real estate, as well as participate more meaningfully in litigation.

The income potential is quite adequate for an attorney, and 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.



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## **Chapter 28 - 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](http://www.lawmall.com). I try to help each caller and never for a fee. In many instances, I try to give 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.

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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](http://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, in my business and professional activities, and I suggest that you use your own inventiveness or ingenuity to be able to compete successfully in your selected self-employment area.

I'm offering that same free service to you, as a reader of this book (within limits of course, including my need to avoid conflicts of interest and disclosure of information imparted to me under confidentiality agreements or an attorney-client relationship).

Consider me as another resource to you. Of course, after a certain amount of assistance I would probably start imposing limitations or obstacles, or 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 [carlpers@ix.netcom.com](mailto:carlpers@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 - Useful Websites for Self-Employed Persons

For persons who are self employed, or considering self employment, I highly recommend that you look at the following websites:

1. [www.guru.com](http://www.guru.com), a website for offering, searching for, selling and buying professional services of all types, with more than 366,000 professionals throughout the world offering their services through the website to more than 30,000 users of such services.

2. [www.elance.com](http://www.elance.com), which states it is "a marketplace that lets small businesses outsource projects - including web development, graphic design, software, writing and more - to our global pool of service providers"

3. [www.monster.com](http://www.monster.com), the leading website for persons seeking employment, and it would seem a possibility for obtaining non-employment if an employer can't find a suitable employee.

4. [www.w-care.com](http://www.w-care.com), website for the National Association of Self-Employed, claiming to have helped "hundreds of thousands" of self-employed persons.

5. Study "Aging and Work - A View from the United States", by Sara E. Rix, Ph.D., February, 2004, published by the AARP at [http://research.aarp.org/econ/2004\\_02\\_work.pdf](http://research.aarp.org/econ/2004_02_work.pdf), which touches upon self-employment among older workers.

6. CNN report "Finding Security in Self Employment - Is it worth it to go out on my own?", 6/29/04, an interesting article by Lewis Schiff, including a checklist for "secure self-employment", [http://money.cnn.com/2004/06/29/pf/armchair\\_selfemployment/](http://money.cnn.com/2004/06/29/pf/armchair_selfemployment/) (which address you should probably cut and paste).

7. Small Business and Self-Employment Resources compiled by the Internal Revenue Service, found at a complicated internet address which I recommend you cut and paste to avoid errors: <http://www.irs.gov/businesses/small/content/0,,id=98864,00.html>.

8. "What Effect Does Recession Have on the Construction Industry - What Is the Effect and How Can a Small Firm Survive during these Periods?", an article by an essay database website in the United Kingdom which discusses alternatives for employees including self employment - to cut bank on your time and avoid error, you could copy and paste: [http://www.courseworkbank.co.uk/coursework/effect\\_does\\_recession\\_have\\_on\\_construction\\_industry\\_1686/](http://www.courseworkbank.co.uk/coursework/effect_does_recession_have_on_construction_industry_1686/)

9. Pamphlet I wrote in 1994 (published at [www.lawmall.com/files/pamphle6.html](http://www.lawmall.com/files/pamphle6.html)) entitled "*What You Should Know before Starting a New Business in NYC - A self-help manual for persons wanting to start a new business in New York City or acquire 'business experience in NYC' as if they owned and suffered with one, including licensing and other regulatory requirements, as well as practical tips to save money and help your business survive and grow*", a useful source of information for anyone wanting to become self employed (i.e., wanting to start a new business), with the following chapters:

1. Why Do People Start New Businesses?
2. What Types of Persons Start Businesses?
3. Business Entities - Take Your Pick
4. Licensing Not Required, Except ....
5. Creating and Reserving a Name for Your Business
6. Trademarks - Creating, Reserving and Applying for
7. Outlining the Main Aspects of Your Business
8. Employer's Tax Identification No.
9. NYS Authority to Collect Sales Taxes
10. Using an Attorney; the Fees
11. Using an Accountant; the Fees
12. Types of Taxes You Will Encounter
13. Regulatory Agencies
14. Minimum Capital Requirements
15. Raising Capital Is Easy
16. Bankruptcy and Insolvency Laws

17. Sources for Assistance and My Small Business Group
18. Opening Your Bank Accounts
19. Compliance with Labor Laws
20. Auctions for Low-Cost Furniture & Equipment
21. Avoiding NYC Occupancy Taxes
22. Inspections and C of O's
23. Hiring Employees
24. Protection of Your Ideas
25. Postal Bulk-Mailing Permit
26. Postage-Meter Licensing
27. Franchising - Both Sides
28. Offering Securities to Raise Capital
29. Environmental Inspection and Concerns
30. Vehicles: Licensing and Parking
31. Advertising Rules Prohibiting Fraud
32. A Warning about Your Overhead
33. Low-Cost Start-Up Location & Office in Your Home
34. Insurance & Bond Considerations
35. Useful Telephone Numbers
36. A Final Word
37. Appendix of Forms

10. Professional Career Development Institute, at [www.pcdi.edu/index1.html](http://www.pcdi.edu/index1.html), which provides "distance education programs" some of which are useful for persons wanting to become self employed. "Distance education" means, of course, correspondence or online instruction, without class attendance.

11. A series of about 20 articles I wrote in 1994 pointing out and complaining about the direction our economy was taking. See [www.lawmall.com/losers/lm\\_mag01.html](http://www.lawmall.com/losers/lm_mag01.html) for links to these articles:

*Free Help Available - E-Mail Your Problem to Magazine Editor*

*Little-Understood Ways in Which Law Injures Our Economy*

*The Star System for Wealth Distribution*

*What the Middle Class Can Expect from the Economy*

*The Role of Education in Our Economy*

*Other Reformers Come Close to Recognizing the Problems and Solutions*

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*Losers Unite for Prosperity!*

*Why the Rich Get Richer and the Middle Class and Small  
Business Get Poorer*

*Politics, Big Business, Big Government, Big Media - It's  
All Part of One Big Economic Package*

*An Incomplete Checklist of Problems Which If Solved  
Would Permit a Fair Division of the Economic Pie*

*How Government Policy Is Destroying the Middle Class*

*Why Things Are Destined to Get Worse for the Middle  
Class and Small Business*

*How to Survive as a Victim of Downsizing*

*Where Were You When I Was Losing My Rights?*

*How News Is Created - Elvis Sighting!*

*If You Don't Know What's Wrong, Think Competition*

*How Laws (Not Litigation) Stifle the Economy*

*Benefits of Economic Deregulation - A Look into the Fu-  
ture*

*Don't Start Off by Incorporating*

*Employees Are Created by and for Big Business and Big  
Government*

[End of List of 1994 Articles by Carl E. Per-  
son]



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**APPENDIX B - How a Wall Street Legal Practice Based on a Single Point of Law Resulted in the Election of President Richard Milhaus Nixon**

There are thousands of fields of law, sometimes considered specialty fields under the major fields of law. One of these specialty fields of law 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

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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 C - Information Sources**

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**APPENDIX D - Pamphlet "How to Develop and  
Market Your Creativity--(A Self-  
Improvement Manual on Creativity)"**

**How to become creative or increase your creativity;**

**How to focus on the things you want to accomplish;**

**How to sell and profit from your creativity.**

**(July 1994 Revision)**

**by Attorney Carl E. Person**

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## **1. What This Pamphlet Can Do for You**

I would read a pamphlet of this subject matter if written by someone else because it is difficult to write. I have insights into creativity which I would like to share with you, the readers, and these insights should help you recognize your creativity and motivate you to use it to profitable advantage.

Creativity can be hidden like the beauty of a plain-looking woman, plain only because she makes herself look that way. Most "plain-looking" woman, with enough work, can turn themselves into "attractive" women.

For many people, creativity can be brought out and exercised. This is the main purpose of this pamphlet, to get you to focus on your creativity and use it to your maximum advantage.

In other words, I want to show you how to make money with your creativity, and develop a confidence in using your creativity.

"Creativity" is not easy to define. The Random House Dictionary of the English Language defines it as "The state or quality of being creative" and "creative ability or process". "Creative" is defined as "having the power or quality of creating" and "resulting from originality of thought, expression, etc."

Philosophers have written books on creativity, such as *Creativity - The Magic Synthesis* by Silvano Arieti (Basic Books, a Div. of HarperCollins Publishers 1979) consisting of 448 pages; and *The Creative Mind - Myths & Mechanisms* by Margaret A. Boden (Basic Books, a Div. of HarperCollins Publishers 1991) consisting of 303 pages, which try to explain creativity but not in a practical way for persons seeking help in increasing their creativity. I say "increasing" because virtually all of us (or at least the persons reading this book-

let) are creative to some extent, but some persons a lot more than others. Clearly, high intelligence is not required for great creativity, but a minimum I.Q. of perhaps 120 is suggested as a minimum requirement for a "creative" person. (Because of the cultural and other bias inherent in I.Q. measurement, 120 is not a reliable requirement.)

## **2. The Author's Creativity Credentials**

I would wonder also whether the author of this pamphlet you are reading has the credentials to talk about the subject. I have no reticence about discussing creativity in general or my own in particular. I recognize that I am creative, which has been a main factor in the career path I have chosen (or perhaps my creativity has chosen for me).

I am a high school drop out, and after serving 3 non-distinctive years in the Army (age 17-19), I left the Army to go to college, which I completed in 3 years (3rd in my class), and went on to Harvard Law School, graduating from Harvard in 1962.

I was not able to get to the top of my class of 500 students, even though I tried as hard as I could, and perhaps harder than 95-99% of my classmates. I was certainly motivated to try to wind up at the top of my class, and I cannot now say "If I only tried harder." I tried as hard as I could and it was not enough.

I am an inventor of many inventions, two of which I have applied for and receipt a U.S. patent, including a portable navigational system for automobiles (which in essence is a data processing system for determining how to get from one point to another), a n invention designed to eliminate which I call "map clutter" making maps difficult to read. I have various inventions ready for patenting, but the time and cost involved make patents something less than affordable for the average inventor (and causes a loss of protection for American inventors in their own United States market).

Also, for more than 20 years I have been developing a field of law which although unofficial I refer to as "theft of idea" law, which is part of the larger field of "intellectual property". For many years I have also assisted businesses as a securities lawyer in the raising of capital, both publicly and privately.

I was the first lawyer in the world (I believe) to sue for the right to advertise as a lawyer, the first to sue for and win the right to sell

shares in lawsuits; I conceived of the National Private Court, a for-profit court system modeled after the federal courts which would compete with the governmental courts; and am currently engaged in litigation on behalf of clients who claim their submitted screenplay ideas were misappropriated by various movie studios and others when producing some highly successful (and some less successful) movies.

I have written some books (such as *The Save-by-Borrowing Technique*, published in hardcover by Doubleday), some of which are unpublished, and I created two career fields: (i) the paralegal field (having started the 2nd paralegal school in the United States back in 1972); and (ii) the "personal assistant" field, which is still unknown and something not yet completed, which could solve many of the problems of small business if the field were ever to get started. I estimate that the personal assistant field could result in small-business growth in the United States which could more than offset the country's current balance of payments problems. Trying to sell that idea is more difficult than the idea itself, and requires a great degree of creativity, perhaps more than I have.

I recognize that there are many persons who are "better" than I am, using whatever standards by which persons are judged. But these man-made standards don't take all relevant factors into account and often cause the inner worth of persons (such as you and perhaps me) not to be valued highly enough.

In other words, you may well have a lot more creativity than one would suspect from your academic or other achievements to date. I would like to help you see if this is true.

### **3. The Rewards and Areas of Creativity**

Creativity is something very special in our society and economy and seems to be one of the main bases on which wealth is allocated to persons without capital. Also, it is the way substantial additional wealth is created for persons with capital.

Why are there rewards for creativity? The answer, as I see it, is that problems exist because solutions have not been devised or recognized. This is true as well with inventions. Inventions are conceived because of problems which exist for a length of time before a solution is found to the problem. Problems can be translated into money,



and the person who finds the solution to problems should, you would think, be able to prosper. But more often than not, this is not the case.

People will pay money to cure a problem. It's worth it to them to have the problem go away. Why, then, if a creative person finds a solution to a problem, isn't the creative person remunerated for coming up with the solution? I'll answer that in a moment.

Another type of creativity is in the field of show business and entertainment. Creativity is compensated with millions of dollars, but not all creative persons receive millions of dollars for their creativity. Only a very select few obtain these millions. Why is that? Is the typical creative person doing something wrong?

What we have to realize is that creativity is rewarded in relation to a marketplace, and the marketplace must be understood to try to maximize the rewards to a creative person.

A person who gives away his creativity by singing to the public on a sidewalk, with a hat to receive contributions from onlookers, will probably never obtain wealth from his/her creativity. Perhaps the person will enjoy a comfortable (tax-free) living, but not major wealth. A person who voluntarily offers a solution to a problem receives no compensation because there is no requirement under law to pay (absent a valid patent covering the idea). The information was given away with a mere hope for payment.

A less creative person can wind up as a television or movie star and sell this lesser amount of creativity for tens of millions of dollars.

The answer to this can be found in the structure of the market for such creativity. The market in the street is pennies, nickels and dimes voluntarily donated, and doesn't amount to very much for the creative street performer.

But the market for the services of TV and movie actors and actresses is very complicated, and involves many different creative persons in many different areas of the industry who collectively get together to sell the services of the designated "star" in tens of thousands of controlled movie outlets or thousands of controlled TV stations, with the predictable result that a percentage of the featured performers will become "stars" and command very high salaries for what essential is the work of the others who made them into "stars".

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The creativity of the star is not what made the person a star, although to some extent it obviously helped. The star has been fortunate in winding up near or at the top of a market involving billions of dollars of distribution machinery, movie theater as sets, TV networks and TV stations, which are then used to gather billions of dollars from the home video market and other markets, both domestic and foreign.

The "star" is the beneficiary of all this, and the amount paid to the star is somewhat of a gift, during the period the star is becoming a star, and thereafter the gift becomes a market value to the star, and the star is able to command high prices to help others in the industry make billions of dollars of sales in movies or music which often isn't very memorable.

To put it another way, a star who makes his/her own full-length film and also distributes the film, will find that the "star" is worth less than nothing. The project will ordinarily lose money, and "prove" that the star has no value. But this is so only in that type of market.

In the mainstream movie market, with 7 major movie studios, there are a few persons elevated to stardom, often having some degree of creativity, but these rewards are not paid for persons having the highest amount of creativity.

It can be said, generally, that you do not have to have the most creativity to make the most amount of money.

Some of the biggest fortunes have been made selling hamburgers, groceries and orange juice.

Accordingly, this pamphlet is not trying to make you more one of the most creative persons in your field, but to try to help you identify, control and use your creativity to bring in the rewards which are available to some, but not all, creative persons.

You must consider markets and their structure when you consider creativity.

I am an antitrust lawyer and economist and deal with markets and their structure on a daily basis.

#### 4. A Look at the Creative Process

I have the ability to synthesize things, which I believe is indicative of or the reason for my creativity. I'm not sure which, or maybe it is a combination of both.

I can take ten thousand facts, remember them for a very short period of time, and put together a story, picture or vision of the related or salient facts drawn from the 10,000 facts. This ability to draw from, say, 10,000 facts and use only the most relevant or most related to come up with a story or picture (of what happened to cause a particular lawsuit) is no more than what all of us do on a daily basis.

But instead of drawing from materials in a lawsuit (such as deposition and trial transcripts, complaints, answers and other pleadings, affidavits, research and other evidence), most of us have a lifetime of specific and general knowledge which amounts to far more than 10,000 facts.

In some complicated fashion, the mind assigns importance and relationships to these thousands of bits of information, and the creative person can put the whole picture together better and more quickly than a non-creative person.

Whatever your life's education and experience is, you carry it around with you and it is what you draw upon when necessary. Some persons have lots of experiences as well as words in their vocabulary, and others have a lot less. It is more difficult for a person with a limited background to be as creative in a broader sense as the person with a broad background. Obviously, however, people who have limited general backgrounds may have highly intensive backgrounds in specialized areas, and be far more creative (say, in figuring out what's wrong with an automotive engine) than the more creative person without that automotive background.

The way in which you draw upon your own fund of information and experience is an essential part of the creative process, I believe.

No matter what fund of information you have to work with, the creativity I'm talking about is to take parts of the existing information and create something new, which often solves an existing problem.

If you go about life minding your own business, and not trying to find out about the way in which other people do things, you are going to be less exposed to problems. Of course, you undoubtedly do

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have some problems of your own which you haven't solved, but perhaps you haven't solved your own problems because you never obtained much experience in attempting to solve, gratuitously, the problems of others.

I believe that my creativity stems from actively being interested in what others do, finding out about the things which seem to be problems to them, and then as an outsider (with no preconceived notion of how to cure the problem) trying to figure out a solution. Because of my own unrelated background, any solution I come up with is apt to be different (which can be translated into "creative" by persons who are in the industry but never thought of my solution).

With enough experience solving the problems of others (at least theoretically solving such person's problems, as an exercise), I have developed a substantial experience (as a volunteer, you might say) in problem solving, in "creative" ways, which enables me to apply the skill to any area. An insight into problem solving, which should help you to find solutions to problems, is this: The extent to which you can define a problem accurately is the extent to which you often point out (or "create") the solution.

Here is a case in point. Assume you have a 1-ton printing press on the floor of your living room or office and the problem is that it doesn't work. That is a real problem, or is it.

If you had someone look at the equipment who knows how to repair and operate such printing equipment, he would merely go over to the machine, turn it on, and tell you that there never was a problem. The equipment is in working order.

Thus, what was a problem to you, was not a problem to the other person. You had failed to define the problem to the degree that the experienced printing-press expert was able to define the problem. He looked at the non-operating press and with his experience in solving problems of a similar type started thinking to himself, (i) is the press plugged in; (ii) if so, has the press been turned on. He then saw that it was not, turned it on, and the press worked. If the press didn't work at that point, he might then check for any blown fuses, or any shorted electrical components, and so on. But his/her experience enables the expert able to come up with a solution.

What I want you to do to become more creative is look for problems and try to find solutions. This is no more than "finding a need and filling it", which is "necessity", the mother of invention.

So, let's take a creative walk down or up 8th Avenue in Manhattan. What do you see? What do you like to see? I see stalled vehicles (a problem); persons who can't find a taxicab (another problem); road repairs in progress (another problem); long waits for the city bus (another problem); drug dealers (another problem); unemployed persons (another problem); persons on welfare (another problem); pedestrians or vehicles blocking the intersection causing traffic congestion or "gridlock" (another problem); too many or too few police (another problem); too few persons attending a \$2 per person movie house (another problem); too many persons attending a movie house 2 blocks away (another problem), and so on.

My creativity in part is to see that a problem exists, or that there may be a problem. And then I try to figure out what can be done to alleviate this actual or imagined problem, which is putting my creativity to work to come up with a solution.

When you do this on a regular basis, you will enjoy the process. You don't have to do anything about most of your creativity, except enjoy the process and ride. You don't have to take down notes, although this is also creative and can be exciting even.

For example, if you have figured out a way to market a full-length feature film which has no known star (a problem which my wife and I have), please let me know. There are various ways to attack the problem, from video cassette marketing (and by-passing theatrical distribution), four-walling (rental of a motion picture theater to exhibit the film), to raising money for a big theatrical opening in New York City and hope that you can beat the odds. When I get a chance, I'll work on this problem. In fact, I even opened up a school about 15 years ago called the New York Film Institute as part of my efforts in the filmmaking business. When we were mixing the sound track of the film, the sound studio we were using (V & W Sound Transfers, Inc., in New York, NY) announced it was going to go out of business, and I bought the studio to enable our film mix to continue.

Your creativity and creative process should be stimulated by the exercise of looking for problems wherever you go and in whatever you do. I don't mean, however, that you should tell people you are look-

ing for problems, or that any problems exist in your opinion. Ask about what a person is doing and does he/she have any problems. Or ask how he/she does something, and you may learn that there is a problem. Once you have a problem identified in a general sense, try to see how much you can learn about the problem to bring the problem down to its core, which probably is, or will suggest to you, the solution. This is the other half of the creative process.

Of course, doing something about the problem is something else, and that too is creative. Many of us are mere thinkers, or professors, with an opinion on anything and every thing, but with no practical way to be compensated for the creativity.

### **5. How Genius and Insanity Are Often Confused**

I have often wondered whether there is any truth to the saying that genius is only a short distance away from insanity.

What is meant by that saying?

I believe that a genius is different from most persons, saying and thinking things which are not expected or understood by most persons. Because what a genius says is not appreciated by most persons, the genius is looked upon as odd, different and perhaps even somewhat "crazy", in the sense that he says and does things which normal people don't do or say. The insane person acts the same way, at least to many normal people, and the difference between genius and insanity is not detectable to many people so that to them there may be insufficient difference to make a difference.

One researcher reported that there was only a 5% overlap between creativity and insanity, and dismissed any meaningful correlation.

I find that in law there is a limit to inventiveness. Law can be found to support either side of an argument, and the judges are there to come up with a "just" decision, even though there is no law requiring any such decision. This is the argument of a small group of Harvard Law professors known as the "Crits" (short for the Critical Legal Studies movement at Harvard), who claim that there is no law and presumably that the study of law is a waste of time because judges decide cases the way they want to decide them irrespective of the law.

One last observation comes to mind. In "One Flew Over the Cuckoo's Nest", Jack Nicholson was in an insane asylum, behind a Cyclone fence, watching a motorist change a flat tire. All of the 4 lugs fell down the storm drain and the motorist was obviously perplexed. Nicholson told him to take one lug from each of the other 3 wheels and use them to secure the 4th wheel. The motorist showed his surprise that he was getting help from an obvious inmate of a mental institution, and Nicholson said: I may be crazy, but I'm not stupid!"

## **6. How Does Intelligence Differ from Creativity?**

Creativity is the use of one's intelligence. An intelligent person does not have to be creative. The person may not be interested in problems or their solutions. To translate that into the performing arts, an intelligent person may not apply this intelligence into performances which are commercial. Creativity for a performer or creative artist is doing what they do in a way which is different, distinctive and appealing or commercial.

An unappealing performance or work might have required a substantial effort, but we probably would not call it creative because it lacks appeal or commerciality.

The most intelligent performer in the world isn't necessarily the most creative, but it does help a creative person to have intelligence. Creativity can be enhanced by intelligence, but it may lead a performer to create more than the judge (the public) can accept, with the result of public rejection of the attempt at creativity.

What we see is that creativity often fails for the creative person if it cannot be sold, so that the creative person fails in his/her creativity if the exercise of it for profit results in no profit.

I believe that there is a range of possible creativity among persons with above-average intelligence that would allow them to prosper with their creativity in many markets. It isn't necessary to be super intelligent or a genius to exercise and profit from creativity, and it behooves most persons who are above average in their intelligence to develop their creativity and expect to profit from such development.

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## **7. How to Determine If You Are Creative**

Creativity can be acquired, I believe. But first of all, you should try to determine if you have it.

To do this I suggest that you try to write a few Top 10 Lists for David Letterman, picking any topics which you believe are suitable. You will be using your creativity in picking the topics, and you will use your creativity in putting your top 10 lists together. Then, try your hand at coming up with 10 new business ideas or 10 funny jokes. This is far more practical and a lot of fun, once you put your mind to it. I can come up with a new business idea in several minutes, and can flesh it out in about an hour, based on the experience I have had over the years in business or as a lawyer to businesses.

Finally, try outline some short stories or novellas, or prepare some 2-3 page outlines for a movie screenplay, or try writing a song or two.

All of these are creative efforts which will allow you to experience the range of material and the process of selecting what you want from the material or information available to you.

You will be able to judge whether you are creative, I believe.

That is just a start. After you have determined for yourself whether you are creative, and to what extent, I want you to spend several days (during your non-working hours) looking for problems wherever you go, and trying to come up with solutions. This type of experience, on a continual basis, will train you to be creative to a much greater extent, and will enhance your creative skills through experience.

I can't act, but if I took acting lessons and practiced acting, I'm sure I could improve.

I believe creativity is similar. Practice being creative, and you will become more creative. At some point along the way (such as with trying to come up with new business ideas) try to direct your creativity to markets where you have a chance of obtaining compensation for your creativity.

## **8. How to Determine If Someone Else Is Creative**

This is a tough part to write, because some of the information I need is not available. For example, I would like to know whether a person



with an 80 I.Q. is able to discern degrees of intelligence substantially higher than his/her own. This leads into the issue of whether (aside from I.Q. tests) it takes an intelligent person to recognize intelligence in someone else, and to what extent.

If you don't know what a person is talking about, what makes you believe that what the person is saying is correct (and therefore that such person is "intelligent"). It is possible that the person is not intelligent at all and is "crazy" to be making a lot of high-sounding but inaccurate statements.

Nevertheless, with these and other pitfalls in mind, I find that intelligence can be determined inductively by:

1. **The Eyes of the Person.** A bright person often has a bright appearance in the eyes, as if the eyes were a mirror to the mind, which they may well be to some extent;
2. **The Extent of a Person's Memory.** The more a person can remember the more intelligent such person would tend to be (setting aside the idiot savant problem, where a person has a prodigious memory but can't put it together).
3. **Synthesis - the Ability to Put Things Together.** This skill appears to be the sine qua non for intelligence as well as creativity.
4. **Immersed in Subject.** The creative person is often immersed in a subject which enables him/her to explore many of the intricacies, which permit the wandering mind to come to a better solution by taking more aspects to the problem into account.
5. **Grasping a Point before It Is Made.** The ability to jump ahead and predict what another person is getting set to say, especially if the persons do not know each other (this puts aside as a different phenomenon the relationship between close friends, family, married couples where two close persons can "read" each other's thoughts to some extent).
6. **Inventiveness.** The ability to invent things, which means that the holder of numerous patents (assuming the holder is also the inventor) would have a good chance of being intelligent. I was the attorney for a person who now holds more patents than any other living United States citizen. My observations of him are reflected in part in this section.

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7. **The Ability to Detect Differences.** Once, I took the deposition of the person in charge of toy design and development for a major toy company. He testified that he could look at any new toy and see what if anything was new and materials from the thousands of toys which he has seen in his career. Lawyers thrive on creating differences, often when none in fact exist. Recognizing differences is a sign of intelligence, and leads into the next item, which is categorization.

8. **The Ability to Categorize.** This trait is usually related to vocabulary, and enables a person who spots a difference to put such difference into a category which enables the person to file the difference in his or her mind, to enable the person to recall the difference more easily when necessary.

9. **Vocabulary.** A person who has a good vocabulary is more apt to be intelligent (or more intelligent) than a person with a limited vocabulary. Granted, there is often a social bias to vocabulary, and if so, then there is a social bias to creativity and intelligence. But be this as it may, a person with a good vocabulary has the ability to put a name to a category which he/she perceives, and to juggle around complicated concepts by the manipulation of ideas expressed by words or phrases, rather than by more complicated non-verbal reasoning. It is no accident that judges have the largest vocabulary of all occupations in the United States, followed behind them by lawyers who are not judges. I find that my vocabulary, which is extensive (as is the vocabulary of most lawyers) enables me to understand more of what I experience, because the vocabulary enables me to categorize things which I perceive and put them into a socially or economically useful context more readily. Researchers have determined that childhood memories are forgotten if the child did not develop the vocabulary to categorize (and recall) the memories.

If you want to build your vocabulary, which is obviously one of the best things to do, whether you intended to be creative or not, you could do what I did, which is read the entire New York Times each day (Monday through Saturday), and underline in red each word you don't understand, and then look up each word. You'll develop a vocabulary at a very fast rate, and find that within perhaps two months you will stop looking up all but a few words.

10. **Spelling.** A creative person often has the ability to spell correctly. Someone who isn't able to spell well may have a dysfunc-

tion, or may not have had a good education, or in some cases would not benefit from a good education to make much of a difference with his/her spelling. I assume that for most persons who do not spell too well, the problem is one of education and application, and that the deficiency can be corrected by attention to the problem. Thus, for persons who want to be creative, any perceived deficiency in spelling or any of the other areas for detecting intelligence should be worked on, to improve one-self by developing the skills which are used in and are a probable sign of creativity and intelligence. One way to work on spelling would be to use a word processing program such as Word or WordPerfect to write a story (which would be developing other creative skills), and then use the spelling-check feature to point out and correct your spelling mistakes. You no longer need a teacher to do this for you.

11. **Non-Verbal Reasoning.** Various tests exist which test people for their non-verbal skills, which tests results can be used to indicate intelligence and to a lesser extent creativity.

12. **Crossword Puzzle Expertise.** It seems to me that the creative process is brought out in the successful completion of crossword puzzles (at least the difficult ones). The skill is one of running through your mind to try to come up with words which fit the given "concept" or definition, within the parameters provided by the puzzle, such as a 5-letter word the middle letter of which is "j". I'm not sure how an idiot savant would make out with crossword puzzles. He/she would have a dictionary at his/her disposal, but may not be able to sift through the words the way a computer could do to sort out the words which meet the requirement of the puzzle.

13. **Anagrams and Unscrambling Words.** These are words which are scrambled and which must be unscrambled to be solved. The person who succeeds in unscrambling the letters goes through a process similar to the person who does crossword puzzles. There are shortcuts, I am sure, which persons take when they leap to a conclusion faster than others. My 10-year old son is able to unscramble the letters in the movie theater faster than I can, which sometimes ticks me off when he shouts out the results, since it brings to an end and ruins my own creative processes.

14. **Plays Chess Well.** A chess player, or at least a good one, uses creativity and intelligence to be able to look ahead and plot the

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moves and alternative modes needed to counter the moves of the opponent. This takes a great degree of creativity, I believe.

15. **Quick-Witted Responses.** Another sign of creativity is an ability to respond quickly in situations with witty or other appropriate statements. Thus, the way in which a person talks with you is indicative, to me at least, of the other person's creativity. Various researchers have pointed out that comics tend to be very creative, or presumably get nowhere and leave the business. Thus, there may be a certain amount of selectivity which accounts for the conclusion that comics tend to be more creative than others. Maybe it's only the more successful comics.

16. **Ability to Recite Long Passages.** A person who can remember numerous lengthy passages of prose or poetry exhibits a quality which is often found in creative persons.

17. **Generalized Sensitivity to Problems.** A person who is sensitive to the feelings of others is sensitive to the problems of people, and this sensitivity extends to other types of problems as well, creating the environment for the person to come up with solutions to the problems to which he/she is sensitive.

18. **Idea Fluency.** The ability to generate ideas upon demand within a set period of time. This ability indicates that a person is creative.

19. **Flexibility.** A person who is flexible is able to adapt to changing situations, which is a skill the creative person uses to find a solution when running over a series of ideas to solve a problem and abandoning all but the solution.

20. **Motivation.** A person who is motivated to create is more apt to create than less motivated persons because the motivation forces the person to examine and discard more ideas until coming up with the creative answer.

There are many more factors which can be argued are indicative of creativity. It would seem that a person who work to develop or improve the traits which creative people enjoy would make themselves more creative. It should be noted that not everyone agrees.

One researcher sent a questionnaire to inventors who recently had been awarded patents, asking them what traits they had which contributed to their inventiveness (i.e., creativity). The responses were, in descending order of importance, (i) perseverance, (ii) imagination,

(iii) knowledge and memory, (iv) business ability, (v) originality, (vi) common sense, (vii) analytic ability, and (viii) self confidence. Perseverance received more than twice as many responses as imagination.

### **9. How You or Another Can Be Creative**

I believe you can be creative by developing the skills which I list in the preceding section, by practicing problem identification and problem solution, and by trying to do other types of creative things such as by outline and writing stories, developing new business ideas on paper, even though you don't intend to start up a business, associating with creative persons and not feeling awkward that you are attempting to become creative.

In other words, you can become creative or more creative by doing what creative people do, and more importantly by trying to market your creativity which gives you some feedback as to how creative you actually are. The marketplace for ideas is what helps reward persons for their creativity and warns them that perhaps their creativity is not commercial or, worse, not creative in the eyes of many others.

I wouldn't worry too much at the outset as to whether your ideas are accepted by others. In fact, I would worry if you find that your ideas have near-universal acceptance. This would signal to me that you are not creative at all and are catering to the lowest common denominator.

### **10. Testing the Results of Your Creativity**

Persons who are in the same field in which you are trying to be creative can often help you in deciding whether you are creative, or sufficiently creative for purposes of the field. Of course, some people will say anything to avoid hurting your feelings, and others may deter you to try to enforce an agenda of their own, such as a friend of yours who feels that he/she may lose you as a friend if you become successful through your efforts at becoming creative. The marketplace is one way to test creativity. But it is not the best. My feeling is that creativity should go beyond the existing marketplace, and that the marketplace must catch up to the creativity which persons use to produce the new products and services which have made this country great.

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Test your creativity by doing creative things, and then try to market the results of your creativity. But bear in mind that nobody has ever said that you will be rewarded for fantastic creativity. The marketplace is a discipline in which certain types of "creativity" are rewarded, such as making sure you don't rock the boat, stealing ideas which have been developed by others and getting away with it, and helping the rich and powerful control the economy in spite of the efforts by others to improve things.

### **11. How to Put Your Creativity to Work**

If I were you, I would try to figure out a creative area which I could concentrate my efforts once I was ready to put my newly-developing creativity to work for my profit. Thus, if my desire is to write novels or short stories or magazine articles, I would go to the bookstore and library to find books on these subjects, read them, and start developing ideas for sale to the publishers. Finding a good subject to write on is often finding a problem and proposing a unique solution (at least what you think is unique, bearing in mind that perhaps one million other persons may already have thought of the same idea, but did nothing to write about it).

To create the proper atmosphere for your creativity, try to get away from influences which would disturb your concentration (and fun, I might add). Creativity requires concentration with as little interruption as possible. Try to focus on a subject by thinking about it as much as you can, and by learning as much as you can through books, magazine articles, databases, and even discussions with persons in the field. This immersion gives you the fund of information you will need to draw upon when you create solutions to problems that you have creatively ascertained.

Also, try to associate with other creative types, even though they are not necessarily in the same area of creativity.

### **12. A General Discussion of Goals**

Now that we have looked at creativity, what can you do to profit from your creativity. The technique for doing this, I believe, should be by setting goals of 3 distinct types. These goals are important because they permit you to set up your own private regulations of your life which you can try to follow, which are designed to move you along the pre-determined path. Setting goals determines the route

you choose to take, and it also identifies the roads you do not choose to take. It is up to you to pursue your goals, but first you have to set them.

### **13. Your Long-Term Goals**

Long term goals are both easy and difficult to articulate. The long-term goal can be something like becoming a millionaire, or becoming a major-league baseball player, a commercial airline pilot or engineer, or become a university professor of political history or economics; or having a loving spouse, a home in the country, and three children who manage to grow up without violence, drugs or AIDS.

Persons spend many years trying to decide what they want as their long-range goal, and often change their goal, sometimes after it is reached, but more often before the goal is reached.

You should make that determination of what your goal is, otherwise it is difficult to go on to setting the intermediate and day-to-day goals.

### **14. Deciding on Your Intermediate Goals**

If your long-range goal (or one of them), for example, is to become a successful businessperson and be worth at least \$1,000,000, you have to decide on what major events will take you to your goal.

These major events or stops along the way should be understood by you, otherwise you won't know how to plan your day-to-day goals.

To accomplish your long-term goal set forth in bold type above, you would probably want to do some or all of the following things, which would constitute your intermediate goals:

1. Graduate from college with a good liberal arts background or a bachelor's degree in accounting or business;
2. Take a master's degree in business at Harvard Business School or one of the many other fine business schools throughout the United States;
3. Work for a business in the area in which I am interested to get experience at the expense of someone else which I can use in my own business later on;
4. Set aside money (i.e., capital) with which to establish my own business, or raise this money from persons who seek to invest in new companies (called venture capitalists);

5. Base my business on some unmet significant need which needs to be fulfilled or acquire an existing business which can be improved by me and made more valuable;
6. Sell the business, and start up one or more other businesses; and, finally,
7. Retire with financial independence.

### **15. More Time Is Spent Planning Your Day-to-Day Goals**

The real effort, however, is the daily routine of planning your next day with your daily goals. I spend an hour per day making these plans, and often putting them into my computer for ready access throughout the next day. Part of my planning for the next day is to list what I must do according to my calendar (which contains existing obligations of things I must do on or before specific dates. Then, I add the things which I can do (often smaller matters) to get such things out of my hair and not have to inventory them and take them into account ever again. To this growing list I add the things which I would like to do to accomplish one or more of my intermediate goals, but only the most important of such things. I don't list everything. Just the items which I feel are most important to put on the list at this time.

After that, I add whatever other items come to my attention, which should be done right away. These matters may be added by reason of telephone messages, correspondence, review of files, discussions, and various other ways in which "to do" items find their way onto a typical "to do" list.

After the items are listed (often in my computer, and specifically in a database or word processing program), I then decide in which order I am going to do these items. If someone has help with a secretary, messenger, assistant, or other employee, the ordering of the events is a little bit more complicated.

In any event, I am now talking about the necessity of placing a priority on each of the items in your "to do" list, so that when you start off in the morning you will know exactly what item to begin on. The problem, as millions of people know, is that there are things which happen along the way which deter you from doing the items on the list in the order in which you planned to do them. For example, you



may get a call from home that your garage is on fire, which immediately may change your listed priorities. You should feel free to re-evaluate your priorities and adjust them as necessary or desirable at any time, so that your list is current, and you do the things which are most important for you to do at the time that you are doing such things.

The computer makes it easier to prioritize a to-do list because through indexing the item with the lowest number (say "1") will appear at the top of the list, and the item with the highest number (for example, "39") will appear at the bottom of the list and be lowest in priority. You should learn how to use a computer and apply the technology to management of your to do list.

When you are organized in this way, you will always know what you should be doing at any moment, which will help you get things done. The key is for you to know what items to put on the list.

I recommend that people have on their daily list things which don't have to be done, which things are to advance your intermediate goals. The reason for this is that if you don't do this, you will find that your list will only contain the humdrum day-to-day items which will never get you anywhere. You must make room in your busy day for doing something for yourself, over and above the work to which you are already committed. This is the way in which many "busy" persons are always able to get things done. They can't get everything done, but they can always add one more selected item to their to do list. I do it all the time, including the writing of this pamphlet, and the trips to the library and bookstores to find some relevant information.

#### **16. Don't Wait for January 1st**

Everyone can tell you stories about the ancestor who started to do something and would have achieved greatness had he/she only followed through with the presented opportunity. My father had a chance to invest in the first credit card company, as well as the first paperback book company. Alas, he did neither. I had a chance to invest in oil when crude oil was only slightly more valuable than water. An analyst friend of mine kept pushing oil to me as an investment opportunity back in the mid 1970's, and I never did anything about it. I don't want to calculate how much money I might have

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made if I had followed his repeated urgings to me. I cannot blame my friend for trying.

What I want you to do is to act now, and not wait for some appropriate time for making New-Year's resolutions. Make it a point to start now, as if today is the first day of your life, and start working on your creativity today, assuming you need or want to do this.

Many people are sufficiently creative that this pamphlet will not be of much help to them. Perhaps some points can be learned, but nothing earth shattering for them. But others, perhaps including you, may feel the need to become more creative, and want to do something to improve yourself starting right away.

### **17. How to Focus on Your Goals and Accomplish Them**

Why don't you decide on an intermediate goal and go for it? For example, if you want to start a business, why not start thinking about the type of business you would like to start, and take the steps necessary to get started. If I were going to open another business, I would do the following things (as well as many other things too numerous to mention):

1. Think about the kind of business I would like to be in, and what prospects I would have if I started such a business. I would want to take my interests, family, savings, education, training, experience and other factors into account.
2. I would like the business to be novel or different. The reason for this is that I would like my business to fill an existing need, and this may require a new type of business to be founded. The need exists because existing businesses somehow are not filling the need. I would like to identify an important need and found a business to fulfill such need. The uniqueness of the business makes the business less competitive, and gives you the opportunity of offering goods and services in a market which is not too competitive. In other words, by having a unique product or service, you can offer your goods and services at higher markups than would otherwise be possible in a competitive marketplace. Higher markups attract capital, which you would need for expansion.

3. Take a spiral notebook or legal pad and jot down your ideas for development of the business. You might want to specifically consider:

1. The name of the company;
2. A trademark or servicemark for your company;
3. A description of the product or service;
4. How you plan to market the goods and services;
5. How you plan to manufacture the goods or provide the services;
6. How much capital you will need to get started;
7. Who will joint you in the business, and in what capacities;
8. Can you obtain any publicity for the new venture, and if so, how?
9. Select your lawyer and accountant;
10. Obtain an I.R.S. employer identification number;
11. Obtain a sales tax certificate (authorizing you to collect sales taxes);
12. Pick out a location for your business;
13. Look for suitable premises within such location;
14. Prepare your advertising copy;
15. And do the several hundred other things which are needed to get started.

What I am saying is that the way to get started is to start. One of my best friends is the best I have ever seen in this aspect of business. He doesn't sit around and wait for the right time to start something. He said to me, ok, let's catch a plane to Washington, D.C. and see if we can sell it (the paralegal field). The next day we were in Washington, D.C. knocking on doors in an effort to see if the paralegal field could be sold in Washington, D.C. (several years before the field became

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popular in New York City). We failed, I might add, but not because we didn't try.

You should note that most things do not work out, but the experiences you have in learning what doesn't work out will stay with you a long time, perhaps forever, and make you a better businessperson for having gone through them.

### **18. Is Creativity Compatible with Employment?**

A question which you might be interested in is whether you can be creative as an employee, working for someone else. In many cases you'll find that you can't, but don't let that detract you. You don't have to be creative in everything you do. In fact, you might not want to be creative during the day time for your employer because you want to save up your creativity for yourself in the evening and during weekends.

But if you do want to be creative while working for someone else, you may have to learn to control your creativity. Most businesspersons, such as myself, have more than enough creativity to go around in the small business, and are not looking for anyone to come up with ideas for me to execute. I have too many ideas of my own and I don't want to be distracted by a constant infusion of ideas from my employee when I'm in no position to do anything about these ideas.

I am the general in my small business and I need some privates to do the work, not any additional generals to plan strategy.

Businesses larger than mine may have some room for your creativity, and you should explore with your employer the extent to which your employer can use your creativity. Of course, if you are working for a comic-book publisher, you are being hired (say, to create comic books) for your creativity. But an editor in a book publishing company is not being hired to write books, and his/her efforts to write books may be in conflict with the interests of the publisher and the authors represented by the publisher.

A few years ago I was asked to address the graduating class of intellectual property students at a local law school. My lecture came as a surprise to them. I advocated that they become cab drivers or open up a laundromat. My reasoning to them was that having either of these 2 sources of income would give them the freedom to take cases

which were high quality, and not just cases to pay the rent. An additional advantage was that by earning money in the non-creative area of driving a cab or operating a laundromat business, the young graduate would not burn out, and could focus his/her creativity on the few good cases.

### **19. How to Put Your Creativity to Profitable Use**

The way that I am suggesting you can put your creativity to work is to try to find a way to market the creative activities that you perform. Thus, if your creativity is in the writing of music, you should try to use your creative (problem-solving) skills in figuring out a way to sell your creativity. If you write children's musicals, you might want to rent space in a restaurant and put on your show in a "dinner theater" setting. If you are a comedian, you might want to acquire or start up a comedy club. If you paint paintings, you might want to learn about mail order and try to sell your paintings by mail, computer, or the Home Shopping Network, for example.

The main thing I am trying to say to you is that creativity itself does not normally make any money. You not only have to be creative in the substantive area of your interests (such as in poetry, music, screenplays, songwriting, acting, directing, comedy, investment banking, insurance, law, medicine, piloting aircraft, software design) but you have to figure out a way to obtain income for your services. This is very tough for many creative persons because of the vast number of persons who want to be actors (for example) and the highly limited number of persons who are producers. If you can become a producer, then you can guarantee that you can perform creatively as an actor.

This is what I mean when I say that you must be creative in your creative field, but also in the way in which you market your creativity. It is easy to be creative, but it is difficult to get people to part with their money for your creativity. You have to figure out a way to do this.

Creativity is important in obtaining money because of competition. If you are doing or offering the same thing as many others, there is far less reason for a customer to buy from you. The way you change the odds is to be different, and create some type of monopoly or mo-

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nopolistic competition for yourself, which gives you an exclusive or near exclusive in the marketplace.

Creativity is what permits you to do something which is different. It allows you to conceive a new product or service which has no real competition, and creativity permits you to find a marketing angle which can bring your product or service to the attention of the purchasing public in a way that is novel or unusual and, therefore, subject to less competition.

If your product is sitting on the shelf of a variety store with 10 similar (competing) items, your percentage of the market will be less, and your price will be lower to capture some of such market. But if your product is unique (such as a device which prevents ice cream cones from melting in a hot day), if persons want to buy such a product, there is only one available to them, which is yours.

Better yet, if you can be creative in the marketing of a red metal bar which inhibits car theft, you can achieve a high percentage of market share even though the product is virtually the same as competing metal bars designed for the same purpose. What the person has done, creatively, is get the public to perceive that there is a difference when in fact there may be no significant difference. Thus, creativity can directly lead into sales and income for yourself, even if the product or service itself is not of the highest creative order

## **20. Practicing Creativity of the Marketing Type**

The way to develop your skills in the marketing of your creativity is to think about the ways in which creative persons of various types could market their creative output. Be observant on how some creative persons are selling their output. Collectives of craftspersons is one way. Painters sometime live communally and sell their output to a marketing organization. Doctors gather together in practices, to share office and advertising expenses. Hotels or motels get together under a common name and market this name nationally. Movie producers may try to market video cassettes when they can't obtain theatrical distribution of their films.

Identify various types of creative persons and envision how they handle the offering and sale of their creative services or output. In other words, identify problems and try to create solutions. After a

while, these solutions will become sort of a check list for you to apply to other problems which you come across, giving you a quick response to a problem, almost before the problem is completely articulated to you.

### **21. A Final Word**

The creative process is part of a continuum, running from little or no creativity to an enormous amount of creativity. The more creativity that's involved, the more potential your activities may have in the marketplace, if you have a way to sell them, which is what you must work on. Don't be creative without taking care of the marketing end, because you will often wind up with nothing as a result, but a lot of unsold creativity.

Lightning does strike creative persons from time to time, but more often than not there is more than luck to the success of a creative person. You don't know what happened and may believe that the creative person lucked out. I see it instead the some creativity in marketing took place, perhaps by a person who is creative in marketing but not in the substantive field involved (such as painting or movies).

If you have any questions about creativity or marketing, give me a call. I won't charge for the initial consultation, and maybe I won't be able to help. But I do want to help creative persons, and you might try calling me to talk over some creative problems you have, or think you have. Meanwhile, I hope that this pamphlet on creativity has been of help to you.

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