

***Practical Advice: Basics of Forming
and Advising Small Businesses
VIRGINIA CLE***

CLE Course by Herb Rubenstein, JD, MPA, PGA

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Member VA, DC and MD Bar

Introducing Herb Rubenstein

- Author, *Leadership for Lawyers* – 1st ed. NITA, 2005; 2nd ed. American Bar Association, 2008
- Designed and taught the undergraduate course, ***Entrepreneurship***, Adjunct Faculty, George Mason University, 1998-2000
- First person to teach a course in Virginia for CLE credit in the field of Leadership (2012 VACLE)
- Litigator, Served as “outsourced General Counsel” for many small business DC, MD, VA – 1984 to Present
- Washington and Lee, B.A. 1974, Phi Beta Kappa
- University of Bristol, England, D.S.S. 1975, Rotary Foundation Ambassadorial Scholarship

Introducing Herb Rubenstein (Con't)

- LBJ School of Public Affairs, MPA, 1977;
Georgetown Law, J.D. 1982
- CLE and CPE (Accountants) Presenter – Boards of Directors Legal Standards, Leadership, Ethics, Professionalism, Web3, and ESG
- Working on new book on the future of the legal profession and the courts
- Former Lecturer - Capstone course - *Strategic Management*, Graduate School of Business of the University of Colorado Denver, Global Energy Management Program, 2009-2018

Learning Objectives

- Be competent in advising small businesses as their legal counsel to help them navigate what type of legal form to use, ownership issues, drafting contracts, intellectual property, leases, employment issues, raising capital and loan agreements, government regulations and many other legal issues -
- Learn your way around Title 13 – VA Code – Corporations <https://law.lis.virginia.gov/vacode/title13.1/>
- Learn how excellent early legal advice to a small business can prevent many future legal problems
- Learn how to expand and improve your legal practice through representing small businesses

Learning Objectives (Con't)

- Learn the legal duties of the members of their boards of directors, if they have one
- Learn how as a lawyer you can become part of the local and statewide small business ecosystem and connect your clients to resources at business incubators, universities, government programs like SBIR (<https://www.sbir.gov/>) that purchase goods and services from small businesses
- Learn how to advise small businesses (under 100 employees – my definition) regarding their special legal needs and litigation risk, and identify “red flags” early

Learning Objectives (Con't)

- Learn how and why you and your law firm should build a data base and solid network of supportive organizations as you pave the way for small businesses to be successful (banks, investors, SCORE, SBA, Chambers of Commerce, Trade Associations, etc.) – Yes, the old Rolodex via IT!
- There are 90 references attached at the end of this slide deck with key information on everything covered in this course

Practical Objectives of This Course

- Assist you in learning how to be a more complete “business lawyer” and how it fits in with your being a litigator and helping your law firm grow by:
 - Expanding your legal practice and your influence
 - Improving your effectiveness and efficiency
 - Improving your satisfaction as a lawyer
 - Making a greater contribution to the legal profession
 - Helping others become better business lawyers, company officers, board members, investors and strategic-partners of your clients
 - Helping people and companies in the for-profit sector become more ethical, better advocates for their stakeholders and set standards in their sectors

Opportunities for Lawyers –The Upside

- Working with for-profit businesses:
 - Provides many excellent business referrals in every area of the law:
 - Helps improve your brand and the reputation of you and your law firm
 - Creating your “network” of supportive organizations will improve your social capital, relationship capital which will produce more and better clients
 - Gives you a platform and experience to speak to the entire business community (i.e., Chamber of Commerce) and not-for-profit community (Rotary, Optimist, Ruritan, VFW, Kiwanis, etc.), write articles, promote local economic well-being, serve your local, state and national communities, network and contribute to economic development

Beyond the Scope of This Course

- How to Create A Document Repository for Efficiency
- Steps and Methods for Valuation of A Company
- Merger and Acquisition
- Buying or Selling A Company
- Hostile Takeover
- Foreign Corrupt Practices Act
- Defense of Government Investigations of Wrongdoing
- Employee Theft (Although Lawyer Has Duty to Advise on Policies to Reduce Probability of Employee Theft)
- State of the law in Virginia on Marijuana/Hemp (All business lawyers need to keep up with this emerging area)

Generated by Artificial Intelligence

- **Put in these words in BundleIQ:** "Create outline for *Practical Advice - Basics of Forming and Advising Small Businesses* law curriculum - legal issues:" And AI produced this outline:

1. Introduction to Small Business Law: Overview of the legal issues related to forming and advising small businesses.

2. Entity Formation: Understanding the different types of business entities, including sole proprietorships, partnerships, limited liability companies (LLCs), and corporations.

3. Taxation Issues for Small Businesses: Exploring the various tax implications associated with owning a small business.

4. Contract Law Basics: Learning how to draft contracts that are legally binding and enforceable in court.

Generated by Artificial Intelligence (Con't)

- **Put in these words in BundleIQ:** “Outline Practical Advice - Basics of Forming and Advising Small Businesses” – And AI Produced:
 1. Establish a business plan that outlines the goals and objectives of your small business. This should include an analysis of the market, a description of the products or services you will offer, and a financial plan.
 2. Research local laws and regulations to ensure compliance with all applicable rules and regulations for operating a small business in your area.
 3. Secure necessary permits, licenses, and insurance coverage for your small business before beginning operations.
 4. Develop marketing strategies to achieve sales goals.

Five Key Background Issues

1. **Specific Retainer in Writing** Limiting Scope of Representation Is ESSENTIAL and CHANGE ORDERS WHEN SCOPE OF WORK EXPANDS

2. **How to Charge** - Hourly, Monthly Retainer, One Time Up Front Fee, On a Project or Document Basis - Must decide if this will be a loss leader or profitable activity, Accept Cryptocurrency, Take Stock or Options (Equity Position) allowed per Legal Ethics Opinion 1593

<https://leo.mcguirewoods.com/ViewLeo.aspx?id=1457>

but client needs to be represented by separate, independent lawyer in negotiation and reaching equity payment for lawyer to be valid.

Five Key Background Issues (Con't)

3. Must make business decision on **when to add legal or paralegal staff, and interns** what can be delegated to paralegal and non-lawyer staff, when to outsource legal work

4. Key Ethical Rules:

1.4 – Communication – keep client informed in a timely manner; give client sufficient information so the client can make legal decisions in an informed manner

1.6 – Keep all client confidences and information confidential

1.13 – Organization is the client? (NOT INDIVIDUALS)

Preamble – Lawyer as Negotiator, Competent, Prompt, Diligent – Must be an excellent negotiator

Five Key Background Issues (Con't)

5. When to *accept or decline representation* or sue for legal fees:

- a. Who decides in the firm to take or not take this new client?
- b. Who communicates decision not to represent the client?
- c. Whose client is it, especially if the lawyer working on the matter departs the firm?
- d. When to stop representation or resign?
- e. When and how to identify a conflict of interest at the individual lawyer or law firm level causing recusal from an issue, declining representation or resignation?

Five Key Background Issues (Con't)

f. When and how to decline a specific piece of legal work offered to the lawyer or law firm? Outside of competency, unreasonable demand of client in litigation, lack of adequate or reasonable budget, difference of opinion regarding optimal or acceptable legal strategy, belief that illegal or unethical activity is happening like classifying employees as independent contractors, and the list is endless here, but a lawyer representing small businesses **must learn how to say "NO."**

g. The decision to sue for legal fees requires great thought and deliberation and often the decision will be a close call for the law firm/lawyer.

Section 1 – Initial Steps for Lawyers in Helping a Client Forming a For-Profit Business

- Help select and reserve name in Virginia
- *Understand the full nature* of the business and goals of the owners
- File Articles of Incorporation/Organization in some State providing basic information about the company
- Secure EIN and initial funding documents, register locally
- Create list of key federal, state, and local applicable taxes (with accountants)
- Select board of directors and officers, if any, and write contracts for all employees and directors and officers
- Develop and secure intellectual property including logo, trademarks, copyrights, trade secrets, confidentiality agreements
- Advise on the purchase of necessary insurance, secure equipment and software and review all contracts, especially if paid over-time

Section 1 – Initial Steps for Lawyers in Helping a Client Forming a For-Profit Business (Con't)

- Develop and approve operating agreement if LLC, and review business plan for all types of for-profit companies, act as necessary to secure lease or purchase office space, or arrange for use of home as primary office, open bank account
- Develop ownership structure for company and investor related documents (avoid 50/50 split or any division of company ownership that can lead to “stalemate”- like in chess)
- Introduce new owners/company to your ecosystem of supportive organizations that can be helpful to the new business
- Many other generic steps and each lawyer/law firm **NEEDS A GENERAL CHECKLIST AND ABILITY TO MODIFY IT TO SUIT THE PARTICULAR CIRCUMSTANCES OF THE BUSINESS ENTITY TO BE FORMED**

Section 2: Types of Small Businesses and Applicable Virginia Laws

- **Sole Proprietorship** - total individual control, all income and losses captured through Schedule C and goes on personal income tax form with SSN, no stock issued, difficult to raise capital or even borrow money, unlimited liability; Can use DBA or any name not used previously by another; Governed by <https://law.lis.virginia.gov/vacode/title59.1/chapter5/section59.1-69/>
- **LLC** – Can be a one or more person company, no board of directors, operating agreement spells out rules, can be taxed as “personal income” can have “income” without similar cash-flow distribution,” or “taxed as a “c” corporation; Corp issues “units” not shares and benefits, tax treatment can be set up different from how units are allocated; Limits liability of owner/owners to assets of corp in most cases; Members are self-employed and must pay self-employment tax; In some states can dissolve by operation of law if one of the owners departs – longevity must be covered in the Operating Agreement: See: <https://law.lis.virginia.gov/vacode/title13.1/chapter12/>
- See: <https://www.sba.gov/business-guide/launch-your-business/choose-business-structure> for guidance on how to choose a business structure. Must be done before filing any documents, has major tax consequences,

Section 2: Types of Small Businesses and Applicable Virginia Laws (Con't)

- ***S Corp*** – Limit to 100 shareholders (US citizens only) who can only be individuals, trusts and estates, not corporations; one class of stock; income or losses go to the individuals' tax returns; can have “income” without similar cash-flow distributions.” Avoids double taxation of C Corps; Must file Form 2553 “Election” with IRS in addition to State registration; See: <https://www.irs.gov/businesses/small-businesses-self-employed/s-corporations>
- ***C Corp*** – Basic stock corporation, separate tax return, board of directors required, corporate formalities as required by law must be adhered to; limited liability; taxed on profits and taxed again on dividends (any distribution of profits to owners); different classes of stock with different rights (Preferred, Common, Voting or not; May or may not have “By-Laws”: See: <https://law.lis.virginia.gov/vacode/title13.1/chapter9/>
- ***Professional Corporation*** – Must provide professional services, can be stock or nonstock, limited liability, See: <https://law.lis.virginia.gov/vacode/title13.1/>
- <https://law.lis.virginia.gov/vacode/title13.1/chapter7/>

Section 2: Types of Small Businesses and Applicable Virginia Laws (Con't)

- ***Partnership*** - (General (GP) or Limited Partnership (LP))
 - Both are formed by partnership agreements;
 - Diminishing use of GP as every partner has unlimited liability; In limited partnership, only the General Partner has unlimited liability; See:
<https://law.lis.virginia.gov/vacodepopularnames/virginia-uniform-partnership-act/>
- **Cooperative Corporation** – See: § 13.1-301. Corp, five or more people minimum, with a board of directors and members who are customers with voting rights, one vote per member regardless of the number of shares they own; generally, only serves members as customers

Section 2: Types of Small Businesses and Applicable Virginia Laws (Con't)

- **B Corp** – Allowed in Virginia, specifically pursuant to Article 22. Benefit Corporations. § 13.1-782. See: <https://law.lis.virginia.gov/vacodefull/title13.1/chapter9/article22/>
- Governed by very specific rules; Generally, promotes a social cause or way of doing business with higher ethical standards, has independent directors; must file annual report on its social and environmental contributions; promotes accountability, transparency, can obtain “certified status,” and may have an advantage in obtaining certain business; limited liability and corporate ownership structure similar to C Corp: See: <https://www.bcorporation.net/en-us/certification>

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses

- Formation documents, Tax registration documents; Advice on business organization structure
- Employment contracts, job descriptions (done with the owners or HR firm hired by the owners) employee classification scheme, employee handbook, employee disciplinary system, employee records keeping system advice, overtime policies, wages consistent with applicable law, internal protocols to ensure company hires only those lawfully allowed to work legally in the US
- Board compensation (none, or stock options, cash or stock), charter and committee structure of board if C Corp or other type of Corp requiring Board, Maintenance of Board Book, written charters for every board committee, board minutes required, regular meetings

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- All LLC's require an Operating Agreement
- Lease review and evaluation
- Intellectual Property (Including trade secret) Plan and Advice, Policies to help client not violate intellectual property laws, including copyrights to photographs.
- Investor related documents – loan or convertible note agreement, shareholder agreements, stock purchase agreements (with specific language on dilution or non-dilutable stock - never give *non-dilutable stock* if possible), up to date stock ledger maintenance is essential, as are ownership structures to promote success

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- Help draft and review joint venture and strategic alliance agreements
- Vendor contracts preparation and review including risk analysis of all supply chain relationships including internet and website platform agreements
- License agreements drafting and review
- Software agreements drafting and review
- By-laws - if required and proper amendments, upkeep, strict compliance

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- Warranty policy drafting and review including customer return policy, procedures for handling complaints and dissatisfied customers
- Review and secure assistance of others in drafting agreements with accountants, lawyers with specialized expertise is necessary in such areas as Intellectual Property, Real Estate, Tax Law, Employment and Anti-Discrimination Laws, Whistleblower Laws, Environmental Laws, International Trade, Board of Directors' Liability, etc.

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- Indemnification Agreements Drafted and Reviewed
- All Local Licenses filed, permits filed and maintained
- Conflict of Interest and Ethics Code of Conduct and Policies Drafted
- Business Plan Review and Evaluation
- Cybersecurity, Privacy, Ransomware Review including Password Protection Policies – note “crypto wallet” has a 12 word, in exact order “password,” lose it and you can never get to your money in your crypto wallet!

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- Assistance in drafting policies on use of private cell phones and private email for work (privacy, cybersecurity risk)
- Contract management, legal and business records filing advice and retention requirements; contract timelines, expirations, deadlines for reaching goals, consequences all readily available for legal and management review
- Insurance advice and review of all insurance contracts and coverage including “defamation, sexual harassment, ransomware, privacy, cybersecurity, board liability (D&O)”
- Succession planning in terms of individual officers, ownership of stock upon death, company’s right to purchase of shares of the deceased, key person insurance
- Drafting and reviewing anti-discriminatory policies, Diversity, Equity and Inclusion policies, if any

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- Free Exercise of Religion or “Religious Liberty policies,” if any, per 1st Amendment
- Social Media policies for employees, board members and officers
- Review of all agreements - compensation and all contract elements with all outsourced third parties providing essential services to the company, including ownership and access rights to all essential documents and services provided to the company
- IP rights of employees and contractors regarding “works for hire”

Section 3: Basic Legal Services Needed by New or Ongoing Small Businesses (Con't)

- Family and Medical Leave Act Policies
- Mediation or Arbitration Rules Governing All Contracts/Business Activities
- Pregnancy and Newborn Leave Policies
- Sick Leave and Vacation Policies
- Employee Benefits Review and Analysis
- Organizational Chart Review
- Union Related Policies
- Periodic Legal Audit and Legal Risk Assessment
- Probability of Employee Theft – End of Section

Short Break

- Let's take a break before we go into the next section –
- Section 4 – Business As an Ecosystem

Section Four – Business As An Ecosystem

- Lawyer must have a “business ecosystem” to support businesses as clients. Elements of that “business ecosystem” include:
- Bank or banks, Insurance Companies, Real Estate Agents, Specialized Law Firms, where lawyer/firm can refer business
- Legal Research Capabilities, Newsletters and Knowledge of Current and Future Legal Issues, Having a Law Firm that Knows How to Use Artificial Intelligence
- Relationship with Chamber of Commerce and Business Oriented Nonprofits – Rotary, Kiwanis, Business Incubators, Business Accelerators, Business Innovation Centers, University Programs that Serve Businesses,

Section Four – Business As An Ecosystem (Con't)

- Know about Government Programs that Support Businesses including Small Business Set Asides, SBIR's, SBA Loans, SCORE – (See: <https://www.score.org>), Business Mentors Who Are Free
- Potential Board and Advisory Board Members, Potential Investors,
- Business Incubators, Accountants and Accounting Firms, Bookkeepers, Business Consultants
- Virtual Assistant Companies, including Part Time CFO Services
- Marketing, Public Relations and Sales Firms and Consultants
- Competitive Analysis Experts
- Meeting, Event and Exhibition/Trade Show Consultants

Section Four – Business As An Ecosystem (Con't)

- Law Firm Must Have Electronic and Paper Business Library including Business Magazines, Journals and Publications that all lawyers are familiar with
- Software Vendors including Customer Relationship Management, Enterprise-Wide Management Systems, Data Base Management
- Must Know Non-Profits and Other Businesses Who Can Become Customers of Client
- Must have access to Environmental, Economic, Governmental Contracting, Securities, IP, Lease, and Other Relevant Subject Matter Experts
- Must Know Business and Trade Associations Relevant to Client and Encourage Client to Join

Section Four – Business As An Ecosystem (Con't)

- Access to Capability to Experts Who Can Analyze and Forecast Business Trends Affecting The Business Including Business Plan and Strategic Plan Researchers and Writers
- Access to Business Brokers, Business Valuation Experts, Hiring Assistance Organizations, Professional Employment Organizations (PEO's), Training Companies, Sales and Marketing Experts and Consultants
- Relations With Large Religious Organizations
- Relations With Potential Strategic Alliance and Joint Venture Partners of Clients

Section Four – Business As An Ecosystem (Con't)

- May Need Access to Factoring Companies
- Women and Minority Business Associations
- Be Aware of Local Business Plan Competitions
- Familiarity With Business Awards (External like PWC Entrepreneur of the Year) and Employees Awards Programs (Internal and must be properly administered)
- Know About Business Trade Missions Supported by US and State Department of Commerce and Other Government Agencies
- Be Able To Find Technology Experts in Relevant Fields

Section Four – Business As An Ecosystem (Con't)

- Pricing, Bundling of Goods and Services Expert
- Experts on the future of government regulation, relevant government research institutes and future government spending related to business
- For more information See:
<https://www.investopedia.com/terms/b/business-ecosystem.asp>
- The Law Firm Needs an electronic “Business Ecosystem Data Base” to Keep track of who you know and have done business with – Excel Spreadsheet or Word Doc (TABLE) with categories, people, contact information – Make sure this information is updated by every person in the law firm, maybe through google docs and have staff member assigned to keeping the system up to date

Section Five – Specialty Legal Areas of Interest for Lawyers Serving Small Businesses

- Poor Human Resource policies and implementation can cause huge legal problems, including Whistleblower problems – See VA Code: § 2.2-3009, et.seq; § 40.1-277.3;
- <https://law.lis.virginia.gov/vacodepopularnames/the-fraud-and-abuse-whistle-blower-protection-act/>
- Clients must have document management systems so that all contracts, legal documents, etc. are properly filed, accessible and retained, including emails, text messages, etc.
- Electronic tracking of all money, receipts and expenditures is the minimum standard today both for clients and law firms with triple computer back up

Section Five – Specialty Legal Areas of Interest for Lawyers Serving Small Businesses (Con't)

- Poorly drafted, and unenforceable non-compete, confidentiality and non-disclosure agreements can lead to huge legal losses: See: [Virginia Law on Non-Compete Agreements](#)
- Note: The SEC has a proposed rule to eliminate non-competes. Lawyers must understand why the SEC is proposing this
- Per Dr. Fiona Scott Morton of Yale states that such non-competes reduce wages, increase unemployment and rejects the US Chamber of Commerce that they promote innovation. See: <https://insights.som.yale.edu/insights/the-end-of-noncompete-agreements-may-be-near>
- Already the restaurant and fast-food industry has stopped using them. Under California law they are illegal and therefore, unenforceable in California regardless of where they were signed
- Current Virginia legal standard on such agreements - *limit of freedom no greater than necessary*.

Section Five – Specialty Legal Areas of Interest for Lawyers Serving Small Businesses (Con't)

- Succession planning at the individual officer position and ownership (owners of stock) is very important – do not want estates to own or distribute stock if you can avoid it with buy back agreements
- Good lawyers influence the culture and ethics as well as the operations of organizations
- Lawyers anticipate, observe, and help mediate and avoid serious conflicts, and conflicts of interest, in businesses
- Lawyers draft strategic alliance and joint venture agreements with written goals, deadlines, and a strong governance structure for each strategic alliance

Section Five – Specialty Legal Areas of Interest for Lawyers Serving Small Businesses (Con't)

- Every business has intellectual property, even a logo counts; and IP Plan/Inventory is essential for every business to monetize IP and protect it
- Litigation risk assessments done by lawyers should be done in writing with at least three levels (high, medium and low risk) but if catastrophe potential is real even from a very low probability risk, it should be noted
- Someone must "vet" all investors, SOFA – Source of Funds Analysis to avoid "Epstein \$\$\$"

Section Five – Specialty Legal Areas of Interest for Lawyers Serving Small Businesses (Con't)

- Whistleblower protections from retaliation and support for people to speak up must be included in Employee Handbook as they are written into Virginia Code: See: *Chenault v. RBI Corp.*, Hannover Circuit Court (Kelly), Oct. 22, 2021;
<https://www.employmentlawfederal.com/understanding-the-new-virginia-whistleblower-protection-law/> and
<https://law.lis.virginia.gov/vacode/title2.2/chapter30.1/section2.2-3011/>
- Must follow all laws re: OSHA, Family and Medical Leave Act, Wages, Anti-Discrimination and Anti-Harassment Laws and must investigate and deal with all such complaints “adequately/thoroughly” and quickly
- Board or some group within the company should plan for long term growth and expansion – 3-5 years at least
- Board of Directors and each Board Committee must be diligent in governance and have necessary budget to do its job and hire experts – Tell Lawyer for Audit Committee 1995 story from Washington, DC

Section Five – Specialty Legal Areas of Interest for Lawyers Serving Small Businesses (Con't)

- Someone must keep an eye on geographic growth, merger and acquisition opportunities, right time to sell the company or achieve the exit strategy of owners
- Someone must keep an eye on Web3, cryptocurrency, NFT's, DAO's, blockchain technology opportunities for business and lawyer must be ready to implement chosen strategy by business
- Someone must keep an eye on business (and the lawyer/law firm) using *“State of the Art”* Information Technology to promote the protection and success of the business

Section Six - Hiring Interns

- Lawyers should *Hire Undergraduate Interns* – Two of mine have been nominated for Federal Judgeships. One is a now a Magistrate Judge in the Western District of Oklahoma and may be the next Judge appointed when a vacancy occurs. The other is now a Federal Judge for the District of Maryland
- 10 hours per week, 10 weeks per semester at a good wage suggested by Internship/Career office at local university
- Have them write publish articles and contact experts who have published articles they have read – Have them read constantly and regularly “google” the areas of business where you have clients, read *Harvard Business Review* and other business publications; have them help your law firm build your data base of subject matter experts and attend meetings representing your law firm
- Give them a rigorous evaluation at the 5 and 10 week mark

Section Six - Hiring Interns (Con't)

- Keep them for two or more semesters if possible
- Have them do research and reach out to build ecosystem
- Help your business clients hire great undergraduate interns
- Mentor all interns
- Have all interns use some form of Artificial Intelligence to learn about new fields
- Have interns work on client matters and you can charge them out at 4x what you pay them and the client gets a real bargain (put in retainer agreements that you will bill for paralegals and interns)
- Introduce interns to clients regularly, have them attend events and conferences, online programs in business areas where you have clients and have them write Memos and Articles in their own name on subjects they study
- Pay all interns as there are too many potential legal issues with unpaid interns

Section Seven – How to Give and Get Referrals from Other Lawyers/Firms

- When you get a call in an area where you do not practice, take the name and number and let them know you will have three referrals within 48 hours of other lawyers
- You are an ambassador for the legal profession
- You can ask for a referral fee if you intend to stay involved and the client consents. We did not ask for referral fees except in personal injury cases.
- The more you refer cases to other firms, the more other firms will start wanting to know the areas where you and your law firm practices
- Follow up with each successful referral potential client and each lawyer getting the referral in 90 and 180 days

Section Eight – How to Build Your Reputation

- Give a guest lecture at a law school, undergraduate school or community college; Do internal training programs in your firm
- Take a stand with the local Bar Association – I pushed for acceptance of Articles of Incorporation and Corp Docs by fax in DC and non-lawyers to have ownership stakes in law firms
- Serve on local Bar Committees and speak at Bar conferences (solo or organize a panel) and write for the local and state bar magazines
- When you write an article for your website or any publication, send to 20 colleagues for comment and if they give a helpful comment, include their name and their thinking in your final draft of the article
- Contact reporters and news outlets and let them know you are available for comment on local, regional and national business oriented legal stories

Section Eight – How to Build Your Reputation (Con't)

- Offer to mediate disputes between lawyers and represent lawyers in law firm breakups – Be a “Lawyer’s Lawyer”
- Speak out against injustice, lack of access to lawyers, lack of diversity, lack of proper career paths for mothers who are lawyers, prevalence of frivolous lawsuits, lack of proper and timely discipline for unethical lawyers, and how to improve and put real teeth into the “self-regulation” aspects of our profession.
- Serve on nonprofit boards of directors and nominate other lawyers, with their permission to serve on these boards
- Return most every phone call and respond to almost every significant email every day

Section Nine - Conclusion

- I have not hit all of the major legal issues – they are vast in number, but the overall theme is clear – lawyers who know more and have more legal and business competencies can sell more legal services and have more satisfied clients
- Educate clients about the value of your services, use pro-active lawyering and demand for a reasonable budget for the legal services you provide
- Be sure to have legal or securities experts in helping raise capital in your business “ecosystem” as these capital raising legal issues are very challenging to master if you do not practice full-time in this area

Section Nine – Conclusion (Con't)

- Make the link for your clients to business incubators, accelerator groups, angel capital groups, factoring companies, private lending networks, university and community college business schools, internship possibilities
- When you see something your client is doing that is illegal or unethical (red flag), say something – be a proactive lawyer IN WRITING
- Don't do 50/50 splits or equal splits of ownership unless you design a tie or stalemate-breaking system to get over an impasse
- *Run your own law practice as an exemplary business that your clients look up to and respect*

Section Nine – Conclusion (Con't)

- When you prepare a document, use it as a form next time and have a document management system so every lawyer in the firm has access to all documents created by the firm
- Be systematic, organized
- Be willing to help lead your client and recognize that a business lawyer is a “leader of leaders” – your clients are leaders and you are “Counselors At Law”
- Resign if client unwilling to follow the law OR YOUR ADVICE
- Make sure board of directors’ corporate formalities are scrupulously honored for every client
- Your goal as a business lawyer – *be well known and highly respected*
- Give out referrals to other lawyers and gladly receive them

Section Nine – Conclusion (Con't)

- Teach the business client to do as much “paralegal” type of work themselves such as:
- Documenting all loans in writing made relative to the company, including collateral, creating meeting minutes and notes, getting contracts signed and properly filed and managed, checking potential all new employees legal work status
- Give direction to your clients to do this and monitor them as they become somewhat self-sufficient charging them for your time
- This leaves you and your law firm to be able do higher value legal work for this and all clients

Section Nine – Conclusion (Con't)

- Understand how your business client makes (and loses) money
- Build a law firm business model with different types of fee arrangements, retainer agreements in writing, change orders in writing, keep track of your time for every client and key overhead issues (meetings, research that is not charged, networking, writing and speaking for public audiences)
- Learn all of the substantive areas of law covered and be willing to bring in experts in specialty areas – they will refer business to you and your firm in the future

Section Nine – Conclusion (Con't)

- Use nothing less, master nothing less than State of the Art Information Technology
- Be mindful of the future – Marijuana Law in Virginia, Web 3, AI, Blockchain, Cryptocurrency, NFT's, DAO's are all coming to a theatre near you or a competitive lawyer or law firm. Don't be left in the dust
- Help improve the legal profession – we need it.
- Thank you for taking this course. My email and phone number is on the next slide and call me anytime with a question or comment.

Contact Information

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- 303.910.7961
- Other VACLE Courses:
 - Leadership and Ethics
 - Typical Issues Facing Not-For-Profit Businesses
- Free e-book: Breakthrough, Inc.: High Growth Strategies for Entrepreneurial Organizations (Financial Times/Prentice Hall, 1998) Rubenstein and Grundy –
<https://static1.squarespace.com/static/61cc64d04521f56f17d9a9bb/t/62cbff4d0690575463973af3/1657536334296/breakthroughPDF+-+no+graphics.pdf>

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