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LAW

A DBJ SPECIAL REPORT

Breaking away

For many attorneys, working for a big legal firm is just a **step on the way** to running their own practice

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Law students share a common dream: they see themselves in court, winning cases, perhaps even arguing one day before the U.S. Supreme Court. Part "L.A. Law," part "The Practice," there's the image of the legal crusader, fighting for justice on behalf of a client.

But the reality of law practice is quite different. Attorneys who join large firms find themselves toiling long hours to amass the monthly quota of billable hours. By the time they arrive at partnership status, layers of attorneys and paralegals may separate them from their clients. And they often feel that they're not so much attorneys as worker bees in a corporate culture.

Every year a number of attorneys leave large firms — and equally large paychecks — to strike out on their own, setting up shop either solo or in partnership with other like-minded lawyers.

Rather than being a small slice of the legal pie in Texas, solo and small-firm attorneys make up a majority of the lawyers in private practice, according to Stephen Smith, a solo Houston attorney who is chairman of the general practice, solo and small-firm section for the State Bar of Texas.

Of the 71,000 practicing attorneys in Texas, 47,000 are in the private sector — the remainder work for government

agencies or as in-house counsel for corporations — Smith notes. "Of those 47,000, 68% are in solo or small-firm practice," he says. "That's 28,500 in solo or small-firm practice in Texas."

Solving problems

Some "lone wolves" don't stay alone for long. Trial lawyers Marty Rose and Hal Walker left Gardere & Wynne in 1999, after nearly two decades, to form the eponymous firm of Rose Walker L.L.P. and focus exclusively on trial work. Since then, the firm has grown to 16 lawyers, and the founders are dedicated to slow growth of about one to two lawyers a year.

"Initially, we thought we wanted to stay at about 12 lawyers, but that was a bit Pollyanna-ish," says Hal Walker. "Will Rogers said if you're not growing, you're dying. But we're careful about growth — we don't want to lose our ability to solve problems efficiently."

Rose and Walker broke away from their larger firm over what they call philosophical differences. "Lots of big firms look at clients as revenue streams," says Rose. "We're more about working with clients to solve problems."

By streamlining their fees, Rose Walker has eliminated "nickel and dime charges" that are often included in a client's bill at larger firms. For example, the firm includes such charges as courier services, long distance and legal searches in its hourly rate, rather than charging each item separately.

Looking back, Rose says he and Walker might have been too cautious in setting up the practice. "We went out very lean in terms of lawyers," he says. "You don't know



UNANIMOUS: 'We all agree, or we don't do it,' say Rose, left and Walker.

if the phone is going to ring, and you're scared of hiring a bunch of lawyers and not having work for them."

But most of their clients came with them to the new firm, and Rose says they had to hire lawyers quickly to handle all the work. He also says that they didn't focus enough on the management help they needed.

"You've got to have good competent professional help in the accounting area," Rose says. "It's an overwhelming task getting Web sites approved by the state bar, establishing bank accounts and handling receivables and payables. We now have a great accounting department. We're better lawyers than we are controllers."

Collegiality is the key to Rose Walker's success, according to Walker, who says he and Rose were tired of politics in law firms. The two founding partners have taken on an additional partner and operate on what Walker calls "the 100% rule."

"We all agree, or we don't do it," Walker says. "We kind of stumbled onto the unanimity approach for important decisions, but it makes you act like a partner. If I'm not able to convince my two partners, it's probably not a good idea."

Breaking away: Direct Client Contact

Quality of life

According to Howard Bloom, head of the Howard C. Bloom Co., a Dallas-based legal recruiting firm, the No. 1 motivator for attorneys who go solo is quality of life.

"In a large firm, there are certain demands put upon partners and associates in terms of billable hours, equity, and overhead," Bloom says, adding that breakaway attorneys often are seeking more control over their hours and more independence in terms of the kinds of cases they want to work on.

"Very often it's a philosophical difference," Bloom says. "An attorney has an idea about what constitutes the practice of law, and that idea is not shared by the firm. It could be a difference in how to deal with clients, perceived ethical issues or money."

Bloom asserts that lawyers who have practiced first at large firms have a huge advantage over those who hang out a shingle right out of law school. "Most experienced attorneys agree that a newly-minted lawyer doesn't know how to practice law," Bloom says. "Being with a big firm is definitely part of gaining experience."

Most attorneys who set up their own practices take clients with them and remain on good terms with their former employers, because solo and small-practice lawyers depend on referrals to generate new clients.

Controversial cases

Randy Mathis was a partner at two large Dallas law firms before opening his own practice, Mathis & Donheiser P.C., with a partner in 2001.

Even before he set up shop, Mathis already had a reputation for handling difficult and often controversial cases. He represented a prominent Dallas family in a case that involved art confiscated by the Nazis during World War II. And he defended the Catholic Diocese of Dallas in cases of alleged child abuse.

"In big firms, there might be business conflicts or other conflicts or even personal objections to a case," Mathis says. "I became convinced that I wanted to practice

in an environment and circumstances in which I would be able to accept cases off the beaten path."

Mathis doesn't mind when others refer to him as a "hot potato" lawyer. He and partner Mark Donheiser, an appellate specialist, have represented most United States and foreign firearms manufacturers, Mobil Oil, the Hare Krishna religious sect and judges facing disciplinary proceedings. Many of these "problem cases" are referred in from other firms.

Careful planning can make the transition from a big firm to a small one go smoothly. "We had an existing client base, so we were busy the minute we opened," Mathis says, noting that there is usually a lag time before money comes in. "You probably need to plan for start-up costs of about \$150,000 per lawyer the first year if you're establishing an office that's competitive."

Mathis & Donheiser currently employs five additional lawyers, including two part-timers, and that's enough, according to Mathis.

"It has never been our intention to try to build a large firm to compete with other large firms," he says. "We have the freedom to be flexible and move quickly."

Virtual office

Technology has revolutionized the practice of law, and that's good news for solo practitioners. Dan Boyd, named a Texas Super Lawyer last year by Texas Monthly magazine, was a senior partner at Patton Boggs until he opened his own office last May. Rather than invest money and make space for a law library, he went virtual, with an online law library helping keep down his start-up costs.

Like many other solo practitioners, Boyd offices in an executive suite that offers telephone, mail and fax services, and so far he employs only a paralegal who doubles as a legal secretary.

Boyd, who has practiced law for nearly 30 years, does litigation and arbitration of civil disputes, and his caseload includes real estate, contract, antitrust, securities and health care litigation.

"This kind of practice eliminates some of the big cases," he says, "but entrepreneurial mid-level companies are more inclined to hire a solo."

Although Boyd worries about finding health insurance once his Cobra policy expires, he has no regrets about his decision to go it alone.

"The biggest plus is independence and freedom of action," he says. "The biggest minus is not having a regular paycheck," though Boyd notes that his first solo year may be his best year ever.

Safety net

For Jeffrey Rasansky, the challenge of starting his own practice was seeing how he would thrive on his own without a safety net.

"I wasn't running away from something as much as I was running toward a vision of what I could be," says Rasansky, formerly of Fulbright & Jaworski. "I didn't want to wake up at 40 or 45 and say 'Jeez, why am I still here? Why didn't I have the courage to start my own practice?'"

Rasansky, who set up his practice in 1995, does personal injury litigation and says he enjoys working more directly with clients than was possible in a larger firm. In 2001, he earned the year's largest settlement in a medical malpractice case in Texas.

"My focus is on the individual who may have been treated unfairly, whether it involves dangerous drugs or dangerous products," he says. Rasansky has gained his reputation in the field of nursing home abuse and become an outspoken advocate for the elderly.

While Rasansky enjoys working directly with clients and presiding over a nimble, flexible practice, he says there is a downside to his success.

"The business of running a law practice begins to demand more and more of your time," he says. "Instead of practicing law, I'm often dealing with managing other employees, negotiating office leases or keeping the lights on. It can be very time-consuming."

Clark is a Dallas-based freelance writer.