

SOLO

TRANSFORMATION

Sole practitioners face a perfect storm of low-cost competitors, rural population drain, and an oncoming demographic crisis. But they are also uniquely equipped to overcome these challenges through technology, flexibility, and global niche practices. Take a look at the future of the solo law practice.

By Susan Goldberg



Robert McCulloch doesn't practise family law. He can't — in a town the size of Treherne, Manitoba, acting on behalf of one party in a divorce risks alienating half the population of 650.

McCulloch has put together a list of litigators and family lawyers he recommends for domestic files. "Sometimes the husband will arrive at nine in the morning, and the wife will arrive at eleven, and I will give the list to each of them," he says.

Such is the life of a sole practitioner in small-town and rural Canada. McCulloch's law firm sits next to the post office and attracts a steady stream of walk-in clients (about a quarter of all appointments), folks who come by to pick up the mail and realize they need to update a will or ask a business-related question.

Treherne sits in the centre of a rich agricultural area, and McCulloch counts among his clients about 350 corporations, mostly farms. In a typical day, he'll have a couple of wills appointments, talk to a farmer about whether to incorporate, draft a couple of offers to purchase, and watch clients sign closing documents with respect to transfers and mortgages.

ROBERT TINKER



Sole practitioner Robert McCulloch

Treherne, Manitoba

“What I’d really like to do is to hire someone 15 or 20 years younger than me to eventually take over the practice. But it’s going to be very hard. I can see that being a problem on the horizon.”

It’s a thriving practice: McCulloch has the luxury of turning down litigation and criminal work. He employs four legal secretaries to keep up with documents generated by his solicitors’ work, and the retired lawyer who started coming in once a week to stave off boredom is too busy with his own files to take much work off McCulloch’s hands.

It’s a dream practice. But is it sustainable?

“My kids are still in high school, so I’ve got a few years of work ahead of me, but what I’d really like to do is to hire someone 15 or 20 years younger than me to eventually take over the practice,” says McCulloch, 54. “And I’d still come in one or two days a week and service my old clients, which would be the firm’s clients. But it’s going to be very hard. I can see that being a problem on the horizon.”

McCulloch has tried a few times, as he puts it, to “entice”

another lawyer to Treherne, about an hour west of Winnipeg. He’s even come close to hiring a couple of times. But it’s hard to attract young lawyers to a small town, especially if it means that the partner or spouse of that lawyer risks being under- or unemployed.

So until he finds a successor — if he finds a successor — McCulloch handles the bulk of the work himself and relies on his skilled support staff, including his wife, to keep the business humming.

Warning signs

McCulloch, who chairs the CBA’s General Practice, Solo and Small-Firm Conference, in many ways symbolizes today’s Canadian sole practitioner. According to studies in both Ontario and British Columbia, the average solo is 51 years

old, 7–8 years older than the average lawyer province-wide, and in many cases has no younger lawyer ready to take his place when he retires.

The gender pronoun is appropriate: in Ontario, about 80% or more of sole practitioners are male. These older solos rely heavily on real estate and wills work, two areas of practice that have become increasingly automated and “commoditized,” and therefore less likely to sustain a practice.

Moreover, a disproportionate percentage of sole practitioners work in smaller urban centres or outside urban Canada altogether, a geographic region that the Census Bureau reports is shrinking — and aging — by the year. As farms amalgamate and client populations dwindle, it would seem that the days of the average solo lawyer are also numbered.

And yet, according to statistics compiled by the Federation of Law Societies of Canada, in 2006 — after a decade of cuts to legal aid, the arrival of do-it-yourself will kits, competition from paralegals, rising litigation costs, increasing numbers of self-represented clients, and the introduction of title insurance — 58% of all Canadian law firms still consisted of sole practitioners. What’s more, that percentage had risen 15 points over the preceding decade.

Clearly, the solo lawyer is a resilient specimen, seeming to



Susan Cartier-Liebel
Sole practice coach/consultant,
Bridgeport, Connecticut

“Lawyers have to adapt and offer the services that the consumer wants. And solos can adapt quicker than big firms.”

grow when times are tough and shrugging off the effects of a more demanding marketplace. Equally clearly, however, serious questions must be asked about the financial and personal viability of the sole practice today, and — crucially — in the future. Fast-forward to 2028: what kind of sole legal practitioner will be thriving then?

The precise answer to that question, of course, remains to be seen. But certain trends — most notably commoditization, specialization, increasingly sophisticated technology, and lifestyle demands — are almost certain to reshape the way the law is practised, by solos and large firms alike. Those who can adapt successfully to these changes are the most likely survivors and thrivers.

Flexible and high-tech

And that’s where the good news comes in for the sole practitioner. “The solo is more qualified to adapt,” says Susan Cartier-Liebel, a Connecticut-based lawyer and consultant on solo and small-firm practice and author of the blog “Build a Solo Practice LLC,” dedicated to advancing the interests of and encouraging entry into solo law practice (<http://www.susancartierliebel.typepad.com>).

Cartier-Liebel is watching the increased commoditization of the law, “which makes lawyers absolutely terrified. They

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Edward K. Rowan-Legg Award



Le Prix Edward K. Rowan-Legg

The Edward K. Rowan-Legg Award was established in honour of Edward K. Rowan-Legg of Ontario and Nova Scotia. Ted was a dedicated and active member of the CBA, who served as CBA National Treasurer from 1999 until his death in 2001.

The award, a cash prize of \$1,000 plus a complimentary registration to the CBA’s Canadian Legal Conference, recognizes a dedicated contribution to the CBA by a student member and encourages student member participation in the CLC.

Nominations originate in the branches, and must be submitted to the Selection Committee by the Branch President no later than **June 13, 2008**. Nominations must be accompanied by a nominator’s letter including the nominee’s name, contact information, and a brief description of why the individual should receive the award.

Send nominations to: Edward K. Rowan-Legg Award, Canadian Bar Association, 865 Carling Avenue, Suite 500, Ottawa, K1S 5S8.

Le Prix Edward K. Rowan-Legg a été créé par Judi Rowan-Legg en l’honneur de son mari, Edward K. Rowan-Legg, de l’Ontario et de la Nouvelle-Écosse. Ted était un membre profondément dévoué et actif de l’ABC, qui a occupé les fonctions de trésorier national de l’ABC, de 1999 jusqu’à son décès en 2001.

Ce prix, qui consiste en une somme d’argent de 1000 \$, en plus d’une inscription à titre gracieux à la Conférence juridique canadienne, vise à reconnaître la contribution exceptionnelle d’un membre étudiant à l’ABC et à encourager sa participation à la Conférence juridique canadienne.

Les candidatures doivent provenir des divisions et être soumises au Comité de sélection par la présidente ou le président de la Division, au plus tard le **13 juin**.

Les candidatures doivent être accompagnées d’une lettre du proposant, comprenant le nom de la candidate ou du candidat, ses coordonnées, et un bref exposé des motifs justifiant sa mise en candidature.

Les candidatures doivent parvenir à : Prix Edward K. Rowan-Legg, Association du Barreau canadien, 865, avenue Carling, bureau 500, Ottawa (Ontario) K1S 5S8.



Brian Maude

Maude Law Office, Moncton

“Solos answer to no one but themselves, which gives them the flexibility and autonomy to adapt, and quickly.”

fight it. But you can't fight it. It's inevitable.” Outside of high-ticket items and highly complex litigation, the mystique of many legal transactions is disappearing. The Internet has made information on title insurance, wills, divorces, incorporations and the like readily available, with providers — and easily comparable prices — often only a click away.

“There used to be a time when wills were mysterious, and cost \$800, \$1,000, \$1,500,” she says. “I know a lawyer who works virtually, who has put her services and her prices online, and does wills for \$300. Why can she do that? Because she has no overhead expenses. And that will always beat out the next person. That's what the legal profession is terrified of.

“But lawyers have to adapt and offer the services that the consumer wants,” Cartier-Liebel says. “And solos can adapt quicker than big firms.”

Just ask Brian Maude. The Moncton-based solo runs a boutique corporate/commercial practice that's all about harnessing technology. He can — and does — practise anywhere, including his clients' offices, by virtue of tools like:

- his laptop (outfitted with dictation and document creation software, as well as an array of Google applications to help him deal with scheduling and document management),
- cell phone (calls from his 1-800 number are automatically transferred to his computer, as are faxes), and
- the Internet (via which he can access client files, stored on a secure server).

The bulk of his marketing is accomplished via his sleek

website — www.maudelaw.com — which he designed and built himself.

“In 1998 or '99,” Maude says, “I remember saying to one of the lawyers at the firm I articulated with, ‘You know, in five years, you won't need the big office and the fax machine and the secretary and the receptionist. You'll be able to work from home. You'll have all your files on your computer.’ And he said, ‘Oh yeah, sure. That'll happen.’ And roughly five years later, that was exactly what I wound up doing.”

The technology that provides the backbone to his practice, says Maude, is still seen by many lawyers as an accessory rather than as a real tool for reducing workload. “Lawyers, at firms especially, can find it difficult to harness new technology, because the firm mentality requires group buy-in: the technologically savvy have to drag everyone along with them.

“There's this attitude that, ‘We've always used WordPerfect, and we're always going to use WordPerfect — even if no one else does.’ Solos, on the other hand, answer to no one but themselves, which gives them the flexibility and autonomy to adapt, and quickly.”

The “we've always done it that way” mindset, says Maude, can easily extend beyond technology to encompass a lawyer's or a firm's entire business outlook. “If your attitude is that ‘the clients I have are the clients I'm always going to have,’ of course you're going to have trouble with succession. If there is no incentive to go out and get new clients, there's no incentive for anyone to come in and take over.”

The end of general practice

In the same vein, in a market where legal services are increasingly commoditized, solo lawyers can no longer necessarily rely on making a living as general practitioners who service the various legal needs of the “person off the street.”

“In days past, you would see a general practitioner do a will, an estate, a conveyance, a real estate transaction, some corporate-commercial work, maybe also some criminal work: impaired driving cases, assault cases, motor vehicle accident cases. We're seeing less and less of that,” says Bruce LeRose of

Judith Potter

Small Claims Court judge,
London, Ontario

“Access to justice for the general public is very dependent on the kind of work that small firms and sole practitioners do.”

Thomson LeRose & Brown in Trail, British Columbia (pop. 8,000). He chairs the Law Society of B.C.’s Small Firm Task Force.

“There’s been a real move in the last 20 years for lawyers to specialize, as opposed to operating as a general practitioner,” he says. “And that’s limiting the numbers of lawyers who will go out and work in small towns, because in small towns, you generally have to operate in a general practice in order to make it financially feasible.”

LeRose — like many — isn’t happy about the situation: “It’s a shame that we are losing the general practitioner, because he or she was always available to the individual on the street.”

Judith Potter agrees. A former solo and now a Small Claims Court judge in London, Ontario, she co-chaired the Law Society of Upper Canada’s mammoth Report of the Small Firm and Solo Practitioner Task Force. “Access to justice for the general public is very dependent on the kind of work that small firms and sole practitioners do,” she says.

Cartier-Liebel, however, sees specialization — or, as she puts it, defining and servicing one’s “niche” — not as a death knell for solos, but as their potential white knight.

“What someone needs to do in order to survive is service a progressively smaller niche of price-insensitive, service-oriented customers,” she says, “So you’ll have somebody who specializes in pet trusts, somebody who specifically deals with taking on municipalities in laws that violate animals, or someone who just does wills for people under age 65 with degenerative diseases. They will become experts in that.”

And with the Web as a powerful marketing tool, specialist lawyers have access to a worldwide base of potential customers. The trick, says Cartier-Liebel, is knowing how to brand yourself effectively and access the market or your niche — a market that might well include law firms and large corporations looking to “outsource” some work to smaller practices with lower overheads.



The power of blogs

One phenomenally successful way to market to your niche is to join the tremendous community of legal bloggers. “It is, hands down, my best marketing tool,” says Donna Seale, a lawyer in the Winnipeg suburb of Oakbank, of her blog “Human Rights in the Workplace” (<http://donnasealeconsulting.typepad.com>).

“It forces me to stay current, it adds to my legitimacy and my exposure, and it’s a huge networking tool in terms of getting my name and my expertise out there,” she says. “I had all this knowledge in my head, but no one really knew that I knew what I knew. I needed a platform. And the blog is an ideal platform.”

Seale set up her sole practice in 2004. “I had twin daughters in 2003 and decided that — for me, at least — working in the litigation field and taking care of two children the same age would put me in an early grave.” Her employer, the Manitoba Human Rights Commission, asked her to develop some public education courses for them on a consulting basis, and “I put out a shingle, as it were.”

Today, Seale develops and delivers courses for the MHRC and workplaces, trains government employees in public-sector

investigation work, and investigates human rights complaints for the commission, employers, and unions. She sees the blog as “the great equalizer between big firms and solos.”

“Law firms are great at writing these beautiful, but dare I say stuffy, newsletters, and I’m not sure who reads them,” Seale says. “But with a blog, if you set it up right and optimize search engine status, the information can go out like wildfire. My readership is across Canada, in Pakistan, the United Kingdom. It totally amazes me. It increased my profile so much in such a short period of time that I could not even imagine the dollar figure attached to it.”

As far as she’s aware, Seale is the only lawyer in her province blogging in her niche area, human rights law. She’s untroubled by the trend away from generalization, for lawyers and consumers alike, both of whom are growing more sophisticated.

“The whole world is looking at specialization,” she says. “I think clients want their lawyers to know their particular area of the law, and don’t just want to deal with someone who generally knows things. I can see, over time, clients having multiple lawyers dealing with multiple areas of the law that happen to be those lawyers’ particular niche.”

Indeed, just as technology can enable a lawyer to practise just about anywhere the Internet reaches, it seems that a growing number of individual consumers of legal services — those “people off the street” — are happy to conduct legal

business virtually. Perhaps, in time, that might mitigate worries about the potential disappearance of the small-town general practitioner.

“I find that some people prefer to conduct business without face-to-face meetings,” says Maude. “Particularly when you’re dealing with small businesses, they don’t have the time to come to your office, or they don’t want to take the time. My IT clients really appreciate that they don’t have to come here.

They can text me a question and I text back the answer.”

Family and future

In addition to a firm grasp on technology and a well-defined niche, Cartier-Liebel, Maude, and Seale have something else in common: they’re all parents of children under the age of five.

The demands — not to mention the joys — of child-rearing and general family obligations have played an important role in these lawyers’ decisions to go solo. They all work hard, often putting in hours at the computer once the kids are in bed. But they have more freedom and control over their schedules than the average firm lawyer, who has to answer to the demands of the billable hour and the partnership track.

“I’m as busy as I like to be,” says Maude. “I have a two-year-old. He’s going to be a child only once, and I want to spend a lot of time with him. If I wanted to work like a madman and bill as many hours as possible, I suppose I could do that. But that’s not what I want to do. Nobody has to work 90 hours a week.”

Importantly, however, Maude points out that the decision to go solo is still a gendered one: women who want to have children may resist hanging out a shingle because the self-employed cannot qualify for maternity and parental benefits under current Canadian Employment Insurance rules. Those rules, he says, will have to change, and once they do, “we’ll see many more younger women enter solo practices.”

In the meantime, what’s the prognosis for the future of sole practice in Canada? On the one hand, rural lawyers and general practitioners like Bob McCulloch seem to face an uncertain future, without clear successors — or possibly clients — for their practices. On the other, sole practice seems to be the perfect place for millennial, entrepreneurial younger lawyers, trained almost since birth to use technology and unwilling to sacrifice quality of life for the billable hour.

As one generation winds up its legal career, it seems poised to be eclipsed by a newer generation of practitioners, serving both a narrower (in terms of niche) and broader (in terms of geography) clientele. The thriving sole practice of 2028 will be wired, flexible, accessible, affordable, and focused, competing for clients in an electronic, rather than geographic, marketplace.

Today’s solos who plan to be around 20 years from now have a great chance at success — so long as they’re willing to rethink their business models and invest in technology and innovation.

Fortunately, solos are well-suited to adapt. As Cartier-Liebel says, “Solos will get there first. They always do.” ■

Susan Goldberg is a freelance writer based in Toronto. Her previous article for *National*, on cameras in the courtroom, appeared in our July/August 2007 issue.

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— Donna Seale

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