



Choosing a Practice Area

[Jamie Barnes]

While some lawyers can avoid making the choice by being a jack-of-all-trades attorney in a small practice, most attorneys will eventually have to choose one area of the law in which they can specialize. It's important to get the facts before you make this decision, as it will have a major impact on your entire career.

In her excellent book on major legal practice areas, *The Official Guide to Legal Specialties: An Insider's Guide to Every Major Practice Area* (Barbri Group Publishing, 2000) Lisa L. Abrams, Esq. identifies 24 different practice areas. You may or may not agree with how she breaks down the practice-area universe, but to keep it simple, we shall borrow her list and much of her thinking. In the process, we created for you a quick overview of the different types of specialties you might consider entering.

If you seek a more in-depth description of any practice area described here, I recommend you buy Lisa Abrams' book, as she goes into considerably more detail than I do, noting helpful law school courses and outside experience applicable to specific practice areas, and including helpful quotes from lawyers around the country who are practicing in the areas she describes.

The choice of practice area is especially important for those of you contemplating work in a large firm. Why? Because once you spend a few years, in, say, Tax, that is how you will be identified by the legal community. Changing practice areas gets progressively tougher the longer you practice. Thus, you should think carefully about this at the start. When trying to decide which practice area is best, you should consider your law school grades, for they are indicative of your natural predilections; but equally or more important, perhaps, is your gut feeling.

One caution which I cannot emphasize too strongly: avoid glamorizing or romanticizing,

say, Public Interest Law or Criminal Law just because you enjoyed characters in a movie or TV series who play these types of lawyers. The key is to locate deep within yourself what makes you happy. Do you like working alone or with people? Do you like numbers? Science? Art? Are you more comfortable in small than large organizations? What are your hobbies and what skills do these hobbies highlight? I mention hobbies because these are activities you choose because they give you pleasure. Your law career, to one degree or another, should do the same.

What follows is a brief description of various practice areas. Read them and try to imagine yourself working in each of these areas. Hopefully, by the end of your reading, specific areas will have stood out. These are the ones you should seriously consider.

Admiralty and Maritime Law

This practice area involves water, oceans, streams and the laws that apply to them as well as the people who work and travel on water. You've also got laws concerning injuries that occur on ships, the cargo they carry, loading docks and the like. Different municipalities, states and nations can have their own peculiar laws. You can take courses in Admiralty and Maritime Law and even get an L.L.M. in Ocean and Coastal Law if you choose. The venue for this type of practice could either be in government or in private practice. Some large corporations who do a lot of shipping by water also employ admiralty lawyers.

Antitrust Law

This branch of the law has evolved to protect a fundamental ideal of both Capitalism and Democracy—the right of free competition unhindered by any single dominant individual or entity. Attorneys who work in this field have a sense of purpose shared by Environmental and Public Interest attorneys. Should you practice in this area, you will be concerned with such issues as predatory pricing and the threat of monopoly market concentration of power. You'll be concerned with mergers and acquisitions and how they impact the idealized sense of an "open market." You'll be expected to read balance sheets, income statements and other accounting and corporate records-keeping practices. The venue for this practice is typically either in government or with a private firm.

Banking and Commercial Finance

Businesses and individuals frequently need to find capital to start, grow, buy, sell, or shut down businesses. You can do this kind of law in a private firm, or for a corporation or individual business. You will be heavily involved in document preparation and checking. You'll be advising clients on how to maximize leverage when borrowing, lending or otherwise placing their financial futures at risk. You'll also be doing a lot of negotiating and working intensely with accountants, CPAs, auditors and outside counsel. An accounting background, if you have it, will be of immense value.

Bankruptcy

Capitalism by its nature produces winners and losers. Most business people trip themselves up from time to time, but if they



do so too often, they find they can no longer afford to pay their creditors. When this happens, were it not for bankruptcy law and the attorneys who specialize in it, there would be nobody to protect creditors and safe-guard the rights of others harmed in the process. Bankruptcy attorneys also help bankrupt individuals get back on their feet. You're most likely to do bankruptcy in a financial institution or private firm. You'll be expected to be knowledgeable in all kinds of financial instruments plus a variety of federal, state and local laws. You can also expect to do a healthy amount of negotiation and litigation.

Corporate

Any transaction a company or corporation undertakes involves corporate law in one form or another. You can practice this type of law as an in-house counsel or in a private firm. You'll negotiate, draft and review a wide variety of contracts. You'll advise management of its rights and legal vulnerabilities. Your work will cross into labor and employment, I/P, insurance and other practice areas. In short, you will become a legal jack-of-all trades. You will need to be cognizant of federal and state securities laws. Your sole job will be to protect your business client from harm by individuals or other corporations. Most corporate attorneys say they like deal structuring the most, comparing it to solving intellectual puzzles.

Criminal

The drama of the criminal trial is the staple of crime writers and Hollywood producers. The reality, whether the attorney is involved in criminal prosecution or criminal defense, is that there will likely be a lot of difficult, frustrating behind-the-scenes grunt work—the kind that never appears on screen. You can practice this specialty at local, state and federal levels and even internationally. You might be defending a corporate bigwig one day and on another day a teenager accused of drunk driving. Drugs, organized crime, public corruption—it is all part of what the criminal lawyer does. Negotiation, litigation and ana-

lytical skills are pre-requisites for this type of work.

Entertainment and Sports Law

This practice area involves contracts, securities, labor, corporate finance, insurance, copyright I/P and trusts & estates law. Heavy contract strategizing, preparation and negotiation is the norm. There are marketing and endorsement contracts, the challenging of unauthorized use of a client's photograph, defamation law and issues regarding First Amendment rights. You most likely would work in a private law firm but could also be representing a large entertainment entity such as Disney Studios or Time Warner Broadcasting. This type of law requires the ability to form strong business relationships built on trust.

Environmental Law

This type of lawyer is often stereotyped as a long-haired ultra-leftie who seeks windmills to attack with his or her lance. This stereotype does an injustice to lawyers involved in a continuing balancing act between users of the environment and the environment itself. There are a wide variety of federal, state and local laws designed to protect land from human interlopers, deal with instances of contamination by human or natural processes, and in general balance the needs of humanity against those of the ecological system and its hoped-for perpetuation. A strong understanding of real estate law is essential. Strength in the biological sciences is also helpful. Environmental lawyers can work for law firms or corporations. Many work for non-profits.

Family Law

Divorce. Child Custody. Gay marriage. Prenuptials and postnuptials. Protection for the elderly and infirm. Adoption. Gay marriage adoption. Termination and re-assignment of parental rights: the list of family-law issues is long and involves considerable negotiation skills and a strong stomach, as powerful human emotions are evoked and involved.

The majority of the work in this practice area involves divorce and its ramifications. Most family law attorneys are found in private firms or operating independently. A strong interest in sociology and human interactions in general is a prerequisite.

Health Care

The health care industry has seen the development of HMOs, the expansion of employee health insurance plans, eldercare, and the consolidation of both private and public hospitals. Along with these changes has come a type of attorney specialist who can penetrate the veil of new laws, old laws and situations existing laws may not cover. Health care attorneys work for hospitals, for individual insurance companies, and in private practice representing both individuals and organizations. There are always public policy matters to consider. Health care attorneys like their work because they feel they are making a difference in the lives of individuals and society.

Immigration

Moving from one country to another, or crossing the border into the USA to visit, work, marry and/or settle permanently involves a variety of federal laws and bureaus, to include the Naturalization Service and the Department of State. Immigration attorneys are typically found in private firms but may also work with corporations who move individuals from country to country. They like their work because they believe they are helping individuals find a better life. With the War on Terror begun by the George Bush Administration, immigration lawyers have assumed a new sense of importance.

Insurance

When you or anybody else takes out insurance, you are exchanging your money for promised protection or remuneration of some sort. Insurance attorneys help those who feel an insurance company did not live up to its promises and they help companies who feel they are being asked to pay on claims not

specified in the contract. Insurance lawyers get involved in health care, contracts, environmental and other legal practice areas as well as their own. Many attorneys in this field have a medical background. As might be imagined, there is a strong litigation component to this type of work as well as the ability to negotiate settlements before they get to court.

Intellectual Property (I/P)

This practice specialty is divided between what is known as "soft" and "hard" I/P. Soft I/P involves copyright and trademark establishment and protection. It is non-technical in nature as opposed to hard I/P, which requires that an attorney have as much as a Ph.D. in the biological or hard sciences. The work often involves international law, challenges to unfair competitive practices, trademark infringement, trade secrets and computer law. Optimally, you should have a minimum of an undergraduate degree in the hard sciences with a graduate degree preferred.

International

As the economies of various countries become more enmeshed, and as corporations continue to operate in more countries than just their own, a variety of legal issues become involved that can intrude on I/P, real estate, antitrust and other practice areas. Local laws in India, say, can influence the decision of a corporation based in Milwaukee that wishes to sell or open an office or factory there. Most international lawyers are found in large international law firms located in major cities. Many such lawyers speak, read and write more than one language. Large international corporations will also employ such attorneys. There can be a great deal of travel involved and a great deal of contract drafting and negotiation. Many international lawyers report spending as much as 25% of their time on the phone. A lot of the work is transactional as local attorneys who speak the local language are usually employed to do actual litigation.

Labor and Employment

Employers and employees have been having disputes since the beginning of time. So have corporations and unions. Such disputes can become violent and impact an entire nation when employees in a major industry such as the railroads, trucking, or, say, General Motors goes on strike, or such a company or industry enforces a lock-out. There are issues of work hours, overtime, workplace discrimination, "unfair" promotion and firing, affirmative action and drug and alcohol testing. Most labor/employment attorneys work for private law firms but they can be found employed by unions and corporations as well. Negotiation skills are at a premium in such work. Litigation often is necessary.

Legislative Practice

Attorneys specializing in this practice area tend to work for local, state and federal entities, to include U.S. senators, governmental regulatory or legislative committees, lobbyists, corporations and insurance companies as well as private firms. In many respects, this is one of the more intellectual areas of practice. Many of the issues considered concern public policy. Many such attorneys also function in a lobbying capacity for some interest or other. When a legislative attorney works for a specific senator or representative, it is assumed that the attorney will share his or her boss's ideological world view.

Municipal Finance

When towns, cities, schools and other governmental entities need or choose to raise money, increasing taxes is only one of the options. Another is to issue bonds. This is what municipal finance attorneys do. Most attorneys in this field work for large law firms, financial institutions or federal agencies such as the SEC. The work entails a considerable amount of tax, real estate and environmental law. Inducements from cities to corporations to build factories in their midst frequently involve municipal finance lawyers, who also can be useful when a corporation decides to pull out of a city without fully honoring the terms

of the deal. Good knowledge of municipal, state and federal law and strong negotiation and litigation skills are prerequisites.

Prosecutors and Public Defenders

There are thousands of prosecutor and public defender jobs. There are prosecutors in virtually every city in the United States. Generally, there are district attorney's offices and criminal divisions of the state attorney general's offices at the state level. These offices are organized by county. The District Attorney for the county is usually an elected official. Depending upon the size of the District Attorney's office, they may have multiple units that focus upon different types of crime such as domestic violence, homicide, appellate work or sex crimes. If you work with a smaller District Attorney's office, you may have the option of handling diverse caseloads.

One of the largest advantages of working for a District Attorney's office is that you can get immediate and meaningful trial experience. This is something that many attorneys who work in law firms must wait for years to get. As an Assistant District Attorney, you will generally start out doing smaller misdemeanor cases and then work your way up to more significant work. On the higher end, District Attorneys have a great deal of discretion in how cases are investigated and prosecuted. The entire process of working as a District Attorney can result in a tremendously fulfilling career for people who want meaningful trial and court experience.

State Attorney General's Offices

These offices generally prosecute cases that have statewide significance and work with local District Attorney's offices in the prosecution of cases. In addition, virtually every state has a State Attorney General's office that is charged with representing the state in litigation.

Federal Prosecutors

At the federal level, prosecutors work at the Department of Justice in Washington, D.C. and at U.S. Attorney's Offices throughout the United States. At present, there are over 90 U.S. Attorneys who manage the majority of all federal prosecution in the United States. Each U.S. Attorney reports directly to the Attorney General.

The majority of people working as federal prosecutors are Assistant U.S. Attorneys (AUSAs) who carry out the bulk of federal prosecution in the federal courts. There are numerous specialized units within the U.S. Attorney's office and some AUSAs prosecute drug crimes, organized crimes or economic crimes, for example. In addition, there are appellate divisions in the U.S. Attorney's Office that carry out appeals for the government.

Public Defenders

At the state, federal and local level, public defenders serve as court-appointed attorneys for those who cannot afford an attorney. If you are seeking immediate and substantial trial experience, working as a public defender is an excellent way to find it. Since public defender offices must accept all cases referred to them, the number of cases a public defender handles at one time can be tremendous. Most public defenders start out on smaller misdemeanor cases and as their understanding increases they are given more complex trials such as felony and even capital cases. It is not uncommon that a public defender with as little as five years of experience could be handling a murder trial, for example.

There are several myths that surround getting a position as a prosecutor or public defender. We have addressed some of the more common ones below.

Myth: Only the top students can get jobs as prosecutors or public defenders. There are tens of thousands of prosecutor and public defender jobs. Certainly, some are harder to get than others, but for the determined job seeker, an expansive search will

very likely find success.

Myth: Prior criminal trial experience is needed.

This is not necessarily true, but in some situations, people who have volunteered in the prosecutor's office may have a better chance of getting a position.

Myth: The salaries are very low.

As a general rule, the salaries range from \$25,000 to \$55,000 for those just starting out. For experienced prosecutors, the salaries are often in excess of \$100,000. In addition, the emotional fulfillment has proven to be much higher than at a law firm or in-house position.

Real Estate

When you negotiate a lease for an apartment, buy a house or purchase a \$5 million building for your business, you operate within the confines of real estate law. This practice area does not just deal in contracts but in zoning laws, environmental compliance, property management, land use, investment, mortgage and insurance law, trusts and estates, et. al. Much of the work focuses on drafting, revising and negotiating contracts. Real estate lawyers often work for small and medium-size firms and for corporations such as franchisors and manufacturers with multiple locations.

Securities

In order for a business or, for that matter, a governmental unit to gain extra money, it must issue I.O.U.'s in the form of shares of stocks, bonds, a package of loans or mortgages, or any other kind of financial instrument that can be devised. There are both state and federal laws regulating the issuing and sale of such instruments. Attorneys who specialize in this field become experts in advising companies on how to most effectively raise funds for expansion or another purpose. If you work for the federal government, your only client is the special interest of the nation as a whole. Thus, this type of law can be conceptual as well as focused on an individual entity. Securities at-

torneys say a large portion of their business is done over the phone. Since numbers are such a significant aspect of this type of practice, accounting or math skills are strong prerequisites.

Tax

Every financial decision a corporation or individual makes can have tax implications. How best to finance debt? What is the best method for depreciating assets? Tax attorneys tackle these and other questions daily. Attorneys in this specialty, and in securities law, are considered both amusingly and in a pejorative sense as the most "creative" of all lawyers. Why? Because the basic job of the tax lawyer is to mitigate—any way he or she can—the potentially deleterious influence of taxes. Gifts, trusts and a wide variety of tax structures are typically employed to this end. Tax lawyers are found in private firms, in-house and in government. An advanced accounting background is almost mandatory.

Telecommunications

This is one of the faster growing practice areas, due in no small part to the growth of the Internet, pagers, cellular phone networks, satellite communications grids which cross national boundaries, etc. Telecommunications lawyers deal with real estate and antitrust issues as well as securities law. A client can be the small local radio station or a giant international communications conglomerate such as AT&T or Comcast. Telecommunications attorneys are found in-house, in government and in large private law firms.

Trusts and Estates

Nobody likes to think about death; yet clergy and trusts and estates attorneys make their living doing so. The clergy work to make your passage from life unto death as spiritually painless as possible while the trusts and estates attorney handles the financial aspects of this transition. Most of this work involves the production of an estate plan, which certainly involves a will and can involve trusts, powers



of attorney and other means of conveying property from one generation to the next. The work can be of a boilerplate nature for an individual without significant tangible assets, but it can also be very tailored to individual needs. Trusts and estates lawyers almost always function as counselors and by nature should be patient and sympathetic listeners.

Solo Practice

Solo practitioners by definition must migrate from one practice area to another depending on the needs of a specific client. Much of what a solo practitioner does has to do with family law and trusts and estates, but often solo practitioners become involved in tort law and personal injury. Out of such work can come class action law suits against, for example, cigarette companies and firearms manufacturers. Torts law involves litigating, and a solo practitioner can frequently be found in court litigating a drunk driving case, or suing for negligence, professional malpractice, wrongful death and the like.

Conclusion

We hope that this has provided some insight into the many different specializations possible in the practice of law. No doubt several have sparked your interest while others probably left you uninterested. If you re-assess your successes and failures in law school, your interests and your prior education, you may already have formed an idea of which specialty is best for you. Remember: You have traveled a long and often arduous academic road to get where you are. Many have dropped by the wayside in the processes. Now, before you commit yourself to a career, it is time for you to decide what will make you the happiest.