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### Question Regarding Formation of Legal Practice

I am starting my own law practice and I am having a difficult time deciding whether to form an LLC or just a solo proprietorship. I am the only attorney and have no employees.

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I opted for the single-member PLLC, for the only reason that I cannot envision a professional service business exposing itself to the potential liability of a sole proprietorship.

One lesson learned, even though the IRS disregards the single-member LLC for tax purposes (you'll be taxed as a sole prop, Schedule C and its kin), get an EIN from the IRS. You can get an EIN for banking purposes only, and its much easier to do it from the start than to try to explain to a bank why you're changing from the member's SSN to an EIN for the LLC.

I highly recommend the ABA Legal Guide for Small Business. It costs about \$15 or \$20 on amazon.com and is an outstanding condensed desktop reference. I describe it as Small Biz Law for Dummies, and I give a free copy to all my small biz clients (new or established).

Chris Attig

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Thanks for the reference, Chris -- there are used copies on amazon starting at \$2 so I am picking one up. I have an economics background and have worked at many jobs prior to being an attorney, but the business portion of being a solo is definitely challenging.

-- Amy Kleinpeter

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You might also add to that list potential additional business taxes depending upon what your state and local government requires of professional organizations.

Bruce L. Dorner

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Off the top of my head, late on a Friday....

1) Members of an LLC are not personally liable for the debts/obligations of the LLC (unless they agree to be)

2) What kind of liability does my estate incur if I die or become disabled while a sole prop attorney, the day before my biggest client's trial, or on



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the way to file suit and avoid a blown statute? The answer, if I'm in a properly formed PLLC, is probably none.

Chris Attig

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What liability do you think a sole proprietorship is exposing itself to that a single member PLLC is not?. The slip and fall case on premises is the only one I can see. In either business form, the lawyer's personal assets will be available to pay for damages arising out the solo attorney's malpractice.

Michael Blake

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My two cents: Advantages of PLLC: Poised for growth, if desired. Your share in the PLLC may be considered personal property. Liability limited to contribution to PLLC, however, please see disadvantages of PLLC. Disadvantages of PLLC: Some states pierce the veil of a single member-managed PLLC as they do a corporation, which would expose your personal assets to a malpractice claim even if a PLLC. There could be a question of adequate capitalization of the PLLC. The fee here in Illinois is \$500 for an LLC. (In Colorado, for example, last I checked it was \$25.) Best of luck whichever you decide...

Gerald Baggot

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I have to disagree. If you commit a tort, your personal assets are available to pay for damages, irrespective of the business organization. Hence if a partner in a law firm, formed as Professional Corporation, LLP, or whatever, commits malpractice, his personal assets are always available for damages. On the other hand, if you do form a corporation or LLP, your personal assets may be protected if someone trips on your office carpet and breaks their leg, and sues you for premises liability.

Michael A. Blake

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I stand corrected.

Gerald Baggot

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I just went through the same issue, and ultimately decided to go for the single member LLC. Liability-wise, there is nothing exciting that I expect to have protected. I have malpractice insurance to protect me against my own stupidity and liability insurance and umbrella insurance to protect my premises against other people's stupidity (ie trip and falls).

So - why did I decide to move from sole proprietor to LLC (and pay the \$500 fee)? 1) I want to be able to deduct my health insurance, life insurance and disability insurance premiums as business expenses, which I can't do as a solo 2) I want to be able to grow and bring on a secretary/receptionist/file clerk/somebody to help me out. Even if it only starts out as 5 hours per week, it may grow into full time relationship. It

will need to grow into full time when my COBRA health insurance runs out and I need to have a second full time employee so my "firm" can qualify for health insurance. I might as well start finding someone now so I can feel comfortable with an employee when the time comes.

Also, depending on the name you intend to function under, if you adopt an assumed name for your sole proprietorship, you are going to expend a nice chunk of money for publication of your new firm name even if you don't incorporate or LLC-erate. You might as well avoid those costs and just bite the bullet. My procrastination in figuring out what I wanted to do and what form I wanted to take, means I now need to re-do all the things I did 6 months ago when I opened (my firm's credit cards, checks, memberships, sign for out front, etc.) A big-ol' pain the tuckus.

Michelle J. Rozovics

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Are you suggesting that you can avoid liability for your own torts by forming a PLLC?

Michael Blake

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I would incorporate the practice if I were you.

Robert W. "Robby" Hughes, Jr.

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