



THE POWER OF A NAME

*A GUIDE TO SELECTING AND PROTECTING
THE NAME OF YOUR LAW FIRM*

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DISCLAIMER: This e-book is for educational purposes only. It does not offer and is not a substitute for legal advice. It does not establish an attorney-client relationship and is not for advertising or solicitation purposes. The hiring of an attorney is an important decision not to be based on advertisements, or e-books.



Introduction

Introduction

Choosing a Name For Your Law Firm

Once you have decided you want to start your own law firm, you will need to pick a unique name that is compliant with the Florida Bar Rules. The name you select is very important because it is part of your brand. Therefore, you may want a name that communicates a message to your clients, as well as identify your firm in the marketplace.

This E-books is designed to help familiarize you with how to pick a name for your firm and educate you on the Florida Bar Rules associated with the naming of a law firm.

May you find this E-book useful in the start-up of your law firm.





CHAPTER ONE



Florida Bar Rules

Florida Bar Rules

“The Florida Bar is the organization of all lawyers licensed by the Supreme Court of Florida to practice law in the state. The Florida Bar’s core functions are to: Regulate the practice of law in Florida; ensure the highest standards of legal professionalism in Florida; and protect the public by prosecuting unethical attorneys and preventing the unlicensed practice of law.”

<https://www.floridabar.org/about/>

[Rule 4-7.21](#) states that “[a] lawyer may not use a firm name, letterhead, or other professional designation that violates rules 4-7.11 through 4-7.15.” As for trade names, the rule reads as follows:

(b) Trade Names. A lawyer may practice under a trade name if the name is not deceptive and does not imply a connection with a government agency or with a public or charitable legal services organization, does not imply that the firm is something other than a private law firm, and is not otherwise in violation of rules 4-7.11 through 4-7.15. A lawyer in private practice may use the term “legal clinic” or “legal services” in conjunction with the lawyer’s own name if the lawyer’s practice is devoted to providing routine legal services for fees that are lower than the prevailing rate in the community for those services.

(c) Advertising Under Trade Names. A lawyer may not advertise under a trade or fictitious name, except that a lawyer who actually practices under a trade name as authorized by subdivision (b) may use that name in advertisements. A lawyer who advertises under a trade or fictitious name is in violation of this rule unless the same name is the law firm name that appears on the lawyer’s letterhead, business cards, office sign, and fee contracts, and appears with the lawyer’s signature on pleadings and other legal documents.

Additionally, a law firm cannot use an abbreviated version of its full name in ads when it uses the full name on its letterhead, business cards, and other ads. See [Advertising? Use your firm’s full name.](#)

Florida Bar Rules

Below are the Ethics Opinions regarding Law Firm Names provided by the Florida Bar.

- “Associates” used in name [86-1](#)
- Deceased lawyers’ names continued in firm name [64-20](#), [65-55](#), [69-20](#), [72-39](#)
- “Firm name” used by in-house attorneys [98-3](#)
- Including names of lawyers not partners or shareholders [74-20](#)
- Interstate firm using same name in Florida as in other jurisdictions [74-48](#)
- Judge’s name kept in firm name [64-20](#), [67-8](#)
- “Law offices of...” [68-36](#)
- Name of partner on 18-month leave of absence kept in firm name [72-18](#)
- Professional associations [61-19](#), [61-19 \(Supp\)](#), [68-58](#), [69-20](#), [74-20](#)
- Public official’s name kept in firm name [64-20](#), [67-8](#), [70-64](#)
- Trade Names [93-6](#), [93-7](#), [94-6](#)
- Withdrawn partner’s name kept in firm name [71-49](#), [00-1](#)

See the Ethics Department’s complete [Subject Index of Ethics Opinions](#). If you have questions you may contact the Florida Bar’s [Ethics Hotline](#) at (800) 235-8619.





CHAPTER TWO

Time to Brainstorm

Time to Brainstorm

Brainstorm, Evaluate, Brainstorm, Proceed

In this day and age, finding the perfect name for a law firm can be difficult. It seems the good ones are taken. For a law firm, Florida Bar regulations are added to the challenge. See Chapter 1 for Florida Bar regulations on naming your law firm.

When starting a law firm, the first thing you want to do is make a list of as many names as you can think of. Jot down whatever comes to mind, without judgment, and don't stop until you have 25 names. Remember – don't include names of companies that already exist. You are looking for an original name for your law firm concept. Think *traditional names vs. non-traditional names*.

Traditional	Non-Traditional
Sheryl Seckel Hunter, P.A.	Hunter Business Law
Smith & Smith, P.A.	Smith Trademark Law
John Doe & Associates	Lexwerx Law Firm
Hersem Law	New American Legal
The Farrell Firm, PLLC	The Crypto Law Team

Next, recruit a small but diverse group of friends to brainstorm with you. Get your list down to 10 names, adding and deleting as needed. Keep the process fun and creative -- keep an open mind.

Once you are down to 10 names, put them in order from most to least favorite. Now it's time to critique.

Time to Brainstorm

Behind the Process

We spoke with a colleague and friend, Paul Ferreira, who offered to share his brainstorming process with us for his firm [LexWorx](#), *Forging Legal Excellence Since 1989*.

First, Paul wanted to incorporate his name in a more unique manner, and since “Ferreira” means “forge” in Portuguese, he was able to incorporate that into his tagline.

Next, he chose the Latin work for LAW, which is LEX.

Finally, as a homage to the company that gave Paul his start in the legal industry, as well as a twist to the common word WORKS, Paul chose WERX.

This thought process resulting in the name LEXWERK aka LAWWORKS, which is an acceptable name under the rules of the Florida Bar. Great job Paul!





CHAPTER THREE

Time to Critique

Time to Critique

Will your favorite name hold up?

The trademarks that are most likely to be registered and easiest to protect against infringement fit one or more of the following criteria:

- The trademark is “fanciful” – a fanciful mark is a made-up word. Examples would be *Kodak*, *Xerox*, *Google*.
- The trademark is “arbitrary” – arbitrary marks are words used out of context, disassociated with their normal meaning. “*Apple*” for a computer and “*Jaguar*” for a car are examples.
- The trademark is “suggestive” (but not too descriptive) – a suggestive mark implies the nature, quality or characteristics of the services or products but doesn’t provide a precise description; the consumer has to make a connection in his or her mind. Examples would be “Habitats” for a home decorating law firm or “Par” for a golf store.

A trademark is a word, name, symbol or device that is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others.

A service mark is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product. The terms “trademark” and “mark” are commonly used to refer to both trademarks and service marks.

Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark.

Trademarks which are used in interstate or foreign commerce may be registered with the United States Patent and Trademark Office (USPTO). www.uspto.gov

Now that you have a list of no more than 10 potential law firm names, it's time to critique them to see which one holds up. Judge your potential names against each of the criteria listed below.

Criteria

Name has an identical domain name available for purchase (*Check www.godaddy.com*)

For example, the firm Hunter Business Law has the domain www.HunterBusinessLaw.com.

Name is no more than 3 words long

Name is easy to spell

If you have a name that is tough to spell, you may not want to use it for the name of your firm.

Name is spelled like it sounds

There is only one way to spell the name

Names sounds good when said out loud

Name is catchy and easy to remember

Name is well-suited to your target market

Name conveys the image you're seeking

(professional, hip, innovative, traditional, boutique, global, etc.)

Name will still work for the law firm as it grows in size and geographical reach

Name will appeal to a potential buyer in the future

Name isn't so trendy as to become generic

Name doesn't translate into an offensive or undesirable meaning in another language (*more relevant if law firm has international reach*)

Although there are many examples of successful brands breaking one or more of these rules, those are usually the exceptions. There are good reasons to follow them. So if you choose to break one of these rules, do so with caution!



In addition to the criteria listed on the prior page, it's important to critique the availability of the name as well. You need to select a name that does not infringe on the intellectual property rights of an existing law firm, and that can be registered as a trademark with the United States Patent & Trademark Office so that you can protect your brand. Therefore, it is important that you check "yes" to each of the following when selecting your law firm name:

Yes No: There isn't an active/live registered **federal** trademark for your desired entity name, or a similar variation, which could cause your trademark to be rejected as confusingly similar. (www.uspto.gov)

Yes No: There isn't a registered trademark in the **state** you intend to operate your law firm.

Search the state's trademark database, usually located on the Secretary of State's website.

Yes No: You can't find another law firm, or business in the legal industry using the same, or similar name after an internet search.

Yes No: Your desired name isn't the same as an existing name except for a different spelling.

Yes No: Your desired name isn't merely descriptive.

"Tampa law firm Law Firm," is an example of a name that is merely descriptive.





CHAPTER FOUR

Time to Select

Time to Select

Go the extra step!

Once you have narrowed down your list of names using the criteria and have a #1 choice, there are a few more steps we advise you to take before making a final selection.

Investigate the availability of your top choices. Once you have decided on a list of names that you like, you need to see if any of the names are already in use. You can do this by doing an entity or law firm search on your states secretary of state website, searching the United States Patent & Trademark Office's database, and running a general internet search. If your desired name appears to be available, take one last extra step.....

Hire an attorney to conduct a national trademark search and issue an opinion letter.

You should do this because the user of an unregistered trademark has “common law” rights to that mark, at least in the geographical area in which the company has engaged in commerce. Common law rights exist regardless of whether the name has been registered and regardless of whether it showed up in your web-search. Your use of the same or similar name could lead to your receipt of a “cease and desist” letter demanding that you stop using the name or face a lawsuit for infringement. Once you have invested in marketing materials and started to establish your brand, you don't want to start over!

While the search and opinion letter is an expense and it's not possible to get a 100% guarantee that no law firm exists anywhere using your name, it's worth spending a little to save a lot. Also, an attorney understands the nuances of trademark law; for example, two companies can have the same or similar name without infringement so long as there would be no likelihood of confusion by consumers as to the source of the goods or services. This is a multi-factor analysis tied to case law.



CHAPTER FIVE



Time to Protect

Time to Protect

Register Your Trademark

Once you have selected your name and are offering products or services across state lines (“interstate commerce” is required but a website is usually sufficient), you should invest in federal trademark registration. The process can take between 4 and 24 months and can range in cost from \$1,000 to over \$10,000 depending on whether the application faces challenges such as objections from owners of similar marks or concerns by the United States trademark examining attorney.

The Symbols

Your Name ®

The ® is the trademark registration symbol, which indicates that a mark has been granted U.S. trademark registration. It is very important to know that it is actually **illegal** to use this symbol until the official registration is granted by the United States Patent and Trademark Office.

Your Name ™

The ™ symbol indicates that the preceding mark is an unregistered trademark and that the owner of the mark may register it at a later date, or that they are already in the process of, registering their trademark. However, it is an indication to the public that the mark is owned by that company. Unlike the ® the ™ can be used without registering the mark. The ™ is technically a designation that a trademark is in correlation with a good. However, most people now use it for trademarks that correlate to goods and/or services.

Your Name ℠

In addition to the ® and ™, there is the ℠ which stands for “Service Mark.” It is technically a designation that a trademark is in correlation with a service. However, most people use the more widely recognized ™.



Conclusion

Conclusion

Once you have selected your name, take an equal amount of time to select the color, font, and design of your logo. Put it all in front of a focus group before you make a final decision. Even if you are certain about your wishes, it is valuable to know how your brand is likely to be perceived. Upfront time and money will save you time and money in the future! So remember -- Brainstorm – Critique – Select – Protect!



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*You should have your own professional brand,
and practice law as your authentic self.*

SHERYL S. HUNTER, Founder of Liberty Law Suites

A large, stylized teal leaf graphic is centered in the background of the circular area. It has three main lobes, with the top one being the largest and most prominent. The leaf is rendered in a lighter shade of teal against a darker teal circular background.

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