

Forensic Pathology Consulting 101

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Overview

- PathologyExpert Inc.
- FAQ's:
 - *Is consulting compatible with government work or will I be seen as a "defense witness"?*
 - *Do I need a contract?*
 - *Do I need to incorporate?*
 - *Do I need insurance?*
 - *How do I advertise?*
 - *Do I need a website?*
 - *What makes a good website?*
 - *Should I use social media to promote my business?*
 - *How do I deal with attorneys wanting to call me as a fact witness?*

PathologyExpert Inc.



PathologyExpert Inc.

- 3 Person company: 2 owners, 1 office manager
- Incorporated as an S-Corporation in CA in 2014
- Annual Gross Receipts: Approx \$750,000
- Approximately 20% comes from government work (contract with Alameda County)
- 80% comes from consulting work
- Benefits: SEP-IRA, insurance, company car, annual shareholders meeting/retreat, ad hoc bonus/profit sharing plan



SAMS Alert: Is Consulting compatible with government work or will I be seen as a "defense witness"?

- 2013 survey of forensic pathologists, approximately 1/4 (24%) reported that they are considered prosecution witnesses within their jurisdiction.
- Understand the pressures that you may be under if you do consult work for the defense.
- You may be seen as a "defense witness" and this can have negative political repercussions with your government work.

Ref. Medical Examiner's Independence is Vital for the Health of the American Legal System. Luzi SA, Melinek J, Oliver WR. Academic Forensic Pathology 2013, 3(1): 84-92

Is Consulting compatible with government work or will I be seen as a "defense witness"?

- Yes, you can do government work and still do outside consulting "on the side"
- Make sure that this is contractually allowed - preferable to get it in writing
- Understand any restrictions placed on your time or jurisdictions to avoid conflicts
- Helps to have support from colleagues/boss
- Make sure your clients understand that you may have to drop the case if conflicts arise

Do I Need a Contract?

- YES!
 - *The contract protects you*
 - *You will get stiffed without a contract*
 - *You may get sued without a contract*
- Contract should contain:
 - *Services to be performed*
 - *Compensation terms: Payment expectations including late fees and expenses*
 - *Confidentiality*
 - *Scheduling*
 - *Furnishing of Materials*
 - *Conflicts and termination*

Do I Need to Incorporate?

- Not necessarily - It depends on your financial/tax situation and how much money you are making from consulting
- Understand the different corporate structures and consult with your accountant and/or attorney to know what is best for you
- Think about the long term plan for your business & potential for growth: products, number of employees, investments

Corporations 101

LLC vs. Corporation

Limited Liability Company (LLC)	Corporation (Inc)
✓ Shields personal assets from business liability	✓ Shields personal assets from business liability
✓ Requires separation of business and personal finances	✓ Requires separation of business and personal finances
✓ Allowable in all 50 states and the District of Columbia	✓ Allowable in all 50 states and the District of Columbia
✓ Highly flexible management structure	✗ Highly flexible management structure
✓ Flexible tax reporting options	✗ Flexible tax reporting options
✗ Preferred by outside investors	✓ Preferred by outside investors
✗ Preferred for IPO	✓ Preferred for IPO
✗ Recognized outside of the United States	✓ Recognized outside of the United States

Corporations 101

C-corp or S-corp

Here's a comparison of some key characteristics of businesses that choose to be treated as C corps and S corps.

C Designation

- ✓ Owners pay personal income tax on profits
- ✓ Business must pay corporate income tax
- ✗ All business income/loss is passed through to owners each year.
- ✗ No more than 100 shareholders
- ✗ Shareholders must be U.S. citizens or resident aliens

S Designation

- ✓ Owners pay personal income tax on profits
- ✗ Business must pay corporate income tax
- ✓ All business income/loss is passed through to owners each year.
- ✓ No more than 100 shareholders
- ✓ Shareholders must be U.S. citizens or resident aliens

You don't have to decide about S corp status right away. You have 75 days after the formation of your business to file with the IRS. If you're still not sure what to do, you may want to consult with one of our attorneys or tax specialists.

The Pros of Incorporation

- You have more control over your money and can decide as CEO (reasonably and within tax law) how much money you pay yourself as a salary and how much you pay yourself as an owner's draw or dividend
- Some of your expenses as an employee could reasonably be considered corporate expenses: vehicle for work, books, travel for business and conferences
- You lower your tax burden - keep more money

The Cons of Incorporation

- Cost to set up and maintain (lawyer, accountant, book-keeper)
- More paperwork
- Risk of getting audited if you don't do things right (but this is true anyway)

Do I Need Insurance?

- Depends on your exposure, risk profile
- Contracts with government entities may require minimum coverage for of malpractice, errors and omissions, or general liability
- If you have office space, staff, employees then you need insurance

Do I Need Insurance?

• Panelists Use:

Professional Liability:
Complete Equity Markets, Inc. (underwritten by Lloyd's London)
Melanie Javens
mjavens@cemmms.com
Lake Zurich, IL 60047
800-323-6234 or 847-541-0900

Professional & General Liability:
Beadley & The Hartford Agency/ECBM, LP
Brittany Monaghan
bmonaghan@ecbm.com
610-668-7100

Worker's Comp (if you have employees):
Employers
<https://www.employers.com>

How do I Advertise?

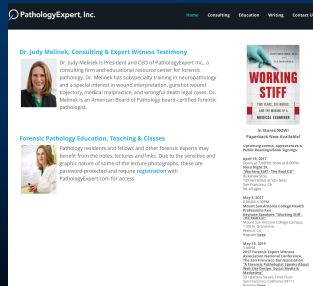
- Should I advertise?
- How to:
 - *Business cards*
 - *Mail your cv with a cover letter to law firms that specialize in the cases you are interested in*
 - *Network: when you meet an attorney, any attorney, ask them about what they do & give them your card*
 - *Website*
 - *Teach: Lectures to legal organizations, law schools, coroner's organizations*
 - *Write: Op-Eds, Blogs, books*
 - *Become a pundit: media training and interviews*

Do I need a Website?

- If you want your business taken seriously, then yes, you need a website
- You can hire someone to build one for you
- The best companies will train you (or your staff) on how to maintain it so you don't have to rely on them thereafter
- Make sure the url is on your business cards, and on all social media
- Takes work to maintain it and update it (SEO)

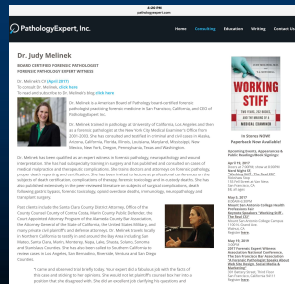
Website Design

- WordPress
- Corporate but friendly
- Designed by a pro website design firm
- Mobile friendly



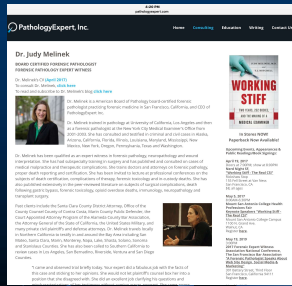
Website Design

- Professional Photos
- Logo
- Content: Uses keywords in context that describe what you do



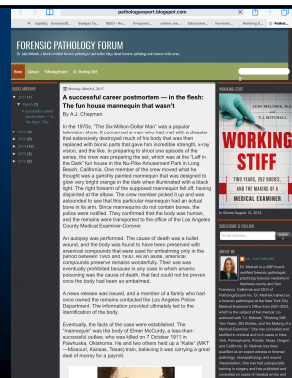
Website Design

- Many Pages - so people who visit don't leave
- Current:
 - Date
 - News
 - Upcoming Events
- Contact Us



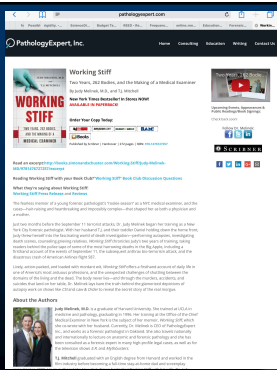
Blog

- Soapbox
- Write about subject matter in your field of expertise
- Anything you write can be used against you in a court of law



Products:

- Books
- Lectures
- Videos
- Conferences
- Podcasts



Search Engine Optimization

- Reliable:
 - Are linked to other sites (connectivity)
 - People click on them and don't go back
- Current:
 - Dates signify when last updated
 - Have associated links to current events
- Content
 - Text (keywords) are in paragraphs

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Keywords



- Who you are and what you do:
 - Forensic, Expert, Consultant, Witness
- The words (or phrases) that others searching for you will use - specific expertise & location
- Should be in the TITLE and in the text
- Should be in the metadata for the site
- Should be in websites and articles that link to you
- Used in social media posts about you #forensics

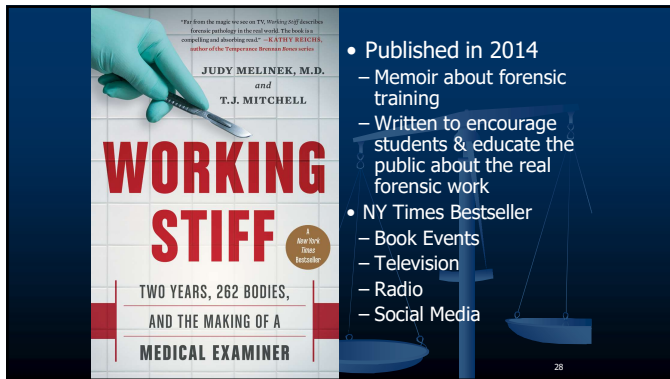
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Connectivity: A Rising Tide Raises All Boats



- Connect to your colleagues
- Connect to your clients
- Connect to popular media sites with interesting content about you
- Most importantly, have them connect back to you on pages that describe what you do and have content that is relevant to your field

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- Published in 2014
 - Memoir about forensic training
 - Written to encourage students & educate the public about the real forensic work
- NY Times Bestseller
 - Book Events
 - Television
 - Radio
 - Social Media



Should I use Social Media?

- It depends on your comfort level
- At the minimum: *Linked In* profile for you and your company

PROS	CONS
Publicity	Haters/Trolls
Celebrity	Used against you
Authority	Oversaturation
Connectivity	Time suck









- Have a photo 
- Describe what you do
- Post interesting articles in the news about your field
- Follows others






Going Viral - #DressLikeAWoman

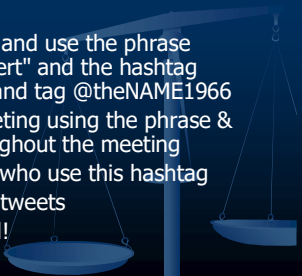
- The Guardian
- Mashable
- BuzzFeed
- Huffington Post
- Forbes
- Medialite
- TechTimes
- Elle





#NAME2018

- Take a photo
- Write a tweet and use the phrase "Forensic Expert" and the hashtag #NAME2018 and tag @theNAME1966
- Continue tweeting using the phrase & hashtag throughout the meeting
- Follow others who use this hashtag
- Retweet their tweets
- Watch it trend!





- Image based
- Post funny images & cartoons about science
- Post microscopic images
- Follow others in your field & ♥



What about privacy?

- Successful marketing in a business where your expertise is your brand means you have no expectation of privacy
- You need to have integrity
- You can protect yourself by following certain guidelines:
 - No social media about client cases
 - Business address, phone only



SAMS Alert: Expert or Fact Witness?

- You are being called to testify in a case where you performed the autopsy and the attorney claims that you won't be compensated because you are a "fact witness" and will not be proffering expert testimony. What do you do?
- *Sanchez v. Gama*, 233 Ariz. 125 (2013)310 P.3d 1, 667 Ariz. Adv. Rep. 49, 668 Ariz. Adv. Rep. 5: Whether a treating physician is a fact or expert witness depends on the content of the testimony. When the testimony requires expertise and is developed for purposes of litigation, the doctors must be compensated accordingly.
- Letter to attorney explaining the law
- Letter to judge if attorney refuses to budge



SAMS Alert: Expert or Fact Witness?

- A link to to AMA-ABA agreement to pay expert witness fees:
<https://www.dropbox.com/s/gujesde2bog75rj/AMA-ABA%20expert%20witness%20agreement.doc?dl=0>
- The NAME Position paper on fact vs expert witness:
<https://www.dropbox.com/s/ywb9a5ib2mfb3zm/NAME%20PP%20on%20FP%20courtroom%20testimony%20in%20%20out-of-jurisdiction%20cases%202012.pdf?dl=0>
- Federal Rules of Evidence Re: Expert witnesses:
<https://www.dropbox.com/s/c7hvb6m6zst68i5/Federal%20Rules%20of%20Evidence%20Rule%20703.%20Bases%20of%20an%20%20Expert.pdf?dl=0>
- The Academic Forensic Pathology article on the ethics of working as retained expert:
https://www.dropbox.com/s/xouu4yg9lbh6z5g/AFPI_v3i3%20-%20Melinek%20.pdf?dl=0
