

Finding Your Legal Niche

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INTRODUCTION

The legal world has changed, and most lawyers have not kept up. But it is mostly not our fault.

From grade school through law school, we are trained to believe that our peers will judge us on our merits. And for lawyers, that usually means academic performance. Our 3.8 grade point average (GPA) in high school got us into a good college, our 3.6 GPA in college got us into a good law school, and our 3.4 GPA in law school got us a solid first job—at least until fairly recently.

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The problem with the real world for lawyers today is that merit and grades often take a backseat to horrible things—for most lawyers, anyway—like profits, networking, return on investment, business generation, and marketing. Lawyers tend to approach the gritty business issues related to lawyering in one of the following four ways:

1. They ignore them;
2. They loudly proclaim their hatred of them—and then they ignore them;
3. They leave the practice of law entirely; or
4. They embrace them.

Based on my experience, I put less than one percent of all lawyers in category four. Again, it goes back to our training. We have been trained to believe that substance is everything, and certainly most lawyers believe it is the one thing that will determine our overall success. We have been trained to be skeptical of anything that cannot be easily tested, quantified, or verified by evidence. We have been trained to be able to provide clients with ten reasons why their deals will not work and another ten risks they will face even if the deal might work. We have been trained to trust our own research and ourselves, and to be skeptical of anyone without an education like ours. We have been trained to look to the past to determine the present and the future. And, of course, we have been trained to pretty much always take the path of least risk.

In other words, we have been trained to be just about the worst businesspeople possible. Good businesspeople take risks, oftentimes even ignoring the list of risks their lawyers have provided them. Good businesspeople act without endless research. Good businesspeople make decisions based on instinct, experience, and what they hear from others. Good businesspeople act and focus as much on their beliefs for the future than on their interpretation of the past.

I

THREE KEYS TO FUTURE SUCCESS

A. Marketing Is Imperative

Lawyers in small and mid-sized business law firms need to market themselves if they want to survive and be competitive. As obvious as this may be, many lawyers will not admit this, many more have not

internalized this, and even more refuse to invest the necessary time and money to actually do this.

Countless articles have been written about what lawyers must do to market themselves.¹ Most of these, in one form or another, urge lawyers to engage in the following three-step process:

1. Develop a niche practice;
2. Network and market; and
3. Provide great service so that you will get additional work via word of mouth.

All three of these things make sense. And doing all three correctly will generate legal work. The problem is that few articles provide pointers for actually doing these steps correctly, and few lawyers have figured out what doing these three things really entails.

B. An In-Depth Examination of the Three-Step Process

The deeper problem is that following the three-step process is complicated, time-consuming, and specific to each lawyer's individual practice. Many lawyers are simply not equipped to pull these things off. Too many lawyers are unable or unwilling to take risks, to "put themselves out there." Few lawyers are willing to examine and act on the future, or to spend the time and money necessary to communicate meaningfully with potential and current clients.

I examine below each of the steps in the three-step process so often prescribed, and in doing so, I also address some of the more common roadblocks that prevent private practice lawyers from adequately preparing for, or investing in, their own futures.

II

KEY #1: DEVELOP A NICHE PRACTICE

Lawyers tend to view niches much like they view everything else: as a legal matter. This is the wrong approach. In formulating and developing their niche, lawyers need to think like potential clients.

¹ See, e.g., Sal Christ, 'People Buy Lawyers—Not the Law Firm:' *The Unique Wrinkle of Legal Marketing*, ALBUQUERQUE BUS. FIRST (Mar. 6, 2015, 2:26 PM), <http://www.bizjournals.com/albuquerque/news/2015/03/06/people-buy-lawyers-not-the-law-firm-the-unique.html?page=all>; Larry Bodine, *Expert Advice on Marketing Tips for Lawyers*, BUSINESS.COM (Sept. 26, 2010), <http://www.business.com/online-marketing/expert-advice-on-marketing-tips-for-lawyers/>; *5 Best Marketing Strategies for Lawyers*, DIGITALBLOGGERS.COM, <http://digitalbloggers.com/richguzman/5-best-marketing-strategies-for-lawyers/> (last visited Mar. 22, 2015).

A. A Niche Practice Is Not a General Practice Area

Ask a lawyer what she does and she will usually respond with something like “business law,” “intellectual property law,” or “family law.” These are not really niche areas; these are general practice areas. Nonlawyers do not think in these terms. Take, by way of example, a small toy company that is contemplating having its toys manufactured overseas, but is hesitant to do so for fear of counterfeiting. This sort of company is probably more likely to think that it needs a lawyer who understands the toy business rather than an intellectual property lawyer. How, then, do you convince small toy companies that you are a “toy lawyer”? By convincing them that you know and understand the toy industry.

A ten-second glance at Hughes Media Law Group’s website tells you that it does “media law,” and its primary clients are media companies.² This firm has committed to its niche. You know immediately what this firm does and the companies it seeks to represent. Additionally, after only a quick look at Canna Law Group’s website, you instantly know that this firm (actually, it is a practice group at my firm) does cannabis law.³ What is cannabis law? It is whatever cannabis businesses consider to be cannabis law. This website would not be nearly as effective in targeting the cannabis industry if it spent valuable homepage space explaining how the firm has “extensive” experience handling regulatory, licensing, corporate, and intellectual property matters.

B. Refining Your Niche

How, then, can you develop your own niche? Look around. What skills do you have? What kinds of companies need a lawyer with those skills? What is your personality, and what kinds of clients suit your personality? Which industries are growing or emerging? What new industries have sprung up in your area of expertise? In what industries do you already have friends and connections? What are the new niches for law firms in New York, Los Angeles, San Francisco, or other big cities? Do your own research. Figure it out. Choose what you think will work for you.

And then stick with it, as it will take a long time—one year, at least—for you to fully understand who within your niche will be your

² HUGHES MEDIA LAW GROUP, <http://www.hmlglaw.com> (last visited Mar. 3, 2015).

³ CANNA LAW GROUP, <http://www.cannalawgroup.com> (last visited Mar. 9, 2015).

best clients. It will take just as long to figure out the best ways to market directly to those companies based on what they do and what they are looking for in a lawyer. Then add on another couple of years for your research and marketing efforts to really start paying off.

You must be patient in trying to build your niche, and that means focusing on getting the niche work you want and rejecting the work that does not dovetail with that niche. Have the courage to turn down work that is not a good fit, and spend the time you gain from rejecting those matters in building your niche experience. Taking work outside of your niche is a distraction from growing your practice into what you want it to be. My law firm puts potential incoming legal work into one of three categories:

1. Niche Work

This is the work we are well-known for doing. This is the work that we frequently get by referrals from other lawyers. This is the work that we love to do, and the work to which we devote ninety-nine percent of our efforts in securing. This is the work for which we can and do charge premium prices. This is the work around which our firm is focused.

2. Bread-and-Butter Work

This is the work that comes to us mostly as an offshoot of our niche work. Often, it comes from existing clients who use us for our niche work or referrals from those same clients. We are good at this work, and we get our regular rates for doing it. We will gladly take it when it comes in the door, but because many other law firms do this same sort of work, and we are not particularly well-known for it, it does not make sense for us to focus on it or to spend more than minimal time or money marketing it.

3. Junk Work

This is the work in which we either have no interest or no expertise. Even if we were to be paid our regular rates for this work, we would not want it, and we do not take it. This work does not advance our firm's long-term expertise or goals. We maintain a list of good lawyers who do the kind of work that we do not want, and we happily refer this work to them, which creates goodwill. They, in turn, refer the work that we want to us. You should never take junk work—ever. Doing so likely will make both you and your client unhappy,

and doing so will further divert you from your core goal of obtaining niche work.

You need to determine for yourself which kind of work goes into each category. One lawyer's junk is another lawyer's niche.

III

KEY #2: NETWORK AND MARKET

Your legal work will come from people—either via referrals or directly from clients or prospective clients. For you to get that work, the right kind of people need to know about you. Networking can be an effective way to spread the word about you, your expertise, and your practice. Before you start networking, you should ask and answer the following questions about yourself:

1. Who do you want to know about you?
2. What do you want these people to know about you?
3. What are the best ways for you to get these people to know what you want them to know about you?

You want to be known by two kinds of people: those who can give you the work you want and those who could refer that work to you. You should determine who these people are by doing the following analysis, among other things:

1. Determine who wants your niche services and who is willing to pay top dollar for them. Start by looking at who has already paid for those services from you and from others.
2. Determine the extent of your reach—geographically—by type and size of company and perhaps even by type of person. Start narrowly and expand if necessary, rather than the reverse.
3. Gather information about the industry or industries you will be targeting and keep abreast of new industry developments. Use this information to define your target clients. When meeting with prospective clients in that industry, showcase your knowledge about the industry. This will help you convince those you are targeting that you are an expert.
4. Figure out what your competitors are doing, both those who seem to be succeeding and those who are not. Do they list their clients on their websites? What kinds of lawyers are they hiring? Where are they speaking and on what kinds of topics? What are they writing about, and where are they getting published?

5. Talk to those in the industry. Talk to your own clients—all of the time. Show that you are an insider, and actually *become* an insider.
6. Determine who your ideal clients and referral sources are, and then determine how best to communicate with them. Will it be online or over lunch or both? Will you write articles or give speeches or both? Where will you speak or write? On what topics? Are you going to target beginners by explaining the legal basics, or are you going to discuss specific, complex issues or both? Remember that you should speak and write differently to a general counsel of a multibillion dollar business than to the sole owner of a start-up. Once you start communicating with ideal clients and referral sources, keep a chart of your efforts and the success rates; then tweak your marketing to focus on the marketing strategies that yield the best results.

When networking in person, you should assume that nobody wants to hear much about you personally, and they want to hear even less about your last great legal conquest. Do not pressure anyone. If you push for legal work, you likely will not get it. Your goal should be to make a meaningful and lasting connection, not to “make a sale.” Instead, think of ways that you can help your new connection, whether by forwarding a relevant article (regardless of whether it was written by you or by someone else) or by inviting that person to an interesting presentation.

You will be surprised at how often being able to discuss movies, mountain biking, baseball, politics, or history will get you work. Ego will not get you anywhere with the people who matter—listening and offering to help will. The same is true when networking online.

You have probably heard about the need to have a prepared “elevator speech” to describe yourself. You actually need a lot more than that. You should know your niche and how companies can take advantage of your services so well that you can *effortlessly* speak on those subjects for anywhere from twenty seconds to an hour, depending on the situation.

You also must stay current regarding just about everything in your niche. The more you become an expert on the topic, the more confidence and ease you will portray when you speak about it. But again, be careful when talking about yourself. Any speech about yourself and what you do should be reserved only for those situations in which you have essentially been asked to present it.

Marketing is different from networking in that certain forms of it can and should involve you explaining what you do in sufficient detail. You should explain yourself in a way that shows others you have the expertise they need. “Show” is key—show your expertise to people, do not “tell” others about it. Like networking, marketing can be done both in the real world and online. Lawyers commonly market online by writing articles or blog posts and by advertising on websites. Lawyers typically market in the real world by writing articles for print, advertising in print, and by speaking at events. Lawyers should also think of their own websites as a marketing tool, regularly refreshing the content and keeping it up-to-date.

Before you start marketing, you should decide exactly what it is you will be marketing. You market your niche, yes, but sometimes you market just a subsection of your niche. If you are a toy lawyer and everyone in the toy industry is talking about a troubling IP case that just came out, and you know how to help on the issue in that case, you should consider a marketing blitz that portrays you as the toy IP expert.

Many years ago, an expat-owned company in Thailand called me to see whether my law firm could help recover around \$100,000 owed to it by a Canadian credit card processor. I was fascinated by the case and discussed it at length before determining that it was just too small and complicated for my firm to take. The very next day, I got another call involving the same Canadian credit card processor. This one came from one of our regular clients, based in Australia, who was owed more than \$350,000. I immediately ran a Google advertisement,⁴ asking if anyone was owed money by this specific credit card processor, suggesting that we could help them if this particular company did owe them money. We ended up representing around fifty companies at our regular hourly rates, plus a bonus for actual recoveries, which we obtained for all of our clients. The Google ad cost us a whopping fifty-five dollars.

Faced with that same situation today, I would probably post about it on Facebook and on Twitter, and I would also consider writing an article for LinkedIn *Pulse* (because those go live immediately) on *What to Do When Your Credit Card Processor Keeps Your Money*. All of these strategies are free and all can be up and live instantaneously.

⁴ See *Google Ads*, <http://www.google.com/ads/> (last visited Mar. 22, 2015).

Just as with networking, professionals market to those who can impact whether you get retained now, six months from now, and one year from now. Here is a list of some of the things I do to market myself as someone who helps American companies in China:

1. I spend one to two hours every morning reading recent news on China, focusing on issues that may affect current and future clientele.
2. I write or edit five or six posts per week for the *China Law Blog*. This blog has been around for nearly a decade, and it has more than 3500 posts.
3. I administer the *China Law Blog* Group on LinkedIn. This group has around 10,000 members, which is more than five times that of the closest competitor, and many of its members are CEOs, CFOs, and general counsel.
4. I maintain a *China Law Blog* Facebook page, I tweet under my own name, and I feed both of these almost daily.
5. I write a weekly column on China law for *Above the Law*.⁵
6. I write an article on China law every couple of weeks for LinkedIn *Pulse*.
7. I write a column on China law every couple of weeks for *Forbes Magazine*.⁶
8. I write every year or so for the *Wall Street Journal*.
9. I speak around twice a month at seminars or webinars on China—not just pure legal topics, but broader, China-focused topics.
10. Every few months, I travel to various cities in the United States and overseas to meet with clients, potential clients, and key influencers.
11. I constantly reach out via e-mail and social media to those in the China space whom I respect and like.
12. I communicate just about every week with a reporter who writes about China. Sometimes the reporter contacts me; other times, I reach out to reporters with story ideas.
13. I have lunch with someone from outside my firm at least twice per week and with someone new at least once per week.

⁵ See Dan Harris, ABOVE THE LAW, <http://abovethelaw.com/author/dharris/> (last visited Mar. 22, 2015).

⁶ See Contributors: Dan Harris, FORBES.COM, <http://www.forbes.com/sites/danharris/> (last visited Mar. 22, 2015).

I spend at least twenty hours per week marketing or networking, and this does not include the one to two hours I spend staying current on China daily. There is no substitute for putting in the time yourself. Do not fool yourself into believing that spending hours at an event is all you need to do to market yourself. Far too many lawyers think that going to a bar association lecture is marketing. Unless your fellow local lawyers are a referral source, it is not. I realize that my situation is different from many lawyers in that one of my chief roles at my firm is to market and network. Nonetheless, my point stands: marketing takes massive amounts of time, and you need to do most of it yourself.

Speaking is a great way to market, so long as you speak at a good event, and so long as you give a good presentation. A good presentation is one that gives the audience the information it wants to hear in as entertaining a way as possible. Give a speech that is catered for your particular audience.

Nine times out of ten, when I give a speech, mine is the shortest biography of all the speakers, and I implore whoever is going to introduce me to keep it short as well. My speech and my PowerPoint do not explain who I am or what I do—the seminar materials have already covered that. I will never suggest in a speech or an article that anyone should retain me. None of the 3500-plus *China Law Blog* posts have done that. If someone is not going to retain you as their legal counsel based on the substance of your article or your speech, they are definitely not going to retain you because you gave them a long summary about your law firm or because you explicitly requested that they do so. Clients want to retain a lawyer who seems to be in demand, not a lawyer who seems to be desperate.

Even when a company calls or e-mails you specifically to talk about retaining you, you must be careful about overselling. Do not brag about yourself. Rather, talk about your potential client's problem in a way that makes it apparent you are the right person for the legal task. Again, be sure to ask questions and to listen. Nothing endears you more to a potential client than being able to tell them that their problem is less complicated and dire than they believed before they called you. Always try to figure out the least costly way to solve the problem; you will do better in the long-term if you do.

IV

KEY #3: PROVIDE GREAT SERVICE

Lawyers too often equate being a good and “responsive” lawyer with providing great service. Being a good and responsive lawyer is the bare minimum required and should be assumed. Great service is service that causes existing clients to *want* to go out of their way to send you work. Your clients will only go out of their way to send you work if they are truly convinced that doing so will make them look good to those whom they refer to you.

Any time you get a referral, acknowledge it *and* reward it. I buy a bottle of wine from a local winery for anyone from out-of-state who tries to refer me work and chocolates from a Michigan town near my hometown for anyone from Washington State. My gifts are personal, and they go out whether I end up getting the work or not.

Growing a practice via word of mouth usually requires more than just getting the job done right. Below are some of the things I do to try and provide great service:

1. I always tell the truth; I don’t sugarcoat it.
2. I communicate with my clients—really communicate with my clients. I try never to let a client feel ignored.
3. I know my clients.
4. I know my clients’ businesses well.
5. I provide my clients with relevant information outside the projects on which I am working.
6. I strive to see the big picture from my clients’ perspective.
7. I respect my clients’ time.

Clients often do not know exactly what they need from you, and they often need you for more than they initially realize. Only by listening can you figure that out. Your goal should be to determine your clients’ issues and then to figure out solutions that fit their desires and goals.

CONCLUSION

Generating good, sustainable legal work can be summed up as follows:

1. Do not think like a lawyer when you are not engaging in actual legal work—think like your clients.
2. Develop your niche and become an expert on it. Strive to be *the* expert on it.

3. Convey market substance. Write about your niche and topics within your niche everywhere you can. Speak about your topic everywhere you can.
4. Do not give potential clients and referral sources the hard sell. Talk with them about their problems and your experience. Let them put two and two together.
5. Be flexible and be determined.