



Building, Structuring & Financing Tomorrow's Practice

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Building, Structuring & Financing: The Niche Practice

Building

- **Niche Practice: Why it works is a double edge sword**
- **Thoughts on Marketing**

Structuring

- **Case Budget & Profitability Analysis**
- **Setting *Profitable* Case Value Thresholds**

Financing

- **How much do you need**
- **Where to get it**

Building: Why the Niche Practice Works



I want to specialize in big easy cases!!!

Building: Why the Niche Practice Works

- **Creates Competitive Advantage**
- **Smaller Specialized Firms Can Compete**
- **High Barriers-of-Entry**
- **Economies-of-Scale**

High Barriers-of-Entry: “I don’t want to mess with this case”

- **TOO EXPENSIVE OR TOO RISKY**

- **Expert Intensive**

- Defect, SAD, Causation, Damages

- **Staffing Expenses**

- Attorney & Paralegal
- Administrative

- **Daubert/Robinson**

- Many courts require testing to prove-up case
- Look for Existing Alternative Designs

- **Cost Estimates**

- \$50,000-\$75,000 simple one liability expert case
- \$100,000-\$200,000 complex, but no testing
- \$300,000-\$500,000 complex, with testing

High Barriers-of-Entry: “I don’t want to mess with this case”

- **I CAN’T FIND AN EXPERT**
 - *COMPLEX PRODUCTS & PATENT CASES*
 - *GOOD EXPERT NEEDED TO RESOLVE CASES*
- **TECHNICAL EXPERTISE REQUIRED**
 - *ENGINEERING OF PRODUCT INVOLVED*
 - *SECURITIES VIOLATIONS*
 - *PATENT ISSUES*
 - *COMPLEX ACCOUNTING*
 - *BIOMECHANICS & INJURY CAUSATION*
 - *MEDICINE*
 - *AVIATION*

Economies-of-Scale: The more you handle; The easier it gets

- **CHEAPLY ELIMINATE BAD CASES**
- **REDUNDANCY WITH THEORIES & EXPERTS**
- **RELATIONSHIPS WITH OPPOSING COUNSEL**

Building: Marketing for Niche Business

- **Target Audience**
 - **Mostly other lawyers**
- **Develop Marketing Budget & Plan**
 - **Budget both hours & dollars**
 - **Allocate budget to most effective marketing tools**
 - **Accountability**

Building: Marketing for Products Business

- **Common Marketing Methods**
 - **Market Your Niche**
 - **Networking**
 - **Participate in Bar Associations**
 - **Speaking Engagements**
 - **Letter & Brochure Campaigns**
 - **Newsletters**
 - **Advertising**
 - **Publicize Results**
 - **ASK OTHER LAWYERS FOR BUSINESS**
 - **TRY AND PUBLIZE YOUR NICHE CASES**

Setting Profitable Case Value Thresholds

- **Create Budget**
 - **Expenses**
 - **Professional Time**
- **Fee Structure Based on Budget**
 - **Hourly easy (lawyer assumes no risk)**
 - **Blended (shared risk with client)**
 - **Fixed Fee (lawyer bears risk beyond budget)**
 - **Contingency (lawyer bears 100% risk)**
- **Make Case Decision Based on Profitability**

(SS)

Setting Profitable Case Value Thresholds

Automotive Products Case

- **\$500,000 settlement value**
- **\$133,333 net fee (40% less 1/3 referral fee)**
- **Expenses**
 - **\$68,700 through expert reports**
 - **\$113,200 through expert depositions**
 - **\$160,200 through trial**
- **Profitability (Atty's Hourly Rate)**
 - **\$275/hour through expert reports**
 - **\$168/hour through expert depositions**
 - **\$ 75/hour through trial**

Setting Profitable Case Value Thresholds

Automotive Collision Case

- **\$50,000 settlement value**
- **\$16,667 net fee (1/3; no referral fee)**
- **Expenses**
 - **\$ 4,700 through expert reports**
 - **\$ 8,200 through expert depositions**
 - **\$10,700 through trial**
- **Profitability (Atty's Hourly Rate)**
 - **\$648/hour through expert reports**
 - **\$420/hour through expert depositions**
 - **\$105/hour through trial**

Setting Profitable Case Value Thresholds

- **Profitability Analysis**
 - Prevents being blinded by “big” fee
 - Calculates Hourly Rate based on budget
 - Length of time is important to profitability in all fee arrangement except hourly
 - *New defendant or new theory-increase threshold*
 - *History of quickly resolving cases-decrease threshold*
 - Use analysis to set profitable case value thresholds
 - Use analysis to set fixed fee and blended fees.
 - Calculate rough hourly rate at end of case & year

Financing Your Practice

- **CASH FLOW IS KING!!!**
- **HOW MUCH DO YOU NEED?**
 - ➔ **Operating Costs (250k to 450k per lawyer)**
 - ➔ **Case Costs (750k to 1.5m)**
- **WHERE TO GET THE MONEY?**

How much is required?

- **Case Costs: \$700,000 to \$1,500,000 for 8 to 10 cases**
 - ➔ **Assumes Budget Previously Shown**
 - ➔ **3 cases in expert report stage**
 - ➔ **2 cases beyond expert depositions**
 - ➔ **1 case trial ready**
 - ➔ **4-6 cases in evaluation (\$100,000)**
 - ➔ **Total Expense \$700,000**
- Operating Expenses (250k to 450k) (SS)**

Where Do You Get the Money?

- **Internal Funds**
- **Joint Venture Agreements**
- **Traditional Lines-of-Credit**
- **Non-Traditional Lines-of-Credit**

Joint Venture Agreements

- **Not Only To Share Workload**
- **Share Case Expenses**
- **Multiple Attorneys With Similar Cases; Share Research and Testing Expenses**
- **You Don't Have To Pay It Back**

Non-Traditional Lines-of-Credit

- **Lends on historical ability to generate fees—no hard collateral required**
- **3% Commitment Fee on Line Extended**
- **Limited to Reimbursable Case Costs**
- **No obligation to repay until case settles or lost**
- **Pass interest cost to clients**
- **Annual Interest Rate 14.35%**
- **Only receive 80% funds; 20% is placed in reserves. Reserve on all cases can be tapped to repay loan on a lost case**
- **Effective Rate is over 20%**

Traditional Lines-of-Credit

- **Accounts Receivable; Personal Guaranty; Collateral**
- **No Limitation On Use**
- **Only Charged Interest On Money Actually Borrowed**
- **Interest Due Monthly; Principal Per Loan**

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