

MARKETING: WHAT WORKS AND WHAT DOESN'T

Absolutely little, if anything, will “work”, if you fail to take certain steps early in your career.

Regardless of what business sources you ultimately tap, none will work unless you have established an excellent reputation. This must start immediately and it means an excellent reputation with Judges, other lawyers, clients you have represented, paralegals, the medical profession – all of whom may ultimately be a good source of clients.

REPUTATION

Reputations are shaped by how you are perceived.

Obviously, aside from skill, which I will deal with, honesty is the most critically important attribute that any lawyer can have who hopes to stay in business.

When a referral source is not paid, or kept informed of what is happening with the files that he or she has referred, nothing you can do could be worse. You would be amazed how quickly word gets around if somebody is “stiffed” with respect to the percentage of fee they were promised for the referral.

RELIABILITY

Become known as a lawyer who returns phone calls or responds to communications promptly.

Dress in a way that will instill confidence in others, not just clients, but other lawyers and file providers as well. I am saddened by the number of times I see plaintiffs’ lawyers casually dressed, even at discoveries or mediations. In my own firm, for example, we do not have casual Fridays – it makes no sense that clients you see on a Friday are any less in need of feeling confidence in their lawyer, the same image as we try to present from a Monday through a Thursday.

Design systems in your office to produce as fast a turnover of a file as possible. Not only does your client want to receive their money sooner rather than later, but certainly the referral source will be impressed with a quick turnaround, as much as anything else.

We incorporate a chart with each file name and then entries for when the file was received; when the Statement of Claim is served; when discoveries are set; undertakings responded to; mediations set; pre-trials set and trials set. It also has an indication as to what doctors the plaintiff has been referred to at any given point in time.

These charts are reviewed once a month so that progress can be actually seen in black and white by the person who is responsible for ensuring the firm runs properly.

In motor vehicle accidents, as a rule of thumb, I do not negotiate with insurance companies. I doubt that anybody would argue that a reasonable settlement can be achieved in taking that route as opposed to

issuing a Statement of Claim and requesting that the insurer place it in the hands of counsel and not granting any waivers.

The other thing I urge my staff is to do is at every discovery raise the issue of mediation so that there is a target. Otherwise, six months down the road you will be calling your counterpart and asking about mediation and they may not have yet done their defence medicals, etc.

When you set a timeline and a target date, you can be more assured that you are going to get the case closed within that two year period that you want to aim for.

I usually ask opposing counsel if they are willing to set up a mediation for eight to ten months into the future.

My target is to turn over files within two years from the date we are retained. While not always possible, your referral source, as I stated

before, will be a lot happier to see their money after two years and not longer.

Perhaps the most obvious, but the most difficult to achieve, is a reputation as a topnotch trial lawyer.

I know that when clients come to see me they are very complimentary about my reputation as a trial lawyer, but make it very clear that they have no interest in going to trial. They retain me because they believe that if I have a good reputation as a trial lawyer, the insurer will take me seriously and offer me a reasonable amount of money to settle the case. Clients do not want to go to Court, but prefer to settle as early as possible and get on with their lives.

However, in today's world, the reality makes this rather difficult to achieve. Whereas, I must admit that when I began practicing law there were more opportunities than anybody could ask for to get on one's feet and try cases and develop skills as a trial lawyer.

In today's world you should all consider enrolling in the Advocates' Society Institute where you will receive instructions on all aspects of a trial. You will do openings, closings, examinations-in-chief, cross-examinations, etc., and be videotaped so that you can see how you come off yourself, and be critiqued by others.

Ensure, to the extent possible, that you are a member of a firm that has at least one or two highly ranked trial lawyers. For example, to determine whether this is the case just read the Lexpert survey which is divided into three categories. The survey is conducted annually and it is basically a questionnaire that is sent to close to 1,000 lawyers, Judges, etc. The question they are asked is if a significant case was presented to you by a client, but you had a conflict, to whom would you refer the file.

Once you have been hired by such a firm then it becomes even more important that you be aggressive in junioring on as many trials as possible with these top ranked lawyers.

I have found that a high percentage of my new clients are people who were impressed with my ranking on the Lexpert survey.

I think it is probably important to maintain a high profile in order to maintain one's standing on the survey, and that is really done by speaking at as many legal conferences as possible and presenting papers that will receive wide distribution, etc. People who answer the questionnaire for Lexpert would rarely have seen any of us at trial. They know us by reputation and they know us by seeing us speak and reading the papers we present.

Set up a user-friendly website that gets across the most important message (aside from your own reputation), namely, that it assures the potential client that the first meeting is free and that it clearly explains how a contingency arrangement works should you decide to retain each other. It is important for the potential client to understand that under the contingency fee scenario, they are free to retain the best lawyer available regardless of their income.

As in any business, you must rub elbows with your potential customers or file providers. For example, speak at paralegal conferences and get out and meet these people whenever possible for things like lunch, and so on.

To rub elbows with general practitioners the Medical Legal Society is a good starting point. There is not great value, in my experience, in cultivating medical specialists since by the time they see an accident victim, the victim has probably been referred to more than one lawyer already by people in the emergency department at the hospital, their general practitioners, or a social worker at the hospital.

While most hospitals are shying away from publishing an approved list of lawyers, keep in mind that it is still the social worker in the hospital who is often in contact with the injured patients who consult them, or their families do, with respect to where they ought to turn for legal advice.

ADVERTISING

This has now been permitted for some 25 years, as I can recall.

If you can afford being on the front or back cover of a telephone book, then you should probably do so. I am told that aside from attracting prank calls it can also be a useful source of business. You should, however, anticipate that much of the business you receive will be the lower end chronic pain type of claims, or slips and falls. I find it unlikely that catastrophic cases are going to be coming from a telephone book advertisement, although I could be wrong.

Certainly in the yellow pages a full page ad is reasonable and may be useful. As well, advertising in community newspapers and local phone books might be more feasible financially and useful.

For example, I know that Alfred Kwinter has an ad which is in a box, probably 1/8th of a page, in the Toronto Sun. I don't read the Toronto Star myself, but I would imagine that it would be a good idea to advertise

in either of those papers. From what I have noticed, I believe Mr. Kwinter advertises at least once a week in the newspaper. I suggest that you ask Mr. Kwinter yourself how those ads are working for him.

You also want to target potential clients who do hands-on heavy work.

This generally means members of ethnic communities. You may be surprised to learn how inexpensive it is to air commercials on CHIN radio or on TV channel 4, which targets many ethnic groups.

I find one of the best sources of business is my own staff. They may have an entrée into their own ethnic community. Indeed, I hired a long time AB adjuster from a large insurance company to head up my accident benefits department. Given his years in the business he had an enormous amount of exposure and contacts with various clinics, paralegals, and others with whom he had dealt over the years. He has been an enormous source of business for me.

As to what doesn't work, obviously I would start by saying doing the opposite of any of the things I have already mentioned.

However, specifically, unless you have a well-established reputation, advertising for counsel work in legal publications, such as the Ontario Reports or the weekly newspapers, I have not found to be all that valuable. Counsel work is often obtained by doing all the things I have mentioned in this paper and not by advertising in legal publications.

You would be amazed at who can be a referral source. Aside from other lawyers, I get referrals from insurance adjusters, clergy, physicians, paralegals, etc. Obviously, former clients are one of the best sources of business. Do a good job for one client and you are likely to get at least one more in the future, if not more.

I hope some of these suggestions are useful to you in developing your practice over the years to come.

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