

Marketing a Litigation Practice

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If you're a litigator or you have litigators in your law firm, you undoubtedly have heard (or voiced) the mantra: "You can't market litigation." Admittedly, the nature of the practice can make it difficult. But once you understand some basic principles, it is possible to develop a thriving and independent litigation practice.

Obstacles to Marketing A Litigation Practice

Why is it so difficult to market a litigation practice? Consider:

- At times it seems everyone is a prospective client. If you handle employment litigation, every good company may be a target. If you represent plaintiffs in the personal injury area, everyone faces the possibility of becoming injured.
- You don't know when someone will require your services. It may be tomorrow; it may be in two years; it may be never.
- The nature of the work makes it hard to find time for (or interest in) developing business. Litigators can be consumed for months or even years on cases; during that stage, it



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may be difficult to convince yourself you even want more business.

- Many litigation matters are one-shot deals. While corporate lawyers can cross-sell or develop an ongoing stream of transactions from clients, the litigator may never see a good client again. Even those clients who might have business in other substantive areas often came through referrals, making it unethical or unconscionable to cross-sell.

Clients don't want to "buy" litigation. Quite frankly, they hope they never have to use your services.

Ten Tips for Marketing Litigation

In view of the peculiarities of the practice, the following tips and tenets should be applied to a litigation marketing program:

1. *Cast a wide net.* You need to make a lot of (the right) people familiar with

By their nature, litigation practices are perhaps the hardest type to market. But there are ways to keep your firm's name in the minds of prospective clients and referral sources.

your firm's litigation practice. Most litigation clients select lawyers based on referrals from others—executives from their industry, people who had the same problem, fellow board members,

other general counsel, or professionals (e.g., physicians or consultants).

2. Seek constant and consistent visibility. Your activities need to reinforce the

firm's litigation capabilities over and over again so you are "top of mind" when a problem hits. Marketing involves creating perceptions, and your marketing activities can enhance perceptions of your firm's litigation expertise, whether it involves activity in professional associations or regular written communications.

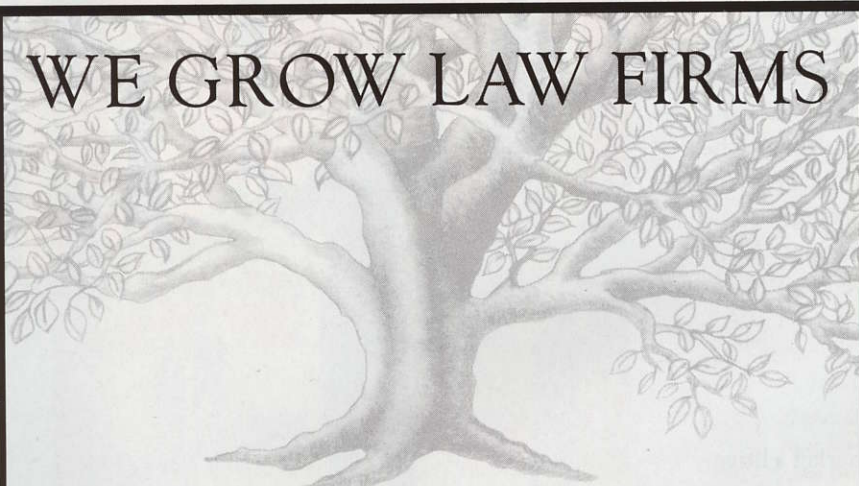
3. Market even when you're busy. Once the trial is over, the matter is settled or the file is closed, it can take a long time to replace the business.

4. Market your results. That patent you were able to protect, that discrimination suit you were able to get dismissed, that money you were able to collect—these are accomplishments other clients will find valuable. For example:

- Turn a recent matter into a case study for a client alert or article (you don't have to name names).
- Target other clients in the same type of business or industry, and tell them about your recent experiences.
- Put together a litigation prevention program based on the issues clients have faced in matters you have handled.
- Send out a press release announcing your good result (if the client approves, of course).
- Set up meetings with clients to talk about the ramifications of certain actions.
- Include vignettes or summaries of cases in your biographies and marketing materials.

Remember that clients are buying what you've done for other people.

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5. Focus your efforts. Many litigators obtain better results by concentrating their marketing efforts on a specific target. This could include:

- A type of referral source (e.g., out-of-state lawyers for local counsel work, accountants for tax litigation);
- A subspecialty or niche (e.g., broker-dealer cases, government contracts, mediation);
- An industry or type of client (e.g., contractors, technology companies);
- A certain type of representation (e.g., trial vs. negotiation skills, document production capabilities for complex cases).

Keep in mind that this approach does not limit the areas in which you might actually practice; it is a way to distinguish yourself and make your marketing easier.

6. Find the conduits. Instead of trying to target prospective clients, see if you can identify people who come into contact with prospective clients need-

ing your services. For example, a lawyer handling divorces may want to network with lawyers in large corporate firms that don't have family law services. Don't forget to thank everyone who helps you.

7. Take a multidisciplinary approach.

Look for opportunities to collaborate with colleagues in your firm in order to develop niche or industry teams in which litigation is a core service. For example, a group targeting family-owned businesses should have a litigator skilled in handling family disputes on the team.

8. Market internally. Let your colleagues in other practice areas know about the things you do regularly. Give them tools or resources to bring your practice to their clients' attention. For example, after handling a matter involving a contract with a distributor, you could send your colleagues an e-mail telling them to be alert for potentially troublesome language in their clients' agreements.

9. Develop a mailing or contact list. For most litigators, there are people whose paths you cross only once (referring lawyers from other states, opposing counsel, client representatives, expert witnesses, etc.). It is up to you to create a system to remember these people and to stay in touch with them (perhaps with periodic letters, e-mails, newsletters, holiday cards).

10. Have a plan. Whether you work through a practice group or department or develop it independently, a marketing plan should set out your objectives and strategies for marketing and business development. A plan, which could be as simple as five action steps, is particularly important for litigators. It will bring you back on track even if client demands take you away from marketing for awhile.

Conclusion

Perhaps the key to effective marketing for litigators is to find a way to fit marketing and business development activities into day-to-day practice.

As one successful rainmaker so aptly put it, "A good case can make a good year or maybe two. Practice development can make a career." ■

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