

Chapter 5

Enhancing Your Consumer Law Practice by Using Normal Activities

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1. Land the Client
2. Prepare the Case for Trial
3. Go to Trial
4. Build an Intimidating Reputation
5. “Etc.” Ideas

Landing the Client

For the consumer client to hire you, the consumer has to trust you, they have to believe that they are legally “right” and believe that *you* are the right person to help them prove it.

A. Assess the Client’s needs

and

B. *Show* the Client that *You* can Meet those Needs (under-promise and over-deliver)

“A” and “B” are done by using “C”:

C. *Look, Touch, Listen, Talk*: Four Easy Methods to Turn the Curious Client into the Paying (Or Retained) Client

1. **Look**: always make eye contact, always keep eye contact (and *smile*)
2. **Touch**: always shake hands, firmly¹
 - A. At the beginning and again at the end of every conference
 - B. Make the handshake last for 2 or 3 seconds — no more!²
3. **Listen**: guide the start of the client conference (to keep it on track) but do *not* dominate³ it at this time. The client should feel that they are “sharing” the

¹Two of the four tenants taught by the Dale Carnegie (“Look people in the eye. Shake hands firmly”) because they work.

²Study conducted by Dr. Michael Lynn, Cornell University.

³A variation on a concept found in *48 Laws of Power* by Robt. Greene & Joost Elffers.

conference with you, to be most effective.

Your goal is to let the client talk while you gather the information you need. To that you need to listen and focus on what the client is saying. The typical client needs to have three things happen before they will decide to hire you: they need information from you, they need to process that information with their own decision-making process, and they need to find a solution based on their own analysis. The “listen then talk” process meets those needs. That takes us to step 4.

4. **Talk:** use a strong voice, but not a loud one
 - A. Vocalize your confidence (i.e., don't say you're confident, you have to “sound” it in your voice)
 1. Confidence is invisible — but very, very real!

As a general rule, you should not take every “winnable” case, but try to take every case that you can win big. There are lots of cases out there that can be won, but don't take every one of them (there are only 24 hours in a day). You have to balance the economics of the fight with the goal of the client, and then add your own economic considerations when deciding if you want to take the case.

But when you see what looks like “the big one” — take it! Just the fact that you were willing to take it on says something to the defense attorney. You can always find help from other Consumer Law attorneys willing to give you advice or assistance, but you can't always find that case that can be “the home run” of the year for your practice.

Prepare the Case for Trial

- A. Quietly and thoroughly
- B. A Trial is a “war” — “us” vs. “them”
 1. Plan your battle early
 2. Cover the contingencies
- C. Assess the resources the client is willing to devote to the case
 1. Allocate client's resources (and your's) carefully
 2. Goal: maximize the benefit from the resources (i.e., get the most “bang” for the buck)
- D. Plan your presentation well in advance and carefully

Go to Trial (You Don't Have to Win — but Winning Feels a Lot Better!)

The very fact that you will go to trial is important to building your practice and enhancing your professional reputation.

The reality is that a Trial is a fight to win for your client *and* for yourself — the difference is that you “win” just by going through the trial, regardless of the jury's verdict. The attorneys who will go to Trial (and the attorneys who won't) have different

reputations because of that very fact. You have to decide what kind of reputation you want, and then do what you have to do in order to get that reputation.

Build an Intimidating Reputation

Doing all of the above is what will build a good, and not coincidentally, intimidating reputation.

When dealing with opposing counsel and the court, never let them see your nervousness or uncertainty (do not be “cocky” either or they may call your bluff).

Make sure the Judge realizes that you are the “expert” in the courtroom and make sure the Jury senses it, too. Don’t “show off” with your expertise, however, because there is a difference between self-confidence and pure arrogance.

“Etc.” Ideas

Use the internet — Email is now the most common form of communication used by the “average” person (beating out even the telephone). It doesn’t help your professional reputation, among clients or other professionals, to use 1950 communication techniques in your 21st century litigation practice.

Use search engines wisely — Google and Yahoo now account for roughly 75% of all internet searches, so if you have a web site, get placed high up on these search engines if you want people to notice you! The simple fact is that the internet has become the telephone book of this generation.

When to conduct new client conferences — avoid conducting new client conferences on a Friday (people are most productive — you too — on Tuesday, followed by Monday, Wednesday, Thursday and Friday, in that order⁴). Maximize the opportunity.

Get rid of the albatross — once a year, *fire* your problem clients! (One study shows that typically they will consume 27.4% of your time — more “per client” than anything else you are handling on a daily basis.⁵) Life is too short to put up with more difficulties than you have to.

⁴Accountemps Survey of 150 U.S. executives.

⁵From a survey included in the book *Tough Calls* by Josh Gordon.