

Secrets of Building a Better Plaintiff Practice

Seven Rules For Picking Cases

By Bill Daniels

Okay, so you've heard that being able to pick good cases is probably the single most important talent a consumer lawyer can have. Or, you've witnessed folks who weren't so selective in taking on causes and wound up either financially bruised, tied up in knots or a combination of the two.

I've watched some of the best lawyers around pick and choose from a parade of human hurt and disaster. I've seen some incredible successes and some notable flops. My conclusion is that case picking is a skill that can be taught and learned.

Seven rules you might keep in mind while you're building a better practice:

1. First, lead with your heart.

Since you're going to be financing costs and fronting your time, you'd better love what you're doing. So, in that initial client interview, ask yourself, "Is this a case I can love?" If the answer is "No," think long and hard before you sign them up.

On the other hand, go into that interview prepared to fall in love. In the end, it's your passion that will give you the focus and drive you need to carry the day.

Of course, if there are big damages, clear liability and plenty of insurance, then your love can be less ardent. But, try to have some anyway, because it won't hurt.

2. Second, ask yourself, "Am I leading with my heart?"

We're a passionate bunch, we consumer lawyers. So, after your heart tells you, "yes," let your brain argue the contrary.

Signing up cases is like buying horses. It's *way* easier to take them in than it is to find them a new home. Ask yourself what a jury will think of the potential client. Chances are; if you are uneasy about your prospect, a jury will feel the same.

I know of at least one firm that runs criminal and civil background checks on all their potential clients. I don't think it's a terrible idea. Bottom line, don't sign up everything that walks in the door.

3. Take what you know.

I know there's a temptation among lawyers to take on bigger bites than can be chewed, because those cases regularly show up on my doorstep, either looking for replacement counsel, or shopping for legal malpractice representation.

People's claims shouldn't be handled as lawyer lottery tickets. That's a basic principle you need to keep in mind.

4. Stretch a little, but ask around first.

There isn't anything wrong with taking on a matter in a new area you find interesting. Still, take some care when you do.

The CAALA Listserv is a great sounding board if you find yourself in unfamiliar waters. Consumer attorneys, you will find, are generous with their knowledge and advice. Take advantage of the fact that you are practicing in a supportive community. Ask questions.

5. Ask, "What are you trying to achieve?"

I always ask the prospective client what they're hoping to accomplish with legal representation. I find it helps avoid misunderstanding about what it is I'm doing for them, and also occasionally, keeps me out of trouble.

Most folks say something like, "I'm not sure, you're the expert." This is a good response. If they start foaming at the mouth or uttering terrorist slogans, you might want to refer them to an acquaintance.

6. Keep an eye on your wallet.

Whatever you decide to take, make sure you can afford to take it all the way.

This doesn't mean you have to be able to finance the case yourself. These days, there are plenty of mechanisms that will let you joint-venture, co-finance, or otherwise creatively back a good case.

Be that as it may, case costs and economics can sink your legal battleship. So, keep that weather eye out, matey.

7. Take a deep breath before taking the plunge.

Finally, unless you are absolutely, positively sure you're signing up a dead-bang winner, count to ten or something before putting the pedal to the metal. My usual practice is to send the

prospective client home with the retainer to read, contemplate and then, if all is well, sign and return. I do it because it gives the client time to think, and allows me some thinking time as well.

You never know where litigation is going to take you, so you may as well pause before diving in. You and that new case may be together for a long time.

Bill Daniels regularly publishes a variety of articles and videos to keep you abreast of legal developments and case law that affect our society.

[Admonition Ins and Outs](#). Get your deposition off to the right start
[Getting Ahead Of The Procrastination Curve](#), Might as well face it, you're addicted to late.

William A. Daniels is a Trial Attorney with BILL DANIELS | LAW OFFICES, APC, in Encino, CA. His practice focuses on class actions, employment and serious personal injury cases. A graduate of Loyola Law School of Los Angeles, he is a member of the Consumer Attorney Association of Los Angeles Board of governors and a founding member of the Civil Justice Program and the 21st Century Trial School at Loyola. For several consecutive years he has been named a "Super Lawyer" Los Angeles Magazine in Southern California.

He can be reached at William.Daniels@BillDanielsLaw.com www.BillDanielsLaw.com