



Making your settlement story stick

“Selling” routine cases and increasing their value requires making the case’s message “sticky.”

This story is for you if:

- You have a routine case with no dramatic angle to it and
- There is no reason for defense counsel to recommend the high end of the settlement range on your case.



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The problem:

Not all cases can stand the light of day. While every case has a value, you are having trouble increasing the settlement amount of your “routine” cases because you have run out of things to talk about.

The solution:

Every case involves a story or message that has to be sold to the decisionmaker, whether a judge, the jury or a mediator.

“Selling” routine cases and increasing their value requires making the case’s message “sticky.” In other words, is there a memorable fact that might make someone change their opinion on the value of the case?

Marketers understand the value of creating “sticky” messages. For example, consider the statement on a poster in the baggage claim area of a Northern California airport that reads “Closest Hotel.” Underneath those words is the name and address of the local Hilton hotel.

That simple statement “sticks” with a tired traveler who needs to catch some sleep to be prepared for an

early morning presentation. The message “sticks” because it is directed to a particular type of consumer who is moved by the simplicity of its statement.

The same holds true when you “sell” your routine case to a mediator or judge. Create a “sticky” message by finding an unusual fact or condition that prompts defense counsel to take a second look at the case and that distinguishes it from all of the other similar cases.

For example, in a whistleblower case, is there some piece of evidence that the defense may not want disclosed to the public? If so, this bit of information will distinguish your case from all of the other whistleblower cases that defense counsel has dealt with.

You can make your case “sticky” by incorporating these principles in your mediation or trial presentation:

- Keep your message short and simple (i.e., “Closest Hotel”).
- Use analogies to assist the defense in understanding complex ideas.
- Keep it credible.
- Appeal to the decisionmaker’s emotions.
- Use the facts of your case that distinguish it from the other cases, demonstrating that your case is not “routine.”