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Passive income – referral and co-counseling fees

Pursue your passion, create a legacy, and generate revenue to do both

BY ROBERT T. SIMON

I want to start off by saying that I could write an entire book on this subject. I can go deeper into any of these categories. The purpose of this column is to use broad strokes and give advice that everyone can hopefully use tomorrow to better their life and practice.

Recently I had a major player in our industry tell me that I am the all-time best at networking in the PI space. Never thought of it that way. I just kind of did stuff because it is fun to me and I genuinely love human beings. But then I realized that I have also done it all with intention. From law school until the present.

I grew up in a very modest working-class home in Pittsburgh, the son of a truck driver, and knew only the lawyer on TV. What we have built with my firm, Justice HQ, Attorney Share and the Justice Team Network was all done without seed money. It was all networking, hard work, hustle, and well ... having a plan. And likely the most important part: Invest in only you.

Define your happiness

I want everyone to take a moment right now and picture your perfect life. What does it look like? What is your perfect day? How does it tie in with you being a lawyer? Some folks are driven by accolades. Some by travel. Some, like me, define it by financial freedom to spend as much quality time with my family and friends as possible. Others, just in Ferraris. Regardless of how you envision happiness, it is up to you, and let no one change it.

And how do we envision ourselves as lawyers? What is our perfect role? Is it being in the courtroom trying cases? (For me, true bliss!) Is it operating and building the perfect business? Is it helping people on scale? Is it being in clients' homes, changing their lives? Is it producing media? Is it having a talk show centered around drinking whiskey with our friends? Again, regardless of how you view your perfect role as a lawyer, and using your license, we should all be taking steps to do only that. But how can we pursue our passion if it generates little to no money?

Break the golden handcuffs

Most all of us went to law school with altruistic views. We wanted to change the world. But we found making money a big roadblock to pursuing our passion. Most of us end up getting caught up in the rat race of needing to make a certain amount of money, at a job, to sustain a certain lifestyle, working for someone else. We have no actual ownership in the work that we are doing, but we are getting a carrot dangled enough in front of us in order to keep us on that hamster wheel.

I believe that the only lawyers I know that are truly happy in career and life have chosen one of two paths: either working for themselves, or being at a firm that gives them stock in the work they are doing. I mean actual percentage points. In either path, you must break the golden handcuffs of high cushy salaries, which are not aligning with our personal and professional goals.

But again, how can we work for ourselves, and still make the financial gains to limitlessly pursue the life and career we envision?

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You went to law school. You passed the bar. You have invested endless hours to get your license. People reach out to you because they trust you. They trust your advice to be their counsel – either their specific counsel for their specific issue or their general counsel to find the best specialist advocate for their specific need. What you have and what you have built has value. Do not lose sight of this. Be proud to ask for a referral or co-counseling fee. You earned it. This is hands down the best way to supplement your income as a lawyer to pursue your passion.

Remember your ethical goal when responding to any call or email that comes to you from a potential client. You want to get them the best result possible. Sometimes it is your skill set that will get it done. Sometimes it is another specialist. That specialist will gladly pay you a referral fee or co-counseling fee for finding them another case in their wheelhouse. Maximize the outcome for the client and everyone wins.

It is important to know the difference between referral fees and co-counseling fees, as well as the difference in your state. In some states, such as California, you can pay a pure referral fee to other lawyers, in any amount, as long as you get informed written consent, signed by both the client and the lawyers splitting the fee. It is important to always get these in writing. In other states, there is a limit on the amount of the referral fee, and again, it must be in writing, signed by all parties.

Co-counseling is different. In many states you cannot pay a referral fee to another lawyer, but only a co-counseling fee. This means the two lawyers are working it up together, both adding value, and both on the pleading if the case goes to litigation. It is important to again get your fee division in writing, and to document your value added to the result. In many cases, your efforts in getting the client, maintaining that relationship, and being there for every question and issue has, by itself, extreme value.

For instance, when I started my firm as a true solo, I only had a few trials under my belt, and did not have trial lawyer accolades nor the war chest to take some of my cases where they needed to go. So, I sought out and brought in the best of the best



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lawyers for my clients' cases, split the fees, and they carried the costs. In every situation the client got a significant result, I did not have to carry all the costs myself, and I got the best learning experience one could ask for. Fast forward a decade later, and we have over 20 lawyers, offices in three states, most of our business comes from other lawyers referring us to take the case to trial and carry the costs. But this is the vision I wanted. To be a trial lawyer. Every path is different.

So now we have established you can often split attorney fees, but how can we generate the business to do it? And how do we

track all of it? We'll discuss that in next month's column.

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