

How Far Down Do You Niche?

I've been consuming TONS of business and marketing information over the past 6 months in preparation for opening a practice, and one of the things I hear repeated over and over again is that you must niche down; that niching down is essential to a business's success.

Law is one of a few professions where you can niche down in both practice area, and in target demographic. I've seen lawyers with a very specific focus who, for example, work exclusively on DUIs. I've also seen lawyers who practice door law (they'll take anything that comes through the door).

Anyway, the question I pose to my fellow sezzers is: How far down do you niche? Do you have a specific demographic or industry that you consider your target audience? Do you have several practice areas, or just one or two?

I half-heatedly joke that I niche in paying work.

As a barrister, I say that my niche is persuasion—after all, judges don't get to pick their niche, especially appellate judges, and nobody ever suggests that their decisions should be ignored simply because they don't profess to be specialists—imagine such an attitude towards justness of the Supreme Court of the United States purporting to disregard an opinion!

And remember to whom you are speaking—marketing labels might be good to use to your target market, but best avoided when speaking with colleagues (or

yourself).

Good luck.

Philippe Doyle Gray, Australia

I believe you are placing the cart before the horse.

There are several decisions to be made prior to discussing niche practice. For example:

- Where are you planning to practice (e.g., largely populated area, suburb of some population draw, rural)?
- What areas of the law interest you and is that based upon life experience (e.g. clerking), academic experience, or expectation (e.g., media)?
- What is the mesh between my prior two questions?

You may enjoy tax law and real estate. You may decide to be the go to person for 1041 exchanges (your niche). Find in some locations; horrible in others.

Remember that a niche need not be your sole practice; it can be a component of your practice. Also remember that you must have a sustainable practice that may well require that you market a broader focus and build your niche over time. Also remember that some areas of the law can change overnight (e.g., within the past ten years: bankruptcy due to change in federal, real estate due to a change in market conditions). If your niche was Chapter 7 bankruptcy or residential real estate closings five to ten years ago then you were in for a load of misery (i.e., immediate need to expand your practice focus).

Very truly yours,

William M. Driscoll, Massachusetts

My niche isn't a practice area or a geographic one: it's a skill. I'm a freelance attorney focusing on doing legal research and writing for other lawyers. I don't sign up clients directly. In my freelance work, I don't do appearances, don't do depositions, don't even draft/respond to discovery, draft transactional documents or do doc review: I only do legal research and writing. With that said, I work for lawyers around the country, and in many practice areas.

If you're interested in working for other lawyers as a consultant (which is one way to spin what I do), you might want to consider developing expertise in e-discovery. Here's one lawyer who does that kind of work:

<http://esiattorneys.com/>

Lisa Solomon, New York

I think the hardest thing is to make sure your niche matches the market. For example, I really like doing criminal work. However in this area I rarely get anything that isn't a DUI. Most other offenses seem to qualify for public defenders. My DUI clients are often skiers on vacation. The problem is that after a while I get sick of DUI's. I'd really love a client who hit someone for a change. Those come along so rarely. I also find it irritating that the accused drug dealers never seem to be able to afford private counsel.

Michelle Kainen, Vermont

My 'niche' is Estate Planning, Probate and Trust Law, for the island of Kauai (residents and in some cases where appropriate, property owners who are not residents). I would like to focus more on one area, such as Estate Planning, and perhaps even a sub-area (planning for a certain type of client). Some attorneys in bigger cities can easily do that, but I'm in a small community (about 60,000 on this island), and not only might I find it hard to keep busy (and pay the bills), but there is a real need here for some work that I'm good at but don't particularly like, such as routine probate and contested estate/trust cases. And not too much call for some things I really love, planning with international issues and for clients with unique situations that require interesting custom drafting.

Over the past 6 years I have become able to say no (without undue "OMG where is the next paycheck coming from" stress) to several things that I used to take out of necessity - evictions, uncontested divorces, many (but not all) guardianship cases, some cases/clients that I don't enjoy. I am still narrowing my focus ("niche-ing down" as you refer to it) and will continue to do so - I think it's a process, and one's niche may grow smaller or larger, as times, populations and laws change. It's not only the issue of being financially able to say no to less desirable work, but also one of learning which aspects of the law or clients you most enjoy handling or working with. And, sometimes you may have to change your niche (or the degree to which you can focus) - for example, many attorneys may have focused on clients who needed planning for estate tax reduction, but changes in the law greatly reduced the number of folks affected by those taxes, so niches have had to change accordingly. And also, as Michelle

points out, a certain amount of variety helps stave off boredom - so that's another factor to consider.

Cynthia Hannah-White, Hawaii

Thank you everyone for your input. It's helpful to hear how actual solo practitioners—as opposed to marketing gurus and business writers --- approach the subject. I'm seeing a theme that a niche should be a fluid and dynamic thing, able to change direction depending on external factors that may shape a specific market.

Let's start with suggesting that you should not use "niche" as a verb. Don't "niche down" - makes you sound like some fancy-pants marketing consultant. You can "pick a narrow niche" if you like, though.

I think many/most lawyers get a niche kind of by accident. They start with what they want to do, and where they want to do it, like litigation in [pick a city]. They end up with a number of cases for a particular client, or in a particular tribunal, or regarding a particular issue, and, voila, a niche is born.

But if you are going to approach a niche in a reasoned fashion, then I think you want to approach it like I think any retail business would before opening a new store. What is the particular market? How much of the particular type of business at issue exists in that market? How many lawyers are there servicing that particular niche in that particular market? I'm sure it's possible to do that kind of research, but I'd guess that most lawyers don't, and probably wouldn't do it particularly well if they did.

You also have to consider time. Your research might lead you to a niche that's hot right now, but dries up in 2 or 5 or 10 years.

And, you have to consider barriers to entry. So it's probably a wonderful niche to provide litigation counseling to A-list celebrities, or estate planning to billionaires, but no one out of law school is going to

break into such markets without a very specific point of entry (eg. an uncle who is a billionaire or A-list celebrity), and probably not even then. These are extreme examples, but the point is that some niches that might look promising are very likely to be occupied by people with substantial experience or contacts that a new lawyer typically can't duplicate.

Patrick W. Begos, Connecticut

I'm no guru, but in my opinion, where you practice will play a big part in governing what your niche can and cannot be. I live/practice in rural southeast KY and as much as I would *love* to do technology/IP-related work, I would starve if I based my practice on that. I'm willing to bet that would not be the case in, say, Silicon Valley.

Best,

E. Seth Combs, Kentucky

Well, you recognize that niche can be both practice area and demographic; that's good.

Some of it is going to depend on your skill set; if you have a medical background (medical doctor, experienced RN) then you can niche based on that to Med Mal; if you've got engineering degree you can niche to patent law. Most new law grads, though aren't going to have a real good non legal skill set that allows them to jump into particular area of law.

Some of it depends on demographics; for what it's worth, the general niche of 'estate planning' can be tough as a sole specialty; somewhere around two thirds of the people in this country die intestate; while that certainly allows for marketing to the great 'un estate planned' it illustrates that a lot of people don't seem to realize they need a lawyer, or at least they aren't willing to consult a lawyer for an estate plan. Additionally, most estate planning clients are 'one offs', at least until they die and the heirs need a probate; while they may contact you for other legal matters, it's not usually an ongoing relationship, like some business or real estate clients who come back time and again (yeah, I know, there are exceptions; but my point is, you don't wind up with a small but active "book of business' in estate planning)

So, your market is those people in your area who are looking for estate planning at any given time; I can't tell you the exact percentage of the population but it's relatively low in most cases at any one time.

I practice in Retirement Central, The Villages, Florida, with over 100,000 middle class retirees in the area; but that's an exception; you would probably have to find a city with population of over 1 million or so to find that many middle class retirees (poor/lower class people need estate planning too, but they're probably less likely to seek it and they are less likely to be able to pay for it).

My point being, most estate planners tend to have other niches; certainly there are exceptions, but at the very least you may need to consider other areas; maybe probate, guardianship, will contests, that sort of thing, and maybe even other areas of law.

You need to evaluate what your market is; and fit your niche to the markets. I really can't be more specific than that without more details.

Ronald Jones, Florida

It would help us help you if you would include where you anticipate practicing (location) and what areas of the law interest you.

Very truly yours,

William M. Driscoll

My take on the issue differs from many. Young and aspiring attorneys spend a lot of energy focusing on what they would like to do in planning.

At the end of the day, you seek clients that will pay you to perform services for them. It is not about what the service provider wants, but rather client-focused. Whether it is your lifetime fulfillment or not, the client is paying for a service and you are the one providing it. Balance is important.

Market-based analysis is imprecise. Continued market exposure and adaptation is part of the typical approach.

Economically independent people can pursue their dreams of assistance without concerns about paying the bills. For everyone else, you are trying to develop paying clientele to pay your overhead and provide a living.

You have to continually work to bring clients to your door, provide the services required, and maintain a proper client relationship. In some practices, it is the one time you will see them and most are not coming back. In other practices, you try to build a recurring client base. Regardless you adapt as you go, keeping your skills and capabilities refreshed.

To my view you need a core group of things that you can do with varied clientele. Real estate or oil and gas are examples for many of a boom-bust cycle. If you add a bankruptcy practice to it, then perhaps the counter-cyclical nature will work.

Some of us keep up with many different practice areas by choice. In any other area of business, diversification is sought after. It helps you keep providing services if you are adaptable and well-rounded. It may also make you a better lawyer.

Darrell G. Stewart, Texas

I niche harder than most. I do all video games, all the time. Without that branding and appeal, I'd arguably be homeless. Now I own *three *suits...so, no big deal. But in all seriousness, it depends on what niche you're looking for. I'm a first year with a strong client base all because I went in an area I was very passionate about. People in an industry can smell a phony a mile away, so as a lifelong nerd, I chose to work with my fellow brethren. It's been a very enjoyable and exciting trip so far.

Ryan Morrison, New York

Well...careers are journeys, not destinations. What you like now, or what you think you are good at now, or what you think sounds like a fun practice area now may not be what you do for the rest of your life. While you want to build up some expertise as soon as possible, I'd encourage you to keep an open mind and see where life and your practice takes you.

I started my professional career as a chemical engineer at a manufacturing plant.

I started my legal career as a patent attorney at a large law firm.

I now practice several areas of property-related law (including still some patents) in a relatively small community, but spend the majority of my time doing estate planning and probate work.

There was at least one job in between each of these steps, too. I didn't even take estates & trusts in law school.

I liked working at a manufacturing plant, though there were some challenges and practical realities that did not fit with where I wanted my life to go.

I liked prosecuting patent applications for the fantastic high-end clients my former law firm had; I did not like the prospect of 60-70 hour weeks for the rest of my career.

I really love where I live. I really love doing most of the work I do now. I really love owning my own business (most of the time!) I really love being active in my community, and that my level of civic activity actually helps my business.

But to answer your question, I don't consider most of the work I do "niche" work. There are some areas where I have a particular expertise that is harder to find (estate & succession planning, and probate for that matter,

for IP owners), but I get maybe 1 case every two years based on that. I don't do everything, and don't pretend to do everything, and freely refer out cases that don't fit within my current practice and aren't in an area I'd like to expand into, or are geographically too far away (but this may be a luxury not everyone has, I understand). I do have target audiences for my practice areas. Not every client is within that target audience.

Cynthia V. Hall, Floridad

Ryan,

Lifelong #PCMasterRace acolyte, checking in. Just wanted to say you rock, dude. It's good to see another lawyer with a passion for vidya' games - we are a rare breed, methinks. That said, I am extremely jelly of you. It may or may not come as a shock to you, but there is no demand for those sorts of legal services in good ol' southeast KY.

Best,

E. Seth Combs

Darrell has a very good point. You need to do what the market is asking for. You can get some ideas based on the demographics of the market; as I noted, my own market has over 100,000 retirees; estate planning/probate is obvious choice. But you need to pay attention to what people are asking for; it does no good offer services that the locals aren't interested in buying, or at least paying for.

Locally, there's fair call for DUI attorneys; I don't do that but there's a lot of snockered Villagers driving around in their golf carts. DUI might be a tougher sale in, say, some parts of Utah.

And, I can't emphasize enough; not only do the people need the services but they need to be willing and able to pay for them. There may very well be a need for legal services in some economically depressed areas; but if the locals' can't/won't pay a reasonable fee for them, you're a fool to try to practice them there. I have seen lawyers in economically depressed areas focus on 1) bankruptcy 2) Social security/workers comp disability type things 3) PI work; but if, for instance, you were planning on floating, say, a family law practice in an economically depressed area you would find most people may qualify for legal aid and aren't willing to pay you for it. Likewise, estate planning; poor people need estate plans but they cannot pay much for them in many cases.

You need to pay attention to what people are asking for; that's very good clue as to what type of law you need to practice to make a living.

Ronald Jones

Ronald raises a good point as well. I have found that people tend to pay for services that they cannot do themselves. Sometimes people don't pay for services thinking that they can do it themselves but really screw it up!

To Ronald's examples I point out that people tend to seek a lawyer's service on contingent fee matters. Hey, if they lose they didn't have to pay anyway...

A lot of people are doing their own divorce. How hard can it be? Then they seek a modification of a very bad (for them) judgment. That they bring to a lawyer (usually after they screwed up the modification).

There are those who recognize the value of a legal professional; but that population seems to be dwindling. Case in point, look at the archives discussing LegalZoom estate planning documents.

William M. Driscoll

I have been told by more than one successful attorney and lawyer-specific marketing person to 'market' like a specialist but 'practice' like a generalist.

Have a short, specific answer to 'what kind of lawyer are you?' People will remember you more easily and you will be surprised how many call and say 'I know this might not be your area but..' And if you are just getting started you have to pay the bills while you generate business in your specific niche so all calls will be welcome

Lisa M. Knauf, Illinois

Thanks everyone. It's interesting to see how thoughts differ based on location. I, like Ryan, am in NYC where you can have a practice that specializes in video games. However, if Seth tried that in rural KY, there likely wouldn't be a single client. While Manhattan is over-saturated with attorneys, it does allow for some creative and narrow focus areas. Ryan took advantage of this and built a business around it.

Lisa, I like the market like a specialist, practice like a generalist idea. That's what I've been hearing from the marketing professionals as well. If I market myself as an IP/Media/Advertising/Entertainment attorney, and spend most of my marketing efforts on entertainment/media related startups and small businesses in Manhattan/Brooklyn, I wouldn't turn down a contractual dispute between an independent contractor and construction company in the Bronx.

The commoditization of certain legal services will probably shape the the way I market myself as well.

Thanks

Christopher Asberry

Seth, I hear you. That sounds a little rougher than grand ol' Manhattan, haha. Thanks for the kind words, and we'll have to play something soon ;)

Ryan Morrison

I too like the marketing concept (specialist/generalist).

The difficulty I have in conceptualizing legal marketing is related to my concept of other professions. For example:

- In dentistry, most practitioners are generalists. They have a regular book of returning clients (on a six-month schedule). They fix the usual issues (e.g., cavities, crowns) and sell the usual products (i.e., teeth-whitening products). They refer out the other stuff (e.g., oral surgery, orthodontic). The specialist have a broader geographic area for their specialty and seek referrals from generalists.
- In medicine, there are general practitioners (i.e., PCP) who have a regular client list with a regular check-up schedule and always the intermittent issues. They refer out to specialist (e.g, surgical, mental health, allergists, cardiac).

When I was first licensed, my dentist wanted to know why I didn't do what he did—buy an established practice. He didn't appreciate that he bought a book of reliable returning business on an indefinite six-month schedule. If I were seeking a tax or business practice where my clients returned on an indefinite regular basis then that would be comparable. But how often do people get divorce? Commit crimes (and can pay for a private attorney)? Have a personal injury issue? This is more like the dental specialist (i.e., how often does someone need oral surgery or braces?).

I identify with the general/specialty practice of a professional and have difficulty seeing the practice of law as a business in terms of, say, a manufacturing plant, a store, or the like. I do not provide a fungible

product. When I was doing trial work each case had distinctions that mattered to the presentation and outcome. Now that I focus solely on appellate work, no two cases are remotely alike; I cannot dust off an old brief as a starting point for the next.

As a result, I see lawyer marketing as focused on the client's need for today (i.e., their injury and curing that—much like a dental or medical specialist. The feedback I hear from the lay public is, had I known that I would not have just picked the attorney I did. They realize after the fact that there is a difference between attorneys, that we are not fungible (e.g., that a PI case may be better handled by a firm with the resources to fund the case to completion than the GP who seeks for the client to fund portions or miss out on experts or other discovery).

I would really appreciate the impressions of others on this topic. To what degree are lawyers now driven to be specialist (even though the term carries a negative connotation in some jurisdictions)?

Very truly yours,

William M. Driscoll

What a great thread--very timely for me. As I was transitioning out of the Marine Corps, I looked at attorney density in different metro regions in my home state (Washington, where I'm licensed). Using the Bar Association's public directory, I compared the density of lawyers claiming a particular practice area in the two lowest density metro regions (Yakima/Tri-Cities). Turns out both places had a lack of employment and real estate attorneys. I ended up choosing employment law (plaintiff side) in the Tri-Cities because I think litigation services are here to stay. There are, no doubt, plenty of problems with this methodology, but it's too early to evaluate. I've also adopted the network like a specialist, practice like a generalist mantra.

Adam Pechtcl, Washington
