

## Niche Practice Areas

Good Morning Folks! I hope everyone is having a wonderful Tuesday morning. I am stuck at home for day 6 with my kiddo, who suffered a concussion jumping a trampoline with his brother a couple weekends ago. I personally think he is fine to go back to school, and his doctor said as much, but he went to school yesterday, and after lunch said he had a headache and was dizzy, so I decided to keep him home and doing nothing visual or with noise for one more day.

Anyhoo, since I have had this time, I have been really concentrating on the future of my firm, and the direction I want to take it. I have pretty much been a generalist for the past six years, with bankruptcy and consumer law being the bulk of my practice. I have read a bunch of articles from Carolyn about niche practices, so that has led me to consider carving a niche out for myself. There are about a million bankruptcy attorneys out there, many of them practicing in bulk levels I could never imagine, so I don't really think that is much of a niche. Within bankruptcy I suppose there are areas like stay violations, but that doesn't really set me afire either. That has led me to think about other niche areas I could pursue. One that I thought might possibly have potential is drug abuse law. I don't mean necessarily solely the criminal aspect of drug abuse, but the other areas that come with it as well, like treatment programs and such. I am in the very very early brainstorming stage of this, so any insight would be greatly appreciated. Do you think this area has potential, or am I wasting my time considering it? Thank you in advance for any direction y'all can give me.

Looking for a Niche

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X2 on the idea of niche practice. Being in a narrow specialty allows me to charge higher hourly rates. It gets me cheaper bid prices on pay per click. It allows my website to stand out for the right searches. It makes me the or one of the go-to people in my geographic area for my specialties so I get referrals, often from other lawyers I don't know. Niche is great.

Shell Bleiweiss, Illinois

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My daughter had a concussion while playing lacrosse. It took about a month before she was back to normal. We thought she was okay after a couple of weeks, but tests by the doctor confirmed she needed more time to recover. She did recover fine. Glad your son is on the mend.

I have focused on energy law and computer law for much of my practice. The legalization of marijuana seems to be driving a new niche related to your thinking.

Jeffrey A. Franklin, Pennsylvania

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Ok, I'll say this:

First, congrats in thinking about a niche practice, or specialization, or whatever you want to call it. Focusing on particular area or areas of the law allow you to do more of it, get paid more better money and really become good at it.

But. You need to figure out whether you can make any money off of the niche. There's lots of potential niches; there may be relatively few clients for a particular niche and even if there are lots of clients, there may or may not be a bunch of money in it.

Your idea of bankruptcy stay violations; I don't know; to the extent that the debtor is already represented by an attorney odds are their attorney is going to handle the stay violation; if they're not represented by an attorney they may hire you but the problem is, if they don't have an attorney for the bankruptcy filing they are unlikely to get an attorney for a stay violation. I'm just questioning the source of clients.

Drug Abuse Law. That covers a lot of territory. Maybe, potentially; but are people willing and able to pay you for that? How many drug abusers have enough discretionary income that they can afford to pay you to handle this stuff? To the extent that they are indigent, well, you may get them as potential client but they aren't going to pay very much if anything.

I don't know what the economics of this is, but you need to think about how to monetize the niche; who's willing to pay you, how much are they willing to pay.

Look, I do niche work on will/probate/trust contests. There's lots of people who are willing to consult me; but the fact is, for a lot of the cases, it just ain't worth me handling. A probate contest over a lot and a 20 year old mobile home? That's worth maybe \$30,000 total? That the potential client is going to get half of? The value of that case is maybe \$15,000 at best. It just isn't worth me handling the case for that. Now five hundred thousand, or 4 million dollar estate? Now you're talking; people are willing to pay me some money to handle that; if the amount at issue is enough AND the facts are good enough, I may even take it on contingency. But each case has to be evaluated on its own.

My point is, you're on the right track looking at how to niche, specialize, or focus; that's good idea. But you need to think about how to make it pay; realistically who has the kind of money you would need and are they willing to part with it?

Ronald Jones, Florida

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With drug abuse there are several areas to consider...

You have the criminal aspect of it but probably the area in which there is a lot less legal representation is the family law part of it.

What happens to the kids of people addicted to drugs:

There can be juvenile court (if the state takes away)

Guardianship (if another relative steps in first)

GAL work

There could also be financial issues stemming from drug abuse (bankruptcy), divorce and so forth.

Erin M. Schmidt, Ohio

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Ronald,

I was thinking that maybe issues drug abuse with minors would be the way to go, kind of like what Erin mentioned with the family law aspect of it.

Maybe malpractice within the drug abuse treatment world? I have done zero work like that, so I have no idea about the field, but it's something I thought of.

Looking for a Niche

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I practice criminal defense and my office-mate practices parental representation. (That's cases where the state is taking children away from bad parents. It's called different things in different states. Here it's called "child in need of aid.")

We both pretty much deal with drug addicts or alcoholics 90% of the time.

They have no money. None. Any money they have has been stolen from others or is proceeds from drug dealing.

Most of our cases in this area are on indigent defense contracts from the state.

Loved ones of addicts (if they aren't addicts themselves) sometimes have money to hire us to file for custody of the children, or file petitions to have people involuntarily committed to treatment, but that is really not enough to build a practice on.

I do get a number of family members hiring me to represent their addict kid in criminal cases.

I'm not sure how lucrative it would be to sue treatment facilities for malpractice. There are so few treatment facilities out there, and such little funding for them, that they really just do the best they can. Sometimes that's not enough, but some treatment is often better than none.

Monica Elkinton, Alaska

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Thanks Monica. I've had about 4 people on different platforms tell me pot law...maybe I need to look into that, but I'm in Texas so I don't know.

Looking for a Niche

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I am not an attorney (admit it, you knew that) but I know that many large law firms are starting drone departments.

This is an emerging market and it seems like it might be able to offer you a little bit of everything from filing for approvals from the FAA, criminal defense etc....

Just my 2 cents.

NOTE: I am not a lawyer.

Ari S. Morse, Florida

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Maybe. It just seems to me that a problem with the drug abuse area is, to some extent the medical treatment aspects are paid for by third parties; i.e, medical insurance, Medicaid, maybe even VA in the case of a vet. Just because the medical aspects are paid for by third party doesn't mean legal aspects are going to be paid by third party.

Erin's right, there may be family law, or guardianship aspects to it; but I've never been able to monetize family law ( I do believe Erin has but I haven't). Guardianships, certainly but odds are 90% of your guardianships are of the elderly (which doesn't necessarily mean it's a bad practice area; it can be quite lucrative but it also, at least locally, tends to be a bit of an "old boys network").

Once again, I think you're right thinking about it but you may be looking at it from the wrong end of the telescope. You're saying you're interested in doing something with drug abuse; but are unsure what. Maybe you should be asking what do people want and what are they willing to pay for?

I knew local attorney, Ben Ayres, for years; mostly knew him thru the other members of his firm. The point is, Ben did a lot over the years; but I went to grad school with his daughter down in Orlando shortly before he died. As it turned out, Ben had been devoting himself to Adoptions. Pretty much limited his practice to that in the last several years. That's a "good" practice area, at least in Florida; doing private adoptions. I am not family lawyer and don't know the area but there's a demand for it; people without children want to adopt children, and you know something? They're willing to pay for it. Talk to anyone who's ever adopted a child privately and see what they spent on it. Well into 5 figures in most cases.

That's what I mean about what do people want and what are they willing to pay for? In my case, people are want will contests and frequently are willing to pay for it; provided enough money or property is at stake. In Ben's case, people desperately want children; and they are willing to spend a LOT of money on that; fertility treatments, IVF, and adoptions.

Obviously, some people are willing and able to spend a lot of money on their children to keep them or get them off of drugs. The problem I'm seeing is, that most of this is "Medical" type stuff, not so much legal; unless you can figure out a reliable way to make money off of it, it isn't necessarily going to be a practical niche area. Doing a bit of malpractice, doing some crim work, doing some guardianships, all of

which relate to drug abuse, really isn't a 'niche' practice so much as it is a general practice serving people with drug abuse problems; you still need to do a lot of work in a lot of different areas of the law, none of which are necessarily unique to drug abusers.

In Ben's case, fertility treatments and IVF are medical problems, there's not much of a way for a lawyer to make consistent money off of it. OTOH, once those things fail and people decide they still want a child, then they look into adoption and that's a "legal" not a medical procedure; and at that point people are pretty well committed to spending whatever they have to.

I've got a friend of mine who started a law practice a few years ago aiming to provide basically estate planning to gays; their motto is A non-traditional law firm for non-traditional families. Nothing terribly fancy, wills, trusts, POA, HCS, preneed guardianships. That sort of thing. But they emphasized that because nontraditional relationships weren't recognized at law that their clients needed to do some planning. That's fine; It's the exact same message I give to people in nontraditional relationships when I get them here in my office. But the point is, once the supreme court mandated same sex marriage, their business is down. A lot. I'm not sure how much but it is down. In his case, it's not a real big deal, this was a side gig; he's got government day job. But my point is, he had developed a 'niche' practice aimed at a particular market; but the market has changed and I'm not sure he's going as great guns now as he was.

Which brings me to marketing; in his case he did direct marketing to potential clients; I don't know the details but basically small group presentations; he was able to identify and reach his target audience with some regularity. In your case, 'drug abuse', how you going to market it? I'm not being snide, but given the type of niche, I don't think you want to go to Al-Anon and 12 step meetings and say "Hi, I'm Seth and I'm a lawyer who serves drug abusers..." That'll get you thrown out of the meeting PDQ. Referrals from providers? That's not real reliable nor is it likely ethical under most states rules, at least not if you actively solicit those referrals.

Think about how you're going to reach the market.

Ronald Jones

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You make some really great points, Ronald. I had just been thinking about what I find interesting and not what the client might NEED. Very very interesting. I'm an adopted kid myself, so the whole adoption area does

resonate with me. I hadn't thought about that. This is great food for thought. This is what brainstorming is for, right? I really truly appreciate the time you have taken to write your thoughts.

Looking for a Niche

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I think there are 2 ways to think about niches. They're very different, though there can be overlap.

The first way is akin to a specialty (though that is a forbidden word in many places), and it's going to primarily be significant to other lawyers. This is an area of practice that is somewhat esoteric, and that has a steep enough learning curve that it's easier/better for a lawyer to refer the case to a specialist than to learn it himself. It might also be highly relevant to very specialized clients. I think things like bankruptcy, tax law environmental law, ERISA, special education law, govt contracting, etc., are niches in this sense. I think of the guy who was brought into the OJ criminal trial because of his expertise in DNA evidence. A potential client may or may not consider their problem to be niche-worthy, but another lawyer likely will. In order to practice in these niches, you really have to devote yourself to learning the laws, rules, procedures, rules of thumb, etc. Often, you can't get sufficiently competent to avoid harm without first-hand experience.

The second way is more of a marketing concept. In that vein, almost anything that you choose to call a niche can be a niche. We recently added a practice area of construction law to our website. We had been doing quite a bit of it; it's really breach-of-contract litigation with a little bit of statutory and technical issues thrown in. I wouldn't consider it a niche in the first sense, but, in the second sense, it seemed like it was worth looking specifically for people with construction disputes. Thus, a niche in this sense is any kind of marketing differentiation that you think will be significant to a target audience you define.

When thinking about potential niches, it may be helpful to consider what category they belong in, because that will help focus your consideration. Bankruptcy stay violations, for example, are not terribly esoteric in the first sense (certainly a lot less complicated than managing an entire bankruptcy case). So it's unlikely a lawyer comfortable in court would look to refer out a case like that. And it's not clear that there's an effective way to define a target audience for this niche and market effectively to them. (Someone is being sued; either they contact their bankruptcy lawyer if they realize the bankruptcy is

relevant, or they contact a litigator who discovers the stay issue). Someone is not likely to search for a bankruptcy stay lawyer.

"Pot lawyer" as some have suggested, seems like a dream niche in the second sense. At least, it seems like the kind of issue that a lot of people will be thinking about, and that will throw off a lot of developing legal issues as more and more states legalize (and the feds still don't). It could also be a niche in the first sense, if you consider (legal) pot dealers, who have to deal with things like banking, tax, insurance, etc.

Patrick W. Begos, Connecticut

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Not to beat this to death but:

First, Bruce Dorner, who I mentioned last week as having a birthday, once said on this list that "The ideal niche practice area is solving the very simple legal problems of the extraordinarily wealthy". +1 to Bruce.

But, of course, that isn't necessarily a practical niche area.

And some of it depends on your market; if you were located in, say, Beverly Hills or Orange County California, maybe representing drug abuser WOULD be a great niche area; people with money who want this handled with discretion and compassion and are willing to pay for it. I doubt your area of TX is like y Hills.

Second, as Monica Elkington points out, frequently drug abusers and alcoholics have very little money. I'm going to be blunt and maybe a little crude; I don't mean to be cynical but you run a real risk of practicing "Welfare Law" if you target drug abusers. I'm sorry, that may not be the most sympathetic term but it is accurate; you're likely to be dealing with evictions (from the tenant side), debt collections, child dependency type cases, criminal violations, that sort of thing. I am NOT suggesting that none of these things are not worthy; poor folk need representation just as much as rich folk and maybe even more so; and I'm not suggesting you can't handle a few (emphasis on a FEW) of these cases on an ad hoc pro bono basis; but it isn't the way to build a steady, much less reasonably lucrative, practice. Â It simply is not.

Third, you need to think about how to monetize, first; who is willing to pay you, how much they are willing to pay you, and how many of them are there.

This may depend on your geographic location. I do primarily EP and probate work. This is not a 'side area' for me, it is my primary practice area and has been from the day I opened up. I do fairly well at it; I like the area (most of the time) and I'm good at it. However, I am also located at the northern edge of The Villages, a retirement community with 110,000+ residents and a bunch of smaller, but still

significant, retirement communities. And they're all middle class and above and nearly all of them have moved here from elsewhere, sometimes from other parts of Florida but frequently from other states. I Got Business. I Got A Lot Of Business.

Estate planning and probate in other areas of the country? Frequently, it's a 'side' practice, or part of a more general practice; not because the lawyers don't like it but because wills and probates are typically one time things; you don't get a lot of repeat business; most people will do one, maybe two wills in their lifetime, and of course they only do a probate once. There isn't the market to support a full time estate planning practice (frequently).

My point is, you need to think of what people want, what they're willing to pay for; that's how you choose your 'niche'. By all means, consider you own interests; but you need to consider how your interests fit in with a saleable product.

Ronald Jones

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Responding to a couple of comments about practice areas not being sustainable or not having a legal aspect

<http://www.stayviolation.com/>

<http://www.reproductivelawyer.com/>

<http://www.surrogacy-lawyer.com/>

<http://robertterenzio.com/>

<http://www.iflg.net/what-we-do/surrogacy-law/>

Lisa Solomon, New York

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To follow on what Patrick said about marketing: I have a niche within a niche. I represent almost exclusively low income folks in family law matters. Why? Certainly not for the money.

1. I'm a solo, I'm never going to compete with the big boys for the large cases. But the big firms WILL send cases to me that people go to them and then faint when they see the \$20K retainer.

2. These folks need representation too. But again, see the 20K retainer. No one should have to go into court to protect their rights in property or have custody of their children decided without representation.

3. I really, really, really, hate the big cases. There is more than enough to go around yet the offers are laughable. We have 4 homes, I keep the ones that have positive equity, you get the one that is about to be foreclosed. Oh the kids will be in the street, get a job even though you've stayed home for 20 years and have no marketable skills. Does not make me have faith in humanity. Sure, the po' folks can be petty about stuff too. But it's easier to understand fighting over the one car than it is over the 5 cars.

It's a niche that works for me. I have pretty steady work and could take on more if I just spent some time marketing.

Find what you like to do and figure out how to make it work for you.

Elizabeth Pugliese, Maryland

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Lisa,

When I said stay violations, I was referring to Charles's practice, but I think people thought that is what I wanted to do. I was just pointing it out as a niche within bankruptcy. I have actually spoken with him about a couple of cases I thought might be stay violations, and he helped me out. Truth be told, he much do okay with the area, and he helps a lot of people find their niche. I just don't know how he does it with just stay violations, but he does! The adoption area has me intrigued, as I said before I was adopted and it strikes a chord with me. When I decided to refocus myself on my firm, I immediately decided to cast a wider net instead of a deeper net. I am definitely going to find my niche. I really appreciate all of the help from everyone on this listserve.

Looking for a Niche

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There's a third way to think about niches - WHO you want to have as your ideal client (this lines up with what "Book Yourself Solid" preaches). Its not just "rich people" or "boaters" but as narrow as you can slice that pie. And I have no examples coming to mind, sorry.

Bruce Wingate, New York

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Not sure I can add too much more to the advice, but I do agree with the idea of a niche area, and don't forget that you already have some broad experience so if your niche is somehow wiped out by changes in the law you can always go back to general law.

IAE, I thought I had a niche practice, employment law, and doing some ERISA. But in reality everyone was doing it and everyone was gunning for the really "good" cases. All I got was crumbs for many years. It was very frustrating. I could never find that one case that I could basically retire on. I thought about bankruptcy and got a few, but again there are so many people out there massively advertising for it and doing them en masse. Same with PI and uncontested divorces (only \$199!). Unless you were willing to lower your prices to next to nothing, and to spend huge advertising bucks you got very little such work. I am so glad now that I have abandoned that whole approach to the practice of law!

Now I have truly found a niche, at least in my geographical area. And everyone knows it and sends me their cases. I've yet to spend much on advertising, but am thinking of doing some more. But I really am pretty much a one man niche in this area. A few others try it but are not really into it. I learned the practice at the big firm in DC. I network with other attorneys who do similar stuff and thus likely to run into potential clients. I charge an hourly rate now, significantly less than what my old firm charged. I'm able to make a real living at this and don't kill myself for once. I don't worry anymore about how good the case is - I worry about how to help the client best. I'm so much happier in my practice than I was before.

So find an area, but make sure it's a real niche and there's a real market out there for it. I'm not sure about "drug law" it sounds too broad, and sounds like you'd be stuck with some people who have no ability to pay you, or have really crappy contingency fee cases (i.e. med mal types). I'd find a niche where people can pay you a decent hourly rate and that almost no one else does in your area. What about representing the Doctors? They don't think they need lawyers, but they do. Desperately. You could carve out a niche with their employment agreements, partnership agreements, incorporations, Medicare issues, insurance reimbursement issues, licensing problems, investigations. I was talking to a friend (retired lawyer actually), he said there's a real problem in his areas with Doctors getting hooked on meds. He is on some local medical board and the legal problems that creates are huge - especially among anesthesiologists. Doctors almost always have money. And they will pay through the nose to protect it. Food for thought.

Sterling L. DeRamus, Alabama

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I would second what Elizabeth said. I do personal injury cases - along with the rest of the world. But, most of my cases are low impact cases. People

cringe. I get the cases in, work them up, settle them, and move on. I litigate when I have to and don't make money on those. But I explain to clients up front these are small cases, they will get better and get something, but not a lot. I set their expectations and can handle these efficiently.

Of course, then the former client calls up and was a pedestrian struck by a car and taken to the trauma unit. That makes up for it. But she remembers me because I was the only one willing to take her \$6,000 case.

Jonathan G. Stein, California

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Good to hear from you. We should have lunch sometime. I am headed to the NCLC Consumer Litigation Conference for the rest of the week but call me next week. As you know, I handle consumer matters only. Lately that has meant suing car dealers and landlords. No shortage of those cases no matter the economy. One niche you might consider is HOA law. I can send you referrals for people with HOA problems. Much much abuse by HOAs and they have a powerful lobby.

Sharon Campbell, Texas

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Hi Sharon! We definitely should get together. It's funny you mention HOAs. When I lived in Las Vegas, I once interviewed for a job with a law firm that represented HOAs. I thought about that today and it made me think of HOAs. I've done almost exclusively bankruptcy for the last few years, and I have some referral sources, but the cases just simply don't come in as fast as I would like them to. There are a million of us out

there, and I'd like to get into a more particular area. That, and honestly, I am getting pretty bored with it. Every case is basically the same, and there really isn't much intellectual stimulation to it. I know a job is a job, but I really would like a little more. I didn't really go to law school to simply prepare paperwork with a computer program and attend a five minute meeting of creditors. Every once in a while I'll get the stay violation that is exciting, but that's about it. I will definitely look into the HOA area and see what I could make out of that. I think you might be on to something there.

Looking for a Niche

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I made a niche for myself through marketing. At the time I was doing pretty much what many on here do, a run of the mill general practice. I advertised, but I was fighting everyone else in town for the same clients. And the firms certainly have more advertising dollars than I do. I knew I had to do something to set myself apart from all the other attorneys. I stumbled upon it really without thinking. I happen to race motorcycles, not particularly competitively, but I manage to stay upright. Like any hobby, there are internet forums for racers. I was a member of a local one when the owner of the board asked if I wanted to be a sponsor. Would cost me the princely sum of \$75 per year and my ad would be a pop up at the top of the board.

I said what the hell and did it. This was 6 years ago. To say it was a success is an understatement. The members of that board have all the same problems as most people do. Everything from traffic tickets to business

creation. I now represent the owner of largest motorcycle dealership in the area. And racers have discretionary income. At least enough to support their racing habit and legal problems.

And they are a close knit group that appreciates having an attorney in their midst. Once I focused my marketing, I no longer do any advertising, other than to motorcycle groups. Just word of mouth. Go to my web page and all you see is my semi-smiling face, phone number and office address. Been that way for years. No yellow pages, no other advertising. And no competition from other attorneys. Apparently I am the only motorcycle racing attorney in mid-Missouri.

The only other thing I did that really helped my practice was to be a guardian ad litem in juvenile abuse/neglect cases and also volunteer to be appointed to represent juveniles in criminal cases. It paid me a whopping \$40 an hour for meeting and court time. But I plugged away at it and did the best job I could. I never got any separate business from it, but back in October of 2009, I got appointed to represent a juvenile in a murder case that garnered me nationwide attention. And a boost to the top of Google for a couple of days! Probably the best advertising I ever had next to the motorcycle forum.

Not sure if this is relevant to you or others, but just thought I would throw it out there.

Kurt Valentine, Missouri

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Norman Fernandez, who used to be active on this list, is also a biker and has built a successful practice catering to the needs of that group. See <http://bikerlawblog.com/>

Lisa Solomon

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His photos with his friend are certainly interesting. He has his target market and that is the perfect example of that.

Joseph D. Dang, California

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And to add to what Kurt said so eloquently, seems like every dependency case I do, means lots of time sitting at the courthouse. I use that time to talk to every other attorney sitting there waiting. I find out what sorts of cases they handle, make notes to help me remember their areas, then share what sorts of cases that I love to handle. I've gotten so many referrals that I rarely need to look elsewhere for cases. Not only the attorneys, but the court deputies, case workers, and pretty much anyone else who can hear or see me is source of referrals to my "niche" type of cases.

You have to be your biggest marketer and you have to sell yourself to people out there. If no one knows what you like to do, you'll never get the clients. So speak up!

Vicki Levy Eskin, Florida

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