

President's Column

Life's Golden Ticket

by Scott Levine

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Life's Golden Ticket is actually a title of book written by Brendon Burchard. The book is about a journey through life. The book takes a gentleman who is in his 20s or 30s on a journey back through his life – a life that at the start of the journey is just going through the motions.

Last month, I wrote about the “ticket” that we all worked so hard to obtain to permit us to practice law or to be in the legal profession. Despite this enormous work and effort, many of us are not satisfied. This month, I want to discuss one way that may help change that description.

How many times have you accepted a case before doing much if any investigation, only to find later that this was a huge mistake? The mistake(s) could be the law or legal theories we relied upon, the client, the facts, or a whole host of other reasons. Case selection is one of the most important decisions that we as plaintiff's lawyers make yet, it is often not given the consideration it deserves.

What if a client walks through the door asking you to help him on what seems like a very big case? Would you take the case, decline the case or refer the case? Many attorneys would take the case on the spot. Others would ask some questions to validate the facts or issues and then take the case. Others would do some research to validate their theories on the case. Others would realize that this is not really an area that they practice and call another lawyer who “specializes” in these types of matters.

What if I told you that you could make money by not working on a case at all? What if I told you that you could sleep better after that “big” case came in the door and not have to worry about making wrong decisions? What if I told you that you could give some of that case to someone else and learn a new area of law from that “specialist” at the same time? Well, you can if you learn the art of joint ventures and/or referrals.

In California, lawyers can refer cases to other lawyers and receive a referral fee. There are rules that govern referral fees and it is very important that you follow these rules. The general rules related to referral fees are that the fee charged to the client cannot be increased due to the referral and the client must both be made aware of the referral fee being paid and approve that fee in writing. See, California Rules of Professional Conduct, Rule 2-200.

The great thing about referrals is that you can avoid losing sleep over the case that you accepted that you don't really have the ability or expertise to handle. Instead, you have better served your client by getting the case to someone who can help them more effectively than you could have helped them. In addition, you will have more time and energy to help your existing clients on the cases that you have already agreed to handle. When the case you referred to the other lawyer is completed, you will be paid your referral fee.

Another way to handle the case is to enter into a joint venture with another lawyer. You might say that given the great case that you just landed, why would you want to share the fee? There are several answers to this question.

First, you also share the risk with the other attorney. There is no such thing as a sure thing. Each and every good case has its problems. The problems could be with your client and his or her history. It could be that you have a client who is a saint and lived the life of a saint. However, the dirty defendant has nothing for you to get to compensate your client. You may not figure that out until you are thousands of hours into the case and tens or hundreds of thousands of dollars of costs into the case as well. Joint venturing lets you share this risk.

Second, you get to have a partner to work on the case and share the workload. For some of us, it is very difficult to work with others on cases because we need to have complete and absolute control over the case. In our minds, nobody can ever do as good a job as we can! While that may be true to some extent, often you will find with the right joint venture partner that two heads (or more) are much better than one. With a joint venture partner, you have someone to discuss the case facts and strategy. This discussion can help you both or the entire team make better or at least more informed decisions about the direction to take the case.

Third, if you are entering into an area that you have not previously handled, joint venturing lets you learn a new area of the law without losing sleep. You may have been practicing in the area of personal injury for the last 20 years and have decided that this is just not what you want to do for the next 20 years. A case in another discipline walks into your office and you decide to begin practicing in this area of the law. By joint venturing the case with a lawyer who practices in this area of law, you will get to learn from someone who already does these types of cases. You may be a fine lawyer. However, despite the State Bar's lack of "specialization" designations for different areas of practice, there really are things you must know before you embark on handling a case in an area with which you are not experienced.

Whether it is joint ventures or outright referrals, you will find that when you work with good referral partners and good joint venture partners, the quality of your practice and overall life can improve greatly. The key here is to find a "good" referral or joint venture partner. Like good and bad case selection, the decisions you make affect you for years.

CASD's list server is a great resource for locating referral and joint venture attorney partners or even just attorneys willing to advise on issues or strategies. It's a good place to begin building your referral or joint venture partner base.