Every new associate hears it. “The practice of law is getting more and more specialized.” “You need to focus on a certain area.” “The days of the jack-of-all-trades lawyer are over.” You see it as well. Small firms are boutiques that specialize in certain areas. Big firms are organized into discrete practice areas. Even bigger firms have practice groups, subgroups, and maybe even sub-subgroups.

As a result, new associates may be expected to identify and develop niche practices earlier than ever. Far from being an obligation, however, the idea of focusing on a particular niche offers enormous opportunity. The key is to recognize those opportunities early and develop the necessary skills and visibility to carve out your own niche.

Defining a Niche: Practice-Specific, Crossover, or Both?

Simply put, the art of crafting a niche practice is the process of making yourself the “Go-to” person in a particular area of law, whether it’s within your firm, within your jurisdiction, or better yet, nationally. That said, there’s more than one way to look at niches.

Some might classify a niche as a practice-based area of specialization. For example, many clients nowadays are not satisfied with hiring “just” a product liability lawyer or an employment lawyer. Instead, clients demand a lawyer with knowledge and experience in their specific field. So, that product liability lawyer might develop a specialty in drug-and-device cases. Or, the employment lawyer might develop a practice focused on FLSA wage and overtime cases. Other areas of specialization or sub-specialization exist within nearly every general practice area and lend themselves well to niche practice.

Another way to classify a niche, though, allows crossover opportunities between practice areas. These crossover niches tend to arise from aspects of practice that serve as traps for lawyers that infrequently encounter them. Crossover niches almost invariably differ from jurisdiction to jurisdiction or are so nuanced or unsettled that they require specialization.

A crossover niche may be procedural. For example, the removal of cases from state court to federal court often varies based on jurisdiction. Distinctions may exist in both the legal standards that apply and the actual mechanics of getting the case to federal court. Throw in discrete issues within removal practice, such as fraudulent joinder or pre-service removal, and the subject demands specialization.

Other procedural-based crossover niches may be broader and involve general concepts such as e-discovery or pleadings standards. Last year’s Supreme Court decision in Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955 (2007), by itself generated a deluge of interest in the motion-to-dismiss standard. Still other crossover niches depend more on differences between jurisdictions, such as offers of judgment under state law or state-specific privilege issues.

No matter their distinctions, crossover niches offer two unique opportunities. First, they are not
practice specific, so they allow the marketing of skills (often internally within your firm) across boundaries created by practice areas. As an example, an associate’s specialized knowledge regarding removal is useful to litigators of all sorts regardless of the label on that associate’s practice group. Second, crossover niches often make perfect matches with practice-based specialties. The opportunity presented by the *Twombly* decision is a prime example. While a general niche based on the evolving motion-to-dismiss standard in federal court is valuable, it becomes even more valuable when paired with the knowledge of how the courts apply that standard to a particular practice area. Knowing how *Twombly* applies to drug-and-device cases, or securities litigation cases, or any other practice-specific niche is a powerful tool.

**Finding a Niche: No Experience Needed**

A niche does not have to arise from an area or issue that you already know. Indeed, developing a knowledge base on something you don’t know, but want to learn, is a great way to transition to, or position yourself, for new work. Other associates develop niches by simply following the learning process within their designated practice group. In that respect, the process may be more a matter of your niche finding you than you finding it. Whatever the goal or whatever the process, the opportunity to find a niche typically comes from certain sources.

The first area that presents opportunity is not a surprise – your assignments and work product. A new associate’s early assignments may involve uncertain or unsettled areas. In fact, those assignments may filter down to the new associate for just that reason because they demand extensive research time. Those complications and demands, though, provide an opportunity to learn and develop an expertise that others lack. Early assignments offer other openings as well, such as the prospect of working with knowledgeable and skilled supervising attorneys. Pay attention to how those attorneys have (or, in some cases, have not) distinguished themselves by focusing on certain areas and pay attention to the types of areas in which they specialize. Consider whether those areas have long-term value to the firm and whether they offer the potential for growth and future work.

A second area of opportunity lies in the constant change inherent in legal practice. Many often think of evolving case law in this context, but changes in legislation and regulations also offer opportunities. In terms of case law, some decisions prompt sweeping changes in areas conducive to niche practice. In the Eleventh Circuit, for example, last year’s decision in *Lowery v. Alabama Power Co.*, 483 F.3d 1184 (11th Cir. 2007), altered removal practice within that jurisdiction to such an extent that many tried-and-true removal tactics no longer apply. That type of change provides the perfect opportunity to develop a niche. Similarly, other cases such as *Twombly* and last year’s decision in *Scott v. Harris*, 127 S. Ct. 1769 (2007) (potentially adjusting the manner in which a trial court must view the facts upon a motion for summary judgment), offer chances to distinguish yourself.

Regarding changes in legislation and regulation, new or amended laws and regulations are likely bases for niche building. Proposed legislation is particularly fertile ground and virtually every legislative session, at both the federal and state levels, offers an opportunity to identify and then follow proposed legislation. As this article goes to press, for example, Congress just passed changes to the ADA that may significantly impact employment law. Just like a practice-
changing case, that type of legislative change is precisely what creates a niche opportunity.

Finally, the best way to find a niche practice might be to simply follow your interests. If you find a particular topic truly interesting, then you are much more likely to invest the time and continuing energy to build and maintain that niche practice. Likewise, remember to consider the interests of your firm as well. If the firm has significant new business or opportunities that are close to your interests, then developing a niche in that area will be a wise investment.

Building a Niche: No Mysteries

There’s no mystery regarding the basic steps for building a niche: hard work and developing expertise. Nonetheless, certain tactics are more effective than others. For instance, writing an article is one of the best ways to develop the necessary core knowledge on an appropriate area. While writing an article is often a time-intensive affair, it will provide benefits for years, especially if you update the article in future years or publish follow-up articles on similar issues – thereby branding yourself as that “Go-to” person. Remember, though, to explore both traditional and non-traditional publishing opportunities. Bar journal and law review articles will always have their place and value, but more and more outlets such as legal blogs and online commentaries exist that allow timelier and often more informal access to readers.

Of course, once you’ve started to develop that knowledge, it’s just as critical to monitor the chosen area for new developments. Again, remember both traditional and non-traditional sources. It’s certainly worthwhile to monitor case law, legislation, and regulation through traditional means such as online legal research services (most of which allow you to have case- or practice-specific updates sent directly to you by e-mail), but also check and follow other online sources such as legal blogs and websites. Oftentimes, those sources are focused by practice area or industry, thereby catering to niche building. Sources such as the Drug & Device Law blog (www.druganddevicelaw.blogspot.com) or The 10b-5 Daily (www.the10b-5daily.com) are unquestionably practice specific. Others, such as the Law Professor Blogs network (www.lawprofessorblogs.com), offer multiple sites focusing on particular areas of the law that may cater to both practice-specific and crossover niches. Also check whether your firm receives various subscription services, such as the BNA series, Law360 series, or Mealey’s publications. The best sources will be those that not only help you monitor the particular area, but also offer analysis and insight into how others are handling new or changing issues. Finally, also monitor industry-specific publications or trade publications for new developments.

Marketing Your Niche: Inside and Out

As a new associate, many of the earliest marketing opportunities occur internally within your firm. Those openings start with the work you perform for your assigning partners. As you develop your expertise, expand your visibility beyond your immediate supervisors. Good starting points include presentations at meetings within your practice group or preparing a CLE program within the firm. Another idea might involve creating a research library or database, perhaps on the firm’s internal intranet server, that features key cases and sample documents for use as template motions, responses, etc. Alternatively, you can use new cases or developments as the basis for preparing client or case alerts for your partners to consider circulating outside the
firm to clients.

Turning to external marketing, the obvious targets are publishing or speaking opportunities for bar and professional groups. Regarding written work, your state bar defense organization is often a productive outlet. Beyond the typical article in the monthly newsletter or journal, such organizations may also welcome assistance with more sophisticated projects such as amicus briefs. Aside from the usual speaking engagements, also consider industry panels or other industry-specific openings. In fact, the same industry and trade organizations that produce the publications that you monitor for updates may provide both publishing and speaking opportunities. Use those opportunities to position yourself within those organizations so that you’re not only monitoring their news, but participating in its presentation.

Last, but certainly not least, remember your young lawyers committees and divisions. In particular, speaking engagements at young lawyer conferences offer great practice for polishing your presentations for other marketing events. Besides, you never know who might be sitting in your audience and remember you as the expert in that particular area when they encounter it down the road.

Maintaining It

Once you’ve carved out your area and enhanced your visibility, it’s really a matter of nurturing that position. Stay up to date on new developments and, above all else, produce skilled work when called upon for your expertise. Finally, never be afraid to adjust or expand your focus. With all of that in place, you’ll become not only a “Go-to” person, but an indispensable resource for your partners and clients.

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