

Creating Your Own Niche



Debra Tsuchiyama Baker, Baker Wotring, Houston

Niche: Environmental attorney

How has finding a niche helped you?: “Clients will seek out those who are demonstrated as having extensive knowledge in a particular field.”

Check out our cover story, “Creating Your Own Niche,” in the June 2018 issue of the ABA Journal.

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Building a niche law practice rewards extra work, special training

BY DANIELLE BRAFF

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Photo of Candace Moon by Earnie Grafton

Like many students struggling to cope with the staggering costs associated with attending law school, Candace Moon decided to take on a side job as a bartender. Moon, who graduated from the Thomas Jefferson School of Law in 2007, could have worked in any number of bars in San Diego slinging whatever variant of Budweiser, Miller or Amstel was on tap. Instead, she got a job at Hamilton's Tavern, a dive bar that turned into a craft beer bar.

At first, it was just a job—and a side one at that. But after meeting a winery attorney at a local bar association event, she had a lightbulb moment.

“It triggered the thought that I knew a lot of brewers but no brewery attorneys,” Moon says.

It struck her as odd that there seemed to be so few attorneys who specialized in the complicated alcoholic beverage industry, which is highly regulated at the state and federal levels. After she attended a national craft beer conference, she realized many areas of the law are implicated.



So Moon took classes on alcohol trademarks, law and the business; attended industry events; and increased her craft beer knowledge.

“I started speaking at craft beer industry events and slowly started gaining clients,” Moon says. “After about three to four years, I had a full-time practice of virtually only craft breweries.”

Moon had found her niche. That niche took her so far that she soon reached the point where she couldn’t take the business much further on her own, and the practice was becoming so big that the majority of her time was spent running her firm rather than working with clients.

“About the same time I had some personnel leave and Dinsmore & Shohl reached out,” says Moon, who joined the firm as a partner in August 2017 and works out of its San Diego and Denver offices. “It seemed like the perfect solution to both alleviating my frustration at just running an office, as well as the opportunity to take what we’d been able to accomplish in California to other states.”

FINDING YOUR FOOTING



Jamy Sullivan: “Demand for candidates with the hottest skills and backgrounds exceeds the current supply...so lawyers who have a niche area of specialization are very marketable.”

It’s no secret that the legal world is oversaturated with eager, experienced and capable attorneys, making it difficult for individual lawyers to stand out from the pack.

For one thing, fewer jobs are available for lawyers, making the ones available highly coveted and sought-after. According to a recent study from the National Association for Law Placement, the number of jobs found by 2016 graduates was down by more than 2,000 compared with 2015.

Other numbers were somewhat deceiving, showing rising levels of employment. But they were due to smaller class sizes and fewer people choosing to be lawyers.

The overall employment rate for 2016 law grads was up by almost one full percentage point, to 87.5 percent of graduates for whom employment status was known, compared with 86.7 percent for 2015 law grads.

Further, 67.7 percent of 2015 graduates were able to find work requiring bar passage—a slight increase from 66.6 percent in 2014. For the second year in a row, the actual number of legal jobs snagged was lower in every sector except large law firms of more than 500 lawyers.

Even if lawyers are able to find employment, chances are they’ll face vicious competition for clients and work. A new study by Citibank reports that expense growth outpaced revenue growth within the law firm industry, and firms aren’t expected to do much better this year because competition for business has never been more fierce.



Meanwhile, according to a 2017 study by Altman Weil, because of decreasing demand for legal services, 52 percent of law firms' equity partners aren't as busy as they'd like to be. In a quarter of firms, even the associates don't have full workloads.

Part of this is because there are simply too many lawyers competing for the same work. In the Altman Weil study, 61 percent say overcapacity is diluting the firms' profitability, and 88 percent say they have chronically underperforming lawyers.

Many attorneys are realizing if they want to get a job, score clients or start a solo career, they're going to have to differentiate themselves from other lawyers also clamoring to get noticed.

There's one quick way to do it: Find your own niche. The more specialized the niche, the more that clients will go to you specifically rather than someone else.

"Lawyers who have a niche are in high demand," says Jamy Sullivan, Dallas-based executive director of Robert Half Legal, a staffing service that specializes in lawyers. "Demand for candidates with the hottest skills and backgrounds exceeds the current supply, which is intensifying competition, so lawyers who have a niche area of specialization are very marketable."

Specializing also benefits the client, according to Moon. "Every industry has a need and its own special nuances that make it different," she says. "Those nuances are where a niche attorney becomes so valuable."

Once you become valuable, you'll become known as the "fill-in-the-blank attorney."

"I attend many more craft beer industry events than I do legal events," Moon says. "I feel comfortable saying that the California breweries see me as part of their industry."

But simply calling yourself a niche attorney doesn't make you one. It often takes a lot of hard work, extra education and even some luck to get to where you become the fill-in-the-blank attorney.



Jorge Espinosa: "At my first law firm job, I realized that I needed a niche to stand out and become partner. So I gradually took over doing all of their IP work." Photograph courtesy of Espinosa Martinez

FLYING HIGH

The first step is choosing a niche. When making the choice, it should be within a topic you love because hopefully you'll immerse yourself in that niche for many years to come, says Josh Horn, co-chair of the cannabis law practice and a partner at Fox Rothschild in Philadelphia.

He actively sought out cannabis law after he took a trip to Colorado four years ago, just after marijuana was legalized there. Previously, Horn had been a commercial litigator focused on securities and financial services.



“My wife suggested that I should consider becoming a cannabis lawyer because it was obviously here to stay,” Horn says. “Although my main focus had been representing financial advisory companies, individual advisers and counselors in FINRA [the Financial Industry Regulatory Authority] examinations, my interest in the cannabis space was piqued, and I saw the opportunity to expand upon my practice.”

After his trip to Colorado, Horn became a voracious reader on the subject, studying cannabis books and laws from around the United States. To keep up with the ever-changing marijuana trends, Horn set up news alerts; and he reviewed (and still reviews) about 50 stories daily on the subject. He also created an interactive survey tracking relevant laws on the books in more than 25 states and the District of Columbia.

“Because cannabis law was, and still is, such a new area, there is no leading treatise to rely on,” Horn says. “When I set out to master it, I had to create my own curriculum.” His most helpful books include *Weed the People: The Future of Legal Marijuana in America* by Bruce Barcott and *Cannabis: A History* by Martin Booth.

Eventually, valuable resources popped up, such as the *Cannabis Law Journal* (Horn is on the editorial board) and the National Cannabis Bar Association, which had its first meeting this year. After the Pennsylvania medical marijuana law passed, Horn joined the effort to help the state’s Department of Health craft regulations by attending a conference called the Marijuana Medical Regulatory-palooza.

Now, Horn concentrates on all aspects of cannabis law, including assisting clients seeking licenses to grow, process and dispense cannabis for medical use or “adult use.” He markets his practice as a frequent speaker at CLE classes, as well as industry-specific conferences on matters such as cannabis and the workplace.

“Getting involved with the marijuana business market has absolutely brought in more clients, and it’s an exciting time to be part of this industry experiencing such growth,” Horn says.

According to law firm consultancy Edge International, marijuana law was projected to be one of the fastest-growing practice areas in 2017. Additionally, several large law firms, including Duane Morris, Foley Hoag, Riker Danzig and Horn’s firm, Fox Rothschild, have created legal cannabis practice groups in the last few years.

Jorge Espinosa, an intellectual property lawyer and partner at Espinosa Martinez in Miami, agrees that lawyers should find their niche in an area they already love, “so that you’re combining your hobby with law.” A 1988 graduate of the University of Miami School of Law, he took advantage of previous knowledge to find his niche. Before going to law school, he worked as a self-taught computer programmer.

“At my first law firm job, I realized that I needed a niche to stand out and become partner,” Espinosa says. “So I gradually took over doing all of their IP work.”

Greg Reigel, an aviation partner at Shackelford, Bowen, McKinley & Norton in Dallas, says, “With so many lawyers out there, focusing on a niche rather than a more general practice area helps to limit the competition.”

“If the niche is something of a personal interest, it makes the niche practice area more fun,” Reigel adds.



At the time, there weren't many attorneys in his area, but Reigel joined the few aviation legal organizations he could find and attended related conferences and CLEs so he could meet other lawyers practicing aviation law. He also studied and researched aviation law issues by reading cases, regulations and everything else he could find.

Next, it was time to market himself as an aviation law specialist. So Reigel [created a law blog](#) and began to write posts and articles to publicize his expertise in aviation law. And all of these efforts have resulted in business.

"Being in the organizations and attending conferences allowed me to meet people and make connections, which eventually factored into my joining Shackelford as a partner," Reigel says.

GO WHERE THE OTHERS AREN'T



*Greg Reigel: "Being in the organizations and attending conferences allowed me to meet people and make connections, which eventually factored into my joining Shackelford as a partner."
Photograph courtesy of Greg Reigel*

It never occurred to Caitlin DiMotta to become a lawyer. She had always wanted to be a ballerina. But after high school, when she was helping a friend complete 501(c)(3) paperwork to establish a nonprofit dance theater, she started to think more about her future—especially when it took her three months and four seminars from a volunteer lawyer organization for the arts in Chicago to determine how to fill out the form.

DiMotta was intrigued by the law and wanted to learn more about it, but her primary focus remained on becoming a dancer. But that was until she was told at age 22 that she'd need a hip

replacement soon. DiMotta decided to hang up her ballet shoes and, remembering her interest in the law, take the LSAT. She figured if she couldn't pursue her art, she could help other artists navigate the complicated and intimidating legal world.

She got her chance after she graduated from the University of New Mexico School of Law in 2006. She moved to Seattle with her husband, an aspiring comic book writer; and shortly after arriving in town, she befriended Ed Brubaker, who's written comic books starring the likes of Batman, Captain America, Catwoman and Daredevil. He asked DiMotta to look at his contracts. She did, and he told others about her work. Pretty soon a niche was born.

Few comic book attorneys exist, although the genre tends to be a mix of literary publishing and movie exploitation, so there's a real need for lawyers, DiMotta says.

"It felt very organic, beginning with a dearth of lawyers servicing a particular community—comics—and my being in a unique position to help that community in a personal way," says DiMotta, who is now an attorney at Katz Golden Rosenman in Santa Monica, California. "I would even say that now

my practice has broadened because comics have become so mainstream, and so many comics are being adapted for television, film and video games.”

It’s also incredibly helpful to have attorneys refer their cases to other lawyers, says Lawrence Buckfire, the Southfield, Michigan-based president and lead trial attorney at the Buckfire Law Firm.

“Niches are necessary due to the level of competition in the legal profession,” Buckfire says. “Every aspect of law has niches, ranging from lawyers who specialize in wrongful conviction lawsuits to attorneys who specialize in LGBT divorce.”



Debra Tsuchiyama Baker: “Today, many environmental lawyers have science and technical backgrounds, but back in the 1980s it was not as common. We learned by doing and as we went along.” Photograph courtesy of Baker Wotring

Buckfire’s niche area involves cases of child lead-paint poisoning. He heard lawyers in other states were litigating these types of cases, and the topic interested him as well. So Buckfire attended a national conference about child lead-paint poisoning, and then he began to market himself as a pro because there were no lawyers in Michigan handling such cases at the time.

“Specializing within that practice area allowed me to be retained by a larger number of clients due to less competition in the area of specialization,” he says. “It really is just identifying a need in the market that is not already fully saturated.”

Similarly, Debra Tsuchiyama Baker became an environmental lawyer in the 1980s when environmental laws were in their infancy. She was

a new lawyer at her firm, and she has stuck with the task of wading through the federal registers and technical regulations.

“In my case, that was very fortuitous, since I was able to become an expert in a new area of law that did not exist before—at a particularly early stage in my career as a new lawyer,” says Baker, suggesting that other newbies are open to novel areas of law that might not seem that interesting at first glance.

Baker got herself up to speed by working with experts and consultants about the technical components of environmental law. “Today, many environmental lawyers have science and technical backgrounds, but back in the 1980s it was not as common,” she says. “We learned by doing and as we went along.”

Since then, she’s handled some of the nation’s largest environmental matters for some of the largest corporations and public entities, including Dell Inc., the Port of Houston Authority and Texas A&M University.



“Finding a niche has definitely helped me as a lawyer, as clients will seek out those who are demonstrated as having extensive knowledge in a particular field,” says Baker, managing partner at Baker Wotring in Houston.

Indeed, sometimes the least-saturated markets are the ones on the cutting edge. Adam Grant, a partner at Alpert Barr & Grant in Encino, California, started his career in general business litigation. But he decided to go a completely different route when an idea occurred to him in 2009 as he was training for an Ironman long-distance triathlon.

He realized (as his fitness tracker was simultaneously counting his every move, including heart rate and calories burned) many phone apps track interests, friends, contacts, activities and location. While web browsers and certain sites already had been tracking information via computers, wearables and phone tracking had just started when Grant had his bright idea

“I was thinking, ‘This will be interesting: You’re dealing with something much more powerful than your regular computer,’ ” Grant remembers saying to himself as he swam, his tracker confirming his instincts. He realized this new field would have major jurisdiction issues. “Not many laws dealt with mobile devices,” Grant says.

The field he foresaw checked off both categories: It was a new, growing industry, and it lacked attorneys. Grant immediately got to work.

He began to research mobile app and digital-privacy trade organizations, spending time going through the applicable laws on digital privacy. Grant also took some courses through the International Association of Privacy Professionals and was active in other similar organizations. He educated himself on the topic through seminars and other cases he found. Once he deemed himself to be knowledgeable, he presented and wrote articles.

“I’m prolific in writing articles about this, and I’ve presented at conferences across the country,” Grant says. He also works with financial institutions to secure their banking and online privacy needs, and those banks consult with him for legal advice and lectures.

Grant further separated himself from other mobile app and digital privacy lawyers by sticking with his smaller firm. Although larger firms that have digital privacy practices exist, few law firms his size specialize in this.

“The vast majority of companies that have data breaches who have digital privacy concerns are small and medium businesses,” Grant says. “They don’t have the resources to have all the security that the large businesses do, and my abilities are perfectly within their realm of need.”

Because Grant provides the same services that the larger digital privacy firms do, he attracts many of the small and medium-size companies, he says, recommending other attorneys first consider their specialty, then examine that niche from all angles and sizes to see how their emerging firm will fit.



FORMING A GAME PLAN

According to Robert Half Legal's 2016 salary guide, lawyers who have niche backgrounds and skills are wanted, but the competition is growing. Nevertheless, the study reported if niche lawyers choose their specialties carefully, they'll still be noticed and desired.

Additionally, the study reported, those who have expertise in high-growth areas such as commercial law and specialized health care receive higher-than-average starting salaries, signing bonuses and multiple offers.

That's because superskilled, highly specialized attorneys remain a rare breed. According to a Robert Half Legal survey from 2017, about 67 percent of law firms said finding skilled legal professionals is somewhat or very challenging.

Companies are trying to reduce their reliance on outside firms and increase their efficiencies by hiring niche lawyers, so they don't have to continually hire expensive outside lawyers, says Sullivan of Robert Half Legal.

"We've seen demand for specialized expertise increasing in many markets, and this trend should continue to intensify in the months ahead," Sullivan says.

For those still unsure about what to specialize in, Sullivan has some suggestions.

"Consider your strengths and weaknesses, as well as your previous education and work experiences," she says. "A business degree, for example, may help you to better understand areas of law dealing with corporations; while a science background, such as a biology or geology degree, may be useful in a career in environmental law."

But in addition to thinking about interests, also consider region and how your expertise will be received. Perhaps intellectual property or insurance defense would be good fits for your town, she says. Next, figure out how to move from an idea to a plan.

"Ask people within your professional network or attorneys you meet at conferences or industry events how they selected their specialization and what they enjoy most about their work," Sullivan says. "Also, check with them about skills, certification and other qualifications they believe are needed for someone to excel in their areas."