

Career Development

BY MARK R. SEIDEN

Out-of-town attorneys with cases in the federal or state courts located within New York City often want or need to retain local counsel. For a host of reasons, not the least of which is billing rates, they will often seek to retain a junior attorney to fill this role. While many junior attorneys are quick to dismiss this post as merely a burdensome, administrative chore, the reality is that many times the position can provide meaningful opportunities to gain substantive experience and develop beneficial professional relationships. Like many of the new challenges junior attorneys regularly encounter, the value realized will often be directly related to the effort put forth.

But regardless of whether one is inclined to extend himself to grow professionally, the junior attorney needs to be mindful that as the lead local lawyer he owes a duty of care to the client. Moreover, because the junior attorney will continue to practice in the local venue well after the "local lawyering" case is resolved, he needs to be mindful that his reputation before the local courts and professional colleagues is very much on the line when acting as local counsel. This column provides tips on how to make the most of the opportunities, and avoid the pitfalls, when participating in a matter as local counsel.

At the outset of the relationship, it is important for the junior attorney to reach a clear understanding with the visiting lawyer regarding the responsibilities to be fulfilled by local counsel. This practice should continue on a regular basis throughout the engagement. If possible, the junior attorney should confirm any understanding reached in an e-mail or other writing. Explicit communication assures that there is no misunderstanding, and leaves the junior attorney well positioned to meet and exceed expectations. It also diminishes the possibility of deadlines falling through the cracks because the visiting and junior attorneys both anticipated that the other was responsible for the task. Open and regular lines of communication will place everyone on the same page, and are well worth

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establishing as soon as practicable.

Acting as local counsel should be viewed as an opportunity. Many times local counsel's role is initially envisioned as little more than a local mail box. However, if you impress the visiting attorney with your work she is likely to increase your responsibilities in the matter. The junior attorney should take initiative to insure that he is viewed as someone who adds value to the prosecution or defense of the case. One way to do this is to develop well thought out and reasoned litigation strategies. The goal is to be perceived as an attorney whose value extends well beyond that of a person who simply follows basic instructions. Indeed, the junior attorney who rises to the occasion may soon find himself appearing in court on his own, interfacing with the client or taking the local depositions. As time goes on, if the junior attorney develops a rapport with the court a strong case can be made to have him actively participate at trial. As mentioned earlier, these substantive opportunities must be earned by performing at a high level early in the engagement.

In addition, the role of local counsel offers a platform to begin building relationships with attorneys from other cities and states. If the junior attorney demonstrates superior skills and judgment during the course of this initial relationship, he very well may be asked again in the future to act as local counsel by the visiting attorney he has assisted. Or better yet, the visiting attorney may recommend to a client that the junior attorney take the lead

on a new local matter without any involvement from the visiting attorney. To the extent local counsel is able to work directly with the client this provides yet another opportunity to make an impression which may result in future business.

While the junior attorney's role as local counsel varies from case to case, he must not lose sight of the fact that he owes a duty of care to the client. Thus, he must insure that the client's rights and interests are being properly asserted and protected by counsel. The junior attorney cannot allow himself to believe that as local counsel the outcome of the case is not his concern. Such an attitude can, quite appropriately, result in professional liability when a case goes south due to lawyer error.

But beyond that, because the case is before his local court, odds are that the junior attorney will be appearing before the same judge in other lawsuits. Rest assured, the court will not view the junior attorney's involvement as just that of local counsel. If there are mistakes committed before, sloppiness exhibited in front of, or worse yet, material misrepresentations made to the court, the junior attorney will leave a long lasting impression. Remember, your name is on the papers, thus your reputation is at stake. A poor reputation earned early in a career can be very difficult to change.

In sum, a positive performance by the junior attorney early on in the engagement can often have a significant impact on how meaningful the local counsel experience will ultimately turn out to be. It clearly has the potential to provide opportunities to those who want to take advantage of them. Regardless, the junior attorney needs to remember that he continues to owe the client a duty of care when retained to appear as local counsel.