GET BUSY, GET PAID!

Strategies to Develop a Financially Successful Mediation Practice

Presented By

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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Thoughts on the “GET BUSY, GET PAID!”</td>
<td>3</td>
</tr>
<tr>
<td><strong>Strategic Practice Development Workshop</strong></td>
<td></td>
</tr>
<tr>
<td>The <strong>FOCUS</strong> of the “GET BUSY, GET PAID!” Workshop</td>
<td>5</td>
</tr>
<tr>
<td>The <strong>CONTEXT</strong> of the “GET BUSY, GET PAID!” Workshop</td>
<td></td>
</tr>
<tr>
<td>The <strong>OBJECTIVE</strong> of the “GET BUSY, GET PAID!” Workshop</td>
<td></td>
</tr>
<tr>
<td>The <strong>NATURE</strong> of the “GET BUSY, GET PAID!” Workshop</td>
<td>12</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number One – <strong>DESCRIBE</strong> Your Business</td>
<td>13</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Two – <strong>DEFINE</strong> Your Market Segment</td>
<td>20</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Three – <strong>IDENTIFY</strong> Your Market Niche</td>
<td>24</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Four – <strong>CREATE</strong> Your Market Difference</td>
<td>27</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Five – <strong>COMMUNICATE</strong> So You Are Known</td>
<td>32</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Six – <strong>SELL</strong> So You Are Chosen</td>
<td>35</td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Seven – <strong>EXCEL</strong> At What You Do</td>
<td></td>
</tr>
<tr>
<td>Strategic Practice Development Strategy Number Eight – <strong>SERVE</strong> Beyond Expectations</td>
<td>39</td>
</tr>
</tbody>
</table>

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After fifteen years in the mediation field I developed the “Get Busy, Get Paid!” workshop. It is based upon the following observations.

• For many people the desire to be a financially successful mediator exceeds their success in doing so.

• As a mediator you bring to the task of marketing your services, great talent and a passion for what you desire to do.

• Developing a financially successful mediation practice causes you to enter the difficult world of marketing professional services in a still developing professional field.

• Most traditional marketing advice relates to products, not professional services so following it will not be effective in the environment of professional mediation.
To “GET BUSY, GET PAID!” you must face squarely the realities of professional practice in the mediation field, be extremely strategic in how such a practice is developed and implement a long-term, creative plan to achieve the results you seek. To GET BUSY and GET PAID is a challenging undertaking.

• No one can change who you are, your past experience or your current reputation. The “GET BUSY, GET PAID!” workshop does not pretend to do that. Instead, it seeks to equip you with understanding, strategies and skills that will build upon what you bring for the most successful result possible.

• The “GET BUSY, GET PAID! Workshop was developed because of my interest in seeing talented people enjoy financial success while providing needed dispute resolution services to those in conflict. In the end, if a career in mediation is not financially viable, many who could serve in meaningful ways will not be able to be of assistance. My hope is that the workshop will invigorate your practice with new ideas, strategic thinking and direction that will bring success to you and those whom you serve.

With those thoughts in mind, Let’s Get To It!
The **FOCUS** of “GET BUSY, GET PAID!”

**TO HELP PARTICIPANTS ANSWER THE MOST COMMON QUESTION IN THE MEDIATION FIELD.**

IT IS SIMPLY,  
“How do I develop a more financially successful mediation practice?”

The **KEY WORDS** in the question are “financially successful.”

- The words do not imply that mediation practices offered on a non-compensated basis are unsuccessful. Many mediators who offer their talent to the world in non-compensated ways are both personally successful and great contributors to communities, individuals and organizations as moments of conflict are addressed.
- The words are meant to imply that those individuals who desire a professional mediation practice probably have in mind one that is successful in both the services that are provided and the compensation that is earned. Those are the individuals who are willing to invest in educational programs that will equip them to do so!
The **CONTEXT** of “GET BUSY, GET PAID!”

**THE CHALLENGING ENVIRONMENT OF PROFESSIONAL MEDIATION.**

1. __________________________________________
2. __________________________________________
3. __________________________________________
4. __________________________________________
5. __________________________________________
6. __________________________________________
7. __________________________________________
8. __________________________________________
9. __________________________________________
10. _________________________________________
QUESTIONS TO CONSIDER IN EVALUATING THE CHALLENGES IN DEVELOPING A FINANCIALLY SUCCESSFUL MEDIATION PRACTICE

- What challenges are most related to the development of your mediation practice?

- Of the challenges most related to the development of your mediation practice, which are the most important for you to address first?

- What strategies can be developed to address those challenges?
The **OBJECTIVE** of “GET BUSY, GET PAID!”

**TO HELP YOU MOVE UP THE “PRACTICE DEVELOPMENT PYRAMID” (PDP) AS A FINANCIALLY SUCCESSFUL MEDIATOR**
The **OBJECTIVE** of “GET BUSY, GET PAID!”

**DEFINITION OF PRACTICE**

**DEVELOPMENT PYRAMID LEVELS**

**Trained Mediators** – This is the base of the pyramid that reflects those who have discovered the field of mediation and invested in training or education in order to prepare themselves to engage in it. It represents the initial introduction to the field of mediation and a modest, but tangible, commitment to it. There are tens of thousands of individuals throughout the country who have reached the base of the pyramid.

**Volunteer Practice** – This level of the pyramid reflects those who have moved from learning about the mediation field and developing the most basic skills in mediation to their actual participation in the process as the mediator. Usually they are listed on panels of community or non-profit organizations that provide mediation services. While representing outstanding community service and an excellent way to begin more sophisticated skills development, the volunteer practice level stops short of compensated casework.

**Part-time Paid Practice (Level One)** – This level of the pyramid reflects movement into the world where compensation accompanies service. It could include handling a few cases each month and being compensated at nominal levels. In many cases, this work may be in conjunction with a court system or non-profit organization that pays $25 to $200 per case mediated. In all likelihood, this is a very small part of the total income of the mediator.
Part-time Practice (Level Two) – This level of the pyramid reflects a circumstance where mediation is only part of a professional practice, but in terms of compensation and activity, it is a substantial part of the mediator’s total work. At this level, several cases a month are being handled and professional level fees, being charged for the mediation services. At this level, the mediator is developing a reputation for settlement work and probably handling litigated cases.

Full-time Practice – This level of the pyramid reflects a circumstance where the mediator is spending essentially full-time working as a mediator or engaged in compensated dispute resolution work such as consulting, systems design or training. As a full-time practitioner, the mediator is spending 4-5 days a week working in the dispute resolution field and most of the mediator’s compensation is derived from that work. This mediator is known in the community primarily as a mediator and has established the necessary infrastructure, individually or with a group, to support that practice.

Premier Practice – This level of the pyramid reflects a circumstance where the mediator has taken a full-time mediation practice to the highest professional level. The mediator with a premier practice is very busy, often setting mediation dates weeks into the future. The mediator in this category charges at the level of senior lawyers; several hundred dollars an hour or thousands of dollars per day. Often a premier practice mediator has a regional or national practice handling the most complex cases.
The OBJECTIVE of “GET BUSY, GET PAID!”

TO HELP YOU MOVE UP THE “PRACTICE DEVELOPMENT PYRAMID” (PDP) AS A FINANCIALLY SUCCESSFUL MEDIATOR

Premier Practice

Full Time Practice

Part-Time Paid Practice II

Part-time Paid Practice I

Volunteer Practice

Trained Mediators
Assumptions about the practice development pyramid (PDP)

1. It is desirable to **move up** the pyramid.

2. It is the objective to spend more time on **compensated** case assignments.

3. It is the objective to **increase** the amount of money charged per hour or per day.

4. It is the objective to **decrease** time and effort on practice development while increasing the quantity of work.

**THE TASK ASSOCIATED WITH THE PRACTICE DEVELOPMENT PYRAMID IS TO MOVE FROM ONE LEVEL OF THE PYRAMID TO THE NEXT LEVEL OF THE PYRAMID!**
“Complexity is not to be admired. It is to be avoided.”

“Big ideas almost always come in small packages.”

“Never trust anyone you don’t understand.”

-Jack Trout, The Power of Simplicity
What business are you in?

In one sentence please describe the business that you, as a mediator, are in.
AS YOU CONSIDER THE BUSINESS THAT YOU ARE IN, CONSIDER THE “BUSINESS” THAT THE FOLLOWING FIRMS ARE IN.

• Nike?

• Nordstrom’s?

• FedEx?

• Domino’s Pizza?

• Sunset Haven?
WHAT DIFFERENCE HAS THE ANSWER TO THE QUESTION “WHAT BUSINESS ARE YOU IN?” MADE TO THOSE FIRMS?
WHAT DIFFERENCE WOULD THE ANSWER TO THE QUESTION “WHAT BUSINESS ARE YOU IN?” MAKE TO YOUR PROFESSIONAL PRACTICE?

THE ANSWER TO THAT QUESTION . . .

1. Responds to your client’s _______________.

2. Determines what you _______________.

3. Reflects what people _______________.

4. Focuses on the _______________ not the _______________.

5. Justifies _______________ _______________ and _______________ _______________ therefore contributing to your financial success!
OFTEN THE ANSWER TO THE QUESTION “WHAT BUSINESS ARE YOU IN?” IS GIVEN IN THE FORM OF A MISSION STATEMENT.

WHY MOST MISSION STATEMENTS ARE USELESS . . .

- They are ignored.
One description of a mission statement: “A bunch of guys take off their ties and coats, go into a motel room for three days, and put a bunch of words on a piece of paper – and then go back to business as usual.”

- They are so generic that they are interchangeable.
“To continuously improve the company’s long term value to customers, employees, shareholders and society.” (Does that jump out at you as Boise Cascade or one of a thousand other companies?)

- They are too complex.
“If a CEO needs a committee to figure out what the basic business is about, then that company needs a new CEO, not a mission statement.”

-Jack Trout
WHY A STRATEGIC FOCUS STATEMENT IS USEFUL.  
(A strategic focus statement is less about philosophy and mission and more about what is to be done.)

- It is simple.

- It is clear.

- It reminds us of what business we are in.

The purpose for a strategic focus statement is so everyone gets it. Make sure you get it. Make sure your clients get it!
WHAT IS YOUR STRATEGIC FOCUS STATEMENT?
RANDY’S STRATEGIC FOCUS STATEMENT

My focus as a mediator is to help lawyers and executives get through the “difficult moments” in their professional work.
ADDITIONAL IDEAS ON . . .

• DESCRIBING YOUR BUSINESS
(Dig your wells where you have the best chance of finding water!)

A STRATEGIC MARKET SEGMENT IS DEFINED BY:

- Where the clients are ________________.
- Clients who ________________.
- Clients who ___________ what you have to offer.
- Clients who want your ________________.
- Clients to whom you can ________________.
- Clients who can ________________.
BASED ON THAT CRITERIA, DEFINE THE STRATEGIC MARKET SEGMENT OF YOUR MEDIATION PRACTICE AND DESCRIBE IT BELOW. REFLECT ALL SIX ELEMENTS IN ONE SENTENCE.

My market segment is:

__________________________________________________________

(Location)

__________________________________________________________

(Clients with understanding)

__________________________________________________________

(Clients with needs)

__________________________________________________________

(Clients who desire my package)

__________________________________________________________

(Clients with whom I can communicate)

__________________________________________________________

(Clients who can pay)
RANDY’S MARKET SEGMENT STATEMENT

“My market segment is Southern California and Idaho, primarily lawyers in private or corporate practice, who are knowledgeable about settlement options, who have cases that they want to settle, who want a lawyer-mediator with experience in complex civil or organization conflicts, are comfortable with or benefited by my academic setting, and who because of the nature of their clients, can pay a professional fee.”

A defined market segment statement reflects the focus of your work… and excludes most everything else. It is about what is your market segment and what is not your market segment.
ADDITIONAL IDEAS ON . . .

• DEFINING YOUR MARKET SEGMENT
PRACTICE DEVELOPMENT STRATEGY
NUMBER THREE: **IDENTIFY** Your Market Niche!

(Your market niche is that place in which your expertise, your experience and your unique set of talents come together with a highly defined portion of your market segment.)

My expertise in _______________________ combined with my experience in ____________________________ when joined with special talents at ____________________________ lead me to believe that a market niche for my mediation practice is in the area of ________________________________.

(Note: you may define more than one market niche but each must fit the above criteria. In most cases if you define more than three niches you have moved beyond the idea of a niche!)
RANDY’S MARKET NICHE STATEMENT

“My expertise in conflict resolution combined with my experience in and with religion when joined by my special talents at being sensitive to the values of religion in the mediation process lead me to believe that one market niche for my mediation practice is in the area of conflicts involving religious organizations.”

(NOTE: THE DIFFERENCE BETWEEN A MARKET SEGMENT AND A MARKET NICHE. YOUR MARKET SEGMENT IS DEFINED BY THE CLIENTS. YOUR MARKET NICHE IS A REFLECTION OF YOU.)
ADDITIONAL IDEAS ON . . .

• IDENTIFYING YOUR MARKET NICHE
PRACTICE DEVELOPMENT STRATEGY
NUMBER FOUR: CREATE Your Market Difference?

Your difference is that dimension of what you do and how you do it that separates you from other mediators.

“In a professional field where every mediator is after the same cases, you had better give your clients a reason to select you instead of a colleague down the street. If you do not offer that reason, you had better be willing to forego the client and the case.”

THREE SUGGESTIONS ON DIFFERENTIATION IN MEDIATION

1. It is an idea, practice or characteristic that separates you from other mediators.

1. It is underscored in a visible and credible way.

1. Its existence is deliberately and repeatedly communicated to clients.
QUESTIONS ON DIFFERENTIATION

What idea, practice or characteristic separates you from other mediators?

_________________________________________________
_________________________________________________
_________________________________________________

How is your difference supported in a visible and credible way?

_________________________________________________
_________________________________________________
_________________________________________________

How is your difference deliberately and repeatedly communicated?

_________________________________________________
_________________________________________________
_________________________________________________
RANDY’S “DIFFERENCES”

• “As a professional mediator I am different because of my affiliation with an academic institution which has a broad reputation in the dispute resolution field.”

• “That difference is supported by the staff of the Straus Institute and its highly visible and public work.”

• “That difference is communicated in everything from the letterhead that I use to the university locations at which I carry out mediation work.”
ADDITIONAL IDEAS ON...

• CREATING YOUR MARKET DIFFERENCE
PRACTICE DEVELOPMENT
STRATEGY QUESTION SUMMARY:

WHY IS IT IMPORTANT TO DESCRIBE YOUR BUSINESS, DEFINE YOUR MARKET SEGMENT, IDENTIFY YOUR MARKET NICHE AND CREATE YOUR MARKET DIFFERENCE?

1. The work involved in doing so may cause useful personal reflection on your professional activity.

2. The effort to complete those activities may alert you to a lack of direction or misdirection in your marketing efforts.

3. Your attention may be more productively focused on developing who you are, what you do, and here you can be most successful in doing it.

4. If you are considering these areas for the first time it may explain the past limitations on your success.

5. The answering of those questions will result in a more narrowly focused and more successful business development plan. It will enhance its execution.
The definition of marketing is simply “getting known.”

With whom? ________________________________

In what ways? ______________________________

How often? ________________________________

For what reason? ____________________________

You have to take steps to be at the crossroads opportunity when good fortune comes roaring through!

-Mark Meyers, How to Make Luck.
FIVE KEY IDEAS TO EFFECTIVE MARKETING COMMUNICATION

1. Find a way for them to know you.

2. Points of contact that reflect excellence.

3. Your brochures and business cards.

4. The best known “secret” in marketing.

5. Max’s formula to double your income.
ADDITIONAL IDEAS ON...

COMMUNICATING SO YOU ARE KNOWN
If marketing is “getting known” then selling is “getting chosen.” But, it is not that easy in a highly competitive environment.

The following are key ideas from the world of selling that are particularly relevant to mediation in private practice.

- Initiate contact, with a purpose.
- Go below the line to understand the client interests.
- Sell results, not activity.
- Satisfy the ultimate objective of a client – avoiding risk in choosing you.
ADDITIONAL IDEAS ON . . .

• SELLING SO YOU ARE CHOSEN
1. Remember the sparrow and the peacock.

2. Stop worrying about certification (and all of the other issues in the mediation field) and start worrying about competence.

3. Marketing and selling take place at the table.

4. Be driven by the ratio of 7:1.

5. Move ahead by being dissatisfied.
ADDITIONAL IDEAS ON…

• EXCELING AT WHAT YOU DO
PRACTICE DEVELOPMENT STRATEGY
NUMBER EIGHT: **SERVE** Beyond Expectations!

1. American Airlines and Lexus (a study in contrasts).

2. Can I clean your toilet? (service before the sell)

3. You don’t go to work unless parties already in conflict agree (service before you are paid).

4. Be a guest, say thank you, and keep in touch.
ADDITIONAL IDEAS ON . . .

SERVING BEYOND EXPECTATIONS
THE EIGHT “GET BUSY, GET PAID” PRACTICE DEVELOPMENT STRATEGIES:

1. DESCRIBE your business!

1. DEFINE your market segment!

1. IDENTIFY your market niche!

1. CREATE your market difference!

1. COMMUNICATE so you are known!

1. SELL so you are chosen!

1. EXCEL at what you do!

1. SERVE beyond expectations!