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Expert Witness Referral Services

by: *Rosalie Hamilton of Expert Communications*

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Last month we asked you, our readers, for input about what subjects you would like for us to feature. I would like to address one of those responses.

Here is the expert's email response to our inquiry and my comments:

1. For most experts, there is no point in becoming members of a 'National experts' organization. Most attorneys will only hire/engage experts living close by.

R: I'm assuming that this expert is referring to referral services, which are no-initial-cost employment agencies that match up experts with attorneys needing their services. This viewpoint is not only inaccurate, but also sometimes quite the opposite is true. Using a local expert can, in some instances, create a backlash for the expert, particularly doctors. It is reasonable to use a local or at least regional expert when the expert has to visit a site or interview or examine the litigant, because of cost savings in travel expenses, but, other than in those circumstances, the attorney will often search for the best expert without regard to location.

2. 'National experts' organizations charge high fees but generate limited opportunities for experts because they lack local good presence and knowledge of the local conditions.

R: Again, this is not necessarily accurate, although doubtless this expert has experienced it in his/her area. Some referral services form knowledgeable relationships with local attorneys, even making personal visits to law firm offices. Others establish regional offices to develop that very strength. In our global/virtual world today, however, effective relationships can be formed without in-person contact. (Similarly, Expert Communications' marketing coaching clients are located across the country and beyond, and we rarely meet a client face-to-face.)

3. Attorneys would preferably hire experts through experts' agencies and ignore or reject direct efforts by experts at promoting their expertise. The consequence of this is higher costs for the clients (but this keeps the experts' agencies in business as a sort of an unreliable pre-screening device for the attorneys).

R: My answer to this point will be in parts:

a) All surveys of attorneys asking how they locate experts (besides the all-time favorite of personal referrals) indicate a mixture of personal searching through search engines; accessing expert witness directories, printed but now more so Internet; and using agencies (referral services). An expert's marketing should include all of these. When we

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create a marketing plan for our clients, we include direct efforts such as speaking/writing/networking/sending professional announcements/etc.; and we select both their expert witness directory listing selections and which referral services (local and/or national) registrations to do.

- b) Since a good referral service provides a valuable service for its client, the attorney (as well as the expert), it is appropriate that they be paid for that service. In reality, sometimes in order for the expert's fee plus the agency's percentage to remain competitive, we will adjust the expert's net fee down a little, though not usually for the entire amount of the agency's fee. This is acceptable because the engagement the expert gets through the referral service is business she would not have gotten otherwise.
- c) Again I have to surmise that this expert has had an unpleasant experience with a referral service. I have, too (on behalf of my clients); that's why I select the agencies for my clients as part of my services. However, let's not paint with such a broad stroke. First of all, referral service services provide a range of pre-screening for their attorney clients, beginning with none at all other than locating the type of expert, ranging through checking credentials such as degrees and certifications, and some going so far as criminal records and other checks. If they are derelict in performing whatever level of pre-screening they purport to do, they will not be in business very long.)

I felt compelled to respond to this particular email, because referral services have their place in your marketing program. Some are great, some are just good, and some employ methods that are annoying, like 'cattle calls' for a huge number of experts rather than doing their homework, or frustrating, as in being reluctant to press their attorney clients for payment of overdue bills.

To utilize this no-cost part of your marketing program, employ discrimination in making your choices; read the contract very carefully, especially in regard to exclusivity; cover yourself as much as possible regarding retainers and progress payments; and drop those who do not perform to your satisfaction.

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