

Rainmaker Q&A: Bird Marella's Benjamin Gluck

Law360, New York (September 27, 2016, 4:58 PM EDT) -- Benjamin N. Gluck is a principal in Bird Marella Boxer Wolpert Nessim Dooks Lincenberg & Rhoads PC's Los Angeles office. He concentrates his practice on white collar criminal defense and represents clients in a wide variety of federal and state criminal matters.

Gluck devotes a significant portion of his practice to representing health care providers in state and federal criminal matters. He has experience in the areas of grey-market medications and devices, physician-owned distributorships, improper referrals, overprescribing, medical necessity, unlicensed practice and others.

He has developed effective methods to challenge improper searches, seizures and investigative tactics related to health care providers. He also practices in the area of complex civil litigation, including civil claims arising from allegations of health care fraud, in addition to handling matters in state and federal courts and in arbitration.



Benjamin N. Gluck

Q: What skill was most important for you in becoming a rainmaker?

A: More than anything else, clients want to see real, demonstrated success in previous matters. That doesn't mean that you need to claim you've won every single time, because nobody can honestly claim that, but potential clients are subject to so many people making so many different pitches that you need to tell them why they should pick you. Be practical, be honest and make clear that if they hire you, you'll do whatever can be done to help them.

Q: How do you prepare a pitch for a potential new client?

A: Always come to the table with an idea, even if it's only a preliminary suggestion. In my line of work — mostly defending health care providers in criminal matters — it's incredibly important to make clear to the potential client that you understand and will try to deal with the "collateral damage" as well as the narrow case. This means being sensitive to the emotional, financial and reputational threats posed by a criminal matter. My clients are in crisis when they call me and it helps to explain exactly how we'd move forward.

Q: Share an example of a time when landing a client was especially difficult, and how you handled it.

A: Since I was never a prosecutor, I often get asked whether my clients are at a disadvantage because I won't have an "in" with the prosecuting office. I typically explain that this "in" is pretty much a myth but one client, a doctor who wanted to hire me, was quite worried that he'd be losing that edge. I explained to him that he ought to pick a lawyer in the same way he would want his patients to choose a doctor and that there is no one "best" doctor or lawyer out there for everyone.

Instead, everyone has his or her particular style and strengths. I told him that because a representation is a long, difficult journey, he should choose the person with whom he is most comfortable. He thought about it and came back to hire me. I think the honest discussion

ultimately won him over.

On a less serious note, some of my most effective marketing came from a well-read local blogger who was no fan of mine at all. After I succeeded in getting relief from the California Supreme Court, resulting in the dismissal of a very high-profile criminal prosecution, this blogger described me as an “evil genius” who was “a fraudster’s dream lawyer.” That posting brought me more business than any other marketing efforts I’ve ever done.

Q: What should aspiring rainmakers focus on when beginning their law careers?

A: To succeed in sports, pick the right parents. To succeed in rainmaking, pick the right mentors, which, fortunately, is a lot easier. As I said earlier, your biggest selling point is your last few matters, which means that rainmaking becomes a lot easier once you’ve successfully gotten started. The beginning is what’s tough and that’s where the right mentors come in.

I was fortunate to begin as a baby lawyer at Bird Marella and my mentors, who are now my partners, were instrumental in getting my career started. Whether it was dealing directly with clients, attending pitch meetings or being responsible for important and dispositive parts of cases, I learned quickly how to do much more than just write memos for the partner. Instead, I met (and hopefully impressed) clients, judges and other members of the legal community. To this day, I can trace a number of clients back to connections I made as a second-year associate.

Nobody ever starts rainmaking with a \$10 million case; rather, it starts much smaller than that. One of my first cases involved a shoplifting charge for a pair of flip-flops. It wasn’t Bird Marella’s usual fare, but my now-partner said “If you want to be responsible for a criminal case, we’ll take this and you can handle it.” Though the dollar amount was low, it was a serious charge for the defendant and would have kept him out of medical school, so for both the client and me, the stakes felt pretty high, which made it a real learning experience. Now, I keep my eye out for similar small cases and try to hand them out to our younger lawyers.

Another point to keep in mind is that there are as many “models” for rainmaking as there are rainmakers. Some people have a Rolodex of 1,000 names and know everyone at every cocktail party. Some people, including me, aren’t nearly that social, which makes cocktail parties feel like violations of the Geneva Convention. Some rainmakers write lots of articles and do all kinds of speaking engagements. Others hate that stuff. In short, a great idea for one person might be a terrible idea for another. So when you’re looking for a mentor to get you started, consider several people and really focus on the ones you think have a model that feels like it could work for you.

Q: What’s the most challenging aspect of remaining a rainmaker?

A: Knowing when to say no. There are some cases that you shouldn’t take, whether because the clients have unrealistic expectations, you simply don’t have time or they’re just not a good fit for your practice. It’s important to remember that your future rainmaking (and sanity) depend on being realistic today so that you can achieve the results that will bring you more work in the future.

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