

LITIGATION BEST PRACTICES: THE BECKER PARADIGM

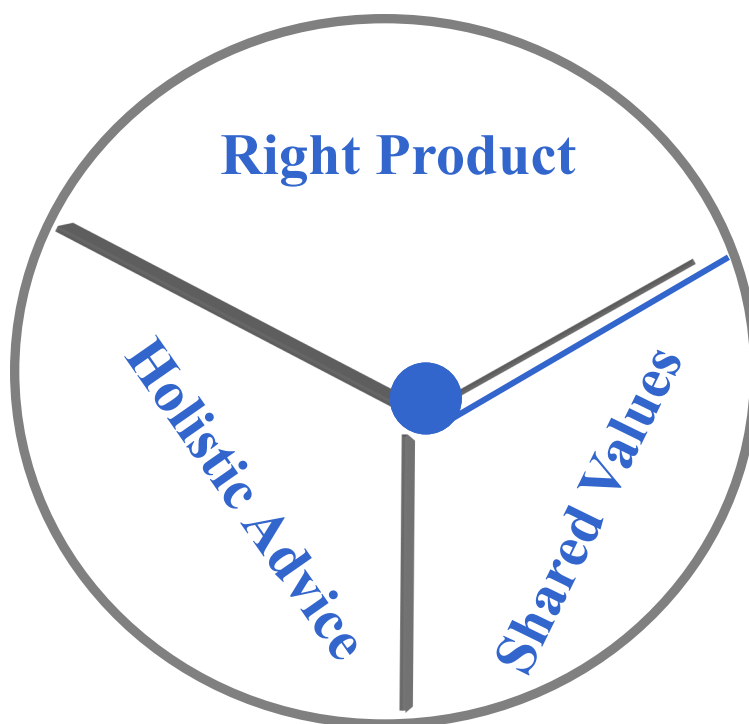
Our litigation attorneys do not see a lawsuit as a fight to be won at all costs, proceeding on a predictable pattern of pleadings, discovery, motions, settlement negotiations, and trials undertaken by a team of partners, associates and paralegals. Rather, in collaboration with our clients' in-house counsel, we have developed a paradigm of best litigation practices allowing for a holistic view of litigation through the prism of a client's particular business model. Our paradigm is not designed simply to "win the case," but rather to *define what victory means* in every case for every client and develop a pathway that best achieves that victory in a manner that is in line with the client's business values, economic capabilities, and market message.

**Our Approach Displays
Best Practices Through:**

Holistic Advice

Providing the
Right Product

Shared Values



PROVIDING HOLISTIC ADVICE

Our firm's attorneys never see litigation as an end in and of itself; instead, we develop litigation strategy based upon how the litigation will impact our clients' businesses and reputation in the market place. This means that every case starts with an analysis of the current state of our client's business, as well as a strategic look at the client's short and long-term, economic and business goals, and the market message our client seeks to impart.

For example, is the opposing party litigant a long-time supplier of the client who is seeking to gain leverage in the relationship through a “trumped-up” breach of contract claim? Or represented by a plaintiff’s firm that has a history of bringing over reaching actions against the client? In every case, we partner with our clients to define what victory means and then to develop a roadmap to achieve that victory. In this regard, we:

- ➡ Stay abreast of developments in the industries in which our clients operate;
- ➡ Update our clients on changes in the law affecting their business; and
- ➡ Train our attorneys to think as “business-people” when approaching every case.

CASE STUDY

A health care provider with a complicated corporate structure went public. The company’s SEC filings revealed its previously private corporate structure to the plaintiff’s bar, which resulted in plaintiffs naming companies further up the corporate ladder as defendants in tort actions in an effort to gain additional litigation leverage. For the first few years, the company retained defense counsel to defend the parent companies as well as the lower tier subsidiaries, using the same strategies employed in defending the lower tier subsidiaries. Defense counsel, however, failed to understand and appreciate the negative impact that the lawsuits had on the parent companies and potential negative impact on the stock price of the company. Dissatisfied with the results, the company turned to our firm to take over the defense of the parent companies in cases filed in what had become battle ground states (NJ and PA) and help devise a national strategy and protocols for defending the parent companies.

Several of our firm’s attorneys flew to corporate headquarters and spent time with the company’s general counsel, associate general counsel and head of risk management. We devised protocols for defending the parent companies, which included aggressive and early assertion of Rule 11 claims and motions to dismiss. We further implemented quarterly discussions with the company’s internal risk management team to discuss business practices that the parent companies could adopt to further shield themselves from suit. In a little over a year, our strategy resulted in the dismissal of five of the seven active actions in the battle ground states, a marked decrease in the number of suits filed against the parent company in those states, improved results nationwide, and the modification of a number of internal corporate policies to better insulate the parent companies.

PROVIDING THE RIGHT PRODUCT

Our firm’s attorneys appreciate that our clients are not in the business of litigation. Every litigated case distracts our clients from their core business and is a “cost-center.” We also understand that our in-house counsel colleagues are under ever increasing pressure to reduce outside legal costs and work with ever shrinking legal budgets.

And most importantly, we know that all litigation is expensive—not only in terms of legal fees or settlements paid, but also in terms of opportunity costs, as well as time, energy and resources. With these principles in mind, we strive to handle litigation as efficiently as possible, to maximize the value of each litigation dollar spent, and add value to the attorney-client relationship beyond sound advice and the highest quality work product. In this regard, we:

- Embrace flexible billing arrangements, such as blended rates and task billing;
- Provide data-driven legal fee budgets and estimates of vendor expenses;
- Utilize “real time” budget tracking;
- Proactively alert clients to events impacting existing budgets and estimates;
- Employ “project management,” cost containment principles appropriate for the size of the matter;
- Engage in an “expected value” analysis to determine the appropriate settlement value of a case;
- Train associates through internal seminars and not on our clients’ cases; and
- Offer no-cost continuing legal education programs to clients.

CASE STUDY

Our Litigation Department was recently called upon to handle a portfolio of cases (now numbering over 100) brought by one law firm against a major corporate client. In conjunction with in-house counsel, we built a framework for the efficient handling of each matter, utilizing status charts and team meetings, and established a strategy of motion practice and other efforts to educate opposing counsel as to the flaws in their legal position. To date, our methodology has led to the voluntary dismissal or dismissal by motion of a significant number of cases, and more importantly, to opposing counsel’s re-thinking of the business rewards (or rather the lack thereof) in litigating with our client.

SHARING OUR CLIENTS’ VALUES

Our litigation paradigm starts with the bedrock principle that to best represent our clients we must work as one with our clients; in other words, we see our firm not simply as a provider of legal services, but rather as an extension of our clients – a “right arm” so to speak. Experience has taught us that to serve in such a trusted role we must embrace the values which our clients implement at every level of their business enterprise. Our Litigation Department is one of the few that can boast of a group dedicated to handling pro bono cases and which requires junior associates to handle pro bono cases in conjunction with their regular case load. In this regard, we:

- Promote diversity within our firm;
- Emphasize rigid adherence to the rules of professional responsibility;
- Implement policies that minimize our firm’s environmental impact; and
- Support charitable organizations through dedication of time as well as financial donations.

LITIGATION BEST PRACTICES: BECKER PARADIGM IN SUM

We provide **holistic advice** by:

- Developing litigation strategy based upon impact on business, not simply on case outcome
- Providing accurate, data-driven cost estimates and budgets
- Assisting clients in gauging the settlement value of cases through probability mapping and financial impact modeling

Our Approach Displays Best Practices Through:

Holistic Advice

Providing the Right Product

Shared Values

We **provide the right product** by:

- Adhering to “project management,” cost contained principles appropriate for the size of the matter
- Employing real-time budget tracking and proactively alerting our clients to events impacting cost
- Training our attorneys through in-house seminars and not on clients’ cases

We **share your values** by:

- Promoting diversity within our firm
- Helping improve the communities in which we work and live
- Participating in pro bono programs
- Supporting various charitable organizations through the dedication of time as well as financial support
- Adopting and implementing policies and practices aimed at limiting our environmental footprint
- Representing clients to the highest standards of professional conduct and ethics

