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Harmony: Jeff Valle's contingency concept has helped him find more time to enjoy music and his daughter Emma.

Winning Big

Valle & Associates contracts with law firms for contingency cases

By EMILY BRYSON YORK
Staff Reporter

WHEN Jeff Valle was a partner at Skadden Arps LLP in 1992, a small company came to the firm with an entertainment case that had the potential for a very high payoff.

The company's leadership didn't think it could afford his firm's legal fees, however, so it asked for contingency payment. Because of Skadden's policy on the matter, the firm declined.

"I considered leaving and taking the case," Valle said. "The client would have been happy to have me try the case, but I wouldn't leave the firm for one case."

The small company eventually came up with the money, and Valle and Skadden did represent it. "We ended up settling the case for a lot of money," Valle said. "The dollar figure is confidential, but it was many times larger than the legal fees Skadden had charged."

Valle kept that case in the back of his mind and he began to formulate a financial model based upon a business and corporate contingency plan. It was clear that there was no financial reason for a large law firm with hundreds of hourly employees to take on a contingency case. But, he reasoned, a small firm with less overhead might do just fine.

Business contingency is, to an extent, comparable to the personal injury realm, in which a lawyer is paid based upon the settlement achieved by the client. Most companies use their general counsel to manage contracts and keep day-to-day affairs running smoothly and then outsource cases or matters that may require trial work. Frequently, when a case comes along that a company feels is not worth hundreds of thousands, if not millions, of dollars in legal fees, the case is dropped.

In 2002, Valle left Skadden with two associates and struck out on his own, believing that he could fill the niche these mid-sized cases were creating. His plan was to provide big-firm expertise, small-firm attention and operate with a tiny overhead that would allow his contingency model to work.

"I was getting ready to settle down and have a family," said Valle. "I'd just turned 45 and thought, 'What am I going to do? I'd like to spend more time with my family and try these challenging new approaches to commercial and business litigation.'"

Turns out, he was on to something. Making the most of a business plan based upon the judicious use of contingency cases, Valle

& Associates managed revenues over \$3 million in 2004 and similar numbers in 2005.

With two lawyers, and three support staff on the payroll, Valle uses litigation work to cover bills and then handpicks a few contingency cases to put him over the top. He also has two of counsels in the office to pitch in as needed.

They try to carry three to four contingency cases at all times. These cases consume about 20 percent of his time, but generate between 40 and 50 percent of his revenues.

Part of the reason for Valle's success, to date, is his ability to choose his contingency cases. With a relatively small number of cases in play, a loss in a long-fought contingency case could take a toll on his firm's bottom line.

Most of the claims his company seeks are between \$2 million to \$10 million.

"That's really our sweet spot," Valle said. "If the amount is much more than \$10 million, the client may be less interested in giving a contingency payment."

Once the proper financial range is established, Valle does a thorough analysis of the case and checks the financial viability based on the assumption that the matter will go to trial.

Valle's firm recently represented **Stamps.com** in a case against **eBay Inc.** and **PayPal Inc.** Stamps had a contract with PayPal to provide shipping on items purchased on the site, but when eBay purchased PayPal, it terminated the contract with Stamps.com to pursue a more profitable partnership with the U.S. Postal Service.

For the Stamps case, Valle used a "blended contingency model" in which his fee was comprised of reduced hourly rates and about 20 percent of the recovery. Although the amount reached in the settlement is confidential, Valle describes it as lucrative. And his client is satisfied.

Valle has won all but one of the 15 contingency cases he's taken on and is appealing the other. He likes to say that his clients are getting high-caliber representation at lower prices. With 23 years practicing law, Valle's rates would be about \$700 per hour if he were

still at a big firm. His top rate now is \$375. Revenues in 2004 spiked due to a class action payout; they returned to \$1 million in 2005.

"(Jeff) has the credentials and the background of the top level partners who have made it," said Matt Lipson, associate general counsel at Stamps.com. The bottom line is a concern for his company, however.

"The cost structure at these top firms is very high. He's come up with a new model," Lipson said. "As a public company we like to keep costs from running up and potentially throwing off our budget which is painful in any company, but especially a public company."

Valle & Associates

Year Founded: 2002

Core Business: Business litigation and business contingency litigation

2004 Revenues: \$3 million

2005 Revenues: \$1 million

2005 Employees: 5

2006 Employees: 5

Goal: To provide big-firm expertise on a small-firm fee arrangement

Driving Force: Smaller public companies that need to keep outside legal costs to a minimum