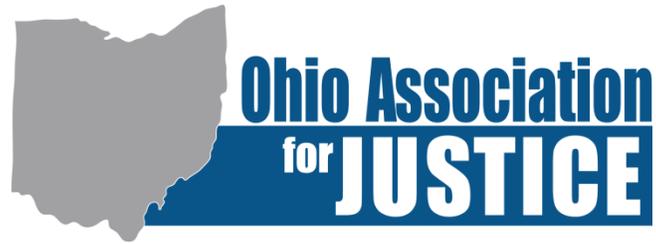


**Growing Your Practice: A Business
Development Seminar**

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Hilton at Easton, Columbus, Ohio



Marketing with a Strategy; What to Communicate, To Whom and Why!

Ed Lazarus, Principal
Winning Works
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Persuasive communication is a key to success as a litigator. As much as litigators pride themselves as persuasive communicators, the learning, research and preparation that allow a good litigator to present complicated issues in a simple and convincing manner often hinder attorneys' effectiveness in communicating with jurors at trial. Further, the more clear it is that you have a persuasive message at trial, the more successful you will be in settlement negotiations. This article is the first in a series that will present a basic and easy-to-understand approach to becoming a better communicator. No matter how good you think you already are, staying tuned to this space will help you become better at delivering effective and persuasive messages to jurors, to opposing counsel, and to mediators and arbitrators.

Over the course of a career doing communication strategy and message development in a wide range of settings – political campaigns, commercial marketing programs, legislative lobbying efforts, trade and professional association membership motivation and development, and consulting to attorneys preparing for trial and/or settlement negotiations – I have come to rely on a simple but effective framework for approaching the communications process. This framework requires appreciation for the strategic value of communications, appreciation for the inherent obstacles and handicaps facing an “expert” when communicating with a non-expert audience, and appreciation for the need for discipline in approaching the communications process.

The Strategic Context

Strategy in any persuasive effort consists of the following elements:

- Definition of an attainable goal that achieves a desired benefit
- Definition of the resources necessary to achieve that goal, for example:
 - Money
 - Time
 - People
- Definition of a way to obtain those resources
- Definition of a target audience that is the object of the effort
- Definition of a message that persuades the target audience
- Definition of a message delivery mechanism

Each of the elements above is critical to having a meaningful strategy. Going down the list, it is easy to see that doing something for the sake of doing it, with no thought to the goal or consequence of the action, is not a strategy. Similarly, in order to implement a strategy, one has to figure out and have a way to obtain the resources necessary to carry it to fruition. Further, one cannot develop or implement a persuasion strategy without having an understanding of whom one is trying to persuade. In a jury trial the target audience is both simple and mystifying at the same time. Obviously the litigator must direct his or her persuasive skills at convincing a jury. But understanding who the jurors are and what motivates them or persuades them in a particular case requires a

much more refined understanding than casual observation or intuitive reasoning can yield. Finally, one must have a way to deliver the message to the target audience. Again, that might seem simple at one level but is far more complicated in practice. A litigator is a mechanism for communicating to jurors. But so is each witness called at trial. The litigator must consider whether the witnesses are appropriate and effective mechanisms for delivering the message that is necessary for the jury to hear, process, and act upon.

The Communications Problem: Understanding the Public Opinion Pyramid

Anyone who has become expert in an area faces a significant hurdle in communicating to the general public about his or her area of expertise. By the process of becoming “expert,” the communicator has developed a specific view of the problem or issue that differentiates him or her from the population at large. The “expert” understands the problem or issue differently than others, probably uses a lexicon when discussing the issue that is different from the language the general public uses to discuss the same matter, and, above all else, the “expert” clearly spends far more time thinking about the topic than does the general public. Typically, the expert loses sight of the fact that he or she is so close to the matter that he or she simply cannot see or understand the issue in the way that the general public thinks about and understands the issue. Thus when the “expert” discusses the issue with the general public as an audience, the “expert” is often doing more to segregate him-- or herself from the general public than he or she is doing to close the gap. The general audience leaves the encounter wondering what the “expert” was talking about, why the “expert” couldn’t speak English, and how the “expert” could possibly have a view about such an obvious matter that is so divergent from the “common sense” of the ordinary audience member.

In any population, we must understand that opinion is formed and held in a pyramid. Decision makers sit at the very top of the pyramid, with opinion leaders sitting just below them. Together, these decision makers and the opinion leaders who have influence over the decision makers constitute roughly 10% of the total population. Below the opinion leaders in the pyramid are the informed public. These are the members of the population who pay attention to what is going on in a particular area, but don’t really exert influence over the decision-making process. They read the news about the topic and/or know enough from professional or personal interaction to follow what is going on. The informed public might constitute roughly another 15% of the population. Finally, the remaining 75% really don’t pay much attention to the issue at hand. They don’t care that much about it, don’t have much time to worry about it, and/or don’t understand it.

In a nutshell, the communications problem is figuring out how, as an “expert” sitting at the top of the pyramid, one can communicate with the 75% who sit at the bottom of the pyramid. Generally, the “experts” in an area don’t have much contact with the general public. The role of public opinion research in a communications campaign is to give those people at the bottom of the pyramid a seat at the table. The importance of doing

public opinion research is that it gives decision makers necessary information in understanding the general public's view of both the nature of the problem and the appropriate solution.

Solving the Communications Problem: A Disciplined Approach to Effective Communication

Over the years, I have developed a “message filter” through which I pass any message and implementation strategy on which I am working. I have found that if my message and implementation pass all of the elements of the filter, I have a much greater likelihood of success. The elements of the filter are:

- *Keep it simple and make it work.* If the message is multifaceted, complex, or requires several levels of understanding, forget about it. Make sure what you have to say can be said simply and clearly, at the level that a second grader can understand it. Simplicity greatly reduces the likelihood of misunderstanding and misinterpretation, while at the same time greatly increases the likelihood that your audience will remember what you had to say.
- *Be repetitive.* Good communications are repetitious. There is a lot of clutter out there that you have to break through. Further, most people you really need to communicate with have the annoying habit of seldom paying attention. In order to be certain that you are communicating your most basic message during that magic moment when your audience is paying attention, you have to make sure your most basic message is coming out of your mouth whenever you are speaking. That means you have to repeat that basic message over and over again.
- *The message must be credible.* Just because it is true doesn't mean anyone believes it. Credibility is a higher standard than veracity. Does what you are trying to communicate fit with the world-view of your audience? Can they easily accept what you are trying to say within the context of what they think is really going on? If not, you need to rework your message.

- *The message must be broad enough to be applied globally.* This is part of how one makes a message repetitive and keeps it simple. There is not one message regarding access to the civil justice system, another regarding caps on damages, and another on joint and several liability. There is one message that is applied globally, across all of the sub-issues.
- *The message must be relevant to real people's everyday lives.* If the message isn't about me, why should I pay any attention? Make sure you are communicating about something that matters to real people in a tangible way. If they don't understand why it is relevant to them, it isn't relevant to them.
- *Put a human face on it.* Good messages have emotional appeal. People do not respond to facts and information, nor do they respond to statistics or data, no matter how overwhelming. People respond to stories about other people. People do not respond to stories about masses of people. People respond to stories about individual people whose faces they can see and with whom they can empathize.
- *The message must be demonstrably efficacious.* This statement is not demonstrably efficacious because no one understands what it means. All "demonstrably efficacious" means is that there is demonstrated evidence that the message works. This is the opposite of doing something because it feels good or because your intuition tells you it is the right thing to do. Your intuition is usually wrong if you are truly an "expert" trying to communicate to the general public. You must have research demonstrating that a communications approach works before you invest your resources on implementing that approach.
- *The message must be a basis for differentiation.* Typically you are asking people to choose between two or more alternatives, or asking them to take one action versus another. That means when you communicate with them the communication must be a basis upon which to distinguish between or among the options available to them. Absolutely essential to the concept of "automobile" are four wheels, a gas pedal, and a steering wheel so you can go where you want to go. Yet not a single automobile manufacturer advertises their product based on its satisfying this fundamental and necessary aspect of "automobile." Why not? Because it does nothing to distinguish one car from another. Just because a concept is fundamental or necessary to understanding a topic doesn't mean communicating that concept will help you to persuade your audience. You must tell your audience why the alternative you prefer is the correct alternative. Thus Mazda's cars don't just have four wheels and a gas pedal. Mazda's cars have "zoom-zoom."

Strategy and Message

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Strategy Consists of. . .

- Definition of an attainable goal that achieves a desired benefit
- Definition of the resources necessary to achieve that goal
 - Money
 - Time
 - People
- Definition of a way to obtain the necessary resources
- Definition of a target audience that is the objective of the effort
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Developing a Strategic Message

Public Opinion Pyramid

Percentage	Group
<1%	Decision Makers
10%	Opinion Leaders
15%	Informed Public
75%	Real People

Principles of Effective Communication

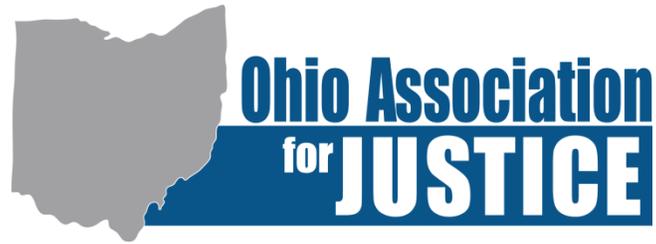
- *Keep it simple*
- *Be repetitive*
- *The message must be credible*
- *The message must be broad enough to be applied globally*
- *The message must be relevant to real people's every day lives*
- *Put a human face on it*
- *The message must be demonstrably efficacious*
- *Be proactive*
- *The message must be a basis for differentiation*

Spatial Mapping

The graph shows a coordinate system where the vertical axis is labeled 'Difference' and the horizontal axis is labeled 'Importance'. A light blue oval, representing the 'Area of Maximum Impact', is located in the upper right quadrant, indicating high importance and high difference.

Principles of Effective Communication

- *Keep it simple*
- *Be repetitive*
- *The message must be credible*
- *The message must be broad enough to be applied globally*
- *The message must be relevant to real people's every day lives*
- *Put a human face on it*
- *The message must be demonstrably efficacious*
- *Be proactive*
- *The message must be a basis for differentiation*



Marketing with a Strategy; How to Grow Your Business

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Making time for marketing

By Glenn G. Gutek

One of the most commonly asked questions I receive about marketing a legal practice is; “when you say marketing...what do you mean?” Many attorneys experience mental hang-ups when it comes to marketing because they may possess false perceptions about what marketing is and is not. Marketing is not sales, sales is a part of your marketing? Marketing is not advertising, although some choose to advertise as a part of their marketing strategy. Marketing is not a part of the practice or something you “must do”. Marketing is the entirety of everything you do!

Time invested in mastering your craft is marketing. Building a relationship of trust with your clients is marketing. Marketing is about you laying an easy to follow path from the front door of your office to the place where the client your firm is designed to serve is living every day.

Unless you are so swamped with clients that you need never worry about finding more, your practice depends upon your continuing ability to generate more business. Over and above all else, having new clients come through the door on a regular basis is one thing you cannot do without. You can lose a secretary, a key piece of equipment, even a partner – and your practice will survive the loss. But lose the steady stream of clients coming through the door and your practice will eventually fail.

Spend Time, Not Money

After actual legal work, marketing is far and away the most important use of your time. Yet while lawyers will make sure that they meet deadlines for work product, the same level of intensity does not exist for the client development side of things.

For many of you, client development is vague, unstructured and fluid. Viewed as a necessary evil, it is an optional activity with few clear cut goals and no urgent deadlines.

To add structure and some urgency to client development we strongly recommend three substantial marketing contacts a week. Three lunches are ideal – if you were to block out three lunches a week and dedicate them to marketing, this strategy will yield well over 100 marketing lunches on a yearly basis. That’s the kind of time it takes to maintain rapport with existing referral sources and cultivate new ones.

Let’s Do Lunch

To take this three-lunches-a-week idea out of the conceptual realm and plug it into your reality, block the time out on your calendar ahead of time, then stick to it – even when the technician in you wants to commandeer the time for production. Seeing the time blocked out on your calendar makes it more difficult for you to “forget” to market yourself. Your calendar becomes a visual reminder for you to think ahead about which clients or influencers you can take out to lunch to fill those slots.

To ensure this strategy works, delegate the scheduling to an assistant. Designate someone to work with you to keep your lunch schedule filled well in advance. Many of our clients actually bonus their assistant if he or she keeps their lunch slots filled.

Here's how it works: you designate the days you'll be available for lunches (i.e., Tuesday, Wednesday and Friday), supply the assistant with a list of existing referral sources whom you wish to see on an ongoing basis and they work to fill the available time slots.

Having an assistant do this for you can be a huge help, especially if you are reluctant to take the time to initiate marketing lunches and meetings – but are very effective once you show up. It helps to meet with your assistant once a week to oversee his or her progress and to coach him or her about what to say when scheduling lunches with the secretaries of your referral sources. For example, he might say “I'm calling for [insert your name], he's interested in taking _____ out to lunch next week. Does he/she have any availability?”

At these meetings you can also provide your assistant with information on any new contacts to add to the list of people you want to get to know. Using an assistant to help schedule these lunches minimizes the time you have to spend and maximizes the chances that they will happen.

Golf, anyone?

An alternative to the lunch idea is to have a standing Friday afternoon or Wednesday afternoon time block that is dedicated to marketing. For many of our clients who play golf, the Friday afternoon golf game is a popular marketing strategy. It allows them to invite one to three other people to join them in golf on a weekly basis. That amounts to 50 or more golf games over the course of a year. When multiplied by one to three people, the result is a minimum of 50 and a maximum of 150 marketing contacts yearly. Could you be that not playing golf is costing you money?

Given the amount of face time that occurs when playing golf, this is a significant opportunity to build rapport with referral sources and important friends of your firm. It's a great method for concentrating all of your weekly marketing into a small time frame, and it can also help your golf score.

Not a Golfer?

If you aren't a golfer and can only go out for lunch once or twice a week, you could put a once or twice monthly evening event on your calendar. These might be dinners with spouses or functions such as a community events, charity dinners or gallery openings. You can also invite referral sources and their families to events such as an outdoor picnic or barbeque, a pool party, a boating excursion or a sporting event. Going to a game with your son or daughter and inviting referral sources to bring their kids is a great way to spend more time with your family while satisfying some of your practice development objectives.

Effective rainmakers live interesting lives. For far too many attorneys the practice has killed the ability to engage in a favorite hobby. Not only does this make life less fun, it limits your effectiveness to market the practice. Create time for your hobbies and interests, and strategize ways to include potential influencers to participate with you. The dividends for this marketing strategy will pay off in a variety of ways, including reducing your stress.

At Atticus, we instill in our attorney clients the idea that for referrals to flow, there must be continual top of mind awareness of you and your firm among your referral sources. Lunches and

golf outings give you the chance to do this in person, supplemented with smaller interactions such as: telephone calls, e-mails or letters.

No matter how you chose to market yourself, use your calendar to structure your client development efforts. It can be your best ally to guard against the legal technician in you who only wants to focus on production. Remember, for most of you, your practice will only grow when there is an equally serious focus on client development.

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Guiding Your Practice™

Marketing with a Strategy: How to Grow Your Business

Ohio Association for Justice
May 13, 2011
Glenn G. Gutek; Atticus

Columbus, OH

How do you overcome mediocre?

“You live in a world that is thoroughly committed to your mediocrity”

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Current Law Firm Model



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Most small businesses are the result of technicians having an ‘entrepreneurial seizure’

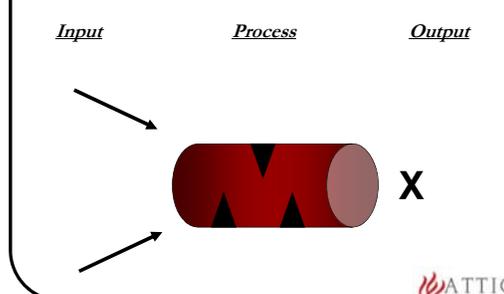
Michael Gerber
“The E-Myth Revisited”

The Fatal Assumption

If I understand the **Technical Work** of the business -- then...
I **MUST** understand the **Business** that does the technical work.

Michael Gerber
“The E-Myth Revisited”

What Does Your System Produce?



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