



The Best Advertising You'll Never Pay For: How To Make Marketing Billable

By Jowita L. Wysocka & Eric Paul Engel

Want to make the most of your time in the office? Incorporate marketing into your regular client contacts. In this lunchtime legal narrative, an associate shares her personal best practices—the what, the when, and the why not of tactical legal marketing and client relationship management.

May I Take Your Order?

“I’ll have the double porterhouse with sautéed wild mushrooms, a baked potato with butter and sour cream, a house salad with blue cheese dressing, and a vodka martini.”

“Excellent choice sir,” the waiter announced as he retrieved J.R.’s menu. “And you, ma’am?”

“Spinach salad, please, but hold the bacon.”

“And to drink?” he asked.

“Seltzer water and cranberry juice with a twist of lime,” she replied. No sooner had the waiter departed than her associate launched into conversation.

“So I’m up for partner next year and I’m wondering how I’m supposed to meet the 2200 hour billable requirement AND make time for marketing? It’s crazy!” J.R. was obviously upset. Helping himself to a second roll from the basket and slathering it with butter, he continued, “We’re expected to work from dawn to dusk, *then* spend our evenings schmoozing it up over cocktails at networking socials. A guy can only eat so many cheese cubes.”

DaRong smiled, “You’re right, it is crazy.”

“Why are you all smiles? You have the same billable requirement as I do!”

“I *used* to live like that, if you can call it living,” DaRong replied knowingly. “Then I came to my senses.”

“Came to your senses? How exactly does one ‘come to their senses’ AND practice law?” he inquired cynically.



“I decided to play by MY rules,” she replied with a mischievous gleam in her eye. “I still have to bill the same hours, but I’ve learned to make the most of my time. I figured out a way to incorporate marketing into my daily billables.”

“So it’s true what they say,” J.R. replied, “morals are paintings on walls and scruples are Russian currency. No wonder the state bar requires ethics CLE credits! Sounds like you’ve got quite the little scheme going.”

“No, I am not ethically challenged!” DaRong retorted. “What I’m doing actually benefits the client as much if not more than it benefits me.”

“Yeah, right!” J.R. grunted as he placed his napkin in his lap.

The Salad Course

“So what gives?” J.R. queried as the waiter placed his salad before him. “What’s up with this scheme of yours?”

DaRong posed a simple question. “A law firm’s two most valuable assets are its lawyers and its clients, right?”

“Yeah, so?”

“So how does the firm generally treat the client? How do YOU generally treat the client?”

“With contempt and disregard!” J.R. pronounced proudly, half joking but half serious.

“Well, for most of *my* career I’ve treated the client as a necessary evil. Many of them are ill tempered, vindictive, and generally disagreeable. They’d rather be doing ANYTHING other than having to deal with a lawyer, and that attitude is frequently evident in their demeanor.”

“Ah, the joys of litigation!” J.R. grinned. “Ya gotta love it!”

“While sadists like you might enjoy the process, J.R., most of our clients don’t. And I can’t say I blame them. They come to the firm under less than positive circumstances in need of legal help. They turn to us because we are the experts. Many of our clients are referred to us by friends and business associates, so it’s assumed that we know what we’re talking about.”

“I *do* know what *I’m* talking about,” J.R. interjected, swelling his chest and thumping it proudly with his fist like a silverback gorilla.



“Um... yeah,” DaRong humored him.

“I’m a highly trained professional. That’s why they pay me the big bucks!” J.R. boasted jokingly.

“Back to my point,” DaRong continued, dismissing J.R.’s braggadocio. “Last year I realized that by focusing on my clients and the way we communicate, I could increase client satisfaction. Satisfied clients frequently translate into repeat business. Satisfied clients also frequently recommend my services to others and help to generate new business. By focusing on communication, I essentially make marketing a billable function of my every day practice of law. Of course I still have to schmooze on occasion at social functions like conferences and association meetings, but in just over a year I’ve been able to increase my clients’ satisfaction *and* generate business—all in the course of my daily billable routine.”

J.R. started to speak but stumbled as a piece of blue cheese flew from his lips. DaRong continued, “By embracing a systematic process, I’ve learned to more accurately identify my clients’ needs, clarify our mutual expectations, and incorporate feedback and evaluation throughout. My case management is more efficient, and based on my track record over the last year it’s also more effective than ever. Last year I realized that while my cold, scientific approach to managing clients and their cases worked just fine, there’s more than one way to...”

“Skin a cat!” J.R. interjected.

“Have you ever skinned a cat?” DaRong shot back.

“Uh, no. But that’s the way the saying goes.” Just then the waiter arrived with the entrees.

The Main Course

“So how did you come upon this amazing discovery?” J.R. asked as he carved a hunk of beef from his plate.

“Actually it’s quite funny,” DaRong replied. “The epiphany came to me during root canal surgery.”

“Oh really!?”

“Yeah,” she continued. “My dentist, Dr. Mirchandani, works wonders with a needle. When he gives a shot of Novocaine, it somehow never seems to hurt. During my root canal surgery last year, however, I realized that it’s not just the way he gives his shots or even his dexterity



with a drill that made the experience tolerable. It was his way with me as a patient. His demeanor put me at ease. He was personable as well as knowledgeable. He took the time to talk to me, not as a patient but as a human being. I never felt rushed during a visit, even though he regularly sees dozens of patients every day. As I lay flat on my back that day with smoke billowing from my mouth, I realized how he does it. He communicates well. Starting with my very first visit, he took the time to inquire about my lifestyle as well as my teeth. Later, when he told me that I'd need a root canal, he let me know exactly what to expect during the surgery as well as after the surgery. By taking the surprise out of the surgery, I was better able to relax during what can only be described as 21st century torture."

"Let me get this straight," J.R. responded. "You were on heavy drugs and you had a marketing epiphany during a root canal? Sounds a bit suspect to me."

"I know, I know," DaRong nodded in agreement. "But the fact remains, since I acted on this idea my clients report that they're more satisfied, not only with the way I manage their cases but also with the way I manage our relationships. Additionally, my repeat business has increased, my new business has increased, and I've even managed to bring a fair amount of work to the firm through cross-marketing other services. As a result, I've also been able to reduce my "schmooze time" outside the office. When I ask my new clients why they chose our firm and myself in particular, the number one reason given is word-of-mouth endorsements from former and current clients."

"I say it's just luck! Some people are born rainmakers. If this system of yours is so productive, why doesn't everybody use it?" To say that J.R. was skeptical would be a gross understatement.

"Just because these practices are simple doesn't mean that they're easy," DaRong replied. "Changing the way I interact with my clients and my communication habits has been quite challenging. Luckily I had a good teacher."

"So you took classes on this stuff?"

"No, not quite. On my return trip to the dentist after my root canal, I explained my epiphany and asked him about his experience. We only had a few minutes together, but he was more than happy to share his approach. I wanted to learn more, so I invited him to join me for lunch the next afternoon. That's where we hammered out the details and he related his systematic approach to marketing and rainmaking. I figured since we're both service professionals, what

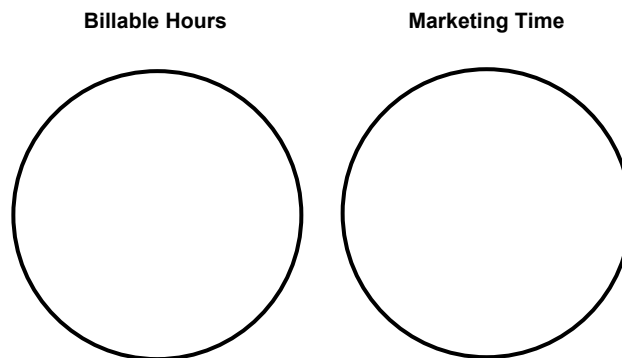


worked for him would probably also work for me. And it has! He’s never advertised, instead relying solely on word-of-mouth recommendations. Nonetheless, his practice is incredibly successful. I asked him if there was a secret to his success, and he said it was simple. Communication.”

“Communication? Communication! You’ve got to be kidding me. Did he also recommend holding hands with clients and chanting kumbayah?” J.R. smugly dismissed DaRong just long enough to signal the waiter for another martini. “I’m neither a salesman nor a therapist. I’m a lawyer. I’ll stick to the traditional marketing techniques they teach at the firm-sponsored workshops, thank you very much. Dining on crab puffs, handing out business cards, and generally talking up the firm at mindless social functions. Writing articles for trade publications, joining local clubs, and presenting free seminars.”

“If that’s what turns you on, more power to ya!” DaRong laughed. “I, however, have been there and done that. I can tell you from my experience over the past year, there *is* a better way!”

“While I couldn’t care less about the *communication*, I am curious how you’ve managed to make your marketing billable without wholly ignoring the rules of professional conduct?” At this DaRong pulled the drink coaster from beneath her seltzer, flipped it over, and quickly sketched out two circles. Over the left circle she wrote, “Billable Hours.” Over the right circle she wrote, “Marketing Time.”



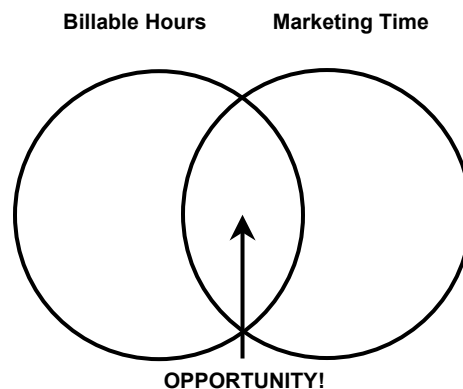
“This is the way most lawyers think about their billable hours and their marketing time. They’re two completely separate spheres. Just like you, countless lawyers bemoan that there’s not enough time in the day. That it’s crazy to demand 2200 billable hours *and* expect us to make time for marketing, networking, and rainmaking.”



“No kidding,” J.R. grunted. “That’s exactly my point!”

“Well, what if you could learn to combine your marketing time AND your billable time? What if you could effectively incorporate marketing *into* your billable hours?” DaRong grinned and reached for J.R.’s drink coaster. “May I?”

“Help yourself!” J.R. responded, relinquishing the coaster by lifting the martini to his lips. DaRong sketched two additional circles, but this time had them overlap.



“Now change your perspective. Rather than viewing the two spheres as disparate acts or functions, consider the overlap. Time spent researching case law and writing briefs *is* obviously billable. Time spent attending trade shows and munching on crab puffs is obviously *not* billable. But what about the face time you spend with clients? When Dr. Mirchandani first opened his own dental practice, he couldn’t afford to advertise. As such, he knew he had to capitalize on every conversation with the few clients he had. Since the majority of people find a new dentist by asking friends or co-workers, he reasoned that outstanding customer service was his ticket to free advertising. THAT was his secret to success!” At this DaRong shaded the overlapping portion of the two circles and drew an arrow beneath which she penned the word, “OPPORTUNITY!”

“I don’t get it?” J.R. replied, tilting his head like a confused basset hound.

“And why does that not surprise me?!” DaRong intoned. “It’s so simple. Take care of your clients and they’ll take care of you.” J.R. continued to look baffled, so DaRong changed her tack. “We live in a service economy, right?”

“Yeah,” J.R. nodded in agreement.



“Now more than ever, quality customer service is the key to success. I don’t know about you, but my experience with most customer service representatives leaves something to be desired. When’s the last time you felt warm and fuzzy at the DMV? At the post office? At the doctor’s office?”

“I like my doctor,” J.R. retorted.

“So there are exceptions! Perhaps that one example isn’t the best. But what about the last time you visited the DMV?” DaRong responded.

“Ah, the occasional valid point,” J.R. conceded.

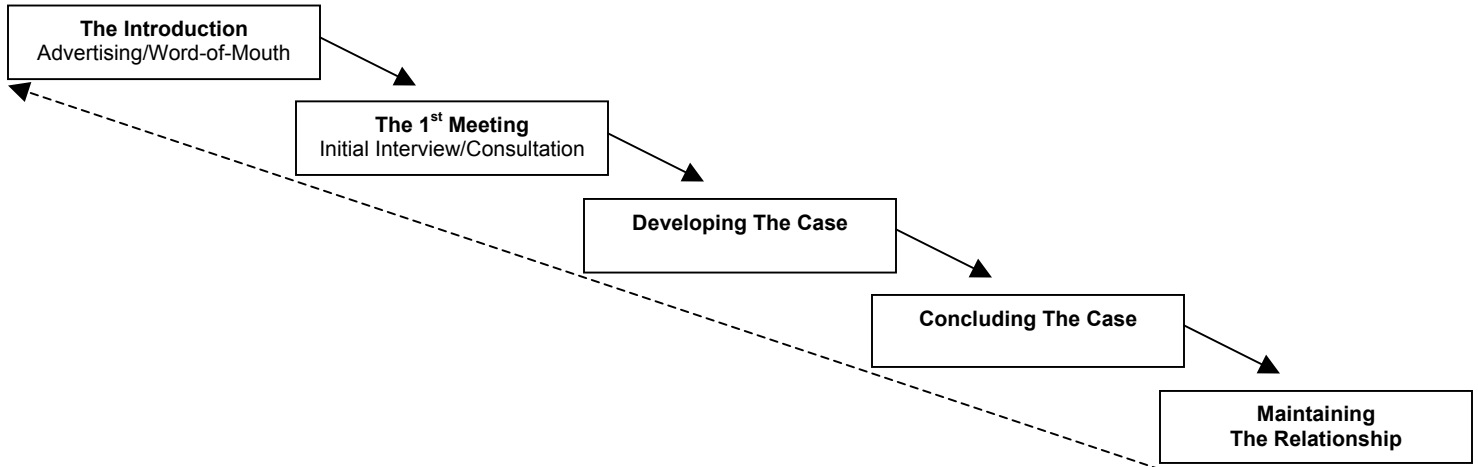
“My point is that customer service in America is, on the whole, less than stellar. When the bar is set so low, it doesn’t take much to stand out from the crowd.”

“I already stand out!” J.R. smugly announced. “I provide outstanding service to each and every client.” DaRong laughed. “No, seriously, I give every client 100%. Whether I’m researching case law or arguing before a judge, I apply my years of experience and legal acumen to every case equally.”

“So?” DaRong flatly exclaimed.

“So? What don’t you understand?” J.R. questioned.

“So *what* if you’re a good lawyer? Our firm charges top dollar. For the kind of money they pay, clients *expect* quality legal representation. It’s not the representation that I’m talking about here, it’s the conversation. It’s about making clients comfortable with the legal process, from the minute they walk into the firm until well after their case has settled.” DaRong reached into her purse and retrieved a used envelope. Flipping it over, she sketched out the following diagram.



“Most attorneys consider marketing something that’s done *prior* to a client actually retaining counsel. It’s about strategic branding, slick brochures, and print ads in all the relevant trade publications. Once the client’s in the door, the sole priority is winning their case.”

“Winning the case *IS* the sole priority!” J.R. exclaimed in an exasperated tone.

“Case management is *obviously* paramount. As you pointed out earlier, you’re a highly trained professional. That’s why they pay you the big bucks! But what if you could make even more?” J.R. slowly rubbed his chin as he pondered DaRong’s proposition. DaRong continued, “What I’m suggesting is a more holistic approach. The client fully *expects* us to obtain a favorable result to their case; otherwise they wouldn’t hire us. But there’s no reason why we can’t practice effective case management AND quality client management.”

“I appreciate what you’re saying, but customer service isn’t marketing... *it’s customer service.*” J.R. leaned back in his seat and crossed his arms as if to say, “I rest my case, your honor.”

DaRong paused. “Ok J.R. So how do *you* define marketing?”

Stirring the olive in his martini, J.R. thought long and hard before replying. “Yet again, the valid point.”

“Marketing is the *process* of promoting, selling, and distributing a product or service.” DaRong pointed at the model on the envelope. “Instead of viewing marketing as something solely relegated to the time just before a client retains the firm, Dr. Mirchandani showed me that it’s more appropriate and productive to conceive of marketing as a process that starts *before* the



client arrives and continues well *after* the root canal has been performed (or, in our case, the client's legal matters have been resolved)."

"That's a nice enough model, but I'm still not entirely clear on how you can ethically justify marketing on the client's dime." By now J.R. was into his third martini. "Clients are already hyper-sensitive to every minute we bill. You know as well as I do that clients constantly challenge our billing statements, questioning every penny line by line. How do you honestly expect them to approve 'marketing' as a line item?"

"I don't," DaRong replied. "In fact, not a single client of mine over the last year has raised any objections about the way I've spent my time *with them*. They might have questioned the way I described my billed time and they might have complained about the rates for my billed time, but they haven't complained about the time we spent together talking about their cases. By learning how to actively listen, by focusing on the client's needs, and by clarifying the client's expectations at the outset of the case, I've not only managed to strengthen my relationships with my clients, I've also managed to strengthen most of my cases. By attending to both the case *and* the client, I'm able to build better rapport. By attending to both the case *and* the client, I'm better equipped to elicit feedback and incorporate constructive criticism while it still matters... before the client has left the building."

"Speaking of leaving the building, we'd better get back to work. They'll probably send out a search party if we take much longer." J.R. motioned to the waiter for the check in the universal fashion—by "air signing" his palm.

Back to the Office

"So if your system is so useful, why don't you offer to teach a seminar to the firm's associates?" J.R. paused at the restaurant's reception counter and loaded up on free mints. "I'm sure you'd score points with the partnership committee."

"Because J.R.," DaRong grinned, "I'm a lawyer, not a communication consultant. I've spoken with the firm's marketing director and suggested an outside company that Dr. Mirchandani recommended to me. Like you, I'm already busy enough managing my cases and my clients. The whole point of this billable marketing model is to maximize my time *in* the office so I can minimize my extra-curricular marketing activities *outside* the office. If I'm teaching seminars, I'm not billing. It's that simple."



“You really believe in this billable marketing model, don’t you?” J.R. shook his head and shrugged his shoulders.

“J.R., if there’s one thing I’ve learned about quality customer service over the past year, it’s that word-of-mouth is the best advertising you’ll never pay for.” **LPT**

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