

MARKETING YOUR ELDER LAW PRACTICE

By Barb Cotton¹

A lawyer practicing elder law has been described as requiring a multidisciplinary, “holistic” approach.² The elder law lawyer is required to have knowledge of many different areas, including wills, powers of attorney, estate planning, guardianship and administration, retirement village contracts and disputes, nursing home care, pension entitlements, reverse mortgages, elder abuse and age discrimination. As a result of these various practice areas captured under the umbrella of “elder law”, the lawyer will require his or her marketing to target various groups, including senior citizens, young adult children, young couples, affluent consumers, business executives, etc.

Those of you with an interest in marketing will have heard of the new buzz phrase “relationship marketing”. This area of marketing emphasizes the importance of the client service experience and dictates that the goal of marketing is to have a highly satisfying experience by the client, which leads to high client loyalty. A necessary component of this experience is an establishment of trust between the lawyer and the client.

There are many benefits to an emphasis on relationship marketing. A highly satisfied client will of course return to you and thus generate repeat business. A highly satisfied client will also spread your name by word of mouth and generate referrals. A highly satisfied client will also allow you to, in general, charge higher fees, as the emphasis will be on retaining your personal services rather than achieving the lowest cost.

Within the context of relationship marketing, then, the elder law client presents unique challenges which must be addressed in order to achieve this highly satisfying client experience. Milton W. Zwicker in “Catering to Your Clients: Building an Elder Law Practice” (2003), 29 *Law Practice Management* 44 has reviewed these special needs in his illuminating article.

At the outset Mr. Zwicker notes the following buying habits of the elder law client:

- They are more interested in purchasing experiences than objects.
- They prefer to be shown in an attractive and positive fashion.
- They have a strong psychological need to be comfortable.
- They consider security and safety key psychological buying factors.
- They consider convenience and access as important as the service itself.

Just expanding on Mr. Zwicker's points for a moment, let us take a closer look at how you can achieve this "convenience" in your elder law client's experience with you.

Trey Ryder in "Attorney Marketing: Your Marketing Efforts Sink, Swim or Soar Depending on How Well You Satisfy the "Big C", (<http://www.treyryder.com>) suggests the following key aspects of "convenience":

- Make sure prospects find it easy to reach you. Do you accept phone calls from prospects – or do you insist that they come into your office before you'll speak with them? Do you offer a toll free number – or do prospects have to pay to call you? Do you respond to emails from prospects? The more convenient you make it for prospects, the more calls you'll receive.
- Make sure clients find it easy to reach you. Are you available by pager or cell phone in an emergency? Can a client reach you quickly and easily on the phone? Do you return calls promptly?
- Make sure prospects find it easy to get to your office. Is your office on or near a major street? Is your parking area close to your building or office? Is your office at a convenient location in the building? If on the second floor or higher, is the elevator close by?

- Make sure prospects find it easy to meet with you. If prospects have a hard time coming to your office, will you go to their home or office? If weekdays are difficult for them, will you meet with them in the evening or on a weekend?
- Make sure prospects find it easy to hire you. Can they hire you without having to drive to your office? Can you send your engagement letter or contract by fax or e-mail? If you have an established relationship, can they hire you simply by calling you on the phone? Or by sending you an e-mail? Can they hire you without a retainer?
- Make sure prospects find it easy to pay you. Will you accept personal cheques? How about credit cards? Do you offer a payment plan? Do you provide postage-paid business reply envelopes to make sending their cheque more convenient?
- Make sure prospects and clients find it easy to provide you with the information you need. Do you have a form they can fill out and send by fax or e-mail? For larger packets, do you provide self-addressed UPS or Fed Ex labels?
- Make sure prospects and clients find it easy to remember appointments and other dates. Do you send them a calendar of upcoming dates, including what you need from them – or expect of them – by those dates? Do you send e-mails or letters reminding them of appointments?

Within the specific context of an elder law client, Mr. Zwicker suggests the following considerations come into play in order to enhance the client/lawyer relationship:

- Setting up consultations. When scheduling client meetings, be aware of the individual's physical health and mental well-being. Does the senior have a routine medication regiment around which you must plan? Be sure to make the client's medical condition part of your client database.

- Be easily accessible...Make sure the hallways and doorways in your office are wide enough to accommodate wheelchairs and walkers. Avoid the use of throw rugs, plush sofas and overstuffed chairs. Use chairs with straight backs and hard cushions, but with arms that are strong enough to support a person leaning on them. Take the time to find out how clients handle their travel arrangements to your office. Make sure you do not schedule appointments with your older clients who rely on public transportation during peak traffic times. Inquire whether the client can drive him or herself to your office, or whether an adult child or related party will be the driver. Let them know where there is adequate parking, hopefully close to your office. Make sure you do house calls and are willing to visit nursing homes, hostels and hospitals.
- Show your respect. Always greet your new clients with a smile, a look in the eye and a firm handshake. Immediately tell them how much you appreciate their coming in to see you. Show them great respect. Use the “Mr.,” “Mrs.” or “Ms.” salutation unless the client lets you know it’s alright to call them by their first name. Also let the client know if you are comfortable being called by your first name. Have family photographs and other personal touches in your office so that the nervous client can find a common ground to start conversing with you. If it’s your first meeting, tell the client a bit about yourself.
- Develop trust.
- Assure your client that all matters will be confidential. Explain why it is necessary for you to take notes and, as a courtesy, ask their permission to do so. Assure them that you will not share information with other family members without their consent.
- Allow sufficient time. The pace of your activities is likely faster than that of your elderly clients. Adjust your pace to theirs. Be careful not to make them feel that you are rushing them. They will respect your timetable, but you must inform

them at the start of an interview how much time you have available. Treat them as you would a special guest who comes to your home.

- Adjust to their physical impairments. Hearing and vision losses are common impairments of many seniors. Be alert to how their impairments influence your client's daily living habits and how they might affect interactions during legal consultations.
- Learn to manage chit-chat. Accept that many elder law clients like to initiate communication by way of chit-chat, and learn to manage the situation. You may intimidate your clients if you clock watch as a method to reduce social chit-chat.
- Help them decide. Another typical trait of some older clients is their desire to "just want the answer". In other words, they expect you to tell them what to do. Resist the temptation and, instead, find ways to get them to participate in the decision-making process. Explain the potential resolutions for their issues and offer suggestions.
- Get them to talk. Some older clients are reluctant to discuss their family conflicts, mental capacity or death. Help them to talk about these issues in order to explore their legal position.
- Make your documents more understandable. Plain-English writing is essential. Keep away from legalese and other jargon. Avoid the use of run-on sentences and the passive voice. As a "picture is worth a thousand words", incorporate visuals where possible.
- Try to help your clients relax through the use of humour.

Anne Rocheleau in "Client Relations: Making Your Practice More Elder Friendly", (1993) 19 *Law Practice Management* 23, has some further suggestions on how to

enhance the client/lawyer relationship. She emphasizes that elderly clients often find it difficult to read written materials because of declining colour perception and a declining ability to adjust to changes in light conditions. She therefore suggests wide margins and double spacing and that the font style be as plain as possible. She suggests a high contrast in the stationary of the lawyer, including the use of traditional white paper with black ink on a non-glossy background. High gloss paper creates a glare. She further suggests that, in your yellow pages advertisement, you should increase the size of the type and increase the blank space surrounding it. The telephone number should be printed in very large type.

A nice touch is to provide a magnifying glass on the conference table in the reception area or in other areas where the elder law client will be reviewing the documents and to have this magnifying glass readily available, so that the client need not be embarrassed in asking for it. Extra time should be scheduled in the meeting to allow the client to read the documentation if they have vision problems and, if possible, the documentation should be mailed out prior to the actual signing so that the client can review it at his or her leisure.

100 watt bulbs should be in any area where the clients will be reading. Glass-top tables should be avoided as it may present trouble for people with impaired depth perception who can't judge the height of the table.

With respect to the elder law client who has impaired hearing, the lawyer should sit directly opposite the client so that the client can lip read. The lawyer should be careful not to cover his or her own mouth for this reason. Words should be enunciated clearly, slowly and in a low frequency, volume should be slightly increased, but speaking slowly and clearly is more important.

All instructions should be followed up in writing. The attorney's office should also be soundproofed in order to provide privacy and to assist in good communication. Background music or waterfalls, for example, should be avoided.

Further, the lawyer's staff should be trained to make every effort to ensure client safety and comfort immediately upon their arrival at the office. This may include offering an arm, assisting with the removal of the client's coat and helping to select a suitable chair. Since the trip to the office might have been exhausting, the client should not be left standing, even for a few minutes. The support staff should be instructed to assist the client immediately.

Appointments should be scheduled far enough apart that full attention can be devoted to each client. At the client's arrival, the receptionist should hang up coats, point out restroom facilities and generally help the client get his or her bearings. Appropriate intake forms should be at hand, and completed documents that the client will need to review should be collated, stapled and ready to sign before the client enters the office.

What, then, about specific marketing strategies for the elder law practice?

At the outset I will suggest that it is important to discuss your fees or fee ranges up front with the elder law client, in order to quiet any anxieties they may have in this area, and in order to qualify them as paying prospects. The elder law area also seems to be particularly amenable to a flat fee approach and you might want to try commoditizing your services in this way.

Trey Ryder has suggested that there are five goals of a marketing program:

- To establish your credibility;
- To identify how you are different from other lawyers;
- To generate interactions between you and your prospects;
- To gain your prospect's commitment, and
- To maintain your clients loyalty.

He emphasizes that marketing must be a priority of the lawyer, and it can not be turned on and off like a light switch. Your marketing program must always be kept in high gear so you can always attract an ongoing flow of new clients and new work from your existing client base.

What particular strategies are effective components of your marketing program? I would suggest the following:

- The assiduous maintenance of a contact management database

In terms of my own marketing program, I can affirm that the most significant first step is to assiduously maintain and add to your contact management database. In this database you will keep the names, addresses, email addresses, etc. of your clients, past clients, prospects, referral sources, media contacts etc. This database should then be segregated into distinct groups so that you may further target your marketing. All of your direct marketing efforts will then refer to this growing database.

- Develop a “fact kit”

One way to effectively grow your contact database is to develop a “fact kit” whereby people can call you, write to you or email you in order to request information in your “fact kit”. You will then capture the information of these people into your database for future marketing.

What should be in your “fact kit”? Most lawyers find it effective to develop presentation materials along the lines of “10 Must do Things in Probating Your Will” or “10 Things to Watch for When Passing on the Family Assets”, for example.

In your print advertisement, it is a good idea to include a line: “Please call us to obtain our free information as to . . .”, and use this method of attracting an ever growing list of entries to your contact management database.

- A custom newsletter

Out of sight is out of mind, and is therefore important to “ping” members of your database on a frequent basis. It has been suggested that it is most effective to “ping” your database by way of monthly newsletter. In view of the particular nature of the elder law client, it is suggested that this newsletter should be short, perhaps just one or two pages, but friendly and written in a casual manner so that the elder law client or prospect sees you as someone who is comfortable to work

with. In order to achieve this, you can incorporate news from your office (for example, who has just had a baby), and some humorous material. Other ideas to offer in a newsletter are:

- Facts and advice about the law;
- Summaries of successful cases you have handled;
- Dates of future seminars etc.;
- Educational articles available from other sources;
- Answers to questions;
- Facts about your background or the background of other members of your staff and
- Your website address.

The overall goal is to have your newsletter welcoming and friendly.

- An Informal Association of Companion Service Providers

One of the important approaches in developing an elder law practice is to enter into informal associations with other practitioners servicing the elder law clientele. This could include medical professionals, social workers, financial information providers etc. This association can then provide an ongoing source of mutual referrals and support.

If you prepare a brochure which clearly outlines your services you can distribute these brochures through your association of companion service providers in order to gain a broad reach for your promotional literature.

- Advertising in “small” newspapers and newsletters

At the outset it is important to assess the characteristics of your elder law clientele. What do they read? Where do they meet? What special issues affect them? After you have done this you can then advertise in these specialty publications, such as the newsletter for the Alzheimer’s Society etc. This will help you specifically to target your elder law clientele.

- Write articles for the “small” newspapers and newsletters

In addition to placing advertisements within these targeted publications, an excellent strategy is to write small articles for these publications that will be of specific interest to the elder law clientele. Again, it is important to write in a friendly, comfortable manner without the use of legalese or jargon in order that the elder law prospects see you as an approachable, friendly lawyer and they will feel comfortable in calling your office.

- Seminars

If you are comfortable with public speaking, targeted seminars to the elder law prospects can be a very effective way of generating a clientele. These seminars should be conducted on a small basis at venues that the elder law clientele frequent, for example, in church meeting rooms, in public libraries, in community halls or in other places where the elderly congregate.

At the end of your seminar you can provide the participants with a “feedback sheet” that solicits their basic information, which you can then add to your database for further marketing efforts. You may also consider offering a free hour of consultation on given subject areas to seminar participants.

Trey Ryder suggests that you should avoid giving seminars in conjunction with investment or insurance advisors, as many prospects will deliberately avoid this sort of a combined seminar approach, fearing a “hard sell”.

- Website

As much of the world is now completely computer literate, an effective website targeting your elder law clientele can be a very effective 24 hour informational source for those seeking to learn about the services that you offer. An effective technique is to write educational articles which can then be placed on your website in order to enhance your image as an “expert” in the eyes of your prospective clientele. Another idea is to maintain a calendar on your website to let your clients know about your availability when they are trying to schedule an appointment with your office.

- Friendly ongoing communication

One of the most effective marketing techniques in my own practice has been the consistent use of “friendly communication”. Using this approach I consistently send out cards and postcards, including holiday cards, birthday cards, thank you cards and other friendly hellos, with a goal of creating the image of myself as a friendly, approachable lawyer. This would seem to be a fairly effective approach with the elder law clientele.

These, then, are some of the ideas I have to assist you in developing your elder law practice. Bottom Line Research & Communications provides the service of developing your “fact kit” materials or ghost writing articles for inclusion in your small newspapers or newsletters, and we would be happy to assist you in this regard.

Barb Cotton is the principal of Bottom Line Research & Communications, which helps solo, small firm and specialized practitioners throughout Alberta on a contract basis with their legal research needs, including the preparation of research memoranda, briefs and factums, including e-factums, or just a quick search and reporting letter with cases. Barb can be reached at (403)240-3142, cell (403)852-3462, fax (403)242-5756, email barb@bottomlineresearch.ca and her website is at www.bottomlineresearch.ca.

ENDNOTES

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- ¹ Barb would like to acknowledge the following sources of ideas for this article: Milton W. Zwicker, "Catering to Your Clients: Building an Elder Law Practice", (2003), 29 *Law Practice Management* 44; Anne Rocheleau, "Client Relations: Making Your Practice More Elder Friendly", (1993) 19 *Law Practice Management* 23; David Irwin, "Niche Markets Asset Preservation Counseling Growing", (2000), 14 *Marketing for Lawyers* 1; Trey Ryder, "Estate Planning: Marketing Your Services; "29 Mistakes Lawyers Make" (<http://www.treyryder.com>); Timothy L. Takacs, "Market Your (Elder) Law Practice", (<http://www.tn-elderlaw.com/netmarketing.html>); Jennifer J. Rose, "When Silver and Golden Years Tarnish; Divorce Involving the Older Client: The Key Issues" (1997), 15 *The Matrimonial Strategist* 1; James Podgers, "Boomers As New Consumers: Elder-Law Market Growth is Imminent, Speakers Say", (1996), 82 *ABA Journal* 112; Cynthia L. Barrett, "Elder Law & Estate Planning", (2003) *ALI-ABA Course of Study Materials*; Monique Conrad, "Lifetime Planning Focus of Elder Law for Boomers", (1996) *The Lawyers Weekly* 15:35; Bill Rogers, "Setting up Elder Law Practice Requires Patience", (1998) *The Lawyers Weekly* 18:9; Brad Daisley, "Elderly Clients Require Unique Holistic Approach", (1998) *The Lawyers Weekly* 17:43; Trey Ryder, "Law Firm Marketing: "You May Not Believe This, But . . .", Nine General Rules for Marketing Legal Services" (<http://www.treyryder.com>); Trey Ryder, "Attorney Marketing: Your Marketing Efforts Sink, Swim or Soar Depending on How Well You Satisfy the "Big C" (<http://www.treyryder.com>); Trey Ryder, "Seventeen Fatal Marketing Mistakes Lawyers Make" (<http://www.treyryder.com>); Trey Ryder, "How to Build Your Law Practice With Dignity" (<http://www.treyryder.com>); Trey Ryder, "Marketing Secrets of Superstar Lawyers" (<http://www.treyryder.com>).
- ² Hugh S. McLellan, "Elder Law: More Than Wills and Estates" (2005), *The Lawyers Weekly* 24:41