

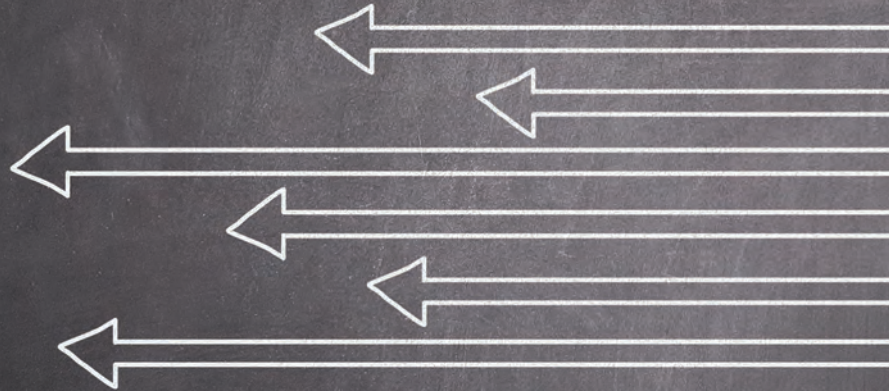


## Becoming the BEST PRO

By Alex B. Norman and  
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**O**nce you learn to approach marketing with a mindfulness mindset, you will to demystify it.

# The Art of Mindful Marketing



We have been co-workers for almost a decade. Over the years we have had the benefit of working together on cases, trials, presentations, and publications. Similar to other defense attorneys, as we progressed in our careers, we



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came to understand with more clarity the importance of marketing. During the same time, and quite independent of one another, we became believers in the power of mindfulness. Through conversations and marketing collaborations, in a shared “moment of Zen,” we realized that marketing is an art—not a science—an art that can be mastered by mindful thinking. Once we learned to approach marketing with a mindfulness mindset, we were able to demystify marketing. Through the process, we developed the “Art of Mindful Marketing,” a guide to the theories behind mindfulness, and tips for achieving your ultimate marketing state of mind.

### **Eat—Sleep—Market—Repeat**

Believe it or not, marketing is something that we all do every day. You are actually doing it right now, reading this article. Every marketing activity that we do can be placed into one of three categories. Deborah McMurray, a marketing consultant at Content Pilot, calls it the “triangle of success” for lawyers. She says that successful lawyers excel at three things: (1) service delivery; (2) reputation enhancement; and (3) network expansion. In our humble opinion, the triangle of success is the best way to understand what marketing is and how it relates to the practice of law.

*Service delivery* makes up the largest component of the practice of law. We deliver service when we advocate for our clients in jury trials, talk to and advise clients, defend depositions, and draft client-mandated reports. *Reputation enhancement* is highly recommended, but often neglected. Things such as writing articles for publication in industry journals, presenting at conferences, hosting lunch and learns, and participating in community events, all help to maintain a favorable public image.

*Network expansion* is the area that most people feel is interchangeable with marketing. A recent collaborative study of 165 lawyers conducted by professors from Harvard Business School, the University of Toronto, and Northwestern University, found that success was inextricably linked to the ability to network effectively both within the law firm environment and outside of the firm. Tizinia Casciaro, Francesca Gino, & Maryam Kouchaki, *The Contaminating Effects of Building Instrumental Ties: How Networking Can Make Us Feel Dirty*, 59 Administrative Science Quarterly 705–35 (2014).

### **Mindfulness Maximizes Bandwidth**

You deliver service by speaking and listening to your clients, advocating for your clients, and prepping them to speak. You enhance your reputation by writing and presenting. You expand your network by sending messages with your membership in different organizations, considering your appearance at events, and most of all, by talking to people within the organizations. All of these have one thing in common: communication.

The word “communication” is derived from the Latin word *communicare*, which means “to share.” When we communicate, we share information. Our ability to share information is greatly affected by our readiness to exchange information. Imagine that your personal readiness is an ethernet cable. If you are ready to exchange information, the bandwidth in the ethernet cable will be completely free. Everything that is going through your mind consumes bandwidth, thereby reducing it from the optimal level. The more thoughts, the less bandwidth and *vice versa*.

Bandwidth consumers can be divided into four categories: (1) professional, (2) inter-



personal, (3) external, and (4) personal. A good defense attorney, among other things, is competent, meets revenue goals, has a good professional reputation, develops clients, makes sure that he or she gets paid, complies with client guidelines, and has leadership initiative. Outside of work, he or she, for example, may have to meet the time and presence expectations of a part-

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ner, family, friends, and the parents of his or her kids' friends, among others. Then there are the external bandwidth consumers such as social media and its twin sibling #FOMO (fear of missing out). External consumers also include all of the various forms of mass media: digital (NYTimes.com), outdoor (electronic billboards), print (*Vanity Fair*), and broadcast (current "golden age" of Television binge-worthy shows such as *Game of Thrones*, *Homeland*, and *Atlanta*).

All of these things are constantly fighting for our attention. When we think about

the bandwidth consumers that we experience throughout the day, it is easy to see where all of our time goes. However, of the four categories of bandwidth consumption, we cannot forget the most important one: personal.

### Why Mindfulness?

"Life moves pretty fast. If you don't stop and look around once in a while, you could miss it." We never learned what Ferris did after his fateful day off on June 5, 1985. But our best educated guess, which is based on Ferris's knack for making persuasive arguments, his public speaking ability, and his sheer likability, is that he went on to become a great civil defense attorney in his home town of Chicago. I'm sure his motto would serve him quite well in that role.

There are several factors inherent in the practice of law that make mindfulness particularly well suited for lawyers. We are highly goal-oriented perfectionists, who are prone to stress-related health conditions, and we are governed by time.

### Highly Goal Oriented

We measure ourselves based on the best outcomes: defense verdict, dismissed on motion for summary judgment, dismissed via stipulation after monster deposition, exceeded billing goal, turned contact into client, made partner. We strive for the clearly defined ultimate goals. But with mindfulness, we try not to focus on the outcome. We remember that the process itself is more important.

### Perfectionist

Let's take the act of being overly critical. We went to law school to learn how to think critically and form rational and reasoned arguments. These skills are essential to our profession and help with editing motions and briefs, as well as formulating trial presentations. However, they can be corrosive when turned inward on ourselves or others, or when they are left unchecked. Imagine if you were to say to someone what you sometimes think in your head about yourself, such as, "This argument isn't good enough," or "Wow, you really blew that opportunity." Letting the judgmental component go helps someone realize certain innate qualities that had been diminished by the very act of being overly critical.

Some of these qualities are wisdom, tolerance, and compassion, which are three of the best qualities that make up the foundation of a sound legal practice.

### Stress-Related Health Issues

According to a recent study conducted by the American Bar Association and the Hazelden Betty Ford Foundation, attorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol-use disorders at a higher rate than other professional populations. Mental health distress is also significant. Patrick R. Krill, Ryan Johnson, & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, Journal of Addiction Medicine, Feb. 2016, at 46-52.

### Driven by Time

Every single aspect of our profession is controlled by time. We are required to bill our time in increments of .1 and .05. We do not have "due dates"; we have "deadlines." It should come as no surprise that the term "deadline" came into modern parlance from a newspaper article about a jury trial. It would be too easy simply to say, "All discovery is due on September 1st." Instead we have to amplify the consequence, and in turn, make life more stressful for ourselves. Through the practice of mindfulness, we can learn how to control the temporal stress inherent in the practice because we are better able to experience time in a non-linear way.

### Google: What Is Mindfulness?

Mindfulness means deliberately being in the present moment, not worrying about the future, or thinking about the past in a non-judgmental way. Mindfulness is everywhere you look. Oprah is a big fan. Anderson Cooper recently went to a mindfulness retreat and spoke about it. You will hear about it at yoga. You will see it on book covers as you walk through the airport. It is even popping up in the sports arena with converts in the NBA (Steph Curry) and NFL (Pete Carroll).

Mindfulness is not just on-trend, it's a growing phenomenon. A number of law schools have integrated mindfulness into student life. For example, Harvard has a designated room for mindfulness practice. Georgia State University has "mind-

ful Mondays,” during which students focus on breathing and how they feel. Yale hosts a mindfulness program designed for judges, practicing attorneys, professors, and students.

Mindfulness is a pretty simple concept. However, it seems so counterintuitive to what we do as litigators; as litigators, we tend to reflect on the outcomes of past cases, or where we may have gone wrong, and then we fret over future outcomes. We get so caught up in backward and forward thinking that we can lose the present moment. When this happens, we go into autopilot mode, which can ultimately affect our ability to get results for our clients. The “mindless attorney” is one who is in autopilot mode. To help avoid this from happening, in Philadelphia, mindfulness courses and continuing legal education courses about mindfulness are increasingly being offered for attorneys. Additionally, some firms are implementing mindfulness practice to help their employees find ways to ground themselves in the incredibly fast-paced world in which we live. With the practice of mindfulness, we are better able to resist going into the autopilot mode and can instead be more present and aware of what is around us.

With the practice of mindfulness, we recognize how thoughts are merely a narrative that we create. For example, you are in the middle of your morning routine, and your mind wanders off; you start fast-forwarding to what you have ahead of you for the day. You may have a deposition or an oral argument. You start imaging yourself in a very contentious dispute. Before you know it, you are five to six hours ahead, predicting your day, but really, you are still at home, you have not even stepped foot out of the front door of your home, and yet you cannot remember what you just did for the last five minutes.

The practice of mindfulness helps you get back into your life and out of your head. It helps us become aware that we have gotten lost in our thoughts, and such awareness enables us to return to the present moment. As a result, we are better able to serve the needs of our clients.

### Increase Awareness

Jon Kabat-Zinn is the creator of a program called “Mindfulness-Based Stress Reduction” (MBSR). The program is based on

Buddhist principles with a large meditation component. Jon Kabat-Zinn designed the eight-week, MBSR program in a non-secular way that would appeal to professionals. A simple way to get a new mindset is to focus on increasing awareness.

We have a tendency to respond immediately to our electronic devices, whether it is a cell phone, or a smart watch. Then we condition ourselves to look and refresh the page or app constantly. Psychologists have been studying this phenomenon for years. In their new book, *The Distracted Mind: Ancient Brains in a High-Tech World*, Adam Gazzaley and Larry D. Rosen explore how anxiety and rapid task switching have led us to act like Pavlov’s dogs. When you quiet the alerts and take control of your electronic devices, you allow your brain to increase focus and create time to notice creative thoughts.

Mindful communication also helps us pull our client’s spoken words into the foreground and push our own thoughts into the background. Have you ever observed a conversation between two people who keep cutting one another off? We’re sure that the people in that tête-à-tête are not trying to be intentionally rude to each other. They may think that they know where the conversation is going, or perhaps they like to hear themselves talk. Whatever the reason, when they are engaged in that type of conversation, they are not fully communicating with the other person because they are not truly listening. When we communicate mindfully, we are less reactive, and we are able to pause and then respond, rather than simply react.

Additionally, with increased awareness, when you find yourself in a situation where the conditions are just right for new opportunities, you will recognize it. If you’re not mindful, you’re not likely to realize those opportunities. If you are mindful and recognize the opportunities, you will need to get in the *best* frame of mind to assess and then take advantage of the situation.

### Be Your “BEST”

By now you are probably thinking, “I am sold! How can I cultivate mindfulness so that I am able to develop better connections with my clients?” The answer is simple: become your “BEST” self before any interaction with your client. What does this

mean? Think, “*breath, emotions, sensation, thoughts*: “BEST.”

**B—Breath**—Is it fast, slow, labored, shallow? Think about your breathing before you speak to ensure that your presentation is appropriate. For example, if you have to deliver some bad news to a client, or if you are in a contentious deposition, your breathing might be rapid. Slow it down. It

## We get so caught up

in backward and forward thinking that we can lose the present moment. When this happens, we go into autopilot mode, which can ultimately affect our ability to get results for our clients.

demonstrates confidence. If you find yourself getting fatigued in a long deposition or meeting, take a break and do some breathing exercises. The increased oxygen in your blood will stimulate brain function. By paying attention to your breath, you can re-anchor yourself.

**E—Emotions**—Think about how you are feeling. Do you have anxiety before presenting a motion against a highly aggressive adversary? It is okay to feel anxious. It is human nature. Just acknowledge the emotion. Do not ignore it.

**S—Sensations**—How does your body feel? Take notice of certain body parts. We tend to hold a lot of stress in our shoulders. You may notice some tightness around your forehead or your eyes or your jaw. Essentially, you need to do a body scan to see how you are feeling. You can direct your attention to your feet for a couple of seconds. You may notice something that you didn’t notice two minutes ago; they have a tingly sensation. By thinking about how your body feels you are helping to calm your mind.

**T—Thoughts**—Recognize the thoughts that are going through your head. Once



you realize that you drifted away or got lost in your thoughts, you are present. Think about your breathing and the sensations. This helps to improve focus.

### Become a “PRO”

By checking in with ourselves, we are able to be more present. We can more fully experience our lives and connect with oth-

## Invest the time

mindfully to determine  
how best to make  
stronger connections.

ers. In addition, when we are more present, the person we are speaking to feels better received. This improves the relationships that we forge with our clients, and in turn, we are better able to serve their needs and obtain optimal results.

Remember to “*pause, relax, open*” with the mnemonic device, “PRO.” When you pause, you check in with yourself and do the BEST scan outlined above. That allows you to be aware of what is happening in the now and not to judge it. This awareness puts the brakes on our immediate reactivity. The “relax” element allows us to accept a situation for what it is. Whether you are stuck in traffic or in a deposition, you simply accept the situation and understand that you cannot change it. Therefore, there is no need to waste energy being upset about it. Once you are able to pause and relax, you can step away from the reactivity and be open. We get out of our head and the scenarios or stories that we create and open ourselves to others. Together, this brings us to a relaxed awareness state.

### Exercise Mindful Listening

Now you know how to be your BEST self, and you are also a mindfulness PRO, but you want to practice being a better information exchanger. The following simple exercise will go a long way. You will need to enlist a friend.

Inform your friend that you are going to let him or her talk for one minute, but

that you will not react. This way your friend will not be offended when you do not say anything or make any facial expressions. Remember to go through the PRO steps before you start. Please remember, body language is very important. Be open. Crossed arms signal that you are closed, that you are not receptive. Uncross them with your shoulders back. This communicates to the listener that you are giving him or her the attention that he or she deserves and demonstrates through your physical presence that you are ready to receive his or her information. It also shows that you are nonthreatening. Make eye contact. It is hard to engender trust with a person who you are talking to if you’re not looking the person in the eye.

Ask your friend to tell you about a slightly bothersome or stressful situation that he or she is dealing with. Once the time expires, think about whether you found it hard to listen without reacting. Ask your friend if he or she felt well received. Studies show that with mindful communication, the talker feels better received when we simply listen and then respond, rather than reacting throughout.

### Practicing Law Mindfully

If you adopt some of the practical and straightforward mindfulness techniques listed above, you will see improvement with your own legal practice as you follow the “triangle of success” precepts.

### Service Delivery

Incorporate the mindful listening exercise into communication with clients. Before you pick up the phone, think about the message that you’re trying to deliver. If you have one or two points, focus on them. When you call a client, start with a genuine personal greeting to create an environment that is prime for the exchange of information. Inform the client of your intention, “I’m calling to discuss a new verdict that changes my settlement analysis.” Think of it like a subject line in an e-mail. The client knows what to expect and will appreciate that. Before getting off of the phone, ask if the client has any questions regarding the new information. That way you will be sure that there was a meeting of the minds, and you are on the same page.

### Reputation Enhancement

If you are lucky enough to land a speaking engagement, seize the opportunity. Strive to achieve the greatest impression that you can in the time allotted. Think about the experience of the people from the moment that they enter the room. You want to convey competence and preparedness. The time investment will be evident and will demonstrate to the audience that you respect them and their attention.

Further enhance your reputation by writing for publication. Mindfulness with writing can be summed up as demonstrating mutual respect for the reader. You want to demonstrate that you actually have expertise and gravitas and can write. We are litigators. The ability to communicate through written word, and subsequently, the spoken word, is very important. Be memorable. Make sure that the audience goes away with something that is easy to remember and repeat (e.g., BEST and PRO). Finally, you want to share a little about yourself; you want the reader to understand that in addition to being an erudite woman of letters, you are also a living, breathing human. If you can make a connection with an unknown reader, you can probably make a connection with a jury. If you can make a connection with a jury, you will get hired to defend jury trials.

### Networking

Invest the time mindfully to determine how best to make stronger connections. If you are able to convert a weak-tie connection (handshake or business card exchange) into a strong-tie connection (understanding of business needs or knowledge that you both like film noir), you are more likely to remain connected after the networking event. Additionally, instead of leaving with one connection, you will have one primary connection and several secondary connections. If the primary connection is strong, the common person is more likely to make an introduction to another person to help you form a secondary connection.

### Bringing It All Together

When you are mindful, marketing is easy. When you are not mindful, marketing is inefficient. Remember to be mindful and focus on three things: be your BEST, be a PRO, and be aware.

