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Break through the noise to communicate effectively

By Christian D. Malesic

Communication is not just about providing a message; it is about having the message heard and understood. Ideally, communication goes a step beyond. For our message to really make a difference, to be ‘successful’ communication, we need the receiver to interact and take action. Sometimes our communications are purely informational, but that is rare indeed; usually we are attempting to invoke an active response: renew your membership, sign up for our newsletter, buy this widget, register for our conference, or call your legislator. Thus, anything short of interaction is a fail. But, how do we break through?



by replacing words, phrases, names, and titles to adapted it to each specific receiver.

Roar Like a Guerrilla

Try guerrilla tactics. Guerrilla tactics are the art of surprise and catching the receiver off-guard, in this case, of course, in a good way. Your message can really breakthrough to the executive if you can reach them while they are relaxing with their Saturday morning coffee rather than at the bustling office. Or, if you can catch their eye right after a game of golf or racquetball. Or, while they are at a conference or on vacation. Meaning, be there in the unsuspected place in an unusual manner.

Define guerrilla differently. Think of a guerrilla approach as something your

At A Glance

Create a healthy workspace at home

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Learning to cope with disagreements

Grip tape helpful in avoiding accidents

Tools for better website traffic

... and more

People are People

Your receivers are your clients, members, or perspective customers. They are not dollar signs, numbers, bots, or head counts. So, first and foremost, remember that you are dealing with people. Each human being is different, with different sensibilities, likes, dislikes, and thoughts about you and your message. Long gone are the Henry Ford days when he arrogantly proclaimed you can have his Model T in any color you want, as long as it is black. Today, we want to be treated as the unique souls that we are. Luckily, tech can help with that. Build your mass message as if you were sending it only to one of your favorites, then use tech to mass customize the message

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Wherever you're working, make it healthy

By Alexis Walker

This second of a series of articles on the new reality of remote work asks: How can you thrive where you are?

Are you working from home? Do you feel like remote working has started to take its toll on your mood or health? If that's the case, it's time you change something. Believe it or not, you can create a perfect workplace environment at your home. What's best is that you won't have to spend too much time or money once you start creating your very own home office. Here are the tips to guide you and help you organize the best and healthiest possible workplace environment.

Decide on an actual workspace

If you've been working at your kitchen table, in your living room, or, even worse, in your bedroom, you may have been less productive than you had expected. Using one space for multiple purposes sounds good but it isn't the happiest option. Namely, you may get a bit confused if you sleep and work in the very same spot. The problem is that your body won't recognize when it is time for working and when for relaxing. It can't since the surroundings are all the same.

That is why you can be productive in an actual office. You immediately recognize the space as the one for having meetings, making plans, and doing

whatever you do at work. That is what you need at home and you can make it happen in a rather simple way. If you have a spare room, use it as your office. Get a desk and a chair for start and then add up things as time passes. Soon, you'll have your very own home office and you'll also have space where no one will disturb you, whether it is family, friends, or pets.

Set work hours

Another thing that is important when it comes to working from home is that you should act as if you were in an actual office. That means that you should dress for the office and that you should have some real work hours. See what you would normally dress for

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Communicate: Be unique to capture attention

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organization hasn't done before or in a long while; not necessarily as something new to the world that has never been tried before. Set a percentage of your communications aside for the guerrilla in you. Perhaps 10-15% of your communications plan and budget. Then, as always, monitor it, test it, analyze it, and even graph it. If it is a successful tactic, next year it becomes part of the main plan with 10-15% tried on something new.

What's Old is New Again

You can be a guerrilla by digging up old approaches and re-applying them as a piece of your current plan. A great example of what's-old-is-new-again is direct mail. Once the mainstay of marketers and communicators everywhere, direct mail has been nearly abandoned in the

last two decades in favor of the inexpensive mass electronic mediums. This makes direct mail prime for reaching your receiver. Except during election season, receivers simply do not get that much direct mail; thus, the scourge of the piles of paper junk mail has become a thing of past generations. Direct mail maybe be ripe to be used in your communications plan once again.

Other breakthrough tactics include sending holiday cards on non-traditional holidays when yours may be the only one the receiver receives, or sending chocolates with your logo emblazoned, or painting your vehicle with your company colors in a wild, flamboyant fashion. Consider, renting out a movie theater and inviting them to the premier of a new anticipated blockbuster on the Thursday

before the official release, complete with popcorn and soda. Maybe try hiring actors to dress like superheroes for selfie photos in front of your step-and-repeat at the town fair or before the big game. The point is: observe others, get ideas from TV and movies, be different, try new things. Breaking through can be about... well... being different, being unpredictable, being creative.

Breaking through doesn't mean breaking the fundamental rules of communication and marketing. It doesn't mean to send fewer communications or too many. It doesn't mean rewriting the book or forgetting the proven science of the past. No, instead, breaking through means really remembering. Remember the golden rule, that you should treat people the way you want to be treated. You want

to feel special. Make them feel that way. Remember to always use strong writing skills with proper grammar and punctuations, while being as uniquely you as you can be. And, remember to stay within the guidelines of your organization's philosophy, style, and image. After that, breaking through is about having fun with it, capturing their attention, then telling them something worth hearing, seeing, or reading.

Christian D. Malesic, MBA, CAE, CMP, IOM provides insight on nonprofit management, executive decision-making, business operations, personal finance, marketing, construction issues, and occasionally, on political philosophy and history. To see more by Christian, visit www.Malesic.us.



LAW TALK

By Kenneth Grossbart
of Abdulaziz, Grossbart & Rudman



When the loser cannot win: Recovering attorneys fees

This month's article comes to you from our firm's long term friends and colleagues, Edward F. Morrison and Larry A. Schwartz. Both are from the firm The Morrison Law Group. Edward has been kind enough to authorize the reprinting of his article regarding the recovery of attorneys fees. I am sure you will find it as informative as I did.

When the Loser Cannot Win ... Court of Appeal Rules That Party To A Contract Dispute, Which Lost On the Only Cause of Action Adjudicated at Trial In A Breach Of Contract Lawsuit, Cannot Be the Prevailing Party for Purposes Of Attorney's Fees Even If The Losing Party Achieved Most Of Its Litigation Objectives

**By Edward F. Morrison, Jr., Esq.
Larry A. Schwartz, Esq.**

As is so often the case, contract cases with prevailing party attorney's fees clauses often become more about attorney's fees than the underlying facts of the contract dispute. This is so because, under California law, and Civil Code § 1717, prevailing party attorney's fees are to be awarded to the party to a breach of the contract case which achieves the more favorable result. See, *Hsu v. Abbara* (1995) 9 Cal.4th 863. But what if the parties' contract clause, insofar as prevailing party attorney's fees, attempts to shift or define what a prevailing party is, perhaps contrary to Civil Code § 1717? And what if the defendant, which lost the case, prevailed on most of the plaintiff's claims?

Those questions were answered in part in the Court of Appeal decision in

Waterwood Enterprises, LLC v. City of Long Beach (2020) Westlaw 7417012 ("Waterwood case"). The Waterwood case concerned a breach of contract claim between a property owner and the City of Long Beach ("City"). In that matter, The City sold a parcel to Waterwood Enterprises, LLC ("Waterwood") in 2005, and then leased back the parcel for a ten year period beginning or about October 14, 2005. The City used the property as a police evidence storage facility. The lease terminated on October 31, 2015. At the time the lease terminated, disputes arose between Waterwood and the City as to the condition of the property and what repairs the City would be required to pay for.

Waterwood filed suit for breach of contract demanding reimbursement for numerous repairs. The City filed a general denial asserting various affirmative defenses, but did not allege or acknowledge in the defenses any debt owed to the Plaintiff, or that it had tendered any amount to the Plaintiff. The matter was subject to a ten day trial. Prior to the trial, there had been a number of settlement offers made by the City. The trial resulted largely in favor of the City. The jury awarded damages of only \$45,050.00, with interest amounting to \$1,187.06. The Court further ordered that the City would be required to pay Waterwood costs of \$19,905.04. However, based upon the language of the parties' contract, insofar as prevailing parties were concerned, and settlement offers that had been made, the Court ruled that Waterwood should pay the City attorney's fees in the amount of \$172,375.00. This resulted in a net award to the City of \$105,432.90.

Waterwood appealed.

A key issue in the appeal had to do with the lease provision itself. The lease included a prevailing party clause which provided:

"If any legal action should be commenced in any court regarding any dispute arising between the parties hereto ... concerning any provision of this Lease or the rights and duties of party or person in relation thereto, then the prevailing party therein shall be entitled to collect its reasonable expenses, attorney fees, and court costs, including the same on appeal. As used herein, the term 'prevailing party' means the party who, in light of the claims, causes of action, defenses asserted, is afforded greater relief."

On appeal, Waterwood claimed that there was no basis to award attorney's fees to the City. The City, as it did before the Trial Court, noted that it had staunchly disputed the Plaintiff's claims that the City should tear off and replace the entire roof, and install two entirely new HVAC units. The City had also denied an obligation to tear up the entire asphalt parking lot, and nearby concrete pads, and install new asphalt and concrete. The City argued that it achieved its main litigation objective, "to pay Plaintiff for some, but not all, of the claimed repairs."

In its appeal, Waterwood argued that the Trial Court abused its discretion in awarding attorney's fees to the City on the only Cause of Action, for Breach of

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Law Talk: Winning party is the prevailing party

Contract, which the City had lost. The Court of Appeal agreed and reversed. The Court of Appeal ruled that the Trial Court used an incorrect legal standard, and improperly considered settlement offers. The Court of Appeal also ruled that there had not been a proper tender of any amounts due to Waterwood, and therefore the City had no basis to assert that it was the prevailing party based on a tender of the amount due.

The Waterwood case is important in that it demonstrates that, if there is a single cause of action in a breach of contract case, and one party prevails via a money award, the party that wins is the prevailing party. The Waterwood case demonstrates that, in order to avoid paying attorney's fees in a breach of contract dispute, the losing party either needs to serve a Statutory Offer to Compromise (for which "post offer" fees can be recouped) or tender the amount due.



Grossbart & Rudman Firm who wish to receive it.

Kenneth Grossbart is recognized as one of the foremost authorities in California construction law. Over the past 40 years, Ken has become a respected speaker on Mechanic's Liens and other construction related issues.

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Remote: Differentiate between business and home

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work and get into that right before you start working. That will help you get into the business work and stay there.

Another important thing that will get you into the work mode is setting real work hours. You should see when you are most productive. For some people, that may be early in the morning, for others late at night, and for some, it could be right around noon. Whatever your time is, make sure to use it and do your work then. One thing is to set the hours and another to stay disciplined. The latter one is much more difficult but much more important, so don't give up and try your best to endure!

Separate business and private life

A common problem, when it comes to working from home is that people can't always differentiate between the two opposites – business and private life. The fact that your work is present in your home is really problematic and it can play with your head in a way. Namely, work could creep into your home life which only makes things worse.

To not let your career get invasive in your personal life, you'll have to deal with your home office for a little longer. For instance, you should keep your work-related things only in your office and nowhere else in the home. On the other hand, you shouldn't bring in any private staff into the office

either. A framed picture of your family is okay, of course, but make sure not to go overboard with such stuff. All this will help you set boundaries and work productively in a healthy environment.

Use a planner and update your to-do list

The organization is the key to success. It is vital and without it, you won't do much. To be more organized at your home office, make sure to plan a lot and to stick to the plan. Since you know when your productivity periods are and you've already set work hours, the planning won't be a problem. Make sure to think of all your tasks and mark them down in your calendar or planner.

That will make it easier for you to keep track of any deadlines, appointments, and meetings that are ahead of you. You should also create a to-do list and update it every morning. Mark things in different colors to differentiate between priorities and less important tasks. Highlight all the deadlines and make sure to check off the things you've already finished. That will be so fulfilling that it will motivate you to keep up the good work and earn that salary!

Develop a good morning routine

A good morning routine is an effective morning routine. That means that you should do things that motivate you

See **WORKSPACE**, page 5

Workspace: Develop a good morning routine

Continued from page 4

and push you forward in the morning. Even though you don't have to get up early and commute to work, that doesn't mean that you shouldn't have some morning routine. For instance, you could get up, exercise, and shower right after breakfast, or go get a coffee outside and walk around the block. Whatever works best for you is a good idea.

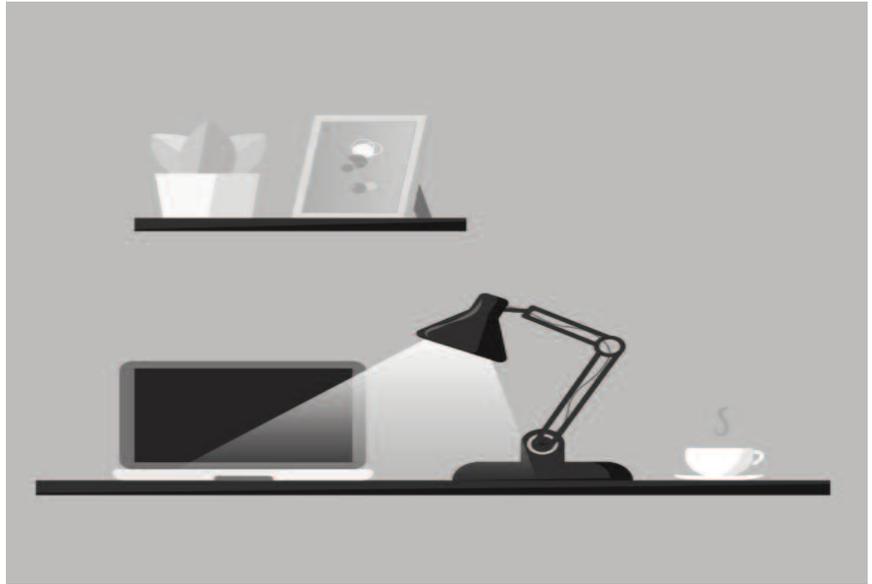
Acting like you have to leave the house will make you more efficient. Another instance is setting multiple alarms. Even if you like sleeping a lot, you should get up early either way. An alarm waking you up at the same time every morning will help your body get into the working mode. Before you know it, you won't even need an alarm to wake up. Since alarms make people feel more organized, they could only benefit you and your job.

Don't forget to exercise

Another problem with remote working is that you don't move. Namely, you spend most of your time sitting down. When you work at an office, you at least spend the time walking to the office or the bus station. On the other hand, when working from home, you only walk from your bedroom to your home office. That can cause you a lot of health issues. Your posture and spine might suffer a lot due to this problem.

That is exactly why you should exercise regularly. Make sure to make a couple of breaks to move around. Exercise is essential for your mood as well. Thanks to exercise, you feel happier. Exercise increases enjoyment and interest levels. These are very important for your health, but for your work as well. You can't be productive and do a good job if you feel tired, burnt out, and stiff. Even if you don't work out, you could at least stretch for a while. That will also benefit you a lot.

Eat healthily



If you want to keep that productivity level high, forget about unhealthy meals. Foods such as pizzas, white bread, fried food, pastries, and cakes are very bad for you. Drinks like high-calorie coffee drinks, fruit juices, and sugary drinks are also very bad. They don't just interfere with your health, but also with your ability to concentrate and get creative.

On the other hand, there are some much healthier options that you should have access to in your home office. For instance, fruits and vegetables are insanely good for your health. Filled with vitamins, they improve your well-being in numerous ways. They also affect your productivity levels. As soon as you start working, you'll feel the need to chew on something. Make sure to avoid chips and cookies, and instead get some nuts, since they are much healthier snacks.

Take breaks

There is nothing bad about taking a break. There is nothing bad about taking several breaks throughout the workday. On the contrary, that is something you should do. If you work for too long with no breaks whatsoever, you could easily feel too tired to think, let alone do something well.

Overworking kills productivity. If you

feel like taking a break might slow you down, you are very wrong. Taking some time to relax your body and think about something else is very important if you want to stay productive and sane. You can even put the breaks into the schedule and, that way, you won't see them as wasting time, but as following the schedule.

Create a rewards system

It is hard to get through a working day. It can get even harder when there are no other colleagues around you to motivate you and push you. If you have trouble with procrastination, try introducing a rewards system.

All you need to do is to decide on a reward for each task you finish. For instance, if you have to send a report by 10 am, you can grab a snack once you've sent it. The snacks, the breaks, anything really could be your reward.

Conclusion

Working from home isn't easy. There are a lot of challenges, but, luckily, they are all solvable. All you need is a strong will and, with these tips, you won't even notice that you aren't in an actual office.

Alexis Walker is a part-time writer and a full-time mom of two.

Can disagreements simply mean differences?

I was scrolling through my Facebook newsfeed on my cab ride to work this morning (yes, I know I could've caught up on some reading or a favorite podcast) when, in the middle of all the memes and all the quotes added to unrelated pictures, I found a shiny new piece of wisdom. A terribly tiny tale that said something along the lines of, "It wasn't the fights that ruined it, it was the silence."

And cheesy though that was, I thought, yeah. You get two people talking, and they're bound to reach a point in conversation when they disagree. Interpersonal relationships and social interactions of any kind are bound to be strife with disagreements.

But do disagreements really need to mean conflict? Can disagreements not simply mean differences?

We see disagreements cross over into conflict everyday in support. My great uncle, for example, wasn't happy at all about the way his mobile network provider's customer care agent had spoken to him. "I contact support to get my questions answered, not to feel like an idiot for having them," he said. The support agent who spoke to him, on the other hand, might believe that support means providing answers that are as clear as possible, even if that means using technical terms. In essence, this is a simple difference between the two parties. And yet, words were exchanged, frustrations rose, and people were left disgruntled.

What is that point at which difference crosses over into conflict? How can we stop it, and turn it around into compromise and cooperation?

I think the answer lies in what happens in the time it takes to get from difference to conflict; in communication. Uncle Bob simply wanted a solution to his problem, and wouldn't mind a friendly voice on the other end. The agent simply wanted to resolve his customer's issue and be better at his job. These two people had converging goals, but ended up not achieving either.



People will always have different notions of everything under the sun, but how can we take away the power of differences in interfering with our ends, especially in the world of business?

Make no assumptions

Assuming what the other party wants out of the interaction is the first mistake that sends the dominos cascading. If the support agent hadn't assumed that the best thing for Uncle Bob was an information dump, their conversation might have gone better. If Uncle Bob hadn't assumed that the support agent wanted to be condescending, he might have requested him to leave the technical jargon out of the conversation. Prior information about the customer can also lead to assumptions about them and what they expect for support – because everyone knows a customer who's eighty years old would need things to be spelled out for him, right? The first step in ensuring good communication is cutting out the assumptions.

Aim to understand, not solve

With no assumptions being made about the customer or why they're reaching out to you, you need to keep your eyes and ears open for cues. It's not just about understanding and solving their problem, but doing it the way they want. Really listen and trust what your instincts tell you about how your customer wants to be served. If one tone doesn't work, switch to another.

Be aware of what you can offer

When you're on the right track to gauging customer expectations from your interactions, it's important that you also remember how much you can actually offer your customer. How many of those expectations can you fulfill? How much hand-holding can you do today? Know your capacities and constraints in every customer interaction.

Find a middle ground for your expectations

If what you're getting from the interaction is that your customer wants to sit down and figure out how your software can help them in their 2018 plan, and you have 200 more tickets to go through before you can call it a day, you need to convey to them politely that you won't be able to provide them exactly the service they're looking for that day. Make the customer see that you understand what they want from you, that you want to provide them that experience, but that you have limitations that mean you may not be able to fully satisfy their expectations. Be sure to convey that you will find another way or another time to give them exactly the service that they sought.

By today's norms, good customer service is just solving the problem. You solve every problem that comes your way and your customer base is solid. However, great customer service – the kind that wins hearts and lives on in memory – is all about communication.

SAFETY ... IT PAYS



Use grip tape for a safer workplace

By Jayden Baldwin

Anti-slip tape is a cheap and effective way to add extra grip to potentially hazardous floorings. Learn about staying safe with non-slip tape.

The most common type of workplace accident is slips and trips. Over 10,000 workers suffered a serious injury as the result of a slip or trip last year, costing millions of dollars in sick days and compensation cases. The truth is slips and trips in the workplace are easily avoidable if you take appropriate accident prevention. Anti-slip tape is inexpensive and easy to apply to apply, yet makes a great difference to the safety of employees and the public.

Non-slip tape, or anti-slip tape, is commonly used to line the outside edge of steps and stairs and sometimes used to line ramps. If a person climbing up stairs or a step which is lined with tape then places their foot too close the edge of a step where they could lose their



footing, the anti-slip tape will keep their foot sturdily in place. This use of non-slip tape prevents thousands of accidents every year, particularly helping with slippery flooring surfaces such as tiles, wood or laminates, or with floors which get wet either from cleaning, spillages or muddy or rainy weather being trampled inside. Anti-slip tapes are durable to be used outdoors too. Pathways, ramps and steps can get slippery from water and mud, and the application of non-slip tape on such surfaces ensures that users stay safe.

But anti-slip tape doesn't have to be used in the workplace. An increasing number of elderly people or families with young children are having the tape applied inside and outside their homes on steps and ramps. The tapes can be bought in unobtrusive designs which are ideal for home use, such as plain black or white to match floorings, or even transparent.

Disabled access ramps are often quite steep or prone to turning slippery in wet weather. Adding strips of anti-slip tape at intervals up the ramp will give wheelchair users extra wheel grip, often

essential on steeper or longer ramps. The Disability Discrimination Act 1995 makes it employers' and schools' duty to create accessibility plans for disabilities, and anti-slip tape will help you to meet such legislation.

Further uses for non-slip tape include lining shelves which hold fragile items, keeping rugs or mats in place, sticking a small piece to the sole of shoes for extra grip or preventing fragile items from slipping and breaking off a desk or shelf. Anti-slip tape can be cut to shape and size, and sticking this to the underside of items such as telephones or pen pots will keep them stable. They won't be stuck to the surface, so you will still have the freedom to move things around, but they will have extra grip to protect them if accidentally knocked.

You can buy many different types of non-slip tapes. Different widths allow you to cover whole steps or thinly line the edge of them. Buy bright tapes such as yellow or yellow and black hazard stripes, or choose more neutral colors such as black or white, or even transparent tape to match your flooring. It makes sense to choose the color which will stand out most on your flooring unless you are particularly concerned about changing the look of the area. Bright eye-catching colors increase the chances of a hazard being seen, and therefore avoided.

Some anti-slip tape manufacturers have even designed photo luminescence tape which has a glow in the dark design. This is ideal for attracting attention to the hazard in poor lighting. Example uses of photo luminescence anti-slip tape include lining stairs in a warehouse occupied by overnight workers, or marking steps in a restaurant with low mood lighting.

OSHA CORNER

Please visit the following address on the web to download helpful safety posters, guides and pamphlets for a safer workplace.

<http://www.dir.ca.gov/dosh/PubOrder.asp>



Website marketing: Four tools for better traffic

By Donna Gunter

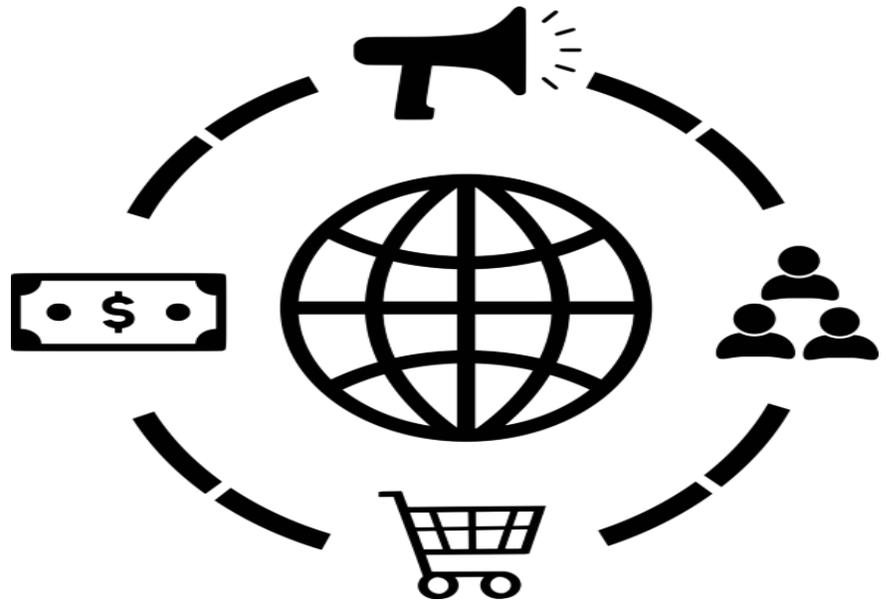
Once you begin adding content, like your articles, to your website, an amazing thing starts to happen. Your traffic begins to increase, as visitors are finding your site based on keyword searches that they do that result in them landing on your content pages. As I've added more content pages to my site, I've discovered that about 60% of my traffic comes to my site via these kinds of searches.

When visitors arrive at your site, ideally they will look around for additional info. After all, most searches are conducted in pursuit of free "how to" information. So, how can you optimize your opportunity to get your visitor to take an action? Traditionally I've recommended using hover ads and opt-in boxes, but there's another little-used strategy that I'm beginning to implement: inserting a call to action at the bottom of your content page. A key point to remember in this strategy is that your call to action on a content page should relate to the page content in some way.

Here are four secret strategies that you can regularly use on your content pages to make more sales:

Ask visitor to get on your list

The first trick to getting someone to buy from you is to get them to opt into your list. By including a graphic image and brief description of your client attraction device (free giveaway) along with the sign up box form for them to complete to get on your list, they can immediately choose to join your list, if they so desire. The magic words to use to relate joining your list to the content on the page are, "For more helpful tips or articles like these, I invite you to...(your call to action here)."



Invite visitor to subscribe to your blog

Perhaps you have blog posts that are related to this particular topic on your content page. Invite your visitor to subscribe to your blog's feed or subscribe for blog updates via email and point your visitor in the direction of the related posts she should visit.

Product promotion

If you have begun to create information products, many pieces of your content probably relate to (or were taken from) those products. This is an ideal time to place an image of your product at the bottom of your content page with a short description of the product. Offer the visitor two options: one to buy the product now, or the option to get more information about the product on the long sales page for that item. Remember that your product should relate in an obvious way to your content (i.e. don't place a product about how to groom your dog on a content page about organizing your office).

Google AdSense

In some cases you may not have a call to action that makes sense to give to your visitor. Instead (or in addition to another call to action), you may want to use that content space for your Google AdSense ads. Google AdSense is a program in which you can display Google Adwords ads on your pages and get paid a small fee for every click-through from those ads that occur on your site. I don't usually recommend that you place these on your content pages, but if you have a niche blog, for example, with articles written by others on a particular topic, Google AdSense ads can become one of your business revenue streams.

Make your content pages work (and sell) for you. By implementing one of these 4 strategies, your start to see your list (and your bottom line) grow in no time!

Visit Donna Gunter at OnlineBizU.com and AskDonnaGunter.com.

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