

Solo Practitioner Advises Small Business Owners, Redefines Lawyer's Role

by Dawn Chase



Williams Gaines “Billy” Ellyson had been practicing law for more than twenty years, toiling for the billable hour, when he experienced a revelation.

Since his first day of practice in 1966, he had worked for three firms. “During mid-life crisis time, I wouldn’t leave my wife. I wouldn’t buy a fast car. I would leave law firms,” he said.

On July 14, 1988—Bastille Day, he notes—he left his latest firm and went solo. He started out in a fancy building in Richmond’s Shockoe Slip downtown, outfitted his office with a state-of-the-art computer (a five-megabyte model, soon to be supplemented by one with fifteen megabytes), hired two paralegals, and resumed practicing the same way he had been.

Soon he discovered that he was just as unhappy with his solo practice as he had been with partners. He started to make changes, and thus embarked on an experiment that was to markedly improve his relationship with clients, his understanding of the role of lawyer and his job satisfaction.

He reorganized his office systems, got rid of his paralegals, moved to a less expensive building on North Fifth Street next to Second Presbyterian Church and, eight years ago, gave up hourly billing.

While he acknowledges that his choices would not work for all lawyers, he hopes there is something in his story that will inspire people trained in the law to question how some of the old ways of doing business can impede getting the job done.

In Ellyson’s new incarnation, he decided to confine his practice to one type of client: The entrepreneur with what he calls a “very small business.”

There were many objective reasons for that choice. The needs of small businesses are similar. Services to them can be pack-

aged in a manageable and predictable way. Yet, because each business and each entrepreneur is different, a lawyer sees lots of variety to keep him or her interested. And ever-changing laws require constant honing of the intellectual edge.

But Ellyson based his decision as much on another, intensely personal factor: His own practice is a very small business. After many years of working in—and managing—firm structures he never felt comfortable with, he had crafted his own based on who he had found himself to be. He has an evangelist’s zeal for sharing what he has learned, and he wants to be part of helping to nurture other entrepreneurs’ dreams.

That’s why “revelation” is not too strong a word for Ellyson’s watershed. He named his professional corporation “Metanoia,” which means “change of heart” or “change of mind” in the Christian and Jewish traditions.

His goal was—and continues to be—to eliminate barriers that he perceives impede a lawyer’s relationship with clients: The withholding of advice unless the lawyer is on the clock. Public bewilderment and distrust over exactly what lawyers do. The hourly fee.

Billing was one of the biggest changes Ellyson made.

Ellyson charges each client a one-time forty-five dollar administrative set-up fee. After that, “I charge five hundred dollars a year. Period,” he said. That covers all advice and counseling; review and preparation of standard documents such as equipment leases, deeds, promissory notes and employment agreements; some tax representation; and incorporation papers where necessary.

Ellyson makes one exception to his one-price fee—for no more than one thousand dollars, he represents clients in the purchase and sale of a business. Everything

else—litigation, estate planning and real estate closings—he refers out.

Dropping the billable hour was essential to the professional lifestyle Ellyson envisioned.

“In my experience, the distance between the lawyer and client increases in direct proportion to the uncertainty the client feels about legal fees,” he writes on his Web site, www.ellysonlaw.com. “The aim of the annual retainer is to make certain that there is a safe environment in which to conduct a business relationship.”

On a practical level, Ellyson found that clients—especially small-business clients starting on a shoestring—are put off by the billable hour. “It’s a total mystery when people go to a lawyer. Nobody knows what lawyers do. Nobody knows what it’s going to cost them. And after it’s over they don’t know what’s happened,” he said.

Dread of huge unpredictable bills keeps clients from seeking advice, to their own detriment, he said. Clients are caught in a chicken-and-egg conflict: “They don’t come in if it’s going to cost them any money because they cannot see the value until they come in.”

He blames hourly billing for a history of high client turnover in his previous practices. “I’ve always had a lot of clients, but I’ve lost a lot of clients because of the billing situation,” he said.

“Money is a very poor mistress.” As a young lawyer, “It was a road you sort of got on without realizing you were on it.” The

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result: “The grace of the practice of law was put aside.”

Ellyson decided to put his legal training to work to find an alternative. “Lawyers are trained to see around things,” he said. “Let’s see around the billable hour for a change.”

Since the beginning of his metanoia, Ellyson has been cultivating his role as adviser and counselor free of the tensions that the ticking meter spawns. In the process, he hopes, he also helps his clients become their professional best.

“I make enough money to have a good life, but my priorities have changed immensely,” he said. Citing a California study that found 70 percent lawyers would rather be doing something else and three-quarters do not want their children to be lawyers, Ellyson said he no longer feels that way.

Here are some examples of other changes he made:

Ellyson gives away advice, liberally, with no strings attached. As a volunteer with the Greater Richmond Chamber of Commerce, for example, he regularly shares his knowledge with people who are starting small businesses.

One such gathering last summer drew a man who works by day as a social worker, but who wanted to start a nighttime cleaning service; another man who, by pooling resources with family and friends, uses home equity loans to buy foreclosed mortgages, fixes up the houses and resells them for profit; and a woman who was planning to buy a soil-testing laboratory where her husband had been employed for many years.

Ellyson’s free advice, tailored to the individual needs of the attendees, included marketing strategy—“Tell people what you’re doing. It takes about three years to get a critical mass of business in the community,” he advised the cleaning-service man. It included detailed information on corporate organization, with an eye toward saving money on taxes and mini-

mizing liability. It included pricing—“Choose a fair price. Say to yourself ‘I’ve only got to make three hundred dollars a day.’” It included employment agreements that would give the lab purchaser flexibility to adjust her workforce as needed.

Outside the classroom, he said lawyers should be more generous with their advice. “Give it all away. The more you give away, the more you’ll have. Lawyers would be, if they did that, more accessible, and the public would feel less threatened by them.” By offering free advice, he believes, he is practicing the same transparency he advises his clients to practice in their business dealings. If clients believe that what they initially see in Ellyson is what they’ll get when the fee changes hands, they will be more likely to choose him as their attorney.

Freed from the time constraints, Ellyson can spend more time in his role as counselor, which he defines broadly. “We should be counselors, guides and facilitators,” he said. He helps each client assess strengths and weaknesses, to determine where the client’s energy is best spend and where he or she needs help.

“Very small businesses are fragile, because they have so few moving parts and everything must work in concert,” Ellyson said.

In an e-mail, he described a client who had money and business ability—“worked-for-a-big-company sort of business ability.” She fell in love and wanted to spend her money on a new business with the man in his area of expertise. “You would think that all the pieces would fall into place—money, business ability and expertise—but it didn’t work, and I didn’t see it coming. The weakness was that she became the boss (the money) and he became the employee (the debtor). Goodbye relationship, goodbye restaurant, goodbye money,” Ellyson wrote.

On a happier note, Ellyson wrote of a client with a successful Internet technology company who found himself too stretched when he landed a big government contract. “My entrepreneur is a very good IT person, and a good business getter, and is generally well organized, but he has outsold himself and has run out of

management skills and time. The solution may be to bring in outside management just for the new contract (and my advice is to set this up in a separate company to contain both the new management and the new liability).” At the time Ellyson was writing, the client was scheduled to meet with a management consultant he’d recommended.

Ellyson’s role as a lawyer has changed to bringing people together, instead of focusing on the wedges between them.

“We should heal client relationships with other people,” he said. “Mediation is a good tool for that.”

Every month, Ellyson invites clients to gather around a table in his office, where they discuss common challenges over bag lunches. At one such session, the topic was business computers. A speaker described economical ways to outfit an office, recommended a schedule for upgrades and cautioned about security and reliability problems associated with different products. Ellyson acted as facilitator, drawing in examples of how the speaker’s comments could apply to different businesses.

He almost shuddered at the idea that the monthly lunches are a marketing technique. He came of age professionally when lawyer advertising was considered unethical. “We didn’t solicit back then, and lawyers didn’t even think about it,” he said.

His purpose, he said, is to help fellow entrepreneurs through the fear he himself faced when he started practicing. Eighteen years later, he still remembers when he went solo he felt “like Wylie Coyote going off the cliff, looking down and saying, ‘Oh, my God.’”

He is a prolific writer of articles and books, which he publishes in e-mails and on his Web site, to update clients on matters of substantive law and other topics that could affect their operations.

And he maintains a list of people he knows—accountants, bankers, computer specialists, contractors and real estate spe-

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cialists among them—who also are willing to give free advice. The list, posted on his Web site, comes with a caveat: “The problem is knowing whether it’s good or bad advice *for you*. Gather up the free advice from your sources, then go back home and sort through the ideas, keeping only those ideas which seem to make sense to you,” he advises.

In forty years that coincided with development of technology that frees a law staff’s time for more creative endeavors, Ellyson has come away with another professional goal that he tries to pass on to his clients.

“Do no work,” he says. “Work is what takes your energy away. Only do things which give you energy, after you learn the basics.”