

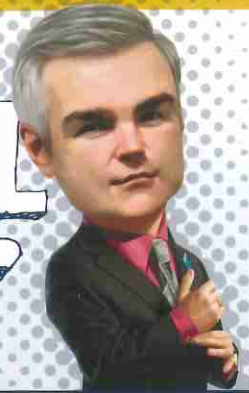
October 2016

MARC WHITEHEAD & ASSOCIATES
ATTORNEYS AT LAW, LLP
A NATIONAL DISABILITY CLAIMS LAW FIRM

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THE NEWSLETTER YOU'VE BEEN WAITING FOR... Successful Barrister



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WELCOME to Another Amazing issue of the \$uccessful Barrister!

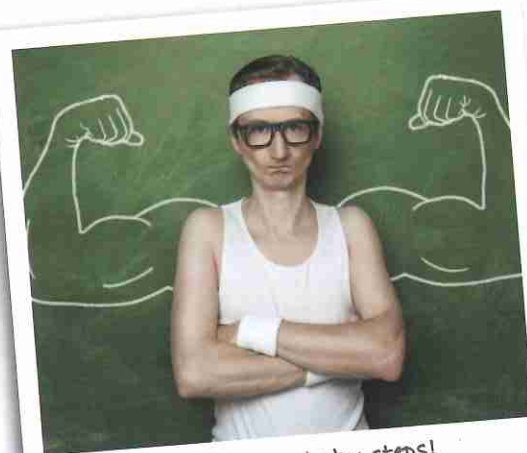
This monthly newsletter is stuffed full with advice and guidance for lawyers seeking to improve their practices and their lives while making beau-coups of cash and still staying superb. In this issue, I share some thoughts on how to use small changes to improve your practice, how empathy is an important factor and how to stay focused while growing your practice. If you know anyone you think would enjoy this newsletter, please email me their contact information at marc@marcwhitehead.com and I will be glad to add them to my mailing list. *Enjoy!*



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Kaizen Small Steps to Create Radical Change

I am always looking for different ways to improve my practice and move my business forward. I read a ton of books and I recently read *The Spirit of Kaizen by Robert Maurer, PhD*, which describes the key to the Japanese success in competitive production. The book explains the Kaizen method of management practices which help revolutionize by using small steps to create revolutionary change. It really got me thinking and I wanted to share it with you. In this article, I will explain the Kaizen Concept and touch upon some ideas that I found the most interesting.



Baby steps, baby steps!

Business loves the idea of revolutionary immediate change and we all want to improve large parts of our practices **NOW**. But these efforts often fail because radical change sets off our brains alarms and shuts down our powers to think clearly and creatively.

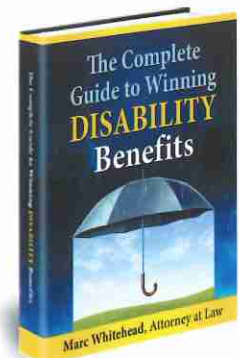
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A Discussion on Empathy and its Importance in your Practice (Part One)



Understanding clients and exercising empathy and compassion comprise the heart of lawyering. Empathy is the act of projecting one's personality into and so fully comprehending the

object of contemplation. According to Carl Rogers, the founder of the client-centered therapy movement, to demonstrate true empathy is *"to sense the Client's private world as if it were your own, but without ever losing the 'as if' quality."*

"Different is the concept of sympathy which is the feeling or emotion when a person is moved by the suffering or distress of another and by the desire to relieve it." Empathy and sympathy are components

of caring for others, especially clients in law practice. Both of these qualities are essential to the practice of law and importantly, the client-lawyer relationship, as it has been proven that caring makes analysis stronger.

Most people agree that a great lawyer must be able to excel at logic and reasoning. Unfortunately, many lawyers and other individuals familiar with our profession only believe objective reasoning is truly the cornerstone to the practice of law.

As Professor Joshua Rosenberg rightly explained, *"there are important differences between the kind of dispassionate reasoning and analysis in which lawyers and law students engage while sitting at desks at home, in the office, or in the library, and the kind of activities in which we engage when we are dealing in real time with real people."*

You see, real people do not always apply reason to their actions; most natural responses are made up of learned behavior patterns, habituated perspectives, and largely, emotions. A solid understanding of this truth will enable you to better appreciate the actions of your clients, opposing parties, and even the judges to whom you report.

Take care not to limit your perspective of clients' cases to only the facts of the case, by viewing the task as a kind of legal puzzle that must be solved and the

client as merely incidental.

Consider your vocation as one that assists people with problems of both factual and emotional components. Doing so not only helps you better relate to your client, but expanding the dimensions by which you view your work tends to gratify lawyers in ways that prove this approach is essential to our practice.

Like most humans, lawyers get satisfaction and fulfillment in helping other people; after all, we are engaged in a service industry. Expressing empathy and or sympathy to our clients makes them happier with our service, which makes us happier with our own achievements. Professor Rosenberg preaches this ideal explaining that *"Not only do relationship skills allow one to enjoy her success, but perhaps more importantly, they are essential tools to achieve that success."*

Some professionals would argue that developing empathy for your clients is inefficient, inappropriate, or dangerous in the context of representation; however, without that empathy, how are you to understand the position in which your client has been placed? How are you to translate that position with all of its varying components to opposing counsel or a jury or judge? Focusing back on your client, empathy, even more than sympathy, can help to foster more frank and open communication and thus a more complete legal analysis.

Moreover, investing in your clients' situations tends to cause more passion to be wielded into your work.

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"Opportunity is missed by most people because it is dressed in overalls and looks like work"

– Thomas A. Edison



The Kaizen method creates a more effective path to change by starting with small steps rather than grand sweeping change. These quiet steps bypass our mental alarm systems allowing our creative and intellectual processes to flow without obstruction.

The **Kaizen** Concept

Kaizen is a philosophy, a way of life, and is focused on continually improving organizational processes.

When you need to make a change, there are two basic strategies to use:

- 1. Innovation-** Innovation calls for radical, immediate rethink of the status quo
- 2. Kaizen-** On the other hand, Kaizen asks for nothing other than small, doable steps toward improvement

The Difference Between **Kaizen** and **Innovation**

Western companies tend to focus on radical and grand improvements using innovation. Eastern companies have traditionally focused on small incremental improvements using the Kaizen concept. Maurer distinguishes these two separate ideals based on their focus. Innovation is usually based on **Technology** while Kaizen focuses on building **People**. With innovation, developing a new technology is the main goal of moving a company forward in a competitive world and is how we in the US tend to focus, while with Kaizen, the goal is developing people and giving them the ability to both keep the company competitive and successful.

When you apply Kaizen to management psychology, you are:

1. Drawing on your existing resources
2. Inviting Your Employees to give input
3. Remaining alert for problems to solve

4. Looking for ways to improve service to your clients
5. Making VERY SMALL steps towards change

Good Change

A big part of Kaizen is working with your employees to the fullest extent. Allow their voices to be heard. This will motivate your team to look for more areas for improvement and allow them to be a big part of the process. These small improvements in their day to day experience will create a more productive unit and a stronger team for your clients. Enlist their help in small ways constantly. Not only will your practice improve but the moral of your team will too. Happy employees mean a successful business. These small things make a HUGE difference.

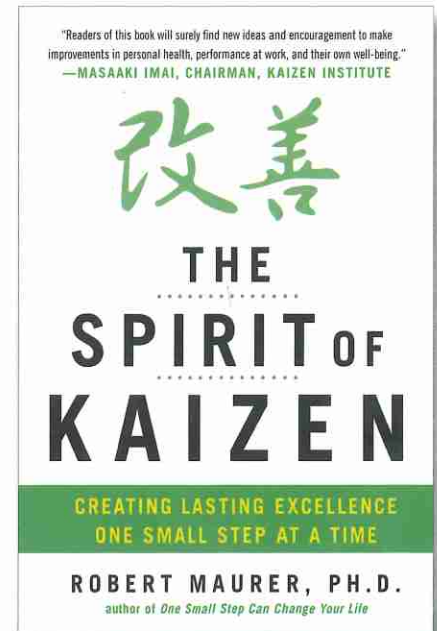
Small Changes

The Kaizen method is especially effective for unblocking you and your employee's creativity and focus and promoting better health habits among your staff. Unhealthy work environments whether from poor lighting, bad chairs, cramped spaces or even negative employees cut down productivity and leave your practice wanting. Involving your whole staff and not just those at the top to seek out problems and implement solutions, you create an environment without fear and without frustration. Very small steps lead to a revolution.

The Kaizen method of using small steps can help you reach your management and business goals by:

1. Boosting the morale of everyone on your staff
2. Containing the costs of running your business
3. Improving quality across the board

4. Developing new products and services
5. Increasing your profit
6. And improving the experience for your employees and thus your clients.



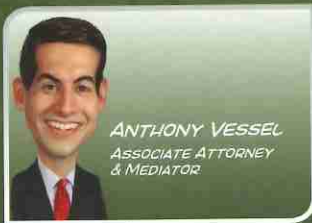
Understand that these small changes may not be fast, expect them to take at least 3- 5 years before you will be able to measure the result of your improvements, but the results are LASTING. Remember, small changes yield huge results. It only takes one snowball to start an avalanche.

These techniques are very simple and yet powerful. They can be applied to the smallest issue in your office or your grandest dream.

The Spirit of Kaizen is not a long book; in fact it takes a great number of ideas and condenses them to just a couple hundred pages. Give it a read, you won't be disappointed. 😊

The ART OF WAR for Lawyers and Law Office Management

(Part 2)



Diving back into our analysis of the ancient texts of the famous General Sun Tzu, we will pick up where we left off. Being prepared and strategically analyzing how we must approach our enemies is at the core of being an attorney. Although The Art of War is about military combat, its lessons in strategy and preparedness are quite applicable to the battles we lawyers face against our counterparts.

Sun Tzu said **“avoid the strong points and attack the weak.”**

This seems fairly intuitive if you think about it. Why would the Roman General Scipio Africanus charge headlong into Hannibal’s war elephants when he only had cavalry on horseback? Why would General Santa Anna have only attacked the fortified walls of the Alamo, when a rickety wooden palisade was a known easy access point?

Well two thoughts on this:

1. It’s not always easy to identify your opponents weak points as they are seldom glaring and obvious; this is where intense preparation and comprehensive analysis of the case (Sun Tzu’s 5 part evaluation process) come into play.

2. Sometimes a narrow short-sighted view of a case makes you feel that the only attack is to engage the other side’s war elephants.

I was recently at a luncheon where the speaker was talking about a wrongful death case in which he obtained an 8 figure verdict for his client. The skinny of the case was that on a wintery morning, before dawn, a trucker was texting and driving, lost control of his truck, and jackknifed his 18 wheeler at a point in the road just below a hill. His trailer was perpendicularly blocking two lanes of traffic. The speaker’s client hit the end of the truck going approximately 65 miles per hour, with no signs of skid marks, and died almost instantly. The truck driver then sat in his cab for nearly 10 minutes, and never applied the safety lights or cones that he should have to make his accident more visible.

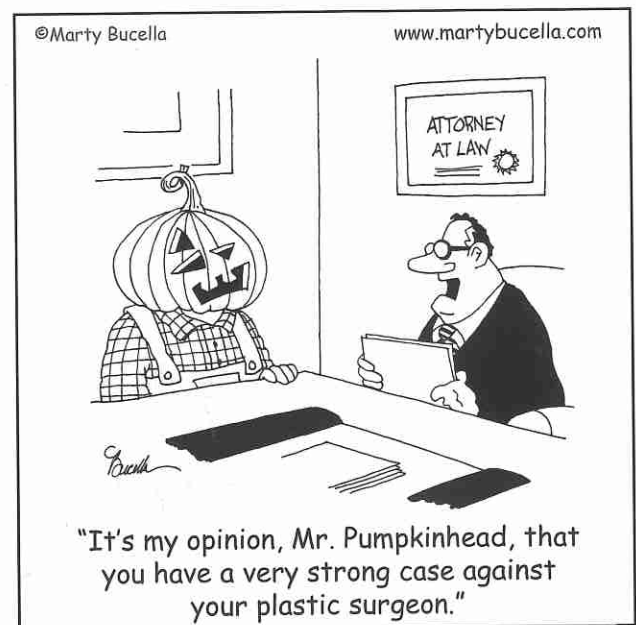
The plaintiff’s attorneys used expert analysis and keen understanding of the defendant’s and their attorneys to carefully craft their strategy. Just like the Carthaginian generals after several victories over Rome, the defendants in this case were over confident and underestimated the strength of plaintiff’s case. The Defendant’s heavily relied upon the video and images of the accident in attempts to prove that the victim should have seen the truck, just as Hannibal showed his overreliance on his war elephants. The defendant’s felt confident as the truck had the standard reflective tape lining the outline of the trailer and had its driving lights on. The Defendant’s further tried to limit liability, by distancing themselves from their driver’s negligence in losing control of his truck.

It was obvious the Defendants wanted to battle on the issue: “whether or not the deceased should have seen this truck.” But instead, the Plaintiffs



attacked the point that this driver should not have even been on the road, but the company’s negligence put him there. This tactic was also key to cement the company’s liability to the plaintiff. The company, as most do, had a point system for driving infractions. This driver was well over the limit to keep his job. Yet, this company swept some infractions under the rug for on-site accidents. The plaintiffs cleverly attacked this weak point in the case instead of getting into the obvious stand off about “who should have seen what.” The defendants were overly confident and didn’t anticipate this argument, thus they were unprepared.

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YOU = YOUR BUSINESS

Quick. What Are Your Personal Core Values?

By understanding and reviewing your values, you can study the link they have to your professional goals and begin to utilize them as a strength.

Whether consciously or subconsciously, your values shape everything you do. This is especially true of your life as an attorney.

They impact:

- The type of cases you take
- How you attract and market yourself
- The employees you hire.... and how you treat them
- How you structure your fees
- And the list goes on

By increasing your self-awareness about your own values, you can set yourself up for success and set yourself apart from the competition.

Think for a minute what your life would be like if you weren't an attorney and money were no object.

- What would you do?
- How would you measure your success?

Now think about your law practice.

- Why does it exist?
- What are you working towards?
- How do you make decisions?

If your goals are out of sync with your values, you may go down the wrong path. In fact, we all do this at different times of our lives. By ensuring your values are aligned with your goals, you create a powerful synergy. When they aren't aligned, you create unnecessary friction.

Goals are simply what you are working towards. For some it's retirement, for others it's a new car or winning an award. But WHAT you are working toward is only half of the equation.

"How" you get there is just as important.

Values are the personal beliefs and principles which guide our thinking and actions as individuals as well as how we work with one another.

The impact of your personal values on your business

By Cheryl Pope

They are why some situations are so easy and why others are so frustrating. They can also change with time and experience.

Your values and goals exist in a symbiotic relationship. True success comes when you focus your energy on goals that are important to you and act in ways that align with your values. If your goals go against your values, you create unnecessary friction and unintended roadblocks.



"Between two evils, I always pick the one I never tried before."

— Mae West

Think about this in terms of your clients. Are you trying to get as many cases as possible or are you trying to make someone's life better in the face of adversity? While these may seem the same on the surface, they are actually much different. Being clear about your personal values regarding this is critical because you are limiting your potential if you don't wholeheartedly believe in what you are doing.

This also applies to your team. When people's personal values and firm values are in alignment, their personal lives are more satisfactory and they feel more positive about their professional roles.

So let's try this again....what are your core values?

ABOUT THE AUTHOR

Cheryl Pope is an organizational effectiveness consultant and executive coach. Simply put, she helps organizations and individuals maximize results through communication, goal setting and accountability.

Find out more about Cheryl and her work at www.carltonhumancapital.com



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The Future of CONTENT MARKETING



Getting EVERYONE Involved



SARAH AKIN
MARKETING
DIRECTOR

Like most law firms, we have a large number of marketing tools at our disposal. Some of them even seek us out and we aren't afraid of trying them all to see what works and what doesn't. One such tool that came our way this past year was a company

called Vertical Measures. They are a full service internet marketing agency and have shared a lot of good advice with us. One of their ideas that really hit home was the concept of *Creating and Maintaining a Culture of Content* within our own firm.

Perhaps the greatest challenge with creating a successful content marketing program is getting your organization to buy in-completely. If a small number of employees are running your content program, you are not unlocking the expertise of your entire organization. You need to convince everyone inside your law firm that they can contribute meaningful content; whether it's suggesting new blog post ideas, creating outlines that your writer can run with or even just taking pictures that would beef up your newsletter or Facebook page.

Content marketing is not a campaign and it's not a job for just one person. Content marketing is a fundamental shift in your law firm's philosophy and daily approach. It can transform your law firm's culture and how your employees contribute to the wellbeing of your business.

Treat your employees and colleagues as content marketing assets. Chances are, almost every one of them has a unique perspective or specialized knowledge about your company's services and approach. Some of your paralegals have contacts all over the board and may have insight into topics you would not have normally thought of. Maybe your medical records tech has their finger on the pulse of upcoming medical topics. Or maybe your receptionist volunteers and can put together a staff volunteer day that you can blog about later. All of these people have experiences that can easily be translated into to

unique content that can answer questions and curiosities that your prospective clients may have.

See where I am going with this?

Your prospective clients ask questions on Google, and you provide answers through helpful, relevant content. This is how content marketing works to serve your particular audience and in turn, your business goals.

If you are the law firm's marketing director or content guru, it's your job to convince your teammates that every moment of the day is actually a content opportunity. Encourage your fellow employees to write down, email or submit their ideas. Put together a monthly content brainstorm schedule. You might even consider starting a friendly competition between departments to see who can create the most content ideas in a month! You never know what kind of content gold is lurking just under the surface!

In the coming year, try to focus on taking steps to create a culture of content marketing law firm wide, rather than squirreling all your efforts in just one department. The more you involve your team in your firm's marketing content, the higher the organic return will be and your firm's people, processes, and priorities will align.

Want to learn more about Vertical Measures? Visit their website:
www.verticalmeasures.com. ☺



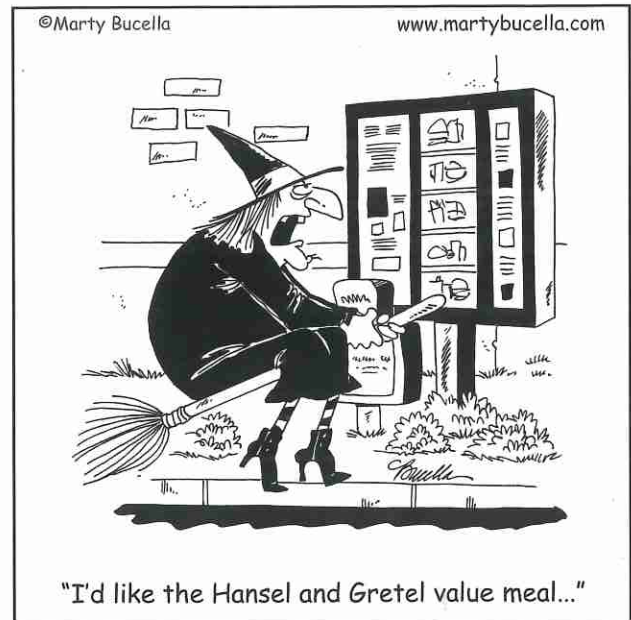
"I want my children to have all the things I couldn't afford. Then I want to move in with them."

– Phyllis Diller

We can all think of at least one case, that case, where we fought within an inch of our sanity to bring justice to our client because we were so invested in the cause, largely in an emotional capacity. We understood and related to the client's situation, knew that the law's interpretation should be in the client's favor, and fought every obstacle thrown at the claim with passion and zeal.

Though inevitably exhausting, this level of commitment enables you to turn over every stone, seek out every relief, and perform more effective analysis of your claims to satisfy client objectives. Furthermore, this is the standard by which our Model Rules compel us to perform our vocation—Rules of Professional Conduct: Rule 1.3, Diligence and Zeal. However you fulfill this role, surely an empathetic approach to your clients and their causes will lay a sound foundation for your other legal skills to take action.

More is to come on this topic; in the meantime, try to initiate empathy into your practice; see if it doesn't make a difference for the better! ☺



THE ART OF WAR FOR LAWYERS AND LAW OFFICE MANAGEMENT (PART 2) - FROM PAGE 3

After discrediting the company and its driver to the jury, the plaintiff's attorneys then went for the fight on the defendant's visuals. Just as the Romans figured out how to dodge the charging elephants and redirect them back into their enemy,

the plaintiff's attorney used the defendant's visuals against them showing the poor lighting, the lack of safety lights that commercial drivers are supposed to put out in case of accidents, and showed that the driver was indeed texting while driving his 18-wheeler.

At this point the plaintiff's had the enemy surrounded. They busted through the defendant's weak palisade, denying liability for the driver's actions and turned their major strengths against them. Something tells me Sun Tzu would have been very proud.

Sun Tzu wrote "[T]he true object of war is peace."

Similarly, the true object of litigation is justice and resolution. We fight tirelessly for our clients to bring peace of mind, resolution, and justice to them so that they may move on with their lives past the conflict which brought them to court in the first place. Sun Tzu's wisdom and legacy of strategy continues to be relevant today, on the battlefield and elsewhere. Luckily we as attorneys are able to draw from this wisdom and learn from his teachings. ☺





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It's frustrating to turn cases away, especially when you spend a ton on marketing. But it is also a bit of a gamble to take on a case that you may not have much experience with, especially ERISA cases.

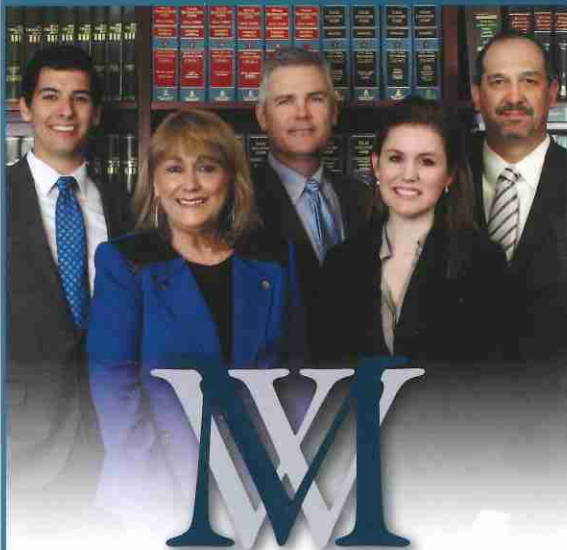
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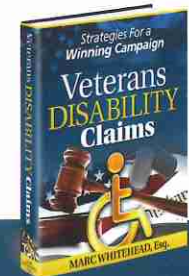
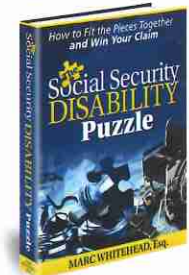
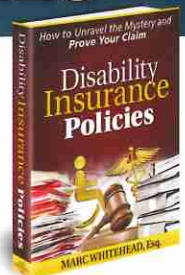
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