

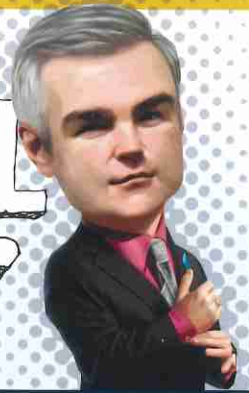
Mar/Apr 2019

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

Vol. 5

Issue: 02

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



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...to the latest edition of
The Successful Barrister!

In this issue we explore various topics like negotiation, leadership and even how to make your own kick-ass newsletter.

As always, we are always looking to enrich more people's lives and send them this esteemed publication.

Email me at marc@marcwhitehead.com if you have someone who you think would benefit from receiving our newsletter. ☺



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Rethinking Your Business PROCESSES

Virtually everything we do involves a process, whether it's filing a legal brief, signing up a new client, making payroll or going to trial. Even though they go on all around us, we tend not to think deeply about processes or even notice them.

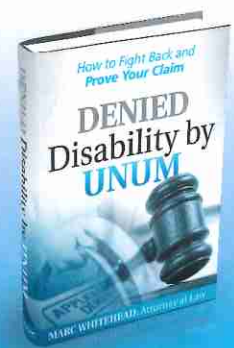
In law firms, however, finding ways to improve processes has become indispensable to success. Successful law firms use "process thinking" to determine what work really needs to get done and how to get the most of

their available time and resources. This article is a summary of ideas from Professor Thomas J. Goldsby, Ph.D. in his lecture, "*Critical Business Skills for Success*" (Found at thegreatcourses.com also available at Audible.com).

Let's look at how you can rethink your law practice by incorporating written and visual processes and process maps into practically everything you and your staff do.

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FEATURE BOOK



Call Us For a Free Copy of Marc's Latest Book!

PAGE 1 OF 8

THE VOICE OF THE CUSTOMER AND THE VOICE OF BUSINESS

There are two voices we should listen to when making any business decision: the voice of the client and the voice of the business.

The voice of the client tells us what clients are seeking in the way of service attributes and, more importantly, the outcomes they want to have fulfilled through the legal services they buy. Those outcomes, given a price the clients pay for them, render an assessment of value; therefore, value is defined as "quality given the price paid." In most instances, the client is seeking a solution to their problems or seeking to prevent future problems. Lawyers are problem solvers, this what we have to sell!

Outcomes speak to the question: Does the service experience satisfy-or better yet-delight the customer? To address outcomes, it's useful to take the time to listen to clients and understand their needs before engaging in a series of hit-and-miss "solutions" that might miss the mark!

The voice-of-the-customer concept reminds us the "right things" for a business to do should be in line with providing outcomes clients want and are willing to pay for. This last piece- the "paying for"- brings in the voice of the business.

This voice directs our attention to such needs as revenue, profitability, growth, image and stature, meaningful jobs for employees, and so on. In order for a business to survive and thrive, it must look after these needs. **It is vital to remember that first and foremost, your law firm is a business.**

Thus, the "right things" for the business to pursue are those that generate value in the eyes of customers and generate the business outcomes the organization needs.

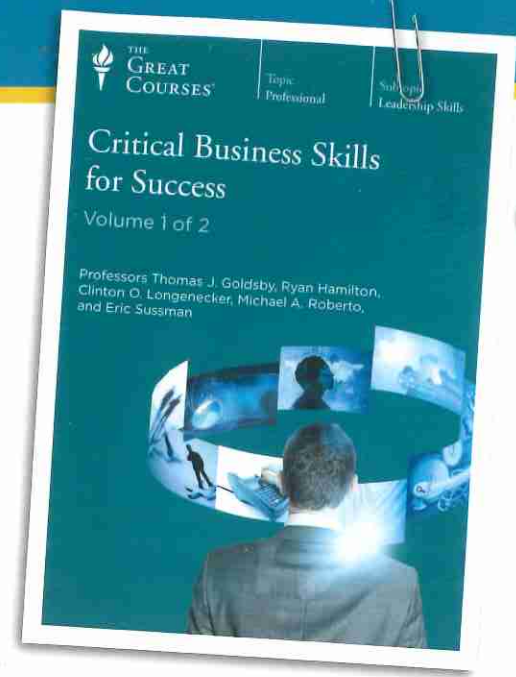
PROCESS MAPPING

Once you've figured out what outcomes to pursue- the "right things"-the next logical question is how to do these things "right"- that is, how to achieve efficiency and effectiveness in the work processes performed. The first step here is to understand the current state of your processes, starting with those that are in clear need of help.

The next step is to make the chosen process visual by capturing it in a process map. You can make this diagram using software or draw it out on a large sheet of paper or poster board.

It's helpful to get the various people involved in the process to help you devise the map. We can consider this in the context of litigating a client's claim. This

is not the only way to use a process in a law firm but will be familiar to most of our readers. Examples of items on our process map might be client intake, claim investigation, client medical management, settlement demands, filing the lawsuit, discovery, trial preparation and trial itself.



PROCESS TIME, WAIT TIME, AND CYCLE TIME

Once an agreement is reached on the map, it's a good time to reflect on the process as a whole. Ask whether any steps or even the whole process could be eliminated. If you determine the process remains essential, it's time to do a deeper analysis by populating the basic work steps with additional data, such as the amount of time required to complete each step (process time). You can also estimate the amount of time spent waiting within each step and between the various steps.

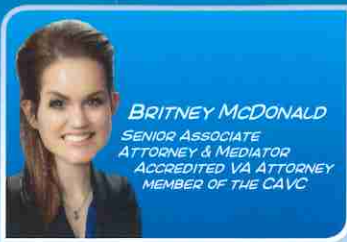
The sum of the process and wait times is the cycle time for the process-the total time elapsed from process initiation to conclusion.

A low level of time efficiency is common in both personal and business work processes. In fact, it's rare to find a measure of time efficiency greater than 10%. This speaks to the considerable slack time found in most processes. A process map helps to illuminate such wasted time and hopefully spur ideas on speeding the process up. For example, why does it take so damn long to get a demand letter out?

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"All you need in life is ignorance and confidence, and then success is sure"

- Mark Twain



BRITNEY McDONALD
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ATTORNEY & MEDIATOR
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MEMBER OF THE CAVC

Power Negotiating

(Part I of III)



In this season of setting goals, as an attorney who regularly has to negotiate with people I come across in my practice of law, as well as a homeowner, wife, and mother who regularly deals with neighbors, a toddler, and husband (*think anywhere from who has to deal with that smell coming from our 20-month-old to who is going to take my car into the dealership*) a goal I have set for myself recently is to improve my negotiating skills. So I borrowed a book from my husband—Roger Dawson’s “*Secrets of Power Negotiating*”—also in hopes that I can key into how he talks me into doing things I swore I would never do!

Lawyers must be able to analyze their clients’ positions, strengths and weaknesses, and use that knowledge to find a resolution with an opposing counsel, especially when attempting to avoid expensive and time-consuming litigation. How does our firm attempt to amicably resolve these types of issues? Through negotiation.

We use negotiations constantly in everyday life, often without even realizing it. Whether negotiating with a spouse over chores or with a toddler to finish dinner, we negotiate in order to obtain mutually desirable outcomes. Effective negotiations often result in outcomes that are beneficial for both parties and can facilitate an outcome

where both parties walk away feeling as they’ve won.

Negotiation is split into thirds with a beginning stage, middle stage, and final stage, with the end goal of a desirable agreement. This article will focus on my favorite suggestions from the beginning stage, where you set the tone and parameters with an opposing side. It is crucial to enter negotiations with a careful strategy with which you actually follow through.

POINT 1: Ask for more than you expect to get!

Through your analysis of the facts, you should have reached a value, that if offered, you would accept. If you don’t initially ask for more than that amount (within reason), you have no room to move and the discussion can get locked up if you are unable to “give up” anything. Another consideration is that if you ask for more, you might actually get it. So go ahead and ask your toddler to eat 5 bites of broccoli in hopes that they’ll eat 2.

POINT 2: Never say yes to the first offer from the other side.

This is more about how both sides perceive the deal than anything. If you or the other side accepts the very first offer, you will undoubtedly think that you could have done better. Additionally, you might start to think that something was wrong in your analysis or that your value of the situation may have been incorrect.

POINT 3: “Flinch” at proposals.

You always want to feign surprise at any offer from the other side so that even if you do accept it, the other side will perceive that you are reluctant to do

so. If you are happily accepting an offer, the opposing side may sense that they can get you to move even further.

POINT 4: Avoid confrontational negotiation.

Negotiate, don’t argue! You must keep the discussions non-confrontational by telling the opposing side that you understand their positions, but rather than telling them why they are wrong, explain that you have different views and provide foundation for those views.

POINT 5: Play the reluctant seller.

You never want to appear eager to settle in any negotiation, it will give the other side the upper hand if they know you are in dire need of a result. If you seem reluctant to a deal, it should cause the other side to “sweeten” their deal often before any real discussions have begun. It’s an effective negotiating technique and also one to watch out for if the other side is using it against you!

POINT 6: The “vise” technique.

Essentially, instead of a counter, you respond to an offer by saying “you’ll have to do better than that” and then waiting out a response. Here, you haven’t moved your number, but you’ve told the other party that they haven’t moved enough and should move further. You must avoid actually disclosing an actual number, while you continue to ask the other side for actual numbers.

The above techniques conclude what you want to consider in the early stages of negotiation; using these techniques should set you up for successful results. Next time, I will discuss how to keep the negotiations moving in your favor through the middle stage.

Good luck Counselors, parents, and friends! 😊



STOIC PHILOSOPHY & THE PRACTICE OF LAW

Stoicism is a philosophy brought about by the ancient Greeks and Romans. This philosophy has aged well and still has many lasting canons that can be applied to modern day, especially the practice of law.



ANTHONY VESSEL
SENIOR ASSOCIATE
ATTORNEY & MEDIATOR

This philosophy centers around detaching outside stimuli from your contentment or inner peace. Stoics practice focusing their energy solely on issues that are within their power or control and let everything

else stay out of their process. This is admittedly easier said than done, but just attempting to abide by these principles certainly helps give perspective and distance to the problems we face day in and day out. Here are some of my favorite quotes from the bad boys of Stoic Philosophy:

"It's time you realized that you have something in you more powerful and miraculous than the things that affect you and make you dance like a puppet."

– Marcus Aurelius

Just because you have all of these outside pressures forcing themselves upon your happy, positive spirit, doesn't mean you have to let them in. In fact, Stoic philosophy is saying exactly the opposite. If there was one line that summed up the philosophy succinctly, this is it for me.

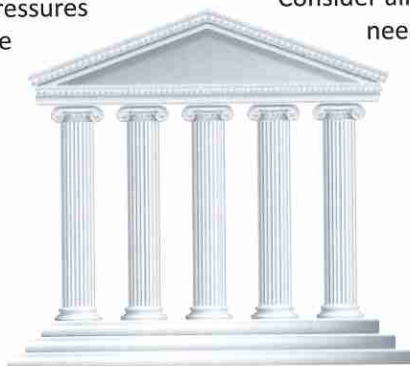
Apply this (as much as possible) to the practice of law (e.g. rude opposing counsel, cranky judges, difficult clients, etc.) and you will feel more like a complete person at the end of the day, rather than a drawn and quartered one.

"How does it help...to make troubles heavier by bemoaning them?" – Seneca

I have a close friend and co-worker who says, "why are you going around borrowing trouble?" I didn't understand the phrase the first time she said it, but "borrowing trouble" is essentially anxious, unnecessary worrying.

She may be a stoic and not know it. I may be Dr. Seuss with that ridiculous excuse (for a rhyming scheme).

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Either way, Seneca is right. Worrying about a problem does nothing to help, and a lot to hurt the situation. A stoic would say approach the problem with detached, cold, objective reasoning, instead of fear or anxiety.

"Choose not to be harmed – and you won't feel harmed. Don't feel harmed – and you haven't been." – Marcus Aurelius

This quote stood out to me because it's so applicable to the practice of law. You have judges barking at you, opposing counsel doing everything they can to disrupt your work flow, and some clients who trash your carefully reasoned advice. Despite all these potential disturbances to your mission and sanity, with the right mindset, nothing can penetrate your contentment forcefield... or at least that's what the old Roman guys say.

"I begin to speak only when I'm certain what I'll say isn't better left unsaid." – Cato

Could you image a world where the only information we received was pertinent, important, and relevant to us?

Consider all the robocalls, invasive advertising, and just needless contact we get all day, every day. I sit

back and think: I wish more people would read the classics. This not only benefits the recipient though; being careful with your words can really help you avoid unnecessary conflict and gives you a more eager audience for when you do speak. Think about Honest Abe's angry letter in the desk rule and apply that to spoken word as well.

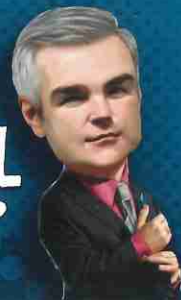
"Never interrupt your enemy when he is making a mistake."

– Napoleon Bonaparte

So give it a whirl! Get out there and be Stoic! I, however, won't worry about whether or not you do because that is outside of my control. ☺

HOW to PRODUCE a NEWSLETTER

THAT IS (ALMOST) AS
GOOD AS THE...
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Barrister**



**NATALIE
HIGHTOWER**
MARKETING & INTAKE
DIRECTOR

Evidently, we are doing something right. Every time we publish the Barrister, we usually receive a comment or compliment. Some marvel at what they perceive to be a Herculean effort to put it together,

others question how they would even start to publish their own newsletter.

Here are a few simple steps to get you started on your own newsletter.

#1 DECIDE ON YOUR AUDIENCE:

Do you want to talk to your current clients? Other attorneys in your same practice area? Another group of individuals who would benefit from hearing from you on the reg?

We publish two separate newsletters, one that goes to our clients with lots of fluff pieces and articles about our employees and Marc's family. Then we do an about-face and talk to you lovely people about all things marketing and management.

#2 DECIDE ON GENERAL CONTENT, TONE, THEMES:

Our clients are generally going through a pretty rough time in their lives. Rather than talk about the Social Security Administration, we want to show them the human side of the team who works so hard on their cases and pepper in some fun, light-hearted topics for good measure.



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Even though y'all are mostly lawyers, I'm sure reading about the latest rulings from the Fifth Circuit isn't exactly a reason to rip open the Barrister envelope when it arrives in the mail. We work hard to curate content that we think you will find interesting, useful and present it in a way you will enjoy consuming.

#3 DESIGNATE SOMEONE TO SPEARHEAD THE EFFORT:

If you're the managing partner of your firm, you shouldn't be project managing your newsletter. If you're not lucky enough to have Natalie Hightower on your payroll, you can outsource this to a third party who will do a bang-up job on your newsletter.

I meet with the attorneys before each issue to discuss the theme and topics of each article and set deadlines. Then the deadline comes and goes and I relentlessly hound 3 of the 4 lawyers to get me their articles. I also source imagery, quotes and cartoons, copyedit everyone's articles, decide on the back page feature, pull an updated mailing list, put it all in a Dropbox folder and send it off to Victor at The VAULT (see their ad on this page!) who does his wizardry and puts it all together.

There are third parties who will do literally everything I just listed for you (hounding included), if you don't have someone in-house to do it.

That's mostly it. Just remember – I always want to be the recipient of your newsletter. Send it to me, not Marc. ☺



The ONE YEAR Advantage Plan + The 4dx Model

AKA Creating Some Kickass Team Goals



Back in January, our Fearless Leader (Marc) had each team sit down and utilize some planning tools he had learned from

Atticus, a group who provides practice advisors for attorneys (atticusonline.com). Specifically, Marc taught us about The One Year Advantage Plan and the 4dx Model, and helped us use these tools to create a plan for each team for the upcoming year. Creating this plan helped us areas in which we excelled, areas in which we struggled, and upcoming obstacles, among other things. Each team spent about 2-3 hours brainstorming and coming up with items to add to their plan. By the end, we had clear action items to work on throughout the year and had even identified a few problems within the team's processes that needed to be addressed.

Overall, it was an incredibly enlightening exercise. Here are the basics...

Step 1: Imagine yourself a year from now. Looking back at the past year, answer these next few questions:

1. What obstacles did you overcome? Name 6
2. What opportunities did you seize? Name 6
3. What things are you still doing right? Name 6

Discuss all answers to the above three questions as a team and pick the top 3 answers to each.

Step 2: With the Above Answers in Mind, Create Your Team's WIGS (Wildly Important Goals).

These are goals for your team that, by accomplishing these goals, your team becomes more effective in certain areas of their jobs. Examples include, improving customer service, better managing our stress levels, or simply winning more cases.



Step 3: Identify the Leading Indicators of Each WIG. Create Your Team's WIGS (Wildly Important Goals).

For each WIG, there are leading indicators and lagging indicators. Leading indicators are what cause you to reach a goal, and lagging are the effect when you reach the goal. For example, if the goal is to lose weight, the leading indicator (what's going to cause you to reach your goal) could be the number of times you exercised that month, whereas the lagging indicator is pounds lost. A better business example would be if your WIG is to improve customer service, a leading indicator could be the number of training sessions your team attends to teach them how to improve their customer service, whereas the lagging indicators could be less upset client calls, or an increase in favorable reviews.

Put simply, the leading indicators are going to be things your team actively does throughout the year in efforts to reach their goals.

Step 4: Track Your Leading Indicators.

Once we know what actions we need to take to reach our goals, tracking these actions in a very visible way can help motivation and accountability. For example, our team has a series of whiteboards where we track our leading indicators. Each time certain tasks are done timely, they go on the board in green, whereas when they are completed late they go on the board in red. This way, each team can see what they are accomplishing each month, and if they are falling behind on their goals.

Finally: Review and Repeat at the End of the Year.

At the end of the year, review your goals and see how you did. Adjust your WIGs, and leading indicators according to how your team did last year and what your goals are for the next year. This is a great way to celebrate team successes, and find new goals to set to keep your team moving onward and upward. ☺

Rethinking Your Business PROCESSES

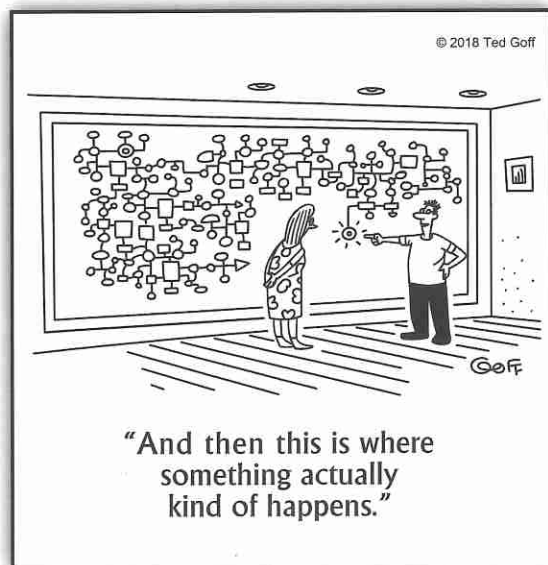
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LABELING WORK STEPS

To help in identifying which steps to eliminate from a process, "Lean Thinking" recommends assigning a subjective label to each work step. That subjective label is whether or not the step is a value-added one. In other words, does the step contribute defensible value to the process?

If the elimination of a step would diminish the value of the process outcome in any way, it should be labeled "value-added" and should remain intact in the process.

In fact, you might explore ways in which you can add even more value through such a step. But if you can eliminate a step without interfering with the process, it should be labeled "non-value added." For instance, should I take the time to draft a demand letter and wait for a response versus just filing the lawsuit early on. It depends on the case and your practice model, I would think.



Note that some steps in the process may be non-value added but still necessary, such as observing laws and safety measures. These steps should be labeled "essential (or necessary) non-value added." Still, you should look for ways to reduce the time invested in these work steps. Adding the "value-added" and "non-value-added" labels converts the process map to a value stream map. This in-depth assessment of the current state of the process allows you to identify trouble spots or unnecessary steps in the process. You might also go a step further and create a future state map that adjusts the process to fit your vision. If the outcomes are commensurate with or exceed the value of the time, effort, and resources invested, then you can redefine how the work should be conducted in the future.

This process mapping business takes a bit of practice, so I am going to issue a challenge to you to create five (yes, I said FIVE) different process maps. Nothing fancy, a yellow pad will do! Once you have created all five, please give me your feedback at marc@marcwhitehead.com. **Who knows, there may be a prize in it for you.** ☺

"There's no secret about success. Did you ever know a successful man who didn't tell you about it?"

– Kim Hubbard



Lawyers Need a Laugh!

Becoming a lawyer is no easy feat. I came across an article about famous people who graduated from law school and some of them were pretty surprising.

The following people were the most surprising. **BUT** - we have a prize for the first person to email me at Marc@marcwhitehead.com and tell me which person on this list is actually a law school dropout. 😊



Who is the law school



DROPOUT?

- | | |
|--|--|
| <input type="radio"/> Fidel Castro | <input type="radio"/> Michael Avenatti |
| <input type="radio"/> Gerard Butler | <input type="radio"/> Steve Young |
| <input type="radio"/> John Grisham | <input type="radio"/> Julio Iglesias |
| <input type="radio"/> Theodore Roosevelt | <input type="radio"/> Nelson Mandela |
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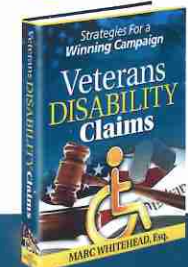
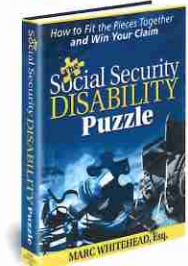
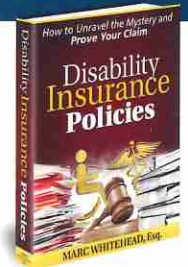
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