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

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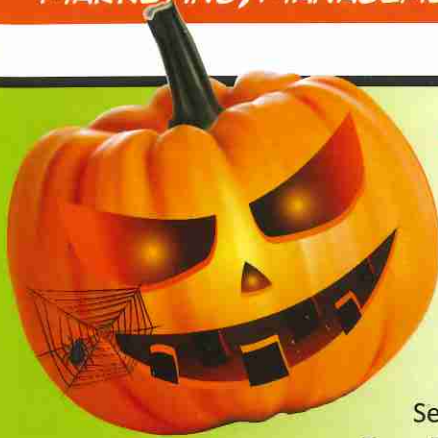
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TRICK or TREAT!!

Halloween is always a fun time of year, and I can think of no better treat than referrals. Lots and lots of referrals. If your client, friend or family member is disabled and can no longer work, they may be eligible for compensation from Social Security Disability Insurance, or if they have a Long-Term Disability insurance policy through their employer (or privately). Or maybe you know someone who have filed

claims with either entity and has been denied their benefits. Perhaps you know a veteran who is looking to appeal their ratings decision.

If this applies to anyone you know, send them my way! Referral fees are always paid in appropriate cases. It is really easy to refer a case to me as well - email marc@marcwhitehead.com or visit DisabilityDenials.com/referring-attorneys ☺

INSIDE THIS ISSUE

- *A Factory of One - Applying Lean Thinking to Your Work*..... pg. 1
- *Power Negotiating - Part II of III*..... pg. 3
- *Millennial Lawyer Starter Pack* pg. 4
- *Managing Across Generations* pg. 5
- *Dealing with A-Hole Opposing Counsel*.... pg. 6
- *Lawyers Need A Laugh!*... pg. 8



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A FACTORY of ONE

Applying Lean Thinking to Your Work

Lawyers tend to think what they do is "different" and that standard business processes won't work when running a law firm. I argue this concept is dead wrong.

What are we as lawyers? We are simply knowledge workers in a service industry, no different than a doctor, accountant or your friendly customer service representative at your cable company.

We use our brains to solve or prevent problems, plain and simple.

In this article I will give you some of the basic "Lean" principles that can be used in your law firm, as laid out in "A Factory of One" by Daniel Markovitz.



CONTINUES ON PAGE 2

SAVE THE DATE

MASTERING YOUR LAW PRACTICE

The Roadmap to
Profitability and Success

March 5th, 2020

Houston Marriott West
Loop Hotel by the Galleria

PAGE
1 OF 8

WHAT IS LEAN THINKING?

The term "Lean" was coined to describe Toyota's business during the late 1980s by a research team headed by Jim Womack, Ph.D., at MIT's International Motor Vehicle Program. A popular misconception is that lean is suited only for manufacturing. Not true. Lean applies in every business and every process. It is not a tactic or a cost reduction program, but a way of thinking and acting for an entire organization.

The core idea of Lean is to maximize customer value while minimizing waste. Simply, lean means creating more value for customers with fewer resources.

A lean organization understands customer value and focuses its key processes to continuously increase it. The ultimate goal is to provide perfect value to the customer through a perfect value creation process that has zero waste.

WHAT IS YOUR JOB?

What aspect of your daily work creates real value for your clients? From the perspective of Lean, there are three kinds of activities:

1. Value added work,
2. Non-value added but necessary work, and
3. Waste.

For an activity to be considered value added, it must meet three criteria:

1. The customer must be willing to pay for the activity.
2. The activity must transform the product or service in some way.
3. The activity must be done correctly the first time.

The starting point for defining value is what your client has asked you for. Your client may be a paying client, a colleague, your boss, or even yourself.

The value of the work comprises the actions that move your work closer to what the client needs. Non-value added work, or incidental work, may not move the value forward but is essential to your ability to do value added work.

Finally, waste is just that. Waste. It is the difference between motion and action.

For a lawyer, value added activity could be drafting the claim, non-value added activity could be calculating billable hours, and waste would be correcting errors made by your associates.

You should always be mindful not to accelerate activities that look productive but don't actually provide value for your client.

WHAT THE HELL IS WORKING, ANYWAY?

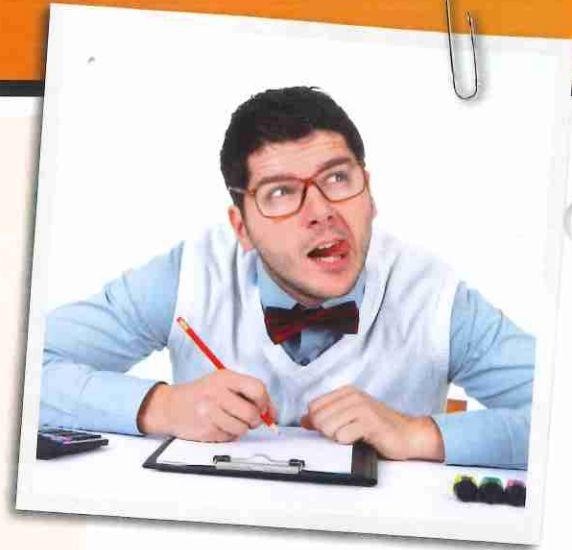
Distinguish between your job and your work. Your work is your real value creating activities. To identify your work, you need to identify the various clients you serve in the various value streams in which you operate.

That's the first step in determining what value added work is for you. Your biggest client, most likely, is yourself: you are the beneficiary of your marketing activities, your bookkeeping and the classes you take. Focusing on the value of the client, even when you are the client, frees you up to improve both what you do and how you do it.



"Good marketing makes the company look smart. Great marketing makes the customer feel smart."

- Joe Chernov



SPOTTING VALUE, SPOTTING WASTE INTRODUCING THE 5S'S

Knowledge workers face a daunting task identifying the real work. The job inputs arrive in a variety of formats. Emails, electronic document attachments, pieces of paper, voicemail, conversations in office, hallway, or break room-and much of it is intangible. Knowledge workers struggled to keep value visible. He gets buried in waste. This is where the Lean tool of 5S come in.

WHAT IS 5S INFORMATION?

Sort. Throw out obsolete and useless items. Sort remaining items by frequency of use and then making decisions about each individual piece of information that has accumulated over time. (*emails, files, reports, journals, presentations, links to websites, and so on*)

Straighten or set in order. Arrange tools in a manner that promotes smooth workflow: a place for everything, and everything in its place. This ensures that critical information can be found quickly and easily.

Shine or sweep. Keep the workplace clean, which includes the concept of preventative and corrective maintenance.

CONTINUES ON PAGE 7



Power Negotiating

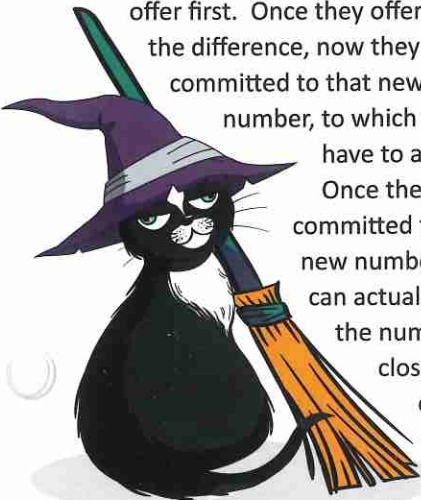
(Part II of III)



I may have taken a short hiatus from legal negotiating to focus on the family kind, but I'm finally back — there's so much more to discuss and learn from Roger Dawson's Power Negotiating! If you recall, my last piece dealt with how to effectively begin a negotiation; now I shift the focus to discuss how to continue those negotiations in the most effective and persuasive manner possible. It's one thing to begin a negotiation the right way, but how can you progress the negotiations along, while still "moving the needle in your favor?"

POINT 1: Never Offer to Split the Difference.

All too often negotiations progress to a certain point where the parties are relatively close in numbers and, without fail, it is very likely that one attorney will offer to "split the difference" as an easy way to come to agreement. It makes sense, both sides give up an equal amount and a deal is reached. However, it's not always the best course of action to take and there are some ways to make this more beneficial for your client. Specifically, where possible,



let your opposing counsel make this offer first. Once they offer to split the difference, now they have committed to that new, middle number, to which you don't have to accept. Once they've committed to that new number, you can actually move the numbers closer to your client's final offer.

Between \$115,000 and \$145,000? You don't have to reach an agreement at \$130,000 if opposing offers it; try to split the difference between \$130,000 and your last counter of \$145,000. In addition, by getting them to make the offer, you can reluctantly accept, which will make the other side feel like they've won the negotiation.

POINT 2: What to do when parties simply don't agree.

Roger Dawson talks about different things that can occur in negotiations when the two parties just simply can't agree on certain terms. However, there is often a way past the issue and rarely does it result in a deadlock where the parties give up on the negotiation and end all communications. One way to get around this is to offer to put the problematic issue aside and continue to negotiate other terms. Then, once you return to the issue, the rest of the deal will be much closer to completion and both sides will now be more likely to work through the issue. You never want to boil a negotiation down to one single issue, because that doesn't give either side as much with which to work. If the issue is truly a large one and the parties are having trouble moving forward, you may need to make a major change by adding or subtracting something so that the parties can continue to move forward. If the parties reach a final deadlock and simply cannot continue, you may need to bring in a neutral third



party to aid in working out difficult terms—think, a friendly mediator!

POINT 3: If you give something, get something in return!

If the other side asks for something, make sure you also ask for something back from them. If you don't, the other side may continue to ask for additional concessions because they will think they can get them. If you ask for something in return, you make their concession mean something and the other side will know if they ask for anything else, they'd better expect to give something else up as well. Roger Dawson uses the phrase "if we can do that for you, what can you do for us?" He also suggests not asking for something specific so as not to come off confrontational. Instead by leaving the request open ended, you keep the negotiation cordial and might get something in return.



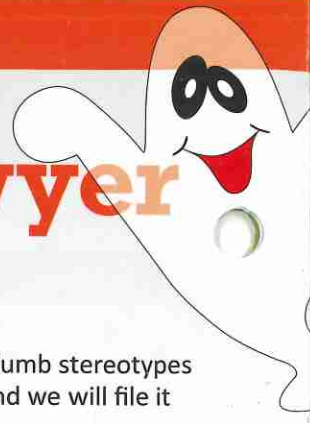
These above points are essential in effective negotiating throughout the three stages: where you start, how you continue the talks and eventually how you end the negotiation in agreement can all effect the end result. You want to constantly be setting up the discussions so that the negotiations will move in your favor.

Look forward to the next and final article, where I will discuss how to handle the end of a negotiation and reach an agreement where both parties feel they have performed well and are happy with the result. ☺



ANTHONY VESSEL
SENIOR ASSOCIATE
ATTORNEY & MEDIATOR

Millennial Lawyer Starter Pack

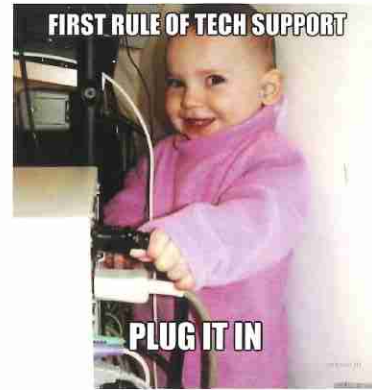


As an elder Millennial, and given the nature of this publication, I aim to make fun of this generation and the dumb stereotypes assigned to us by other generations. If this offends you or you need a safe space, send a letter to the editor and we will file it under "Things Incredibly Important and Urgent".

1 Obscure local coffee beverage or paraphernalia



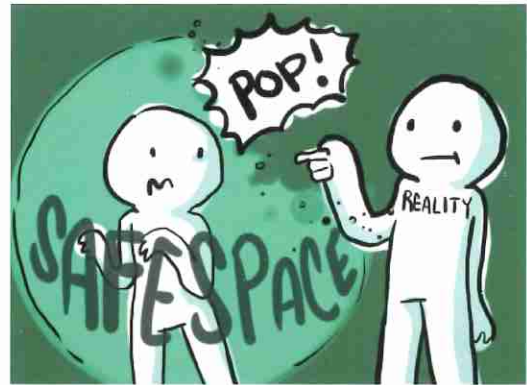
4 Office Tech Support Triage



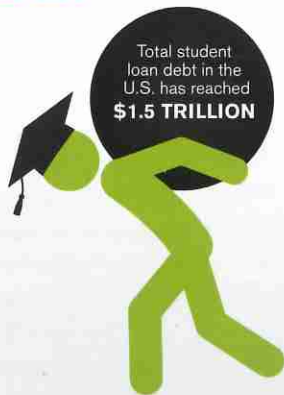
2 Mobile Technology Proficiency (beyond a yellow legal pad)



5 Safe Space (mainly for the Baby Boomers we work circles around and vanquish daily)



3 Mound of Student Loan Debt



"You cannot live without the lawyers, and certainly you cannot die without them"

- Joseph H. Choate



NATALIE
HIGHTOWER
MARKETING & INTAKE
DIRECTOR

MANAGING ACROSS GENERATIONS



After being in management for some years, it always amazes me how some people react to direction, constructive criticism, and just how they receive and interpret communication. There are tons of articles and chatter in the mainstream media about managing millennials, but you old people are just as *(if not more)* difficult to manage as those in my own generation.

Recognizing these differences and adjusting ones communication styles will help alleviate conflict and hopefully result in a more harmonious workplace.

Maintaining Appropriate Relationships

When I first started at Marc Whitehead, I had a direct report who acted in a very motherly fashion towards me. While this didn't really sit well with me, I didn't say anything to her to change her behavior because I felt she meant well and it wasn't doing any harm.

Fast forward to when this person started doing many things that merited corrections and difficult conversations, what was already an uncomfortable and somewhat painful situation was made even more difficult. She viewed me as more of a daughter rather than her supervisor with rules and policies to enforce.

While maybe the outcome or her reactions to our feedback wouldn't have changed, perhaps it would have been easier if I had shut down the "motherly" attitude from the beginning and maintained that appropriate direct report/supervisor relationship.

Technology Raised Me

While I am an older millennial and remember the inception of Google and dial up internet, I was also introduced to technology at a very young age. Just as an example, I taught myself to code websites in middle school and my father

taught me how to make a Powerpoint presentation in the 3rd grade. I spent far too long carefully deciding which style of WordArt to put in my presentations.

I am responsible for most of the technology set-up at our firm and sometimes it can be frustrating to have to explain the same thing to the same person multiple times, or for them to ask me to fix something but they can't properly communicate with what exactly they need help doing.

Older generations weren't raised on a rapidly changing technological landscape, and while we can invest in new technologies to make our processes faster and more efficient, it certainly doesn't feel that way for older people used to doing their daily work in a specific way in a specific program. Recognizing who those people are and scheduling in additional time to patiently work with them when making any sort of technology change will get the full firm up to speed faster and more efficiently.

Life Happens

My life can be plagued by child care problems or those pesky fevers that prevent my child from going to school. Older employees have sick parents to care for, or unfortunately their own health problems.

My point is, everyone has something going on and unfortunately people begrudge others for the accommodations made on their behalf. Teams should recognize we are all in different seasons in life and work together to ensure the job gets done regardless of who is doing what and from where.

Everyone is going to need grace and understanding at some point in their career. ☺



PAGE
5 OF 8

DEALING WITH A-HOLE OPPOSING COUNSEL



MADISON
DONALDSON
ASSOCIATE ATTORNEY

We all have them, and no one likes dealing with them... **A-hole opposing counsel.** This was a particularly hard lesson for me to learn as a baby attorney, that not all

of us attorneys are nice and civil to each other. I recently encountered a particularly low-down, conniving O.C. who served as the inspiration for this particular article.

Here are a few things I learned and everyone should know:

1. There's a reason they're mad and doing sneaky shit. If they had a slam dunk case or you were doing a terrible job, they probably wouldn't have to resort to such chicanery. Try to take it as a compliment, it'll really help you reframe your thoughts and attitude.

2. Do not engage in the pettiness, **ESPECIALLY** in documents submitted to the court. The O.C. in my last case

took several below-the-belt shots at me personally in the responses they

submitted to my motions. You can bet your sweet ass I wanted to retaliate in my reply, but you know what they say about wrestling a pig in the mud...

Also, you run the risk of pissing

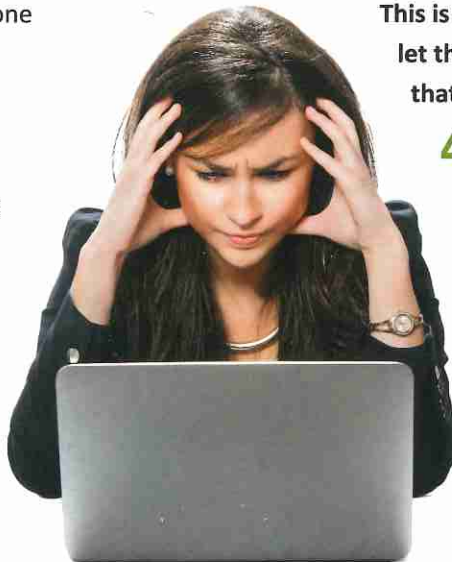
off the judge or painting yourself with the same brush as the O.C. in the judge's eyes.

3. Do not take any of the nastiness at face value. When I first started negotiating and trying to settle my own docket of cases, I would have O.C.s telling me how bad my cases were and to take their paltry settlement offers and say thanks. I would believe what they were saying and would think I was a bad attorney for believing in my client and their case. This is bonkers because O.C.s are full of it. Do not let these people shake your confidence because that's exactly what they want.

4. Finally, take the high road. If you have something you're itching to say, write it down then burn that shit. Do not fire off an email bomb containing your rage, you will most likely regret it. My firm recently heard Mr. Jim Perdue, Jr. address a group of young attorneys proffering a similar warning and reminding everyone in what a small world we work. Attorneys run in smaller circles than you think and chances are very high you will encounter or have to again work with that O.C. you just dressed down in your email. Save yourself some grief and don't send that email.

In sum, we all have to figure out how to work with these a-holes because they're not going anywhere. Just find what works for you, stick to it, and **DELETE THAT MEAN EMAIL.**

On a completely unrelated note, I've started a side business which installs punching bags in conference rooms, so if you're interested, you know where to find me. ☺



PAGE
6 OF 8

Regular attention to information coming into your office ensures that you'll know if projects are in danger of falling behind schedule and enables you to act before the situation becomes critical. This also ties into the notion of visual management, the ability to see quickly and easily, any abnormalities in the status of your process.

Standardize or systematize. Develop a consistently organized workspace. This demands the development of a precise routine for the most easily controlled element in a chaotic environment: cleaning and organizing a workspace. Having a system for processing all the information in your office means that you'll get through the activity faster and with a little risk of missing something important. The deeper value is that it acts as a springboard for the development of standard work for other areas of your job.

Sustain-have a system for ongoing support and maintenance of the first four elements.

5S for knowledge workers means 5S for the information you manage, not where you hang your coat. One of the main benefits of 5S is the surfacing of abnormalities, waste and mistakes.



IMPROVING FLOW & ELIMINATING WASTE

When considering Flow in the workplace, all we are doing is looking at the timeline, from the moment when the customer gives us an order to the point when we click the cash. And we are reducing the timeline by reducing the non-value added waste.

In a Flow system, work is done on a product continuously from start to finish, with each step making just what is needed by the next step in the process.

The benefit of flow is that tasks almost always can be



accomplished more efficiently and accurately when the product is worked on continuously. Flow eliminates non-value added steps in the process and aligns activities around value for the client.

"Delegating work works, provided the one delegating works, too."

- Robert Half

Improving flow enables you to deliver higher quality work more frequently. Improved flow creates more value for your customer and has a profound psychological benefit for the worker. The key to reduce the variability and complexity of your job by improving the following types of task:

1. Daily work processes;
2. Routine, repetitive work;
3. Creative work that can be transformed into retention routine work.

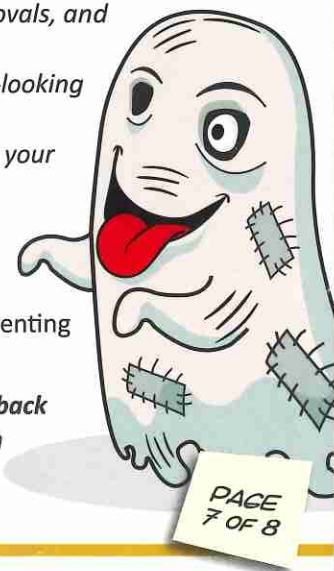
7 KINDS OF WASTE

"Eliminating waste is not the problem. Identifying it is."
- Taiichi Ohno. Waste is a Flow killer. Identifying waste in your processes and systems is key to improve Flow. Waste can be categorized in 7 different ways:

1. Correction or defects (e.g. errors in documents)
2. Conveyance (e.g. handoffs, movement of documents-even electronically)
3. Overproduction (e.g. doing work not requested, extra features)
4. Waiting (e.g. waiting for the next step)
5. Processing (e.g. extra steps, approvals, and sign offs)
6. Motion (e.g. unnecessary motion-looking for things, making copies)
7. Inventory (e.g. backlog of work-in your inbox, in piles on the floors)

Hopefully this article has given you some food for thought in identifying waste in your productivity that is preventing you from achieving your goals.

If you'll excuse me, I now need to get back to my value added work - at the ninth hole of the Golf Club of Houston. ☺



Lawyers Need a Laugh!



I'M HERE FOR THE BOOS

Halloween party coming up?
Here are a few boo-zy recipes sure to be a hit with your crowd.



Witch, Please

Combine 1½ oz. vodka, ½ tsp. matcha, 2 oz. pineapple juice, ½ oz. lime juice, and ½ oz. agave syrup into a shaker. Shake and serve over ice.

Fright White

Add 1 part Malibu rum 1 part coconut cream, and 1½ parts apple juice to a strainer and shake with ice. Pour into a martini glass. Garnish with white cotton candy.



Bat-Tito Bite

In a punch bowl, combine 1 c. Tito's Handmade Vodka, 1 c. pomegranate juice, 1¾ c. blood orange soda, ¾ c. sparkling mineral water, ½ T. simple syrup, and 2 squeezed limes. Serve over ice. ☺



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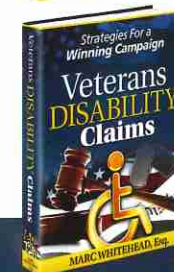
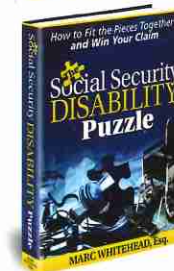
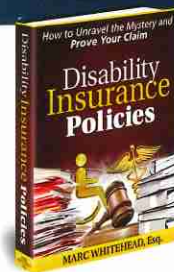
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PAGE 8 OF 8