

That's deep ...

Balancing your "thinking work" with lawyering's responsive requirements


Cooper

By Miles B. Cooper

The lawyer focused on the computer screen, considering which direction to go with the mediation brief. There was a knock on the office door – the receptionist had a quick question. The lawyer answered it, and then attempted to go back to the brief. A text came in. The lawyer pulled out the phone, answered the text, and in the process of answering the text, decided to address a few quick items. Ten minutes later, the phone went away. As the lawyer went back to the brief, there was another knock on the door. A paralegal with a question. The lawyer answered the question and went back to the brief. From the time the lawyer had started, a half hour had gone by with no progress on the brief.

I exist to serve

Plaintiffs' lawyers wear many hats but one cannot forget we are in the service industry. Before we fight tooth and nail with opposing counsel, we need cases to fight over. That means clients. And clients, particularly potential clients, need to be served in a timely fashion. And if one cannot do so right away, one needs a way to explain why, and when one will respond. The same is true with adjusters and defense counsel. Love them or hate them, they control the purse strings up until the moment a case gets handed to a jury. Ignore them at your peril.

I exist to think

Being responsive is important – it lands cases and moves them along. But winning cases comes through deep work. This is not my phrase – it is the title of a book by Cal Newport, a computer science professor who writes about focusing in today's distracted world. Newport argues that for most professionals, the majority of their success is the result of deep focus, but that most of us spend our days answering emails. Writing a brief, preparing for a deposition or trial, brainstorming a case – that's deep work. Answering texts and emptying the email inbox is shallow. The latter might feel productive – "I knocked my inbox back from 40 emails to 15 today!" – but doesn't produce anything. For many lawyers, the best time-to-revenue ratio is writing and editing others' writing. Mediation briefs and demand packages, well articulated, ultimately generate settlements or the underpinnings for successful trial presentations. The thing one generally has the least time for? Writing and editing.

So does one hole up, ignore emails, and focus 24 hours a day? No. People have questions. Ignoring them will result in long-term consequences. Build a protective frame for deep work while making sure critical questions get addressed. This requires different strategies depending on whether one has assistance or whether one is a true solo practitioner.

The courtesy of your reply is requested

The best way to be responsive without compulsively checking email, voicemail, and text messages is with competent staff, typically an assistant or receptionist. In our office, all my calls are routed to an assistant for primary triage. She also monitors my email and can respond. The assistant disposes of roughly sixty percent of these inquires without requiring my attention. This greatly reduces interruptions. Interruptions are the enemy of our deep thinking work. It typically takes the brain anywhere from two to ten minutes to re-engage in deep work after an interruption. If you have any doubt, try opposing summary judgment while taking care of a five-year-old.

For those of us who manage people, having times where the office door remains open is essential. But so is closed door time, the Do Not Disturb time. Stress the importance of Do Not Disturb time to one's co-workers to craft an environment where one can produce deep thinking product. But make sure they still have access to you at points so they can get their jobs done too.

If one doesn't have staff, one won't get staff interruptions. But this situation creates a different problem: balancing responsiveness against deep work. Some people find success with once-an-hour check-ins. Set a timer for one hour and work solidly during that time. Then use the break to get up, use the restroom and check email/text/phone (after washing hands, of course). Triage the emails/texts/calls – potential clients, the Court, and immediate time-sensitive bombs get attention. Everything else gets pushed to an hour at the end of the day. Use that end-of-day time to do the shallow work – responding to non-critical questions.

Outro

Back to our lawyer and the lawyer's brief. The lawyer prepared a small sign. The lawyer told the office that when the sign was on the door, and the door was shut, that the lawyer was focusing on a project. Unless it is a real emergency – and they went over what qualified – wait until the lawyer emerged to ask questions. The lawyer went back to the brief. It was amazing how quickly things came together.

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