



Sole Practitioner and Small Firm Section

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TOOLS AT YOUR FINGERTIPS: USING iPADS, TABLETS, AND APPS TO INCREASE PRODUCTIVITY AND GAIN AN EDGE IN THE COURTROOM¹

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On January 27, 2010, a lanky Steve Jobs strode across the stage at Yerba Buena Center for the Arts in San Francisco wearing his signature “dad jeans” and black turtleneck. Jobs had an announcement that would turn the computer world on its head. “We want to kick off 2010 by introducing a truly magical and revolutionary product,” Jobs began. The product he was referring to was the iPad, the now-ubiquitous tablet computer that can shoot video, take photos, play music, and perform Internet functions such as web browsing and emailing.

The brilliance of the iPad, was not just its design and function. Jobs created a device that provided a platform for programmers to create software applications, known as “apps,” for every imaginable purpose, ranging from the pure entertainment variety, for example, “Angry Birds,” to high-level, enterprise business tasks. It was just a matter of time before apps began appearing that promised to help lawyers more effectively practice law and present their cases at trial.

I. Why Use an iPad at Trial?

The primary benefit I have found when using an iPad in trial is the ability to tell a clearer, more compelling story to the jury. As many commentators have noted, a trial is a competition among stories and the side that tells the story that most closely aligns with the jurors’ values and belief systems will ultimately prevail. Effective storytelling is the key to success at trial. The iPad is a powerful tool to help tell—and show—the jury a powerful story.

Before diving in and talking about some of the amazing apps that are available, we should first explore what our goals are at trial. Win the case and get a just verdict for the client. That is the ultimate goal, of course, but what are our specific trial goals? At its core, a trial is a competition among stories. We tell one story to the jury, and the defense tells a different one. Both sides hope their stories resonate and connect with the jury and lead the jury to a desired outcome.

¹ This paper was first presented at AAJ’s (formerly the Association of Trial Lawyers of America (ATLA®)) *Winter Convention*, Boca Raton, FL, Feb. 2016.

Experienced trial lawyers realize, however, they are not telling the client's story, instead they are telling the jury's story through the prism of the client. Stated differently, jurors don't generally care deeply about the plaintiff, at least not initially, but they do care about themselves and their families. This is why voir dire is essential because it helps identify jurors' stories and life experiences that you can take and use in your case to help the jury see the common stories and life experiences of your client. The story is everything.

There has been tremendous scholarly work exploring how humans used story structure throughout history. From the time we are infants, we are all hard-wired to receive and understand information in the story model. We must bring this understanding to bear at trial and present our cases in a narrative story format. This is true in jury trials, motion practice, and all other forms of trial work. Keeping this "story centered" approach in mind, I have developed a litmus test for iPad apps I use at trial: Does the app help tell the story? What apps help tell the story at trial?

II. The Best Pre-Trial Apps

Luck is what happens when preparation meets opportunity.

—Seneca

1. TranscriptPad

One of the most useful apps available is TranscriptPad by LitSoftware, Inc. TranscriptPad allows you to import all of your deposition transcripts and read and annotate them electronically. Gone are the days of the highlighted, dog-eared deposition transcripts bristling with yellow sticky notes. Instead, TranscriptPad allows you to electronically annotate your depositions using custom issue codes which you determine, for example, "contributory negligence" or "apportionment," and associate them with specific text.

Verizon

9:12 AM

57%

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Select

BEGOVIC, MIRZA 4/4/14 VOL 1

047 / 160

Q Search BEGOVIC, MIRZA 4/4/14 VOL 1

Background

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Bubble Board

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Cross Exam

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Designations

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Floor Mat

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Incident

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Incident Report

Edit

Key Facts

Edit

Maffatt

Edit

Policies And Procedures

Edit

Spoliation Motion

Edit

Superior Knowledge

Edit

Sweep Logs

Edit

Sweep Policy

Edit

02 from.

03 All right. So you believe Mr. Residovic

04 was the one who last stocked this ice cooler leading up

05 to Ms. Tschirhart's fall?

06 A. He could have been. He's -- the regular

07 schedule is from 7:00 until 5:00.

08 Q. So he was on duty at that time?

09 A. Correct.

10 Q. And since the cooler was about half empty,

11 you expect it would have been stocked at some point

12 during his shift?

13 A. Should have been. But during that time,

14 that November of '11, you don't sell that much ice so I

15 can't say if it should have been, could have been.

16 Q. Well, did you ask him when he last stocked

17 it up?

18 A. No, I did not.

19 Q. Did you ever talk to him about the

20 incident?

21 A. No, I did not.

22 Q. Is there anybody else who would have loaded

23 up this ice cooler besides Mr. Residovic?

24 A. It could have been any service clerk or any

25 cashier or even one of us so . . .

048:01 Q. Well, have you done anything to investigate

Reports

Auto-Scroll

Recent

TranscriptPad also has a powerful search feature which allows you to search for key words in a specific transcript or across all the transcripts in your case. This is particularly useful at hearings or trial when opposing counsel cites to a deposition and, rather than fumbling with paper, you can easily and quickly get to the relevant testimony.

Once you have highlighted and annotated the deposition, it can generate reports by issue code and selected text.

Verizon

9:29 AM

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BEGOVIC, MIRZA 4/4/14 VOL 1

Search BEGOVIC, MIRZA 4/4/14 VOL 1

BackgroundEdit

Bubble BoardEdit

Cross ExamEdit

DesignationsEdit

Floor MatEdit

IncidentEdit

Incident ReportEdit

Key FactsEdit

MaffattEdit

Policies And ProceduresEdit

Spoilation MotionEdit

Superior KnowledgeEdit

Sweep LogsEdit

Sweep PolicyEdit

Reports

CaseTschirhart
Issue CodeFloor Mat

BEGOVIC, MIRZA 4/4/14 VOL 1

1036:09 - 037:08036:09Q.Okay. And did you come to the conclusion
10that the water must have come from the ice machine?
11Was that the --
12A.That's the only place it could have come
13from.
14Q.Was there a mat in front of the ice machine
15at the time?
16A.No, sir. There was two wet floor signs.
17Q.But there was no mat in front of the ice
18machine?
19A.No, sir.
20Q.I've been in a lot of grocery stores, and
21I'll just -- my question, I've observed rubber mats in
22front of ice machines in a number of different grocery
23stores. Have you ever seen that before in your
24experience?
25A.No, sir.
037:01Q.You've never seen a mat in front of an ice
02machine in a grocery store?
03A.No, sir.
04Q.Has there ever been a mat in front of an
05ice machine at the Ingles grocery store?
06A.No, sir.
07Q.At any of them? Have you --
08A.At any one that I have worked, no, sir.

2040:01 - 040:07040:01Q.And it's your testimony that there has
02never been a rubber mat in front of this ice cooler?
03A.That is correct.
04Q.And why is that?
05A.I couldn't tell you.
06Q.Okay. Is that your choice or is that --
07A.No, sir.

3041:01 - 041:05041:01Q.Okay. Do you think it would be a good idea
02to put an ice mat there? I mean -- I'm sorry -- a
03floor mat in front of the ice cooler?
04A.I mean, anything to prevent another slip

Created with TranscriptPad for iPad

10/21/15

Page 1 of 4

Quick Feature Summary

- Print or email detailed or summary reports in pdf, txt, or Excel formats
- Send a marked-up transcript or entire case to an associate or expert for second-pass review

2. TrialPad

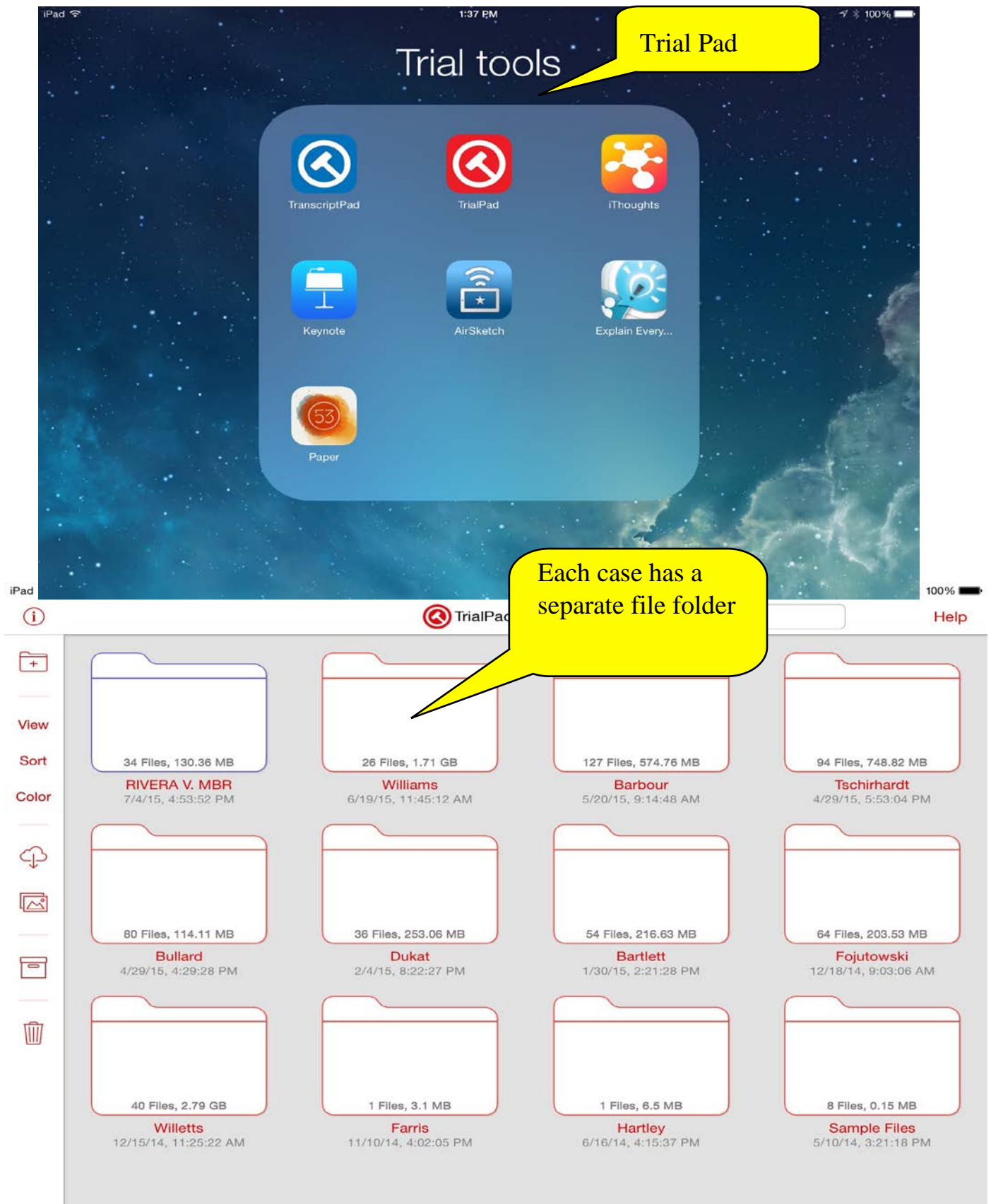
TrialPad is another LitSoftware program developed for use in a trial, hearing, or alternative dispute resolution (ADR) setting. This legal document management and presentation tool lets users organize, manage, search, annotate, and store documents and videos while leveraging the portability of an iPad. After you have sorted your important documents and files into separate case folders, TrialPad offers unique output options to dynamically present your evidence in court. TrialPad's plug and play simplicity and intuitive user interface make it one of the most effective ways to assist lawyers when presenting their cases at trial.

TrialPad makes organization easy. Each matter is stored in a separate case folder, and your documents and multimedia can be reordered and moved within the app, as you see fit. Cases and folders can be color-coded or customized with various icon options so you can find the right matter or document at a glance. With TrialPad's powerful search tool, you'll find anything you need in an instant.

Organization goes one step further with TrialPad's archive capability. The archive tool backs up your cases, complete with annotations, so that you can share your case with another TrialPad user, duplicate your case onto a backup iPad, or store it in another location if your matter is delayed or continued.

TrialPad allows you to keep all of your cases on your iPad, putting all of your documents at your fingertips in an easy-to-access, organized manner. Client meetings, hearings, and mediations no longer require large boxes of files. TrialPad works with cloud services such as Box, Citrix ShareFile, Dropbox, Transporter, and WebDAV. You can also import photos from your iPad's photo app or use email or the file-sharing feature in iTunes.

Whether you need to display a document; annotate a photo; or compare, highlight, and call out two documents for a jury, TrialPad makes it easy. While you can plug and play in the courtroom or the boardroom, you can also present wirelessly with AppleTV. This powerful app helps attorneys engage the judge and jury simply, reliably, and effectively.



Each exhibit is shown on the left as a thumbnail image. The one you select is enlarged on the working screen.

Tschirhardt Trial Exhibits Select

Search Trial Exhibits

Name Custom Admitted

Ex 1 - Incident Report
1 Page Admitted

Ex 2a&b - Store Sweep Logs
2 Pages Admitted

Ex 3 - Photo of front of ice box
1 Page

Ex 4 - Photo of Aisle 7
1 Page

Ex 5 - Store Layout
1 Page

Ex 6 - Photo of aisle in front of ice box
1 Page

Ex 7 - Photo of aisle in front of ice box
1 Page

Ex 8 - Photo of ice box
1 Page

Ex 9 - Photo of floor in front of ice box
1 Page

Ex 10 - Employment Manual
44 Pages

Ex 11 - Sweep Log Diagram

Reports

Documents Multimedia Key Docs

Output

Undo Clear

Ingles Customer Incident Occurrence Report
Only to be completed by Store Mgmt
Fax immediately to (828) 689-3520

Store # 404 Store Manager Mitch Beggs
Store Address 8025 Peachtree Parkway
City, State, Zip Atlanta, GA 30328
Store Phone Number 404-458-3336

Date of Injury 1/6/16 Date Reported to Store 5:10pm
Time of Injury 5:10pm (AM/PM)
Manager on Duty Mitch Beggs Position Store Mgr

Customer Name V. J. Tschirhardt Male or Female Male
Date of Birth 4/18/1978 minor, give parent's name
Street Address 4100 Peachtree Rd
City, State, Zip Atlanta, GA 30328
Phone Number(s) 770-458-7081
Home Cell/Work

Description of Injury & Comments walk by ice case and fall into the ice case
and fall into the ice case

Did customer seek medical treatment? Yes ☒ No ☐
If yes, where was treatment sought?

Witness: Employee ☒ or Customer ☐
Name Stacy
Address 1830 Highway 84, Duluth, GA 30096
Phone # 404-667-3142

Store Contact Name Mitch Beggs Best time to call Any
Employee Reporting Mitch Beggs Position Store Mgr
(Please Print)

PLAINTIFF'S EXHIBIT 1
PLAINTIFF'S EXHIBIT 2
PLAINTIFF'S EXHIBIT 3

Once an exhibit is selected, you can use your finger to draw a square over selected text, which will make it enlarge as a “callout” for the jury to see. This is very effective in cross-examination to control the witness and draw attention to the specific areas of the exhibit you wish to emphasize. This is much faster and cleaner than the “old way” of placing a document on an image camera, like an ELMO, and playing with the focus buttons.

iPad 100%

Tschirhardt Trial Exhibits Select

Search Trial Exhibits

Name	Custom	Admitted	Exhibit #
Ex 1 - Incident Report		Admitted	
Ex 2a&b - Store Sweep Logs		Admitted	
Ex 3 - Photo of front of ice box			
Ex 4 - Photo of Aisle 7			
Ex 5 - Store Layout			
Ex 6 - Photo of aisle in front of ice box			
Ex 7 - Photo of aisle in front of ice box			
Ex 8 - Photo of ice box			
Ex 9 - Photo of floor in front of ice box			
Ex 10 - Employment Manual			
Ex 11 - Sweep Log			

Documents Multimedia Key Docs

1:38 PM 100%

Callout Highlight Pen Redact Laser

1 / 1

Ingles

Customer Incident Occurrence Report
Only to be completed by Store Mgmt
Fax Immediately to (828) 688-3520

Store # 404 Store Manager Mitch Begovic
Store Address 2022 Peachtree Parkway
City, State, Zip Atlanta, GA 30328
Store Phone Number 404-368-3436

Date of Injury 12/6/11 Date Reported to Store 5:00pm
Time of Injury 4:55pm AM / PM
Manager on Duty Mitch Begovic Position Store Mgr

Customer Name T. Tschirhardt Male or Female Female
Date of Birth 11/12/1979 minor, give parent's name
Street Address 4155 2nd St. SW
City, State, Zip Atlanta, GA 30310
Phone Number(s) 404-455-7081 Home Cell/Work

Description of Injury & Comments Walk by the case and just saw mess but didn't stop there

Did customer seek medical treatment? Yes ☒ No
If yes, where was treatment sought?

Witness: Employee ☒ or Customer
Name Shelley Batten
Address 1830 Hunter St. Duluth GA 30096
Phone # 678-665-3740

Store Contact Name Mitch Begovic Best time to call day
Employee Reporting Mitch Begovic (Please Print) Position Store Mgr

PLAINTIFF'S EXHIBIT 1

PLAINTIFF'S EXHIBIT 2

PLAINTIFF'S EXHIBIT 3

Output

Undo Clear

iPad 100%

Cases Tschirhardt Select

Search Multimedia

Name	Custom
Begovic	
Folder for Exhibits	
Check Mats	
Ice Clip	
Ingles Training Video FULL	
Mopping In Front Of Ice Cooler	
Most Likley Area For Spills	
Sweep Log	

Documents Multimedia Key Docs

1:40 PM 100%

Capture Frame Clip Video

0:00 -0:48

Output Blank Freeze Present

Output

Blank Freeze Present

TrialPad is an outstanding addition to the trial lawyer's toolbox. It simply and elegantly duplicates the most used features of many different trial presentation programs at a much lower cost. With the legal profession transitioning to a more cost effective and efficient paperless format, TrialPad is the perfect tool for emphasizing key pieces of evidence with vibrant visual presentation.

Quick Feature Summary

- Full electronic courtroom presentation capability on an iPad
- Present wirelessly with AppleTV
- Make multiple callouts from documents or depositions
- Highlight, annotate, redact, and zoom in on your documents
- All the important tools found in a desktop presentation program
- Search document text for words and phrases
- View documents side by side, comparing pages
- Add exhibit stickers to documents
- Create reports of all your evidence
- Edit video clips or take snapshots of frames of surveillance video
- Create key documents with saved annotations and callouts
- Have your expert mark up an exhibit and save it as a key document for closing
- Easily create separate case and witness folders
- File formats supported include Adobe Acrobat pdf, jpeg, png, tiff, multi-page tiff, txt, and all audio and video file formats supported by iPad

RUNNING A SMALL FIRM ON A SMALL BUDGET¹

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I. Generally Speaking

There are eight of us at Kitchens Law Firm (KLF): four lawyers and four support staff. We are a family firm. My two brothers practice with me and one of our sisters is our bookkeeper (and reservation maker and last-minute gift buyer). We are second-generation lawyers, so we knew coming into the profession that there would be peaks and valleys, but we did it anyway. We practice in a small, village-like town of 5,000 and our firm makes up 80 percent of the legal community in the town. Somehow, though, we have managed to stay away from handling the run-of-the-mill, typical small-town cases. We will still write a will for an existing client or close friend, but we do not handle real property or domestic cases. My brothers and our one associate all have a fairly active criminal defense practice, and we all handle personal injury cases. I only handle contingency fee cases—I like to know that my work is done when I get paid!

When we joined our father's firm, he wanted us to take everything that came in the door. He believed that the family of the client for whom you drafted a will would come to you when the will needed to be probated and if the death was the result of negligence, we would be able to handle the wrongful death claim. That happened occasionally, but it was rare. Rather, more often than not, the family would come to us to handle the estate and when asked about the wrongful death claim, they would say they had hired some TV lawyer because they knew we did not handle "that kind of case."

We put an end to Dad's practice when we took over the practice in 2009.

If you are in this room, it is because of one of three reasons:

- You truly want to know how other attorneys are running their small firm
- You need the continuing legal education (CLE) credit and this seemed more interesting than whatever is happening at Advocacy Track (AT), or

¹ This paper was first presented at AAJ's (formerly the Association of Trial Lawyers of America (ATLA®)) *Annual Conference*, Boston, MA, July 2017.

- You have heard my father speak and came to see if I was as entertaining as he is (I am not)

I hope that you are here because of the first reason and I hope that what I have to say will be of some assistance.

II. Investing in Technology

You know you need it, but how much do you need and what should you buy? This is one of my favorite topics. I am constantly looking for new technology to implement in my firm. My brothers could care less about such things and they certainly are not going to actively look for and investigate something new. That said, they are good enough to allow me to bring new things into the firm. Below is a list of some of the things on which I have come to rely:

Voice over Internet Protocol (VoIP)

When VoIP systems first became popular in the Mississippi market (about 10 years ago), they were not reliable. As with most technology, however, it got better. My brothers were reluctant to “talk over the Internet,” but they were willing to give it a try. Some of the benefits of VoIP:

1. Price—we saved more than \$100 a month

Obviously, as with any product you consider, cost is a significant factor. Before making the move to VoIP, we had four lines and each line was tied to a number. For us, that meant no more than four calls could take place at the same time. The move gave us an unlimited number of “lines,” so everyone can be on the phone at once and our receptionist can continue answering calls. With a conventional telephone system, to have that many lines, we would have doubled our bill. Our VoIP system also provides for “direct lines” for \$1.00 a month.

Our VoIP provider charges us a flat monthly rate. I can spend ten hours a day on the phone talking to a colleague in California and my bill will not increase. Because of this, we no longer charge clients for long-distance telephone

2. Mobility—plug and play system

Because VoIP systems operate over the Ethernet connection, a user can unplug his or her desk phone and use it anywhere he or she has an Ethernet connection. This is not as big of a deal as it was five years ago, considering the various cell phone apps that allow you to mask your phone number. For a practical application that would still be relevant, however, consider the benefits of taking your desk phone with you out of town for trial and being able to press the extension for anyone in your office, just as if they were down the hall.

3. Features—recording, conferencing, forwarding

One of the features I use most is call recording. This is not a new feature, but VoIP makes it an economically viable option for everyone. I am not suggesting that you record all your calls, but there are times when you just know in your gut that it is a good idea to keep a solid record.

VoIP systems also make conference calls easier and allow your staff to forward a call to your cell phone (or any other phone) with the touch of just a couple of buttons.

eFax

For some unknown reason, I fought eFax about as much as my brothers fight other technology. I admit, though, that I was wrong.

Some benefits of eFax:

1. eFax is cheaper than having a landline
 - eFax cost us about \$75.00 a year, compared to around \$50.00 a month for a conventional fax line
2. Convenience
 - All faxes come already scanned, which saves a step for my staff. Plus, the “junk” faxes can simply be deleted.
3. Features
 - Because your faxes will be coming electronically, you can access your faxes from any device on which you receive email; e.g., if someone is sending you a fax late at night, you do not have to wait around your office for it to come
 - Further, using eFax allows you to send a “fax” from any of your Internet-connected devices

Multiple Monitors

If you are not using more than one computer screen, then you are probably like I was four years ago—you know that you can really only “work” on one screen at a time, so multiple screens are superfluous. A lot of people whose opinions I respect, however, continued to praise the benefits of having an additional monitor (or two or three). It did not take long for me to appreciate the benefits of having a second. Not only does the second monitor save significant time when accessing programs you constantly use, (e.g., email), it also makes it extremely easy to view an opposing brief on one screen while drafting your response on the other. Unlike the larger

expense you may have when purchasing your computer, the cost of a second monitor is fairly nominal: \$150.00.²

iPad

It seems that almost everyone I see at the American Association for Justice (AAJ) conventions uses a tablet, and most use iPads. In Mississippi, however, the number of attorneys using iPads in their practices is relatively low. If you are on the fence as to whether you need an iPad, the basic model can be purchased for as little as \$329. Plus, unlike most other technology, iPads have a decent resale value. So, if you decide you do not need the iPad or that you need one with more juice, the initial investment can be relatively small. As of this writing, I have not made the leap to the iPad Pro. As with my iPhones, I generally skip a model or two before upgrading.

There are many people at AAJ who are far more tech savvy than I, but I do want to mention two iPad apps that I think every trial lawyer should have: TrialPad and TranscriptPad (both made by Lit Software). At \$130.00 each, these apps are not cheap. When you consider what they can do, however, they are a real bargain.

1. TrialPad

TrialPad is a trial presentation app that allows you to easily publish exhibits in court, including highlighting, annotating, and performing callouts—the things that used to require a team of tech experts (you know, those three people who still sit behind defense table surrounded by half a dozen plastic totes). I am not suggesting that TrialPad can or should be used in every trial, but using a \$130 app in a three-day motor vehicle accident (MVA) trial is a lot cheaper than outsourcing. Unlike outsourcing, you can continue to use the app in trial after trial. The app also makes it extremely easy to organize (and reorganize) your trial presentation.³

2. TranscriptPad

TranscriptPad, in my opinion, is the best way to review any deposition. In a recent case, we took around 20 depositions. TranscriptPad allowed me to highlight (in a variety of colors) the key portions of the depositions, and add flags and notes. These features are invaluable when cross-examining a witness on prior testimony. The app also allows you to run a report showing which of the deponents discussed a particular subject, e.g., overgrown vegetation.

² Recently, the local power company disconnected the power to my office to perform routine maintenance. The power line was not properly reconnected, resulting in a power surge and the death of my 21.5" iMac and second monitor. This paper was prepared on my new 27" iMac. I thought, perhaps, one 27" screen would be sufficient, but I am certain that by the time I make my presentation, I will have added a second 27" monitor.

³ I also use an Apple TV and AirPort Express in trial, which allow me to wirelessly present without worrying about being tied to the podium.

III. Staying in Your Comfort Zone

How many lawyers does it take to make a small firm? As a plaintiff's firm in Mississippi with four lawyers, my firm size might be considered small to medium.

For those of you who do not practice in a small town, you may not be able to appreciate the difficulties associated with limiting your practice areas. The majority of AAJ members practice exclusively in plaintiff civil litigation and are paid pursuant to a contingency fee contract. Of the four lawyers in our firm, I am the only one who does not handle any criminal defense cases and we all handle personal injury cases. In Hazlehurst (pop. 4,000), the county seat, there are 19 attorneys in private practice. Although about half of those lawyers handle plaintiff personal injury cases, they *all* handle your typical "small town" cases, e.g., divorce, custody, and so forth. Thanks in large part to referrals from AAJ members, I have been able to avoid those types of cases.

We turn down around 90 percent of the calls we receive from prospective clients. This is primarily due to the types of calls. We are not an advertising firm, so we rely on referrals, cold calls, and walk-ins. It is sometimes tempting to take a divorce case if we are low on funds and payday is close, but I learned early in my career that it is better to find another way to meet your obligations than it is to get bogged down in a case you did not want in the first place—this applies to areas of the law with which you are not familiar as well as to questionable personal injury cases.

I do not specialize in any particular kind of personal injury case. I have handled cases involving tire explosions, slip and falls, car wrecks, medical negligence, product liability, and so forth. As a small firm, I know that I sometimes need help from larger, better-heeled firms. We generally have the ability to fund several large, expert-intensive cases at any given time, but attempting to do everything ourselves may put a significant strain on our checking account and it may cause the cases to take longer to resolve. Additionally, in the event of a defense verdict, it is harder for a small firm to absorb the loss.

There is a firm with whom we have worked a number of product liability cases. Our arrangement is simple: they handle liability and we handle damages. We each fund our respective assignments. This moves the case quicker and reduces our exposure.

We have several informal agreements with other firms. For example, there is a local, general practice firm that will not handle any personal injury cases. Any calls they receive regarding a personal injury case are referred to my firm. Likewise, we refer all wills, estates, loan closings, and so forth, to them. Establishing relationships like these can minimize a small firm's need to advertise.

IV. Include AAJ in Your Research

My brothers have come around and have now embraced a lot of the things at which they previously scoffed—e.g., the iPhone, iPad, headset, VoIP, eFax, cloud storage, and so forth.

Perhaps the last holdout was over whether to implement case management software at the firm. As second-generation trial lawyers, we joined an established firm that had never used, needed, or wanted case management software. After a lot of research (by me), we finally decided on the software we wanted to use. It has been a difficult learning curve and we are still getting used to the program, but we will get there.

As part of my research, I called several AAJ members and asked about the software they were using—what they liked or disliked. If you are not already calling on your colleagues in AAJ when you have questions (about anything), you should start immediately. When a speaker at a program provides his or her contact information and tells you to call if you have questions, they mean it. I have cold called trial lawyers all across the country (and Canada) when I have needed help. If your colleagues can help, they will and are glad to do so. Seeking help and advice when you need it saves you time and, thus, saves you money.

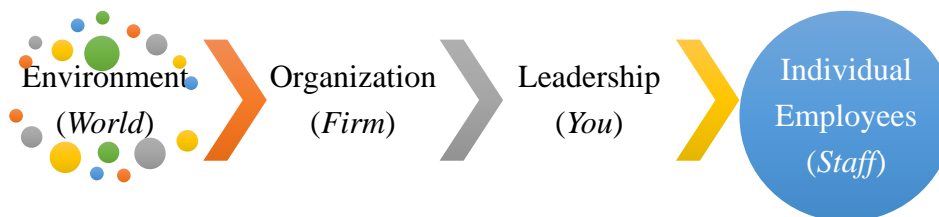
Finally, one of the greatest time-saving (i.e., money-saving) tools for any trial lawyer, especially young trial lawyers and those in small firms, is AAJ itself. There are many AAJ publications that I turn to frequently. I own six Litigation Packets, *Blue's Guide to Jury Selection*, *Litigating Tort Cases* (six volumes), *Pattern Deposition Checklists* (four volumes), and *Trial Notebook* (two volumes). I have purchased many other books at conventions, all of which were well worth the price.

Managing and Motivating Staff (When All You Really Want to Do Is Practice Law)

Cheryl Pope

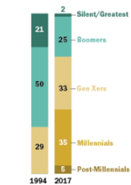
Cheryl.pope@carltonhumancapital.com

Agenda

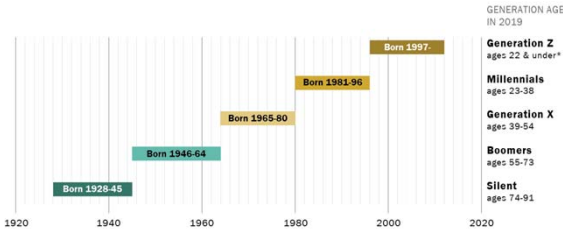


U.S. Labor Force

More than a third of the workforce are Millennials
% of the U.S. labor force



Note: Labor force includes those ages 16 and older who are working or looking for work. Annual averages shown.
Source: Pew Research Center analysis of monthly 1994 and 2017 Current Population Survey (CPS).



*No chronological endpoint has been set for this group. Generation Z age ranges vary by analysis.

PEW RESEARCH CENTER

GENERATION AGE IN 2019

Generation Z
ages 22 & under*

Millennials
ages 23-38

Generation X
ages 39-54

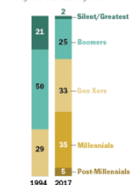
Boomers
ages 55-73

Silent
ages 74-91

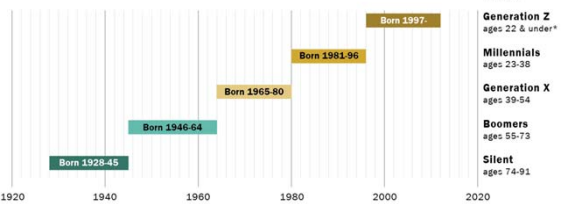
- Unemployment rate: 3.6 percent
- 2020 is a year of big change

U.S. Labor Force

More than a third of the workforce are Millennials
% of the U.S. labor force



Note: Labor force includes those ages 16 and older who are working or looking for work. Annual averages shown.
Source: Pew Research Center analysis of monthly 1994 and 2017 Current Population Survey (CPS).



*No chronological endpoint has been set for this group. Generation Z age ranges vary by analysis.

PEW RESEARCH CENTER

GENERATION AGE IN 2019

Generation Z
ages 22 & under*

Millennials
ages 23-38

Generation X
ages 39-54

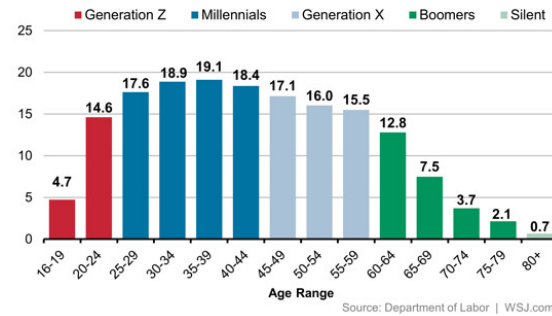
Boomers
ages 55-73

Silent
ages 74-91

- Unemployment rate : ~~3.6~~ percent 13.3 percent
- 2020 is a year of ~~big change~~ DISASTER

The Workforce in 2025

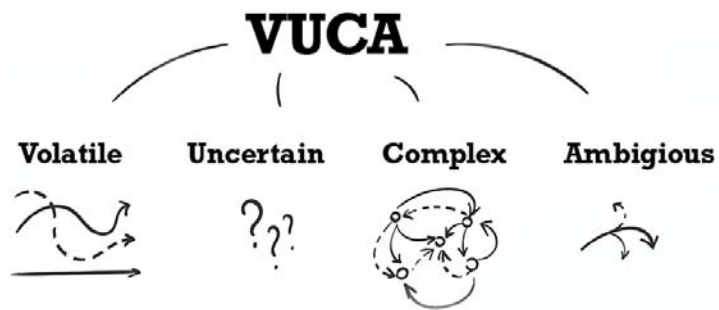
Projected size of U.S. labor force (in millions) by age, for the year 2025



There is no
“one best”
way

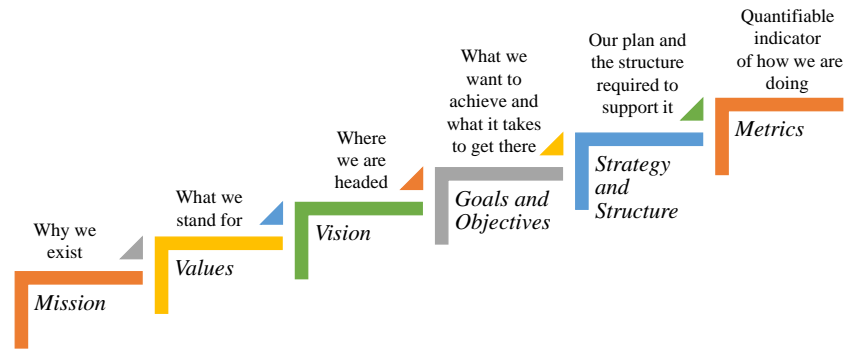
Characteristics	Silent	Boomers	Gen X	Millennial	Gen Z
Influences	WWII, Fixed gender roles	Civil Rights, Vietnam, family oriented	Watergate, Latchkey kids, First PC	9/11, Social media, reality TV	Economic downturn, Global focus
Aspiration	Home ownership	Job Security	Work-life balance	Freedom and flexibility	Security and stability
Communication	Face to face	Face to face; phone/ email if required	Text or email	Online and mobile	Facetime
Work Ethic	Pay your dues, respect authority	Driven, workaholic	Balance, work smarter with greater output,	Ambitious, multitasking, entrepreneurial	Competitive, independent, instant gratification
Feedback	No news is good news	Like praise, something to put on the wall	Constructive feedback	Constant feedback and communication	Daily feedback

Today's Environment

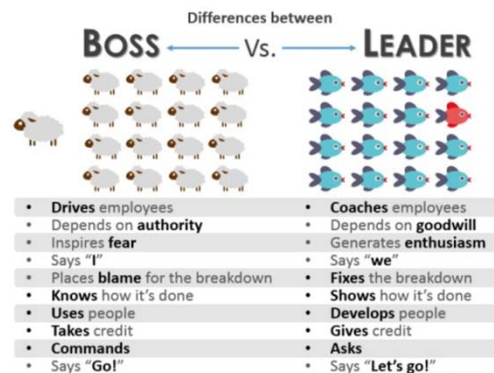


Navigating a VUCA World

Effective Organizations



Motivating People Toward a Common Goal



Law Firm Example

Why We Are Different

You have a choice when it comes to selecting the right lawyer for your case. Many lawyers are generalists and practice several different types of law other than family law. The lawyers at Stephens & Margolin LLP exclusively practice divorce and family law. Put simply, it's all we do. Our mission statement, vision statement, and our core values capture the essence who we are, what we do, and why we are the right choice for you.



Mission Statement

The mission of Stephens & Margolin LLP is to serve as Oregon's leader in the field of Marital and Family Law, enabling our clients to reach constructive long term outcomes. We are committed to satisfying the unique objectives of each client by providing solutions customized to individual needs.

Vision Statement

Our vision is to assemble a client centric staff of legal professionals who provide advice and counsel in a result oriented environment. We strive to be the standard for excellence in the field of dispute resolution.

Our Core Values

We will fulfill our MISSION and achieve our VISION by:

- Earning the trust, respect, and loyalty of our clients;
- Providing our clients with prompt, efficient and effective legal counseling and representation;
- Always being accessible and responsive to clients;
- Handling client needs with honesty, integrity, fairness, compassion, courtesy and diligence;
- Offering cutting edge service in all aspects of Dispute Resolution from Collaborative Practice to Litigation and everything in between;
- Providing appellate expertise; and
- Establishing state of the art office technology to deliver cost-effective, quality representation.

Common Leadership Mistakes

- Not communicating effectively
- Inability to make decisions
- Doesn't address issues when they occur
- Quick to blame instead of understanding
- Comfortable with the status quo
- Accomplish work through themselves, not their team
- Forgetting about ongoing development (self and others)
- Permitting negative gossip
- Need to be smartest person in the room,
- One size fits all leadership style
- Don't hold themselves or others accountable
- Thinking culture doesn't matter
- Lack of transparency
- Not listening
- Dismissing viewpoints of others
- Valuing experience over potential
- Lack of empathy

Leadership Requires Balance

Create the vision

Explain the big picture

Explore implications

Build alignment

Explain the why

Engage in two-way
dialogue

Inspire through
expression and
encouragement

Deliver results

Build momentum by
being driven and
initiating action

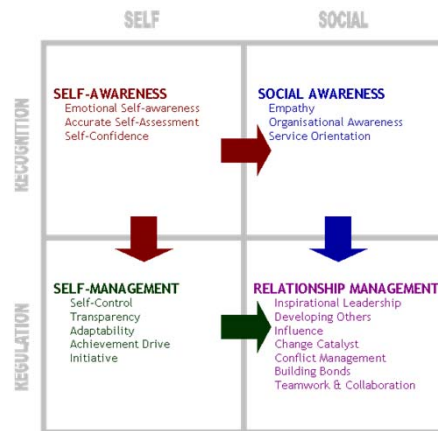
Provide a plan and in-
depth analysis

Provide feedback by
addressing problems and
offering praise

Don't Underestimate *Your* Impact

- Keeping the balance between task focuses and people focused leadership
- Start with self-awareness

Emotional Intelligence



Leadership Is Situational

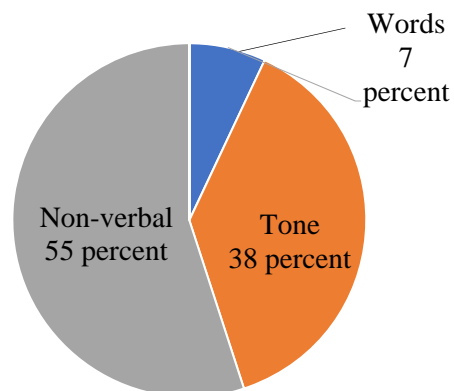
- Think about:
 - Situation
 - Perspectives
 - Experiences
 - Work preferences
 - Yours
 - Others

Motivation

- You *can't* motivate others
- Internally driven
 - Different for everyone
- Personal needs must be satisfied first
- But you *can* create an environment where they find their own natural motivation

Communication

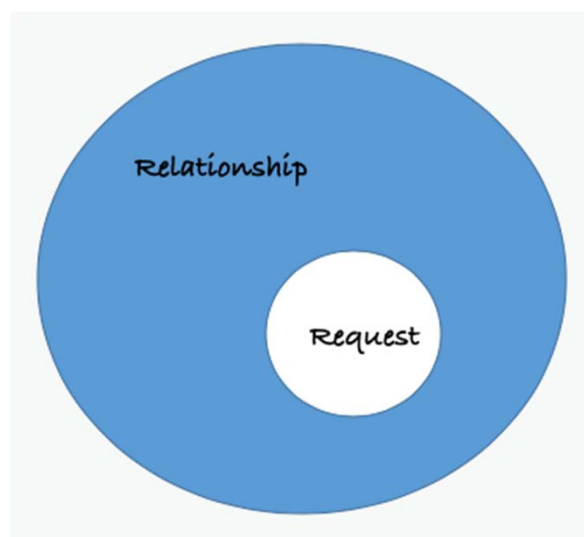
- What others *hear*
 - Not what you *say*
- Not a competitive sport
- Should be two-way
- Speak at 150 wpm
 - Listen at 1,000 wpm



Three Things You Can Do Right Now

1. Requests
2. Feedback
3. Empathy

1. Effective Requests



Be Intentional

“Non” Requests

Sounds like a statement, demand, observation, or complaint.

“Seems like that pleading is taking a long time to finish.”

Effective requests

- *Who:* Specific person
- *What:* Action or task
- *When:* Time frame
- *Why:* Clear reason
- *How:* Directly and respectfully

“Mike, I need the final draft on my desk by 5pm today so I can review it before submitting it to the court by the Friday deadline. Thanks.”

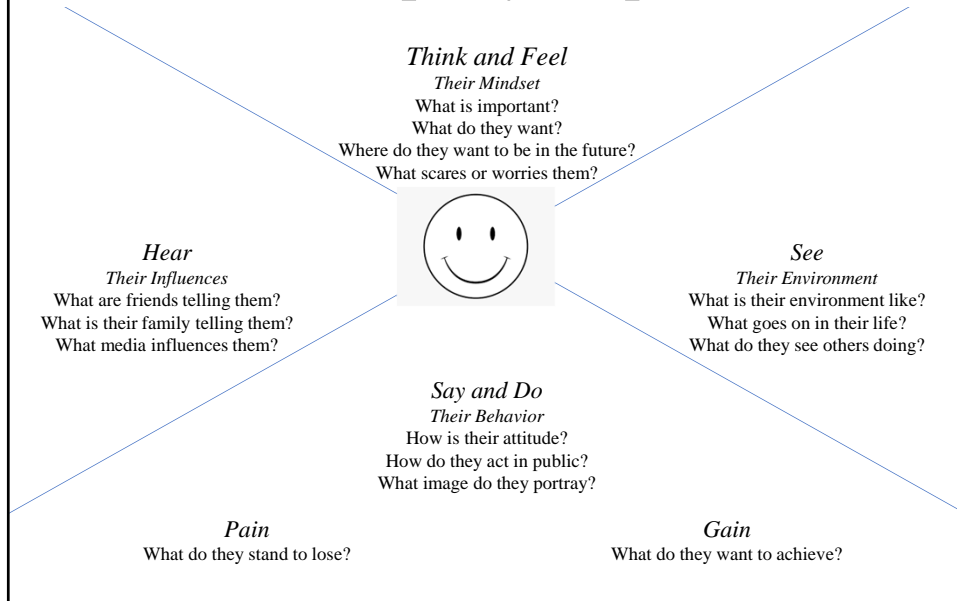
2. Empathy

em • pa • thy

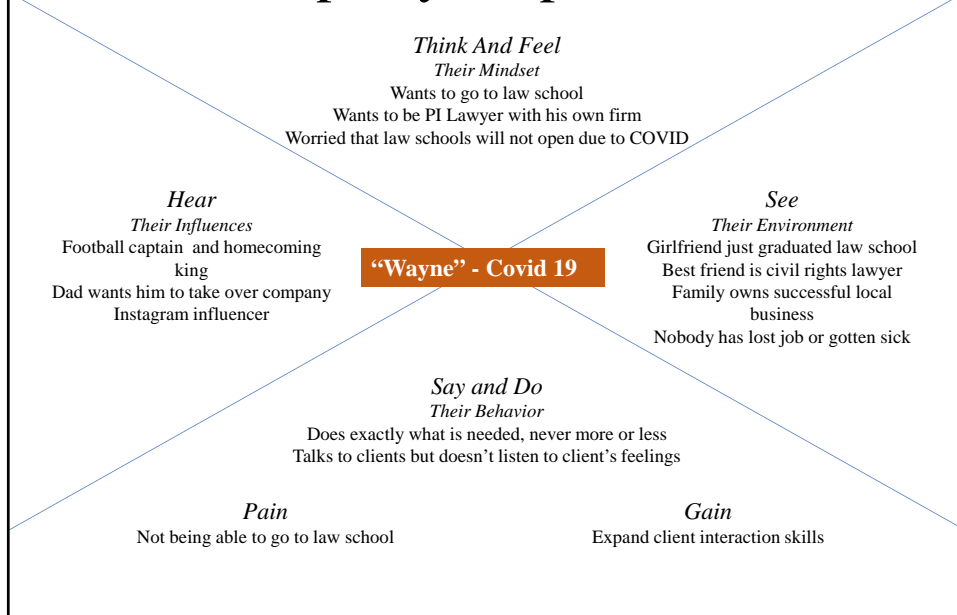
noun

The ability to step into the shoes of another person, aiming to understand their feelings and perspectives, and to use that understanding to guide our actions.

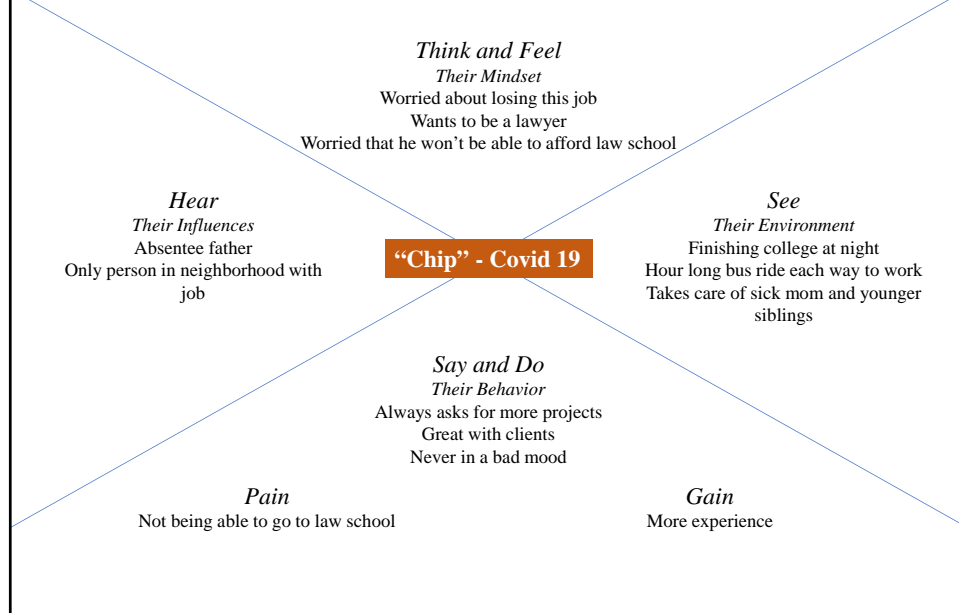
Empathy Map



Empathy Map (cont.)



Empathy Map (cont.)



3. Feedback

- Bad habits
 - Covering too many things
 - Giving without asking
 - Comparing performance to others
 - Not timely or regular
 - Judging the individual not the behavior
 - Vague generalities
 - Second hand
 - Only when correction is needed

Be Objective

Observation

Describes behavior in concrete and observable terms

- Information is specific and visible
- No blame or evaluation
- Neutral

“Three intake forms this week were missing information and four were not sent to an attorney within the 24-hour requirement”

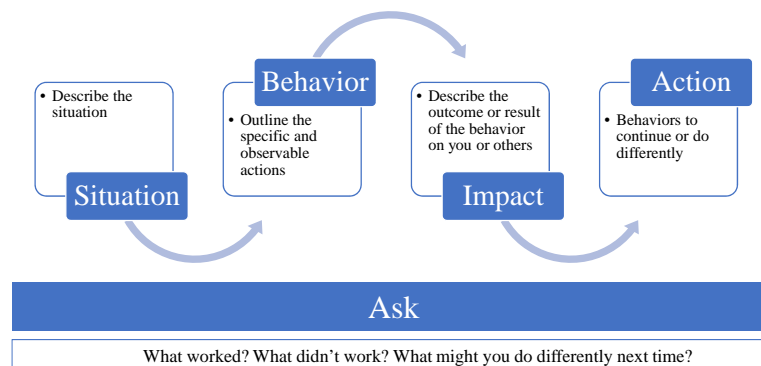
Evaluation

Is a subjective opinion or statement

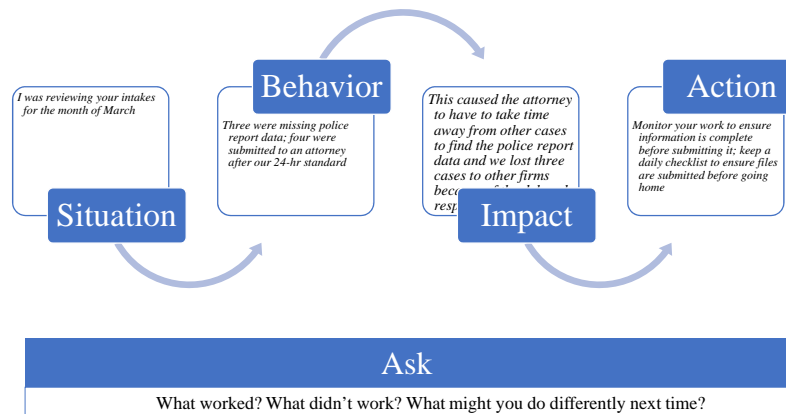
- Is person-focused
- Vague, intangible, and generic
- Promotes defensive reaction

“Quality is poor”

Be Specific and Focused



Effective Feedback in Action



Are You Making More Deposits . . .
or Withdrawals?

GOING SOLO—TIPS TO MAKE THE PROCESS EASIER

Aaron Hicks
Hicks Law Firm PC
Costa Mesa, CA

I. Have Courage, Faith, and Confidence

- You have to have the courage to do it and faith and confidence that it will work out
- The longer you wait to do it, the less likely that you'll ever do it
- Timing needs to be right for you
- Have to think about spouse, children, health insurance, tuition, and so on
- When you realize you've topped out at your current firm
- Start realizing that you can do this on your own
- I think most attorneys who take this leap fear the unknown. How will I get clients? How will I afford to live?
- You passed the bar and have been practicing in an area for several years. You are ready to do this on your own.

II. Save Up Money

- Save up at least six months' worth of savings
- Expect not to make any money for at least the first six months
- Sit down and make a budget and decide what you need to survive on, including personal and expected business expenses
- Think about money to set aside for networking, such as TLAs, conferences, and seminars, including your travel expenses to and from
- Include bar dues, health insurance, car payments, and the like
- Anticipated office rent, monthly overhead for apps, office supplies, and so on
- Think about bringing on staff as you get busier and what salaries might cost you

- Decide if there are cases that you would like to take with you that you brought in
- Thankfully, I did this before COVID-19 hit, so I was well prepared

III. Build a Referral Network

- Become active in local TLAs and other local legal organizations
- Run for a board member position
- Start by volunteering and getting your name and face recognized
- Set yourself apart as an individual and not a member of a firm
- Try to get involved in other non-legal organizations
- Be known as that non-legal group's "go-to lawyer"
- Get to know your kid's parents and families
- Offer to answer any type of legal questions that they might have, or offer to find them a referral
- You want to be known as "the lawyer" when any type of legal issue comes up

IV. Gain as Much Experience as You Can Before You Leave

- Get trial and arbitration experience
- Watch friends and colleagues in trial
- Get motion experience
- Volunteer to assist other firm members on their cases on things that you have no experience with
- Work on your own discovery
- Start building up a document bank
- Monitor the listservs for advice, document sharing, opinions on experts, and so on

V. Start Planning Well in Advance

- Once you make the decision, give yourself at least a year to plan
- Set an exit date and detailed exit plan
- Make sure that you have your spouse's and family's support
- Once you come to terms with your decision, it really takes the pressure off
- Start making a list of things that you will need to set up, i.e., "essentials"
- Take friends out to lunch and see what they did to begin their firm
- Bank account, client trust account, corporation needs—federal tax ID, Secretary of State
- Start marketing yourself and your own skills individually
- Slowly hint to those that you trust that you are thinking about taking the plunge and you would love to take their cast-offs

VI. Pick Out Name and Logo

- Decide what types of cases you want to take
- Soft tissue, catastrophic cases?
- What image do you want to portray to clients and referring attorneys?
- Come up with color schemes, logo types
- Enter your ideas into an online auction—I used 99designs.com
- You'll receive thousands of entries
- You can narrow them down and find one that you really like

VII. Pick Out a Web Domain

- Try to obtain a .com domain
- Try to obtain something with your firm name or practice area
- I wanted HicksLawFirm.com—was not being used, but was being offered for sale

- Negotiated for less than the asking price
- Purchased mine through GoDaddy
- Also purchased CostaMesaPersonalInjury.com, which redirects to Hicks Law Firm site
- Find a company to help build out your website
- Look around at colleagues and competitors as to what you want
- I really wanted people to contact me by any means of communication
- Email, phone call, texting—phone number posted on each page
- I hate going to others' websites and having to search for their contact info

VIII. Start Ordering Office Equipment

- Talk to colleagues that started, ask what they like, what works and what doesn't
- Quality phone system/fax
- VOIP vs. hard-wired phones
- Quality printer—laser jet. I purchased a Brother HL.
- Quality scanner. I purchased a Fujitsu Scan Snap iX1500 (highly recommended)
- Order a back-up, external hard drive to back up your computer
- Buy a new computer if you can afford it. I purchased a new MacBook Pro.
- Buy a docking station for your laptop, so that can easily move from your office to other locations quickly
- Buy a new large screen monitor to work on multiple documents at one time

IX. Start Researching Apps and Software Programs

- I wanted to go mostly paperless and cloud based
- Lawyers can now practice law almost 95 percent remotely

- Ring Central—has a desktop app and phone app, can receive phone calls, texts, and faxes all through app as PDFs and can easily forward by email (eliminates a separate fax machine)
- Adobe Acrobat DC
- I chose CASEPeer case management software (enter everything about the client's case into their cloud folder). It has internal emailing, texting.
- Signature signing app. I chose HelloSign—have all clients use this to sign documents. It saves everyone time, as they can sign through their phone or computer.
- Cloud storage backup for files. I chose DropBox for Business—it is secure and HIPAA compliant. Can easily share an entire file with others.
- Email host. I chose G Suite—Gmail for business. You can customize any address and can use your domain name ending, rather than a generic @gmail.com.
- Videoconferencing. Zoom—great for client meetings, and now mediations, depositions

X. Choose Where You Want Your Office to be Located

- Pick out the area where you want to be located and start exploring rents
- If you know of friends with open space, approach them about what they might charge
- I wanted to practice in Orange County and be centrally located, so I chose Costa Mesa
- It's also close to major freeways and airport
- Look for a place that has easy or free parking for your clients
- Look for an office that has a nice conference room for depositions or client meetings
- Decide on the max of your anticipated commute times that you want

XI. Order Business Cards and Letterhead

- Talk to friends, compare quality and pricing
- Want to portray success, so invest in a decent business card

- I chose Vistaprint
- Search for deals, always sending coupons, buy in bulk to save money
- Once you upload your templates, they will create business cards, envelopes, letterhead
- Choose business cards that are easy to write on (not glossy) for your court appearances
- If you are faxing or emailing documents, create Word or PDF letters with your letterhead affixed to it. This will save money on using real letterhead that you would send out by mail.

XII. Order Marketing and Promotional Materials

- Order polos, t-shirts, hats, cups, koozies, and so on
- People love free swag
- Wear your own polos around
- Give family members and friends items to use
- Everyone is a potential client
- I chose 4Imprint.com—have good prices and quality materials

XIII. Create Social Media Accounts

- Once you have decided on your name and logos, begin creating social media pages for your firm
- These are *free*—take advantage of this
- Facebook, Instagram, LinkedIn, Twitter, Yelp, Google page
- Go through and update all of your individual accounts and updated address, phone number, website, and so on
- Google your name, and it is amazing how many different directories that you are on. Create accounts or email them to update your profiles.
- Get new headshots, photographs, and videos done

- Amazing how many lawyers I've met in person and didn't even recognize them because their profile picture is 20 years old

XIV. Exit with Dignity

- Whether you have a positive or negative view of your current position, always take the high road when leaving
- It is an extremely small legal community
- You will most likely be around your former firm members for the rest of your career. You will see them at bar functions, networking sessions, and seminars.
- Thank your firm for the opportunity and offer to work on cases together in the future
- If firm reacts negatively, remain calm and stay positive. Always take the high road.
- Offer to stick around and help close out cases or assist with the new attorneys who are taking over
- After you give notice, continue to perform your normal work, and don't loaf
- Don't poach cases that you didn't bring in
- Don't contact current clients asking them to come with you, even if you brought them into the firm, until you give your notice and discuss how the firm would like to handle
- Ultimately it is the client's choice as to who represents them
- Don't want to get into litigation over business interference with former firm
- Some lawyers who I know have been sued by former firms for contacting clients ahead of time and taking them with them. Don't do this. Take the high road.
- Don't bad mouth your former employers. It does not reflect well upon you or your former employer.

XV. Malpractice Insurance

- Shop rates through brokers
- Ask friends who they use; check with sponsors of your local legal organizations, TLAs
- Decide what types of limits you want for your first year

- I would recommend higher limits, even if you don't anticipate bigger cases in your first year
- You never know what might land in your lap, and you want to be prepared

XVI. Pick the Time to Announce Your Decision

- When deciding your launch date, try to plan around a time that people will notice and be talking about it
- Seminars, dinners, and networking events are all great ideas
- Have your business cards ready to be handed out
- Let your potential referrals know that you are open for business and accepting new client referrals
- Make sure that your website and all social media pages are open and live
- You want to look detailed and organized as soon as you launch

XVII. Decide When It Is Time to Hire Staff

- You will most likely be working solo until you build up a full case load
- The goal is to keep your overhead as low as you can until you start bringing in money
- Once you realize that you are spending more time on administrative tasks than your cases, it is time
- Start out by hiring law clerks, just to help out with basic paperwork
- They can do letters to clients, faxing, updating your case management software, record review
- Once you get into litigation, you want to move on to a more experienced employee who has experience with discovery, filings, and the like