

# How To Stop Thinking Like A Lawyer And Love It

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Looking back on my career as a personal injury lawyer in Newfoundland and Labrador, the unifying theme has been access to justice, particularly for those injured in accidents and through medical malpractice. More recently I have become involved in class action practice as a means for people to access justice and hold wrongdoers accountable. My legal career has been challenging, busy, and rewarding. I am best known recently for my involvement in the Breast Cancer Testing Class Action. You may be here because you are intrigued to know why *not* thinking like a lawyer may be a good thing.

## **The Argument**

A rule of effective communication for speakers is: tell them what you are going to say, tell them, and tell them what you said.

I argue that the teaching of law as a science of ordering human affairs independently of morality creates a vulnerability which is exploited by the supremacy of the billable hour in law firm culture. Generally, we go to law school because we want to help people, but lawyers in

private practice are burned out, depressed, and invested in the premise that success in law practice and in life is defined by how much money they make. I argue that you can have a life of wealth *and* significance if you adopt the following mindset: the true purpose of your practice is to serve you and to fund your ideal lifestyle. Your personal life is primary and your practice is secondary. Only then will you have the ability to serve others in the most profound and impactful way. This is what I mean by “how to stop thinking like a lawyer.” The discipline for achieving your perfect practice and your perfect life is ethical, effective, outside-the-box marketing. Yes, I did say marketing. The most effective way to achieve your personal and practice goals – the most effective way to have a successful life – is to reduce your goals to writing and review them often. The skill and knowledge that help you to implement is maximized when you associate in a mastermind group with smart, positive people who share what they know and hold you accountable.

### **Thinking Like A Lawyer**

As I use the term here, thinking like a lawyer means thinking about the problems of human relations without the categories of right and wrong, mortality or spirituality. It means applying intellectual rigor and using the toolbox of rules and arguments to which a legal education grants privileged access. It means training the mind to produce astute, unassailable legal arguments. The law school training for this task traditionally involves the use of what Oliver Wendell Holmes called “cynical acid”, to burn away the language of right and wrong to reveal the law as it really is: a science of ordering human affairs, independent of morality. Law,

in this vision, provides an answer for, and a methodology for resolving, any problem that may arise.

The knowledge and skill a legal education delivers prepares one to take on a tremendous range of challenges in the fields of law, business, politics, public service, journalism, and beyond. Possessed of great analytical and negotiating skill, lawyers know how to get things done. 500 lawyers were employed on the General Motors bankruptcy, and were well paid for their time, but the end result was the preservation of one of the cornerstones of the US economy and it could not have been done without lawyers.

When lawyers go into private practice, the available business model commonly extends the analytical, positivist, morality-free view of law into a winning-is-everything ethos. Everyone is an adversary, or potential adversary. Brutal competition and staggeringly long work hours are the order of the day. A law firm is a profit-driven business, and the criterion of success becomes money. Many firms have billing targets of 1700 hours a year and some large firms expect new associates to bill 2000 hours a year.

The result of the positivist, morality-free and money-driven model is terrific dysfunctionality among practicing lawyers. A California study found that a majority of lawyers surveyed would not have chosen to be lawyers, and over half would not recommend a legal career to their children. Another survey showed that of 105 occupations surveyed, lawyers topped the list for incidence of depression. Many lawyers who entered law with the idea of making a contribution to society find they don't like the clients whose interests they serve and

don't get fulfillment from assisting the stream of commerce. This together with grudgingly long hours and an unbalanced work life undermines health, relationships, and emotional stability. One legal observer has used the formula that "10% of a lawyer's soul dies for every 100 billable hours worked in excess of 1500 per year."

A Globe and Mail column by Margaret Wentz recently illustrated the dilemma of women in law practice:

Think like a woman, bill like a man, work like a dog, and you too can make partner.

Yet, a generation after women began flooding into law schools, they're flooding out of law. Over the past five years, for example, one-third of all new female lawyers in British Columbia dropped out of the profession. The ratio of female partners in big firms is stuck at around 20 per cent. The law societies of B.C. and Ontario have formed high-profile task forces to address the issue. And now, a female lawyer in Toronto has launched a lawsuit against McCarthy Tétrault, a leading firm, citing an environment of "systemic, gender-based discrimination". She claims the firm dismissed her after luring her away from another firm and virtually promising her a partnership. She wants \$12-million.

... if you want to get to the top, it helps to have a strong and driven personality, a supportive husband, two nannies and a limited desire for sleep.

The problem is we all want to live a life of significance, and although there may be mutants who thrive in inhuman environments, an unbalanced work life populated by adversaries, dedicated to advancing the interests of people we don't like and whose goals are sometimes socially destructive, is not the way for most of us to achieve a life of significance.

Victor Frankel was a psychiatrist and a Viennese Jew who worked out in the dreadful laboratory of the Nazi concentration camp, the answer to the overriding question: Why did some prisoners give in to despair and even suicide while others survived or even thrived in brutal and degrading surroundings? In his book *Man's Search For Meaning*, Frankel concluded that those who survived were those who found meaning in their agony. The search for meaning in life is the most fundamental human motivation.

One of the ways we find meaning is by being of service to others. Law school equips us with the skill and knowledge to be of tremendous service to others. But we have to adopt the mindset that our practice exists to serve us and not the other way around. We are most fit to be of service and to contribute back to our communities when we have the priorities in our lives identified and our professional commitments ordered to serve us. This is what I mean by “stop thinking like a lawyer” – adopt the mindset to refuse the dominant model and put your personal life first and your practice second.

### **Why People Go To Law School**

People go to law school for a variety of reasons. Some people are intellectually curious. Some wander in by accident. Some are killing time. Some go because they see law school as preparation for a life of wealth and power. Some think it will provide a steady and reliable living. Some have very specific goals, for example, they want to be prime minister or president and think that a legal career is best calculated to achieve that goal. But I'm willing to bet that

most of us, whatever our more specific goals, go to law school because we think that a legal career will enable us to help people.

One example of a law student with a very specific goal in mind was Salmon Chase, Governor of Ohio, member of Abraham Lincoln's civil war cabinet, and appointed by Lincoln as Chief Justice of the Supreme Court of the United States. Goodwin's biography *Team Of Rivals* relates that Chase entered legal training with the conception that:

Of all the professions, law requires the most strenuous course of preparation: success requires mastery of "thousands of volumes" from "centuries long past," including works of science, the arts, and both ancient and contemporary history. "In fine, you must become a universal scholar."

Despite the fact that this description was not an accurate portrait of the course of study most law students of that era would adopt, future Chief Justice Chase took it to heart, imposing a severe discipline upon himself to rise before daybreak to begin his monumental task of study. Insecurity and ambition combined to fuel his efforts.

This description of legal training is certainly not an accurate portrait of the course of study law students of today embark upon. However, law students are used to being highly successful in almost every area of their lives. We usually received top grades as children and in our undergraduate programs. We may have been leaders in various endeavors on campus or in our careers prior to law school. Entering law school is a bit like going to the national hockey league after playing on a farm team, because now you're working with and against the best of the best. Sometimes you're on top, and sometimes you're low on the roster. It takes some

adjustment. Most of us previously high achievers find out that in a law school setting we're not high achievers, perhaps for the first time in our lives. This is a useful lesson in life and humility.

It is worth remembering that success in law school and success in legal practice and in life are two, or perhaps even three, different things. The class valedictorian in my graduating year went on to achieve notoriety in his career by being disbarred.

Law school is full of underlying assumptions, and many of these assumptions are subtly reinforced by fellow students and professors. Some are so subtle that you only realize you have accepted the premise in hindsight. For example, many law students think the only way they will be successful and happy after law school is by landing a job at a large law firm. You don't have to accept the underlying premise that the only way to be happy after law school is to work in a big firm, or the premise that, say, you should be in the top 10 percent of the graduating class by grades. Don't get trapped into unconscious acceptance of unexamined premises. Remember what Socrates said – he said the unexamined life is not worth living. *You* decide what will make you happy after law school, and write it down. I will say something more later about the value of writing things down.

Kevin Houchin, in his book *5 Guiding Values For Success In Law School*, illustrates the need to be realistic about your goals with the following story about an encounter with what he called a speed writing mutant.

I knew I wanted one of my areas of practice to be copyright law. I really enjoyed copyright class, and I focused extra energy on the

course and on studying for the exam. That course was one where I set my goal to be in the top 5% of the class. I didn't make it. I was a bit upset, so I went to the professor after the exam and asked what I could have done better. She simply (and wisely) allowed me to read the top exam. I was humbled. Our exams were handwritten in blue-books and this student had written at least three times as much as I had during the exam, completing full analysis on even the sub-points that I just couldn't physically write in the three-hour exam period. That's when I realized that there really are mutants that live among us and there was a speed-writing mutant in my copyright class. I thanked my professor for the grade I had received and walked out of her office knowing that I had done very well by comparison, that I knew my stuff just as well, but had been out-paced in an area that mattered in the grading, but wouldn't matter in practice.

You will meet mutants too; recognizing them is more difficult. When you accept that you don't have to be the best every time, it will give you a great sense of freedom and balance. It will make it easier for you to get out of the law school building and enjoy your life. You'll have a chance to build wonderful friendships that last well beyond your days on campus. Surrender your attachment to be on top all the time and you will receive the freedom to be happy with yourself during your law school experience.

So how do you ensure that your life in the law is a life of significance? The big dark secret is: This is much more about *mindset* and getting rid of *mental barriers* than it is about anything else. The most important mindset you must adopt is this: *The true purpose of your practice is to serve you and to fund your ideal lifestyle.* In other words, your personal life is primary and your practice is secondary – and by putting yourself first – then and only then – will you have the ability to serve others in the most profound and impactful way. Including your family.

Some examples of mental barriers to overcome are: profit is wrong; I'm here to serve everyone; the law is a jealous mistress. This last is a lie told by the devil.

Who says you can't have it all as a lawyer? Who wrote that rule, and who enforces it? You *can* have a great life, a great practice and great relationships. You must give yourself permission (even if others won't) to design the ...

1. **Perfect life** – You don't know whether you have tomorrow to live but, if you knew you were dying in the next six months, odds are you could figure out what's really important. Remember that the way we spend our days is the way we spend our lives.
2. **Perfect practice** – What does the perfect practice look like to you? This may be hard to define while we're still in law school, but start now and keep at it as you learn more about practice. You'll see plenty that you don't like and plenty that you do. Write it down, and don't compromise in designing the practice that is perfect for you.
3. **Perfect client** – Who is your perfect client? You must have the courage to define your practice niche and stick to that vision. Riches lie in niches – in every field including law, specialists attract more wealth than generalists. The public wants a specialist. You can *practice* as a generalist, but you should *market* as a specialist. Most lawyers practice threshold law – whoever crosses the threshold becomes a client. This is motivated by fear, the fear that there may never be another client coming in and you'll starve. But if you design effective, ethical marketing to attract your perfect client, they will come. One more hint: no matter how many attributes of a prospective client fit your perfect client profile, if you don't like the person, they're not your perfect client.

## **Legal Marketing**

To have your perfect practice you must adopt the mindset that marketing is the highest and best use of your time. A private practice lawyer without clients is of service to nobody. The path to the perfect client lies through marketing and the determination not to accept anything less than your ideal client. This is much more about mindset than it is about specific techniques.

Legal marketing isn't taught in law school, or in the bar courses, or by national or regional lawyer organizations like the American Association for Justice or the Atlantic Provinces Trial Lawyers Association. Most lawyers don't do it very well. You have to go looking for quality, reliable marketing information. Obviously legal marketing should be ethical. Obviously, it should be effective. And to be effective, it needs to be outside-the-box. By this I mean don't just do what everyone else is doing. This is a recipe for average results, by definition. The teaching that I follow is called direct response information marketing, which gets the consumer to raise their hand and ask for valuable free information which addresses the conversation that's already going through their heads: Do I need a lawyer? How do I find the right lawyer? The insurance adjuster is bugging me; what do I do? Do I even have a case? If you make an offer of information – an article, an audio CD, a DVD, or a book – that answers the questions troubling the consumer, then the consumer sees you as the wise old man or woman on the top of the mountain, the respected authority in your chosen field in your market area.

The goal of legal marketing is not just to get the next case, but to get the next case and to be seen by your community as the authority on the law in your field – the expert, the one who

knows. One of the most important assets in your practice is your database of consumers who have raised their hands and asked for your information product. Whether that consumer ever becomes a client or not, continuing to stay in front of the people in your database or “herd” as some have called it, is solid gold. (Your herd is simply your database of clients, past clients, suppliers, and consumers of your information products who have given you permission to market to them in an interesting way.) Your database of fans is solid gold because everyone has an average of 50 friends or relatives in their circle of influence, people who would attend their funeral or their wedding. So when you stay in front of a member of your herd of fans by sending out a newsletter or other marketing piece, you are marketing not just to them but to the 50 other people they can influence.

The reason to do frequent marketing to your fan base is that people are fickle and are constantly bombarded by other commercial messages. So you want to be top-of-mind and constantly in front of them when a relevant legal need arises. Remember that people are not qualified to judge the quality of your legal services. They can't tell A+ legal work from C+. You may have pulled rabbits out of hats and moved mountains to obtain a case result for them, but their attitude generally is, so what? That's what they hired you for. Being the best at something is not generally the best marketing strategy. Being perceived by a herd of raving fans as a legal authority is. Staying in front of your herd is. I am not suggesting to anyone that it is not a worthy goal to be an excellent technical lawyer. If that is one of your goals, go for it. It happens to be one of my goals. But there are lots of good lawyers out there looking for good quality work to do, and if through marketing you have a steady supply of good quality work, you can hire them or refer cases to them. There is no rule in a book somewhere that says you have to

do the legal work. Identify your core competencies, the things you really enjoy and excel at, and assign the rest to someone else, with one reservation. If you're the business owner, the one thing you can't delegate is investing time and money in learning to create and execute effective marketing. This has been called "marketing over mastery." It means that marketing is the highest value use of your time.

You can find resources to explore these ideas about marketing and many others at [www.greatmarketingbooks.com](http://www.greatmarketingbooks.com), or [www.dankennedyandbenglass.com](http://www.dankennedyandbenglass.com). (This latter site provides a free trial subscription to a good quality marketing newsletter for small business owners and entrepreneurs.)

An important aspect of successful mindset is you must be willing to go against industry norms. Industry norms are what people commonly believe to be true about the law business, the market, lawyer advertising, the way we handle employees, and so on. Being guided by industry norms is mind-limiting behavior. It's another sure way to average results. As Earl Nightingale said, if you entered a new business and didn't have a mentor and had nowhere to turn, the best thing you could do is look around at what everyone else is doing and do the opposite.

I'll give you one example of a legal industry norm worth bucking. It concerns time management. The industry norm is that a lawyer has to be available to clients by telephone whenever they may call. If we're unavailable to take the call, we are expected to return the call quickly, and many clients think that if you don't return their call within 2 or 3 hours, you're not giving good service. This has been taken to ridiculous levels in comments by so-called experts

in The Lawyers Weekly recently, where lawyers were urged to be constantly and instantly available to clients even outside office hours by way of the communications opportunities presented by handheld devices. My viewpoint is that this is unnecessary and a sure way to ruin your work/life balance and spoil your clients to hold unrealistic expectations. I educate clients from the beginning that they should no more expect me to drop what I am doing to accept unscheduled phone calls than they should expect their neurosurgeon to stop surgery to do the same. Except for a short list of people who my staff know to put through at any time, and except for the flurry of communications that takes place as a file is moving close to resolution, I have my staff make an appointment for me to return the call later. Clients understand this and calls tend to be more meaningful and get more done as a consequence. Here's the written policy we give clients on communication:

### Our Firm's Communication Policy

Our promise to you is that while we are working on your case, we don't take unscheduled inbound phone calls, faxes or emails. It makes us much more productive and helps get your case resolved faster. You can always call my assistant at 579-4000 or toll-free 1-888-579-3262, and schedule an in-person or phone appointment, usually within 24-48 hours. This is a lot better than the endless game of "phone tag" played by most businesses today. Remember, too, that email is "quick", but lends itself to miscommunication. Decisions on important issues need to be discussed on the phone or in person. So if it's really important, don't email—call my assistant instead.

Not only does this promote a saner life for the lawyer, it tells the client "there is a line-up at the door waiting to talk to me, my time is valuable, and I'm organized" – not like those fools you encounter yammering on cell phones while they stand at restaurant urinals. Clients accept

this system and the rare demanding or difficult client who complains is better off with someone else who will indulge them. I won't.

## **Writing Down Goals**

Now I'd like to talk about writing down your goals. Remember mindset number one: The true purpose of your practice or business is to serve you and to fund your ideal lifestyle – not the other way around. You must begin by putting your personal life first and getting your practice prioritized correctly.

This leads me to a second important mindset: as Rem Jackson has said, a goal not reduced to writing and reviewed often is a mere wish.

I did not personally adopt this mindset and begin the discipline of writing down my goals until two years ago. Napoleon Hill called the goal-oriented mindset "Definiteness of Purpose." In the beginning, writing down life goals requires you to have a frank talk with yourself. I can tell you that not only will you learn something about yourself, but if you persist, it works.

Goals must be related to specific time horizons to be effective. Many people who adopt the discipline of writing goals, goal horizons of lifetime, 3 year, 1 year, and quarterly. You should set goals in the several aspects of a full and balanced life: personal, business, financial, health and fun.

First write out your lifetime goals for the 5 areas. Your 3 year goals must be connected to your lifetime goals. If you can't flow a 3 year goal up to a lifetime goal it is either not a goal or your lifetime goals need adjusting. Your 1 year goals must flow down from your 3 year goals and your quarterly goals must be directly tied to the fulfillment of your 1 year goals. Be sure to create at least one goal for all five areas. Further information on goal setting may be found in Rem Jackson's paper. [www.mygoals.com](http://www.mygoals.com) is an interesting resource with electronic worksheets.

The point about your goals is that they are *your* goals, *your* vision of success in life. Success is what *you* define it to be. Stephen Covey in his great book *The Seven Habits of Highly Effective People*, said that the first habit is "start with the goal in mind." So do that, start with your goals in mind and the most effective way to know what your goals are and to attain them is to reduce them to writing and review them often. A goal not reduced to writing and reviewed often is a mere wish.

Jim Rohn famously said, "You are the average of the five people you hang out with the most." The skill and knowledge necessary to achieve your goals is multiplied when you associate with smart, positive people who can teach you what they know and assist you in defining and refining your own projects and the paths to implement them. Napoleon Hill called this masterminding. The typical mastermind group might be a group of entrepreneurs in non-competing businesses, who meet periodically to share practical ideas on how to grow great, well-run businesses. There is always a sea of negativity out there ready to swallow you up. You need to spend time with people who reinforce positive thinking and think so big that you can't help

but see how possible something is that moments ago seemed impossible. That is the power of the mastermind.

Email me for a copy of this talk or a set of worksheets laid out with lifetime, 3 year, 1 year and quarterly time horizons, allocated to the personal, business, financial, health and fun aspects of life. Contact information is on [chescrosbie.com](http://chescrosbie.com).

## **Conclusion**

In conclusion, I told you what I was going to say, I told you, and now I will tell you what I said.

The teaching of law as a science of ordering human affairs independently of morality creates a vulnerability which is exploited by the supremacy of the billable hour in law firm culture. Generally, we go to law school because we want to help people, but lawyers in private practice are burned out, depressed, and invested in the premise that success in law practice and in life is defined by how much money they make. You can have a life of wealth *and* significance if you adopt the following mindset: the true purpose of your practice is to serve you and to fund your ideal lifestyle. Your personal life is primary and your practice is secondary. Only then will you have the ability to serve others in the most profound and impactful way. This is what I mean by “how to stop thinking like a lawyer.” The discipline for achieving your perfect practice and your perfect life is ethical, effective, outside-the-box marketing. The most effective way to achieve your personal and practice goals – the most effective way to have a successful life – is to

reduce your goals to writing and review them often. Then associate in a mastermind group with smart, positive people who share what they know and hold you accountable for your goals.

[Goals Worksheets](#)