

The Professional Benefits of Mental Wandering

As I write this, I have a professional negligence trial in two weeks, three experts to wrangle to trial, a sick wife and young child at home—a wife who, even when healthy, is totally consumed with the legislative session, the three-year-old just knocked the very dead Christmas tree on the four-year-old... I have a deposition around the corner requiring me to learn complicated underground plumbing and engineering systems. I am investigating two interesting new cases that popped in the door. One, of course, right up against the statute of limitations deadline: catastrophic injuries but from what seems like questionable liability; the other outrageously expensive in expert costs. My phone rang off the hook today about issues that could in retrospect all been ignored. I am struggling to figure out how to best use my time... Never enough hours in the day. I'm all over the map. Stress and fatigue are growing. So, what to do?

I left the office. I played squash for an hour. I sweat, hard. I defeated a regular opponent and friend who always beats me. I took him down 3-2. I won the final match 11-3. The last eight points I won in a row, back-to-back. In that I found flow and focus. It felt great. My Whoop fitness tracker was proud of me, recording a strain of 16.5 (whatever that means). I got a much-needed mental break.

Psychologist Amos Tversky said — and I loosely paraphrase here — “the secret to good work is to always be a little underemployed.” He's saying that to be creative you have get out and do something seemingly aimless or unstructured to allow yourself to wonder and truly think. Clearly that's our job as lawyers. We must come up with creative solutions for our clients. And it is often stressful. I had to get out of the office and get away from work to focus on exactly what I left behind.

It was absolutely the right call. I thought of an entirely new line of questioning for a defendant's expert witness at trial. Regarding one of the new cases, out of the blue I remembered a Kentucky Bar Association update that discussed the recent Kentucky Supreme Court case *Walmart v. Reeves*, reviewing negligent security. In light of that case, I went back to my office and immediately signed the client. I barely remember paying attention to that particular update as I was hunting for family vacation rentals during that CLE. That case just popped into my head; I have no idea where that thought originated or how I remembered the name. And liability under this case is clear. I got back to the office and signed the client and revised the expert's cross. Without

a little aimlessness, I would not have accomplished this. I had tons of energy. I was recharged. I recommend these mid-day breaks to everyone.

In fairness, I don't think any of us can go to our partners and clients and say, “I'm working really hard on that case by going skiing next week, later!” Or “Hey boss, I'm just going to bounce this tennis ball against the wall for an hour while I stare at the clouds.” But how often is something a better idea once we've had a chance to sleep and think on it? It is, every time. You'll need to find what works for you — walking around downtown, cooking, fishing, pickleball... Get outside of your head. Get out of the grind. Put down the screen. Don't get bogged down by the menial. Find the big picture.

I'm always tempted to shove another podcast in my ears throughout the day. Humanity seems to have cured boredom with our iPhones. Too, there's an endless cycle of notifications, texts and pings demanding our attention. However, every morning and evening I walk eight blocks from where I park to my office, without AirBuds, and I love it. My mind wanders in that 15-minute walk to and from the office. Secretary of State George Shultz also took mid-day breaks. Not without the AirBuds — well, without the AirBuds; it was the Reagan Era, but you get it. He took an

hour of solitude to focus on the big picture strategy and let his mind wander.

This kind of aimless mental wandering certainly helps my professional thinking. The sick wife and kids — they're still there. So are the Christmas tree needles all over the living room. And so are many other family household stresses. As of this writing, I still need to research plumbing and engineering. But, I got a couple of promising ideas for a few of my cases, and some good exercise, and I feel good.



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