



Practicing Law with Blinders On

BY RON SANDGRUND

Whether by nature or nurture, law school does a great job of graduating a lot of detail-oriented human beings. As a law grad myself, with a reputation even among other lawyers for being detail-oriented, I certainly could serve as the poster child for this affliction. Still, I was not jealous when one of my friends got a birthday T-shirt as a new associate from his legal assistant that read, “Is Anal Retentive Hyphenated?” While I proudly own my X-Man® ability to get into the weeds of insurance policy construction and drafting non-pattern jury instructions, I also knew that for years this superpower hid a great weakness: my inability to see the forest for the trees.

What do I mean? Simple. For a long time, I outlined multi-page cross-examinations, annotated with supporting evidentiary rules guaranteeing the testimony’s admission, cross-annotated with exhibit and deposition cites standing at the ready for impeachment. Eventually, however, I realized that during my most effective cross-examinations, I had pushed my notes aside. Similarly, during most of my 35+ years practicing law, I refused to “network,” convinced that becoming an expert in the law, and backing it up with successful results, easily trumped hobnobbing with folks I didn’t know talking about stuff I didn’t care about. Only later did I recognize that lawyers were, by and large, interesting people, and that simply

spending time with them was valuable—and fun. In short, I began to understand that while blinders may serve a racehorse well by keeping the focus on the finish line, it never hurts to look around and see what the other racehorses are doing, take in the cheering crowd, and smell the paddock’s flowers.

Most important, I learned that taking off the blinders made me a better attorney, a better law partner, a better family member, and a better human being. I learned the value of viewing clients (including corporate representatives) as people, their lawsuits as something that had gone horribly wrong in their lives, and resolution of those lawsuits as a constructive means of letting them move on. I also learned that I could not go wrong if I treated my fellow associates’ success and happiness as a part of my success and happiness. And, over time, I even began to spot some of my many unconscious biases that distorted too much of my thinking.

I was fortunate to work with two mentors and more than a few coworkers, especially staff, who often forced me to stop and ask, “Why am I doing this?” Why am I barking orders when a calm request could make all the difference? Why

am I interrupting a legal assistant's painstaking work to have him or her make a "quick copy" when I could do it myself? Why am I deposing dozens of witnesses at great expense without considering the cost-benefit to my client, or recognizing that many of the depositions serve only to calm my nerves in the face of the uncertainty before trial? Why am I satisfied doing insurance defense work when I have a skill set that qualifies me for more challenging (if riskier) work that more fairly rewards my expertise? Why are my trial examination notes filled with meticulous evidentiary foundations without giving equal consideration to whether I can accomplish the same thing without boring the jury to tears and trying the judge's patience? Yes, that is a lot of Whys, but I found they needed to be asked every step of the way.


There is an old saw about how trial lawyers improve their craft. When you are new at the game, it isn't until you have read the appellate opinion that you realize, "Damn it, I should have asked that question at trial." As you gain experience, you ask the same question, but this time it happens when you are drafting your motion for new trial. Finally, after accumulating years of wisdom, just after the close of evidence you realize you "should have asked that question." And there it is, the Aha Moment! There are just some T's that won't ever get crossed and some I's that won't ever get dotted. In other words,

to err is human, and as my grand-niece likes to say, "We're all human beans."

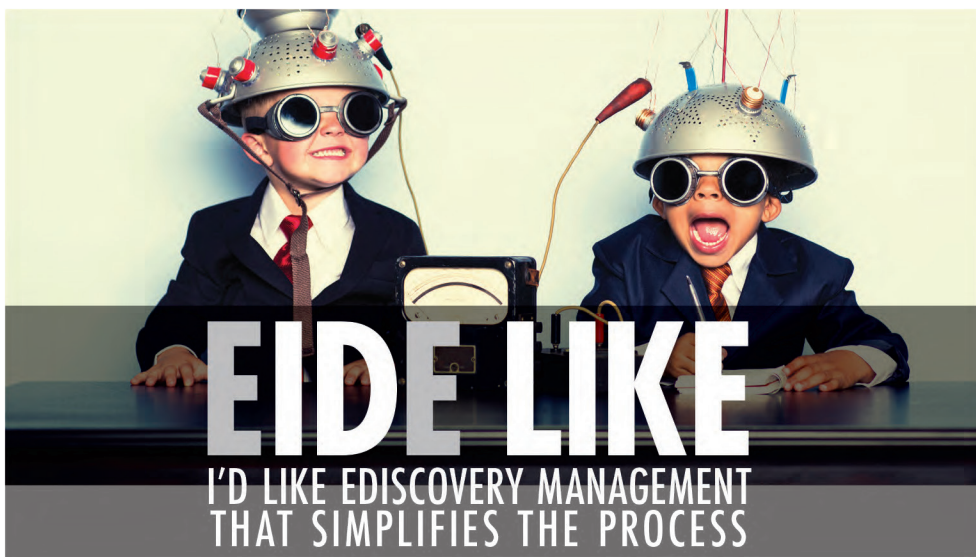
Thirty-three years ago, I was a second-year associate tasked with drafting a townhouse purchase agreement for a developer. I assembled a collection of purchase contracts drafted by some of the best law firms in town, and then researched the case law supporting every clause and phrase to better understand their intent and legal effect. Although some of the language seemed awfully stilted and artificial, I knew it was tried and true and that I should not tamper with it. After a couple of weeks of legal research, drafting, and redrafting, I was able to reduce the contract to a four-page, single-spaced Masterpiece. I left it on my supervising attorney's desk.

The next afternoon, that lawyer came in and, with a smile, told me I had done an amazing job; then, with an apology, she dropped the contract into the wastepaper basket. She said that our client was new to the development industry; the townhomes at issue were constructed in Edwards and intended to be sold to tourists in town to ski Vail; and the purchase agreements were to serve equally as marketing tools and legal documents. What the client needed was a single-page contract that prospective buyers could look over quickly and sign on the spot, while their heads were filled with visions of coming home after skiing the Back Bowls and warming up in front of a fireplace, and not

distracted by incomprehensible legalese. That supervising attorney had the foresight to see the Big Picture that I lacked, and the confidence to know that while the four-page, single-spaced purchase contract was less subject to legal challenge, that minor risk paled next to anything that might block the sale.

Which brings me to my final point: Recognizing my weakness and finding someone with a complementary skillset allowed me to flourish in ways my limited ability to see the Big Picture would not. That supervising attorney (then, a third-year associate) and I later became law partners. During our decades-long partnership, I could never fully take the blinders off. I remained more detail-oriented than my partner, while my partner always had the vision to see the Big Picture. But together, I think we made one decent lawyer. 

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