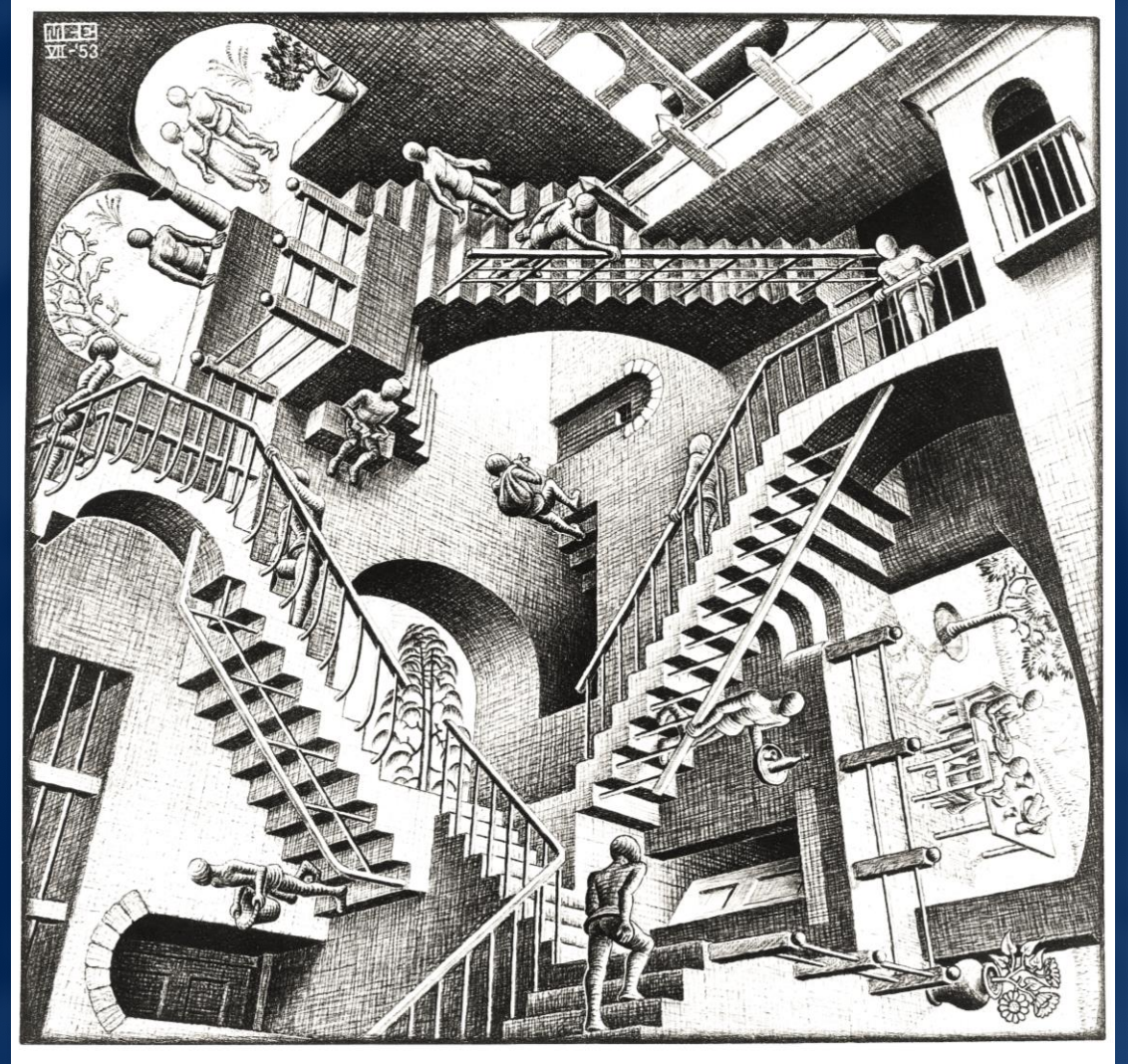


ATTORNEY PRODUCTIVITY IN THE NEW PARADIGM

————— What you measure matters —————

Approaching Attorney Productivity

WHERE DO WE BEGIN?



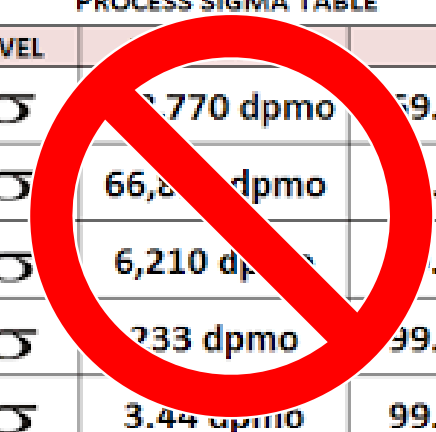
Level Setting

Setting Expectations About This Discussion

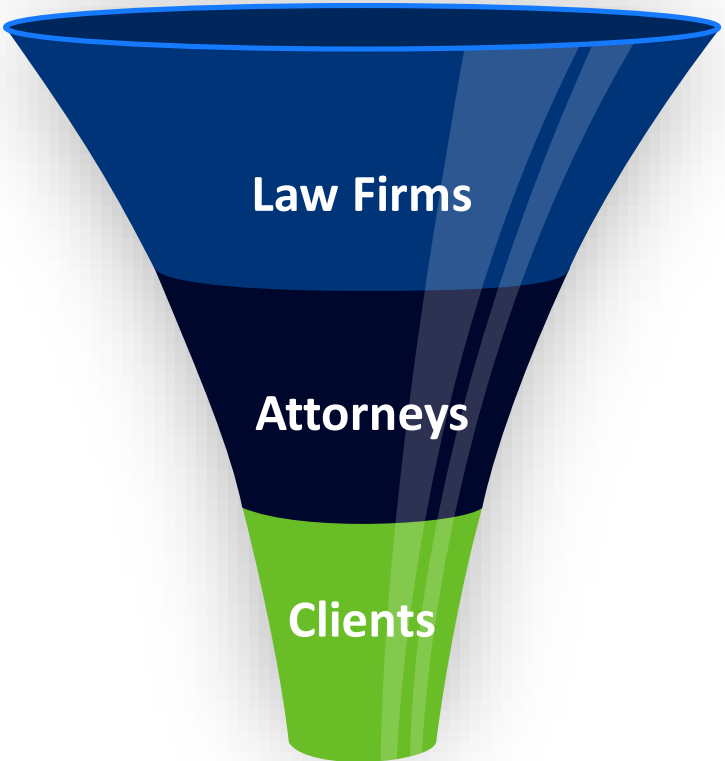
- ✓ **Productivity models and KPIs for factory widgets may not be applicable for attorneys**
 - Especially in the complex world of legal services delivery and practice management expectations
- ✓ **Six Sigma**
 - Don't even get me started
- ✓ **Be open to the idea that we may have had it all wrong**
 - How can you measure productivity if you don't truly understand value?
- ✓ **Just because you don't know how to measure it doesn't mean it doesn't matter**
 - Try
- ✓ **Be honest about why you care about attorney productivity and what you can do about it**
 - First do no harm

PROCESS SIGMA TABLE

SIGMA LEVEL	DEFECTS PER MILLION OPPORTUNITIES (DPMO)	YIELD
2 σ	3,000 dpmo	59.10000%
3 σ	66,800 dpmo	93.33000%
4 σ	6,210 dpmo	97.38000%
5 σ	233 dpmo	99.97700%
6 σ	3.44 dpmo	99.99966%



The Stakeholders Who Cares?



What Could Possibly Go Wrong?

CHANGING PARADIGMS

Old Paradigm	New Paradigm
<ul style="list-style-type: none">✓ Law Firm-Centric<ul style="list-style-type: none">• Set rates• Increase profitability by leveraging attorney hours worked ✓ Attorney<ul style="list-style-type: none">• Paid flat salaries• Billing targets / minimum hours• Bonuses for excess hours• Bill inefficiencies to client ✓ Clients<ul style="list-style-type: none">• Price takers• Billed for time• Uncertain future costs	<ul style="list-style-type: none">✓ Client-Centric<ul style="list-style-type: none">• Demand value• Transparency in legal fees• Alternative Fee Arrangements (AFA) ✓ Attorneys<ul style="list-style-type: none">• More compensation at risk / bonuses• Productivity measures tied to value creation ✓ Law Firms<ul style="list-style-type: none">• Profitability shifts to reward quality not volume• Flat fees

Shift in Measuring Productivity

Old View	New View
<ul style="list-style-type: none">• Measure what you manage• Measure what matters	<ul style="list-style-type: none">• Understand what you are not measuring• Just because you don't know how to measure it doesn't mean you shouldn't try

Focus

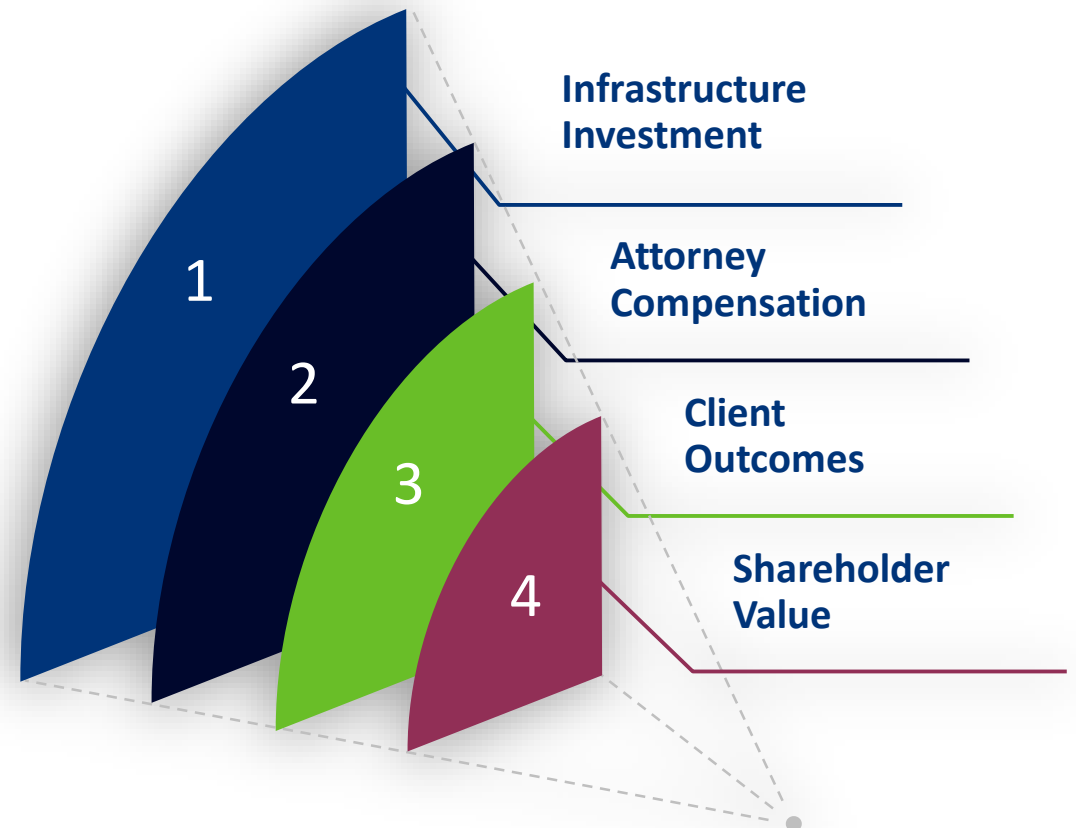
WHAT DO YOU FOCUS ON?



Attorney Productivity

What Are Your Goals?

- ✓ **Measure current productivity?**
 - Can we measure everything that is important?
- ✓ **Improve productivity?**
 - How do we know that there is more to improve?
- ✓ **Justify compensation paid to attorneys?**
 - How would we know if we are overpaying?
- ✓ **Justify our investments in attorney support?**
 - Is every dollar of legal fees equal?
- ✓ **Justify our capital expenditures and infrastructure?**
- ✓ **Maximize shareholders' value**



Attorney Productivity

HOW DO YOU MEASURE PRODUCTIVITY?



Classic Productivity Measures

✓ Matter KPIs

- ✓ Legal Fees Collected
- ✓ Hourly Yield
- ✓ Cost of revenue / allocation of firm resources
- ✓ Client retention
 - Loyalty
 - Satisfaction
 - Likelihood of referring (NPS)
- ✓ Attorney retention
 - Recruiting / training costs / onboarding
 - Retention

✓ Firm KPIs

- ✓ Case Management
- ✓ Business Development
- ✓ Practice Management Growth
- ✓ Knowledge Management
- ✓ Operational Efficiency

Be honest about what you expect from attorney productivity measures and what you are willing to do with incomplete information

Market Approach To Value

Fees based on value

✓ Family Law

- Fixed price for divorce

✓ Corporate Law

- Legal entity established

✓ Patent Law

- Cost for patent review

✓ Real Estate

- Closing costs for purchase / sale

✓ Personal Injury

- Settlement amount

✓ How is value determined?

- Clients price shop law firms
- Price mutually decided

✓ How is price negotiated?

- Scope
- Availability
- Supply and demand
- Timeframe
- Relationships
- Reputation
- Intangibles

Value Determines Productivity

Insights

- ✓ **Selling time is an outdated dinosaur model**
 - Does your heart surgeon bill by the hour?
- ✓ **Time in and of itself does not have value**
 - What is the value of a life sentence in prison?
- ✓ **Time measures often emphasize the wrong thing**
 - What is the value of a stay-at-home parent taking care of an autistic child?

More Insights

- ✓ **We tend to measure what is easy to measure, not necessarily what is important**
 - We tend to overvalue what we can measure
- ✓ **Focusing on the wrong measures**
 - Why do we make our least expensive employees punch a clock when they walk in the door but our most expensive employees punch the clock only when they are actually charging someone else?

Productivity Perspectives

PRODUCTIVITY IN BLACK AND WHITE OR SHADES OF GRAY?



You Can't Talk About Productivity If You Don't Understand Value

Monetary Terms	Non-Monetary Terms
<ul style="list-style-type: none">✓ Financial Recovery<ul style="list-style-type: none">• Personal injury• Damages• Buy-outs✓ Contract negotiations<ul style="list-style-type: none">• cost savings• revenue enhancement• new markets• personal injury damages✓ New sales / purchase / mergers / acquisitions	<ul style="list-style-type: none">• Client satisfaction• Risk aversion• Validation• Personal security• Financial security• Time to completion• Closure

How do you charge for value if you don't know what it is worth?

Finding Value Data

Sources of Value Data

What is easily assessable?	What is NOT easily assessable?	<i>Do we have a bias towards that which is easily measured?</i>
<ul style="list-style-type: none">✓ Timesheets✓ Income Statement✓ Invoices✓ Case management system<ul style="list-style-type: none">• Client retention• New client acquisition• Matter aging• Time to completion✓ Tangible client deliverables and outcomes<ul style="list-style-type: none">• Settlement amounts• Contracts	<ul style="list-style-type: none">✓ Relationship measurements<ul style="list-style-type: none">• Clients• Prospective Clients• Co-Workers• Biz dev networking✓ Intangible Client Outcomes<ul style="list-style-type: none">• Risk aversion• Validation of client's worthiness• Personal security• Financial security• Closure• New Opportunities• Companionship	

Data Collection and Usage

Assessment of Your Data	Practical Implementation
<ul style="list-style-type: none">✓ Is your data biased?<ul style="list-style-type: none">• Of course it is✓ Do we have enough data?<ul style="list-style-type: none">• Probably not✓ How do we access / utilize unstructured data?<ul style="list-style-type: none">• Good question	<ul style="list-style-type: none">✓ How will our data help us better understand how we work?✓ How can we change how we work?✓ How will our data give us competitive advantage?✓ Who wants to change / who doesn't?

Are we really making decisions based on less than 10% of our data?

Now that you have some data, how will you get more?

AI & Machine Learning

Artificial Intelligence

- ✓ **Infers knowledge from data**
- ✓ **Structured and Unstructured Data**
 - 80% - 90% of organization's data is unstructured
- ✓ **Less bias**
 - Does not judge good or bad (curious)
 - Uncovers counter-intuitive insights that humans might ignore (baseball analogies)
 - Can give unhelpful correlations (sharks and ice cream)
- ✓ **More data leads to increased accuracy**
- ✓ **Creates flexible models that adapt to new environments**
 - Repeatable
 - Scalable
 - Reliable

Machine Learning

- ✓ **Derive knowledge from data**
 - Situational productivity
 - Practice-specific productivity
 - Skill-based productivity
 - Team chemistry enhanced productivity
 - Geo-specific productivity
 - Time of day productivity
- ✓ **Test theories to affect better behaviors**
 - Work from home
 - Flexible hours
 - Work in teams
 - Distribution of work
 - Allocation of capital
 - Change rewards systems

*Now
that
you
have
the
data,
what
will
you
do?*

Attorney Perspective

DO YOU SEE ATTORNEYS IN THEIR ENTIRETY?



Productivity as a function of desired behaviors

Zero-based Attorney Compensation

- ✓ Generate Legal Fees
- ✓ Keep current clients
- ✓ Keep current client happy
- ✓ Bring in new clients
- ✓ Mentor staff
- ✓ Professional development
- ✓ Promote law firm

Productivity-Based Attorney Compensation	
Starting Salary	\$0
Legal Fees	% of fees collected
Client Retention	\$5,000 per client
Client Happiness	\$500 per 5-Star review
New Clients	\$10,000 per new client
Mentor Staff	\$500 per lunch-and-learn
Professional Development	\$1,500 per association
	\$1,000 per CLE
Promote Firm	\$1,000 per speaking engagement
	\$500 per blog
	\$2,500 per media event
TOTAL TARGET COMP:	\$150,000

Performance Measurement Challenges

Zero-based Attorney Compensation

✓ Productivity-Based Performance Management Criteria

- Baseline professional standards and ethics
- Measurements are objective
- Measurements are mutually agreed
- Overall target value to firm
- Bonus for exceeding target value

✓ Challenges for Management

- Attorneys control their productivity
- Compensation and earnings mix are fluid
- Workplace location is mostly irrelevant
- Make their own hours
- Unlimited vacations
- Subjective measures largely ignored

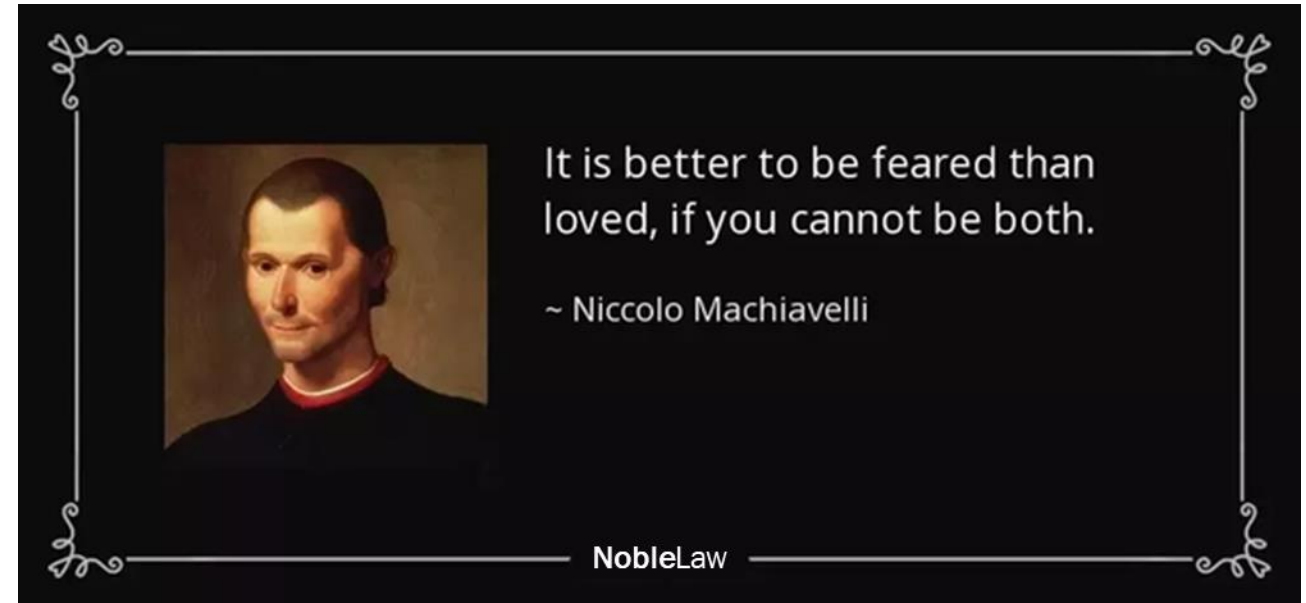


Beyond KPIs

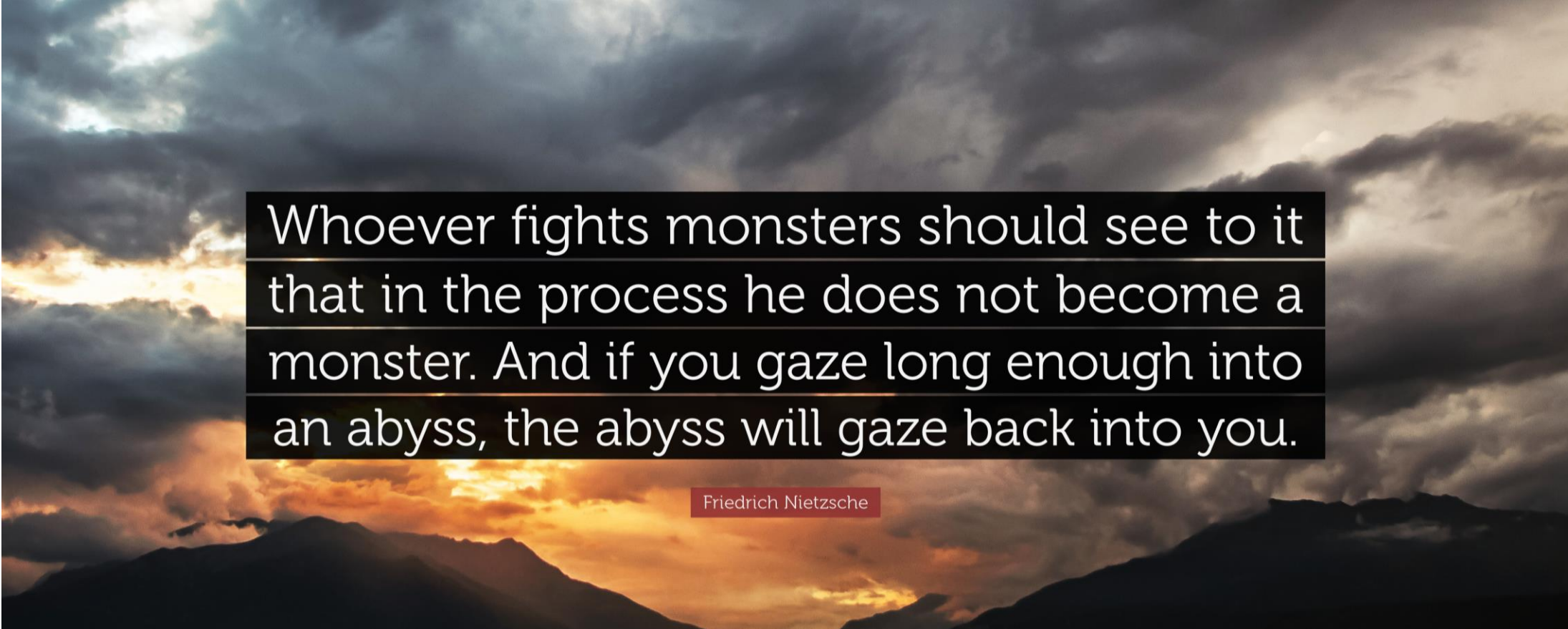
The Obvious but Often Overlooked

- ✓ **Attorneys as people**
- ✓ **Variations in**
 - Motivations
 - Stimulus
 - Sense of identity
 - Sense of belonging
 - Reaction to interventions
 - Reaction to rewards / punishment
 - Response to behavior modification

- ✓ **Your most valued assets walk out the door at the end of every day**
 - What do you do to make sure they come back?



What biases do you bring?

A dramatic landscape photograph showing mountains in the foreground and a sky filled with dark, heavy clouds. A bright light source, likely the sun, is breaking through the clouds, creating a golden glow and illuminating the scene from the left. The overall mood is somber and contemplative.

Whoever fights monsters should see to it that in the process he does not become a monster. And if you gaze long enough into an abyss, the abyss will gaze back into you.

Friedrich Nietzsche


Connect


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