

# FORREST GUMP'S ETHICAL APPROACH TO WELLNESS AND THE ESTATE PLANNING PRACTICE: COMPLYING WITH THE RULES OF PROFESSIONAL CONDUCT WHILE USING STRESS REDUCING TECHNIQUES TO ENHANCE YOUR PRACTICE (AND LIFE) SUCCESS

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4924-2007-8152v4

## 2023 STATS

### What Lawyers Self-Report:

28% experienced depression

19% reported anxiety

21% had alcohol use problems

11% had problems with drug use

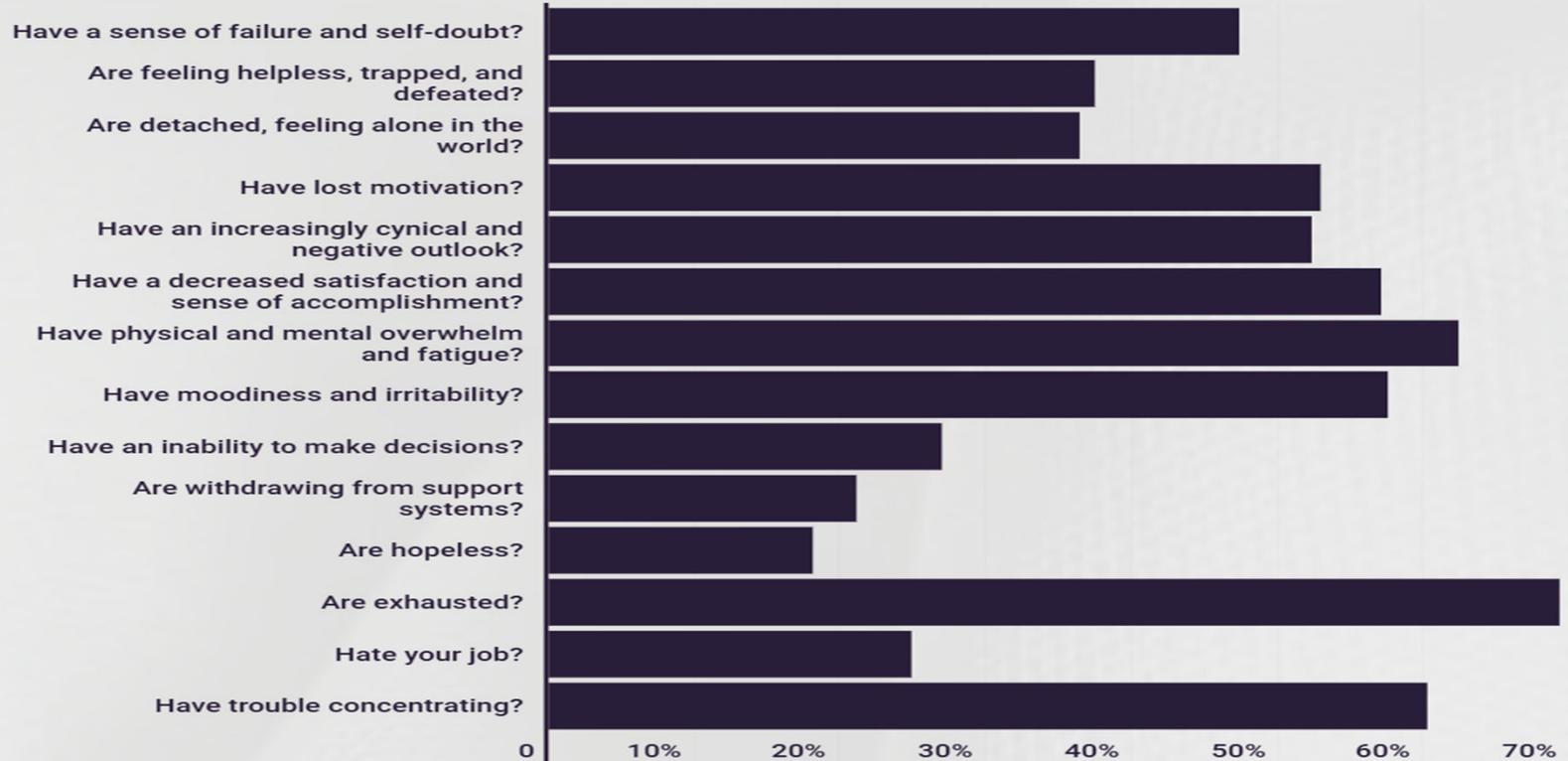
KRILL, P. R., THOMAS, H. M., KRAMER, M. R., DEGENEFTE, N., & ANKER, J. J. (2023). STRESSED, LONELY, AND OVERCOMMITTED: PREDICTORS OF LAWYER SUICIDE RISK. *HEALTHCARE*, 11(4), 536.  
[HTTPS://DOI.ORG/10.3390/HEALTHCARE11040536](https://doi.org/10.3390/healthcare11040536)

## Challenges in 2024

<b>Trouble focusing on work tasks</b>	<b>48%</b>
Inability to "disconnect" from work	<b>45</b>
Sadness/anxiety/fear about world events	<b>38</b>
Feelings of inadequacy/ Imposter syndrome	<b>35</b>
Unmanageable workload	<b>32</b>
Feeling a lack of meaning or purpose in life	<b>31</b>
Loneliness or isolation	<b>26</b>

Source: 2024 Attorney Well-Being Survey

## Do you feel you...



## ABA & HAZELDEN BETTY FORD STUDY (2016):

- **21%** initially identified as **problem drinkers**
- When asked more specifically, **over 36%** acknowledged struggling with **alcohol abuse**
- Almost  $\frac{1}{2}$  of lawyers stated their drinking problem began in the first 15 years in the industry, including time in law school

## STATISTICS: (ALM 2023 MENTAL HEALTH SURVEY)

- Nearly 3,000 lawyers answered questions related to well-being and the relation to law firms' culture and policies.
  - **Pandemic stress, economic uncertainty, and billable hours pressure** have been a potent combination hindering mental health efforts in many law firms
  - **More than 50%** of the respondents said they felt increasingly cynical and a decreased sense of accomplishment
  - **60%** felt overwhelmed and exhausted
- **More than 75%** said their work environment contributed to their mental health issues, with the top reasons being billable hours pressure, the 24/7 pace of the work, and client demands.



## HOW UNHAPPY? THE VERY BAD NEWS:

- 80% of Profession Reporting Variety of Below:
  - Stress Induced Physical Health Issues (HBP, Carpel Tunnel, BackPain, Heart Disease, Overweight)
  - Experience Social Alienation
  - Addicted to Work
  - Sleep Issues/Deprivation
  - Work Life Conflict/Divorce/Inability to Retain Relationships
  - Incivility/Loss of Moral & Ethical Values
  - Trending towards Frankenstein
- 68% are unhappy
- 40% likely or very likely to leave current position

Report on  
the State of  
Our Legal  
Professions  
Well Being...

**Its Not Good.**



# CAREGIVER BURNOUT SYNDROME - LAWYERS AS THE CLIENT'S CAREGIVER

- Conflicting Demands on Time
- Lack of Control
- Lack of Privacy
- Lack of Social/Down Time
- Unreasonable Demands
- Unrealistic Expectations
- Constantly feeling overwhelmed
- No sign of relief ahead-elections?
- 2021-2031 will be heydays for estate planners or will OBBBA and a \$15M permanent exemption create less work and more stress
- Increasing Complexity of Work: can you say 2701, profits interest partnership



ADDRESSING  
STRESS  
MANAGEMENT  
IN THE PRACTICE  
OF LAW,  
ACCOUNTING  
AND TAXES

## WE CAN DO IT: HERE THEN ARE 10, OR 15 ACTIONABLE STEPS

- We will present techniques that will reduce stress, and decrease likelihood of ethical violations.
- All start with the premise that you need to be mindful-in the current-and-now  
All recognize that status quo can be improved; but please, recognize what behavioral finance folk regard as the *status quo* bias.

# STATUS QUO BIAS

- The irrational acceptance of what there is today versus improving a situation.

# RULE 1: DEALING WITH “IN THE MOMENT STRESS”



- To deal with it:

# MINDFULNESS – TOOLS TO RESET & RECOVER IN THE MOMENT

- Mini-Meditation
  - Pause
  - Breathing
  - ... and Posture

# OTHER RESETS: AS THEY SAID IN THE 60S, TURN ON, TUNE IN, DROP OUT



## RULE 2: THE DAY TO DAY DEALING WITH “HABITUAL STRESS”

- You set out to tackle 5 major projects today. At home. The computer is not working. The dog is barking. Your kids are home NOT learning by video, By 1 pm, a beneficiary (not your client) of a trust you are administering calls with emotional rage, another client’s spouse has experienced near death event and needs plan done NOW, there are 275 new emails-folks like emails-you are too busy to eat... just an ordinary day. And you have not touched the 5 projects yet... your energy is running low...

## WORK TO LIVE

- Going back to Covid-it has taught us many aspects about life. One is that we **MUST** set boundaries.

## RULE 3: THE BACKPACK RULE

- Coming out of Rule 4: the no cell phone in the car rule



# DAY TO DAY RESETS FOR HABITUAL-RULE 5: TAKE A BREAK DURING THE DAY

- MINUTE OF FOCUSED BREATHING/POSTURE- WE DISCUSSED
- NAP/WALK/CLOSING OF EYES
- NUTRITION BREAK—TRICKY ONE-YOU HAVE ONE SHOT-PREPARE THE NIGHT BEFORE
- PHYSICAL ACTIVITY (LONG OR SHORT –PUSHUPS, DUMBBELLS, STRETCHES. EASY. 10 MINUTES

# MANAGING TECHNOLOGY



## RULE 6: QUIET

- Find quiet time!

# DO NOT PROLIFERATE EMAILS OR UNREASONABLE EXPECTATIONS

- “Lou, quick question, in the SLAT that we discussed, to avoid them being a reciprocal trust if each of my spouse and me have one, what were we supposed to do?”
- Consider how inefficient, frustrating and stressful simple email chains can become. In the tenth email in a chain you get a one word reply “Yes” but since the last email in that chain you’ve received 100++ emails and had 2 meetings. Can’t we all give complete thoughts?

## RULE 7: DELAY DELIVERY

- You can schedule emails to be sent after the weekend to dampen the expectation that you are always available.
- You can schedule email blasts to clients in advance.
- You can put webinars on autopilot as well.
- There is more that you can do to control expectations.

## AND THE ANSWER TO THE RECIPROCAL TRUST DOCTRINE

- Does anyone really know
- Consider how uncertain = risky most of advanced estate planning really is.
- Why do we speak at conferences and write articles that negate (or worse!) techniques or steps we know many colleagues use? Civility and consideration can lessen stress for everyone.

## HAVE TO GO BACK TO 1969 SC COURT GRACE

- “The trust instruments were prepared by one of decedent's employees in accordance with a plan devised by **decedent** to create additional trusts before the advent of a new gift tax expected to be enacted the next year. Decedent selected the properties to be included in each trust.”
- “The relevant factor was whether the trusts created by the settlors placed each other in approximately the **same objective economic position** as they would have been in if each had created his own trust with himself, rather than the other, as life beneficiary.”

## RULE 8

- In addition to DD, make sure you read each email only once and act on it.

## RULE 9: BIORHYTHMS AND THE COMPUTER

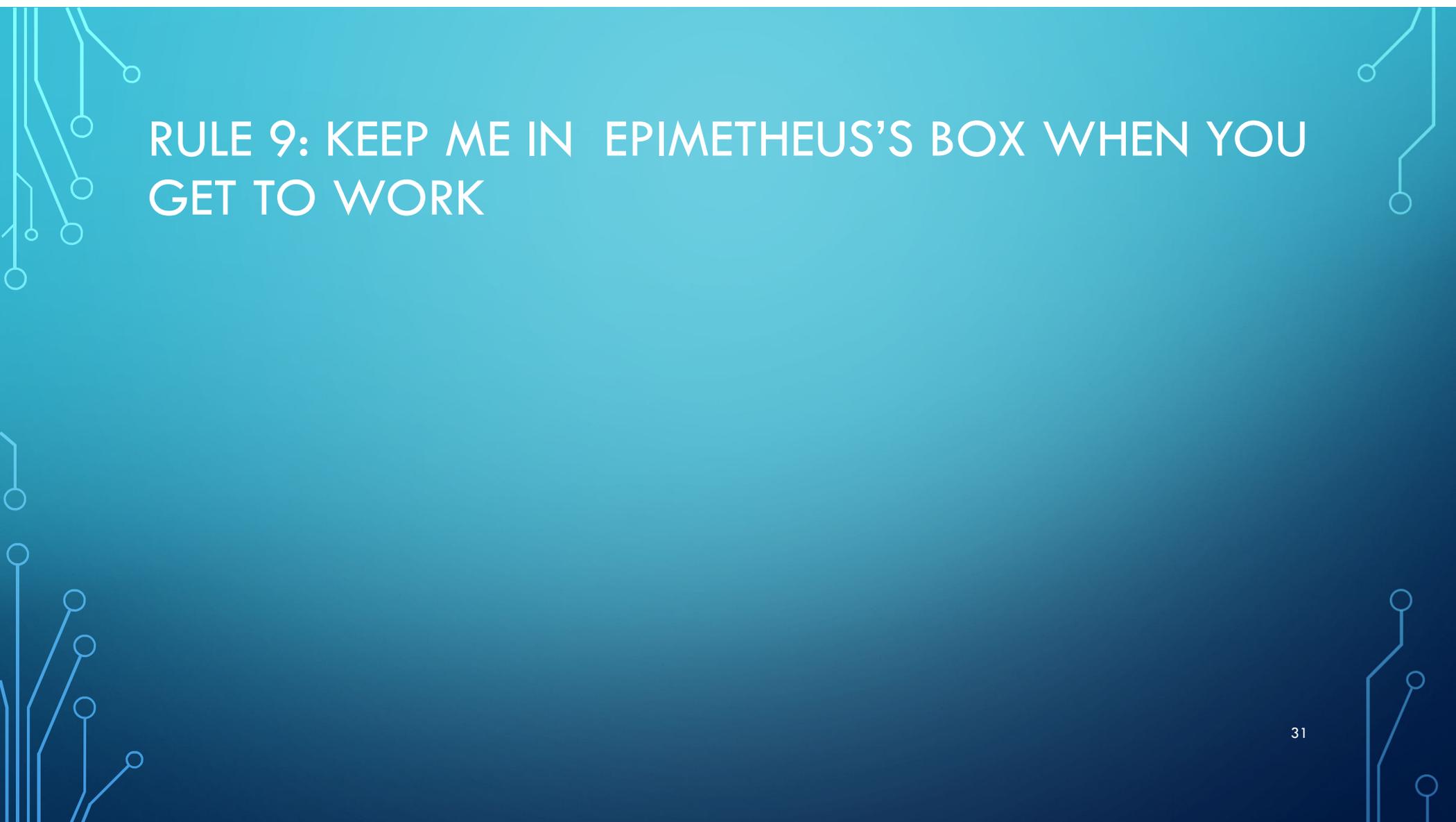
- Who opened Pandora's Box?





## WHAT TO DO?

- The iphone and the computer needs to stay in Epimetheus's box each day as long as possible. To do this, consider rule 9

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RULE 9: KEEP ME IN EPIMETHEUS'S BOX WHEN YOU GET TO WORK

## ORGANIZATION/SCHEDULING/CLIENT MANAGEMENT

- We be running low on time, so continuing our theme about doing actual work, not emails, to start your day, consider the following rule 10, started by asking what your most productive part of the day is?



# RULE 10: BE INTELLIGENT ABOUT YOUR PRODUCTIVITY

# QUIZ

- Your best time of day is the morning. Do you:
- A. Schedule a breakfast business development meeting
- B. Turn on your computer immediately and start doing emails.
- C. Sleep later each day
- D. None of the above (...because you want to schedule your hardest stuff when you are sharpest-do your most difficult projects).

## QUIZ #2

- You're bored, the phone rings, it's from a number you don't recognize, what do you do?

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# END OF THE DAY RULES 11 TO LIVE BY

# LONG TERM SOLUTIONS TO HABITUAL STRESS SYMPTOMS



Sleep earlier and more often - going to bed earlier tends to allow you wake up earlier. Adding a mere 15 min to morning can be a significant factor to a more organized and relaxed start to the day.



Sleep deeper – eliminate all blue light from cable box, chargers, clocks and devices.



Reduce drama - stay out of office drama and gossip; emotional sources of drama impact stress and unnecessarily agitate. Interferes with sleep.



Proper lighting during the day – low light tends to impact negativity and depression. Get outside.



**PURPOSEFUL PAUSE** – Single largest solution to stress, overload, and A.D.D. is to deliberately take a purposeful pause. 15-20 min is all it takes.



# MID-WEEK STRESS RESETS

DAY OUT OF OFFICE - WORKING OUT OF OFFICE. COVID: PERMANENTLY OUT OF THE OFFICE

\*

# VACATION PLANNING PROTOCOL

- Last vacation my wife locked my cell phone and laptop in the hotel room safe using a code different from the one we always use. Hmmmmm.....

# RULE 12: THE ANTI PURITANICAL APPROACH TO THE CALENDAR



# USING MULTITASKING AS A TOOL – STRESS REDUCER???

IS IT HELPING OR HURTING YOUR PRODUCTIVITY?

# EXAMPLES

Multi-Teching	Checking email while in conference, on phone or with a client. The I am bored approach.
Multi-Reading	Checking email while drafting or reviewing documents. Also I am bored.
Multi-Execution	Executing documents/letters while on the phone. Still bored.
Super-Driver	Driving while talking to clients, emailing, practicing your oral arguments or speech, drinking, and also snoozing. You need a real good self driving car.
Super-Chef	Cooking dinner while on a conference call, and feeding the dog. Clients really like that.
Bouncing	Bouncing from task to task to task without focusing on a single task. Boredom.

# WHAT WE BELIEVE ABOUT MULTITASKING - MYTHS



WE CAN DO IT.



WE CAN DO IT  
SUCCESSFULLY.



IT MAKES US MORE  
EFFICIENT.



IT MAKES US MORE  
PRODUCTIVE.



WOMEN ARE  
ESPECIALLY GOOD AT IT.  
MICHAELLE WROTE  
THAT PART.



AGE AND EXPERIENCE  
ENABLE SUCCESSFUL  
MULTITASKING

# REALITY - DEBUNKING THE MYTHS

Impossible - Neuroscience studies from Harvard, UCLA, Michigan, MIT, Stanford from 2010 to current conclude we can't do it. **Its not physically possible**

Incapable - Brain scans in Univ of Michigan studies affirmatively prove our brains are not capable of actually doing more than one task as one time.

“Shut Off” - Prefrontal Cortex (left front) of brain shuts out “extra” tasks and prevents multi-tasking (simultaneously doing multiple tasks).

**Gender is irrelevant – Women are not better at multi-tasking. Rather, they are just more willing to try.**

Age and experience do not help- age may make focusing on many tasks simultaneously even more difficult as we lose brain power with age.

Source: [www.blog.rescuetime.com](http://www.blog.rescuetime.com)

# MULTITASKING REALLY MEANS “SWITCHING TASKS”



Brain is not multi-tasking. Its instantaneously switching between tasks.



Brain is like an energy efficient LED light bulb. It takes time to warm up, and if switched off early, never fully lights up to its capacity. It need time to warm and act to full capacity which is impossible in multitasking environment.

# RISKS OF “SWITCHING TASKS” CONTINUOUSLY



Negatively impacts short term memory.



Increased anxiety and depression



Prevents efficient workflow or project completion



Reduces productivity and efficiency



Leads to focus on inappropriate tasks



**SIGNIFICANTLY  
HIGHER PROBABILITY  
OF MISTAKES!**



INHIBITS CREATIVITY

# Rule 13: Tools to stop habitual multi-tasking

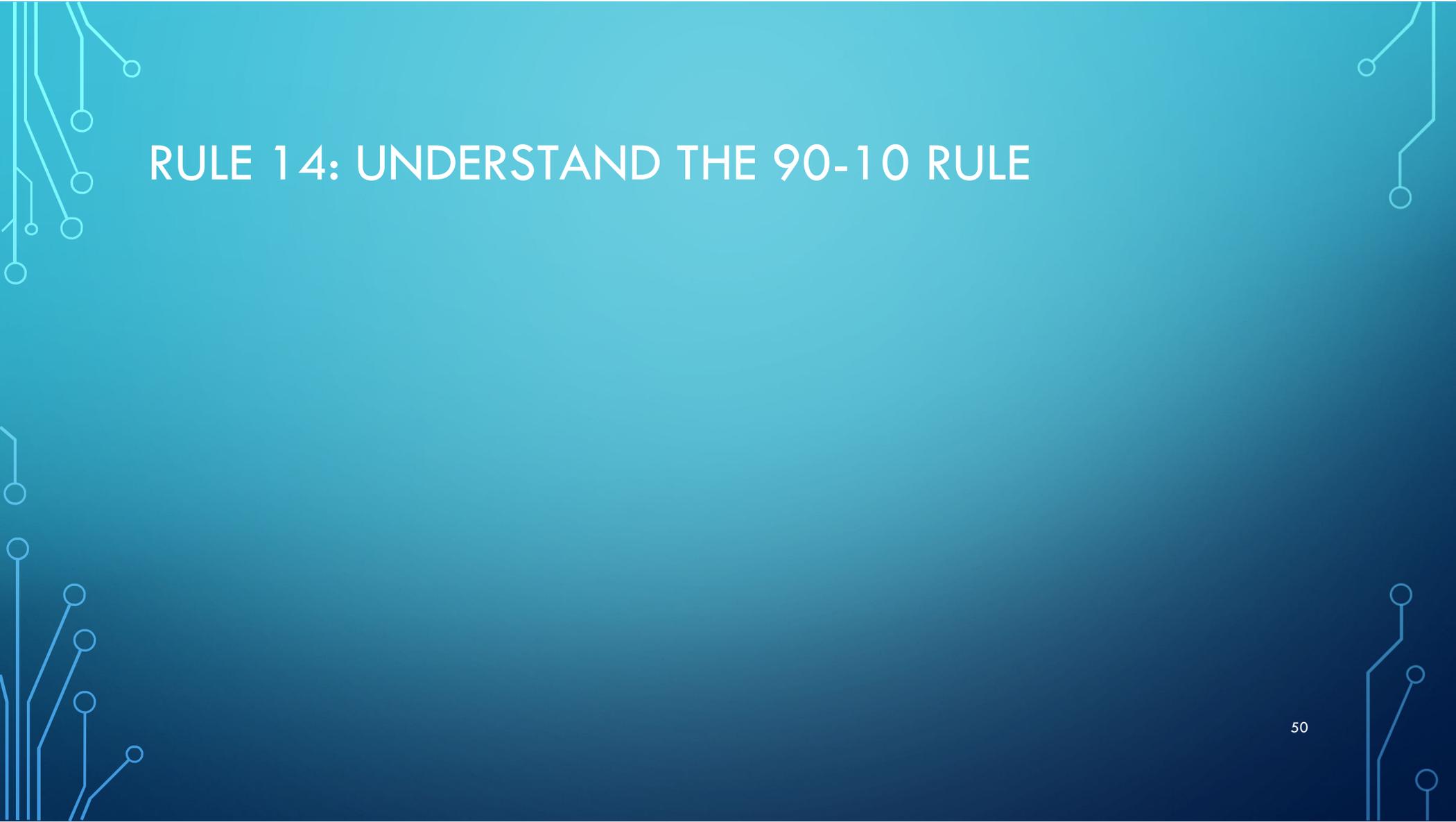
Focus	Bursts	Noise	Optimize
Establish daily schedule for “focused time” vs. switch task time.	Establish daily email “bursts” at structured times.	ZZZZZ	Optimize focused time with DND on phone, hold calls, close door, hold calls, work out of office if helpful during structured focused time.

## AND MOST IMPORTANT

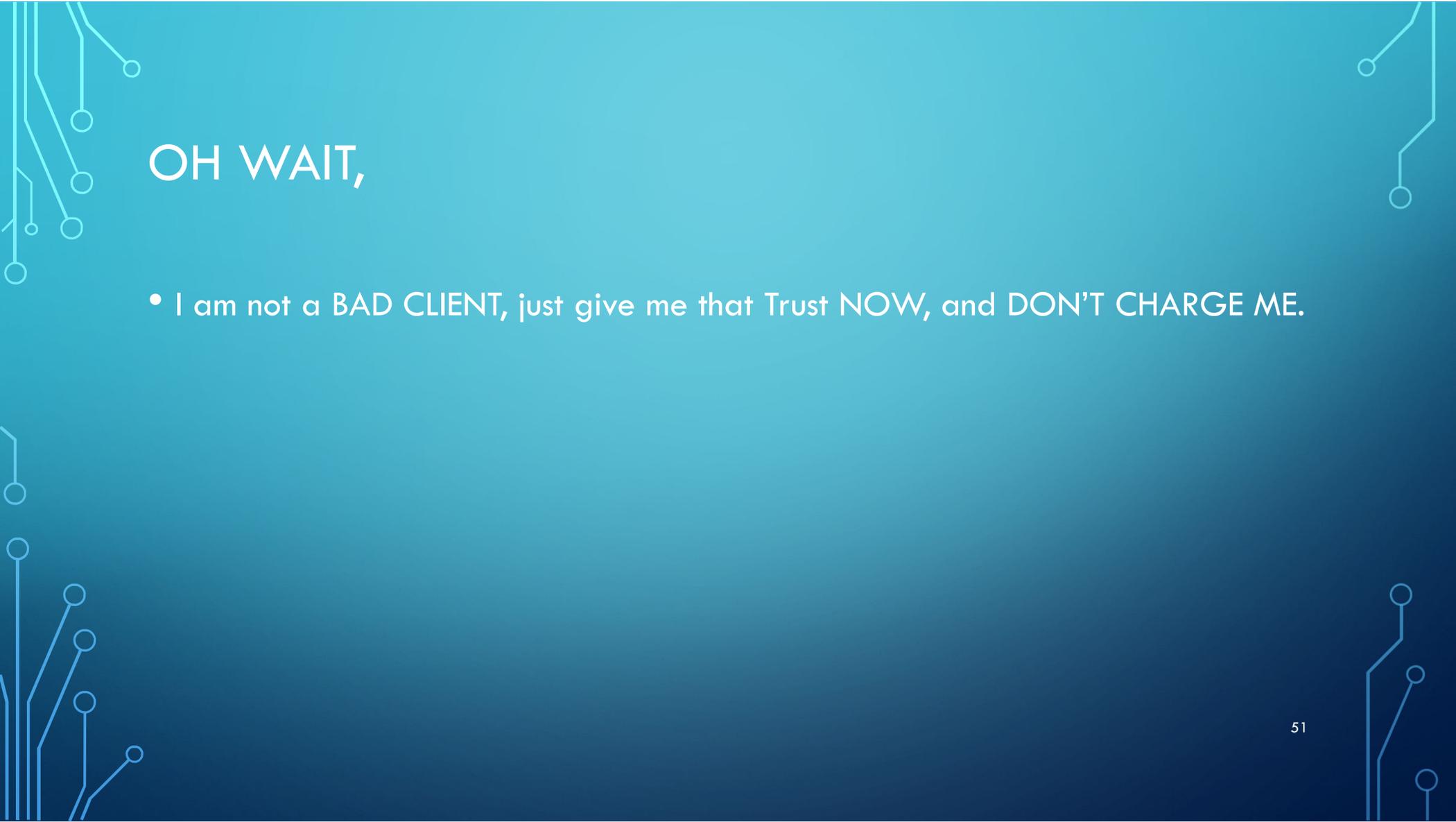
- Avoid the status quo bias-and be mindful that multi tasking is bad.

A decorative graphic on the left side of the slide, consisting of a network of light blue lines and circles that resemble a circuit board or a neural network. The lines are vertical and horizontal, with small circles at various points, creating a complex, interconnected pattern.

# MANAGING STRESS BY SELECTING & DESELECTING CLIENTS

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## RULE 14: UNDERSTAND THE 90-10 RULE



OH WAIT,

- I am not a BAD CLIENT, just give me that Trust NOW, and DON'T CHARGE ME.

## EXAMPLE

- Son calls for 92 year old mom to change her will to disinherit his brother.

## AND IF THE CLIENT IS BAD

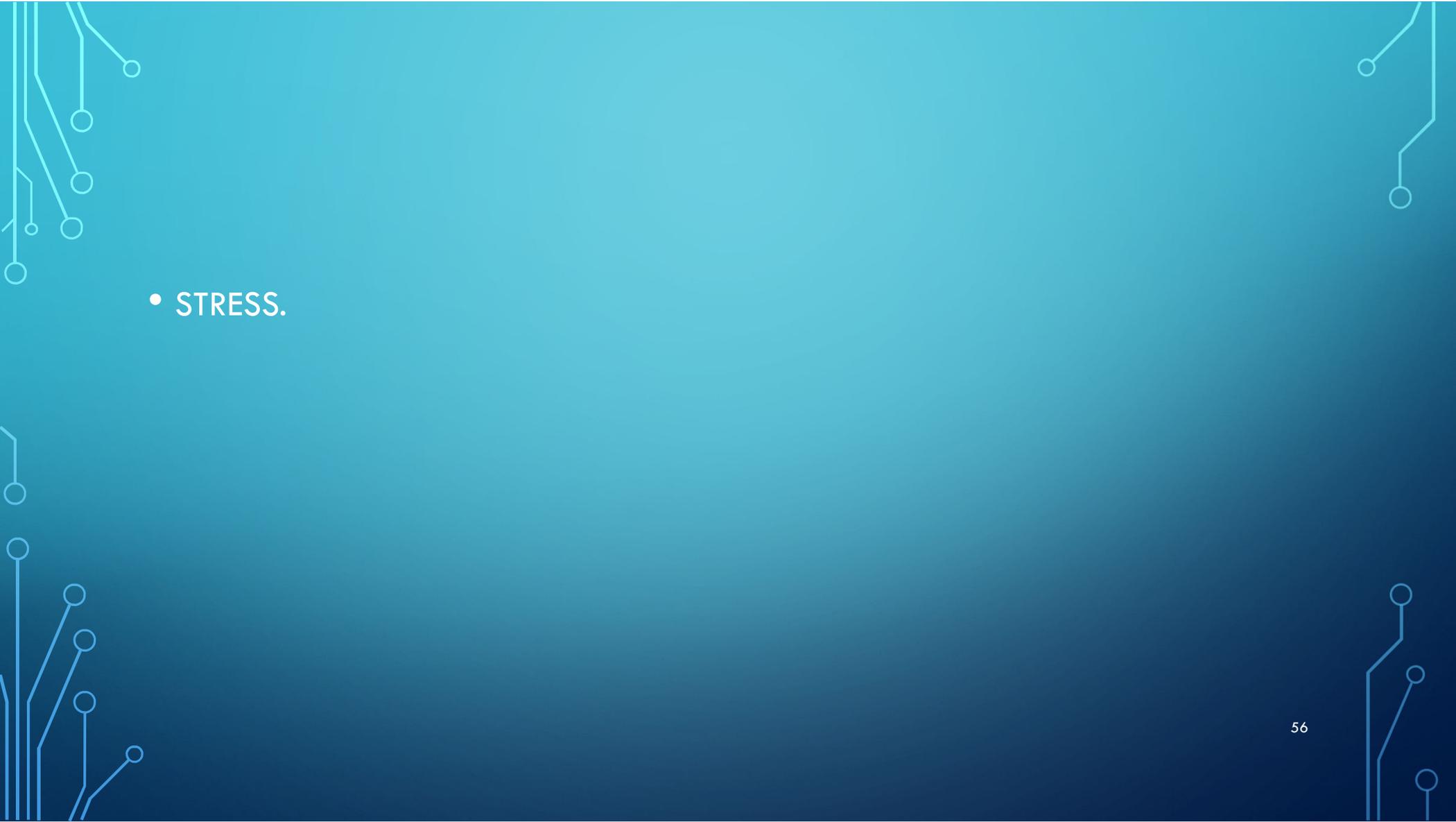
- Ridding yourself of bad clients is critical to serving your good clients, and self-care. Be sure to review the procedures, ethics rules, and other considerations of how and when you can terminate a client.

## RULE 15: BILLING APPROPRIATELY

- And if you are judicious enough to accept clients that you should accept, be smart enough to bill them correctly and promptly.

# BILLING

The act of hourly reporting, reviewing bills, billing, and collecting leads to →

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- STRESS.

# MINIMIZING STRESS BY MAXIMIZING BILLING PRACTICES

- See outline
- Few themes to adhere to...but the most important is the following:

- Your billing is part of your work product. Are you paying it the same attention?
- In addition to ethical requirements, are you taking the steps to minimize your stress?

## BEST PRACTICES

- If billing by time, all time must be in by end of day.
- Everyday.
- No exceptions.

# BILLS SHOULD BE OUT ON A TIMELY BASIS

- Obviously.
- But are you treating it as a priority.

## AND BILLS MUST CONVEY

- VALUE, because VALUE satisfies the most important variable to clients in accepting bills, paying bills, and feeling good about their providers who send bills.
- And that is?

# FAIRNESS

- Studies show that clients often do not approach financial decisions in a rational ways and instead
- Value the end results based on Fairness.

# THE 25K GRANTOR TRUST

## HAVE YOU ...

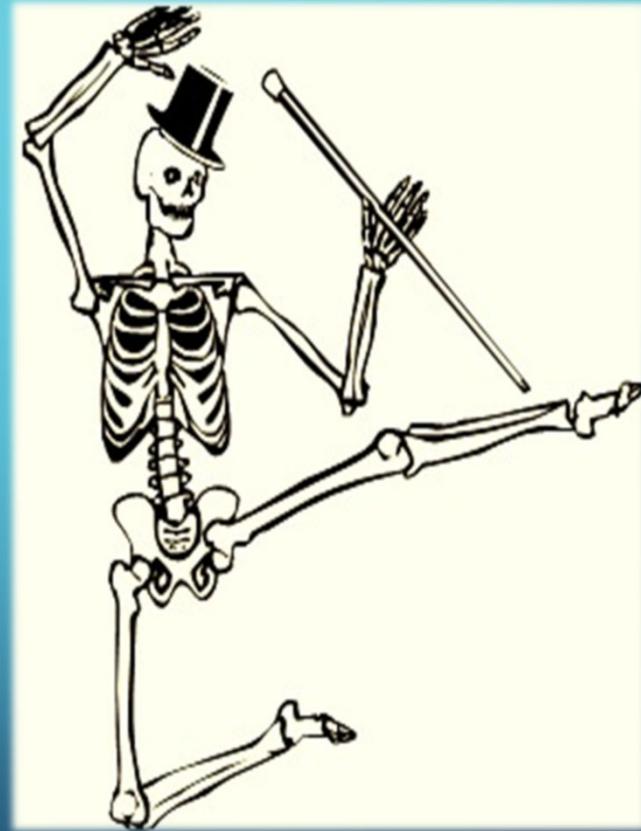
- Conveyed value during and at the end of the project?
- Do your bills and the description convey that value?
- What do your time entries say?
- Are there time entries that are offensive (the Ultimatum Game and the Hertz tank)

## RULE 16: USING MOVEMENT TO RESET (MOVING TO RELIEVE STRESS)

- ABA found many lawyers failure to prioritize physical activity is harmful to their mental health and cognitive functioning ... Research also shows that exercise improves brain functioning and cognition”

## WHAT IS PHYSICAL ACTIVITY?

Any movement that is carried out by the skeletal muscles that requires energy.



## TO SIT OR NOT TO SIT?



- According to studies utilizing device-based measures of sedentary behaviors, adults typically spend 9 hours per day sitting. Older adults are sedentary, on average, 10 hours per day.
- Today, the average office worker sits for about 10 hours.
- Experts now say you should start standing up at work for at least two hours a day -- and work your way toward four.
- Metabolism slows down 90 percent after 30 minutes of sitting. The enzymes that move the bad fat from your arteries to your muscles, where it can get burned off, slow down. The muscles in your lower body are turned off. And after two hours, good cholesterol drops 20 percent.

# MAKING IT HAPPEN: COVID VERSUS PRE COVID



- Bike or walk to work
- Stand during your commute
- Park further away
- Skip the elevator and take the stairs
- Sit on exercise ball
- Use a standing desk
- Set a reminder to take breaks
- Wear a fitness tracker (but beware of distractions)
- Conduct walking meetings
- Stand during meetings
- Walk and talk on the phone
- Take lunch outside
- Run errands on foot
- Clean up your desk/office
- Use waiting time wisely
- Exercise in the office
- Stretch when you feel stiff
- Drink lots of water
- Make face-to-face visits

# SUMMARY OF TOP TEN TAKE-AWAY

- Breathe
- DD
- Backpack Rule
- Biorhythms
- Movement

## BONUS

- The worst mistake you made, angriest client call, stupidest comment, are, we all know, somewhat humorous 1 year later.
- Laugh, and if you make <5 mistakes a day, small, large, judgment, or tone, then, guess what, you're doing better than me.
- We're human. We don't want to be saying, "Danger Will Robinson," all day, do we?

# CONCLUSION

- This is real and serious.
- This is not a fluff topic but an essential one.
- What action steps are you committing to take starting tomorrow?