Setting Boundaries to Improve Your Work and Your Well-Being

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INTRODUCTION

Boundaries are important in several ways and in many different aspects of our lives. For instance, land boundaries define the area of ownership on any parcel of land. Boundary lines on highways establish the rules of the road, such as where we can and can't drive. In sports, they define the area of play and determine what is out of bounds. In our personal relationships, boundaries mark the emotional and physical limits one establishes in a relationship. But, what about professional boundaries?

Professional boundaries ultimately provide the framework for healthy professional relationships. Within the legal profession they are designed to protect both the client and the lawyer. For instance, established boundaries within the lawyer-client relationship define effective and appropriate interaction between the parties. Without them, there is no guidance for the structure of the relationship. With the increased use of technology in the law practice, however, these boundary lines can begin to blur. Increased accessibility can lead to creating false expectations. Working from home during the COVID-19 pandemic—for many of us—has eliminated our boundaries. Without professional boundaries, however, problems can arise, schedules can implode, and one can lose a sense of work-life balance. The failure to set healthy boundaries with clients can even lead to questionable behavior and possible ethical violations if one is not careful.

WORK-LIFE BALANCE

Simply put, work-life balance is a state where a person equally prioritizes the demands of one's career and the demands of one's personal life. Obtaining work-life balance is important to help lawyers stay healthy and engaged in their work. Balance, however, can mean different things for different people. For some, work is everything. While for others work is good but spending time with family and friends is more important. Some of us want time to focus on activities that bring us enjoyment, such as reading, art, or music. Some of us want more time to focus on our physical health through exercise. Others may just need more time for rest and relaxation. Ultimately, it is important to figure out what's important to you before determining what work-life balance means for you.

Depending on where you are professionally, achieving a work-life balance may seem hard and unrealistic, but it is important. If you are teetering and fail to find some level of work-life balance, consequences may follow. Some of these consequences can include:

- Fatigue If you are in a state of being constantly tired, then your ability to work productively and think clearly may be reduced over time. Fatigue can also affect your ability to competently represent your clients and mistakes can occur.
- Lost Time If you are struggling to find balance, you might feel as though you have lost time with your loved ones. Maybe you missed milestones with your children. You might also feel like you have lost time to do the activities that bring you enjoyment.
- Increased Expectations Working extra or odd hours may lead to increased expectations or responsibilities. Keep in mind that once you have established a pattern, it is often harder to reverse course.
- Physical Health Risks if you are struggling to find work-life balance, chances are you are feeling stressed and you might also be getting less sleep since there is a direct correlation between stress

- and sleep. If so, your physical health can certainly be impacted. Studies show that stress and a lack of sleep can lead to conditions such as stroke and heart disease.
- Mental Health Risks Just as with an increased risk to your physical health, a work-life imbalance
 can also lead to an increased risk to your mental health. Work-life imbalance can lead to stress,
 burnout, and an increased risk for depression and anxiety.
- Negative Effects on Relationships In addition to feeling like you have lost time with your loved ones, a work-life imbalance can also lead to strains on your relationships.

Knowing that it is important for our overall health and well-being, you might now be thinking how do we *actually* achieve a work-life balance? We start by setting boundaries and minimizing interruptions, both of which should lead to taking back your calendar and most importantly your time. Once your boundaries are set, however, you must then stick with them. Otherwise, your boundaries may quickly go out the window. For example, if you set a communication boundary establishing you will not answer emails after 7 p.m., but then begin to answer a client's emails after 7 p.m. on a few select nights, those few nights can quickly become every night. The client's expectations will change and the next thing you know you have no boundaries with this client. So, keep this in mind, setting a boundary and then not enforcing it is to have no boundary at all.

SETTING BOUNDARIES

The first place to start with establishing a work-life balance is to evaluate the boundaries you are currently setting with your clients and in your other professional relationships. For some of you, this means recognizing that you might not have well defined boundaries at all. To establish your boundaries, you will want to identify two specific categories—boundaries for others and boundaries for yourself.

Setting Boundaries with Clients

Communication

According to <u>Consumer Reports</u> common customer service complaints in other industries often involve communication, including difficulty in speaking directly with someone or responses that take too long. This is no different for lawyers. I can tell you from my days working as a deputy disciplinary administrator that of the bar complaints filed, the most common complaints include issues surrounding communication.

Communication is a key foundation to your practice. However, a lawyer can also fall victim to communication overload if boundaries are not set within the lawyer-client relationship. Early in the relationship—preferably during the first meeting—you should discuss:

- What type of communication channels will be used?
- How often should the client expect communication?
- How long will you take to respond to the client if they contact you?
- Who should the client contact if they have questions?
- What are the office hours for communication?
- How long do you expect for client response?
- At what times will the client answer communication?
- What is the client's preferred method of communication?

These are just a few examples of the questions that should be addressed. Note, these questions not only establish the lawyer's responsibilities with respect to communication, but also the lawyer's expectations for the client.

It is important to establish client boundaries for several different reasons, but one important consideration is the way we now operate in society with respect to communication. Communication nowadays is instant. Services and products can also be obtained instantaneously. A client may expect the same level of response from their lawyer as they get from say, Amazon Prime. As a result, discussing communication expectations is an important part of establishing boundaries. You will at least want to consider: 1) the communication methods to be used; and 2) what are the response times a client should expect. Here are a few methods of communication that should be evaluated:

- Phone Calls When will you accept phone calls? If a phone message is left, how quickly will you return the call?
- Emails When will you check your email? How quickly will you return an email?
- Text Messages When will you accept text messages, if at all? How quickly will you return them? In what circumstances are text messages appropriate?
- Client Portals If you use a client portal, under what circumstances can the client expect it to be used?

Each of these methods may require different standards and response times. If so, be clear in your explanation to the client. Which brings me to my next point, when establishing your communication standards, it is important to keep in mind the Rules of Professional Conduct. KRPC 1.4 states that a lawyer shall, "keep the client reasonably informed" and, "promptly comply with reasonable requests for information." What does it meant to keep a client reasonably informed and to promptly respond? I can tell you what it doesn't mean. It certainly doesn't mean that you must respond to the 12 a.m. email at 12:05 a.m. If you set this expectation of immediacy for your clients, however, then yes, this is what they are going to expect from you time and time again. While it might not rise to a level of an ethical violation, the client may question your customer service purely on the standards you created.

In a recent American Bar Association Young Lawyers Section article, Even New Attorneys Need to Set Boundaries, Author Shannon Davis gave the following tip, "Most offices keep 8 a.m. to 5 p.m. hours. As a new attorney, you don't want to stray too far outside those hours. After 5 p.m., courts are closed, and judges are gone. Even if you answered, you wouldn't be able to accomplish much." While it was written with the young lawyer in mind, I believe it is a good reminder for every lawyer when it comes to client communication.

Office Appointments

Do you make yourself available anytime a client wants you? Have you found yourself offering late last-minute after-hours appointments for a client? If so, it sounds like this might be a boundary area to work on.

With respect to appointments, the most important thing is to stick to the schedule that you set. It is understandable that a client may not be able to meet with you during normal business hours and wanting to accommodate that client is also reasonable. My recommendation, however, is to have a set schedule. For example, if you find you have clients who you feel need accommodations, then you might consider including one or two days a week where you will take after hours appointments. Just make sure you are

adhering to your schedule and it doesn't become a nightly thing. Additionally, when evaluating your boundaries on client appointments, you should consider whether you are willing to accept the random unexpected pop-in by a client. The better practice would be to have the client call and set up a time to meet. If it is an emergency, of course you can be willing to accommodate, but it is best practice to have the client call first.

Emergency vs. Non-Emergency

Clients may have an emergency after business hours. Unfortunately, clients often do not understand what an actual emergency is. As a lawyer, you need to decide and know what constitutes an emergency so midnight calls from clients don't become the norm. It is important to have a discussion with the client on the front end of the relationship about your definition of what constitutes an emergency. Make sure the client has a clear understanding.

Using the Representation Agreement Effectively to Manage Boundaries

Your representation agreement can be your best friend when it comes to establishing boundaries and expectations with a client. A well drafted agreement establishes what is acceptable on the part of both parties. Ultimately, you should be using your agreement to manage expectations surrounding the services provided—and not provided—including your time.

While the Model Rules of Professional Conduct only require contingency fee agreements to be in writing—and other contracts preferably in writing—it is still best practice to put all fee agreements in writing. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding on the part of the client. It also gives you leverage when the client's expectations go beyond what was agreed upon by nicely referring a client back to the representation agreement when there is a question about communication response time. At the end of the day, what it is going to hurt you to put the agreement in writing? In fact, it could save you from risks down the road.

Your representation agreement should be a living document, continually reexamined considering changes in the law and lessons learned in your practice. With respect to boundaries, here are two areas to pay close attention to within your agreements:

• Scope - The scope of representation should be set forth and any limits on what the lawyer will do must be clearly spelled out. A lawyer may limit the objectives of the representation if the client gives informed consent in writing. However, any limitation must be in accord with the Rules of Professional Conduct and other law. For instance, a client may not be asked to agree to representation so limited in scope as to violate KRPC 1.1 relating to competence or to surrender the right to terminate the lawyer's services. A lawyer also cannot limit their duties or liability under the Rules of Professional Conduct in the agreement.

As a practical matter, a lawyer should not only set forth the legal services that he or she will provide but, in some instances, spell out the services that are not included as part of the agreement to aid in setting boundaries with client. This can also help limit any misunderstanding the client may have about the lawyer's responsibilities. Additionally, KRPC 1.4 requires lawyers to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. This includes explaining the nature of the attorney-client

relationship. You want to make sure the client understands up front the scope of your representation as well as the terms of your representation.

• Communication Expectations - Of course, the duty of communication always rests on the lawyer, however, it can be helpful to outline certain expectations that a lawyer needs from a client to provide quality legal services to that client. This is where the lawyer can describe the frequency and form of communications with the client and identify the person or persons whom the client should contact for questions. Informing the client of the firm's policy regarding the time within which calls will be returned and what to do if a timely response is not received is advisable. Additionally, state the firm's policy regarding the use of faxes, e-mail, and text messages to the client and obtain the client's consent to use such communications. If your preferred method of communication is email first, then an explanation of when the client should be using encryption to protect confidential information is also advisable.

Some lawyers prefer to use a separate document—such as an integrity agreement— between the client and the lawyers to outline what is expected with respect to communication and meetings. It is in addition to the representation agreement and is designed to give the client a full understanding of their own roles and responsibilities in the matter, as well as those of the lawyer. During the initial conversation, regardless of whether you use a representation agreement or something like an integrity agreement, the lawyer should talk through each point. It should be signed by the lawyer and client and a copy is given to the client. The bottom line is that whether you include this information in your representation agreement or in a separate document, taking an extra 15 minutes in the beginning to educate a client and set the mutual standards for working together can save hours of frustration, multiple phone calls, and can prevent the relationship from going south later on.

Setting Boundaries with Yourself

Boundaries with Your Time

Setting your own personal boundaries about how you will use your time is a useful technique for managing the stress associated with the practice of law and for enabling you to enjoy a reasonably balanced life. Boundaries will help you preserve time for vacations and activities other than practicing law that are meaningful for you. Time boundaries will also give you opportunities during the day to take breaks for reflection and rejuvenation. Here are some questions you should ask yourself:

- How much time do you want to set aside for vacation each year? Are you willing to have clients and colleagues contact you while you are on vacation? If so, under what circumstances? Will you answer email while on vacation?
- How often, and under what circumstances, will you bring work home with you at the end of the day? How often, and under what circumstances, will you work on weekends?
- How frequently will you check email during the week? Will you check email on weekends?
- Will you block out time on your calendar for important family events? Will you block out time on your calendar for religious and non-religious holidays?
- Will you give yourself permission to take breaks during the day? Will you give yourself permission to take mental health days, if needed?
- Will you block time on your calendar for self-care?

Once you set boundaries around your time, it will be important for you to manage the expectations of your clients and colleagues consistent with those boundaries. Unless you take affirmative steps to manage your time consistent with the boundaries you want to maintain, clients and colleagues will be more than happy to manage your time for you.

Boundaries for Your Mental Health

We tend to see clients on the worst days of their lives or when they are going through the toughest of circumstances. This means you may just get the brunt of all the negativity. Now, add in the fact that the justice system is adversarial in nature. We might be dealing with disturbing facts of the case, possibly graphic images, and constant analysis of a problem. All this coupled together leads to some of the highest depression, anxiety, and substance abuse rates in the profession. Sometimes we just need a break to take care of ourselves. In addition to taking a vacation—and I mean a real vacation with multiple days away—know that it is beneficial to take mental health days when you need them as well. Do not ignore fatigue, anxiety, or depression. These are often symptoms of a larger problem like burnout. Allowing yourself permission to take mental health days will help prevent long-term burnout and will help you get in tune with your body and brain.

Let perfection go. This will be one of your hardest challenges to setting boundaries for yourself. The sooner you learn that perfection is unrealistic and dangerous, however, the better and healthier you will be. As type A personalities, perfection is the goal, but what happens when you fail? You end up in a vicious cycle of depression, anxiety, burn out, and perfectionism. Allowing yourself permission to let go of perfectionism will break this cycle. This doesn't mean that you aren't going to produce high quality work or that you are going to fail your clients or ignore your ethical responsibilities. Instead, it will allow yourself to let go of the pressure of being perfect.

MINIMIZING DISTRACTION AND SETTING A ROUTINE

Once you have established your boundaries, the next steps in this process of achieving a better work-life balance are attempting to minimize distraction and then establishing a daily routine. This will allow for overall better productivity and give you the tools to take back your calendar.

Minimize Distraction

Distractions—they seem to be everywhere, especially in our hyper-connected world. We are all familiar with what our distractions are and we all more than likely loathe them. While our distractions may be different in nature, they happen daily for many us and can be our biggest productivity killer. For instance, a 2016 CareerBuilder survey identified cell phones and texting as the biggest distraction and productivity killer at work. The next biggest distraction? The internet. Also making the list, social media and email. Of the employers who took the survey, over half reported their companies losing between one and two hours of productivity a day because of distracted employees.

In 2017, researchers at The McCombs School of Business at The University of Texas at Austin released a <u>study</u> comprised from a series of experiments that were conducted on 800 smartphone users in an attempt to measure how well people complete tasks when their phones are nearby. Researchers asked participants to perform a concentration test in four different scenarios: with their smartphone in their

pocket, on their desk, locked away in a drawer, and in another room. Test results were lowest when the smartphone was on the desk, but with every additional layer of distance between participants and their smartphones, test performance increased. Overall, test results were 26 percent higher when phones were removed from the room entirely. The key takeaway finding from the study, however, is that your cognitive capacity is significantly reduced when your smartphone is within reach—even if it is off.

In addition to the cellphone, email can be a leading cause of distraction for many. According the Harvard Business Review, the average professional spends 28% of the workday reading and answering email. That can amount to 2.6 hours and 120 messages received per day. This just might be the reason so many lawyers report email as a number one contributor to stress and frustration.

Research tells us that interruptions lead to higher workloads, more stress, higher frustration levels, and more time pressures. Cal Newport, Georgetown professor and author, suggests that we divide our work (any work really) into two categories that represent 1) how we work; and 2) the type of work generated. In his book, *Deep Work: Rules for Focused Success in a Distracted World*, Newport explains the two types of work. Here are brief explanations:

- Shallow Work Non-cognitively demanding, logistical-style tasks, often performed while distracted. These efforts tend to not create much new value and are easy to replicate.
- Deep Work professional activities performed in a state of distraction-free concentration that push your cognitive capabilities to their limit. These efforts can improve your skills.

There is an obvious parallel between deep work and the work we do as lawyers. For instance, items such as writing briefs and motions or preparing for a hearing or trial are prime examples of the deep work we do. We also do shallow work, however, that distracts us from the deep work. For instance, rapid fire communication, social media, and basic busy tasks often serves as a proxy for productivity. To some degree the technology that we rely upon, especially in the form of emails, has the potential to interfere with the actual work of lawyering. If you have ever asked yourself, "Where has my day gone and what do I have to show for it?" Chances are, you fell victim to shallow work.

Have you ever found while doing a project it's easy to get distracted and fall into the trap of assigning way too much time to shallow activities? I know I have. We may find ourselves running out of time to complete work that produces value because of the amount of shallow work that distracts us throughout the day. The cognitive switching from deep work to shallow work, from shallow work to deep work, and back and forth again has penalties as it drains our time and our energy. As result, it important for you to take time to find your distraction-free zone to produce your best work. This is where having the ability to put boundaries in place regarding your time can be beneficial.

1. Setting a Routine

Set time limits for single tasks, like responding to email. Don't do the task outside your set hours. Do the same for leisure activities or exercise. Routines and written schedules help you better manage stress, tasks, and time. Routines can include taking a lunch at a set time every day to ensure you're taking a break. Stepping outside the office can help your mind decompress from the responsibilities of the professional world and can help you work more effectively in addition to relieving some of your work-based stress. Studies show that if something is on our calendar, we are more likely to do it. So, don't be afraid to schedule your daily routine.

If you already have a daily routine, it might be time to re-evaluate it. If there's a daily activity that is not required and does not bring you a deep sense of satisfaction nor serves your greater good, get rid of it. Then, replace its time slot with something that does bring you joy. What you replace it with does not need to be something obligatory. Instead, consider replacing it with something that feeds you.

Taking Back Your Calendar

Lately, effectively managing a calendar is something I have been talking about more and more with other lawyers. If I had to guess, for some of us, the COVID-19 pandemic has brought to light whether we have been effectively managing our calendars this whole time. Between work, your kid's school, and managing the household, it might seem like tasks are never ending. These "normal" tasks, however, have pushed us out of our comfort zone. We have had to learn how to operate differently.

Adapting to change can be a good thing for building our resiliency skills, but I have heard from some that this new normal has created an environment in which work is home and home is work. For many us, this seems to affect our ability to manage our calendar and institute effective boundaries. This makes sense—especially for those of us who struggle with boundaries—because we might have just thrown them out the window all together.

Utilizing time management techniques can be important to managing your calendar. Taking the time to implement techniques now can go a long way for you, not just during the pandemic, but throughout your career. Good time management enables you to work smarter—not harder—so that you get more done in less time, even when time is tight and pressures are high. Time management, however, seems to be one area many lawyers struggle with. Part of the reason is those distractions I discuss above. It is also affected by our inability to set boundaries with others to stick to the schedules we promise ourselves.

Time management techniques go hand in hand with boundaries. You must have boundaries in place with your time to effectively use the chosen technique. If you are not OK with following through and saying no to that email, phone call, or text message then it is likely the technique won't work, because you are still being reactive to everyone else.

If you find yourself struggling to stay on top of things, implementing a time management technique can be useful. Something to remember, however, is this is not a one size fits all sort of situation. Sometimes, finding the right time management technique takes trial and error until you find one that works specifically for you. Below you will find some of my favorite techniques.

Calendar Blocking

Calendar Blocking is a simple time management technique. Essentially, you take your calendar and block out every hour to completely coordinate your day. Do you have a brief or motion to work on? Block that out on the calendar to ensure you have designated time to work on it. Would you like to exercise more? Block it out on the calendar. Do you have meetings? Of course, get those on the calendar too. The other key to calendar blocking is setting aside time in your day to deal with the distractions (or chaos). For instance, block out time dedicated to responding to emails and phone calls.

Why do I like calendar blocking so much? It allows you to take back control of **your** calendar. Too often, we allow others to dictate our calendars in their entirety. If you find yourself always in a state of responding to others, calendar blocking might be the right time management technique to try.

To get started with calendar blocking it is a good idea to look at an entire week's worth of time and make a quick list of what you need to get done. Next, determine how long you might need to complete each task. Once you have your list made with an estimation of time, you move on to thinking about when it might be best to complete those tasks. For instance, if you feel sharpest first thing in the morning, then block off a chunk of time to work on items that need the most attention and focus during those hours. Also, think about how you arrange your schedule according to the items you have already planned on your calendar. If you are scheduled to attend a docket every Wednesday afternoon, then think about what tasks make the most sense to schedule on your calendar on those days. Essentially, going through the process of calendar blocking allows you start to building a schedule that works for you.

The Pomodoro Technique

The Pomodoro Technique was developed by Francesco Cirillo in the late 1980s and is named after the tomato-shaped kitchen timer which was used by Cirillo as a university student. (Pomodoro is Italian for tomato.) The idea behind the technique is simple: you set a timer for 25 minutes and work on only one thing for the duration of that time. When the timer rings, you reward yourself with a short break. This technique forces you to focus on that one task for a set period, while taking breaks to avoid mental fatigue. For instance, rather than working on a brief until it is "done," you work on it until your 25 minutes is up. Then, you get up and stretch (or whatever else you like to do on a break) for 5 minutes. Once your break is over, you go back to working on the brief for another 25 minutes, and so on, until you complete 4 pomodoros (25-minute segments). After completing 4 pomodoros, you take a longer 20-30 break.

The goal should be to work towards task completion to meet your daily goals. As a result, first you will need to create a prioritized task list to determine what your workday will include. Using the task list and implementing the Pomodoro Technique should help you to avoid interruptions and distractions while improving your concentration. The more you can concentrate, the more work you should be able to complete. The key, however, is to not fall victim to checking your email, looking at social media, or chitchatting during the pomodoro.

If you want to try implementing this simple time management technique, here is quick recap:

- Pick a task.
- Set a time to 25 minutes and focus on that task for the entire 25 minutes.
- When the 25 minutes is up, take a short 3-5 min break.
- After 4 pomodoros, take a longer 20-30 min break.

A kitchen timer will do the trick, but if you are looking for something more hi-tech to use, there are plenty of Pomodoro Technique apps out there for both Apple and Android devices. There are also Chrome apps available to use with your Chrome web browser, some of which allow you to block websites during use. Here are a few examples of the apps out there:

- PomoDone (Web, Mac, Windows, Linux, iOS, Android)
- Focus Booster (Web, Mac, Windows, iOS, Android)
- Focus To-Do: Pomodoro Timer & To Do List (Mac, Windows, iOS, Android)
- Focus Keeper (iOS)
- Pomodor (Web)
- <u>Pomofocus</u> (Web)

To read more about the Pomodoro Technique visit https://francescocirillo.com/pages/pomodoro-technique.

The Quadrant Method

This time management method was developed by speaker and author, Stephen Covey. The quadrant method takes your linear to-do list and asks you to split the items up into two buckets: what is important and what is not. From there you split the tasks even further into what is due soon and what is due later. Here is what should be included in each of your quadrants:

- Quadrant 1 would include only those activities that need your immediate attention. This space should stay reserved for emergencies and extremely important deadlines. When you start your day, you know where to work first: the upper left corner in Quadrant 1.
- Quadrant 2 should be comprised of things that are important to you and your business but need not be done until a later date. A good example for this quadrant would be something like strategic planning.
- Quadrant 3 would contain items that are more than likely interruptions in your day. Items like emails, phone calls, some meetings. Setting aside a time to specifically handle these interruptions at one time should save you some time in your day and allow you to focus on Quadrant 1 tasks. Delegation may also be an option for some of your Quadrant 3 tasks.
- **Quadrant 4** activities are those that waste your time and offer no value. These are the tasks you want to eliminate. Think: surfing the internet or social media.

Here is a sample:

	Urgent	Not Urgent
Important	Quadrant 1	Quadrant 2 Relationship building Finding new opportunities Long-term planning Preparation and planning Strategy: Schedule It
Not Important	Quadrant 3	Quadrant 4

You should find that most of your time is spent in Quadrants 1 and 3; however, having a more organized and prioritized list should open time in your schedule to work on Quadrant 2 tasks, allowing time to focus on items that enhance your skills and your business.

CONCLUSION

If we set effective boundaries it ultimately empowers us to reduce the amount of distraction **we allow** to creep in each day. Task can be completed in a more efficient manner. We can eliminate the need to go home with work in hand. We can complete more meaningful work for our clients and create space on our calendar for ourselves. We can ultimately create a better work-life balance overall.

By instituting boundaries and being less reactive, you will improve your overall satisfaction at work and improve your sense of self. Having the ability to accomplish difficult and meaningful tasks can lead to an increased sense of self-value, which ultimately leads to more feelings of happiness and having purpose. Your stress levels can be reduced, you can prevent burnout, and enhance your mental and physical health. While instituting boundaries may seem tough at first, it gets easier with time. The more you work at it, saying no also becomes easier. My hope for each of you is that you make a commitment to yourself and take the lessons learned with you today to increase your productivity and obtain a better work-life balance.