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# Teaching Patience: Why Law Students Need to Slow Down and How to Help Them Do It<sup>1</sup>

By Erin Carroll

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In our classes many of us introduce our students to the “busy partner.” The busy partner needs his answer quickly. The busy partner doesn’t have time to chat about the details. The busy partner won’t read a lengthy email.

Yet, in focusing on the example of the harried lawyer, do we lose sight of the part of legal practice that is decidedly slow? A lawyer may litigate a case, puzzle over a legal question, or develop a client relationship not in an afternoon, but over a period of years. To be a competent attorney, one cultivates not only the fast-twitch muscles of a sprinter, but also the endurance of a long-distance runner. In addition to responding to the after-hours fire drill, lawyers need to be able to focus for sustained periods, to fend off fatigue, and to develop a skill not easily learned: patience.

Standing in front of a roomful of 1Ls when I started teaching three years ago, I found myself concerned about whether they had this kind of focus and patience. Laptop screens divided them from me, and I knew from past experience how easy it was to succumb to distraction. I had audited some classes at a highly-ranked law school the year before and had seen how some combination of multi-tasking hubris, Internet addiction, and boredom led many students to spend stretches staring at

their computers while the professor lectured. And putting aside that experience, many of us sense that as we spend more time online, we have a harder time concentrating and quieting our minds.

What can we do to tamp down this tendency toward distraction and multitasking, and how can we cultivate the kind of patience and focus that the practice of law demands? In developing my syllabus over my first few years of teaching, I’ve tried to address these questions. Here, I lay out why it is important to help students build patience and focus, and describe some opportunities I provide for students to slow down and practice these skills.

## Our Magpie Minds

I suspect we are all familiar with the feeling that author Marie Myung-Ok Lee has referred to as the “magpie mind.”<sup>2</sup> It’s the feeling we get when our brain is flitting between shiny things. It often accompanies going online. We may start with a well-intentioned effort to find a chart on the organization of Texas appellate courts and end by pouring over satellite images of our neighborhood on Google Earth.

As regular users of the Internet, many of us read differently than we used to. Our brains are hungrier for bits of information. We may tire more easily when forced to stay with something dense for a prolonged period. Nicholas Carr described this phenomenon in *The Shallows: What the Internet Is Doing to Our Brains*.<sup>3</sup> In the book, a finalist for the Pulitzer Prize, Carr writes about the eclipsing of the “linear mind”

<sup>1</sup> I presented on this topic at the 2014 Capital Area Legal Writing Conference and the 2015 Southeastern Association of Law School Annual Conference. Many thanks go to Suzanne Rowe for encouraging me to turn the SEALS presentation into this article and to my colleague Susan McMahon for her incisive comments on it.

<sup>2</sup> Marie Myung-Ok Lee, *The Internet: A Welcome Distraction*, N.Y. Times: Opinionator (Nov. 18, 2013, 9 p.m.), <http://opinionator.blogs.nytimes.com/2013/11/18/the-internet-a-welcome-distraction/>.

<sup>3</sup> Nicholas Carr, *The Shallows: What the Internet is Doing to Our Brains* (2010).

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or “literary mind.”<sup>4</sup> This is the mind, in development since the invention of Gutenberg’s printing press, which allows us to delve into our reading with an intense focus. This mind is being pushed aside, Carr argues, as our use of the Internet prompts our thinking to take on a staccato quality.<sup>5</sup> He writes that we have become “lab rats constantly pressing levers to get tiny pellets of social or intellectual nourishment.”<sup>6</sup>

Some think that Carr is kind of a downer. According to Adam Gopnik of *The New Yorker*, Carr belongs to a school of thought about the Internet called the “Better-Nevers.”<sup>7</sup> The Better-Nevers worry that for all the benefits of new technology, we are losing the ability to engage in quiet focus. They fret that Google is making us stupid and no one will ever read Tolstoy again. On the other end of the spectrum are the “Never-Betters.” The Never-Betters would say that the Internet is a liberating force where information is free and plentiful leading to unbridled creativity and that Tolstoy is overrated.<sup>8</sup>

There is, of course, a middle ground. It’s where I stand. It is the space for those of us who appreciate Google *and* phone book-length novels. I don’t believe that my twenty-something students are being ruined by their smartphones or that they’re never doing serious and deep reading. In discussing this issue with them, I have learned that many of them are attuned to the level of distraction that technology can cause and have methods to counteract it. Some take notes by hand in class. Some set up reward systems to prod themselves into working for uninterrupted stretches.

Given this, I believe in what Gopnik calls a “meatless Monday”<sup>9</sup> approach to technology. I find that reading my Twitter feed is interesting and, among other things, aids in my scholarship, and I also know that reading novels enriches my teaching. I try to do both. Similarly, I think our students can reap enormous benefits from the Internet and even from dips into social media. Myung-Ok Lee says that when sitting down to write, she finds that “posting a tweet or a Facebook status update can be a nice little warm-up, mental knuckle-cracking before getting down to the real business.”<sup>10</sup> My proposals should be seen through this lens. We want to encourage and sharpen students’ abilities to research and communicate quickly in response to the urgent requests they will get on the job, but we also need to prepare them for the tasks that take far longer.

### From Magpie Mind to Monk Mind

What benefit do we get from practicing focus, patience, and from immersing ourselves in something? One answer comes from Professor Jennifer Roberts, an art historian at Harvard. She has written and spoken about the importance of what she calls “immersive attention” and teaching patience.<sup>11</sup>

Students who take a course with Roberts are required to write a research paper on a piece of art of their choosing. The first thing the students need to do as part of their research is to go to where the art is displayed and sit with it for three full hours. The time span is, Roberts says, “designed to seem excessive.”<sup>12</sup> It is also intended

<sup>4</sup> *Id.* at 10.

<sup>5</sup> *Id.* at 7.

<sup>6</sup> *Id.* at 117.

<sup>7</sup> Adam Gopnik, *The Information: How the Internet Gets Inside Us*, *The New Yorker*, February 14 & 21, 2011, <http://www.newyorker.com/magazine/2011/02/14/the-information>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* “A meatless Monday has advantages over enforced vegetarianism, because it helps release the pressure on the food system without making undue demands on the eaters. In the same way, an unplugged Sunday is a better idea than turning off the Internet completely, since it demonstrates that we can get along just fine without the screens, if only for a day.”

<sup>10</sup> Myung-Ok Lee, *supra*.

<sup>11</sup> Jennifer L. Roberts, *The Power of Patience: Teaching students the value of deceleration and immersive attention*, *Harvard Magazine* (Nov.-Dec. 2013), <http://harvardmagazine.com/2013/11/the-power-of-patience>.

<sup>12</sup> *Id.*

to debunk the notion that by looking at something that you really see it. According to Roberts, just because something is immediately available to the viewer doesn't mean that she understands or internalizes it. Roberts says, "[A]ccess is not synonymous with learning. What turns access into learning is time and strategic patience."<sup>13</sup>

The science supports Roberts's approach. In *The Shallows*, Carr describes studies demonstrating that when the brain is not bombarded with external stimuli—such as after a brief walk in the woods or sitting in a museum—it becomes both “calmer and sharper.”<sup>14</sup> It is in this state that we don't need to tax our working memory, and we are able to absorb more material into the schemas of knowledge that we have in our long-term memories.<sup>15</sup>

As teachers, we know that practicing something and sitting with it over time are key to internalizing it. The time we spend with a thing and the attention and focus we give it directly impact its quality. Of course this is as true with lawyering as other endeavors. Chief Justice John Roberts has said there is a correlation between the quality of briefs submitted to the Court and the time that the lawyers dedicated to them. According to Justice Roberts, “the first thing you can tell” about many of the briefs “is that the lawyer really hasn't spent a lot of time on it.” He added: “You can tell that if they'd gone through a couple more drafts it would be more effective. It would read better. For whatever reason, they haven't devoted that energy to it. That tells you a lot right there about that lawyer's devotion to his client's cause.”<sup>16</sup>

In the practice of law, the need for slowness, patience, and attention goes beyond just research and writing. In order to be a truly successful lawyer, one needs to have patience for a host of

things. Developing arguments takes time. When researching for an appellate brief, for example, lawyers can't simply skim a case and get the gist of it. Instead, they need to sit with it, digest it, turn it over in their minds, and think about every way in which it could be used to support or undermine their arguments. Developing expertise takes time. In today's practice, lawyers are becoming increasingly specialized and developing deep knowledge in particular areas of law or industries. Developing a book of business—often a key to partnership at a firm—also takes time. Lawyers must put in the hours to cultivate relationships and build trust. So while in practice, the word “slow” may be taboo—the client paying in six-minute increments does not want to think that its lawyers are working slowly—the concept shouldn't be.

With this in mind, it is misleading for us to suggest to our students that practice is exclusively a stream of dashed-off emails to the “busy partner” or “busy client.” Even an email memo, which can be sent instantaneously, may have involved focused and lengthy research and analysis. How do we help teach students to do the slow, reflective, repetitive work that we know is critical? We can do it in part by designing for our students what Professor Roberts at Harvard calls “temporal experiences.”<sup>17</sup>

Heeding Roberts's advice, in developing my syllabus, I have tried to focus on how long assignments will take and whether they require students to return repeatedly to themes or questions. I consider how to create conditions under which students may more easily be able to concentrate. I have tried to purposefully inject opportunities for students to build attentiveness. To do this, I use several assignments, discussed below, that fall into three categories that I refer to as: duration, reiteration, and vacation. “Duration” exercises are ones that require students to spend an extended period of time on a certain task. “Reiteration” exercises are those that require students to revisit and rework material. Finally, “vacation” exercises require students to

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<sup>14</sup> Carr, *supra*, at 219.

<sup>15</sup> *See id.*

<sup>16</sup> Chief Justice John Roberts on the Topic of Writing, LawProse, <http://www.lawprose.org/interviews/Chief-Justice-John-Roberts.php> (beginning at 2:20).

<sup>17</sup> Roberts, *The Power of Patience*, *supra*.

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physically put themselves in environments that may be less distracting. Several of the exercises described below fall into multiple categories, but I discuss them under the category that each represents most clearly.

#### Duration

As Professor Roberts observed, we don't always really see things just by looking at them. Sometimes, we need to spend extended periods of time viewing a thing to really understand it. Or, as historian Charles A. Beard said simply: “when it grows dark enough we can see stars.”<sup>18</sup> We can create the conditions under which our students can better learn. One way is by asking them to work on certain assignments in a focused way for extended periods of time.

In my class, as in many first-year legal research and writing courses, students draft an appellate brief. Co-opting Roberts's assignment that asks students to sit in front of a piece of art for three hours before writing about it, I suggest 1Ls spend a similar amount of time with the research and the initial drafting of their briefs. Early in the spring semester, I set aside two Friday mornings from about 9 a.m. to noon and invite students to join me to research the law for their brief (the first Friday) or work on the draft of the brief (the second Friday). The sessions are voluntary, but those that choose to come must commit to the ground rules: they must only work on the assigned task, they must shut down their phones, and they cannot use the Internet other than to do legal research. During the sessions, I am available to answer questions individually and quietly while others work.

In the two years that I have offered these sessions, about 25 to 30 percent of my students have willingly come to spend three silent hours together. My stated objective has been to give students a taste of what it is like to work without the tug of phones and browsers. My unstated desire is to

convince students to consider regularly carving out uninterrupted blocks of time to work.

Here are some of the responses I received about how it felt to work for three hours uninterrupted:

- “This has further convinced me that removing distractions is very helpful. I'm trying to shut my phone and Internet off for at least a few hours a day to try to break bad habits.”
- “It helped me focus and get a lot done ... I felt I could think clearly.”
- “It was definitely nice to have a three hour block to myself to just write free of the distractions of my email or my phone. It is not often that I have that opportunity and I felt that I was way more productive as a result.”
- “Focusing on a case until I reached the end—rather than checking a website in the middle—made it easier to understand the logic and progression of a court's argument.”
- “I think it helped to force [me] to really engage the ‘big picture’ of my project and helped me with continuity in my voice.”
- “I tentatively plan on repeating this every Friday.”

Given these responses, the exercise has been successful in getting students to think critically about their work habits and ways in which they might improve them with an eye towards greater focus and effectiveness. It provides one model for sustained work that students can then adapt to their own needs.

#### Reiteration

As teachers of writing, we know the importance of reiteration to the writing process. Practitioners also know that lawyers continually need to bounce between cases, often the same ones over a period of years. To simulate this, my students rewrite an objective memo multiple times and get feedback on each round. But beyond simply having them

<sup>18</sup> Charles A. Beard, *Tendencies Affecting the Size of the Ballot*, Proceedings of the American Political Science Association, Vol. 6, Sixth Annual Meeting 99 (1909), available at [http://www.jstor.org/stable/3038566?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/3038566?seq=1#page_scan_tab_contents).

rewrite, I bring their attention to the importance and difficulty of revisiting one's own work. I do this with an assignment that I call Forced and Focused Revisiting. As the name suggests, it's unpleasant by design. Forced and Focused Revisiting requires students to look at their own work when they least want to: when they are sick and tired of it. Better that students get accustomed to reading, rereading, and picking apart their work before a supervisor or client or opposing counsel does.

In the fall, after my students turn in their first draft of an objective memo, an assignment that many of them struggle with as the rigors of law school set in, I wait several days. Over those few days I have been reading the memos and have started to develop a sense of where students need help. Then, without telling them what I have planned, I ask them to bring a copy of the memo to class. For the first ten or fifteen minutes, I have them sit silently and reread it.

What generally happens next is the kind of thing that teachers hope for. With virtually no prompting, the students launch into a list of the things that might have been better about their drafts. The large-scale organization wasn't clear. The analysis was incomplete. Authority was missing. In the next ten minutes or so, they list many of the very same things that I had noticed in reading their memos.

Through this process students are learning the importance of time not only spent focusing on rereading, but the importance of the time they spent away from their writing. Sometimes it is only with distance that we are able to see shortcomings. Students need to build this time into their writing process in order to become effective self-editors. Through this assignment, they start to internalize the iterative process of writing—returning to work and focusing on it—even when some fatigue with it has set in.

In the spring, I return to this idea in a different way. In the very first class of the semester, I ask students to complete an assignment intended to simulate practice—the partner needs some research done in the next hour on a discrete research issue. The students spend that class refreshing research skills and drafting a quick email memo. Then, at the end of the class, they learn that the quick, initial research issue—as is often the case in practice—is actually a gateway into a much broader legal question. It's the one that is at the center of their spring brief assignment. As they go through the semester they can see how their perspective on the correctness of their conclusions to that first assignment may shift as they learn more about the facts and the law.

#### Vacation

The last type of exercise I use to help students practice immersive attention falls into the category of “vacation,” which is less glamorous than it sounds. This exercise takes students physically out of a distracting situation and into a less distracting one. It gives them a break from what otherwise may be their technology-saturated existence. As I noted earlier, when Professor Roberts's students sit with a piece of art for three hours, they must go to the archive or museum where the artwork resides. Roberts does this in part because it removes the students from daily distractions and allows them to truly focus on the task.<sup>19</sup>

Courtrooms are one of the few public places where it's generally not acceptable to have your face glued to your phone. In the spring, I require my students to visit a courtroom—I have wavered between requiring that it be an appellate court or allowing them to visit any court—and sit and watch. I do this for a host of reasons: to prepare for their own oral arguments and to demonstrate advocacy in the litigation context. But I also do it to force them to shut out distractions and to focus on what is unfolding in front of them.

To help them better absorb what they are witnessing and commit it to memory, I ask them

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<sup>19</sup> Roberts, *supra* note 10.



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to write a reflection piece about the experience and to pay particular attention not only to the substance of the lawyers’ arguments, but to the non-spoken aspects of the advocacy. I have found in these pieces that the students are especially attentive to tone, body language, and other subtleties. The reports that I get tend to be detailed, and I believe that is in part because in the courtroom students are freed of distraction, focusing, and reflecting on what they are seeing.

critical reading skills, using one fact pattern or “case” as the basis for assignments over the course of an entire year, or even teaching mindfulness techniques. But regardless of the method chosen, it’s important for us as educators to be attentive to providing our students with opportunities to slow down and focus. They will need these skills in the practice of law. And the busy partners may even take the time to thank us.

### Conclusion

There are, of course, many other possibilities for assignments that would require students to slow down, sharpen their focus, and bolster their patience. These could include modeling deep and

## Micro Essay: Practice Ready

### Respect & Perspective

Your secretary will know more about the practice of law than you. Respect, listen to, and recognize that person as a resource. The copy center staff will save your professional life on more than one occasion. Respect them and learn what they do. Making copies, attaching mailing labels, and assembling binders are not beneath you. Realize this: the clouds did not part and a beam of light did not radiate down upon your shoulder with a heavenly voice declaring that you shall be a lawyer. You went to school and passed a licensing exam; they didn’t. Nothing more.

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