



PROGRAM MATERIALS

Program #35153

July 15, 2025

Ethical Competence: Practicing Through Medical Crisis

Copyright ©2025 by

- **Alan Bush, Esq. - Bush Mediation**

All Rights Reserved.


Licensed to Celesq®, Inc.

Celesq® AttorneysEd Center

www.celesq.com

5301 North Federal Highway, Suite 150, Boca Raton, FL 33487

Phone 561-241-1919



ETHICAL COMPETENCE: PRACTICING THROUGH MEDICAL CRISIS

Celesq
July 15, 2025

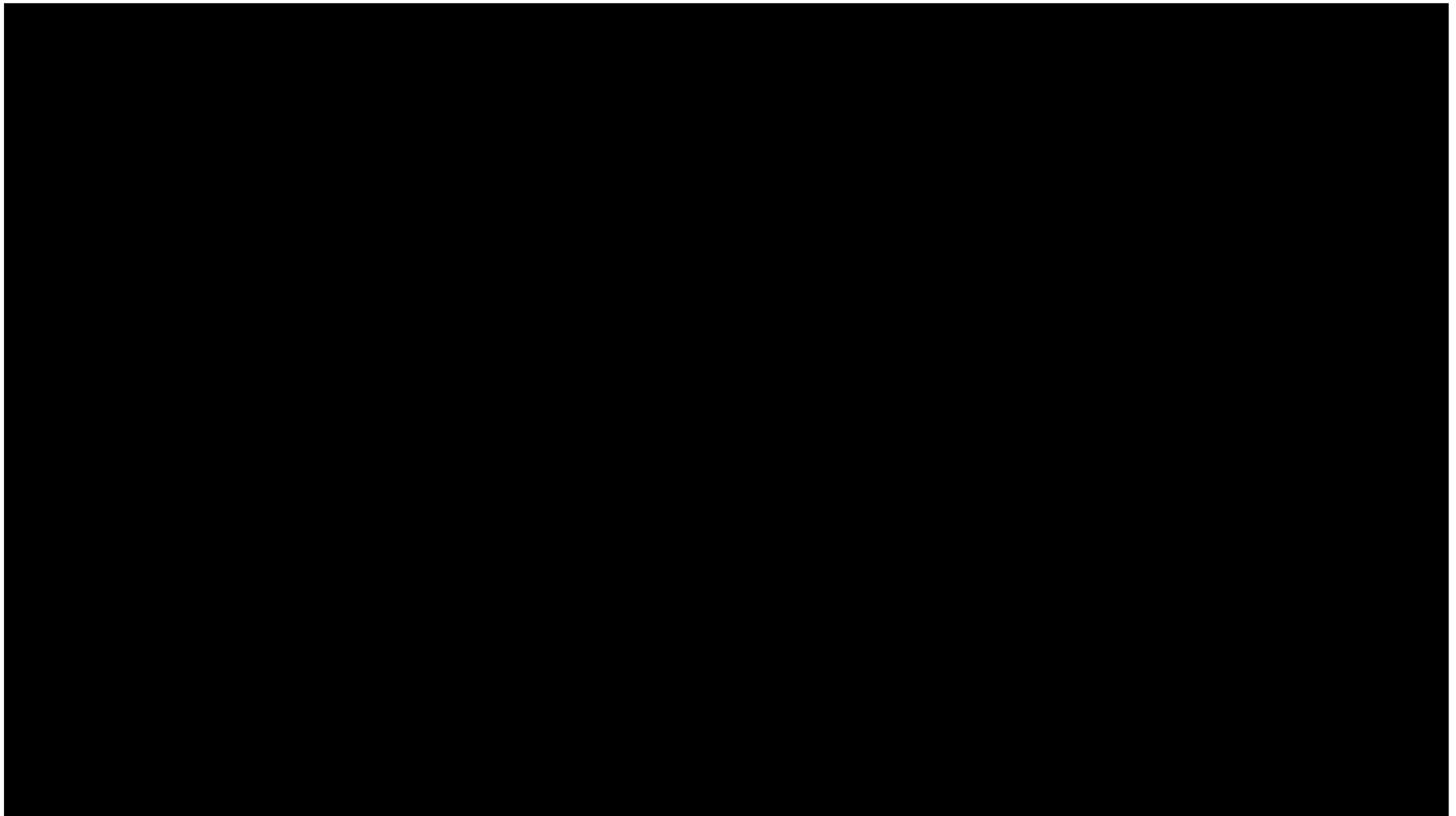
Home Field Advantage



The Miracle



The *Real* Miracle



Nobody Wants To Hear This, But You Need To.



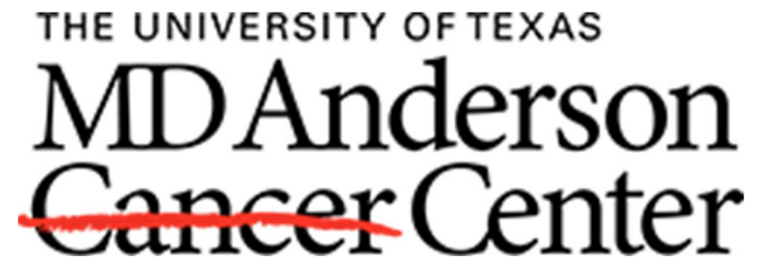
Cancer Taxes You.

- Stamina
- Physical limits
- Mental clarity
- Memory
- Time



Don't Forget the Emotional Toll.

- Fear
- Grief
- Anxiety
- Depression – 70%



Social & Emotional Impacts of Cancer

The Long Haul



It's Not Always Cancer.

- Heart disease
- Stroke
- Addiction
- Mental illness
 - 1/5 Americans
 - 1/20 functionally impaired





THE LEGAL

BUSH
—★—
MEDIATION

Everything Hangs on Competence.

- Do I have the “competence” to tackle this matter?
- If not, how do I handle it?

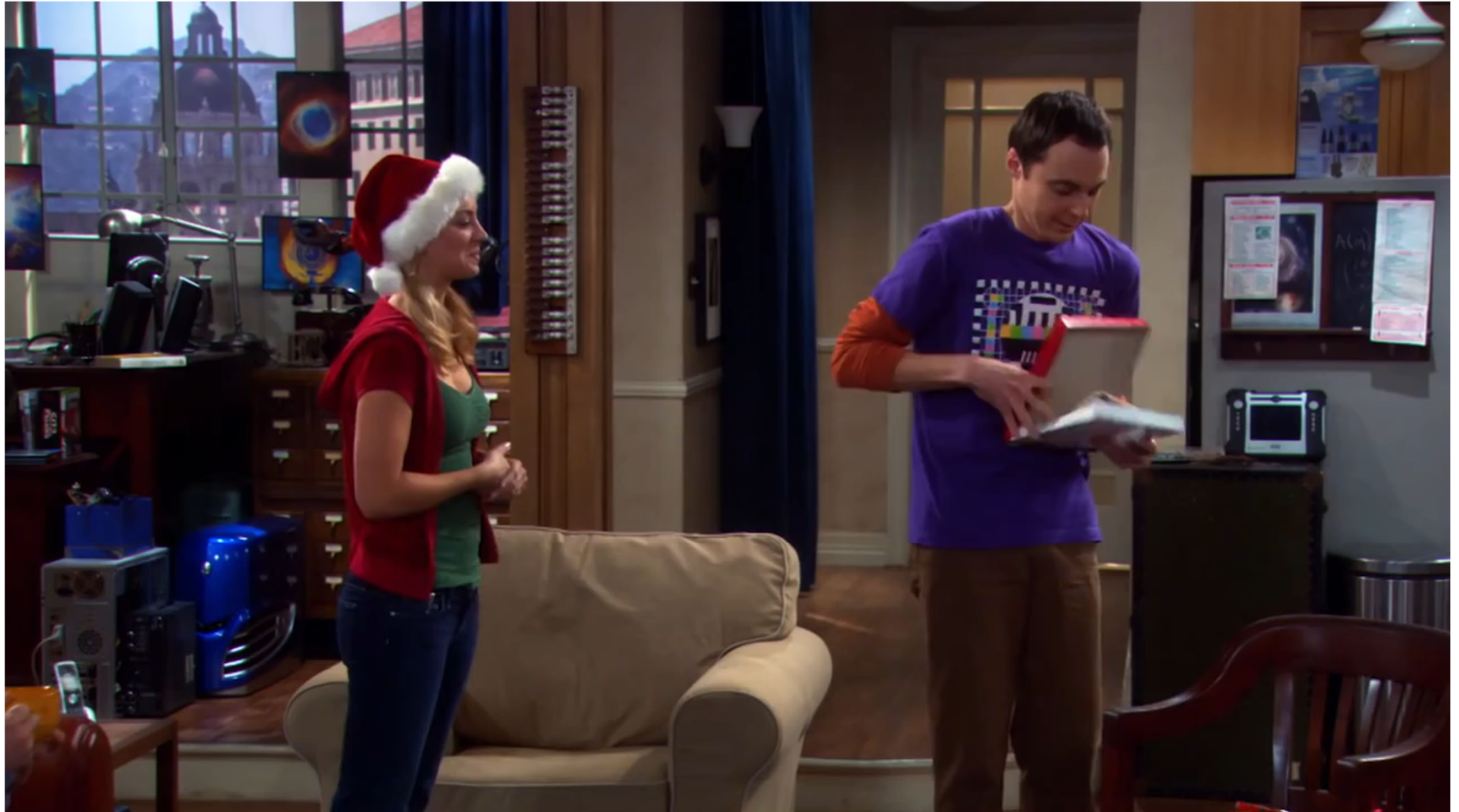


ABA Model Rule 1.1 (“A lawyer shall provide competent representation to a client.”);
TDRPC 1.01 (“A lawyer shall not accept or continue employment in a legal matter
in which the lawyer knows or should know is beyond the lawyer’s competence...”)

Take A (Daggum) Breath.

Lacking ethical “competence”
does not make you a bad lawyer.

Competence Is Specific.



Matter-by-Matter Call

- Factors for competence include “the preparation and study the lawyer is able to give the matter.”
-*ABA Model Rule 1.1 cmt. 1*
- “A lawyer’s workload should be controlled so that ***each matter*** can be handled with diligence and competence.”
-*TDRPC 1.01 cmt. 6*

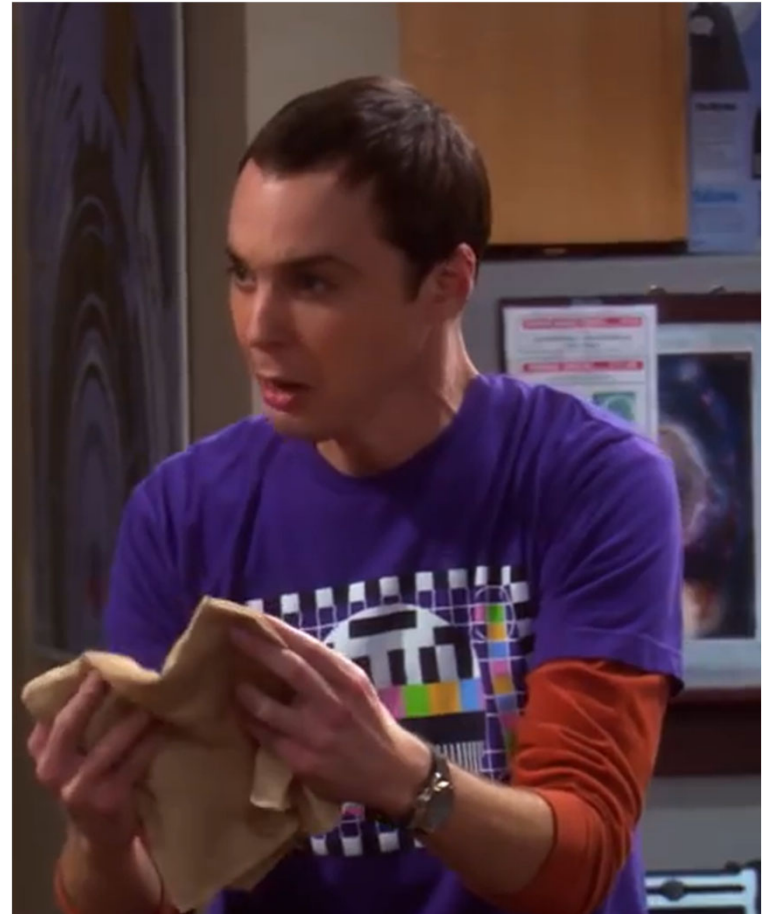


Competence

Bare Minimum

- Legal knowledge, skill and training
- Thoroughness on the law and facts
- Preparation and attentiveness
- *Illness affects the last two!*

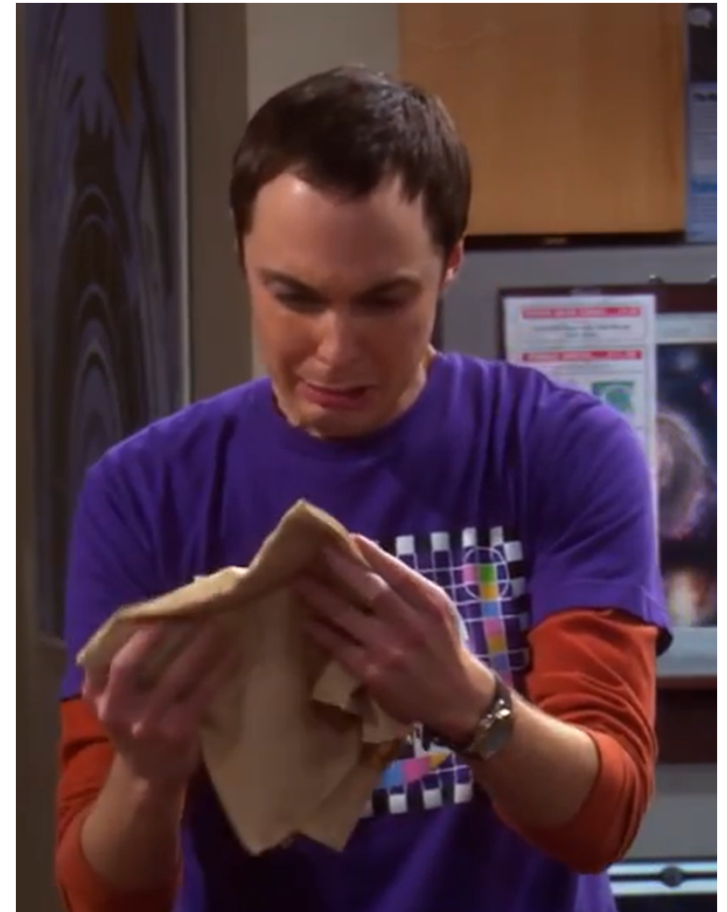
ABA Model Rule 1.1;
TDRPC 1.01 cmt. 1



Competence Factors

- How complex or specialized is the matter?
- Experience and training in the field?
- How much time can you give it?
- Can you associate another lawyer?

ABA Model Rule 1.1 cmt. 1;
TDRPC 1.01 cmt. 3



Just A Nudge



What Are We Yammering About?



Fender Bender



Wrongful Death

What Are We Yammering About?



Divorce



Divorce –
spouse moved to Dallas

What Are We Yammering About?



Overtime Pay Suit

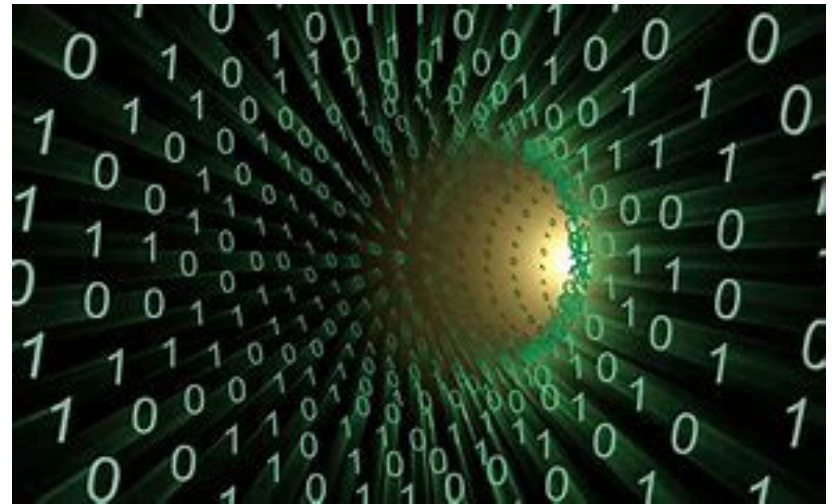


Overtime Collective Action

What Are We Yammering About?



Non-Compete Fight

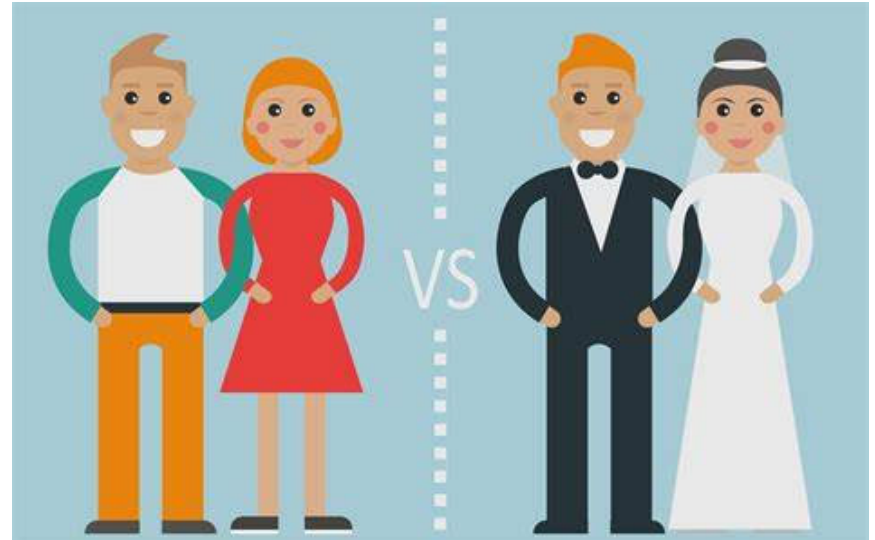


Non-Compete Fight –
with digital trade secret theft

What Are We Yammering About?



Probate a Will



Heirship Contest –
common law marriage

Competence Problems: Malpractice Examples

- Bad legal advice given
- No legal advice given, when required
- Litigation poorly managed or prepared
- SOL lapsed



Have A Loose Plan.



Cover Options

- Bring in another lawyer to help.
- Pass off temporarily.



ABA Model Rule 1.1 cmt. 1;
TDRPC 1.01(a)(1) (lawyer who is not competent
may associate in another lawyer who is)

Your Setup Matters.

Solo Lawyer

- Go it alone?
- Hire?
- Associate another law firm?

Law Firm

- What do you delegate?
- Is anyone else competent in your practice area?

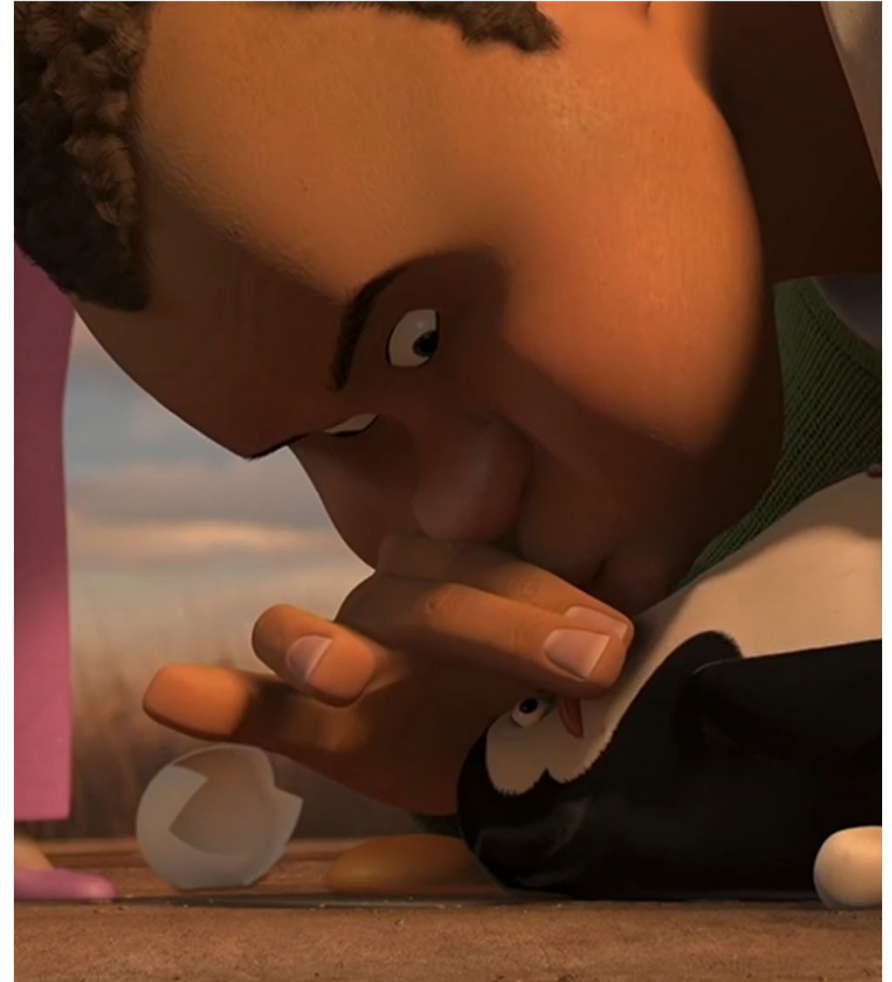


ABA Model Rule 1.1 cmt. 1 (lawyer who is not competent may associate in another lawyer who is);
TDRPC 1.01(a)(1) (same)

Spin-Up Costs

- Cover lawyer doesn't have to be an expert today.
- Lawyer can hit the books.
- But in Texas, you can't stick it to the client – you must eat those costs.

ABA Model Rule 1.1 cmt. 2 (lawyer can study up);
TDRPC 1.01 cmt. 4 (lawyer's study up time can't
cause the client "unusual delay or expense")



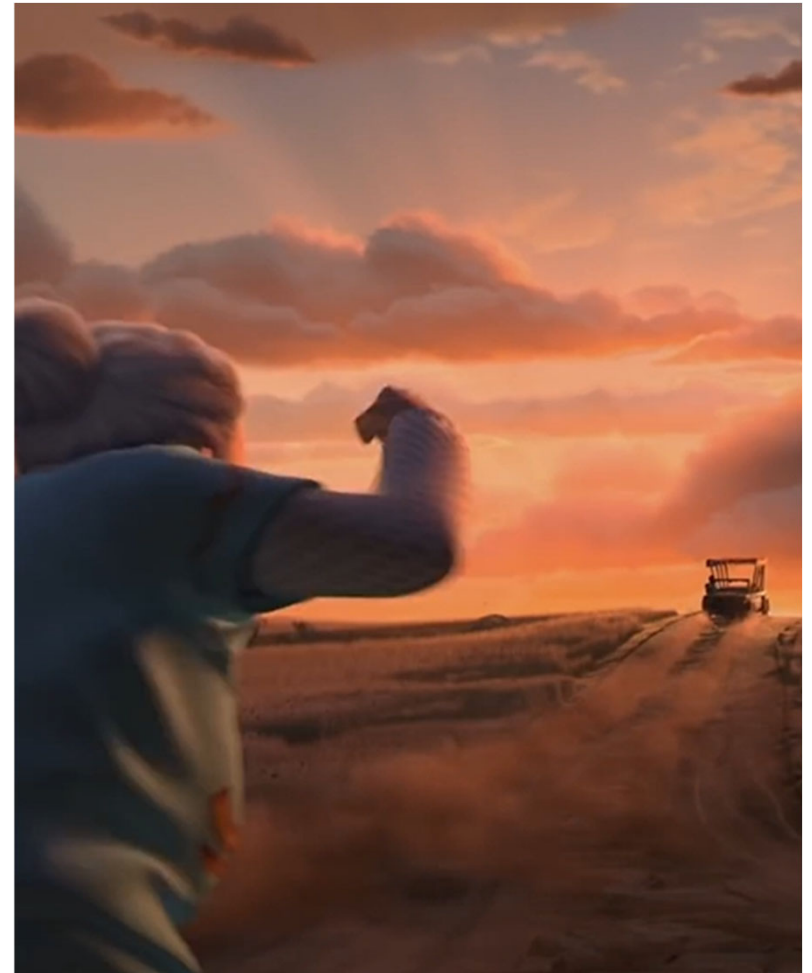
The Hit-by-a-Bus Rule

- Don't leave all the goods only between your ears.
- Paper it!
- Think timelines, jury charge, claim and defense analysis, etc.



Press Pause.

- Look at everything with your best guesses on your health.
 - Can I handle each matter?
 - Can I handle everything I plan to do altogether?
 - Where do I need a hand?
 - Can I get a hand?
- If your health changes, look back again.



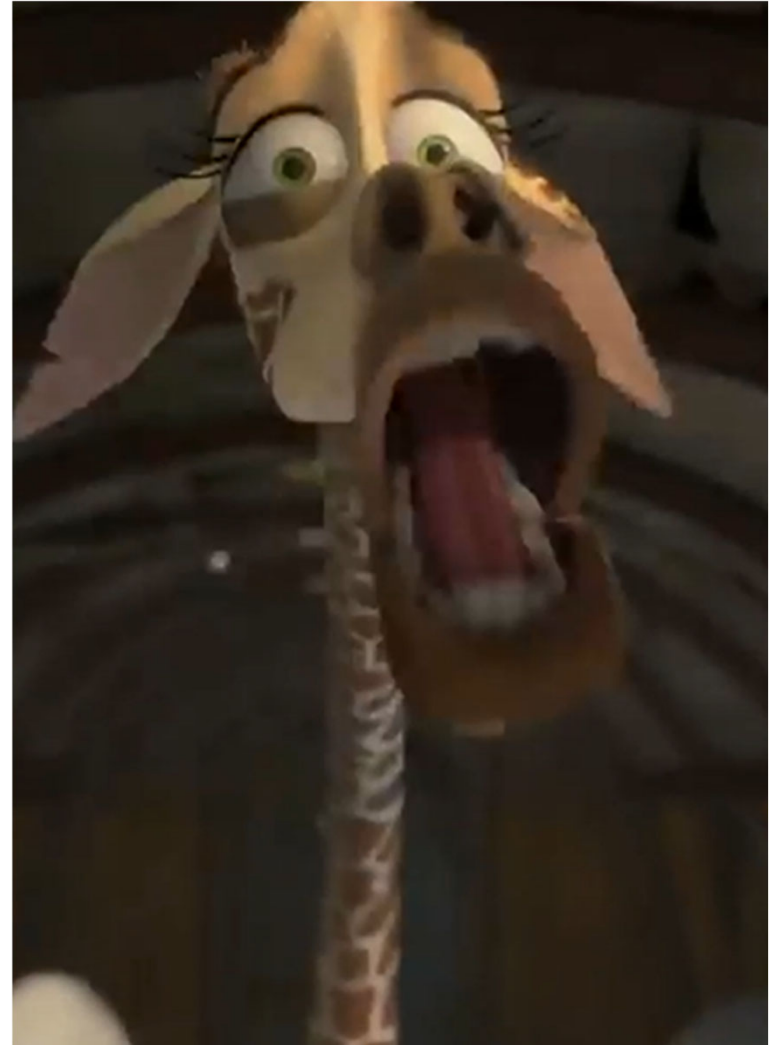
Don't Wait, Communicate.



Talk To Your Client.

- You can't just wheel in another lawyer.
- You need your client's prior "informed consent."

ABA Model Rule 1.1 cmt. 6;
TDRPC 1.01(a)(1)



Big Guns

- Terminate or decline the representation.
- Wind down.



ABA Model Rule 1.16(a)(2) (“shall withdraw” if physical or mental condition materially impairs representation);
TDRPC 1.15(a)(1) (lawyer “shall” end the representation if it would violate the TDRCP)

Designate A Custodian Attorney.

- Texas Bar lets you designate a “Custodian Attorney.”
- Custodian handles your client files and property.
- No designation, difficult court process.

NOTICE OF DESIGNATION OF CUSTODIAN ATTORNEY

I, **Alan Bush**, Bar Card Number **24040614** designate as my Custodian Attorney(s) the following:

Don't know your Custodian's contact information?
Click **Search For Custodian** to find them

SEARCH FOR CUSTODIAN

Name of Custodian Attorney:

Full Name

Bar Card Number

Primary Custodian

Email Address

[Don't know their email?](#)

Email Address where we can send you updates: ⓘ

alan@bush-law.com

By making this designation, I certify that the designated custodian attorney indicates current willingness to serve as custodian attorney in the event need arises under Part XIII of the Texas Rules of Disciplinary Procedure.

NO THANKS

SUBMIT

Down The Hall

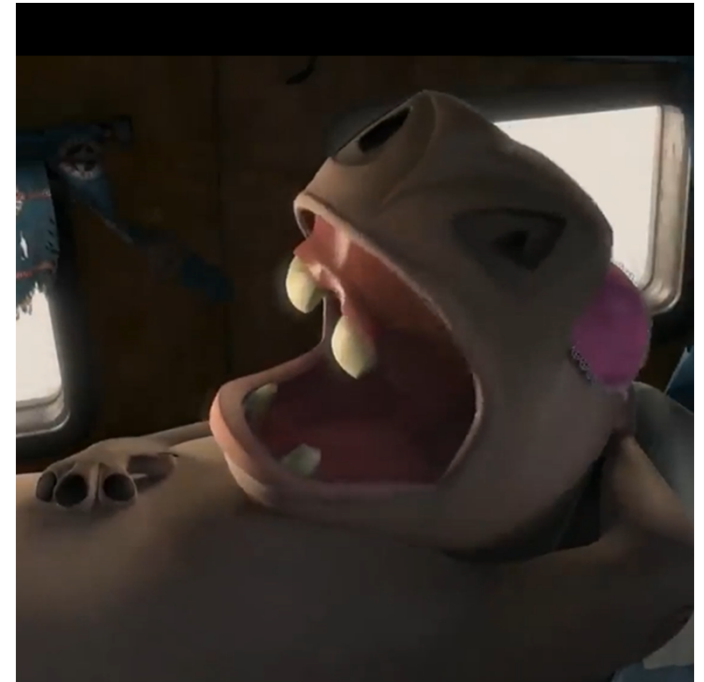
Partners and Managing Lawyers

- Make sure a firm has measures to give “reasonable assurance” that lawyers follow rules.

Texas Rules

- Partners and supervisors cannot “knowingly” let another lawyer slide.
- But still, we should feel a “moral compunction.”

ABA Model Rule 5.1
TDRPC 5.01, 5.01 cmt. 6

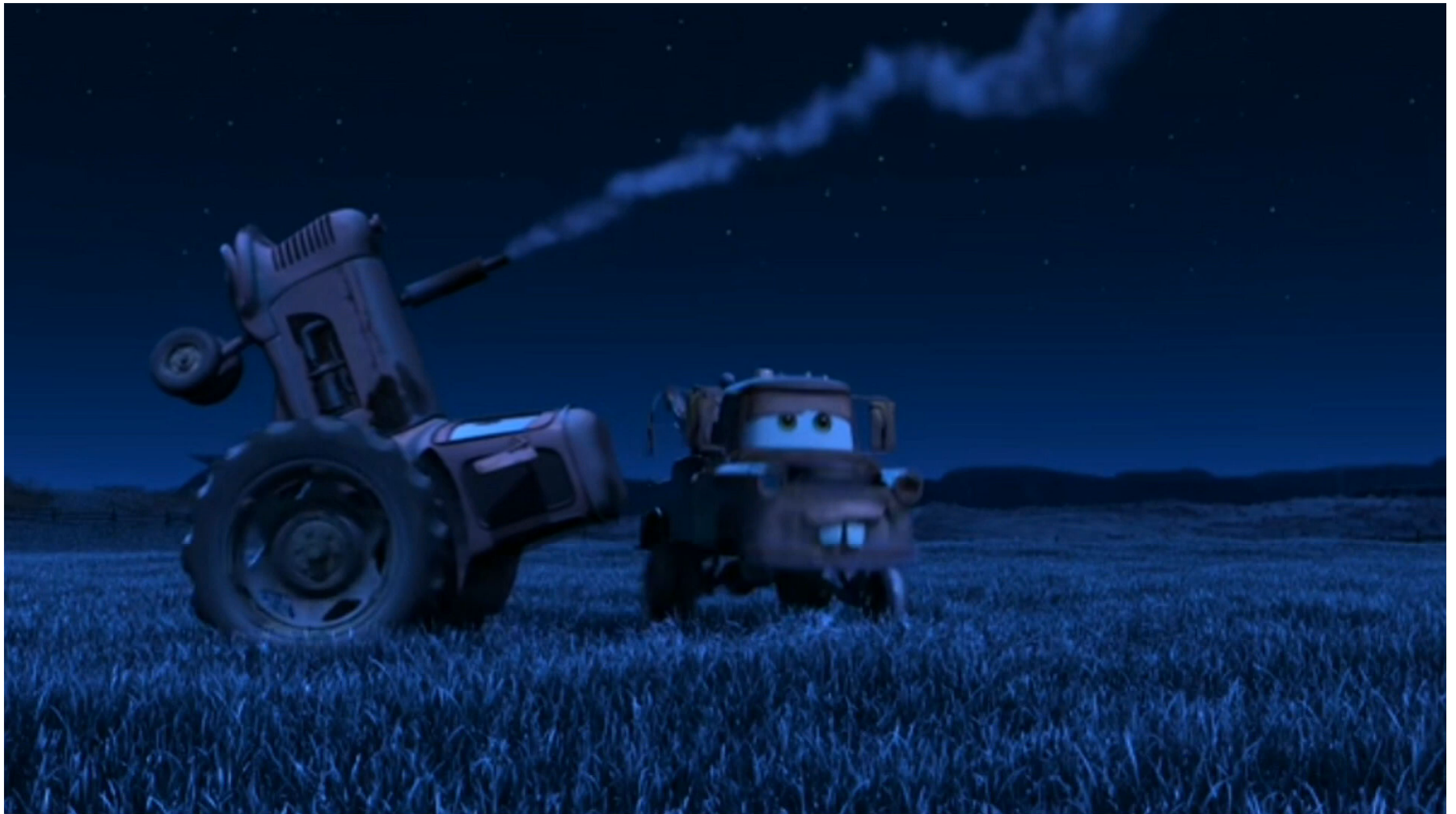


A white owl is shown in flight, facing forward with its wings spread wide. The owl's feathers are detailed with dark spots and patterns. The background is a solid, deep blue. The word "TODAY" is written in large, bold, black capital letters across the center of the image.

TODAY

BUSH
—★—
MEDIATION

Insist On Process.



Cultivate Relationships.

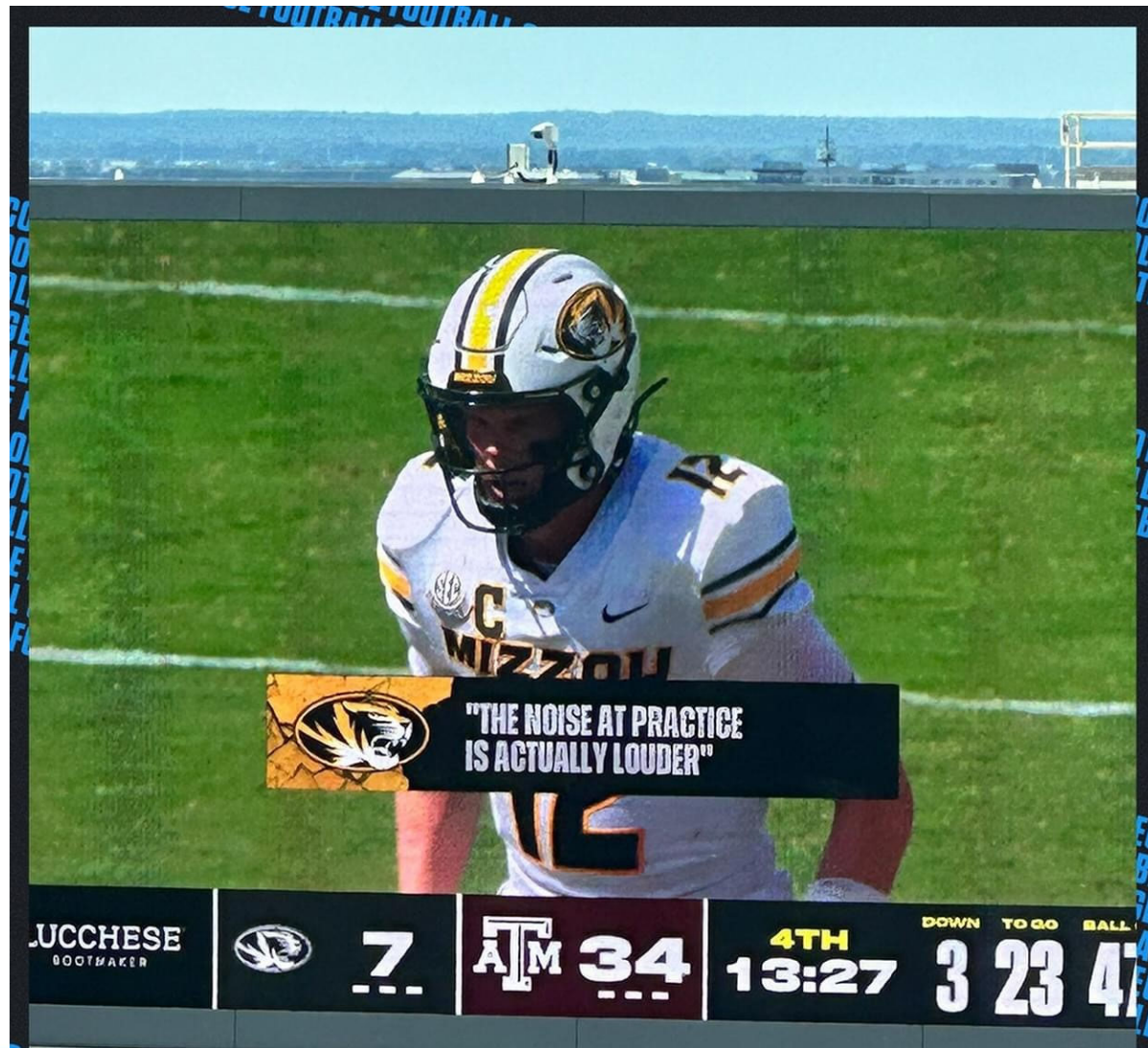


See People As People.

- Opposing counsel
- Cover lawyer
- Clients



Stay Humble.



Find Your Fish Tank.



Questions?





ALAN BUSH

19221 I-45 S., Ste. 250
The Woodlands, TX 77385
281.384.4660
alan@bush-mediation.com

bush-mediation.com