

MEDITATION AND CONTROLLING THE INNER MONGO

By: Harley Tropin



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Meditation helps control what Jim McElhaney memorably calls our "inner Mongo"-- the beast that lies within us which impels litigators when we get an objection, to argue, rather than rephrase, to see every witness as an enemy, and all opponents as evil. (Meet Mongo, by Jim McElhaney, Feb. 1, 2010 ABA Journal.) According to McElhaney, Mongo's job is to be alert all the time, because he thinks he is still in the jungle. But, if we don't tame our inner Mongo, if we argue just because it feels like we should, judges will rule against us, juries will empathize with the witness, not us, and life will be considerably less pleasant. So, an important part of any trial lawyer's job is to still the inner Mongo, and only very rarely let him loose.

I began my meditation practice about 25 years ago. At the time, I was a young lawyer with a commercial litigation practice. Like most young lawyers, I was anxious, driven, and nervous about how I was going to perform professionally, and whether our young firm was going to succeed.

I was drawn to meditation as a way of accomplishing two goals - - improving as a trial lawyer, and becoming more mentally and physically fit. I found those goals to be complementary.

As a trial lawyer, the biggest impediment in my early years was self-consciousness and the fear of failure--

the perfectionist impulse that can lead to settling cases that shouldn't be settled, including arguments that shouldn't be included, and "talking like a lawyer" for fear of revealing too much of oneself.

I remember a speaker at a DCBA luncheon thirty years ago, Gerry Spence, who encouraged the audience of young lawyers to take chances and to follow their passion. Spence advocated knowing yourself and letting the jury know you without the defense mechanisms all of us develop.

But how to do this? The self-defense mechanisms are developed for a reason. In our early years, many of us have suffered from stage fright, fear of looking silly, fear of losing, fear of being disliked-- all of the above-- and then add to that a mix of adrenaline and ego, and you have a recipe for a group of stressed out/burnt out people.

At least, that was the road that I was following. I then read some books that really were helpful. *Seven Habits of Highly Effective People*, by Steven Covey, encouraged me to be proactive. There was one lesson in particular that resonated with me: Change comes from within, and the largest power we have is choosing a response between the time of what happens to us (the stimulus) and what we do in response (our reaction). One tool I used to build on that insight and to increase that space of time so that I could choose an appropriate response was meditation.

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Meditation, to me, is nothing more than guided thinking. Taking 20 minutes or so and allowing yourself the luxury (some might say the necessity) of quiet time to focus your breathing and thinking to let the emotional and mental temperature cool down. This became a daily habit for me. Literature shows that meditation (sometimes called "the relaxation response") enables a person to be more reflective in choosing a response, rather than simply reacting.

What does this mean as a lawyer? We are met constantly with stimulus that demands a response-- a provocative letter from an opponent; a ruling from a

judge that we think is wrong; a demand from a client that we think is outrageous, etc. When we lengthen the space between these stimuli and a response, we greatly increase the chance for a more appropriate response that is going to yield a better result. As opposed to the reflexive, angry response that will yield to an unproductive and escalating war of words, we may be able to diffuse a difficult situation.

Does meditation allow me to achieve some Zen-like state where I can do this with perfection? Absolutely not, and my family, friends, partners, and the judges before whom I've appeared would laugh at the idea. But ... I can

say that I am far better than I would be had I not engaged in a meditation practice. My chances of engaging in a counter-productive discovery dispute, for example, are less; still happens, but my ability to bring humor or some other tool to the situation are better, and my ability to have some perspective on where this fits in the grand scheme of things, is enhanced.

How and when do I do it? My partners, colleagues and friends have gotten used to my habit of simply closing the door, placing a yellow sticky paper on it that says "DND," and knowing that at 2:00 p.m. or so every afternoon, I will be absent for 20 minutes while I listen to

a meditation tape and emerge slightly refreshed and (maybe) easier to deal with.

Some of the resources that I use that I find helpful include: *Seven Habits of Highly Effective People*, Jon Kabat-Zinn's book, *Wherever You Go, There You Are*, and *The Relaxation Response*, by Herbert Benson, M.D.

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