

The New Normal

By Laurie Quigley Saldaña

This morning I had a notable encounter with a TSA employee, but not the kind of encounter you may assume...

I arrived at JFK airport at 6:30 in the morning, half awake and needing coffee. As I moved my way through security, I craned my neck to find the shortest line. I silently congratulated myself on my line selection, only to discover that the man ahead of me was completely befuddled by the security process. A TSA employee stepped beside him and in the kindest, most patient way imaginable, walked this man through the process that most of us consider second nature. “Yes, sir... now take another plastic bin. Remove your coat and shoes. Take your time. There is no rush.” All of a sudden, I didn’t mind that the line next to me was moving at a much faster clip; I was entranced by the patience and respect that the TSA employee showed the traveler in front of me.

When it was my turn, the TSA guy made small talk as I removed my lap top from its case and put my plastic bag of liquids in the bin. I sized him up: caucasian, late 50s, well groomed. He met me on the other side of the xray machine and asked, “What do you do for a living?” I thought to myself—do I say lawyer or mediator? I said, “I’m a lawyer.” He scoffed and said, “Me? I have an MBA and used to work at Goldman Sachs. Look at me now.” My immediate and heartfelt response: “You are very good at your job. Thank you.” He smiled, and we both moved on.

I read the New York Times while waiting for my flight. In it was an article about two lawyers and two investment bankers (all in their 40s) who were laid off by their employers once, twice, even three times, in the past five years. The article addressed the “new normal” of mid-career professionals who must re-invent themselves to stay competitive in this difficult economy. I thought of my TSA “friend” and his “new normal”. I then scrolled through some older emails, saved for when I had time to digest their contents. Two were from the Fresno County Superior Court announcing significant changes as a result of the grim state budget crisis: first, the closure of the outlying courthouses; second, the Court would no longer provide court reporters, except in limited circumstances. More “new normals” with which to adjust, I thought.

Next I reviewed my mediation calendar, in anticipation of the week ahead. Two of the cases on my docket were matters I had mediated once before. I recalled the cases: both were business disputes where the principals were determined to go to trial, telling me they were mediating only because they were “forced to” by the court. Not surprisingly—with this attitude—we did not reach an early resolution. So the mediations were not “successful”... or were they? While no settlement was reached in the first session, significant progress was made: we defined the true issues in dispute, calmed tempers, and narrowed the scope of discovery. Now they were coming back with a much sharper focus of what was needed to resolve their dispute. The attorneys involved had all called me independently over the past several weeks to schedule a second mediation. I heard the same general theme from all of them: their clients were tired of the drain (emotional and financial) of litigation; they needed to focus their energy on growing their businesses and making money—not on litigating yesterday’s dispute; the clients now understood that even winning at trial would not provide “satisfaction.” Hmm... multiple mediations. I wondered if this was another “new normal”? Although most mediations result in settlement after the case is nearly ready for trial, early mediation (whether “forced” or not) can be exceedingly helpful to the parties and counsel. In most such cases, the issues are defined, discovery is focused, and the stage is set for good lawyers to help their clients achieve their goals.

As I sat at JFK waiting for my flight to be called, I thought about these various “new normals” I had encountered in the span of an hour. What does it all mean? Today, the landscape of business, of lawsuits, of careers—of the very definition of “success”—is ever changing. I thought about the question I was asked earlier that morning by my TSA friend: “What do you do for a living?” I wish I had responded, “I am a mediator.” Although I am incredibly proud to be a lawyer, I am thrilled to now be a fulltime problem solver: it is interesting; it is rewarding; it is my “new normal”. As the court system is increasingly strained, I see how vital mediation is to the “new normal” of today’s business climate. More and more, the litigants I encounter do not see mediation as “a sign of weakness”. Instead, mediation empowers people to focus on what is most vital to them: getting back to family, to business, and to “success”, however they choose to define it. Further, mediation is a process requiring patience and respect, which I know my TSA friend understands are essential in helping people continue their journey.

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