

Breaking the

Cycle of Steno Fatigue



By Jamal Lacy, Juris Doctor



A lawyer's time and advice are his stock in trade¹.

Attorneys may hold dominion over the advice they give their clients, but not necessarily their time. We know all too well that time may rest at the mercy of matters far beyond one's control. Despite the best of intentions and preparation, attorneys find themselves playing the waiting game, a reality which leads to yet another quote you may have seen on a t-shirt or two:

Being a lawyer taught me patience and lots of swear words.²

Perhaps, nowhere is this more apparent than when it comes to court reporting. Coupled with a well-documented court reporter shortage, reliance on the outdated stenograph machine has put attorneys in an endless cycle of frustration. And though they may be bullish on the stock of their advice, long

¹ Aphorism often attributed to President Abraham Lincoln, <https://www.quotery.com/quotes/lawyers-time-advice-stock-trade>.

² Quote attributed to t-shirt by WorkHomeStore, <https://www.redbubble.com/i/t-shirt/Being-a-Lawyer-Taught-me-Patience-and-lots-of-Swear-words-Funny-Quote-by-WorkHomeStore/62404062.FB110>.

turnarounds ensure their time stays mired in a bear-market economy. Attorneys continue to wait and their clients suffer as a result.

We know your story. Unfortunately, we've seen this endless loop of steno fatigue so many times it's become predictable. You scramble to find a court reporter. And on the chance one is available, you spend even more time tracking down opposing counsel to find a time that works for everyone. But it doesn't stop there. Even after you conduct your deposition, it can be at least two weeks before you get a certified transcript. You want to speed up the process? Well, that will cost you extra. Want a rough copy to help prepare for your next witness? Extra. Want to try real-time reporting? Again, that's going to cost you extra. And when you're finally able to get your hands on a transcript, so much time has passed you find yourself retracing your steps just to prepare your case. A post on *Above The Law* detailed the lengths attorneys might go to retrace their steps if they choose to wait on a transcript:

You can, of course, wait to prepare notes until you have a transcript, and then choose from among the many bad choices: Have your six colleagues working on the case all read the transcript. Have a legal assistant prepare a long and unbearable deposition summary, which doesn't differentiate between the important stuff and the witness's job history. Read the transcript yourself to write a report, hoping you still remember the things that struck you on the day you were living the deposition. But all of those are second-best alternatives, and none of those are instantaneous.³

That's a lot of work, time, and energy wasted on what could be a two-week turnaround. But how do we break this cycle of steno fatigue? Believe it or not, it starts and ends with you.

³ Herrmann, Mark. Inside Straight: Reporting On Depositions. Above The Law. 8 September 2011, <https://abovethelaw.com/2011/09/inside-straight-reporting-on-depositions/>

If you're looking for answers, you have to ask the right questions. Consider what science calls the question-behavior effect. According to UC Irvine Professor Eric Spangenberg, you're more likely to engage in an activity when you first question whether you'll do it⁴. Similarly, in a recent TEDx Talk, behavioral psychology expert Frankie Wilson discussed how new behavior can influence long held beliefs⁵. Psychologist and psychoanalyst Jennifer Kunst placed the power to break repetitive cycles in the hands of the individual:

*[W]hen we realize that we play an active role in our tendency to stay stuck in repetitive cycles then we discover we have more power than we thought we had.*⁶

It's time to consider the role we play in our frustration. Outdated, rigid customs and traditions feed our behavior. And that behavior, in turn, feeds our misguided beliefs. This is the loop that perpetuates steno fatigue. Steno has always just . . . kind of been there. But how often have you actually stopped to question its shortcomings? Have you ever demanded better? Or have you simply resigned yourself to settle for what everyone else has been doing for all of these years?

Sure, misery loves company. But is steno really worth the headache? We already know the answer. It's not. So the question you have to ask yourself is simple: **Will I change my behavior to break the cycle of steno fatigue?**

Your answer may fall into one of two categories. Either you believe there's no alternative or you've grown accustomed to business as usual. But either way, you owe it to yourself to question customs when it comes to running your

⁴ Schelenz, Robyn. How to rethink your New Year's resolutions (according to science). University of California. 20 December 2018, <https://www.universityofcalifornia.edu/news/how-rethink-your-new-years-resolutions-according-science>.

⁵ Wilson, Frankie. "Behavior or Belief? Bigger Questions on Human Motivation." YouTube. Uploaded by TEDx Talks, 29 July 2021, <https://www.youtube.com/watch?v=nhRk6ManROU>.

⁶ Kunst Ph.D., Jennifer. How to Break Repetitive Cycles. Psychology Today. 28 May 2014, <https://www.psychologytoday.com/us/blog/headshrinkers-guide-the-galaxy/201405/how-break-repetitive-cycles>.

deposition. Everything around you evolves. Clients deserve attorneys who keep pace. So why rely on an antiquated machine to provide modern legal representation?

Let's deal with the false assumption that there's no alternative. Contrary to popular belief, there is another way. Your stock in time is no longer tied to the steno machine. And drawing from our experience that spans six decades and over 60,000 depositions, we've listened to our clients' concerns and utilized our unique position as both a court reporting agency and a tech company to provide a service that empowers attorneys to break free from steno fatigue. That service is [Readback](#), the first to offer Active Reporting.

Readback is a remote service designed to address the problems of outdated steno reporting. Forget the two-week waiting period. Active Reporting provides certified transcripts in one day, rough drafts in one hour, and access to near-time text in less than one minute during the proceeding. No need to retrace your steps after a weeks-long turnaround delay. Coming soon, Readback will offer live annotations, affording attorneys the opportunity to collaborate with co-counsel during the deposition. The best part? We provide this all to you at low flat rates.



So why suffer steno for business as usual?

We get it. Perhaps steno is all you've ever known. There's no shame in that. It's been said that we are what we repeatedly do⁷. We're creatures of habit. And for better or worse, this drives our day-to-day experiences. Our instincts are

⁷ Quote attributed to American historian and philosopher Will Durant, https://www.brainyquote.com/quotes/will_durant_145967.

tethered to custom and tradition, a predisposition that places comfort at the center of each decision we make. We do what's familiar, rarely taking a moment to ask, "Is this still necessary?". But just because something feels familiar, that doesn't make it best.

For example, in the years since the COVID-19 pandemic began, some worried that remote work would threaten law firm culture.⁸ One might sense that critics found security or comfort in a lawyer aesthetic they felt provided a certain intimidation factor or gravitas often associated with "serious" legal practice. The problem is that this kind of thinking lent itself to an unspoken, traditional, and inflexible conceptualization of what an attorney is and can become.

There's a scene in the movie adaptation of Jonathan Harr's *A Civil Action*⁹, where our protagonist, Attorney Jan Schlichtmann, decides to take on a major environmental case. And as we see the complaint get delivered to each defendant, we hear Schlichtmann's detailed description of the battlefield:

*Lawsuits are war. It's as simple as that. And they begin the same way, with a declaration of war, the complaint. When you're a small firm and they're a big one, steeped in history and wealth like they always are with their Persian carpets on the floor and their Harvard diplomas hanging on the walls, it's easy to be intimidated. Don't. That's what they want. That's what they expect, like all bullies. That's how they win*¹⁰.

The movie depicts a war of attrition consumed by the lawyer aesthetic. Schlichtmann's journey takes us on a wild ride through a series of client meetings, court appearances, negotiations, and, yes, depositions, that rip him

⁸ See, Goodnow, James. Remote Working Isn't Just A Perk Anymore. Above the Law. 23 April 2021, <https://abovethelaw.com/2021/04/remote-working-isnt-just-a-perk-anymore/>.

⁹ Harr, Jonathan. *A Civil Action*. Vintage Books, 1996.

¹⁰ *A Civil Action*. Directed by Steven Zaillian, performances by John Travolta, Kathleen Quinlan, Robert Duvall, John Lithgow, and James Gandolfini, Touchstone Pictures; Paramount Pictures; Wildwood Enterprises, Inc., 1999.

from his comfort zone and threaten his worth as an attorney. Schlichtmann, no longer secure in his element, quickly realizes just how tenuous the relationship can be between familiarity and effective counsel.

In several scenes, if you pay close enough attention, you'll see the stenograph machine nestled comfortably amidst that traditional legal imagery of gold plating, expensive furniture, Persian rugs, and Ivy League law degrees. And as the score plays in the background, the clicking steno keys add tension to the gamesmanship at play. Captivating, for sure. But no less fleeting than any other relic of its time from a case that happened nearly 40 years ago¹¹. A lot's changed since then.

Things tend to change when you ask the right questions¹². Otherwise, we risk falling behind as stale, yet comfortable, tendencies cloud our better judgment. We run the risk of letting our adherence to custom get in the way of better business. According to the Harvard Business Review,

Some people make poor decisions because they're using the same old data or processes they always have. Such people get used to approaches that worked in the past and tend not to look for approaches that will work better. Better the devil they know. But, too often, when a decision is destined to go wrong, it's because the old process is based on assumptions that are no longer true. Poor decision-makers fail to keep those base assumptions in mind when applying the tried and true.

Failure to adapt can be costly. The firms that embraced technology are the firms that not only survived but thrived in 2020¹³. Law firm partners are

¹¹ See, *Case Summary - Anne Anderson et al. v. W. R. Grace & Co. et al.*, Science in the Courtroom: The Woburn Toxic Trial, https://serc.carleton.edu/woburn/Case_summary.html.

¹² See, Wilson, Frankie. "Behavior or Belief? Bigger Questions on Human Motivation." YouTube. Uploaded by TEDx Talks, 29 July 2021, <https://www.youtube.com/watch?v=nhRk6ManR0U>.

¹³ See, Garman, Greg. Law Firms That Embraced Remote Lawyering became More Profitable During COVID. LAWCLERK, 24 September 2021, <https://lawclerk.legal/blog/law-firms-that-embraced-remote-lawyering-became-more-profitable-during-covid/>.

coming to the realization that recruitment necessitates flexibility, lest they risk having their talent poached by more forward-thinking competition¹⁴. And this need to adapt extends to clients as well. In a 2021 Legal Trends Report, legal software company Clio notes the consequence of failing to meet client communication preferences that include technology such as videoconferencing and mobile apps:

*The Firms that adapt to these preferences are the ones that will attract more clients and achieve higher satisfaction rates and referrals. Conversely, lawyers who don't adapt to these circumstances risk closing themselves off from a growing segment of the market, and introducing friction-filled interactions with clients who expect different, better experiences.*¹⁵

That same report shows that growing firms are 41% more likely to use client portals and 46% more likely to use customer relationship management solutions¹⁶. When it comes to remote work, 71% of firms prioritize remote over in-person interactions¹⁷.

The way to break the cycle, the way to guard against assumptions of what's tried and true, is to change your behavior. And people began to do just that when the pandemic hit. Just as Schlichtmann was forced from his comfortable element, so too were many attorneys when COVID-19 closed office doors in 2020. In an instant, clients weren't so willing to come to the office. Counsel and court reporters alike had to consider their own health risks.

¹⁴ See, [Covid-19 Threatens to Blow up Law Firms' Intense Office Culture – for Good](https://www.wsj.com/articles/covid-19-law-firm-work-from-home-11628254526). The Wall Street Journal. 6 August 2021, <https://www.wsj.com/articles/covid-19-law-firm-work-from-home-11628254526>.

¹⁵ Clio. Legal Trends Report, 2021, <https://store.lmknowledgehub.com/storage/clioklii8XzFZgNu28FcL6dqOEkexw46laCU7ypxDAN D.pdf>.

¹⁶ See, Clio. Legal Trends Report, 2021, <https://store.lmknowledgehub.com/storage/clioklii8XzFZgNu28FcL6dqOEkexw46laCU7ypxDAN D.pdf>.

¹⁷ Id.

And for many, the idea of spending hours in the same room for a deposition proved to be a nonstarter.

Were we to believe that an attorney's value was limited to decades-old lawyer's aesthetic and outdated tools? Of course not. A lawyer's worth is more than tailored suits, briefcases, and expensive conference tables. Your ability to adapt is precisely why people value your stock in time and advice. So of the many lessons offered by *A Civil Action*, perhaps the most important message was this . . . it's all about your client.

That message rings true today. For while some debated the impact on office culture, others dared to ask the bigger, more important question . . . Does your client even care?

Bloomberg Law recently provided an answer:

*As firms delay office returns or return to remote work, "most clients don't care if their outside counsel are working from the moon," as long as they deliver results and reliability.*¹⁸

And that's what we're focused on here at Readback . . . results and reliability. That's why we're doing this. Because at the end of the day, our goal is to enable you to give your best performance. We believe this so much that we created our own [Readback Customer Bill of Rights](#). We prioritize our commitment to you. And we don't apologize for it.



¹⁸ Hurtarte, Jonathan. Wake Up Call: Firms Hire Remote Associates, Prefer Hybrid Work. Bloomberg Law. 13, January 2022, <https://news.bloomberglaw.com/business-and-practice/wake-up-call-firms-hire-remote-associates-prefer-hybrid-work>

Unlike the steno machine, Readback is a modern tool for modern times. Our service empowers you to achieve your best performance and meet client expectations, particularly in a post-pandemic world. We realize that, despite fears of the unknown, business found a way to adapt and persevere, even as the pandemic took away our comfortable surroundings. Attorneys changed their behavior. And that changed behavior influenced preconceived beliefs of what was possible in the legal industry. Given the opportunity to adapt, lawyers throughout the country realized that their fears weren't as warranted as they'd once believed. They stepped out of their comfort zone to make the right business decision.

Well, it's time to do that again. A world that embraces remote or hybrid work will require new tools to keep pace with demand. Steno has already shown you what it will do. Now, it's our turn. Let Readback break the cycle of steno fatigue. Visit our [website](#) to learn more. Take a moment to complete our [free registration](#) and gain access to our scheduling tool as well as our Resource Library and Readback Viewer that lets you see your rough drafts in near-time.

You've had to make a lot of changes these past few years. It's time that court reporting followed your lead. We're ready when you are. Are you finally ready to break the cycle of steno fatigue? We're here to help. Readback's got your back moving forward.