Book review: Think Again: The Power of knowing what you don't know—Adam Grant, New York: Viking, 2021, 307 pages.

"Since successful advocacy is all about getting your decision makers to listen to you with sympathy, unpleasantness on the part of the advocate really strikes at the root of the whole thing. Not only are you stressing yourself out: at the same time you are significantly reducing your effectiveness".

--Keith Evans, *The Language of Advocacy* 4 (1998)[1]

Though not written specifically for lawyers, organizational psychologist Adam Grant's *Think Again* makes the compelling case that intellectual curiosity, openness, and confident humility will enhance our efficacy as advocates. Grant's insightful recommendations to thinking and re-thinking safeguards us from promoting a "false sense of mastery" whereby our confidence vastly exceeds our competence,[2] thereby reducing our effectiveness as advocates. For example, if you've ever met anyone whose confidence vastly exceeded their competence, you're likely to have been unpersuaded by their opinions.

Although "intelligence is traditionally viewed as the ability to think and learn", Grant argues that the ability to rethink and unlearn might be more important in our rapidly changing world.[3] For example, have you ever adopted one strategic approach on one file only to discover that adopting the same approach on another file backfired?

During law school and my articling year, I thought that there were rules or formulas that would assist my advocacy skills—after all, who am I to question these rules or formulas for advocacy that were promoted as tried-and-true, conventional, and deemed "best practices"?[4]

While there may be wisdom and insight in some of the tried-and-true approaches to advocacy you've probably learned throughout your career, Rick Friedman observes that "trial lawyers must learn and understand the teachings of those who came before them before they can learn what to keep and what to discard".[5] When it comes to trial advocacy, "there are no such rules or formulas. There never have been. There never will be. The process is too complex".[6]

Yet, I imagine that part of the resistance to re-thinking and re-evaluating our approaches to advocacy is due to what Grant describes as "cognitive laziness":[7]

> We often prefer the ease of hanging on to old views over the difficulty of grappling with new ones. Yet there are also deeper forces behind our resistance to re-thinking. Questioning ourselves makes the world unpredictable. It requires us to admit that the facts may have

[1] As located in Garner, Bryan: *The Winning Oral Argument: Enduring Principles with Supporting Comments from the Literature*, Dallas: Lawprose, 2007, p. 72.
[2] Grant, Adam, *Think Again: The Power of knowing what you don't know*, New York: Viking, 2021, p. 44-45.
[3] Grant, Adam, *Think Again,* p. 2.
[4] When I was practicing with my mentor and friend, Walter Kubitz K.C., I had a front-row seat to Walter's humble commitment to re-thinking his approach to advocacy. Whilst generous with his time and knowledge, he eschewed formulas, always sought continuous improvement, and his courage, preparation and creativity shone through some exceedingly difficult cases.
[5] Friedman, Rick, *Becoming a Trial Lawyer: A Guide for the Lifelong Advocate, (2nd edition)*, Portland: Trial Guides, p. 80.
[6] Friedman, Rick, *Becoming a Trial Lawyer*, p. 77.
[7] Grant, Adam, *Think Again,* p. 4.

> changed, that what was once right may now be wrong. Reconsidering something we believe deeply can threaten our identities, making it feel as if we're losing a part of ourselves...
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> When it comes to our knowledge and opinions…we tend to stick to our guns… We favor the comfort of conviction over the discomfort of doubt, and we let our beliefs get brittle long before our bones. We laugh at people who still use Windows 95, yet we still cling to opinions that we formed in 1995. We listen to views that make us feel good, instead of ideas that make us think hard.

Think Again is divided into 3 sections. Part 1 is on individual re-thinking and updating our own views, Part 2 is about interpersonal re-thinking and how we can encourage others to think again and Part 3 is about collective rethinking and creating communities of lifelong learners.

Grant observes the following regarding how most people think and talk when expressing their views:[8]

> As we think and talk, we often slip into the mindsets of three different professions: preachers, prosecutors and politicians. In each of these modes, we take on a particular identity and use a distinct set of tools. We go into preacher mode when our sacred beliefs are in jeopardy: we deliver sermons to protect and promote our ideals. We enter prosecutor mode when we recognize flaws in other people's reasoning: we marshal arguments to prove them wrong and win our case. We shift into politician mode when we're seeking to win over an audience: we campaign and lobby for the approval of our constituents. The risk is that we become so wrapped up in preaching that we're right, prosecuting others who are wrong, and politicking for support that we don't bother to rethink our own views.

While Grant notes that there are situations where it might make sense to preach, prosecute and politick,[9] he proposes that we can adopt a scientific mindset in the search for truth. Grant writes,[10]

> When we're in scientist mode, we refuse to let our ideas become ideologies. We don't start with answers or solutions; we lead with questions and puzzles. We don't preach from intuition; we teach from evidence. We don't just have healthy skepticism about other people's arguments; we dare to disagree with our own arguments.
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> Thinking like a scientist involves more than just reacting with an open mind. It means being *actively* open minded. It requires searching for reasons why we might be wrong—not for reasons why we must be right—and revising our views based on what we learn.
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> That rarely happens in the other mental modes. In preacher mode, changing our minds is a mark of moral weakness; in scientist mode, it's a sign of intellectual integrity. In prosecutor mode, allowing ourselves to be persuaded is admitting defeat; in scientist mode, it's a step toward the truth. In politician mode, we flip-flop in response to carrots and sticks; in scientist mode, we shift in the face of sharper logic and stronger data.

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[8] Grant's observations build upon his colleague, Phil Tetlock's discovery in Grant, Adam, *Think Again*, p. 18-19.
[9] Grant, Adam, *Think Again*, p. 27. Grant also highlights that even great scientists can morph into preachers, politicians and prosecutors, and as a result, need to think more like scientists, p. 22. As a person of faith, I don't think that Adam Grant's proposals of thinking like a scientist are antithetical to my faith.
[10] Grant, Adam, *Think Again*, p. 25.

I found Grant's chapter entitled "Dances with Foes" germane to our line of work, especially since more cases are resolved via settlement or ADRs and fewer cases end up going to trial. Negotiated settlements are not war—they are more like a "dance that hasn't been choreographed, negotiated with [an opponent] who has a different set of steps in mind".[11] Grant highlights that even having one negotiator adopt a posture of intellectual curiosity and humility improves outcomes for both parties.[12] With an analysis of several research studies, Grant outlined the differences between expert negotiators and average negotiators:[13]

Average negotiators	**Skilled negotiators**
"Went in going armed for battle, hardly taking note of any anticipated areas of agreement"	"Mapped out dance steps they might be able to take with the other side, devoting more than 1/3 of their planning comments to finding common ground"
Piled up more reasons to "tip the scales" in their favor	"Presented fewer reasons to support their case"
More likely to enter into "defend-attack" spirals dismissively shooting down their opponents' proposals and doubling down on their own positions	Rarely went on offense or defense. Instead, expressed curiosity with questions like, "So you don't see any merit in this proposal at all?
Less questions	Of every five comments the experts made, at least one ended in a question mark

As I reflect upon the idea that sometimes "less is more" when it comes to convincing an opponent or a colleague, I'm reminded of the time when I was preparing for exams in my first year of law school over 15 years ago. My Constitutional Law Professor, Rodney Brazier left me with a comment about persuasion that has stayed with me since: What you leave out of your essays and exams is just as important as what you put in. Professor Brazier's advice mirrors a quote warning about the danger of overextending one's position during negotiations:

> It often happens that lawyers who attempt to cover all of the issues in the case find themselves left with the uncomfortable feeling that they have failed to deal with any of the issues adequately.[14]

Grant provides vivid illustrations of how re-thinking happens—from how a Black musician persuaded white supremacists to leave the Ku Klux Klan to why an innovative entrepreneur got trapped in an overconfidence cycle. If you are open to modifying your strategic approaches to advocacy with the hopes of improvement, albeit incrementally, *Think Again* is a wise, entertaining and insightful read.

[11] Grant, Adam, *Think Again*, p. 25.
[12] Grant, Adam, *Think Again*, p. 105-106.
[13] Grant, Adam, *Think Again*, p. 105.
[14] Hon John M. Harlan, *What Part Does the Oral Argument Play in the Conduct of an Appeal?,* 41 Cornell L.Q. 6, 8 (1955), as located in Garner, Bryan: *The Winning Oral Argument*, p. 40.