

## Organizational Integrity Group

*Solving The Whole Problem™*

First Principles  
*Understand  
Cognitive  
Illusions*



### People Don't Think The Way You Think They Think

The brain is a funny thing. But understanding it is no laughing matter. Being aware of how people think, why they make the choices they make, and the hurdles that sometimes stand in the way of rationale decision-making can be the key to the effective resolution of complex problems.

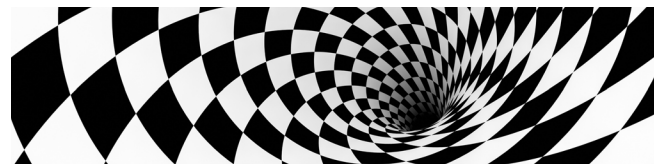
The Sheppard Mullin Organizational Integrity Group understands how people think, and we understand the impact it can have on problem solving. Whether it's dealing with a disgruntled employee, responding to a litigious business partner, or conducting witness interviews, most everyone is subject to "cognitive illusions" in their decision-making. Understanding these cognitive illusions often can be the difference between success and failure.

### What Is a Cognitive Illusion?

As Duke Business School Professor Dan Airely puts it, a cognitive illusion (also called a cognitive bias or a heuristic) is a systematic error in thinking that often leads the thinker to a less-than-optimal outcome. With names like the Hindsight Bias, the Halo Effect, and Loss Aversion, these "thought errors" are quite common. Yet their power to influence judgment and decision-making often is under-appreciated.

Consider "Loss Aversion." Research tells us people generally fear a loss twice as much as they welcome a gain. To put it another way, the pain of losing \$10,000 feels twice as powerful as the pleasure of gaining \$10,000. Understanding this heuristic can play a critical role in, for example, evaluating how best to frame a litigation demand, or to judge how an adversary may react to a settlement offer.

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To take another example, consider the “Anchoring Heuristic.” As Nobel laureate Daniel Kahneman describes it, people often make estimates by starting with an initial value and then making adjustments to derive their estimate. In one study, researchers were able to materially impact subjects’ views of the average temperature in San Francisco simply by first asking whether the average temperature was greater or less than 558 degrees!

But the power of Anchoring goes well beyond guessing the temperature in Northern California. In 2001, a group of professors penned a fascinating article highlighting how powerful anchoring can be, even among those who should be immune from such parlor tricks — federal magistrate judges. The authors surveyed 167 judges. As part of the survey, the judges were asked to estimate the settlement value of a fictitious lawsuit. Half the judges were told the defendants had filed a motion to dismiss for failure to meet a \$75,000 jurisdictional minimum. The other half did not know this “fact.”

Notwithstanding the obvious irrelevance of the *defendant’s* view of the value of the case, the mere filing of the motion impacted the judge’s valuation dramatically. The judges who were aware of the

jurisdictional motion valued the case 29.4% less than those unaware of the motion. (And this is despite most every judge denying the motion.)

Sheppard Mullin’s Organizational Integrity Group is keenly aware of the role cognitive illusions play in decision-making, and we use this knowledge to better understand our clients’ stakeholders, adversaries, and regulators — thus turning common thought errors into thoughtful advantages.

### Taking Advantage Of Cognitive Illusions

- **Understand.** Decision-making is not always rational. Understanding the tricks the mind plays on us offers critical advantages in solving complicated problems.
- **Evaluate.** Ask yourself what might be driving your adversary (or your stakeholders). Evaluating what drives others’ decisions can provide a concrete strategic advantage.
- **Be Critical.** We all are victims of cognitive illusions. Taking time to think critically about what is driving your own judgments and decisions will help you avoid the pitfalls of others.



For more information regarding Sheppard Mullin’s Organizational Integrity Group or to learn more about how we work with our clients to craft multi-disciplinary solutions to complicated problems, please visit us at [www.sheppardmullin.com/OIG](http://www.sheppardmullin.com/OIG).

Visit our blog at [www.organizationalintegrity.com](http://www.organizationalintegrity.com)

### About Sheppard Mullin’s Organizational Integrity Group

Sheppard Mullin formed the Organizational Integrity Group because most problems facing sophisticated organizations cannot be solved by legal analysis alone. Complicated problems are solved through a thoughtful, deliberate, and holistic approach; an approach that seeks to identify the root causes of problems and to craft solutions that are practical, effective, and sustainable. We look at the bigger picture. We ask questions that transcend a traditional, stove-piped legal analysis. Is the problem one of compliance, or is there an underlying institutional or cultural issue at its core? Are there business imperatives or reputational risks that must be considered before moving forward with a solution? If we attack the manifestation of the problem, will we actually cure the root cause of the problem? What does the organization’s mission, vision, and values tell us about how we should respond?