

Beating Burnout: A Lawyer's Guide

By Carli L. Sansone, Esq. and Shann D. Winesett, Esq.

Attorney burnout is far too common a problem in the legal profession. Whether an attorney practices in criminal law, family law, corporate law, or any other area, the attorney faces daily stresses due to an occupation that has grown increasingly combative. As Dr. Amiram Elwork notes: “it is generally known that our adversarial legal system tends to promote a Machiavellian environment, in which aggression, selfishness, hostility, suspiciousness, and cynicism are widespread.” Amiram Elwork, Ph.D., *Stress Management for Lawyers* 21 (3d ed. 2007). In this environment, attorneys might, and often do, find themselves in an adversarial situation with not only the opposing lawyer but their clients (who often have unrealistic expectations) and their superiors (who often make unreasonable demands). Considering that law schools provide little education on how to manage stress, a large number of attorneys are at risk for burnout and stress-related mental and physical illness.

In many cases, the feeling of burnout is actually a symptom of an underlying mental health issue such as secondary traumatic stress or vicarious trauma. While secondary traumatic stress is not a diagnosis per se, there is a “recognition that persons repeatedly exposed to those with PTSD, such as family members or professional or volunteer service providers, may develop some symptoms of traumatic stress themselves.

[T]here may be constructive habits that attorneys can develop that might help mitigate some of the mental and emotional stress of the job.

Compassion fatigue, unduly absorbing the emotional responses of clients, and burnout, feeling disengaged and resistant to continual efforts at work, are several potential symptoms of secondary traumatic stress.” Brobst, Jennifer A., *The Impact of Secondary Traumatic Stress Among Family Attorneys Working with Trauma-Exposed Clients: Implications for Practice and Professional Responsibility* (2014). 10 J. Health & Biomedical L. 1 (2014). Available at SSRN: <https://ssrn.com/abstract=2466814>

The high-level of stress that comes with the job, coupled with attorneys who are likely over-achievers or possess a so-called “Type A” personality is a reci-



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pe for disaster. Additionally, with advancements in technology, many attorneys are essentially on-call, all of the time. Even if an attorney's clients do not have the attorney's personal cell phone number, the clients are still able to email the attorney at any time of the day or night, regardless if it is during the week or on a weekend. Considering that most attorneys maintain email access on their cell phones, it is exceedingly difficult to shut work off when an attorney leaves the office. While electronic access to an attorney is a blessing to the client, it is often a curse to the attorney whose personal time is regularly interrupted with professional concerns, thus taxing the attorney's already limited free time. Moreover, the constant contact with clients or the office causes attorneys to chronically stress about cases and deadlines rather than taking care of their minds and bodies. The end result is a vicious cycle that puts many attorneys at risk for burnout and mental or emotional breakdowns. Nevertheless, there may be constructive habits that attorneys can develop that might help mitigate some of the mental and emotional stress of the job.

Maintain a to-do list that includes a plan for each item on the list

Many attorneys learned in law school that keeping a task or to-do list is a critical part of maintaining efficiency and creating optimum productivity. Most attorneys have been in the position where they are wide awake at 3:00 a.m. because they cannot stop thinking about at least one task they need to get done. One common solution is to ensure all tasks are written down so the attorney can rest easy. Maintaining the task list may not be enough, though. In a study conducted at Florida State University and published in the Journal of Personality and Social Psychology, it was determined that when a person creates a plan for how he will accomplish tasks, he is better able to focus on current tasks at hand.

Considering the average North American student reports to have 15 ongoing personal projects, not including normal daily tasks, at any given time, it is easy to see how an active practicing attorney could have multiple times that amount of personal tasks on his to-do list. When a person is focused on attaining one goal, being bombarded with the distractions of other tasks that need to be completed makes it difficult to finish

CLE Article *continued on page 30*

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the initial task. The study concluded that when people plan for their goals, they can better manage their multiple pursuits. Once a person creates a detailed plan for a goal, he no longer must spend time thinking about the goal to execute it. In conclusion, a plan reduces the number of thoughts a person might otherwise spend on a separate unrelated and unfinished goal. Masicampo, E. J., & Baumeister, R. F. (2011, June 20). Consider It Done! Plan Making Can Eliminate the Cognitive Effects of Unfulfilled Goals. *Journal of Personality and Social Psychology*. Advance online publication. Available at <http://users.wfu.edu/masicaej/MasicampoBaumeister2011JPSP.pdf>.

The important takeaway from this study is that maintaining a task list alone is likely insufficient to help an attorney avoid burnout or breakdown. The attorney should actually create a plan for the tasks on his to-do list. For example, rather than simply writing down that the attorney needs to conduct discovery on a particular case, the attorney or his staff should specify what type of discovery he plans to do, calculate all of the deadlines, ensure everything is calendared, and possibly even start some of the discovery by creating the documents from templates. This way, when the time comes to complete each discovery task, the groundwork has already been completed either by the attorney or his support staff. This will allow the attorney to avoid the distraction that arises when his mind is bombarded with thoughts about everything he needs to do for discovery on that particular case.

Consider removing email notifications from cell phone

Most attorneys have probably experienced something like this before: the attorney just sat down to eat dinner with her family on a Saturday night and her phone is on the table next to her when a notification pops across the screen. It is an email from opposing counsel informing the attorney that her client is refusing to release his children to the opposing party for the court ordered visitation. The attorney's client is already facing contempt for previously withholding the children from the opposing party and the hearing is on Monday. The attorney has not had dinner with her family in weeks because she had back to back trials. Unfortunately, the attorney feels she has no other option than to excuse herself from the dinner table so she

can call her client immediately and tell him he must release the children to their mother for the visitation.

Attorneys are fortunate to live in a time where they can work from anywhere they want, any time they want. However, attorneys are also cursed in that they are rarely able to ever unplug from the office. Whether an attorney is at dinner with her family, attempting an uninterrupted vacation with her significant other, or spending the day with her children at an amusement park, she will likely always have her cell phone and be available by text, call, or email. In this way, some attorneys are never truly out of the office and can never truly be with their families or those closest to them.

There is no doubt that this constant email accessibility is both mentally and emotionally draining for attorneys. One surveying company determined that 60% of emails are opened on mobile phones. See <https://www.aestra.com/resources/top-10-email-clients/>. This is for initial email opens and does not include subsequent access to the email. Many attorneys will see an email notification pop up on the front screen of their cell phones, open the email, and quickly realize there is nothing that can be done about the email in that moment. The attorney will then mark the email as unread so he can return to it at a later time. Unfortunately, the damage has already been done at that point. The attorney is aware of the impending emergency that needs to be handled and he will continue to think about it until it is resolved. If the email notification had not popped up on the front of the attorney's cell phone, he would not have opened the email during a time where he could not address the issue, and he would not be experiencing stress over the impending task at hand. Limiting or removing the notifications an attorney receives could help with this by allowing him to only see emails when he actively opens his email application on his phone.

There is, of course, a flip-side to the 24/7 accessibility. Some employers pay their attorneys very well and, therefore, require an attorney to be in constant contact with the office. Some clients demand it. Other attorneys see the constant contact to be a selling point and a demonstration of the attorney's commitment to the client's case. In an increasingly competitive legal market, these are valid concerns. The point is that attorneys should recognize that the failure to unplug from the office may very well lead to chronic stress and burn out.

Dedicate time and resources to self-care

It seems that the busier and busier attorneys become, the less and less time they are willing to dedicate to taking care of themselves. Everything on an attorney's task list is more important than taking care of her mind and body. In reality, attorneys should actually dedicate more time and resources to self-care the busier they become because if they do not feel their best mentally and physically, their productivity and mental health will suffer. In turn, they will become more prone to burnout, or a mental or emotional breakdown.

Scheduling time daily to do something that de-stresses an attorney is critical to maintaining a positive well-being. The attorney can help ensure he devotes this time to himself by scheduling the time into his schedule as appointments. He can schedule appointments to workout, receive massages, go out to dinner with his significant other, or whatever other activities help him relax.

Additionally, attorneys should take time to understand the physiology of stress, what causes it and what, aside from alcohol and medication, can alleviate it. For lawyers, stress is almost entirely mental and consists mostly of improbable fears and disassociated emotions which, if unchecked, do nothing more than cause a chronic surge of cortisol in the body. Mindfulness training and meditation has been clinically proven to be an effective tool in dealing with the stress of practicing law.

Conclusion

All of these suggestions seem great, but it is much more difficult to actually put them into action. Most attorneys know they would be better off if they left their work at the office and did not personally take on the stress of their clients, but when there are tasks that must be completed and issues that arise, it is challenging not to stress out about them. Nevertheless, this list should serve as a starting point for attorneys who would like to avoid burnout.

If you are ever in need of confidential assistance with alcohol, drug, gambling problems, depression and stress, help is just a phone call away. Call 1-866-828-0022. See <https://www.nvbar.org/member-services-3895/wellness/lcl/> or <https://www.nvbar.org/member-services-3895/wellness/nlap/> for more information. 📍

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