

Wisconsin Office of Lawyer Regulation Lunch & Learn Series

**On Running Hot Without Burning Out:
Understanding and Getting Ahead of Burnout**



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Thank you for attending the Office of Lawyer Regulation's first Lunch & Learn on attorney wellness. I was thrilled to have the opportunity to talk to you about this topic, and I hope you found the session to be useful. If I can be a resource for this or anything mental health and wellness, please do not hesitate to contact me at matt@sidebarcounseling.com.

Best,
-Matt Shin

Burnout:

A state of emotional depletion over a prolonged period of time.



Burnout results from the sum total of your habits, routines, behaviors, beliefs, expectations, and values creating an unmanageable resource deficit. It's a persistent condition and is difficult to overcome because it reflects one or many deeply entrenched features of how you operate on a daily basis.

Lawyers Overcommit.



Overcommitment is a pattern of coping with job demands, reflecting excessive work-related commitment and striving, in combination with a strong need to be approved and esteemed.

Behaviorally, the overcommitted lawyer paradoxically takes on more work to cope with job demands, and showcases their productivity to feel valued.

Consequence is the tendency to underestimate demands and overestimate resources, while being 2-6 times more likely to experience disordered depression and/or anxiety.

Lawyers are burned out

52%

of the time.

2021 Bloomberg study, 614 in-house and firm attorneys

<https://www.americanbar.org/groups/journal/articles/2022/surveyed-lawyers-report-they-experience-burnout-in-their-jobs-mo/>

40%

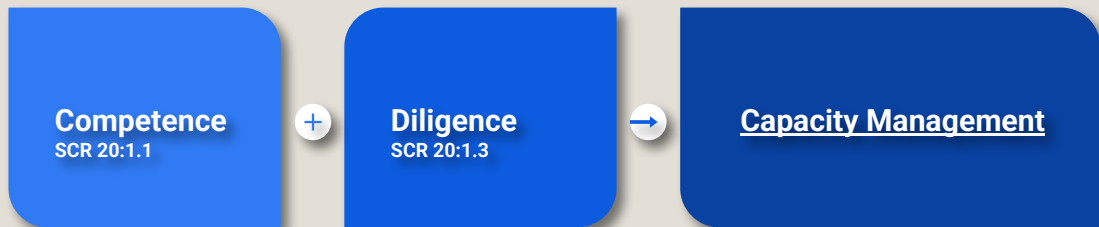
Think about leaving the law.

If you experience guilt and/or anxiety at the thought of prioritizing your own needs or making choices in furtherance of your own well-being, consider the potential consequence of ultimately leaving the law. Taking advantage of a few opportunities to give yourself a break can ultimately lead to a more sustainable, satisfying, and fulfilling career.

4,450 Massachusetts attorneys surveyed in 2022

<https://www.reuters.com/legal/litigation/burnout-depression-red-flag-s-abound-massachusetts-lawyer-study-2023-02-01/>

The Duty to Manage Capacity.



At least the rules of competence and diligence give rise to a duty to manage one's literal capacity for productivity. The work on your plate unfortunately does not automatically match your fluctuations in overall capacity, so there is an obligation to ensure that you remain able to handle matters in a competent and diligent manner.

SCR 20:1.1 – Competence: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

SCR 20:1.3 – Diligence: A lawyer shall act with reasonable diligence and promptness in representing a client.

- ABA COMMENT [2] A lawyer's **workload must be controlled** so that each matter can be handled competently.

Do less.

The burned out lawyer needs to do less.

It's not about working less or taking on less.

It's about spending less to get everything done.

Think Less.

8



We think a lot about uncertainty and ambiguity. There's a lot to consider about the past and the future.

However, we can be absolutely, 100% certain about the present moment at any given time. Who you're with, what you're doing, where you are, what you're wearing.

This is the best the current moment could ever be.
This is also as bad as the current moment could possibly get.

Think of the present moment as the narrowest part of an hourglass. Consider how few grains of sand pass through it relative to the upper and lower vessels. These are the past, future, and present.

When you're working on something, or attending to something, focus on just that task and not anything else. This is a real way to do less by thinking less. As a result, you spend less as you get things done.

Scroll Less.

9



By scrolling and passively consuming content, you're forcing your mind to respond.

Bad stuff gets the most clicks and impressions. You're not good enough. Smart enough. Successful enough. Also all the dangers to you, your family, and your career.

And you respond to each one of them. Psychologically, physiologically, emotionally. And you pay a price each time.

Test: During your downtime, are you willing to read for fun? If you're too tired to read, you're too tired to scroll. Avoid forcing your mind and body to respond to bad news and do something else—even if it's nothing. This is another way to do less.

Drink Less.

10



Alcohol provides chemically induced relief. It's fast and easy, but it takes a loan.

Reality is alcohol is a mild poison that needs to be cleared, and your mind and body puts in the work to do it whether you're aware of it or not. And you wind up paying the cost tomorrow.

Test: Can you afford a bit less efficiency tomorrow?

Test: Are you already exhausted?

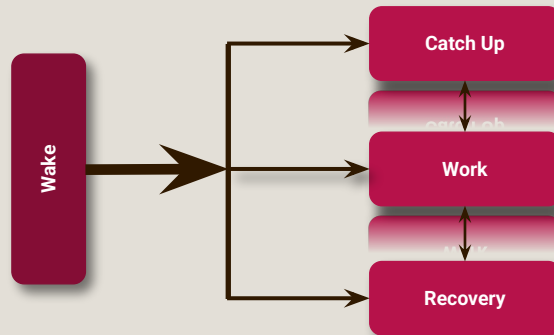
If you can't afford it or if you're already exhausted, this is an opportunity to choose to do something different—to avoid asking yourself to do more when resources are already scarce.

Do “less” well.

We are incapable of multitasking with our focus and attention. When we try, we don't do complete those tasks as well, and they are completed at a greater cost.

Workflows:

Parallel & Sticky.



Approaching responsibilities/tasks in parallel entails a loss of effectiveness due to (1) inability to multitask attention/focus and (2) the aggregate cost of attention residue.

Attention residue result when we switch tasks—part of our attention/focus remains with the previous task, resulting in a loss of effectiveness with respect to the new task. This results in a tax/rake that accumulates over the course of a day.

The better approach is to address responsibilities/tasks in series, one after the other. Reduces transitions and minimizes attention residue loss. Tools that can be used for this include the Pomodoro Technique, time blocking, and calendar management.

Invest in Recovery–



Downtime and recovery tends to be the first thing to go during times of high activity and stress, however recovery is an essential component of your overall capacity because it prepares you for the next round of productivity.

Means to invest in recovery include:

1. Detachment - Even for 5 minutes at a time, turn off notifications, ignore emails, ignore calls, avoid work, stop everything.
2. Community & Relationships - Cultivate relationships with others, which will improve resilience during difficult times at work.
3. Support - Leverage opportunities to engage with another person to focus on you and how you operate. Look for opportunities to become aware about detrimental beliefs and behaviors, to make different choices, gain more control, and increase certainty. Therapists, coaches, and mentors are all great options.

Overcome fear itself.

Fear is a critical tool in the toolbelt, but too much of it is counterproductive.

Anxiety Drives Legal Work



Fear and anxiety are common features of the legal profession because lawyers are trained and expected to identify problems, conjure up bad and worst case scenarios, and be responsible for helping clients avoid and manage times of difficulty. Fear and anxiety is felt because the issues are important and the consequences can be severe.

“Do you feel you have anxiety?”*

16

71%: Yes.

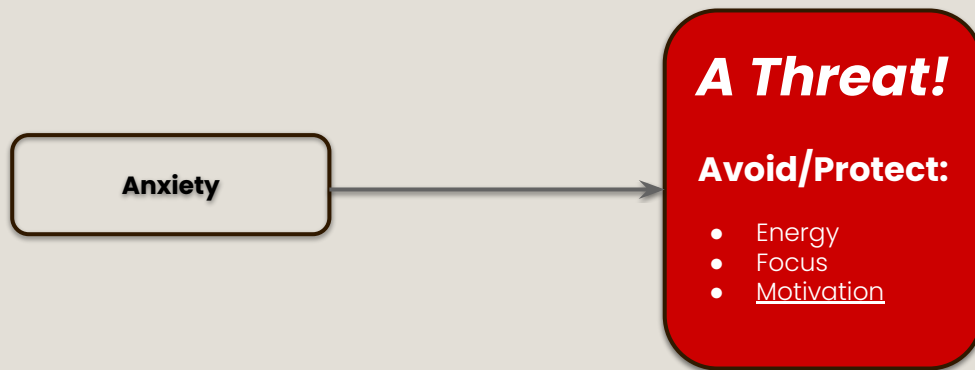


*ALM's 2023 Study of 2,900 Practicing Lawyers:

Most attorneys report experiencing anxiety, but the reality is that it is a perfectly normal and healthy emotional response. Just like happiness, anger, sadness, etc., it serves a purpose and everybody experiences it as a normal part of their functioning.

Emotions Provide Information and Resources

17



All emotions provide us with (1) information about our current circumstances and (2) resources to help us respond to those circumstances.

In the case of anxiety/fear, the information provided is a perceived threat and the resources provided include the energy, focus, and motivation to minimize the risk and/or extent of potential harm.

As a result, fear/anxiety is one of the most protective emotions that we have available.

But when that anxiety/fear becomes too much, we become overwhelmed and are no longer able to function properly. All we want to do is freeze or flee, which is counterproductive to solving client problems. This is when we need to overcome fear itself.

Negotiate:

Is there an actual threat?

18



One way we can overcome fear is by negotiating with it.

First we ask ourselves whether there is an actual threat, or is this anxiety/fear a knee-jerk reaction, something we conjured up out of thin air, or a result of a distorted perception of a person, event, or thing.

In exploring this, we can pressure test the perceived threat by asking (1) what is the actual likelihood of the feared result and (2) what is the actual extent of potential harm?

If we arrive at the conclusion that there is no actual threat, we confront the reality that there is nothing to be done.

Negotiate:

Can we do something about it?

(im)possible?

If we do identify an actual threat, the next question is whether there is something we can do about it right at this very moment. Consider the narrow part of the hourglass.

If you are away from your computer/office/materials, or otherwise not able to address the perceived threat at the present moment, give yourself permission to wait, permission to procrastinate, and delegate the responsibility of managing that threat to your future self when something can be done about it. This is your opportunity to do less and save resources.

On the other hand, if you are in a position to address the threat, now is the time to leverage the resources that your fear/anxiety has given you and take steps to reduce the risk/magnitude of harm.

De-escalate: Gratitude Flood

20



If you are still struggling with an overflow of anxiety/fear, a first strategy for de-escalating is to flood your awareness with a counterbalancing emotion.

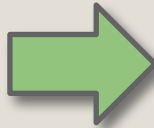
This takes advantage of the fact that we can't multitask with our attention and focus. So we supplant the thoughts of worry, fear, and danger with something else, such as gratitude.

In doing this, identify something good in your life. Focus on what it means, focus on what makes it good, focus on how you feel about it, and focus on everything and everyone involved with it. Flood your brain with it and concentrate all of your attention on it.

This causes a corresponding emotional response that can de-escalate the extent of anxiety/fear experienced, and takes advantage of attention residue because that emotional response will linger even after you switch back to the task at hand.

De-escalate: Expend the Energy

21



A second strategy is to expend the resources that fear/anxiety has given you through action. Instead of trying to clamp down the overflowing energy, the approach is to spend it.

Do this by engaging in a challenging workout, go on a walk, tackle to-do's that are available right now, tidy up your desk, procrastinate clean—the common denominator is that you intentionally spend the energy surplus until your emotions come down to a manageable level.

Do less.

Do “less” well.

Overcome fear itself.

What makes the job so hard is being in a position where you're asking for more than what you can give.

And if you're stuck there, you need to (1) ask less of yourself, (2) do more with what you have, and (3) manage your relationship with fear.

This is what works.

Reach out.

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