

Workers Comp
It Matters

How The Tennessee Lawyers' Assistance Program Assists Lawyers In Crisis

Buddy Stockwell



PROTECT. ASSIST. EDUCATE.



20
22

TENNESSEE LAWYERS ASSISTANCE PROGRAM



Professional Duty of Self Care



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WHAT *is* TLAP?

TLAP CONFIDENTIALITY

T.C.A. 23-4-105

The records, proceedings and all communications of any lawyers' assistance program shall be deemed confidential and **shall not be available for court subpoena**. This section shall not prevent the subpoena of business records that are otherwise available through subpoena. Such records are not to be construed as privileged merely because they have been provided to a lawyers' assistance committee.

COVID 19 Stress

Just when we thought practicing law couldn't get more stressful . . .

- We DON'T know the ultimate impact of COVID 19 on the legal profession
- We DO know that maintaining mental and physical health is paramount
- More than ever, it pays to take care of yourself and be ready for anything



A LOT OF DISTRACTIONS

KIDS AND SCHOOL!!!

**ZOOM &
TECH!**

**STRESS OF PERSONAL
BUSINESS AND FINANCES**

**WORK AND
CASE LOADS**

INFLATION

COVID

TOXIC POLITICS!!

"SCREENS" ALL DAY & NIGHT!

SOCIAL MEDIA

24/7 NEWS

WAR!!

MASKS?!

PASSWORDS! ☹️

WORKING REMOTELY



Is *Zoom* Still Stressful?



Have We Become Acclimated to glitchy and distanced communications?

Symptoms to Watch For:

- Trouble focusing on daily activities
- Anxiety that turns into feelings of being out of control
- Strong feelings that interfere with daily activities
- Having emotions that become difficult to manage
- Feelings of hopelessness or helplessness
- Increase in alcohol or drug use

COVID 19 Well-being Tips

- **Take a media break!**
- Take care of your body
- Take care of your mind
- Engage in Hobbies
- Connect with others
- Attitude of Gratitude

Protect Yourself from Being Slimed....



SUPPORT GUIDE FOR COVID-19

Centers for Disease Control and Prevention:

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

Coping During the Coronavirus Pandemic:

<https://www.cdc.gov/coronavirus/2019-ncov/prepare/managing-stress-anxiety.html>

Or, “Google”: “CDC and COVID STRESS”



BECOMING A RESILIENT LAWYER

“Stress versus Anxiety”

BEST PRACTICES FOR SELF-CARE

No Better Time Than Now!



What is Stress?

Is it the same as Anxiety?

Stress

Typically caused by an external trigger:
Work deadlines, fight with a loved one, chronic illness, etc.

Anxiety

Persistent, excessive worries that don't go away even in the absence of stress

Similar Symptoms

Overwhelmed
Restless
Crying
Alcohol or drug use
Impulsivity
Forgetfulness
Sleep disturbances
Poor judgment
Indecisiveness
Irritated and angry
Headaches

Nausea/vomiting
Impatience
Inability to relax
Aggressiveness
Sweating
Muscle tension
Difficulty concentrating
Easily startled or jumpiness
Loss or increase in appetite
Fear or panic

HOW **STRESS** AFFECTS THE BODY

BRAIN

Difficulty concentrating, anxiety, depression, irritability, mood, mind fog

CARDIOVASCULAR

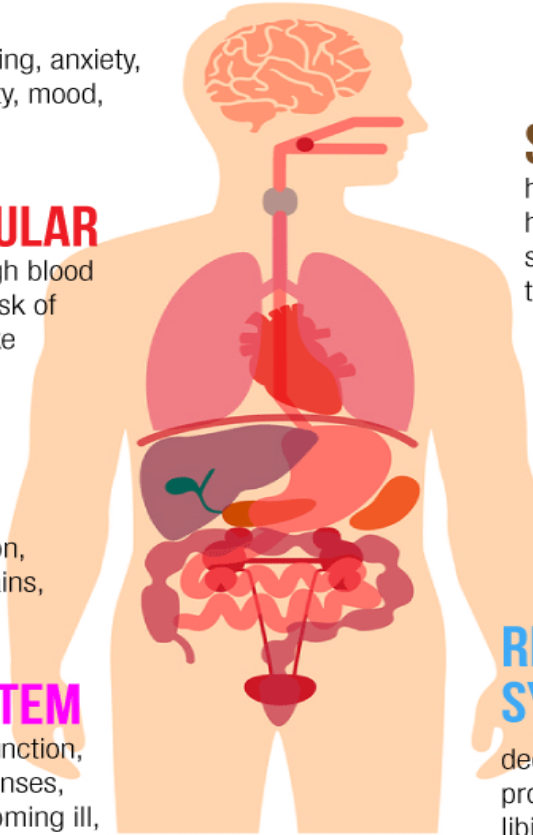
higher cholesterol, high blood pressure, increased risk of heart attack and stroke

JOINTS AND MUSCLES

increased inflammation, tension, aches and pains, muscle tightness

IMMUNE SYSTEM

decreased immune function, lowered immune defenses, increased risk of becoming ill, increase in recovery time



SKIN

hair loss, dull/brittle hair, brittle nails, dry skin, acne, delayed tissue repair

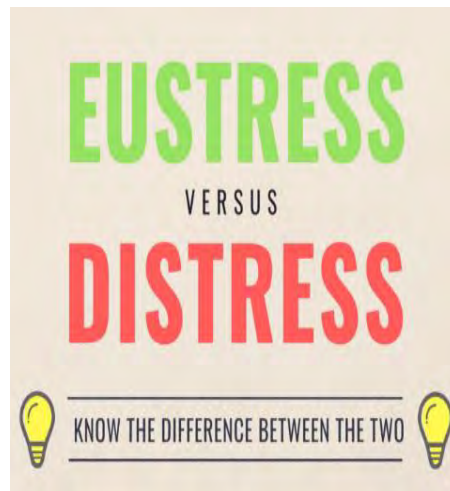
GUT

nutrient absorption, diarrhea, constipation, indigestion, bloating, pain and discomfort

REPRODUCTIVE SYSTEM

decreased hormone production, decrease in libido, increase in PMS symptoms

Is Stress bad?



Eustress, or "positive" stress, helps you get tasks done if they're manageable.

Example:
Getting ready for a presentation by practicing it out loud before presenting in class is good stress.

Symptoms:
Feeling challenged, motivated and like you're getting out of your comfort zone.

Solutions:
Be aware of what feels good when it's been accomplished, and what just feels exhausting afterward.



Distress, or "negative" stress, is chronic and overwhelming- not helping you long-term.

Example:
When you have an exam and start studying the material the night before, that's distress.

Symptoms:
Body aches, getting sick more often than usual, headaches, changes in your attitude, and not sleeping well.

Solutions:
Know when what you're doing is too much and take some responsibilities off of your shoulders.

Maximizing “Eustress”

- Focus on the resources you need to meet the challenge
- Seeing the potential benefits of a situation
- Reminding yourself of your strengths
- Having a positive mindset (aka optimism)



Can “Bad” Stress be Reframed?



It's Tougher for Lawyers

Two primary traits of a Lawyer:

1. Perfectionism
2. Pessimism

Negative outlook = high risk for stress and anxiety

How lawyers can avoid burnout and debilitating anxiety

BY LESLIE A. GORDON 2015

ABA JOURNAL



The Impact of Stress

- Obsessive thoughts
- Feelings of inadequacy
- Difficulty concentrating
- A sense of worry and/or impending danger
- Sleep disturbances
- Heart palpitations
- Sweating, fatigue and muscle tension





*It can be hard to see
changes in ourselves*

Lawyers Are Already at Risk

Long before the COVID 19 Pandemic, the data has proven that the legal profession suffers high rates of depression and substance use disorders.

Education and information can reduce the incidence of these issues.



A Lawyer's Mental, Emotional, and Physical State Directly Impacts:

- Their Client
- The Court
- The Profession



Tennessee Rules of Professional Conduct

Rule 1.1 Competence

Rule 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.



Are You Overwhelmed?



Stress and burnout impact the quality of our representation



Coping Strategies

Maladaptive coping behaviors by lawyers seeking some control:

- Self-medicating with **alcohol** and other substances.
- Food disorders
- Gym Anorexia
- Unhealthy Sexual Behaviors
- Compulsive Video Gaming
- Hair Pulling
- Isolation and withdrawal from friends and family
- “Stuffing” feelings and ignoring mental health concerns

Lawyers "intellectually know" the foundations of a healthy lifestyle:

- Healthy Diet
- Daily Meditation to find an “Off Switch”
- Aerobic Exercise at least 3 times per week
- 8 Hours of Sleep



Barriers to Healthy Habits

- Employer's demands for billable hours
- Clients' demands on top of employer's demands
- Lack of control over calendar and scheduling
- Misconception that excessive self-sacrifice is required (began in law school)
- Allowing demands of practicing law to dictate time left for friends and family
- The demands of law can't be controlled, only perfectionism in law can be
- Wanting to appear tough and invincible



Lawyer Mental Health

Lawyers over the course of their legal career:

Anxiety 61.1%

Depression 45.7%

ADHD 12.5%

Panic Disorder 8.0%

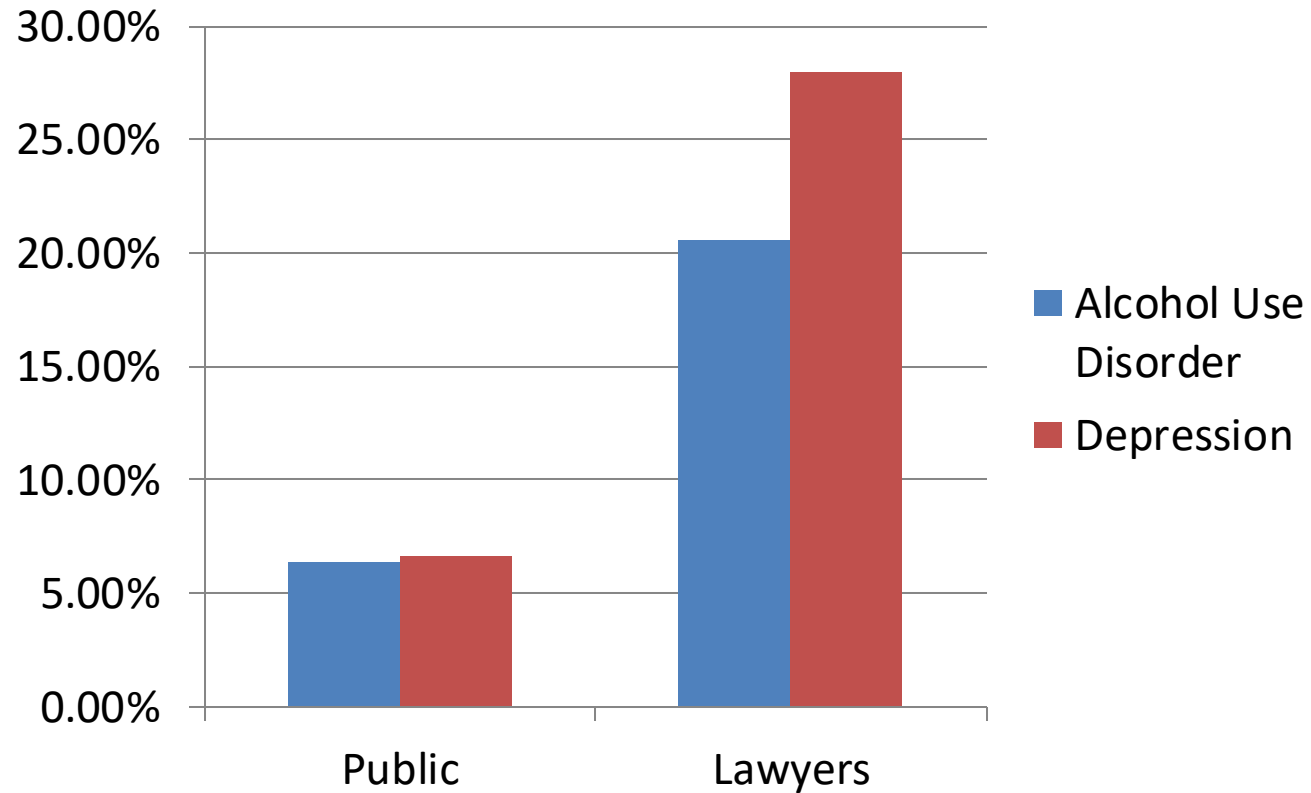
Bipolar Disorder 2.4%

11.5% reported suicidal thoughts during their career

2016 ABA Hazelden Study:
*The Prevalence Substance Use
and Other Mental Health Issues*



Alcohol and Depression



2016 ABA Hazelden Study:
*The Prevalence Substance Use
and Other Mental Health Issues*

Alcohol Use Findings- AUDIT

20.6% scored at a level consistent with hazardous drinking and possible alcohol dependence (moderate to severe alcohol use disorder)

Men (25.1%) vs. Women (15.5%)

Professionals aged 30 or younger had the highest rates (31.9%)

Higher rates were also found for those at the junior (31.1%) or senior associate (26.1%) level compared with other firm positions

COVID and Alcohol Use

This Just In!

**Alcohol related deaths in U.S:
25% increase since COVID**

*Journal of American Medicine;
March 2022.*

Top Barriers to Help:

- Fear of losing law license
- Social stigma
- Privacy concerns
- Financial reasons or loss of income while in treatment
- Belief that they could handle problems on their own
- Not having enough time



Be Proactive to Reduce Odds

Lawyers can reduce the probability of developing problems:

- Recognize that self-care is not just a good idea; it's critical
- Adopt a new outlook on what competency is, and include self-care
- Change legal profession's "corporate culture" on mental health
- Believe that no one is immune (*yes, even you . . .*)
- Understand that impairment affects everyone in the profession
- Stamp out Mental Health STIGMA and accept disease model



Is Self-Care becoming a
Professional Duty?

California Rule 3-110 (B)

Self-Care as a *Professional Duty*:

Rule 3-110 Section (B) Competence

For purposes of this rule, "competence" in any legal service shall mean to apply the 1) diligence, 2) learning and skill, and **3) mental, emotional, and physical ability** reasonably necessary for the performance of such service.



BALANCE and WELL-BEING ...



ARE ABSOLUTELY ACHIEVABLE!



Start With Self-Assessment

I'm fine, I'm just
not happy.

Resilience Strategies

- Meaningful Work (aligns with your values)
- Autonomy where possible (number one factor in lawyer happiness*)
- Flexible Optimism (avoid catastrophizing and pessimism)
- Meditation (an actual “off switch” that is uniquely beneficial)
- Mindfulness (don’t miss out on the beauty of the present moment)

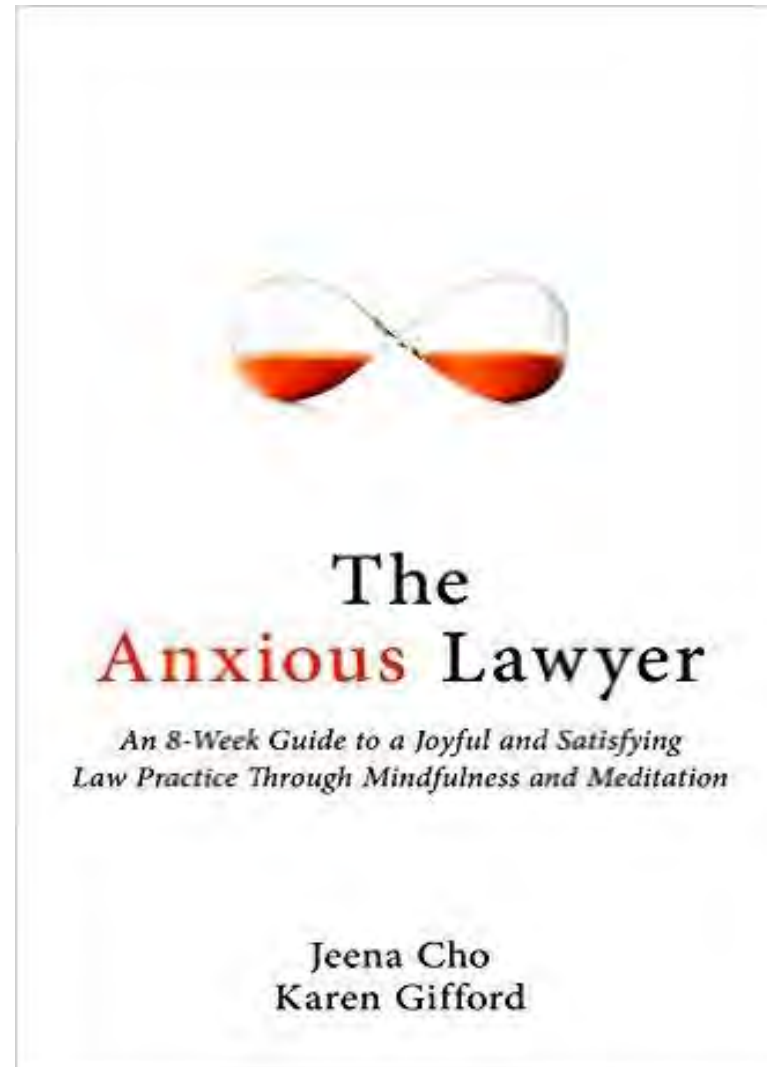
* 2015 What Makes Lawyers Happy?
A Data-Driven Prescription to Redefine Professional Success
Lawrence S. Krieger, Florida State University College of Law





Mind Full, or Mindful?

Specifically for Lawyers



What Can a Lawyer Control?

As a Lawyer Can You Control:

The law?

The facts?

What witnesses say?

What the opposing counsel does?

What the opposing client does?

What your client does?

What the judge or jury does?

From the Book:

*"The Anxious Lawyer;
an 8-Week Guide to a Joyful and Satisfying Law Practice
Through Mindfulness and Meditation",*
Jeena Cho and Karen Gifford 2016 ABA Publishing



Litigation: *No Problem!*



Realistic Expectations

Expecting to Win, or Even Achieve “Justice” in Every Case:

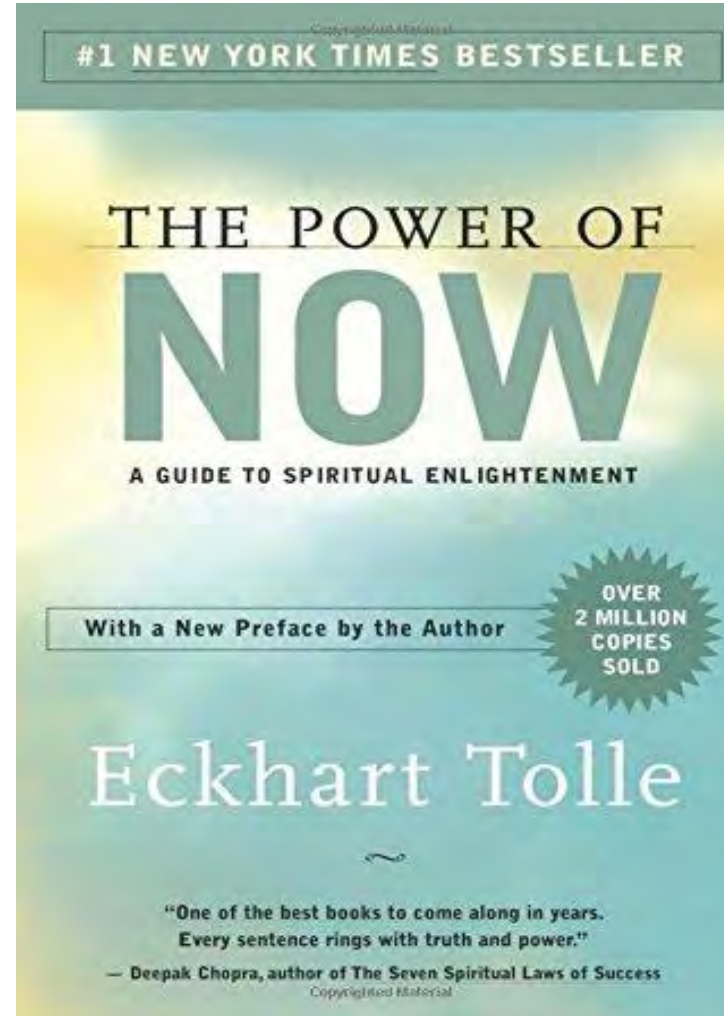
- An unrealistic yardstick
- Creates negative self-image
- Creates unnecessary Stress and Anxiety
- Can lead to Depression and other problems
- Client control and setting realistic expectations up-front can help

From the Book:

*“The Anxious Lawyer; an 8-Week Guide
to a Joyful and Satisfying Law Practice
Through Mindfulness and Meditation”*,
Jeena Cho and Karen Gifford 2016 ABA Publishing



Anxiety and Fear vs The Present Moment



Focusing on “The NOW”

Eckhart Tolle: *Can You Ever Stop Thinking, even For a Moment?*

“Can you be free of your mind whenever you want to? Have you found the “off” button or are you a “slave” to thinking?”

“Your mind is an instrument, a tool. When a specific task is complete, you lay [the tool] down.”

“I would say that 80 to 90 percent of most people’s thinking is repetitive and useless.”

“If you feel you cannot stop thinking compulsively, it has become an addiction.”

From the Book:

The Power of Now, A Guide to Spiritual Enlightenment, Eckhart Tolle

New World Library,

1999 and 2004



Everything Happens in the NOW

BEING and Reality in the NOW:

Everything that happens does so NOW, and only in the present moment

We never experience, do, think, or feel anything outside the NOW

Nothing happened in the past, it happened in a former NOW

Nothing happens in the future, it will only happen in a future NOW

The past is a memory of a former NOW; the future is an imagined NOW

Past and future have no reality of their own, there is only the NOW

From the Book:

The Power of Now, A Guide to Spiritual Enlightenment, Eckhart Tolle
New World Library, 1999 and 2004



Everything Happens in the NOW

Fear and Worry:

You are identifying with your mind and thoughts instead of the NOW

Fear and worry come from imagined future situations

A future situation can't be coped with, it doesn't exist; it's a *Phantom*

Answer: shift focus to the present moment

All you ever have to deal with in life is this moment, the NOW

Ask yourself what problem you have right NOW, not next year, tomorrow, or five minutes from NOW

From the Book:

The Power or Now, A Guide to Spiritual Enlightenment, Eckhart Tolle
New World Library, 1999 and 2004



Everything Happens in the NOW

All coping happens in the NOW:

You can always cope with the NOW; you always have your whole life

The answer, the strength, the right action or the resource will be there when you need it, not before nor after

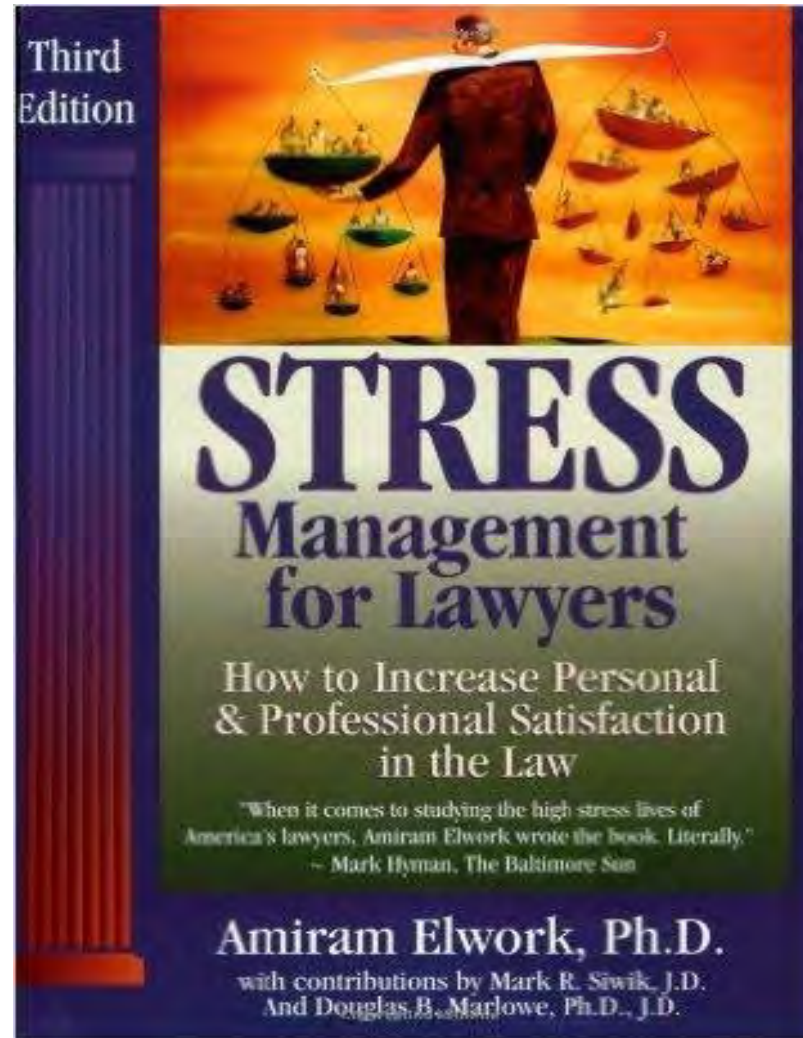
This does NOT mean you should not prepare for the future **as need be**, but it means that compulsive thinking, worry and anxiety about a future event serves no purpose

From the Book:

The Power of Now, A Guide to Spiritual Enlightenment, Eckhart Tolle
New World Library, 1999 and 2004



Stress Management For Lawyers



Stress Management For Lawyers

Good Nutrition

Eat: whole grain foods, vegetables, fruits, nuts, beans, fish, poultry, eggs, and plant oils

Avoid or eat less: red meats, butter & margarine, white rice, white bread, potatoes, pasta, sweets, and junk food (potato chips, etc.)

Take: Daily multi-vitamin

Alcohol: only in moderation

From the Book:

*Stress Management for Lawyers,
How to Increase Personal & Professional Satisfaction in the Law,*
Amiram Elwork, Ph.D. Vorkell Group 2007



Stress Management For Lawyers

Exercise for those with a Desk Job (*you won't like the answer*)

1. Aerobic exercise (Moderate) one hour per day 6 to 7 days per week

Walking for one hour per day

Running for 30 minutes per day

2. Anaerobic exercise a few minutes every day

Lifting weights or working stretch bands for muscle tone

Can substitute for one-two of the weekly Aerobics

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Amiram Elwork, Ph.D. Vorkell Group 2007



Stress Management For Lawyers

Sleep Issues:

- Determine the cause (physical ailment, environmental, substance use)
- Participate in a sleep study
- Avoid stimulants (nicotine, caffeine) a common cause of insomnia
- Avoid alcohol and sleeping pills (may help you fall asleep, but do not foster good sleep and are risky in terms of addiction)
- Proper diet and exercise improves sleep

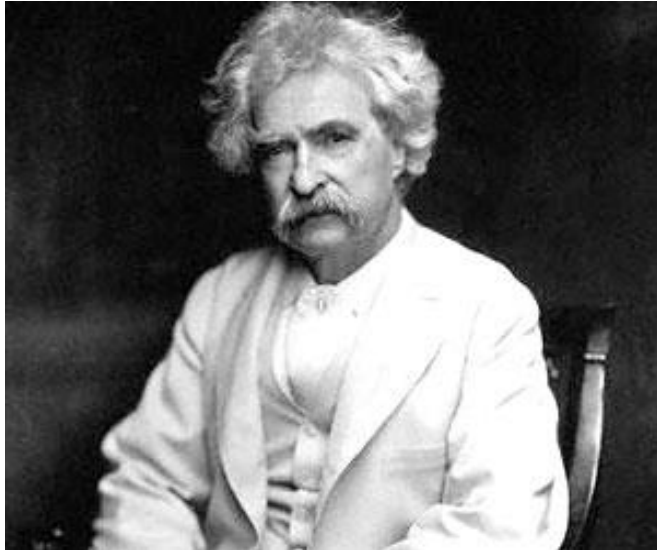
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**Don't be negative about healthy habits . . .
even though it can be very inviting to do so!**

Stress Management For Lawyers



Mark Twain:

“The only way to keep your health is to eat what you don’t want, drink what you don’t like, and do what you’d rather not.”

From the Book:

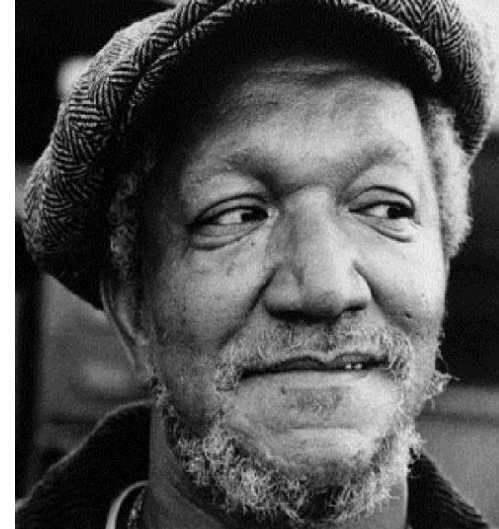
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Stress Management For Lawyers

Redd Foxx:

“Health nuts are going to feel stupid someday, lying up in hospitals dying of nothing . . .”



Stress Management For Lawyers



Jack Lalanne:

“If it tastes good . . .

SPIT IT OUT!”



Stress Management For Lawyers

Eliminate Lawyers' Habits of Negative Thinking

- Learn to recognize your negative thinking habits
- Negative perceptions of specific individuals or events
- Negative statements about general beliefs, rules, and assumptions
- All categories, past, present and future
- Test thoughts and require evidence that they are not distorted
- In fact, is there any evidence at all to support your thoughts

From the Book:

*Stress Management for Lawyers,
How to Increase Personal & Professional Satisfaction in the Law,*
Amiram Elwork, Ph.D. Vorkell Group 2007



Stress Management For Lawyers

Example of testing a negative thought:

- *“I am going to totally blow this trial”*
- How do you KNOW this will happen before the trial even starts?
- How many times have you actually blown a trial before?
- How many times have you said that but it never happened?
- What is a possible truth: I need to prepare a little more . . .

Being overwhelmed by negative thought allows insecurities to **catastrophize** and **exaggerate** things and you pay an emotional price

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Amiram Elwork, Ph.D. Vorkell Group 2007



Stress Management For Lawyers

Once a REAL problem has been validated, ask:

- How can I fix this?
- What can I do about it right now?
- What can I do to improve matters?
- How can I solve this problem in the future?

This type of approach gets you out of a **negative catastrophe mode** and into a **positive solution mode**.

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The Ingredients of a Lawyer

Successful lawyers have invested in their law license and practice:

- Tremendous time
- Relentless effort
- Momentous financial investment
- Considerable emotional, mental, and family sacrifices
- All-in Sunk Costs: law school and then practice development

Resulting in:

- A hard-won singular self-image of who they are (a lawyer)
- Self-expectations of self-reliance and unshakable resilience



But What About Self-Care?

The Missing Ingredients:

- Legal skills and knowledge do not produce mental health self-care
- Most lawyers have received little or no professional therapy or training in mental health self-care that is needed to *thrive* under stress
- Many lawyers have difficulty with life/work balance and boundaries
- It takes **learned, intentional, and specific health habits** to protect one's daily mental and physical health while practicing law
- The legal profession is awakening to the concept of a Duty of Professional Self-Care (CA Rules' new definition of competence")

Suggested Self-Care Code

Make these pledges on your own:

Universal right to wellness : Every lawyer and judge has a right to wellness associated with self-care.

Physical rest and nourishment: Every lawyer and judge deserves restful sleep and physical separation from their practice that sustains them in their practice.

Emotional Rest and nourishment : Every lawyer and judge deserves emotional and spiritual renewal both in and outside the practice context.

Sustenance Modulation Every lawyer and judge must utilize self-restraint with regard to what and how much they consume (e.g., food, drink, drugs, stimulation) since it can compromise their professional competence.





**SECURE YOUR OWN OXYGEN BEFORE
ASSISTING OTHERS.**

**BECAUSE YOU CAN'T GIVE WHAT YOU
DON'T HAVE.**

TLAP CAN HELP!

TLAP provides CONFIDENTIAL professional clinical support to . . .

Lawyers, Judges, and Law Students

Whether it be lawyer-specific tools for everyone in the profession to practice wellness, well-being, and resilience, or addressing a very serious mental health or addiction problem and restoring fitness-to-practice . . .

TLAP is your highly-specialized clinical resource!



THANK YOU!

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- Questions?