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Being a Resilient Lawyer in Challenging Times

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Agenda



Introductions



The Bad News:
Lawyering Is Tough



The Good News:
We Can Develop A Resilient Mindset



Why It Matters:
Resilience And Professional Responsibility



What Leaders Can Do:
Wellness In the Workplace



Sharing Is Good:
Stories of Resilience



The Bad News: Lawyering is Tough

Being a Lawyer:

- **Competitive** law firm hierarchies
- Long work **hours**
- 24-hour **service** for clients
- Work hard/play hard after-work **culture**
- Reputations built on **toughness**, high ethical standards, perfectionism.

Lawyers and Mental Health

2016 ABA study published in Journal of Addiction Medicine studied 12,825 lawyers. Alarming statistics:

84.1% used alcohol

20.6% signs of alcohol problems [compared to 11.6% for other educated professionals]

31.9% lawyers under 30 reported alcohol related issues

16.9% smoke

15.7% sedatives

10.2% marijuana

5.6% opioids

4.8% stimulants

0.8% cocaine

Lawyers and Mental Health

2016 ABA study published in Journal of Addiction Medicine studied 12,825 lawyers. Alarming statistics:

Higher risk: Men. Private firms. Junior / senior associates.

Depression (28% mild/high). Higher in men. Anxiety (19%) Stress (23%).
Higher in women.

Lower depression / anxiety / stress for those practicing longer.

Non-problematic drinkers had lower stress levels.

During legal career: Anxiety (61%), depression (45.7%), suicidal thoughts (11.5%)

Only 6.8% reported past treatment for drug/alcohol abuse. Most common barriers to treatment were not wanting others to find out and privacy concerns.

Lawyers and Mental Health

Journal of Addiction Medicine:

“Attorneys experience **problematic drinking** that is hazardous, harmful, or otherwise consistent with alcohol use disorders at a **higher rate than other professional populations**. Mental health distress is also significant. These data underscore the **need for greater resources** for lawyer assistance programs, and also the expansion of available attorney-specific prevention and treatment interventions.”

COVID-19 and the Lawyer Personality



Lawyers like control, predictability. The pandemic was out of control and unpredictable.



Lawyers tend to “push through” and do the work. This is very difficult in a pandemic.



Do lawyers recognize the difference between “resilience” and “pushing through.”

COVID-19 and Burnout

- Industry wide survey: **88% of senior managers were concerned about retaining employees**. Of that group, 47% said employee morale had suffered and employees were burned out. [1]
- More than **40%** of mid-level associates have anxiety. [2]
- **75%** of mid-level associates say their law firms have a negative impact on their mental health.
- **48%** of summer associates are concerned about mental health (compared to 39% in 2019)

COVID-19 and Burnout

- Lawyers with children facing extreme stress
- Women especially hard hit. More women than men dropping out of labor work force.
- Mid pandemic study by NALP: 62 percent of law offices reduced salaries or delayed partner draws. 80% delayed start dates for first-year associates.
- Social distancing and isolation is especially problematic for people coping with mental health and substance abuse issues.
- Alcohol sales up 55% since the start of the pandemic.

Silver linings

✓ Better work-life balance

✓ Increased communication with leadership

✓ Better collaboration, innovation, efficiency, and transparency

✓ Better recruiting (finding candidates beyond geographic footprint)

Silver linings

Legal hiring is competitive.
Unemployment rate for
lawyers is 1.9 percent.

Legal profession focused
on treatment, education,
de-stigmatization.

Greater sense of
understanding within the
industry about mental
health challenges facing
lawyers; increased
empathy. Lawyers are
letting their guard down.

And a little more bad news...

New report: ABA survey of 4,400 lawyers comparing job before and during pandemic:

- **Men: 44%** feeling more **overwhelmed**.
45% feel work is **disrupting home** life and obligations.
- **Lawyers of color: 54%** feeling more **overwhelmed**.
57% feel work is **disrupting home** life and obligations.
- **Women: 60%** feeling more **overwhelmed**.
57% feel work is **disrupting home** life and obligations.
Anxiety especially high for women with kids < 5yrs
(almost half are thinking about working part time)



The Good News: We Can Develop A Resilient Mindset

Resilience is the answer

- As attorneys we are trained in law school to be pessimists and prepare for the worst case scenario
- That mindset and the stress that can go with it can lead to unhappiness or general dissatisfaction
- What is the answer? **RESILIENCE**

What is resilience?

A process that enables us to bounce back from adversity in a healthy way.

Why is it important?

- We are most effective when we are happiest and healthiest. Period.
- The ability to bounce back from setbacks is often described as the difference between successful and unsuccessful people.
- Evidence that it positively influences work satisfaction and engagement, as well as overall well-being, and can lower depression levels and help protect us from physical illness.

<https://hbr.org/2021/01/the-secret-to-building-resilience>

Our capacity for resilience derives from a host of factors, including:

confidence in our abilities and strengths
optimism effective problem-solving
impulse control spirituality
a sense of meaning and purpose
social support self-efficacy **faith**
close relationships
empathy flexible thinking

Power of Purpose in Work

- Meaningfulness in and at work is a core contributor to work engagement.
- Feeling that we are benefiting others or contributing to the greater good for most people is the biggest driver of meaningfulness.
- Connecting with clients and hearing how our work benefits them gives us a powerful motivational and well-being boost.

Is_colap_well-being_toolkit_for_lawyers_legal_employers.pdf
(americanbar.org) Pg. 20.

Harvard Business Review Study of C-Suite Black Women Executives

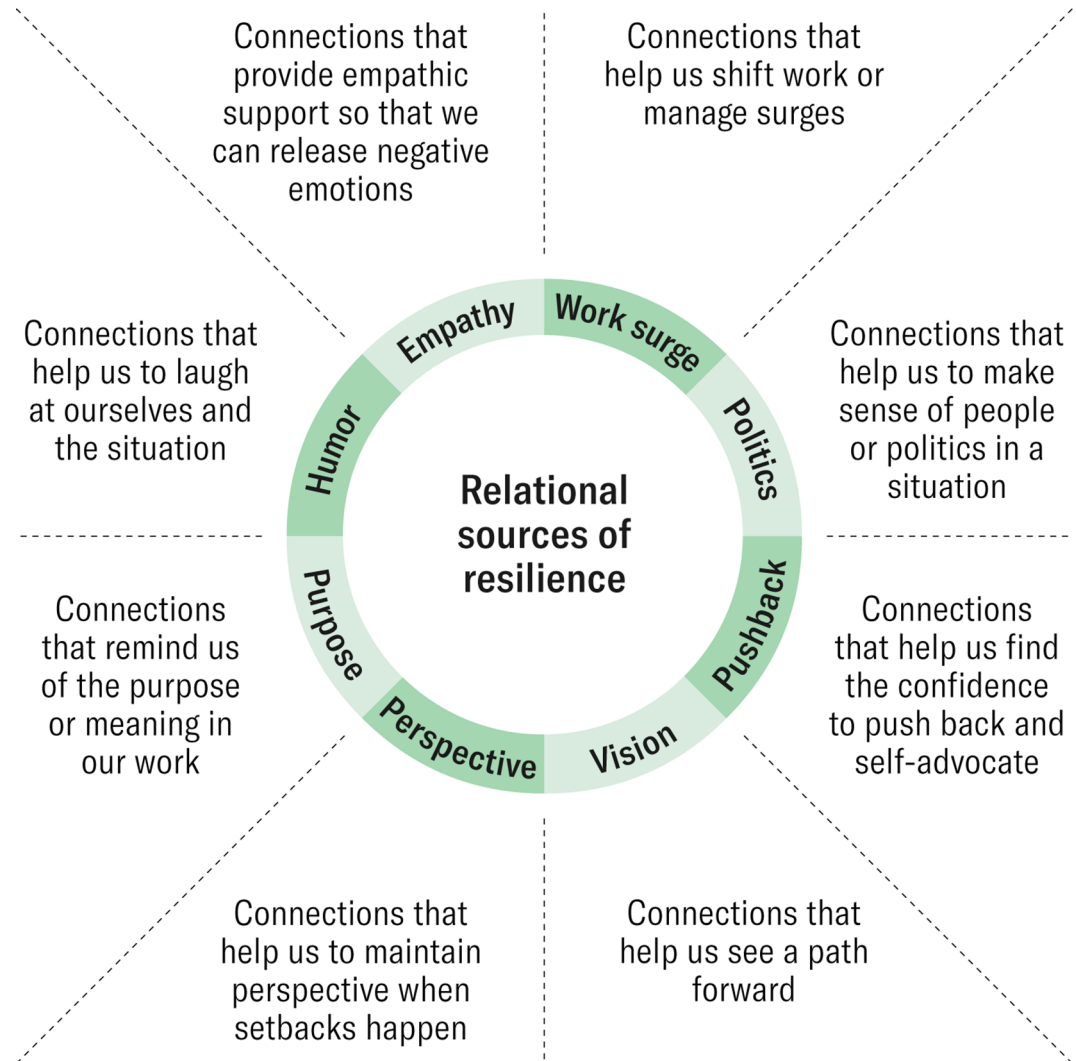
African American women studied developed three skills that were key to their resilience:

- Emotional intelligence
- Authenticity
- Agility

<https://hbr.org/2018/03/beating-the-odds>

What are your top relational sources of resilience?

A well-developed network of relationships can help you rebound from setbacks. Identify the spheres that are most important to you. Are you falling short in some categories?



Tools to Engage Your Resilience

- **Walking your why.** Values. Rely on them to get through stressful situations and make decisions.
- **Celebrate small wins.** Sometimes that's just getting the laundry done.
- **Catastrophizing.** Write down three worst case scenarios. Then the best case scenario = balanced perspective
- **Anxiety zappers.** Generosity and Helping other people
- **Self compassion.** Kindness turned inward, what would a friend do

<https://stressandresilience.com/resilience-in-a-minute-videos/>

On the other side of adversity

- Enhanced Spiritual Growth
- Renewed appreciation for life
- Enhanced personal strength
- Deeper relationships
- Identifying new paths for their life.

<https://stressandresilience.com/resilience-in-a-minute-videos/>



Why It Matters: Resilience And Professional Responsibility

Model Rule 1.1

- A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

California Rule 1.1

- (a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.
- (b) For purposes of this rule, “competence” in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably* necessary for the performance of such service.**
- (c) If a lawyer does not have sufficient learning and skill when the legal services are undertaken, the lawyer nonetheless may provide competent representation by (i) associating with or, where appropriate, professionally consulting another lawyer whom the lawyer reasonably believes* to be competent, (ii) acquiring sufficient learning and skill before performance is required, or (iii) referring the matter to another lawyer whom the lawyer reasonably believes* to be competent.
- (d) In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required if referral to, or association or consultation with, another lawyer would be impractical. Assistance in an emergency must be limited to that reasonably* necessary in the circumstances.

Model Rule 1.16(a)

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the rules of professional conduct or other law;
 - **(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or**
 - (3) the lawyer is discharged.

California Rule 1.16(a)

- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - ...
 - **(3) the lawyer's mental or physical condition renders it unreasonably difficult to carry out the representation effectively.**

Model Rule 1.16(c) and (d)

- c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation.
When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

- d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law

Model Rule 1.3 (Diligence)

A lawyer shall act with reasonable diligence and promptness in representing a client.

California Rule 1.3 (Diligence)

- a) A lawyer shall not intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.

- b) For purposes of this rule, “reasonable diligence” shall mean **that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.**

Model Rule 1.4 (Communications)

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Ethics and Your Well-Being

- A Not So Hypothetical Situation
- Why Ethics Are An Important Tool In Your Resiliency Tool Chest



What Leaders Can Do: Wellness In the Workplace

Workplace Wellness—It's Trending

Mar 24, 2020, 07:15am EDT | 1,502 views

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The Future Of Workplace Wellness

Nicole Dunn Forbes Councils Member
Forbes Business Council
COUNCIL POST | Membership (fee-based)
Small Business

EXPERTS BLOG

How to Improve Corporate Financial-Wellness



The New York Times

POST WRITTEN BY
Nicole Dunn

Nicole Dunn is the CEO of the wellness sector.

Sections The Washington Post

BrandStudio Content from Kaiser Permanente

THE ECONOMY OF WORKPLACE WELLBEING

Workforce wellbeing is more than a perk. It's a competitive advantage.

by Vault Law Editors | October 08, 2020

Law is a demanding profession with steep hours. Lawyers have begun answering the call for more resources. Law firm wellness rankings (for both large and small firms) are derived from Vault's Annual Associate Survey. Associates also showed an impressive array of wellness initiatives, including on-premise gyms, fitness discounts, meditation apps, yoga, healthy food options, and more.

Forbes

EDITORS' PICK | Mar 14, 2021, 06:00pm EDT | 8,254 views

Wellness And The Future Of Work: Some Of The Best Leaders Share Their Thoughts

Mental Wellbeing: Leaders Must Prioritize Employee Mental Health



Dr Margie Warrell Contributor

Careers

Margie Warrell emboldens people to live & lead more bravely.



Today in Business

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Workplace Wellness and the Bottom Line

- Resilient professionals and teams perform better
 - “Companies that prioritize employee wellbeing outperform the S&P 500 by 235%”
- Wellbeing leads to strong retention
 - “Employees with as strong sense of wellbeing are 81% less likely to look for an a new job.”
- Mental and physical health matters
 - Distracted workers, days off, etc.
 - “The connection between wellbeing programs and financial performance can perhaps be seen most clearly in the form of lowered health costs. One study places employer savings around an average of \$157 per person annually; another finds a return on investment of \$3.80 for every dollar spent on a disease management program, and \$1.50 for wellness programs as a whole.”

ABA Well-Being Pledge Campaign

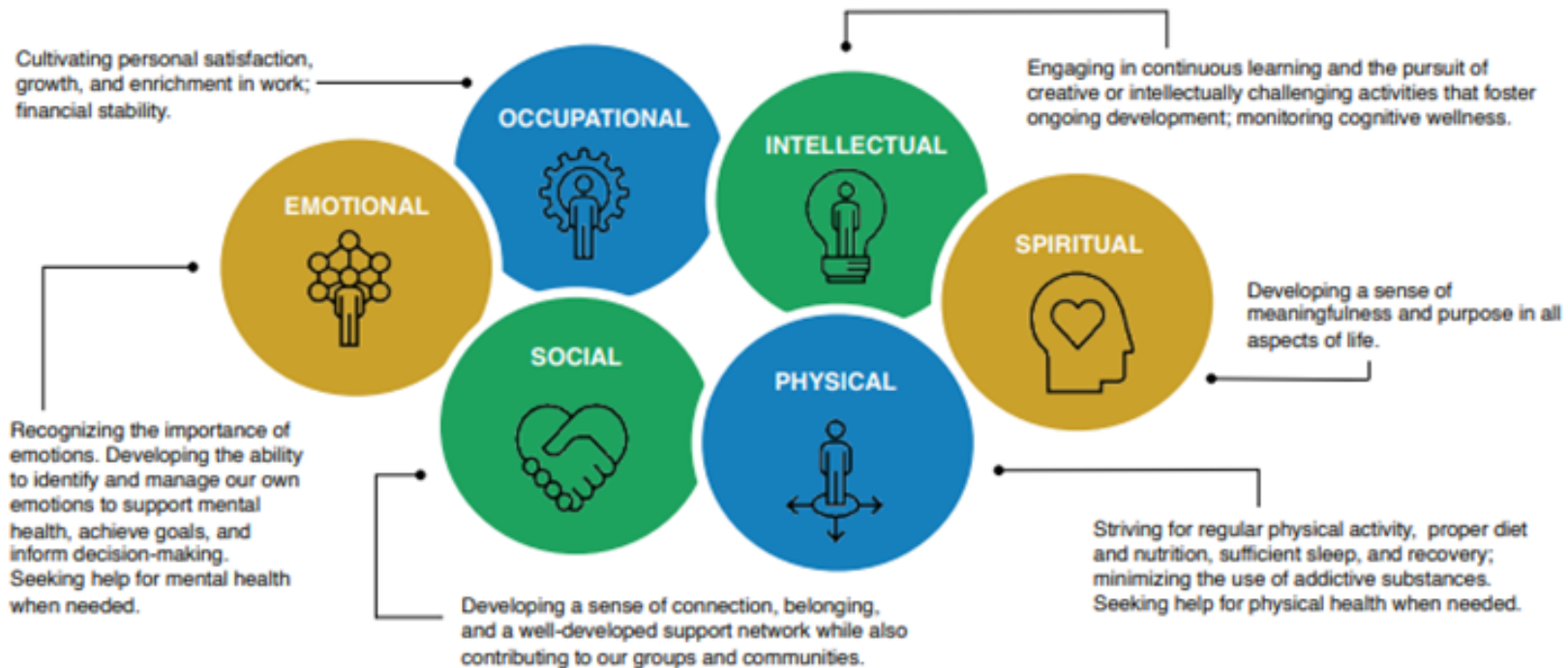
- A Campaign of Innovation to Improve the Substance Use and Mental Health Landscape of the Legal Profession
 - To better support the vital role that lawyers play in the proper functioning of society, the economy, and government, and to ensure the longterm health and well-being of our members and our profession, our mission is to reduce the incidence of problematic substance use and mental health distress, challenge the stigma surrounding those issues, and improve the overall well-being of the profession
 - Pledge calling upon legal employers (including law firms, corporate entities, government agencies and legal aid organizations) to first: (a) recognize that substance use and mental health problems represent a significant challenge for the legal profession and acknowledge that more can and should be done to improve the health and well-being of lawyers; and, (b) pledge to support the Campaign and work to adopt and prioritize its framework for building a better future.

ABA Report: Six Dimensions for Well-Being

- The ABA's National Task Force on Lawyer Well-Being identified six dimensions that make up full well-being for lawyers:

Defining Lawyer Well-Being

A continuous process in which lawyers strive for thriving in each dimension of their lives:



Source: [ThePathToLawyerWellBeingReportRevFINAL.pdf \(americanbar.org\)](https://www.americanbar.org/content/dam/aba/publications/reports/2017/07/the-path-to-lawyer-well-being-report-rev-final.pdf)

ABA Well-Being Toolkit

Well-Being Toolkit Nutshell: 80 Tips For Lawyer Thriving

Many legal employers are ready to become positive change agents on the path to lawyer well-being but are unsure where to start. To help, the American Bar Association's Presidential Working Group on Well-Being in the Legal Profession has launched the [Well-Being Toolkit for Lawyers and Legal Employers](#). This flier summarizes 80 of the Toolkit's key items to help get you started on a lawyer well-being initiative.

- 3 Reasons To Care About Well-Being**
1. It's the right thing to do
 2. It impacts competence
 3. It's good for business



13 Healthy Workplace Factors

1. Culture of Trust
2. Mental Health Support
3. Effective Leadership
4. Civility & Respect
5. Good Person-Job Fit
6. Growth & Development
7. Recognition & Reward
8. Involvement & Influence
9. Workload Management
10. Employee Engagement
11. Work-Life Balance Support
12. Psychological Safety
13. Physical Safety



6 Dimensions Of Lawyer Well-Being

1. **Occupational:** Satisfaction, Growth, Financial Stability
2. **Emotional:** Manage Emotions & Protect Mental Health
3. **Physical:** Healthy Lifestyle, Help-Seeking When Needed
4. **Intellectual:** Learn, Pursue Challenge, Keep Developing
5. **Spiritual:** Meaning & Purpose
6. **Social:** Connection, Belonging, Contributing



8-Step Action Plan For Launching A Well-Being Program

1. Enlist Leaders
2. Start a Well-Being Committee
3. Define Well-Being
4. Do a Needs Assessment
5. Identify Priorities
6. Make & Execute an Action Plan
7. Create a Well-Being Policy
8. Measure, Evaluate, & Improve

Well-Being Toolkit For Lawyers & Legal Employers

Wellness At Work

- What's Worked For Us:
 - Top Down Emphasis on Wellness
 - Leaders sharing strategies and emphasizing wellness—de-stigmatize challenges with mental health
 - Promoting Physical, Mental, and Financial Wellness
 - Optional yoga, meditation
 - Easy access to mental health resources, chat therapy app
 - Programming on health and wellness topics
 - Financial wellness programs
 - Connecting And Celebrating Our Team
 - Town Halls
 - Firm Updates
 - Jenner Buddies
 - Providing Safe Space For Discussions.
 - Optional small group discussions
 - Acknowledge impact of racial injustice
 - Book clubs
 - Parenting and Caregivers groups

Wellness At Work

■ Other Wellness Initiatives:

- Develop a Well-Being Committee
- Develop a Well Being Policy
- Have on-staff professional coaches
- Have relaxation/quiet rooms
- Make sure to have healthier snacks stocked in the vending machines
- De-emphasize alcohol at work events. An example would be more summer associate programs are doing events around activities and not wine/beer tastings, etc.
- Promote mindfulness/meditation by suggesting various apps like Calm, etc.
- Enhance Training/Development in the wellness area by bringing in experts from Lawyers Assistance Program (LAP), etc.



Sharing Is Good: Stories of Resilience

Resilience is a joke.

Breakfast for Dinner.

Can we make breakfast
for dinner.

Nod or shake your head

Be a **goldfish**.

Adapt to changes
big and **small.**

From:

Sent: Monday, April 26, 2021 11:26 AM

To: Root, Melissa M. <MRoot@Jenner.com>

Subject: Rose's lunch

External Email – Exercise Caution

Hi Melissa,

Rose did not have a home lunch today. I had an extra school lunch (turkey and cheese sandwich) she seemed okay with the sandwich. Just want you to be aware.

Thanks,



Pronouns: She/ Her/Hers

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