BURNOUT: You Are Not Alone

KAREN BLAKE, *Conflicts Attorney, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Ft. Lauderdale, Florida and* GINGER E. WALD, *Partner, Billing, Cochran, Lyles, Mauro & Ramsey, P.A., Ft. Lauderdale, Florida*



Headlines contain the word "Burnout" nearly every day in these difficult, pandemic times. It's a red flag waving "We Need Help," but so often many don't see it in themselves and many deny it completely. Others acknowledge it--but don't know what to do or where to go for help. It's our hope that this article can give you some information and tools to fight the Beast that is Burnout.

INTRODUCTION:

As lawyers, we were trained from an early age to soldier on. Even in law school, professors assigned such voluminous reading that all knew we were burning the midnight oil. They knew it was preparing us for what loomed ahead. Many of them had experienced burnout themselves.

Karen Blake: I was no exception. Caught in a City Attorney role, with two kids, a failing marriage and two parents with cancer, I felt the effects of life without really knowing if how I was handling work was "normal." Six days a week with some days going extremely long (7 a.m. to 12:35 a.m. was my longest), it didn't leave time for playing with the kids, relaxing on weekends, taking vacations or doing the things I enjoyed. I felt robbed by a lack of sleep—and when I could sleep, it was always interrupted and often horrific. Ambien became my bed buddy and, contrary to its indications, I lived on it for about a year and a half just to get enough shuteye to maintain focus.

I was kidding myself.

Walking in the morning, if I had the time, I was vomiting on the side of the road—for no "reason." It became apparent that one of my higher profile matters involving an alderman who stalked women and their teenage daughters was also starting to target me. This is a lengthy story, so suffice it to say I was feeling deep physical and emotional effects from burnout.

But I got through it.

And if you are feeling it, you aren't alone. You will get through it, too.

This article is structured to be used as another tool you might turn to during the day: meditation. It's not the stereotypical "guru-on-a-pillow-chanting-ohm" style, but one that gives instant relief when the world seems to throw you a curve ball. It's designed to accompany the ABA's suggestions, indicated below.

Our discussion of burnout will touch on most of the following items:

<u>The Problem</u>

- Statistics and Identifying Burnout; Pandemic effect
- Anonymous poll on % of class feeling burnout, with results at the end of class
- Steps to confront burnout, addiction and depression
- Triggers
- Videoconference Fatigue
- Boundaries and Challenges
- Some solutions
  - ○ Breathing
  - ○ Navy Seal Box Breathing
  - ○ Exercise
  - ○ Sleep
  - ○ Nutrition
  - ○ Teamwork

<u>The Ethical Rules</u>

- ○ ABA
- ○ Canada
- ○ Example Tribal Ethical Code

The Message to Take Home

We will not cover all these topics in this article, just the ones that need further elaboration or those with statistical information that can lose an audience. We will add a list of articles that may prove helpful if you have areas of interest or particular concerns. And, as always, please feel free to reach out to us by email or phone if you need further information.

Public Sector

In 2020, the would was a sadder, angier more worried and more stressed out place than it has been at any time in the past 15 years.

70%
of people said they smiled or laughed a lot the previous day, a five-point drop from 2019.

40%
of adults worldwide said they experienced a lot of stress the previous day - a record high.

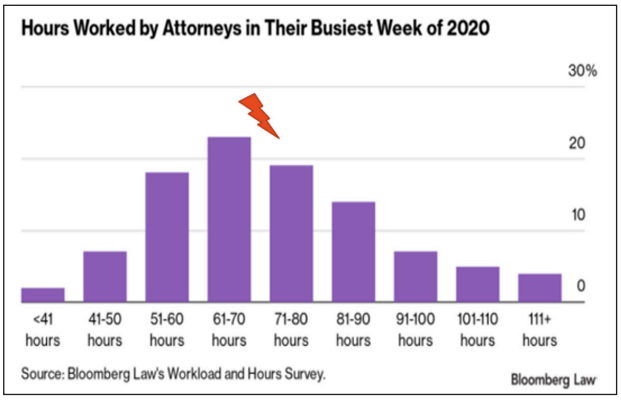
The Problem

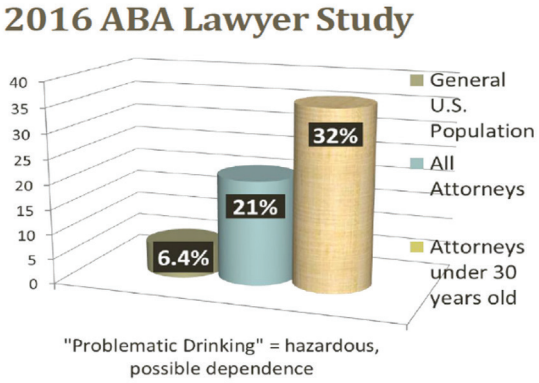
160,000 people in 116 countries around the world were asked by pollster Gallup about their mood and Gallup produced a Global Emotions Report, in 2020 and early 2021. The results showed more people felt "stressed, sad, angry and worried in 2020 more than at any point in Gallup's global tracking." Gallup didn't attribute these feelings solely due to the worldwide pandemic; though it found it is a major contributor. The experience of happiness had been trending down for over a decade.[1]

A study by Indeed found the following:

- Fifty-three percent of Millennials were already burned-out pre-pandemic, and they remain the most affected population, with 59% experiencing it today. However, Gen-Z is now neck and neck, as 58% report burnout—up from 47% who said the same in 2020.
- The pandemic's toll is also more apparent among older generations. Baby Boomers show a 7% increase in burnout from pre-pandemic levels (24%) to today (31%). And at 54%, more than half of Gen-Xers are currently burned out—a 14% jump from the 40% who felt this way last year.
- Among all respondents, 80% believe Covid-19 has impacted workplace burnout—though, how and to what extent vary. A 67% majority say burnout has worsened during the pandemic, though 13% believe it has gotten better.[2]

As for lawyers, in 2020 we were working probably harder than ever, with most working between 61-70 hours in their busiest week. One-fifth of law firm lawyers report billing over 80 hours in their busiest week (though Bloomberg Law reports that most actually worked more than 100 hours. But lawyers on average worked 53 hours a week. While the authors are unaware of what City Attorney and Assistant City Attorney statistics are, it would not be unrealistic to suggest that if night meetings for city/town/tribal councils were added, our averages could be higher.[3]





Compare some of this recent information with a study done in 2016 by ABA and the Betty Ford/Hazleton Clinic. Of the 13,000 lawyers practicing that answered the poll, 21-36% qualified as problem drinkers; 28 % had depression; 19 % had severe anxiety; 23 % had stress; and 11.5% had suicidal thoughts during their career.[4]

The ABA had commissioned the studies because too many good lawyers were being lost. The statistics bore that out.

So, how do most people handle burnout?

Turns out, most people "just power through."[5] Or, they find ways to "cope"—but, in fact, that's not what they are doing, as the ABA study indicated. Most commonly, stressed out people turn alcohol—binge drinking--and this pandemic has provided the backdrop to some scary statistics. Binge drinking is defined as women consuming four or more drinks or men consuming five or more drinks in two hours. 60% of Americans reported that they are drinking more than they did pre-pandemic. Alcohol sales grew 20% from February 2020 to February 2021. We are seeing worrying trends, especially among women drinking more-and there's been a sharp rise in alcoholic liver disease among young women.

One-third of those reporting

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Burnout *cont'd from page 11*

While anyone in any profession can absolutely experience burnout, lawyers are particularly prone to suffering the consequences.

alcohol or other addiction issues said it has affected their work more since the pandemic began. Nearly half of employees surveyed reported problematic use of alcohol, drugs or prescription medication, with one in five noting at least weekly usage.[6]

In fact, Gallup found stress spikes were particulary acute for women in the last year: 62% of working women in the U.S. and Canada reported daily feelings of stress compared with 52% of men. Pre-pandemic, 43% of new mothers were leaving the workforce within a year of having a baby— now, over 2.4 million women are currently suffering from burnout.[7]

So, we've seen lawyers particularly suffer, so let's step back and review what Burnout is with a view on how to battle it.[8]

Burnout Defined

Burnout is defined in the World Health Organization's the 11th Revision of the International Classification of Diseases (ICD-11) as an occupational phenomenon.

"Burnout is a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed. It is characterized by three dimensions:

- feelings of energy depletion or exhaustion;
- increased mental distance from one's job, or feelings of negativism or cynicism related to one's job; and
- reduced professional efficacy."[9]

What Are Some Triggers of Burnout?

We're going to discuss four common triggers that have been especially common during the pandemic.

A. Zoom/meeting fatigue is real.

If you find yourself in back-to-back meetings, assess which meetings are essential. Also, which ones need to be in person, virtual or could be phone calls. Virtual meetings consume a lot more energy—they require us to focus on the other person much more than we naturally do in person and can leave us feeling more drained. Switching up the mode of meeting can make a huge difference in your overall energy level.[10]

Jeremy Bailenson, founding director of Stanford University's Virtual Human Interaction Lab recently discussed why Zoom Fatigue leads to burnout:

1) Videoconferencing forces users to make extended eye contact.
2) Nonverbal signals like nodding require more effort.
3)The little box where users see themselves is unnatural.
4)Users are forced to sit in one place.

He recommended these solutions:

- Hide self-view.
- Shrink the Zoom window to make other people a little bit smaller. Make it 1/3rd of the screen instead of maximized-- or place your chair a little farther away from the webcam.
- Turn off your camera and take a five-minute audio-only break during a long meeting to give yourself a chance to move around.
- Set cultural norms with your co-workers that it's OK to turn off the camera sometimes.[11]

B. Poor Sleep

This is an entire topic by itself. So much has been written about poor sleep, so we just wanted to highlight some solutions that have proven helpful to those suffering from insomnia. Consider nutrition and the role it plays in your sleep cycle, as well as helping you to stay asleep. Consider exercise earlier in the day and meditation any time of day as stress busters that will help ease you into sleep, along with a night time routine. Remember that poor sleep has been shown to sabotage new memories[12]

C. Perfectionism

Deep Patel, entrepreneur, marketer and former *Forbes* contributor, points out:

> Voltaire, the French writer, said, "The best is the enemy of the good." Confucius said, "Better a diamond with a flaw than a pebble without." And, of course, there's Shakespeare: "Striving to better, oft we mar what's well."[13]

Get it done. Focus on the process, he says, and adjust later. Great advice, we think. His article is worth a read if you suffer from this malady.

D. Over-meeting and Other Expectations.

This is a particular dilemma in the municipal world because so many decisions must go before committees, boards and council. It may be difficult, but some things to try would be to draw boundaries on what meetings you or staff will attend. Remember, we are in risk management and it's entirely reasonable to hold off attending a mundane, run-of-the-mill committee meeting when minutes are available and staff can come to you with their post-game concerns. The flip side of not attending meetings is to appoint someone in your stead and to delegate. Work on delegating more, if possible. And question yourself honestly if you think nothing can be delegated.

Set boundaries. This also works in situations where your co-workers and clients to expect immediate responses and it creates overwhelm, start experimenting with boundaries. Take longer to respond—notice how this feels and also, how they respond. Start with people who are more understanding. Most of the time, others respect boundaries. Problems arise when we don't communicate clearly or we are inconsistent in our behavior. During down times, turn off your phone or put it on do not disturb (and yes, that means on weekends, too). Check email once a day (or not at all, if you're able) at night, on vacation, and on the weekends.

"No" is a boundary you can become adept at delivering well. One of the best articles on how to soften the blow of a "no" comes from *"How to Say No to Grabbing Coffee."*[14] In the article, Jenny Taitz and Greg McKeown offer examples on how to decline with grace. Here are just a few examples:

- "It is so nice to hear from you, and I appreciate you thinking of me during what must be a stressful time. I hope you're doing well in this transition. I'm increasingly realizing that I have too much pulling at me, so I'm taking a break from in-person networking. That said, I'd still like to keep in touch and be helpful, so can we set up a call instead?"
- "I hope you're well! I'm stretched now and cutting back on networking meetings. I hope you understand, and I'm rooting for you during your round of fundraising."

But sometimes, City Attorneys don't have the ability, they feel, to say no to a council person, especially one who demands instant answers. Consider refering those types of demands to your City Administrator/Manager (after you discuss it with that person first, of course.) This way, your message will be consistent and cost the city less of your time. This would be a good time to delegate with, "I'm sorry I can't get back to you at the moment, as I'm currently handling something time-sensitive for the city, but please give my assistant a call. He's very knowledgable and give you what you need. I've copied him here and asking him to get back to you." It's efficient and shows that you know how to manage your time while giving the councilman great attention.

What is a Recommended Approach to Stopping Burnout?

One technique that has had success was developed by Jon Kabat-Zinn, founder of the Stress Reduction Clinic and Center for Mindfulness in Medicine, Health Care and Society at the University of Massachusetts Medical School. It's called STOP:

- ▶Stop. Stop what you're doing and put your thoughts and actions on pause.
- ▶Take. Take a short break by inhaling and exhaling deeply two or three times. Relax and focus on what's happening now, rather than on any sort of outcome.
- ▶Observe.
  - ▷Physical sensations
  - ▷Feelings (nervous, stressed, sad or something else)
  - ▷Why you're feeling this way
- ▶Proceed. Go back to whatever it is you were doing, making a conscious decision to incorporate what you just learned.

Cyberspace has a lot of information out there about taking the time to pause, studied by Victor Frankl. Creating a space between instinctively reacting and pausing to reflect before acting can help with better decisions because you have given yourself the power of choice. For more, see his book *Man's Search for Meaning*,[15] and learn about his experiences in a Nazi death camp. The ones with hope, he said, were the survivors.

Taking a Mindfulness-Based Stress Reduction course may be helpful. Check out the free course and resources on Paulouse's MBSR page: https://palousemindfulness.com/MBSR/ataglance.html.

If you enjoy quick, one-shots, consider getting yourself a meditation app, like Headspace, or the moodtracker, Daylio. Keeping a regular practice, usually in the morning for meditation, can often

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Karen Blake is a member of the internal Conflicts Review group of Baker Donelson, responsible for evaluating potential ethical conflicts in new matters before the firm. She previously advised Tennessee municipal courts for the Municipal Technical Advisory Service of the University of Tennessee, and has represented, advised, and trained municipalities, boards, commissions, counties and other public officials in Tennessee and Georgia, both in-house and as outside counsel. She was formerly the first in-house city attorney of Franklin. Karen holds a J.D. from Golden Gate University School of Law, and B.A. Cum Laude in International Relations and Communication from the University of Delaware. She was just awarded the firm's BakerFit Award 2021 for leading her firm in wellness.



Ginger E. Wald is a partner at Billing, Cochran, Lyles, Mauro & Ramsey. She was previously an Assistant City Attorney for the City of Fort Lauderdale, engaged in civil litigation, labor, land use, zoning and building codes. In that role, Ginger drafted substantial changes to Fort Lauderdale's code enforcement ordinances and educated staff on the best practices for code and zoning enforcement. She has also served as a trial attorney in South Florida handling insurance defense cases. She represents special purpose governmental districts, community development districts, municipalities, as well as land developers, builders, and other business clients in connection with land use, code compliance, and other civil matters. Ginger has a J.D. from the University of Florida College of Law and a B.S from the University of South Florida.

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battle stress before it's begun. Again, the internet is replete with valuable information, or consider taking a course to get the full benefits of these types of practices, whether stationary or movement based. See our PowerPoint slides and Facebook page (Wellness Committee Coalition) for more resources.

The Ethics Rules

It's important to consider that burnout can cause an unintentional breach of one or more ethical rules, so awareness is prevention. We will list some applicable rules in three types of jurisdictions (using model rules mostly), understanding that some states' rules and local rules may vary.

A. Relevant ABA Model Rules

- Rule 1.1 of the ABA's Model Rules of Professional Conduct requires lawyers to "provide competent representation."
- Rule 1.3 requires diligence in client representation.
- Rules 4.1 - 4.4 regulate working with people other than clients.
- The Preamble calls lawyers to "strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service."
- Model Rule 5.1 imposes a duty on law firm management and other partners in the firm to make reasonable efforts to ensure that the firm puts in place measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.
- Model Rule 5.3 requires that partners and firm management make reasonable efforts to ensure that the conduct of a nonlawyer is compatible with the professional obligations of the lawyer.

B. Relevant Canadian Rules

2.1-1 A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

> [2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.
> [3] Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the integrity of the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that knowledge of it would be likely to impair a client's trust in the lawyer, the Society may be justified in taking disciplinary action.
> Competence 3.1-2 A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer.
> Quality of Service 3.2-1 A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil.
> Honesty and Candour 3.2-2 When advising a client, a lawyer must be honest and candid and must inform the client of all information known to the lawyer that may affect the interests of the client in the matter.[16]

C. Example Tribal Rule: United Cherokee Nation of Indians

(general ethics applicable to all, not a legal ethical rule)

15. Keep yourself balanced. Your Mental self, Spiritual self, Emotional self and Physical self all need to be strong, pure and healthy. Work out the body to strengthen the mind. Grow rich in spirit to cure emotional ails.
16. Make conscious decisions as to who you will be and how you will react. Be responsible for your actions.
18. Be true to yourself first. You cannot nurture and help others if you cannot nuture and help (yourself.)[17]

The Message

It's clear from the rules above and the statistics we shared that an attorney has a duty to care not only for the self, but also for the whole department. For it is in doing so that the attorney complies with the rules and ensures longevity in the team and in each individual's career. This means you'll need to make an effort to check in and see how your team is doing. See if any member exhibits signs of burnout, or isn't performing as well they usually do. Above all, lend an ear or make a knowledgable referral. Extending an empathetic offer of support can be meaningful in itself. Encourage breaks and vacations. Consider gamifying a wellness routine which can boost morale in the office.[18] Assist lawyers in learning to delegate, if they can, where they can. Sometimes, that means staffing a project better, so consider alternate resources like staffing services.

The bottom line is that we are not alone in this. We do better together when we share the same core values to support each other through burnout phases. Realize what they are, phases that come and go…for each of us.

The Cherokee Rule really nails it here: "Be true to yourself first. You cannot nurture and help others if you cannot nuture and help yourself."

Authors' additional comment: After informally polling our colleagues at our IMLA Minneapolis Conference in October 2021, we found that our results were consistent with similar burnout studies. A strong majority scored in the Burnout category, scores for women showed more stress than men, and less experienced city attorneys suffered more than their experienced colleagues. ML

Notes

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