

# **Mindfulness of Depression & Anxiety in the Legal Profession**

## **Introduction**

*John, a first-year associate, is excited to begin his new career. But he's not without doubts. He didn't rank near the top of the class and feels unqualified to work at such a prestigious firm. There's also his true passion, making music, which he gave up pursuing law school. Regardless, the first few months go well as John is focused on doing a good job. But as time goes on routine starts to set in and his performance begins to drop. After oversleeping he shows up late to work – the third time in the past two weeks – and hurries to his desk, quickly getting to work on an important brief due the next day. Not long after the secretary calls informing him a client arrived for their scheduled meeting. He completely forgot and panic sets in. They shake hands, John forces a smile, and the client begins discussing the issues. Throughout the conversation, John keeps thinking “How am I going to finish my brief,” “I’m an idiot for forgetting about this meeting,” “I wish I had eaten breakfast.” John snaps back to reality as the client asks, “So, what do you think we should do?”*

Does anything in this story sound familiar? If it does, you shouldn't feel alone. Working in the legal profession comes with important responsibilities that often lead a lawyer to feeling overwhelmed and stressed out. In fact, studies show this profession has some of the highest rates of not just stress, but serious mental illness. This is an issue that must be recognized if lawyers and judges are to fulfill their basic requirements, such as being competent and unbiased.

Part I will explore the contours of depression and anxiety, and how rumination can be so detrimental to one's mental health. It will then look at statistics indicating that those who work in the legal field are at greater risk to suffer from these serious illnesses. Lastly, it will provide information on conventional forms of treatment.

Part II will introduce the subject of mindfulness. In doing so, it can be helpful to think of what mindfulness *is not*, as opposed to what it *is*. Some may think of Buddha meditating in a Zen garden, but one can still be mindful while in a heated argument. But it takes practice, much like an athlete or musician must practice their craft. While some religions may incorporate components of mindfulness, it can be a secular practice and is backed by scientific research.

Part III will discuss interventions incorporating mindfulness. Mindfulness-Based Stress Reduction (MBSR) was first developed in the 1970's by Dr. Jon Kabat-Zinn. This led to Mindfulness-Based Cognitive Therapy (MBCT), which has been found useful for those with recurrent depression and anxiety. Mindfulness-Based Relapse Prevention (MBRP) is a third therapy that helps those suffering from substance abuse. Many law schools and state bar associations have adopted mindfulness and mental health programs to raise awareness and provide support, often through group activity.

Part IV will offer my own personal insights on the role mindfulness can play to help establish a more balanced and gratifying life in the hopes that it be helpful to law students and lawyers interested in learning more about mindfulness and developing a mindfulness practice.

From the outset, a prospective student is preoccupied with their LSAT score and GPA, as well as law school rankings and bar passage and employment rates. Once at school they must compete for class ranking, law review, positions with clinics and societies, interviews, internships, and eventual jobs. This is all before even passing the bar, at which point the responsibilities take on a whole new level – providing competent representation to real life clients. This paper is meant to raise awareness of the impact that depression and anxiety can have not just on the lawyers we are, but who we are as human beings, and how the emerging field of mindfulness can play an important role in facilitating the discussion.

## I. Lawyers and Mental Illness

*After his long day, John gets in his car to make his way home. It's dark out, something he has gotten used to since working 70 hours a week. As he replays the day in his head and gets down on himself for being so unprepared, a car behind him honks loudly, jolting him back to reality. He opens his apartment door and is hit with the smell of rotting trash. It is too much to bear by now so he takes it to the trash chute. As he's walking, the neighbor he has a crush on walks by. All he can think of is why he can't muster up the courage to introduce himself, and as he reaches the chute, feels embarrassed she must have smelled how foul the trash was. He hurries back to his apartment and notices its 10 pm. His stomach growling, he opens the fridge, only to find nearly expired milk, and pours a bowl of cereal. He opens his email and sees one from Max, a senior partner. He knows he should answer right now, but just can't get himself to do it. He gets into bed, mind ruminating from the brief, to the client, to his neighbor, to the email, to missing his music days, until it reaches a boiling point. His eyes fill with tears and he begins to sob heavily.*

There is no one-size-fits-all description for mental illness. Each has its own causes, symptoms, and severity. However, an important distinction can be made in that these disorders are more debilitating than experiencing the uncomfortable feelings that are associated with them. For instance, feeling sad is not itself depression and feeling stressed is not itself anxiety. Anyone can and likely will feel those emotions throughout their life. But when these types of feelings become overly intense and begin to have a more persistent and incapacitating impact, then some type of mental illness may be involved.<sup>1</sup>

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<sup>1</sup> Mental illness, MAYO CLINIC (2015), <http://www.mayoclinic.org/diseases-conditions/mental-illness/basics/definition/con-20033813> (stating that “a mental health concern becomes a mental illness when ongoing signs and symptoms cause frequent stress and affect your ability to function.”)

## A. Depression & Anxiety Disorders

Defining mental illness generally, they are “a wide range of mental health conditions — disorders that affect your mood, thinking and behavior.”<sup>2</sup> While each type of mental illness can have an impact on lawyers, this paper will discuss the particular prevalence of depression and anxiety. The reason they are such an issue is because they can often go unnoticed and untreated, causing serious difficulties in one’s ability to function properly whether it be in law school, working for a firm, or just in personal life.<sup>3</sup> It is also relatively common for someone to be diagnosed with both as almost half of those suffering from depression also suffer from anxiety.<sup>4</sup> Going beneath the surface, scientists and researchers have begun to discover the inner workings of a depressed and anxious mind.

One characteristic that is prevalent among both illnesses is *ruminating*. When people are depressed their mind typically gets caught up over the past and things they can’t let go of, while when they are anxious their mind is preoccupied with things they cannot know with certainty or control in the future.<sup>5</sup> When the mind ruminates on these types of things it can become somewhat “trapped,” like being stuck in quicksand. The more the mind ruminates, the more trapped it becomes and the more depressed and anxious one feels. While one solution – just stop ruminating – seems simple enough, it is equivalent to telling a weight lifter to bench press 100 pounds more than they are capable of. If the lifter is not strong enough then the weight will just come crashing down on top of them. The same goes for someone dealing with depression or

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<sup>2</sup> See *id* (“Examples of mental illness include depression, anxiety disorders, schizophrenia, eating disorders and addictive behaviors.”).

<sup>3</sup> See *id*.

<sup>4</sup> Depression, Anxiety and Depression Association of America, ADAA, <https://www.adaa.org/understanding-anxiety/depression>

<sup>5</sup> Carolyn Gregoire, How Mindfulness Is Revolutionizing Mental Health Care The Huffington Post (2015), [http://www.huffingtonpost.com/2015/01/23/neuroscience-mindfulness\\_n\\_6531544.html](http://www.huffingtonpost.com/2015/01/23/neuroscience-mindfulness_n_6531544.html)

anxiety. They cannot just stop rumination – and the range of emotions that accompany it – from happening, the “weight” is just too heavy. However, as will later be discussed there may be some ways to “train” oneself, just like a weight lifter, to become more skilled at working with the ruminating mind, and by doing so, be able to lift the weight of depression and anxiety.

Depression, also known as major depressive disorder or clinical depression, is more than feeling sad from the occasional “blues.” However, it can start as the result of tragedies and reversals in life that lead to losses, humiliations, and defeats.<sup>6</sup> When the rumination and other feelings last for more than two weeks then depression may be involved.<sup>7</sup> Symptoms can vary but some of the more common are: persistent sad, anxious, or “empty” mood, feelings of hopelessness, or pessimism, irritability, feelings of guilt, worthlessness, or helplessness, and loss of interest or pleasure in hobbies and activities.<sup>8</sup> One may experience any combination of these feelings daily, or nearly daily, sometimes even for no apparent reason, making it difficult to carry on with normal, everyday functioning.<sup>9</sup> If someone suffers from these symptoms for more than two years, then they may suffer from persistent depressive disorder, or dysthymia.<sup>10</sup>

Anxiety, or generalized anxiety disorder, is not just the temporary fear one has before taking a test. It produces excessive worry for periods of months while the sufferer faces several anxiety-related symptoms, including: restlessness or feeling wound-up, being easily fatigued, difficulty

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<sup>6</sup> Mark Williams et al., *The Mindful Way through Depression: Freeing Yourself from Chronic Unhappiness* (2007).

<sup>7</sup> Depression, National Institute of Mental Health, <https://www.nimh.nih.gov/health/topics/depression/index.shtml>.

<sup>8</sup> *See id* (stating that, “[n]ot everyone who is depressed experiences every symptom. Some people experience only a few symptoms while others may experience many. Several persistent symptoms in addition to low mood are required for a diagnosis of major depression. The severity and frequency of symptoms and how long they last will vary depending on the individual and his or her particular illness.”).

<sup>9</sup> *See* Depression, ADA, *supra* note 4.

<sup>10</sup> *See* Depression, NIMH, *supra* note 7, (stating that, “[a] person diagnosed with persistent depressive disorder may have episodes of major depression along with periods of less severe symptoms, but symptoms must last for two years to be considered persistent depressive disorder.”).

concentrating, irritability, muscle tension, difficulty controlling the worry, and sleep problems.<sup>11</sup> Another form of anxiety known as “panic disorder” produces recurrent and unexpected panic attacks, which can be described as sudden periods of intense fear that may include: palpitations, pounding heart, or accelerated heart rate; sweating; trembling or shaking; sensations of shortness of breath, smothering, or choking; and feeling of impending doom.<sup>12</sup> A third form, “social anxiety disorder” causes one to display a marked fear of social or performance situations in which they expect to feel embarrassed, judged, rejected, or fearful of offending others.<sup>13</sup>

### **B. Lawyers Are at Risk**

Depression and anxiety disorders can have a devastating effect on one’s ability to function properly. Even worse, they are not uncommon and almost anyone is susceptible. According to the World Health Organization (WHO), roughly 450 million people suffer from some form of mental disorder and at least one in four people will be affected at some point in their lives.<sup>14</sup> Think about that for a minute – a quarter of the entire human population will suffer from a mental disorder during their lives. While those numbers pertain to all forms of mental illness, the WHO estimates more than 350 million people globally suffer from depression, and 1 in 13 people have been diagnosed with an anxiety disorder.<sup>15</sup>

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<sup>11</sup> Anxiety Disorders, National Institute of Mental Health, <https://www.nimh.nih.gov/health/topics/anxiety-disorders/index.shtml>.

<sup>12</sup> *See id.* (stating symptoms include: “sudden and repeated attacks of intense fear, feelings of being out of control during a panic attack, intense worries about when the next attack will happen, fear or avoidance of places where panic attacks have occurred in the past.”).

<sup>13</sup> *See id.* (stating symptoms include: “Feeling highly anxious about being with other people and having a hard time talking to them, feeling very self-conscious in front of other people and worried about feeling humiliated, embarrassed, or rejected, or fearful of offending others, being very afraid that other people will judge them, worrying for days or weeks before an event where other people will be, staying away from places where there are other people, having a hard time making friends and keeping friends, blushing, sweating, or trembling around other people, feeling nauseous or sick to your stomach when other people are around.”).

<sup>14</sup> Carolyn Gregoire, How Mindfulness Is Revolutionizing Mental Health Care, *The Huffington Post* (2015), [http://www.huffingtonpost.com/2015/01/23/neuroscience-mindfulness\\_n\\_6531544.html](http://www.huffingtonpost.com/2015/01/23/neuroscience-mindfulness_n_6531544.html).

<sup>15</sup> *See id.*

As lawyers, one might think that we are equipped with purely logical brains that are impervious to these emotional hindrances. However, this does not appear to be the case as studies have suggested the opposite, that this profession is at just as much risk, if not more than the general population. According to the American Bar Association (ABA), a 2016 survey showed that levels of depression, anxiety, and stress among attorneys were significant, with 61% reporting concerns with anxiety and 46% reporting concerns with depression.<sup>16</sup> The study also found that junior associates have the highest rates of problematic substance abuse, followed by senior associates, junior partners, and senior partners, suggesting that younger legal professionals may be even more susceptible to developing depression and/or anxiety disorders.<sup>17</sup>

These numbers are truly disturbing. Lawyers are constantly dealing with stressful situations that require the full range of their mental capabilities. But if they are also dealing with depression and/or anxiety then how can we expect them to be able to meet our expectations of achieving ultimate justice? Even further, how can we expect them to deal with their clients, coworkers, etc., who may also be having their own battle with depression or anxiety?

### **C. Treatments**

Luckily, depression and anxiety disorders are readily treatable. The first step is acknowledging that you may be experiencing some of the symptoms that have been outlined above. While others may be able to pick up on your mood, only you know the true extent of how

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<sup>16</sup> Jeena Cho, Can We Finally Talk About The Elephant In the Room? Mental Health Of Lawyers Above the Law (2016), <http://abovethelaw.com/2016/02/can-we-finally-talk-about-the-elephant-in-the-room-mental-health-of-lawyers/?rf=1>,

<sup>17</sup> *See id.* (stating that, “[n]ot surprisingly, those who suffer from depression, anxiety, and stress are also likely to abuse alcohol: ‘[o]ur study reveals significantly higher levels of depression, anxiety, and stress among those screening positive for problematic alcohol use.’ There is an obvious reason for this correlation. As stated in the study, ‘ubiquity of alcohol in the legal professional culture certainly demonstrates both its ready availability and social acceptability, should one choose to cope with their mental health problems in that manner.’”).

far your mind and emotions go. Once you have been able to identify that you are having a problem then there are many options available.

Typically, depression can be treated with medication, psychotherapy, or a combination of both. Antidepressants can help improve the brain's ability to use chemicals that control mood levels.<sup>18</sup> Psychotherapy (“talk therapy”) can also be helpful, especially cognitive behavior therapy (CBT), which focuses on identifying, understanding, and changing thinking and behavior patterns.<sup>19</sup> In some extreme cases brain stimulation therapies known as electroconvulsive therapy (ECT) can be used where conventional treatments have been found ineffective.<sup>20</sup>

Anxiety disorders can also be treated with psychotherapy and medication. However, medication is not quite as effective as with depression, and typically is better treated with psychotherapies, self-help or support groups, and other stress management techniques.<sup>21</sup> While there is evidence that aerobic exercise can improve mood levels and help with depression, the same evidence does not hold for treatment in anxiety, and so it is even more important to seek treatment from a medical professional.<sup>22</sup>

In addition to seeking medical treatment there are various organizations that provide support to struggling lawyers.<sup>23</sup> One such organization is the Florida Lawyers Assistance Program (FLA), a nonprofit corporation formed by mandate of Florida’s Supreme Court to assist bar members who suffer from substance abuse, mental health, or other disorders which negatively affect their lives and careers.<sup>24</sup> One of the most important features of the program is

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<sup>18</sup> See Depression, NIMH, *supra* note 7.

<sup>19</sup> See Depression, ADAA, *supra* note 4.

<sup>20</sup> See Depression, NIMH, *supra* note 7.

<sup>21</sup> See Anxiety Disorders, NIMH, *supra* note 11.

<sup>22</sup> See *id.*

<sup>23</sup> See Commission on Lawyer Assistance Programs, Texas Lawyer Assistance Program, Washington State Lawyers Assistance Program, Maryland Lawyer Assistance Program, Michigan Lawyer and Judges Assistance Program, etc.

<sup>24</sup> About, Florida Lawyer's Assistance Program (2014), <http://fla-lap.org/about/>.



that it protects the confidentiality of voluntary cases, so that judges, lawyers, law students, and support personnel need not worry about being reported to the Florida Bar.<sup>25</sup> While these types of programs offer valuable services, there is an emerging field known as mindfulness that offers anyone, especially those suffering from depression or anxiety, the chance to gain more awareness and control of their emotions.

## **II. Introduction to Mindfulness**

*John is really struggling. Feeling overwhelmed by work and lowering self-confidence, his ability to make judgement calls and rationally analyze issues is severely hindered. While the other associates usually go out for lunch, John has become more reclusive and tends to eat alone in the office kitchen. One day Max comes in. John feels a knot in his stomach as he thinks Max might still be upset that he did not respond to the email the same night. Unable to come up with anything to say, John sits quietly as impending doom begins to set in. Surprisingly, Max asks in a friendly tone “Hey John, how are you?” John is hesitant to respond, so Max says, “You know, you were doing great the first few months, but lately you seem out of it. If we put too much on you, or there is anything you want to talk about, you know I have an open-door policy.” Later that day, unable to concentrate on his work, John works up the courage to go into Max’s office. He opens up about how he is struggling and Max listens intently, not saying a word. After a long pause, Max says, “I understand. And to be honest, I’ve been there before. If you’re willing to try it, I can offer something to help.” John eagerly agrees. Max says, “Ok, close your eyes, and focus on your breath.”*

Asking the average person what they think mindfulness is, common answers may range from practicing meditation, to just being calm, to being a bunch of made up nonsense. There is

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<sup>25</sup> See *id.*

lots of skepticism regarding the subject but modern science has backed its efficacy since 1979.<sup>26</sup> One could read many different works on the subject, coming across words such as “awareness,” “non-judgmental,” and “present moment.” These are all accurate descriptions, but to fully understand what mindfulness *is*, it can be helpful to first understand what it is *not*.

### **A. What is Mindfulness (What is it Not)?**

Mindfulness is not about *doing* anything. It’s not about meditating for hours in a quiet garden. While it does have Buddhist origins, it’s not a religious practice and can be done secularly. It’s not about being a perfect human being that never makes mistakes. It’s not an instant cure that makes thoughts and worries disappear. So, if it’s none of these things, what is it?

For lack of better terms, mindfulness is a state of mind. It is not something that is done, but rather something that just is. When one is mindful, they are presently aware of the coming and going of their own thoughts, feelings, and bodily sensations. Surely everyone is aware of these things at some point or another, but there is a noticeable difference as one becomes more aware, or more *mindful* of them. Think about the typical morning commute when you’re running late. One is likely to be thinking “Why is there so much traffic,” “Why don’t I leave earlier,” “I need to get a better routine;” be feeling tired, angry, and hungry; have bodily sensations of elevated heart rate, clenched teeth and sweaty palms. But so much of that can go unnoticed, like on “autopilot,” and mindfulness is about becoming more aware of when the switch is turned on.

Another important element deals with judgment that comes from the “inner voice.” Everyone knows that voice, the one that says all those things while stuck in traffic. While the voice can provide valuable insight at times, mindfulness seeks to minimize judgement from getting in the way of one’s awareness of the present moment. Oftentimes judgements are nothing

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<sup>26</sup> See Williams, et al., *The Mindful Way through Depression*, (p.5), *supra* note 6.

more than elaborate stories that we have convinced ourselves to be true, but in reality, may contain only partial truths or no truth at all. The only way one can become familiar with the distinction, is through practice.

### **B. Practice, Practice, Practice**

Essential to mindfulness is the notion of practicing it. Much like a lawyer must practice their opening and closing arguments or a basketball player must practice their shot, only through continual practice can one truly start to see the benefits. Mindfulness can be practiced in many ways, including both formal and informal methods. While there is not necessarily a right or wrong way, there are some that have been established and proven to be effective.

In terms of formal methods there are three types of meditation one can practice: focused attention, open monitoring, and loving kindness. A key element that applies to each of these is the breath. The breath becomes an anchor to keep your mind from wandering during meditation, as it is an internal force that happens constantly without needing to add any effort.

Focused attention meditation involves placing awareness on something, typically the breath, for an extended period of time. When the mind wanders (and oh it will), gently return attention back to breath. Through this practice one increases their ability to focus on one thing at a time and decrease unnecessary mind wandering.

Open monitoring involves focusing on the breath, but then allowing awareness to expand to internal and external stimuli. If the mind begins to wander too much and get lost in the stimuli, gently return to the breath, and then allow awareness to expand again. This practice increases the ability to filter out the barrage of stimuli while maintaining a present awareness.

Lastly, loving kindness meditation is a bit different, in that it focuses attention not on the breath or any immediate stimuli, but to distant people. The idea is to “send” thoughts of love and

compassion to three different groups: first someone whom you love, second someone whom you dislike, and third the world as a whole. The goal is to cultivate and improve one's sense of compassion and "heartfulness."

In addition to formal practice, informal methods can be implemented throughout the day, offering endless opportunities to both practice and test one's mindfulness skills. These methods can range anywhere from mindful eating, to walking, to listening. The list could certainly go on and on, but these few examples are practical and come up in everyday life.

First, mindful eating can be accomplished by becoming more aware of the stimuli that we don't normally pick up on besides the taste of food. For instance, take the time to first get a full visual of the food, picking it up and looking at it from all sides and angles. Then notice the smell, putting it close to the nose to get the full aroma. Next take one small bite, noticing not just the taste but also the texture(s) of the food. By eating this way, one can appreciate what they eat in a completely new way instead of quickly shoving it in their mouth the second it hits the table.

Second, mindful walking is another informal method that involves paying attention to something constant, such as counting steps. Typically, when we walk, the mind is not present, but rather thinking about something we are seeing, hearing, going to do next, or that just happened. By counting each step, or saying, "Left, right, left, right, etc.," one can stay in the moment while still surrounded by stimuli of life and the world.

Lastly, mindful listening is not only a helpful informal method, but also an invaluable skill, especially to lawyers. While some may think of lawyers as "smooth talkers," we must also be effective listeners – with clients, witnesses, co-workers, opposing counsel, etc. By listening mindfully, a lawyer can benefit from receiving more "data" in their interactions, such as body language, changes in voice, and better memory of what was said. To become a more mindful

listener one can practice these tips: clear your head, create a safe space for the speaker, maintain eye contact, put yourself in the speaker's perspective, and lastly, don't assume, ask questions.<sup>27</sup>

### **C. Scientific Support**

Thus far you may be saying, ok, that all sounds nice, but what proof is there that mindfulness does anything that can be tangibly measured, let alone help ease the burden on those suffering from depression and/or anxiety? Surprisingly, there has been evidence supporting the use of mindfulness to treat various human illnesses and conditions for almost 40 years, yet much of the western world has not yet embraced its efficacy. So then how does mindfulness work?

According to the Massachusetts General Hospital, after participating in an 8-week mindfulness program, patients who indicated improvements based on pre-participation mindfulness questionnaires were found to have measurable changes in brain regions associated with memory, sense of self, empathy, and stress.<sup>28</sup> Specifically, they found increased grey-matter in the hippocampus, an area of the brain important for learning, self-awareness, and compassion, with a correlated decrease of grey-matter in the amygdala, which regulates anxiety and stress.<sup>29</sup> The study highlights the plasticity of the human brain, demonstrating that, “the first-person experience of stress can not only be reduced with an 8-week mindfulness training program but that this experiential change corresponds with structural changes in the amygdala...”<sup>30</sup>

On an experiential level, research has shown that mindfulness-based therapies can be particularly helpful in preventing relapse into depression.<sup>31</sup> Two separate studies each found that

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<sup>27</sup> Nadia Ballas-Rutta, Effective Communication with Mindfulness, Think Simple Now, <http://thinksimplenow.com/communication/effective-communication-mindfulness/>.

<sup>28</sup> Mindfulness meditation training changes brain structure in eight weeks, ScienceDaily (2011), <http://www.sciencedaily.com/releases/2011/01/110121144007.htm>.

<sup>29</sup> *See id.*

<sup>30</sup> *See id.*

<sup>31</sup> Mindfulness holds promise for treating depression, Monitor on Psychology (2015), <http://www.apa.org/monitor/2015/03/cover-mindfulness.aspx>.

a particular therapy known as MBCT, or Mindfulness-Based Cognitive Therapy, can be effective in treating recurrent relapse into depression by up to 43 percent.<sup>32</sup> The evidence is not yet conclusive as to how exactly mindfulness is able to make these changes, but some theories range from an increase in self-compassion and a decrease in experiential avoidance to harnessing rumination and mind wandering.<sup>33</sup> Further discussion of these therapies can shed light on how mindfulness helps to ease the suffering of depression and anxiety.

### **III. Mindfulness Based Interventions**

*John has practiced different forms of mindfulness meditation and even read a book Max recommended, but depression and anxiety still severely affect him. He constantly feels sad, stressed-out, and absent-minded. So, one day John goes into Max's office and tells him that he is really trying to engage with the practice but just doesn't feel like it's working. Max has an idea. Knowing it could benefit not just John, but really any employee at the firm, Max decides to offer an eight week MBCT course to anyone interested. John is hesitant to attend. He has become so reclusive he feels uncomfortable in group settings. But with Max's encouragement he decides to give it a shot. At the first meeting Max goes around the group as an icebreaker, gets to John, and asks, "So, why are you here, John?"*

MBSR and MBCT were each designed to help those suffering from specific types of ailments. While their effectiveness as a form of treatment has been backed by research, it is important to note that these techniques, as well as mindfulness generally, can be of use to

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<sup>32</sup> See *id* (stating also that "participants who had depression at earlier ages, or who had more adversity or abuse in childhood, were more likely to benefit from MBCT."); see also Mindfulness-based cognitive therapy, Mental Health Foundation, <https://www.mentalhealth.org.uk/a-to-z/m/mindfulness-based-cognitive-therapy-mbct>.

<sup>33</sup> See Mindfulness holds promise for treating depression, *supra* note 31 (stating further that "the group aspect of MBCT may help clients breach the wall of solitary shame and guilt that depression can build.")

anyone, regardless of any physical and/or mental illness. It can become a tool that sharpens awareness and maintains perspective in even the most tumultuous situations.

### **A. MBSR and MBCT**

Mindfulness-based therapies originate from the work of Dr. Jon Kabat-Zinn in 1979 at the University of Massachusetts. He was instrumental in the development of the 8-week MBSR (Mindfulness-Based Stress Reduction) program, which has since helped over 20,000 patients learn to use their innate resources and abilities to respond more effectively to stress, pain, and illness.<sup>34</sup> The program includes guided instruction in mindfulness meditation practices, gentle stretching and mindful yoga, group dialogue and discussions aimed at enhancing awareness in everyday life, systematic instruction in formal MBSR meditation practices, with opportunity to check in with teachers, daily home assignments, downloadable home practice audio files (or CDs), and a home practice workbook.<sup>35</sup>

This work led Drs. Zindel Segal, John Teasdale and Mark Williams to research and develop MBCT, combining the practice and clinical application of mindfulness meditation with the tools of cognitive therapy. MBCT uses mindfulness techniques to change the cycle of – or *ruminating* on – negative thoughts common with recurrent depression. It can help to “halt the escalation of these negative thoughts and teaches you to focus on the present moment, rather than reliving the past or pre-living the future.”<sup>36</sup>

Similar to MBSR, MBCT is also an 8-week course that consists of orientation, weekly classes, one all-day class on a weekend, and home practice assignments. Utilizing group

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<sup>34</sup> FAQs – MBSR – MBCT, University of Massachusetts Medical School, <http://www.umassmed.edu/cfm/mindfulness-based-programs/faqs-mbsr-mbct/>.

<sup>35</sup> See MBSR | SR-201-CFM, University of Massachusetts Medical School, <http://www.umassmed.edu/cfm/mindfulness-based-programs/mbsr-courses/mbsr/> (also providing that the program consists of: orientation, eight weekly classes [2 ½ hours each, 31 hours’ direct instruction], one all-day class on a Saturday or Sunday, between classes 6 and 7, and daily home practice assignments for 45-60 minutes each day).

<sup>36</sup> Your Guide to Mindfulness-Based Cognitive Therapy, <http://mbct.com/>.

intervention strategies, participants “become aware of how conditioned patterns of mind and mood can trigger depression relapse and sustain current symptoms of depression.”<sup>37</sup> By learning to recognize the early signs of relapse, those with recurrent depression become more skilled at intervening before mood symptoms and negative thought patterns become severe.

Another therapy known as MBRP, or Mindfulness-Based Relapse Prevention, is a therapy developed at the Addictive Behaviors Research Center at the University of Washington, for individuals in recovery from addictive behaviors.<sup>38</sup> The program is designed to: “(1) develop awareness of personal triggers and habitual reactions, and learn ways to create a pause in this seemingly automatic process, (2) change our relationship to discomfort, learning to recognize challenging emotional and physical experiences and responding to them in skillful ways, (3) foster a nonjudgmental, compassionate approach toward ourselves and our experiences, and (4) build a lifestyle that supports both mindfulness practice and recovery.”<sup>39</sup>

While these therapies have been proven to be effective, not everyone has access to a program in their hometown yet, and some may want something a little more practical, something that can be done right now. In response, researchers and advocates developed a web-based version called Mindful Mood Balance, which includes a lesson on the “3-Minute Breathing Space,” a condensed mindfulness practice.<sup>40</sup> This unique program helps teach an effective and efficient method to stay in the present moment by focusing on the breath for just three minutes.

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<sup>37</sup> Finding Your Way Through Depression with Mindfulness, Center for Mindfulness, <http://www.umassmed.edu/cfm/mindfulness-based-programs/mbct-courses/about-mbct/> (stating further that, “[f]or those who have suffered from recurrent depression, being able to recognize the early signs of relapse allows for skillful intervention before mood symptoms and negative thought patterns become severe.”).

<sup>38</sup> Mindfulness-Based Relapse Prevention, <http://www.mindfulrp.com/>.

<sup>39</sup> *See id.*

<sup>40</sup> *See* Mindfulness holds promise for treating depression, *supra* note 31



There is an endless number of these types of meditations and practices, whether they be formal or informal, and will be discussed more in Part IV.

### **B. Law School and Bar Association Programs**

While there is still some ways to go informing people about mindfulness, organizations across the nation have started programs to help raise awareness and provide access to treatment. Leading the charge nationally is the Mindfulness in Law Society (MILS). Its mission is to “coordinate and promote activities in the legal profession relating to mindfulness meditation, yoga, and other contemplative practices.”<sup>41</sup> MILS held its inaugural conference in August 2017, featuring panels of prominent professors, administrators, and practitioners.

Bar associations are also leading the movement.<sup>42</sup> As part of its Lawyer Assistance Program, the Washington State Bar (WSBA) has created a one-hour weekly space for lawyers to come together to “meditate and engage in mindful conversation.”<sup>43</sup> The Florida Bar started a blog on its website aimed at educating lawyers on mindfulness and how to practice.<sup>44</sup> The Chicago Bar Association has a Mindfulness and the Law Committee, which dedicates itself to examining two questions: “1) what exactly is mindfulness, and 2) how can a mindfulness practice help lawyers.”<sup>45</sup> Many bar associations also offer mindfulness training through Continuing Legal Education (CLE) workshops and events.<sup>46</sup>

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<sup>41</sup> About, Mindfulness In Law Society, <http://mindfulnessinlawsociety.com/about/>.

<sup>42</sup> Becky Gillespie, Mindfulness in legal practice is going mainstream (2013), [http://www.abajournal.com/magazine/article/mindfulness\\_in\\_legal\\_practice\\_is\\_going\\_mainstream/](http://www.abajournal.com/magazine/article/mindfulness_in_legal_practice_is_going_mainstream/) (stating that as of 2013, “at least a dozen bar associations have programs focused on some aspect of mindfulness....”).

<sup>43</sup> Mindful Lawyers Welcome, <http://www.wsba.org/Resources-and-Services/Lawyers-Assistance-Program/Groups/Mindful-Lawyer/>.

<sup>44</sup> New Mindfulness Series Column: The Mindful Lawyer, <https://www.floridabar.org/news/blog/new-mindfulness-series-the-mindful-lawyer/>.

<sup>45</sup> Chicago Bar Association Forms Two New Committees, Chicago Bar Association (2016), <http://www.chicagobar.org/AM/PRNewsReleases/Releases/20160330.pdf>.

<sup>46</sup> See Mindfulness in the Practice of Law, Tennessee Bar Association, <http://www.tba.org/event/mindfulness-in-the-practice-of-law>; see also Business Law Section Mindfulness Series, Philadelphia Bar Association, <http://www.philadelphiabar.org/page/BLSMindfulness?appNum=2>; see also, Mindfulness Yoga and Brews, Colorado Bar Association, <http://www.cobar.org/Calendar/Event/sessionaltcd/DBA017>.

Law schools may be the most important institutions to help future lawyers deal with the struggles of depression and anxiety before they face the responsibilities of the “real world.” Currently, more than 20 law schools offer some form of mindfulness to their students.<sup>47</sup> The University of Miami School of Law established the nation’s first Mindfulness in Law Program in 2011, led by Scott Rogers, an internationally recognized leader in mindfulness in law.<sup>48</sup> The program includes innovative courses such as *Jurisight® for 1Ls*, *Mindful Ethics*, *Mindfulness and Leadership*, and *Mindfulness in Law*, as well as 10-30 minute “Mindful Spaces” offered throughout the week to learn and practice.<sup>49</sup> Berkley Law similarly offers a non-credit course for 1Ls, a for-credit course for 2L/3Ls, Mindfulness Monday meditation sessions, and sign-ups for nearby retreats.<sup>50</sup> Harvard University offers mindfulness meditation resources at the Center for Wellness, information about retreats and quiet spaces, as well as the student-run Harvard Law School Mindfulness Society.<sup>51</sup>

#### **IV. Personal Insights**

*After participating in the program, John felt a renewed sense of hope. He feels that he has become better at recognizing the onset of depression and anxiety symptoms, which can enable him to deal with his underlying issues more effectively. He decided to dedicate to his own mindfulness practice in which he meditates daily and attends mindfulness meetings held by his state bar association. While somedays he forgets to practice, or doesn’t feel up to it, after getting a taste of the benefits he does his best to stay committed.*

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<sup>47</sup>How mindfulness can improve your law practice, American Bar Association Publications (2017), <https://www.americanbar.org/publications/youraba/2017/april-2017/using-the-practice-of-mindfulness-to-improve-your-law-practice-.html>

<sup>48</sup> Mindfulness in Law Program, <http://www.law.miami.edu/academics/mindfulness-in-law-program>.

<sup>49</sup> *See id.*

<sup>50</sup> Mindfulness at Berkley Law, <https://www.law.berkeley.edu/students/mindfulness-at-berkeley-law/>.

<sup>51</sup> Harvard University Meditation and Mindfulness Resources, <http://hls.harvard.edu/dept/dos/wellness/mindfulness/>.

While one can read an enormous amount of material that has been written about mindfulness, it takes first-hand experience to fully grasp and understand. As of the time of this paper, I have been working with mindfulness for almost a year and still feel like I have so much more to learn and improve upon. My practice started by sheer luck, taking Scott *Rogers Mindful Ethics* class during my 2L fall semester to fulfil a “professional responsibility” requirement. The class quite literally opened my mind to new perspectives and possibilities, something I did not think was possible after suffering from depression and anxiety for over ten years.

First, one of the most important insights I have gained through my mindfulness practice is to learn to “sit in the fire.” While this may sound like a form of self-flagellation, that couldn’t be further from the truth. To me, sitting in the fire means being able to accept and acknowledge things the way they are in the present moment and not running away because things may start to get “hot.” By embracing my feelings, rather than suppressing them, I can actively work towards understanding and solving my issues, eventually learning to “turn down” the intensity of the fire.

For instance, when I am depressed, everything seems hopeless. Persistent thoughts of inadequacy, feelings of despair, and even bodily sensations of fatigue completely overcome my experience and rational thought process. It gets to the point that I can’t do anything but curl up in a ball and cry. But what I have started to see is that by becoming more aware of when the depression is taking grip – which comes from being more aware of my thoughts, feelings, and bodily sensations – I have an opportunity to first acknowledge it, but then to create a space in which to separate myself away from it. It’s like a kettle on the fire. You’re supposed to heat it up, but once its boiling you must take it off the stove, or else you’ll hear an annoying whistle and eventually the water will evaporate completely. So too we’re all supposed to feel emotions, but once they start to boil then we must to find a way to get off the stove.

Secondly, another insight pertains to achieving states of gratefulness, hopefulness, and self-compassion. Even if I am able to create a “space” away from the depression, at times I have found I need something extra to turn down the fire, or “loosen the grip.” By intentionally cultivating one of these states, it helps not only to break through the rumination on negative thoughts, but then to fill the space with more positive and productive thoughts and feelings.

For example, I often get anxious about finding a good job before I graduate from law school. This usually leads to doubt and self-criticism, which spiral around until I fall into a state of depression. But, if I can see the doubt coming beforehand, I have the opportunity to acknowledge that feeling, but then to create space away from it by further acknowledging that I can’t control everything. Instead of fearing the future, I can try to feel a sense of hope that things will work out. Or I can try to find something to be grateful for, whether it’s remembering a happy memory with friends from last weekend or just being thankful for a good meal I had. If I can do this, then the negative thoughts, as valid as they may or may not be, no longer hold the same weight. The fire dies down. The grip loosens. My mind no longer feels trapped.

Another important insight I have learned goes back to the idea of what mindfulness is not, that it is not itself about doing anything or making some technique *work* to feel better. I have often found myself saying “I don’t feel like this is working, I still feel depressed or anxious.” However, that is exactly what mindfulness is supposed to do, make us more aware of our present moment-to-moment existence, even if it may be unpleasant. So, by saying I still feel depressed, I am saying I am aware that in this moment I am feeling depressed. What happens from there is up to me and how effective I am at using the skills I have honed through my practice, such as the cultivation of gratitude or self-compassion to pull myself out of the depression. Even then if at times I am unable to pull myself out, that is still ok and does not mean that mindfulness does not

work, but rather that I am aware of my current state and not suppressing it to only spiral downwards and get worse.

One last insight I would like to share concerns developing your own mindfulness practice. While enrolling in an MBSR or MBCT program can certainly be of benefit, it takes dedication and commitment to practice in order to achieve the full benefits of mindfulness. But don't let that stop you. It's easy to say, "I'm so busy, I don't have 20 minutes a day to meditate!" Regardless of whether that is even true or not, you can start much smaller and build from there as you like. Start with dedicating to a week of daily one-minute meditations. Write down anything that may feel important afterwards – from thoughts, to feelings, to bodily sensations.. The next week go up to two minutes, the next week five minutes, etc. By committing to this, I have found that practice itself can become much "easier" and less of a "burden," opening the door to truly develop mindfulness skills by establishing a more consistent practice.

### **Conclusion**

*Years have gone by and John is now a senior partner at the firm. Through his mindfulness practice he was able to release himself from the grip of depression and anxiety, allowing his work ethic and intelligence to propel him forward in his career. He has become a much better listener and his memory has also improved. From time to time the ruminating thoughts start to swirl around, but now he has a tool available that is equipped to handle those situations. When he feels a pain in his heart or has self-loathing thoughts, he has the awareness to pause and recognize the thoughts and feelings. Through this intentional "slowing down" he has more of an ability to create a space from their grip and make a choice, whatever it may be. One day John is in the office, and goes into the lunch room to*

*get some coffee. He notices a new associate sitting there alone, looking rather down on herself. John stops, sits down next to her and says, "Hey, how are you doing?"*

Lawyers must be on their "A" game at all times, displaying composure, competence, and resilience. But with some of the worst rates of depression, anxiety, and substance abuse, it is becoming clear that something needs to change within the profession. By engaging in mindfulness, lawyers and law school students can improve their self-awareness to regain control of their mind, one that is particularly susceptible to mental illness. While this is only one piece of the puzzle, it is one that offers great promise towards providing a solution that can benefit anyone, regardless of clinical diagnosis. If lawyers are to serve their role as an advocate for others in need, then they must learn to first become their own advocate, and take care of their own needs. "A true Warrior of the Light always chooses his own battlefield."<sup>52</sup>

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<sup>52</sup> Paulo Coelho, *Warrior of the Light* (2011)