

**Professional Satisfaction in the Law:
How Mindfulness Can Help Sustain Professional Satisfaction**

Mindfulness in Law

“Do not dwell in the past, do not dream of the future, concentrate the mind on the present moment.” – Buddha

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Introduction

The alarm rings. It's 7:00 a.m. Bleary-eyed and barely awake, you pick up your smart phone, never further than a foot away, to get started on the day's emails. Some emails are from impatient or jittery clients and will need prompt responding to that day. Some are from blogs that you are almost required to follow so you can keep up to date with your practice. You see emails from a partner, sent during twilight hours, about a motion that opposing counsel filed the night before. The motion is just another in a series of brick walls that opposing counsel files against you to seemingly waste time and money but will still need to be dealt with. You get up, get ready, and begin a long commute to the office. No time for breakfast, as always. Upon entering the office, you check your email again to make sure you have not missed anything during your commute. You see new emails from partners asking for meticulous corrections on drafts for motions that you spent days on, as well as entirely new avenues of attack that will require exhaustive work. Before being called into meetings with clients and partners, you take the time to begin responding to pressing emails and phone calls; several emails have collected on your backlog. After several meetings, which you desperately try to get your strategies across, but are drowned out by your colleagues and superiors, you work through lunch, researching new issues for motions. The workday toils by, you finish up some drafts, but they definitely need improvement, which you decide to pursue further at home. At this point, it is past 7:00 p.m., and you begin preparing for the long commute home, where you still need to spend quality time with your family, as well as find a time to get in some exercise. These hours fly past, and as you get

ready for bed at 11:30 p.m., you check your emails yet again to see if you missed anything pressing. You have an internal debate with yourself whether to silence the phone so you can get a full night's rest, or whether you need to leave it on in case something pressing comes up.

For the purposes of this paper, professional satisfaction simply refers to someone's happiness regarding their professional life.¹ Above is an example of a regular workday for a lawyer. Some days are no doubt easier, others no doubt harder, but by and large, a lawyer does this for the duration of his or her career. This is not necessarily a bad thing for everyone. The practice of law can be rewarding, fun, and enjoyable for many in the profession. However, it cannot be denied that the profession has its share of unhappy campers, and it is not surprising that lawyers who go through a typical day for years of their lives can burn out.² Nevertheless, law school is still in fairly high demand. Though law school enrollment has dropped substantially since 2008 due to the recession, it seems to be once again on the rise, with about 40,000 students enrolled in 2018.³ Despite having a notorious reputation for a lack of professional satisfaction, many people still attend law school and become lawyers, and many of the problems that lawyers face are not entirely improving. The indicators of discontent, drug abuse, and mental health issues are alarmingly high even before law students enter the profession.⁴ For instance, 17% of law students screened positive

¹ See e.g., Paul E. Spector, *The Nature of Job Satisfaction*, in *Job Satisfaction: Application, Assessment, Causes, and Consequences*, 3, 4, (SAGE Publications Inc., 1st Ed. 1997).

² See e.g., Joe Patrice, *Unhappiest Job in America? Take a Guess* available at <https://abovethelaw.com/2013/03/unhappiest-job-in-america-take-a-guess/> (March 2013) (citing a 65,000 employee survey in which associate attorneys rated number one worst job overall, just ahead of customer service associates, despite a huge gap in pay).

³ See Kyle McEntee, *Law School Enrollment*, LST Data Dashboard, available at <https://data.lawschooltransparency.com/enrollment/all/> (2018).

⁴ See generally, Charity Scott, *Mindfulness in Law: A Path to Well-Being and Balance for Lawyers and Law Students*, 60 *Ariz. L. Rev.* 635, 641-643 (2018) (citing SLSWB study for multiple indicators of drug abuse, mental health, and general discontent in law-students).

for depression, 37% for anxiety, and 6% for having suicidal thoughts.⁵ These numbers only get worse for young attorneys, as a similar 2016 study of about 13,000 licensed and employed attorneys showed that 28% of attorneys suffered from depression, 19% from anxiety, 23% from stress, and 20.6% from problematic drinking.⁶

Is there a solution to these indicia of poor professional satisfaction? For this paper, we turn to mindfulness. The scientific, physical benefits behind mindfulness are fairly well-established. Mindfulness meditation can result in beneficial brain changes, including increased grey matter in areas like the anterior cingulate cortex, pre-frontal cortex, and hippocampus regions of the brain, which help with increased problem-solving abilities and lower stress, anxiety, and fear emotions.⁷ Mindfulness can also increase gratitude, which helps with sleep, self-esteem, mental strength, and combats depression.⁸ Mindfulness has also been shown to “decrease levels of the stress hormone cortisol, lead to the improved functioning of the immune system, and alleviate the suffering of chronic pain, help heal psoriasis and reduce cardiovascular disease and diabetes.”⁹

This paper will aim to address a few of the specific problems that result in a reduction of professional satisfaction in the practice of law. Part I will introduce the overarching principle of mindfulness and the general interplay of mindfulness within stimulus and response; this will be important, because this mechanism plays very similar roles in helping with many of the stressors

⁵ *Id.*

⁶ *Id.* at 639.

⁷ See Jennifer Wolkin, *How the Brain Changes When You Meditate*, Mindful: Healthy Mind, Healthy Life, available at <https://www.mindful.org/how-the-brain-changes-when-you-meditate/> (September 20, 2015). See also *Mindfulness Meditation Training Changes Brain Structure in Eight Weeks*, ScienceDaily, available at <https://www.sciencedaily.com/releases/2011/01/110121144007.htm/> (January 21, 2011) (showing that in just 8 weeks of meditation, brain regions associated with memory, self, empathy and stress demonstrate high levels of positive plasticity).

⁸ See Jamie Ducharme, *7 Surprising Health Benefits of Gratitude*, Time Magazine, available at <http://time.com/5026174/health-benefits-of-gratitude/> (November 20, 2017).

⁹ See Scott Rogers, *What Do We Want? Mindfulness in Law!*, available at <http://files.lsba.org/documents/publications/BarJournal/Feature4-Rogers-Journal-Dec14-Jan15.pdf/> (December 2014/ January 2015).

common in the field which lead to professional dissatisfaction. Part II will introduce general ways to cultivate mindfulness through mindfulness practice. These will include common practices like a focus on the breath and will ultimately culminate in how to integrate mindfulness seamlessly¹⁰ into everyday life, rather than just regular practice. Part III will begin analysis of the first common stressor, a lack of personal satisfaction, leading to a lack of professional satisfaction. Part IV will continue this exploration in addressing mindful listening and communication as a means to reinvigorate and rediscover the joys of problem-solving when it comes to listening. Part V will address hostility, expectations, and self-doubt common throughout the legal system and how mindfulness can reduce the negative effects of these pervasive feelings. Through this paper, I hope to show that mindfulness can help make the struggles in law incrementally better; though I do not expect it to be life-changing for everybody, even a small reduction in the aggregate of stressors can help budding and experienced lawyers to maintain and discover higher levels of professional satisfaction.

Mindfulness: Separating Stimulus from Response

According to Jon Kabat-Zinn, one of the world's premier authorities on mindfulness, mindfulness is "*awareness* that arises through paying attention, on purpose, in the present moment, *non-judgmentally*."¹¹ This awareness is critical; how many times do we instantly react to something without being aware of what is happening? For example, how many times during the day does the phone buzz, and without realizing it, the phone is in our hands, reading or texting away?¹² How many times has a train of thought totally derailed into panic because of the constant

¹⁰ *Id.*

¹¹ Jon Kabat-Zinn, *Mindfulness for Beginners* 25 (2011).

¹² See Cal Newport, *Spend Time Alone*, in *Digital Minimalism: Choosing a Focused Life in a Noisy World*, 85, 103-117 (Portfolio 2019) (defining "Solitude Deprivation" as a state in which "you spend close to zero time alone with your own thoughts and free from input of other minds." The perpetual connection to the world, in large part provided by the new cell phone age, does not allow for solitude, and results in "cognitive oppression" and addiction

fear of the worst-case scenarios?¹³ Most generally, how many times have we needlessly had a negative reaction or action in response to something, when on further thought, the action or reaction were entirely unnecessary? Additionally, the non-judgmental portion is equally critical. In the case of the derailed train of thought, we can only stop the derailing by stopping the increasingly slippery slope of thoughts that arise out of the internal conversations with ourselves. If we perpetually judge everything, the internal conversations will continue – and usually in a negative fashion.¹⁴

Indeed, all these situations are instantaneous reactions to some sort of stimuli, like the evolutionary desire to eat all available food, rather than any purposeful reaction; there is very little time separating response to a stimulus in this scenario. By practicing mindfulness, we can train our minds to be more aware of not only the stimulus, but also to allow us to better control our actions.¹⁵ Mindfulness can essentially act as a time barrier between stimulus and response, and as a result, we are better able to control how we react.

Furthermore, by being aware of stimuli and its relationship to our response, mindfulness serves as a useful data-gathering tool. Data allows us to draw relationships and correlations between variables. The more data there is, the more certain we can be of any relationship, correlation, or lack thereof. With infinite data, for instance, we can be 100% sure of any existence of a relationship between two variables. Using this data, we can more readily and accurately draw

because it undermines and disincentivizes your own thoughts. Newport also strongly recommends detaching oneself from their phones.

¹³ See Michael Singer, *The Voice Inside Your Head* in *THE UNTETHERED SOUL* 7, 7-8 (New Harbinger Publications 1st Ed. 2007). “Why do you even tolerate that voice talking to you all the time . . . it’s still disturbing everything you’re doing” (noting that if you are aware of your internal dialogues, you will see that the vast majority of them are irrelevant and unhelpful, and awareness helps to manage the chatter).

¹⁴ *Id.*

¹⁵ See Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 *UMKC L. REV.* 535, 539 (2011) (mindfulness allows people to better choose their responses to stimuli).

informed and reasonable conclusions, and that can properly inform our actions. For instance, through practice of mindfulness, we can gather data on what happens when we immediately respond to a stimulus and compare it to what happens when we take a moment, provided by the barrier mentioned above, before response. Usually, one might find that the outcome of the latter is more desirable than the former, and this is valuable data to have. Thus, the benefit of mindfulness is at least two-fold; within the time barrier provided by mindfulness, we can use data gathered by mindfulness to make a reasoned, informed decision to achieve a more desirable outcome.

Practice

We cultivate mindfulness through consistent mindfulness practice, of which there are many types. Much like how a pianist must practice a wide variety of techniques, scales, and warmups to better familiarize his fingers to a flexible and diverse array of skills, mindfulness requires consistent practice, ideally with some variety, to train the mind to flexibly be able to turn up its awareness in a diverse set of situations. Eventually, we find that with enough consistent practice, the mind begins to move away from instinctive reactions and to a more deliberate and purposeful reaction when one remembers to be in or is currently in a mindfully aware state, akin to moving from a dim to brighter light on an adjustable light bulb.

One of the beginning practices is the “focused attention” practice. In the focused attention practice, the instructions are usually as follows: (1) bring yourself into a position that is upright and stable; (2) focus your attention on an object (usually the breath as an anchor), and be aware of any thoughts, feelings and sensations that arise; and (3) when your mind inevitably wanders, take note of the wandering, and gently bring your attention back onto the object. This process is

repeated for as long as the session lasts and helps develop the “capacity to remain focused while also remaining alert to distractions.”¹⁶

Another iteration of practice can be the open-monitoring meditation, in which instead of focusing one’s attention onto an object, the meditator observes anything that naturally come into their awareness, cultivating a “less emotionally reactive awareness to emotions, thoughts, and sensations occurring in the present moment to prevent them from spiraling out of control and creating mental distress.”¹⁷

One may also choose to do a “loving-kindness” meditation, in which the meditator repeats a series of “compassionate wishes for the well-being of oneself and others.”¹⁸ An example of such a meditation may begin with a visualization of any person the meditator chooses, or a general population as a whole, whereupon the meditator repeats (1) may you be happy, (2) may I be happy, and (3) may everyone be happy. The visualized person may be anyone, whether family, friends, competitors, or enemies. This practice in particular is critical in the practice of law, because it fosters not only a sense of compassion and non-judgment for oneself, but also toward others, especially the difficult or challenging people in life, of which there are many in the legal profession.¹⁹

These are a few of the many types of mindfulness cultivating meditations out there. Many people may think that practicing meditation is a hassle, where one might need to attend classes, or take dedicated chunks out of their already busy day to do so. However, mindfulness meditation is as easy as sitting in an upright and stable posture and focusing on the breath. There can be as little or as much practice as one needs, so long as the practice is consistent, and done for a long enough

¹⁶ Charity Scott, *supra* note 4, at 649-650.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

time for someone to note wandering attention so they can bring it back. Mindfulness meditation only needs to train the mind to knowingly and purposefully direct its attention to something, and to be able to hold it there for as long as one wants. Eventually, through enough mindfulness practice, we can transition from dedicated practice times and specific practices to just being mindful while doing everyday tasks like walking, listening, eating, and communicating, simply by shifting our attention to whatever we wish to focus on.

Increasing Personal Satisfaction through Efficient Use of Time

It is difficult to speak about professional satisfaction without linking it intimately with personal satisfaction. Many big-law attorneys can regularly work 50-70 hours a week to hit their firm's high billable hour requirement.²⁰ Though compensation in the legal field can be high, no amount of money has ever bought a second of time, and it is axiomatic that time spent on jobs is less time spent elsewhere. For example, picture a 60-hour work week, or 12-hour workday. Assuming the attorney sleeps a regular 7 hours a day, this leaves only 5 hours in the day for meals, hobbies, entertainment, and personal relationships. While mindfulness cannot turn back time, it can help with time management, productivity, and efficiency, so that one spends time efficiently in each area, rather than spending time transitioning back and forth.

One of the simplest ways that mindfulness can help is to call upon the basic lessons from the focused-attention practice. When the mind begins to wander away from the task at hand, like thinking about dinner at work, work at home, or just general lack of focus, we can take note of this wandering and bring our attention back. This prevents us from losing valuable information given to us by our colleagues or superiors, or even our family. In a more specific explanation,

²⁰ See Jordan Rothman, *Many Biglaw Associates Are Not Compensated as Well as You'd Think When You Consider How Much They Work*, Above the Law, accessible at <https://abovethelaw.com/2018/08/many-biglaw-associates-are-not-compensated-as-well-as-you-d-think-when-you-consider-how-much-they-work/> (August 1, 2018) (asserting that the average biglaw associate works 60 to 70 hours a week on average).

mindfulness can help by maximizing the efficiency to which time is spent. A side effect of mindfulness is increased concentration.²¹ For example, sometimes we tend to switch from one task to another and multi-task when we run into a roadblock at a single task. However, many studies have shown that this multitasking inhibits productivity.²² When negative thoughts arise during a particularly tough issue, we tend to start to lose control of our thoughts. Common thoughts might be, “this is taking too long, I need to take a break and move onto other equally pressing matters,” or “what am I going to do if I cannot finish this,” or “it looks like another late night at the office.” These thoughts reflect loss of focus and are an example of a form of “multitasking” with thoughts and tend to arise instinctually. Even if we stay on the task at hand, these thoughts are distracting, requiring us to switch back and forth between our internal dialogue and the task, and result in unproductive use of our mental capacity.²³ If we are aware of these thoughts as they arise, and we can label them as either judgments, or know that these are unproductive thoughts, we can cut out the useless dialogue we have with ourselves, effectively raising a barrier between the stimulus, which is the stressful and tough work, and the response, which is our negative and unproductive thoughts. Through practice of mindfulness, we can “gather data” on not only what these thoughts cause us to sense and feel, allowing for better recognition, but we can also determine with more accuracy whether going down a certain thought process is productive. Through this thought process, mindfulness allows us to be more productive at work, which *may* result in less stress, and

²¹ See Maria Konnikova, *The Power of Concentration*, The New York Times, available at <https://www.nytimes.com/2012/12/16/opinion/sunday/the-power-of-concentration.html> (December 15, 2012) (asserting that attention is finite, and mindfulness results in heightened concentration, which helps against the plague of multitasking).

²² See Joshua Rubinstein, *Executive Control of Cognitive Process in Task Switching*, 27 *Journal of Experimental Psychology*, available at <https://www.apa.org/pubs/journals/releases/xhp274763.pdf> (2001).

²³ See Shailini Jandial George, *The Cure for the Distracted Mind: Why Law Schools Should Teach Mindfulness*, 53 *Duquesne L. Rev.* 215, 217-219 (2015) (describing modern day law student problems with multitasking, which compromises “learning and attention,” often resulting in a “failure to learn.” These problems often stem from perpetual connections to the outside world through technology, and often frenetic direction of attention on a wide number of tasks).

allow us to better use our time at work, consequently bleeding less into our personal lives.²⁴ This choice we have gives us more control over our lives, which reduces stress, and subsequently burnout.

Mindfulness can help in much more nuanced ways as well. Because there may be less time for personal relationships in the legal profession than in other professions, it is in our best interests to maximize our time spent interacting with and communicating with members in our interpersonal relationships. A large problem with our ability to efficiently spend time with these members is our perpetual connection to the world.²⁵ In the legal field, we almost always must be tethered to their phones in case of emergency from a client, partner, or case. Any vibration, sound, or notification from our phone has us instinctually scrambling to see what we're missing and is likely to be a point of contention in any argument in a personal relationship. After all, if one is reading a client email on his phone, he cannot possibly be also giving his attention to his family or friends. This constant link to the occupational world is another form by which stress and anxiety can manifest, and additionally divides our attention, requiring our brains to "multitask."²⁶ As with the productivity in work mentioned above, the constant divide of attention is unproductive, and should be limited when possible.

This is not to say that lawyers should just shut themselves off from technology whenever they are not at work; this solution is almost untenable, and I can already feel some lawyers rolling their eyes at the very thought (which, by the way, is a judgment). Lawyers simply must be

²⁴ See Grace Bullock, *How Mindfulness Beats Job Stress and Burnout*, Mindful: Healthy Mind, Healthy Life, available at <https://www.mindful.org/mindfulness-beats-job-stress-burnout/> (August 14, 2017) (suggesting that mindfulness allows people to better leave their work at work and increase "healthy and harmonious relationships with family").

²⁵ Cal Newport, *supra* note 12, at 116.

²⁶ See Elisha Goldstein, *Is It Time to Unplug? Technology and Overconnection*, MINDFULNESS & PSYCHOTHERAPY BLOG available at <http://blogs.psychcentral.com/mindfulness/2009/03/are-you-overconnected> (Mar. 4, 2009) (stating that technology has a negative impact on our abilities to stay present in life).

connected through technology to meet demands of a competitive legal market. Rather, the goal should be to have each time we check our phones to be a deliberate one, rather than an instinctive reaction. Each time a phone buzzes, we should take it as a reminder to pay attention to our thoughts, feelings and sensations, and in that moment, we have a barrier between stimulus and reaction. By taking this break, we have the reminder and ability to remain present in the moment, rather than being swept away by a client or friend's text message. We have the choice to prioritize rather than doing something just because something happened. Through this choice, we can still reap the benefits of connectivity through technology, but we can diminish the negativity of being constantly tethered to it. Subsequently, with more conscious handling of our technology, we can be more present for our friends and family outside of work and allow for more productive time spent with them. This will also diminish the unintentional blending of personal and professional life; however, it is also important to note that it is not the goal to remove all blending of personal and professional life. As with the use of technology, the goal is to have the blending be a choice rather than something that just happens. With this choice, we can choose when to pivot our attention away from our personal lives and into our professional life, rather than being torn each way whenever a stimulus arises. This will allow us to be more productive with what little time we have, as well as be more attentive and present for the moments that we do not want to miss.

Mindful Listening and Communication

Now that we have more efficient attention on both work and personal lives, what else can we do with this newfound or more efficient time? In the field of law, proper communication is often overrun by the competitive need to interrupt people to get our points across. Rather than listening to people, especially those in our personal lives, and our co-workers, there's often a sense

of white-knuckling when listening to people because of how we wish to chime in.²⁷ Again, mindfulness can help; when the need to interrupt arises, pay attention to the thoughts, feelings, and sensations associated with the burning need to interrupt. When these thoughts, feelings, and sensations arise, we can once again be reminded to be present in the moment and raise that barrier between the need to interrupt and our subsequent interruptions; for example, when we feel agitated and the need to interrupt, we can notice this agitation and the impulsive desire to interrupt to “quell” said agitation. Instead, step one should be to listen. The listening and intentional resistance to interrupt can lead to “nuggets of insight and [lead to] greater resilience to maintain attentiveness.”²⁸ Listening is an incredibly important part of communication with another party. People are much more “likely to pull away during conversations when we do not properly listen to them.”²⁹ Additionally, listening to people may reveal unique insight into a problem, which helps to formulate a solution, rather than bullishly attacking a problem in a way that has been borne of stubborn instinct.³⁰ Unique, creative solutions to both legal and personal problems are not possible “unless you are able to hear the client well enough that his *personhood* rather than just his clienthood becomes clear.”³¹ Furthermore, “only by listening well and with devotion can you

²⁷ See Wendy R.S. O’Connor, *May I finish? The case against interrupting*, ABA Journal (September 11, 2018) http://www.abajournal.com/voice/article/may_i_finish_the_case_against_interrupting/ (suggesting that even though there is often no evil intent in interrupting, often times the interrupter believes what they have to say is more important, and often is a force of habit born from lack of respect for the current speaker).

²⁸ See Scott Rogers, *What exactly is mindful listening?*, The Mindful Lawyer, The Florida Bar News (January 1, 2011) (stating that interrupting is not an effective response, but rather one “triggered immediately to quell the agitation we are feeling, be it frustration, anger, restlessness, or even boredom. Mindful listening is an “open invitation to practice patience, to step outside the fray of battling egos, to gather more data . . . [and to] show . . . respect for another human being).

²⁹ See also Elyane Yousseff, *8 Ways to Master the Art of Mindful Communication*, The Way of Meditation (February 25, 2017), accessible at <https://www.acesconnection.com/blog/8-ways-to-master-the-art-of-mindful-communication-upliftconnect-com/> (giving an 8 step guide on how to communicate more effectively, with listening as the first step, followed by non-judgment, understanding, presence, avoidance of personal responses, letting go of results, and avoiding harm).

³⁰ See Steven Keve, *The Listening Practice*, in *Transforming Practices: Finding Joy and Satisfaction in the Legal Life*, 111, 117 (ABA 10th Ed. 2011) (demonstrating a man who listened to his client and *heard* an “opportunity for personal satisfaction that goes way beyond anything money can buy”).

³¹ *Id.*

determine exactly how your unique collaboration can be most beneficial for this particular client in this particular case.”³² There is no doubt that this applies to friends and family as well. In other words, every person and every situation is different. Often in law, we are taught to analogize based on precedence, and categorize into broad, overarching groups, so we can quickly and efficiently decide how to solve a problem. This additionally helps prevent against compassion fatigue; it must be difficult to try and focus on each and every client.³³ However, without listening, we lose much of the nuance that makes a problem personal. Clients, and indeed, personal relationships do not like being grouped because it makes them feel impersonal and unheard. By practicing mindful listening, we are better able to catch onto the nuances of the situation and have an “ecstatic experience” by doing work that calls on “the conceptual, the empathic, and the spiritual” as well as “multiple levels of intelligence.” Instead of going through the motions each time, listening to a client as just another client, or just another family problem, which can no doubt get boring and repetitive, it is much more rewarding to mindfully listen, extend compassion, and solve a problem in a unique and compelling way. This can lead directly to an increase in professional satisfaction in the case of clients, or indirectly by way of improving personal satisfaction when not working.

Hostility, Self-Doubt, and High Expectations in the Occupation

The United States uses an adversarial system in the legal field. By nature, this system pits one side against the other in a way that fosters not just competition, but also hostility because of the desire to win. According to Harley Tropin, self-defense mechanisms produced by years of stage fright, fear of losing or looking silly, adrenaline, and ego are recipes for disaster for

³² *Id.*

³³ See David Donovan, ‘Compassion Fatigue’: For lawyers, the well of empathy can run dry?, Legal News (May 2017) (defining compassion fatigue as the “cumulative toll of repeated exposure to traumatic events that leads to secondary traumatic stress for professionals . . . symptoms include burnout, depression, lack of diligence at work, difficulty making decisions, and pervasively negative attitudes). This compassion fatigue can apply to lawyers who categorize victims in certain categories to attempt to shut themselves off from secondary trauma.

counterproductive aggression, and stressed-out people.³⁴ Combine this type of stressed-out person with either a nasty client, or a similarly stressed-out opposing counsel, and suddenly there may arise a “reflexive, angry response that will yield to an unproductive and escalating war of words.”³⁵ This sort of environment can be toxic for professional satisfaction, as nobody wants to be perpetually angry, with no end in sight.

As always, at the surface level, mindfulness may arise as a barrier to stimulus and response.³⁶ By lengthening the space in between a particularly provocative client or opposing counsel, we have a better chance for a more appropriate, non-escalating response that, as our data will show, a more promising result. Additionally, by noticing the feeling of anger, irritation, or frustration as it arises, we can separate ourselves from the accompanying judgments and unproductive negative thoughts. We can be comfortable with noting that we are angry, and that though it is an unpleasant feeling, we can exist in this state without unnecessarily making it worse. For example, before responding to a particularly disruptive email, take a moment to take stock of the thoughts, feelings, and sensations; the feelings of anger, anxiety, or frustration will eventually pass.³⁷ We may find that with just a small break, instead of reactively jumping into a response, the anger fades, and we are better able to decide how to respond in the best possible way. This makes our lives easier, as we do not have to clean up a mess made from an angry reaction, and we do not need to give into anger or negative thoughts that may spiral out of control in that moment.

³⁴ See Harley Tropin, *Meditation and Controlling the Inner Mongo*, DCBA Bulletin (April 2012) (asserting that “an important part of any trial lawyers’ job is to still the inner mongo, and only very rarely let him loose”).

³⁵ *Id.*

³⁶ *Id.*

³⁷ See Sharon Salzberg, *Communication and Connection, in Real Happiness: The Power of Meditation*, 158-169 (Workman Publishing Company, 1st ed. 2013) (providing a mindful emailing practice comprising (1) sitting for a few minutes feeling the breath, (2) a brief loving-kindness exercise to the person on the other end of the email, (3) self-reflection that emotional tone is hard to convey in an email, and requiring clarity of thought as to which emotion you wish to convey, (4) composing the email, with revisions if necessary, and (5) taking three deep breaths before sending).

However, it is also important to note that a competitive edge is not always necessarily a bad thing in the legal profession. As advocates for clients, it is our ethical responsibility to do our best in getting what the client needs. It is therefore important to distinguish when there is a need for an edge, and when pursuing something might be counterproductively aggressive.³⁸ By being mindful about these situations, taking a minute to bring ourselves to the present, we can make the choice to be aggressive, rather than instinctually allowing ourselves to be.

Furthermore, one of the simplest ways mindfulness can help with these situations is the lessons learned from the loving-kindness practice. While opposing counsel or a difficult client may create an opportunity for an instinctive angry response, we can take a mindful moment provided by the barrier to wish kindness and compassion on the other person. With enough practice, we can eventually see that they are in similar positions to us, and they, like us, are just people who may have bad days. Indeed, loving-kindness allows us to have compassion towards ourselves and others, and as a result, others may be more receptive to us rather than combative or aggressive. With these more positive relationships, it is less likely that an attorney may eventually burn out from lack of professional satisfaction.

Additionally, many of these problems that Harley mentions as a rising young attorney stem from a fairly hostile system which generates quite a bit of self-doubt, which is pervasive throughout even the beginnings of a career in law school. The idea of expectations and self-doubt play hand-in-hand with one another. For instance, coming into law school, people may have had different ideas on how their careers would go. In the beginning stages of law school, the grading curves imposed by law schools on first year students are notoriously brutal. Combine this with an incredibly competitive job market, and students may not be able to do what they planned on doing

³⁸ Harley Tropin, *supra* note 34.

as a lawyer and may need to settle for less than their dream job. For instance, many students may come into the profession expecting high pay, without knowing that the pay in the legal field is bimodal and the upper levels of compensation have limited numbers of positions.³⁹ Additionally, many students may come into the law school with a specific background like tax and may find that getting into corporate tax is one of the more competitive and limited fields. This may result in the student needing to pivot into a field they were less passionate about. Some students may also come into law school intending to represent the little guy or do work for the benefit of society. Eventually, they may find that the opportunities in big and corporate law are much more enticing and may pivot away from their initial goals. This pivot may also result in representing a different clientele than they were hoping for and may conflict with their own internal wishes. Even attorneys on the dream career path are not immune to disappointment when it comes to expectation. Sometimes a slam-dunk case can go the other way, or a rising star may be passed over for partnership. There is also the idea of the “Peter Principle,” in which people are generally competent until they are promoted to a level of incompetence.⁴⁰ Essentially, it is almost guaranteed that at some point, there may be self-doubt over the span of a career.

Expectations are by nature, grounded in the future. If we set expectations for ourselves to achieve something in the future, if our expectations are not met, we feel disappointed, and out of the disappointment and self-judgment arises self-doubt. Mindfulness encourages us to be present in the moment; rather than chasing the rabbit hole that is the future, we can ground ourselves in things like our breath in the present. When anxiety arises because some fear of the future, we can

³⁹ See Nicholas Alexiou, *The Most Important Chart in the Legal Industry, and It Has Nothing to Do With the Law*, Above the Law, available at <https://abovethelaw.com/2018/06/the-most-important-chart-in-the-legal-industry-and-it-has-nothing-to-do-with-the-law/> (June 28, 2018) (demonstrating bimodal distribution of lawyer salaries, with one mode being in the \$165,000-\$185,000 range, and another mode at the \$45,000-\$65,000 range, and very little in between or outside).

⁴⁰ See Edward Lazear, *The Peter Principle: Promotions and Declining Productivity*, The National Bureau of Economic Research, available at <https://www.nber.org/papers/w8094> (January 2001).

attend to the thoughts, feelings, and sensations of the present, and note any judgments or negative, unproductive thoughts that may arise. This can stop a negative spiral of emotion common to overly ambitious expectations, whether self-imposed or otherwise. Furthermore, with loving-kindness practice, we can foster compassion and non-judgment for ourselves. While there still may be self-doubt, mindfulness allows us to coexist with and take note of this self-doubt. The self-doubt simply is and may not be as bad as we think based on spirals. Mindfulness allows us to recognize the triviality of our own judgments through self-introspection, and subsequently may result in us realizing the triviality of other peoples' judgments of us. They exist, but much like our thoughts, feelings, and sensations in any given situation, they will eventually pass. By grounding ourselves in the present, we are able to better manage our expectations, and our reactions to when our expectations do not go our way. We are better able to deal with our own self-judgment when we do not meet our own expectations, and we are subsequently able to deal with other peoples' negative judgments of us. Consequently, by being grounded, we reduce our stress and negative reaction to overly ambitious expectations and can prevent burn out or deterioration of professional satisfaction.

Conclusion

Through the cultivation of mindfulness, we can make choices that are well-reasoned and thought about rather than instinctually doing something in reaction. This can, as Charity Scott mentions, prevent us from “get[ting] stuck as human *doings*, rather than living fully as human *beings*.”⁴¹ Will mindfulness solve all of the problems that lawyers may face in the legal field? No. Stress is still stress, and heavy hours are still heavy hours. Mindfulness allows us to be present in the moment and be aware of the problems, and not allow the problems to take us to undesirable,

⁴¹ Charity Scott, *supra* note 4, page 646.

and usually unproductive places. It allows us to be more okay with being with the problems, and allows us to make rational, well-thought out decisions in times of discomfort that may make our lives just a little better. The goal is not to take away everything that causes a decrease professional satisfaction. The goal is just to be aware of them, and through this state of mindfulness, make ourselves around 10% happier.⁴² It is well known that stress leads to cortisol, and prolonged exposure to cortisol has negative effects on the body.⁴³ If 10% seems trivial, picture the investment into mindfulness as a young attorney like investing in an IRA. Investing even a little in the early stages goes a long way later on, as the investment compounds and grows. Similarly, helping save your body from 10% less stress at an early age can compound as the years progress, leading to much larger effects later on in life. This is not to say that more experienced attorneys are without hope; 10% happier is still 10% happier! Through the cultivation of mindfulness through mindfulness practice, we can maintain or even heighten our sense of professional satisfaction in a rewarding and wonderful, if sometimes stressful, profession.

⁴² Dan Harris, *10% Happier: How I Tamed the Voice In My Head, Reduced Stress Without Losing My Edge, and Found Self-Help That Actually Works*, 211 (itbooks eds., 1st ed. 2014).

⁴³ See Bruce S. McEwen, *Central Effects of Stress Hormones in Health and Disease: Understanding the Protective and Damaging Effects of Stress and Stress Mediators*, 1.2 Eur. J. Pharmacol. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2474765/> (April 7, 2009) (summarizing an exhaustive study on the effects of being “stressed out” including high blood pressure, insulin and blood glucose, elevated levels of proinflammatory cytokines, as well as increases in appetite which leads to stress eating).