

Grief Literacy: Bridging the Gap of Navigating Grief and Loss in Law

BY ROBIN OAKS

In this second article of a two-part series, I'll make the case that grief literacy is not only vital for optimizing client relations and supporting colleagues, but also foundational for buffering the stressors of legal practice. Grief literacy is an evidence-based approach that includes: 1) understanding the basics and biology of grieving; 2) recognizing how grief and loss impact a legal professional's life; and 3) learning practical strategies that bridge the gap of disconnection and distress when loss occurs.

Grief is multi-dimensional

Many hold the misconception that grief is sad feelings or crying. The truth is that grieving is multi-dimensional and multi-modal. It's about biology, learning, neuronal rewiring, resilience building, and attachment bonding. It's the painful and unpredictable territory that every human being experiencing life will traverse. Whether we're suffering because someone we love is gone, or a sudden change has turned our familiar world upside down, grieving is the process we go through when adapting to a new reality.

As legal professionals, we experience loss because of the many paradoxes inherent in lawyering itself.¹ **Ambiguous loss** happens when situations do not allow for clear closure, clarity, or definitive resolution. For instance, when my mother was struggling with the effects of dementia, I felt ambiguous loss when everything familiar about her was changing, but she was still very much alive. Years ago, when working in a certain legal setting, the cultural norms for success involved treating others in ways that conflicted with my core values. I dreaded going to work, caught between my striving to excel and feeling despair and disconnection from my true self. Languishing, cynicism, and burnout are often the symptoms of ambiguous loss left unresolved.

Disenfranchised loss and grief occur when a person's pain is not openly acknowledged or supported. While ambiguous loss focuses on the unclear nature of the loss itself, disenfranchised loss relates to societal or cultural norms not accepting whether certain people have a right to grieve. In legal work settings, loss is often not socially validated and

sometimes stigmatized as a failing. People of color experiencing ongoing systemic racism and microaggressions often find that the loss or trauma they've experienced is ignored. This is why affinity groups at work provide a powerful way to process losses and effectively deal with workplace stressors. Bringing grief literacy into the workplace is necessary to normalize how grieving is part of law practice and life.



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Grieving needs to be seen

Speaking with others confidentially (trusted friends, coaches, therapists) creates safe connections for moving through emotional and physical pain. Every state has a **Lawyer Assistance Program (LAP)** designed specifically to help legal professionals process grief and loss without feeling judged or scrutinized. Allowing for flexible scheduling and creating opportunities for debriefing sessions that focus on how legal matters impacted everyone involved, help normalize the unpredictable nature of processing loss.

Role fusion is when there is occupational enmeshment of who one is with what one does. If someone overidentifies with being a lawyer, judge, or legal professional, this can contribute to profound feelings of loss when work-related setbacks or changes in roles occur. Nothing is wrong with striving for excellence, feeling pride in what one does, or seeking professional success. However, a relentless fear of failure can result from rigidly valuing one's worth based on what one produces or how one performs. This overidentification can lead to chronic stress and a professional identity crisis.

This past year, I coached several professionals who unexpectedly were forced to deal with a law matter. They were each accomplished in their respective fields of medicine, business, and the fine arts. However, navigating through the legal process felt like they'd been tossed headfirst into a stormy sea without a life preserver. They each hired attorneys to be their counselors of law, and I served as a well-being counselor and ally, supporting their needs and functioning. I saw myself as a type of personal mediator, helping them resolve their internal conflicts and expand their perspectives when they felt overwhelmed. Each

noted that my guidance, presence, and translation of what was happening as their case progressed, was a necessary part of their “legal and life” support team, and vital for addressing their human physical, mental, intellectual, and spiritual needs.

The dual process of re-wiring

Dr. Mary Beth O'Connor, a grief researcher, neuroscientist, and psychologist, explains the neurobiology and process of grieving in her books *The Grieving Body*, *How the Stress of Loss Can Be an Opportunity for Healing*, and *The Grieving Brain*, *The Surprising Science of How We Learn from Love and Loss*. She describes the dual process that occurs in our brain and body as our internal mapping of reality adapts. “When we are grieving, we walk through two worlds. The real one and the virtual one of our mind.” This dual process is in a sense a form of internal conflict relating to: 1) the brain circuitry that creates bonding attachments, which involves the searching and craving for what’s missing, and 2) the brain regions that process the reality that someone or something we care about is gone.

We are wired to seek and create connection with what is familiar, meaningful, pleasurable, and safe. When our “one and only” is missing, our dopamine-fueled craving motivates us to search for them and yearn to re-connect. Even though we consciously understand that someone or something may be gone, the neural encoding of the attachment bond remains.

O'Connor's research has also confirmed how stressful grieving can be. During grieving inflammatory markers increase and anti-viral protections decrease. Heart rate and blood pressure go up. In fact, a person's risk of having a heart attack increases 21-fold in the first day after the death of a loved one. Takotsubo cardiomyopathy, often called *broken-heart syndrome* or stress cardiomyopathy, is a temporary, reversible heart condition triggered by extreme emotional or physical stress. It causes sudden chest pain that feels like a heart attack when the left ventricle weakens and balloons out. It's often a result of witnessing or dealing with sudden loss or shock, especially the loss of a loved one. Based on her studies, O'Connor believes that medical care should focus not only on the needs of dying patients in the hospital, but also on those standing at the bedside grieving.

Grief is a real pain

Researchers using fMRI scanning have confirmed that the pain one feels when there is loss or rejection involves the same brain regions in which physical pain is registered. The brain doesn't differentiate between physical and emotional pain. Even when there are positive changes in life (such as

getting married or starting a new job), it's stressful. Life changes are embodied.

The Life Change Index Scale is a 43-item psychological tool designed to measure the amount of change a person has experienced in the past year. It lists such events as death of a loved one, illness, divorce, incarceration, job loss, retirement, and getting married as changes that are high on the list of life stressors. Created in 1967 by psychiatrists Thomas Holmes and Richard Rahe, the scale assigns a numerical value of Life Change Units to specific positive or negative life events, predicting whether major health breakdowns will likely occur.

Based on the current medical and scientific understanding of what causes disease, this scale is no longer considered a valid predictor of ill health. However, it does confirm that changes (even positive ones) can contribute to life stressors and feelings of loss.² Neuroscience recognizes that stress is an individual matter of the mind and body. For instance, a divorce might be deeply traumatizing and heartbreaking for one person but be a relief and release of stress for another.

In my journey of studying the many cosmologies of medicinal practices, I learned that Chinese Medicine equates particular organ *systems* with specific emotions. The lung system and energy meridians (not only the lungs themselves) correspond to sorrow and grief. Just as we breathe in and out in an ebb and flow of inter-connection, so the lung energy represents the need for letting in and letting go. Our breathing patterns directly reflect our emotional states. I've personally experienced how sobbing is a somatic reflex that helps release tension and break through common patterns of breath-holding and bracing against pain when grieving.

Anyone grieving can relate to the uncomfortable ruminating that disrupts sleep. When remembering past events and worrying about the future, the “would've, could've, should've” thinking often arises. Because grieving is related to trauma, when a threat response gets signaled, the pre-frontal cortex functioning (planning, analyzing, working memory) is overridden to respond rapidly to a perceived harm. This neurological shift explains why thinking and decision-making become difficult and focus fluctuates beyond our control (“brain fog”) when grieving.

Susan David, an author and psychologist who has conducted research focusing on legal professionals, notes that when lawyers who are trained to analyze and reason have to face difficult emotions in themselves or others, they often default to catastrophizing or black-or-white thinking. Lawyers might also interpret feelings of stress, fatigue, pain, or brain fog as losing control, which causes them to overthink

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and work harder to suppress whatever emotions that may be surfacing. Dr. David calls this the *cognitive loop trap*.

Dr. David suggests using a metacognitive approach. This involves practices cultivating awareness of one's own thoughts and adopting new ways of thinking. We have a "remembering self" and an "experiencing self" that provide us with different views of reality. The remembering self often judges what is true by what happened last. If you're processing a loss at work, recognize that the remembering self may focus only on a final result, while the experiencing self recognizes more what is gained and the journey.

Consider keeping a journal of moments of mastery and insights you've gained while working on a legal matter. Shift from dwelling on the "ending," and focus on what was learned in the process. Take a moment to reflect upon this question, "Will what happened matter a year from now, or might I have a different perspective that helped me move forward?" Dr. David suggests simply changing our words to "I feel sad" or "I feel loss," instead of "I am sad" or "I am a failure," actively assists in emotional processing.

Strategies that Support the Grieving Process

Mindfulness practices allow the power of presence

Mindfulness practices help cultivate awareness and attention. They allow us to witness whatever arises in the

present moment without getting overwhelmed or distracted. Our body and mind are not separate; they form a single system. Once patterns of over-thinking become conscious, this provides a space to recognize that thoughts are not facts. Mindfulness practices help build capacity to experience emotions. Thoughts and feelings are impermanent, not fixed states. Mindfulness cultivates perspective and presence. When supporting others through the grieving process, it's our presence, rather than what we say or do, that is the most powerful gift we can give.

Gratitude shifts perspective

Gratitude helps with grieving because it connects us to moments of joy and positive feelings without negating the pain of loss. It moves our focus from what was lost to what is here and now, providing an anchor that grounds us when stressful waves of grief arise. Gratitude practices are not about forcing oneself to be more positive or falsely engaging in toxic positivity to hide from pain. Some simple gratitude practices include intentionally identifying what "went well" each day and specifically writing down "why" something went well, or composing a gratitude letter expressing why you're thankful for something or someone.

Research³ has shown that specific gratitude practices when routinely done decrease activity in the amygdala (brain region that is our "threat detector"). Dopamine is released, which helps with motivation and attention. Engaging in daily gratitude practices can lower cortisol levels, reduce inflammatory markers, decrease depressive

symptom, and help regulate vital functions such as sleep and heart rate.

Visual arts and creativity

I've asked Lori Magano, a coach, hospice bereavement counselor, and art therapist, to provide insights about her experiences using visual arts and journaling for processing grief. Lori founded Sacred Oak Healing Services⁴ to offer coaching and tools for individuals and families to assist with the grieving process and through their journey of healing. She conducted the Art and Writing groups in Exeter Hospital Oncology, the Therapeutic Learning Classroom in Exeter's Main Street School, and created the Children and Family Art and Bereavement program in Edison NJ. Lori shared the following about her own grieving journey and work with others.

"I have worked in the field of Hospice and oncology for over 35 years. I created and facilitated bereavement support groups for both adults and children. In 2022, my daughter was diagnosed with an aggressive cancer shortly before her 30th birthday. As my daughter was healing, and I am happy to say that she is thriving today, I found myself lost, bobbing about like a ship at sea. As the year went by, and as I had told so many others who were surviving trauma or grief, my 'ice cube' began to melt and all the feelings I had suppressed came bubbling up like a volcanic eruption. I found myself uncontrollably sobbing on the phone with my siblings and friends. I joined a writing group and began to peer into the well of emotions buried deep within me. Just as I had provided creative expression for others, that became my salve and healing balm. We need a place to put the emotions, the trauma, the energy that has been frozen inside, a place to express and give it voice."

Lori explained, "In Suleika Jaouad's book, *Between Two Kingdoms*, she states that the arts are 'a way to reshape your circumstances on your own terms, in your own words... Sometimes the only way to endure suffering is to transform it into art.' Jeanette Winterson says of writing and creativity, 'It isn't a hiding place. It is a finding place.' The arts, journaling, music, and creative expression are a place to put our feelings and help us process them, giving them an avenue of expression without talking directly or mentioning emotions. I often get calls from clients who share months after a loss, 'I thought I was doing fine but now I'm a mess.' There is a saying that with every loss there is trauma, and with every trauma there is loss. 'Doing fine' can be the period of being frozen and simply functioning, doing what is necessary for survival. But when that freezing period begins to thaw, the floodgates of emotion flow. This is not a mess, this is Grief."

Somatic techniques with art therapy create a powerful "bottom-up" approach to healing. Expressing yourself creatively bridges the emotional and motor centers of the brain and supports neural re-mapping.

Expressive journaling for reconnecting

Dr. James Pennebaker⁵ carried out extensive research on the benefits of journaling and expressive writing. He first discovered this when he himself was grieving and recognized how to use writing as a way to move through loss. This is not about planning what to write or analyzing each word carefully, which lawyers are trained to do. It's simply expressing yourself without reservation. Consider focusing on something that has been troubling you and then just begin writing (not typing). Let the words flow. In fact, using a pen on paper instead of typing when journaling engages more brain networks. Journaling involves no one else but you. This makes it useful for those who may not feel comfortable sharing their inner world with others. Let whatever you feel inside flow onto the paper without thinking. The key is to just keep writing for a set time and do it daily, even for a few days in a row.

Always know that if you feel overwhelmed when journaling in this way, just stop. If you feel blocked and no writing flows from you, then try writing from where you are and start with, "I feel blocked from writing anything because..." See what then happens. Expressive journaling is a self-reflective tool with power to release emotions and provide perspective. There are hundreds of studies confirming the biological, psychological, and behavioral benefits of expressive journaling.

Through my work as an attorney interviewing thousands of people during complaint investigations and mediations, I have learned that every life change or challenge involves both loss and gain. Everyone needs to tell their story and be seen. I've read research about what terminally ill patients often share with caregivers regarding their life and the dying process. Many claim they feel deep relief as they release lifelong habits of judgment and shift from a state of *doing* to *being*. Common themes expressed by those in the dying process are wishing they had lived more authentically, expressed their true feelings more freely, and worked less hard so they could have enjoyed creativity and present moment small joys more.

In Western culture, there are big gaps that disown and silence the experiencing of dying, grieving and loss. Facing grief in all its messiness can lead to gifts for better living. It's in our caring, re-connecting, and re-memembering that we explore what being a human being truly means. As AI

moves into our lives and dramatic changes in living occur, this becomes the central question we're all tasked with answering. Grief literacy provides guidance that helps everyone, including lawyers, walk their unique journeys of loss less alone. ■

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life. Contact: Robin@RobinOaks.com or 805-685-6773.

ENDNOTES

- 1 Susan Sturm, *Lawyering Paradoxes: Making Meaning of the Contradictions*, 62 Santa Clara L. Rev. 8 (2022), <https://digital-commons.law.scu.edu/lawreview/vol62/iss1/8/>
- 2 See https://en.wikipedia.org/wiki/Holmes_and_Rahe_Stress_Scale
- 3 See this white paper for extensive research on the benefits of numerous gratitude practices: https://ggsc.berkeley.edu/images/uploads/GGSC-JTF_White_Paper-Gratitude-FINAL.pdf
- 4 <https://sacredoakhealingservices.com/>
- 5 James Pennebaker and John Evans, *Expressive Writing: Words that Heal*, Using expressive writing to overcome traumas and emotional upheaval, resolve issues, improve health and build resilience (Idyll Arbor, Inc. 2014).
- 6 See Pennebaker and Evans, *supra*, note v., at 62 – 63 (explaining this particular exercise in more detail).

Self-Exploration Strategies for Moving through Loss

Here are a few strategies with some prompts to help when navigating grief and loss.

Art Prompt: Judgment-free expressing

Choose a color (using marker, pencil, pen, or crayon) that represents whatever reflects the mood you're feeling. Hold it in your dominant hand. Choose another marker, pen, or crayon that reflects your favorite color or someone or something you hold dear. Place it in your non-dominant hand. Get a piece of blank paper. Close your eyes. For about 15 seconds, move both hands across the paper in a rapid, jagged, sharp motion. You can move one hand at a time or both together. Then pause. Now slowly move each hand, drawing curves, circles, or waves on the paper. Open your eyes and observe your creation. Consider taking a few moments to be present and choose any colors to fill the spaces between the lines of your design. If your creation could speak and you'd listen, what might it be telling you?

Journaling Prompts: Let go and flow

When you're caught in rumination and feel tension, allow yourself a few minutes of expressive "free-flowing" journaling. Just begin writing and let the words come through you freely. You can even try writing with your non-dominant hand. Let go of forcing anything to make sense. Remember only you will know what you wrote, and you can shred it immediately after, if you want. Don't worry about punctuation, spelling, or whether your prose is perfect. The key is to just keep writing and not stop until your time is up (fifteen minutes or less works well). Then, look at what you wrote. Does anything give you an insight into what you've been holding that needs to be let go?

A couple of prompts to assist if no words flow freely:

- If my grief could speak, what would it say about how it's trying to make me feel safe?
- How might I honor what or who I lost through some sort of action I can take creating meaning in my life today? What do I remember most about what or who is gone that is deathless and lives on?

Write continuously about some negative experience you're processing. Describe what happened and how you felt. As you let the words flow, notice where some positive feelings might come into your awareness and keep writing with this new awareness in mind.⁶