

All Rise: Living Our Legal Life Meaningfully

BY ROBIN OAKS

“When we are no longer able to change a situation, we are challenged to change ourselves. Everything can be taken from a man but one thing: the last of the human freedoms — to choose one’s attitude in any given set of circumstances, to choose one’s own way.”

– Viktor Frankl, *Man’s Search for Meaning*

At the recent Bench & Bar Conference, I presented “Law as a Healing Profession: Mind-Body-Emotion Strategies that Promote Successful Lawyering.” During this talk that qualified for MCLE Prevention and Detection Competence credit (“Substance Use, Mental Health Issues”), I explored from a holistic perspective a variety of *prevention* strategies that foster flourishing as legal practitioners - from the inside out. Healing comes from the word “to make whole” and flourishing refers to resilience, strengths, and well-being skills that help us successfully navigate legal work life. As a backdrop, I provided my own legal career as an embodied hopeful but cautionary tale about how I learned skills for lawyering well—and sustainability.

I also invited two guests, David Paul, M.D., PhD. and Bonnie Paul, PhD, to join me and share their work as founders of the Freedom to Choose Project (FTCP) that focuses on working with people who are incarcerated.¹ FTCP has been recognized as a leader in the field of prison rehabilitative programs, and through the dedicated work of its staff and volunteers, it has dramatically improved the quality of life of its participants and the greater community. Many of these same mind-body-emotional skills taught through the FTCP are those that can support stress management and resilience for legal professionals.

The Freedom to Choose Project’s name was inspired by Viktor Frankl’s work, known as logotherapy, which comes from the Greek word for “meaning.” In his inspiring book, *Man’s Search for Meaning*, Frankl, a psychiatrist and neurologist who survived the horrors of Nazi death camps, elo-

quently explores how our primary human drive is not striving for pleasure or power, but the discovery of what each individual finds meaningful through living one’s life.

I reminded the audience of the maxims espoused by Socrates and Plato (i.e., questioning to discover *Truth* through the Socratic method): “Wisdom Begins in Wonder” and “Know Thyself.” I labeled the themes for my talk, the ABCs: Awareness, Balancing, Connection and Choice. Emotional intelligence involves *awareness* of self and others, emotional self-regulation *balancing* and relationship skills, and creating meaningful *connections* through our contributions and *choices* for living in and relating to the world.

One significant aspect of lawyering that calls for raising awareness is recognizing that law is a trauma-based profession. Yet, we are often ill-prepared for dealing with these types of stressors in legal practice. We may often 1) interact with clients who are emotionally distressed, in conflict, or traumatized, 2) listen to and evaluate traumatic events and crisis concerns, and/or 3) review disturbing images of violence and harm. As a result, we may suffer “vicarious trauma” or “secondary trauma” effects. Symptoms of vicarious trauma include emotional numbness or detachment, difficulty concentrating and sleeping, immune system dysfunctions, anxiety, digestive issues, and fatigue. It’s important to be trauma-informed and recognize how trauma affects our clients. In my legal work conducting investigations of workplace harassment complaints and through my well-being services, which include providing stress management support to parties in legal proceedings, understanding how to skillfully interview without re-traumatizing people is critical.

Immediately after law school, I worked in a judicial clerkship at the U.S. District Court, for the District of Columbia. The judge I worked for was wise, mindful, and highly emotionally and cognitively intelligent. This legal environment was exciting, energizing, and motivating. After the clerkship, I then began working in a large law firm setting doing environmental and employment litigation. This was a completely different legal experience. I loved practicing law, and the pay was good enough, but the environment was dehumanizing. There were few meaningful



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connections, minimal opportunities for client contact, and low decision latitude.

Decision latitude refers to the number of choices—internal or external—one believes one can access or control. Depression, anxiety and auto-immune and coronary disease are correlated with measures of high job demands and low decision latitude—and lack of supportive autonomy. The only meaningful connection I had during that experience was with a young partner who had laterally been hired around the time I became an associate.

He initially made an effort to cultivate supportive connections with associates, but in time became more remote, disconnected, and stressed. After seven years working at the firm, when I shared with him that I had decided to leave, he confided that he envied my decision, but stated he could not quit his job because he had “too many responsibilities.” Sadly, I heard a few years later that he died from a heart attack at the age of 48.

Many lawyers identify as “achievers,” trained to be in control and power through work challenges, ignoring self-care. Susan Daicoff, a former attorney turned psychologist, writes about “the cognitive trap” of legal professionals. Thinking by itself cannot deal with emotions, tension, and nervous system dysregulation. Daicoff describes how thinking one’s way out of emotional distress creates a sense of helplessness—and then more stress, catastrophic thinking, pessimism and depressive thoughts that lead to maladaptive coping in the form of substance use or other addictive behaviors. Perfectionism and work overcommitment may be culturally valued for success, but they contribute to avoidance of overwhelm, tension, loneliness, and depressive thoughts and anxious feelings.

In a recent large study of attorneys² in California and Washington D.C., eighty percent (80%) reported that they were current drinkers (alcohol), and thirty percent (30%) of those who drank scored in the “hazardous” drinking range, with fifty percent (50%) who scored as “risky” drinking. Whether something is considered an addiction is a phenomenological assessment; what constitutes harm from substance use is an individual matter. However, a recent advisory by the Surgeon General reported research results confirming alcohol consumption (in even small amounts) is associated with increased risk for seven different types of cancers.³

Knowing how to self-regulate our nervous system and co-regulate others are crucial lawyering skills. For instance, our voice tone and pace, facial expressions, presence, and words create co-regulating cues of safety for our clients and colleagues. Feelings of safety and connection create the best conditions for clear thinking, focus, creativity, and

productivity. A few examples of emotional self-regulation balancing practices include breathwork, touch, being in nature, connecting with others and pets, playing, mindfulness and meditation, visualizations, singing, music, exercise, movement, dance, and journaling.

About fifteen years into my legal career, I moved to California and started a law firm (Ehrlich & Oaks). I eventually decided to begin a solo practice providing legal services as a workplace complaint investigator and conflict resolution consultant. I didn’t know at the time why I was becoming seriously ill, but eventually found out that it was environmental toxins, including black mold, in my external environment that caused my immune system to break down. However, my unskillfulness in navigating work stressors and changes also played a part in my dis-ease.

It was through my healing journey that I came to understand, study, and then become certified in a range of mind-body practices and professional competencies (what I refer to as *life laws* for *PROS*). I trained with professionals from around the world in various medicine, psychology,

business, coaching, ancient wisdom practices, and wellness and well-being mind-body cosmologies.

Martin Seligman, a psychologist who first introduced Positive Psychology research to the psychology field, explains what post-traumatic growth means: “People who experience a crisis or trauma often emerge stronger and wiser than they were before because they have developed new coping strategies, perceptions, inner strengths, and connections and ways of thinking about and navigating the world.”

Seligman also studied lawyers specifically and wrote several articles about “Why Lawyers are Unhappy.”⁴ He posits three main contributing factors for the “demoralizing” feelings and mental health issues of legal practitioners: 1) Pessimistic “explanatory style,” 2) Low decision latitude, and 3) Win-Loss game. He suggests strategies from the field of Positive Psychology that can help.

Seligman contends that the most stressful aspect of legal life is law as a “win-loss” game. Research confirms that win-loss systems create negative mindsets, feelings of loss of control and apathy, and chronic physical and mental stressors. He suggests that intentionally *living* our character strengths daily can buffer the stress caused by seeing our legal work only through a “win-loss” lens. Seligman and other researchers have studied human values by traveling the world to understand how virtues—and related character strengths play a part in life satisfaction across all cultures and are vital for both societal and individual flourishing.⁵ (See **Living Your Character Strengths** exercise next page.)

As neurobiologist Robert Sapolsky notes—“behaviors

change biology.” We can influence our biology at the cellular and neurological level through what we think, feel, and do. Even in the most trying of external life circumstances, we always have “freedom to choose” our attitude and live our lives as worthwhile opportunities for growth and meaning.

Frankl writes in *Man’s Search for Meaning*, “It is a peculiarity of man that he can only live by looking to the future and this is his salvation in the most difficult moments of existence, although he sometime has to force his mind to the task. . . Man is given the opportunity to realize values in creative work. But there is also purpose in that life which is almost barren of both creation and enjoyment, and which admits but a possibility of higher moral behavior: namely in man’s attitude to his existence, an existence restricted by external forces. . . The point is not what we expect from life, but rather what life expects from us.”

Legal practice involves human suffering (sometimes our own); emotions are as much a part of law as thinking. Recognizing this, we must include emotional intelligence, relationship, and mind-body skills as part of our legal competencies. Practicing mindfulness *awareness* strategies and emotional self-regulation *balancing* skills that promote wellness and well-being help us *choose* our own way for building meaningful *connections* (inside and out) that support living and lawyering well. ■

Robin Oaks has been an attorney for nearly four decades, and for twenty-five years has provided legal services focused on independent workplace investigations and mediations. For over two decades she has studied and become certified in a wide range of emotional intelligence, cognitive fitness, and mind-body healing practices especially useful for legal professionals and the stressors they face. She offers MCLE presentations, PROS training programs, witness well-being support, and individualized coaching sessions empowering legal professionals to thrive in livelihood and life. Contact: Robin@RobinOaks.com or 805-685-6773.

ENDNOTES

- 1 Freedom to Choose Project, <https://freedomtochooseproject.org/>
- 2 *Stress, Drink, Leave: An Examination of Gender-Specific Risk Factors for Mental Health Problems and Attrition Among Licensed Attorneys*, Justin Anker, Patrick R. Krill (2021)
- 3 <https://www.hhs.gov/surgeongeneral/reports-and-publications/alcohol-cancer/index.html>
- 4 *Why Lawyers are Unhappy* by Martin Seligman, et al., Volume 23, *Cardozo Law Review* (November 2001); *Authentic Happiness: Using the New Positive Psychology to Realize Your Potential for Lasting Fulfillment*, by Martin Seligman, chapter “Why Are Lawyers So Unhappy?”
- 5 Seligman, Steen, Park, & Peterson (2005)
- 6 <https://www.authentic-happiness.sas.upenn.edu/testcenter>



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Living Your Character Strengths

(Virtues/Values in Action)

You can go to the UPENN's positive psychology "authentic happiness" site to take the VIA assessment survey⁶ for a ranking score of your character strengths; however, regardless of what your score, your "signature strength" can be identified by choosing from the list below a character strengths that feels *most authentically you*—i.e., what is most enlivening for you to express in the world. Intentionally use your signature strength in a different way each day for one week. Create a simple chart keeping track of your actions. Try doing this exercise with others, and at the end of the week discuss what you've noticed. Consider delegating work around the understanding that applying one's strengths in life increases motivation, positive feelings, and productivity—and buffers against psychological distress.



Courage

Perseverance

Curiosity

Creativity

Judgment

Love of Learning

Perspective

Honesty

Zest

Love

Kindness

Patience

Teamwork (citizenship)

Fairness

Leadership

Forgiveness

Humility

Prudence

Self-regulation

**Appreciation of beauty
and excellence**

Gratitude

Hope

Humor

Temperance