



Mindful Lawyering Newsletter from the Mindfulness & Well-Being in Law
Committee of the New York City Bar Association

Issue No. 1 | Winter 2022

Welcome to the inaugural issue of the Mindfulness and Well-Being in Law Committee Newsletter!

About Us: We are the newest addition to the New York City Bar Association Committees and are here to serve the legal community in pursuit of balance. The Mindfulness & Well-Being in Law Committee provides programming, events, and resources to support member's wellness through the practice of mindfulness, including meditation, mindful movements, and other modalities that help bring one back to the present moment. Studies have found that mindfulness practices can assuage stress and anxiety, enhance emotional resilience, decrease implicit bias and reactivity, and increase creativity and productivity.

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Message from Chair, Lisa Podemski

Welcome to the newest offering from the MWBL Committee! I am so proud of all the work the committee has done so far. We started a book club, continued our mindfulness break and yoga for lawyers, are launching a podcast, we have amazing events in our Upcoming Events section including yoga royalty Rodney Yee and Colleen Saidman Yee on March 29.

I have been practicing yoga for most of my life now – my great aunt was a yoga teacher way back in the day and my mom took me on my first yoga retreat after high school. I have represented children as a lawyer with the Legal Aid Society for the past decade and have been a part of their Wellness/Secondary Trauma Committee. I have always sought to find a way to combine my two worlds – yogi and lawyer. Although each discipline teaches us use our minds and bodies in very different ways, without yoga and mindfulness, I would not be able to perform my job as well as a Lawyer for Children.

While on a sabbatical in 2018 to complete my yoga teacher training, I was grateful to find this community of like-minded lawyers. I am honored to serve as the current Chair and to be a part of sharing the gifts of mindfulness with the broader New York City Bar community and with members of the legal profession. Thank you for taking the time to check out our newsletter and we look forward to seeing you at one of our many events.

Thanks to contributing members Robert Chender, Ishani Dash, Caroline Voldstad Daniell, K. Craig Dobson, Aimee T. Latorre; and Wendy Silva.

To submit comments, suggestions or your written work for consideration in future newsletters, email: mindfulness.citybar@gmail.com

Origins of the MWBL Committee

by Robert Chender

In 2009, I approached the New York City Bar Association with an idea about starting a mindfulness committee. I had been a mindfulness teacher since the 1980's, and I had recently joined Seward & Kissel as counsel practicing securities law. At that time, mindfulness was just beginning to make its way into the zeitgeist, but many (including the folks at the Bar Association that I spoke to) had never heard of it. After some discussion, the Bar Association allowed me to give a talk on mindfulness and its application in the practice of law, and 65 people attended. The Bar Association then asked me to start a group (not a committee, but with a regular monthly meeting), and the Contemplative Lawyers Group, later renamed the Mindfulness and Well-Being in Law Committee, was born.

For the first few years I gave most of the monthly talks, and then I was joined by Professor Marc Poirier of Seton Hall Law School, who was a wonderful mindfulness teacher. Unfortunately, he passed away in 2015, and then Bjorn Sorensen became the co-director of the group. By then we had a rotating group of lawyers who were also meditation practitioners who would give monthly talks on various aspects of mindfulness and law practice followed by a Q&A, and a general discussion on its application to our daily lives.

In 2017, after a talk that I gave at the New York City Bar Association, Cecilia Loving, Chief Diversity Officer at the New York Fire Department approached me with the idea of asking the Bar Association to make our group a committee. The Bar Association approved, with a change in name (and focus) to the Mindfulness and Well-Being in Law Committee, and Cecilia and I became the first co-chairs in 2018. I'm very happy that the Bar Association has seen fit to make mindfulness and well-being a priority and I look forward to seeing what is to come.

Bringing Mindfulness to Ethics Training*

by K. Craig Dobson** and Caroline Voldstad Daniell***

A silver lining of Watergate is the limelight it shown on ethics, bringing about major changes that have advanced the ethical practice of law. [1] Lawyers who attend ABA-approved schools must complete an ethics course, and nearly every state requires lawyers to get a passing score on the MPRE in addition to the bar exam. While in law school, courses on “professional responsibility” may seem tedious or common sense, but practicing lawyers quickly realize that, in their day-to-day work, ethical challenges abound and often are not easy to solve. Ethics issues, once uninteresting in law school, can be terrifying for the practicing lawyer.

For example, during a law school ethics class, a lawyer might decide to avoid representing more than one client on a case when they start practicing, to avoid any ethical complications. They might then be surprised to learn in their immigration practice that dual representation is the rule rather than the exception in many cases they work on. This confusion is not just relegated to the realms of immigration law. Almost all lawyers confront some sort of ethical challenge in their practice. Lawyers who lack confidence in math and bookkeeping skills might feel overwhelmed at the prospect of maintaining their trust account. A lawyer who deeply values honesty might be disturbed by a client they believe, but are not sure, is lying to them. They will be rightly concerned the client will lie to the court as well.

While law students may have largely dismissed their opportunities to learn the rules that help navigate these trying situations, there are fortunately many opportunities to revisit this critical domain of legal learning. Many law firms and organizations offer ongoing ethics courses and CLEs focused on professional responsibility that can help a practicing lawyer increase their confidence in ensuring their law practice is done ethically.

However, these classes are only of use if the lawyer is ready, willing, and able to learn from them, which is not always the case. A lawyer might choose “easy” ethics courses less likely to be upsetting, yet also less useful; or the lawyer might attend a course and tune it out altogether. Some may resolve to attend ethics training and try to learn something, only to be distracted in the first few minutes by something they discover they have long been doing wrong—or think they are doing wrong—ruminating on that issue for the rest of the session rather than benefitting from the course. Having this experience in one ethics course may cause a negative association with future ethics courses. This can be compounded by the perception that the instructors appear to never make mistakes and represent an impossible standard. And even when learning takes place, some might feel that the problem they have is too complicated to solve or too embarrassing or shameful to reach out for help on.

While these feelings of overwhelm, stress, and anxiety are certainly understandable in the context of ethics training, these feeling states can stymie our ability to absorb the necessary and valuable information offered in these sessions.[2] Luckily, there are easily implementable mindfulness practices designed to help navigate and quell the experience of difficult emotional states like stress or anxiety. These practices can help us fruitfully engage with and benefit from ethics trainings.

One particularly useful practice in this regard also happens to be a memorable acronym: RAIN. While there are several variations of this practice, RAIN represents the idea that, when experiencing challenging emotions, we can:

Recognize what is happening
Allow life to be just as it is
Investigate our experience and
Non-identify with the challenge

Although this is a multi-step process, it is one that can also be done in the space of a few minutes.

[1] 1965-1974: WATERGATE AND THE RISE OF LEGAL ETHICS, ABA Journal, January 1, 2015, available at: https://www.abajournal.com/magazine/article/1965_1974_watergate_and_the_rise_of_legal_ethics.

[2] University of California – Irvine, Short-term Stress Can Affect Learning And Memory, ScienceDaily, Mar. 13, 2008, available at: www.sciencedaily.com/releases/2008/03/080311182434.htm.

The following hypothetical demonstrates how this practice can be used in real time, during an ethics training, and provides some more color on how to employ the practice of RAIN.

It's Thursday. Janice has been dreading this day all week. Her firm is requiring all of its colleagues to attend an ethics training, as it does most years. Janice usually spends the time catching up on emails on her phone. She's heard it all before. This year, however, Janice has had a challenging incident with a potential client and a miscommunication about the extent of her representation has left her wondering if she could be violating the Rules of Professional Conduct. She hasn't been able to sleep for weeks, and her family has commented that she seems nervous and withdrawn. Janice has been feeling so anxious that she finally downloaded a meditation app online that suggested employing the practice of RAIN to navigate challenging emotional states. Janice is skeptical but figures she needs to try something. As Janice sits down in the conference room for her training, heart racing and sweat gathering, she takes a deep breath and begins.

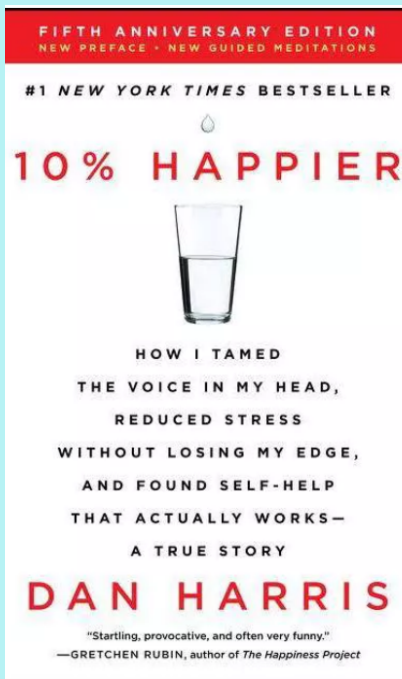


First, Janice recognizes what is happening: she senses the heat and nervous energy in her body, she notes that this is because she is anxious about the possibility that she might have violated an ethics rule. Janice tries to allow this discomfort. She cannot go back in time and change her actions, and her continued anxiety is just what it is, a difficult emotional state that she is currently experiencing. Janice tries to take a closer look at her anxiety. As she investigates the thoughts and beliefs that accompany this feeling-state she realizes that part of what makes her anxious about this potential violation is that her identity is so tied to her role as a lawyer and her (usually) spotless professionalism. She wonders who she will be if that is no longer quite as much the case. In her investigation, Janice also realizes she fears the personal and professional ramifications of this incident. Will her career be able to continue to flourish? Having noticed this maelstrom of bodily feelings, emotions, thoughts, and beliefs, Janice tries to non-identify with these challenging thoughts and feelings. She notes that underneath this emotional cacophony, there is an awareness that has allowed her to move through the process of RAIN and that she is not synonymous with these thoughts and feelings. Janice takes another deep breath, and notices she is experiencing some more spaciousness around her anxiety. She turns her attention to the presenter, wondering if perhaps this training could offer her some much-needed clarity on how to proceed to properly address her challenging situation.

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**Craig Dobson provides ethics advice to lawyers, represents lawyers in disciplinary matters, and practices immigration law at Dobson Law LLC. Additionally, he is a member of the NYC Bar Association's Mindfulness & Well-Being in Law Committee and AILA's new Lawyer Well-Being Committee. In October 2017, he became one of the first National Board-Certified Health & Wellness Coaches.

***Caroline Voldstad Daniell is a graduate of Columbia Law School ('18) and Harvard Divinity School (MITS '15) who has been teaching yoga and meditation for over a decade. Currently a PhD candidate exploring the intersections of mindfulness and legal ethics, she previously worked as a lawyer in New York in both private and public practice. She is certified as a 500-hour experienced Yoga Teacher and completed her foundations training in Mindfulness Based Stress Reduction.



10% Happier Book Review

by Ishani Dash

How would you feel if a book promised that you could be 10% happier just through meditation? Would you consider spending those few minutes each day sitting on a yoga mat (or a comfortable chair) doing nothing but breathing in and out? What if I told you the book's author was not a guru but a skeptic who discovered meditation in his mid-thirties?

Dan Harris' book *10% Happier: How I Tamed the Voice in My Head, Reduced Stress Without Losing My Edge, and Found Self-Help That Actually Works – A True Story* reads out to you like a memoir. It is not a self-help book, but a very personal and candid account of Harris' journey in the competitive world of broadcast media. In his book, author and former Nightline anchor began his journey towards meditation after suffering from drug-induced panic attack on live TV on Good Morning America. He knew then he had to change something, but it took him (and the readers) a while to know what and how.

In his journey towards discovering meditation, a skeptic and lifelong non-believer Harris interviewed Eckhart Tolle, Deepak Chopra and finally landed on Jew-Bu meditators. At this point, I felt Dan was trying too hard to tell skeptics reading the book that he was on their side and he understood meditation sounded a bit ridiculous. Not the best parts of the book, though Harris' wit and anecdotal style kept me going. I am glad I did, because in the next chapter, Harris redeemed himself when he decided to write about his 10-day long meditation retreat with Joseph Goldstein and take the readers through how difficult yet rewarding a retreat could be.

It was after the retreat when Harris was back in the real world that his storytelling ability and candidness really played off. It is easy to get pulled into the idea of meditating, but extremely difficult to be consistent at it.

Harris openly talks about his doubts and expresses his concerns that many would find relatable. Since it is a first-person account of someone learning about and practicing meditation for the first time, many of the questions first timers have are answered in the book.

Harris urges that meditation is, and was never about perfection, but the practice itself. He demonstrates through real-life examples how meditation allowed him to take a break and respond instead of reacting. He talks about the RAIN technique (recognize, allow, investigate, non-identification) and addresses that

meditation didn't make him lose his edge, but only made him better at his work. Like most of us, Harris had assumed that the incessant voice in his head was his friend and there was a price to security, only to realize that his theories might not have served his best interests.

And just when you have thought that his struggles with meditation are over, Harris throws another curveball and talks about how his meditation practice was holding back his career after Sherwood took over ABC News. That's where you learn how everything in life, including meditation, is all about balance and grit. Letting go doesn't mean going soft. Harris presents scientific arguments to support his stance on meditation and shows how it can be very easy to be a skeptic, and much harder to have faith.

It is easy to see why Harris won the 2014 Living Now Book Award for Inspirational Memoir. His book is interesting and fun to read. His idea is simple: he meditates because it makes him 10% happier. While the book is mostly presented as a memoir, the appendix contains very useful information and Q&A about meditation. Through Harris' internal narrator, the readers are able to feel truly vulnerable themselves and undertake the pursuit towards a calmer, more peaceful and ultimately, happier life. At the end of the book, he succeeds at what he set out to do: demystify meditation and show that it can work for everyone.

Mindful Moment - Are You Experiencing Decision Fatigue?

by Aimee T. Latorre



Did you know that adults make thousands of decisions every day? Repeated decision-making can lead to decision fatigue and mental burnout.

The stress of the pandemic has exacerbated the stress on our daily decision-making. Our daily routine has repeatedly been severely altered and is still constantly morphing. Many are struggling with what used to be "simple" decisions about social etiquette, office conduct, health and safety. (e.g. How do I greet a colleague? A friend? An adversary?)

While we are spending so much mental energy on daily decisions, we may be too mentally exhausted to make good decisions when we need to make complex decisions at work, about our careers and in our personal lives. In some cases, we may even fail to make a decision at all. Decision fatigue can lead you to make poor choices, to allow others to (knowingly or unknowingly) choose your path for you, or may lead you to remain stagnant. Additionally, decision fatigue can lead you to be reactive in your decision-making, rather than purposeful and mindful.

While daily decisions are still important, be mindful of which decisions are taking up your time. Notice if there are any patterns or decisions that arise regularly that can be automated and simplified in order to free up your time and energy for more complex decisions that allow you to live a more purposeful life. For example, how much time do you spend deciding what to eat every week? Planning out a menu for the week will save you time and mental energy, when you are in the midst of a busy workday and do not have to worry about making another decision about your next meal. Another approach used by many successful people is to limit their wardrobe. President Obama, for example, limited his wardrobe to gray and navy suits during his presidency in order to limit the number of daily decisions he had to make.

Another way to limit decision-making is through establishing guiding principles. For example, you can set parameters around your work-life balance. Let's say you decide that you do not want to accept meetings on your calendar during dinnertime. Block off your calendar now, and you do not need to struggle with the decision every time you are invited to a meeting during dinnertime. That decision was already made. That is not to say that you can't be flexible if you need to be from time to time. However, by making a decision that your default is that dinnertime is blocked off as non-working time, you are less likely to struggle every day with how to implement that overall decision concerning your work-life balance. You already plugged it into your calendar.

Take a few moments every week to be mindful of the large and small decisions on your plate. Sometimes when you can simplify the smaller decisions, you can create space and energy to address the larger decisions at hand.

No Equipment Necessary

Enlightenment for sale
At every turn
From incense and
Buddha inspired tchotchkes
At your local deli
To multi-million dollar
Fashion accessories
Made in factories
From lost memories
Left under Bodhi trees
Where the breath once reigned
Absent commercials
Encompassing the inner sanctum
Of free air
Where you might find freedom
From ego
For a bargain
No equipment necessary

Upcoming MWBL Events

March 3: Yoga for Lawyers
March 25: Mindfulness Break
March 29: CLE: Managing Attorney Stress with
Colleen Saidman Yee and Rodney Yee
April 12: Mindfulness Book Club
Click below for more info and to register:
[MWBL Events](#)

The views and opinions expressed in these articles are those of the authors and do not necessarily reflect the views of the New York City Bar Association.

*~poems by Wendy Silva
L'Arañalibresq.*