



FLORIDA BAR NEWS

THE MINDFUL LAWYER

By Scott Rogers ▶ Special to the News ▶ Columns

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The practice of law carries with it a range of uncertainties, with perhaps the most salient being whether the client will prevail. While different practice areas carry different expectations in this regard, it can be difficult for anyone to absorb a loss, especially given how deeply one cares about their client, their client's cause, their own reputation, or the financial consequences associated with a loss. When one's practice area is beset with adverse rulings or one experiences an unexpected string of losses, it can take a serious toll on wellbeing and compromise performance and job satisfaction.

In this column, we often respond to questions raised by attorneys and judges interested in the role mindfulness can play in areas of interest to them, personally and professionally. This month, we hear from Alexis, a law student who has begun to embark on client representation in the clinic setting. Law school clinics play an enormously important role in educating future lawyers and helping serve the needs of our communities. The work taken on by the clinics and their expert faculty who supervise talented, passionate, and caring law students can be stressful with heavy workloads, emotionally charged contexts, and uncertain outcomes. Increasingly, clinical faculty are introducing mindfulness into the curriculum to attend to matters ranging from focus and concentration, to the interplay of judgment, bias, and empathy, to stress reduction and concerns with secondary trauma and compassion fatigue.

Alexis writes:

"Much of the work I am interested in involves representing clients for whom a denial of the relief requested is a common occurrence. How might mindfulness help sustain my ability to do this work long-term. I worry about becoming jaded which could affect me and my work with future clients."

I posed Alexis' question to Lenny Simmons, senior staff attorney and mindfulness teacher with Mental Hygiene Legal Service (MHLS), a New York State agency responsible for representing, advocating and litigating on behalf of individuals receiving services for a mental disability. He replies:

Thank you for raising such an important question. As attorneys, we may like to think of ourselves as steadfast advocates who can summon the intelligence and creativity necessary to win our crucial cases, especially when justice seems to be on our client's side. However, certain attorneys practice in areas where the odds are against us, and losing becomes a frequent experience even in our most important cases. This can be difficult in many ways. First, we are regularly presented with our client's grief and sadness when their requested relief is denied. Second, our minds may begin to perceive these situations in terms of our own failures or unworthiness. Third, our stamina and motivation may become drained over time by the losses, leading to hopelessness.

Mindfulness offers helpful tools to bring us back to the present moment and see our situation more clearly. A short meditation on the breath before a hearing or trial can help to focus the mind on our work and bring us out of patterns of thought which ruminate on worst-case outcomes or past mistakes. And when our mind wanders during court, mindfulness allows us to ground ourselves in reality by bringing our attention back to our body. Tuning into our bodies can be helpful in the moment for establishing a steadier state in the midst of a challenging circumstance. Moreover, over time, it can uncover important information, revealing how much of our pain comes from empathy for our clients versus an ego bruised from losing in court yet again. These practices can also reduce the emotional blow of losing a case, as they draw us back to our actual work: the compassionate service of our clients.

Meditations on loving-kindness and compassion represent another foundational piece of self-care. These practices allow us to generate compassion for our clients long after we finish representing them, meaning that there is plenty of work for us to do even after we lose a case. And these meditations give us an opportunity to care for ourselves and to notice when we need space from our work, so that we can continue our pursuits with energy and joy rather than pushing ourselves toward burnout.

If you are interested in learning more about and practicing mindfulness, loving-kindness, and compassion, you can download the app, "Insight Timer" which offers a wide range of free meditations broken out by category, including some I guide that have a legal flavor. The app has numerous "groups" that orient around various interest areas, and include the "Mindfulness in Law" group. Other well-regarded apps that offer mindfulness, loving-kindness, and compassion practices include: Calm, Headspace, 10% Happier, and Waking Up.

You may also find it helpful to read the October 2018 Florida Bar *News* column, [“The Role of Self-Compassion in the Law,”](#) with Chris Germer, one of the world’s leading authorities on mindfulness and self-compassion. And should you be interested in the important topic of finding meaning in the practice of law, I recommend reading [“Practicing from the Inside Out,”](#) an important article published in the *Harvard Negotiation Law Review* that powerfully addresses some of the themes raised in this month’s column.

I am grateful to Lenny for his service to our profession, and for his thoughtful response to Alexis’ question. In addition to his work with MHLS, Lenny speaks on mindfulness and the practice of law to attorneys and, for the last two years, has been teaching mindfulness to law students at Brooklyn Law School. In 2018, the ABA published his piece [“Not Alone: Sensitivity to Veterans’ Mental Health through Mindful Legal Representation.”](#)

If you have a question about mindfulness and integrating it into the practice of law that you would like answered in this column, send it to srogers@law.miami.edu.



*Scott Rogers, M.S., J.D., is a nationally recognized leader in the area of mindfulness in law and founded and directs the University of Miami School of Law’s Mindfulness in Law Program where he teaches mindful ethics, mindful leadership, mindfulness and negotiation, and mindfulness in law. He is the creator of Jurisight, one of the first CLE programs in the country to integrate mindfulness and neuroscience and conducts workshops and presentations on the role of mindfulness in legal education and across the legal profession. He is author of the recently released, “**The Mindful Law Student: A Mindfulness in Law Practice Guide,**” written for all audiences.*