

Three Perspectives

By Courtney Schulnick,
LaToya Watkins Pierce,
and Penny M. Deihl

Stress: a physical, chemical, or emotional factor that causes bodily or mental tension and may be a factor in disease causation.

—Merriam Webster Dictionary

This Case Is Killing Me

No one who has ever been involved in litigation, from any position, would deny that it is a stressful process. The participants experience and handle stress in different ways. Some are healthy, some not so much. Below are

three litigation professionals' perspectives and suggestions on how to make this process easier for the stressed-out lawyer, the claims professional, and the clients, the last of whom we serve in our role as counselors.

deals, preparing for trial, and ultimately, trying cases. Throughout the lifeline of our cases, we face a multitude of challenges, working tirelessly to resolve legal issues that may arise day-to-day. Essentially, we are our clients' problem solvers.

Perspective One: The Stressed-Out Lawyer

It's obvious that being named in a lawsuit can be really stressful for our clients. But what may be less obvious is how incredibly stressful a lawsuit can be for us as defense attorneys. We strive to achieve optimal outcomes, and in our pursuit of winning cases, we put in extremely long hours conducting research, writing legal briefs, negotiating

But we are more than just problem solvers. Being served with a complaint may be the first time the client has ever been involved in litigation, and just that alone can bring up intense feelings of stress and anxiety. The litigation process can feel extremely daunting, even if a client has been involved in a lawsuit previously. For this reason, it's important to be cognizant of the client's emotional needs. So, in addi-

■ Courtney Schulnick serves as special counsel in Marshall Dennehey in Philadelphia. For over a decade, she has worked in its casualty department, litigating cases in both the local state and federal courts. She handles lawsuits involving premises liability for homeowners and business, personal injury matters, and automobile accidents. She has completed the Mindfulness-Based Stress Reduction (MBSR) Teaching Practicum, offered at the Mindfulness Institute at Jefferson University in Philadelphia, Pennsylvania. LaToya Watkins Pierce is currently the vice president of legal affairs with FirstService Residential. She is responsible for overseeing and developing the litigation management process and strategy for all matters affecting the company throughout the United States and Canada. Penny M. Deihl, a member at Clark Hill LLP in Los Angeles, is an effective litigator and negotiator with more than twenty-five years of experience representing individuals, corporations, and other entities in a range of commercial and civil disputes. She has developed a significant practice defending professional-services providers against allegations of professional liability and malpractice.



tion to our role as legal expert, we become caretakers to our clients, as well.

As many of us know far too well, the needs of our clients certainly don't stay within the four walls of our offices. Back in the day, when client communication was basically limited to more conventional means, such as an in-person meeting at the office or perhaps a conference call, once the workday ended, we shut off the office lights and ceased client interaction. But, given modern-day technology, it's as if we are "on-call" 24-7. Clients can almost connect with us anywhere, anytime. And, in today's increasingly fast-paced world, we often feel pressure to respond within a matter of minutes, if not seconds, to client emails, telephone calls, text messages, and so on.

It's become so commonplace to see someone eating out at a restaurant, either alone, or with company, totally engaged in an iPhone, responding to emails or texting clients, not even paying attention to what he or she is eating or the surrounding environment. For many of us, it has become increasingly difficult to break free of our habitual reactivity of checking our electronic devices incessantly throughout the day, and even into the wee hours of the nighttime, allowing our work to filter its way into every facet of our lives. Whether in the middle of watching a child's performance in a school holiday concert, having a conversation with a loved one, vacationing with family, or simply relaxing on the couch and watching a television show, it's as if the client is virtually right there with us! But, this way of living causes us to miss out on most of the moments of our lives.

The Overworked Lawyer

Despite the fact that this lifestyle makes many of us feel as though our heads are spinning, we often brag to our colleagues, family, and friends about how crazy busy we are on the work front. An article in the *Chicago Tribune* addressed this phenomenon and how overworked and exhausted lawyers have become in this country, due to legal culture actually encouraging overwork, especially in the large law firms known collectively as "Big Law." An American Bar Foundation study found that although the median work week for a lawyer is fifty hours, over 40 percent of those in large firms worked sixty hours

a week or more, and many lawyers brag about how overworked they are as a sort of badge of honor. Big Law lawyers work so many hours, in part, because the economic organization of the large corporate firms requires attorneys to bill anywhere from 2,000 to 2,200 hours a year. Statistics such as this can easily leave us feeling like billing machines, compounding the stress that we feel from the underlying cases themselves.

This constant "doing" and tending to client needs, without having time to ourselves to rest or disconnect, becomes incredibly taxing on us to the point of utter exhaustion, leaving us running on fumes and eventually reaching burnout. Jon Kabat-Zinn, renowned meditation teacher and pioneer of the Mindfulness-Based Stress Reduction (MBSR) Program, describes this vicious cycle as being in "autopilot mode," as constantly doing, never taking time just to "be." Inevitably, we neglect our emotional and physical needs.

Zealous Advocacy Leads Lawyers to Internalize Stress

Some may say that as zealous advocates for our clients, it's necessary for us to sweep our own emotions under the carpet, so to speak, because otherwise, we fear being perceived as weak or incompetent by our clients, adversaries, and even our own colleagues if they were to become aware of our own insecurities and anxiety. But internalizing our feelings, rather than addressing the stress and anxiety associated with working in the legal sector, prevents us from learning how to deal with our emotions and manage our stress reactions in a healthy way. By neglecting our own needs, we jeopardize our well-being, and consequently, what we are capable of achieving for our clients.

In his book, *Full Catastrophe Living*, Jon Kabat-Zinn explains that when we internalize our feelings, we carry around arousal within our bodies, in the form of stress hormones, as well as in the form of agitated thoughts and emotions. As a result, we wreak havoc on our bodies and minds, leaving us susceptible to maladaptive coping mechanisms, such as denial, workaholicism, filling up our time with busyness, or using chemicals to alter our mind-body state, such as nicotine, caffeine, sugar, over-the-counter and prescrip-

tion drugs, or resorting to food, drugs, or alcohol to numb our feelings. While maladaptive coping mechanisms may make us feel as though we are better able to tolerate stress and give us some false sense of control in the short run, in the long run, they wind up compounding our stress level.

In 2016, the Hazeldon Betty Ford Foundation and the American Bar Association

■ ■ ■ ■ ■
But internalizing our feelings, rather than addressing the stress and anxiety associated with working in the legal sector, prevents us from learning how to deal with our emotions and manage our stress reactions in a healthy way.

(ABA) Commission on Lawyer Assistance Programs published a study of nearly 13,000 currently practicing lawyers and found that between 21 and 36 percent qualify as problem drinkers, and approximately 28 percent, 19 percent, and 23 percent are struggling with some type of depression, anxiety, or stress respectively. The study also revealed that younger lawyers in the first ten years of practice and those working in private firms experience the highest rates of problem drinking and depression. Statistics indicate that 40 to 70 percent of disciplinary proceedings and malpractice claims against lawyers involve substance abuse or depression, and often both.

Rule 1.1 of the ABA Model Rules of Professional Conduct requires lawyers to "provide competent representation." Surely, we cannot provide competent representation when we ourselves are in a bad physical or emotional place. One way to foster greater self-care so that we have the ability to meet



the expectations of our clients and those promulgated by the ABA is by practicing mindfulness meditation.

What Is Mindfulness, and How Can It Alleviate Lawyers' Stress?

Mindfulness has been defined as paying attention in the present moment on purpose in a nonjudgmental way. It helps us

Being mindful actually allows us to influence the flow of events and our relationship to them at those very moments when we are most likely to react automatically and default into flight or fight mode, such as when we are dealing with a difficult adversary, a witness testifies unfavorably for our client at deposition or trial, or we need to convey bad news to a client.

become more aware in the moment of the unfolding of stressful situations that can stem from the work that we do as attorneys. Present-moment awareness provides us with the tools needed to avoid stress reactions and respond in more skillful ways, not only for ourselves, but for our clients, as well. Being mindful actually allows us to influence the flow of events and our relationship to them at those very moments when we are most likely to react automatically and default into flight or fight mode, such as when we are dealing with a difficult

adversary, a witness testifies unfavorably for our client at deposition or trial, or we need to convey bad news to a client.

Stress is simply a fact of life, especially for those working in a legal environment. Although we cannot completely escape stressful situations or control all of our experiences as attorneys, we can shape how we perceive stress and learn ways in which we can better manage the parts of our work that are beyond our control. As Jon Kabat-Zinn explains in *Full Catastrophe Living*, as soon as we intentionally bring awareness to what is going on in a stressful situation, we change that situation dramatically and open ourselves up to a field of potentially adaptive and creative possibilities—just by the mere fact that we are no longer unconscious and on automatic pilot anymore.

How Does Mindfulness for Lawyers Work?

The way that mindfulness works is you simply manage to remain centered in a moment of stress and recognize both (1) the stressfulness of the situation *and* (2) your impulses to react. The mere act of pausing gives us space to choose how to react to any given situation, as opposed to falling victim to some of our maladaptive ways or getting hijacked by our thoughts. We learn more skillful ways to manage our thoughts and feelings and recognize that we no longer need to suppress them, thereby empowering ourselves and becoming more resilient in our work.

Rather than numbing ourselves to our unpleasant feelings, with mindfulness we actually open toward that to which we may have habitually turned our heads away for so many years. Whether it be feelings of fear, anger, or pain, we consciously open ourselves to the tension that we may be holding in our bodies in those moments. By being conscious in the present, we can more easily recognize and identify our agitations for what they are: thoughts, emotions, and sensations.

As busy attorneys, it can be extremely challenging for us to focus on the present moment, even if just for a brief period of time, because we are so accustomed to forward-thinking and backward-looking. Whether we're on the lookout for issues that can potentially arise in a case, or reflecting on past cases to guide us in what to do (or not do) in our current cases,

we often fail to appreciate the importance of taking time throughout the day to pause and rest in moments of non-doing. Through the regular practice of mindfulness meditation, we strengthen our ability to be in the present moment, and over time, we recognize how often we tend to get caught up in our heads. We increasingly notice the ways in which we can get in our own way, totally oblivious of what's in front of us, and completely unaware of the cues from within us that may be telling us to slow down and rest. By intentionally carving out periods of just being in the present moment, as opposed to being lost in the past or fretting about the future, we can recharge ourselves and more clearly assess situations for what they are. This awareness allows us to foster greater self-care, and in turn, to increase our ability to achieve optimal outcomes for our clients.

As Lawyers, How Do We Incorporate Mindfulness into Our Busy Lives?

So how do we consciously cultivate greater awareness in daily life, given our insanely busy schedules, and become more present moment to moment? We do it by practicing formal mindfulness meditation, such as a sitting meditation, body scan, or walking meditation. The formal practice trains the mind to "drop in" to the here and now and focus on the present moment. As we develop greater awareness through formal mindfulness practices, we are more easily able to notice some of our habitual ways that may no longer serve us in our personal and professional lives.

For example, in a seated meditation on awareness of breath, we allow the breath to be the center of our attention. We notice where the breath is most vivid for us and really feel each in-breath and each out-breath sensation in the body. Often, the mind will drift off to thoughts, sounds, body sensations, or our endless to-do lists. Once we notice that the mind has drifted into some virtual world of thinking, we gently redirect our attention back to the breath coming and going at its own pace and allow our thoughts simply to pass like clouds in the sky. The practice of redirecting the attention back to the breath strengthens the mind's "muscle" so that we can return to the present moment.

Gradually, we allow ourselves to let go of judgments that may arise, and just bring a curious attitude to whatever presents itself moment to moment.

During the meditation and even after it has ended, it's interesting to discover just how judgmental we can be of ourselves and others, with thoughts such as, "I'm not doing this right," or "he's not breathing the way he should be." By paying attention in a certain way, we begin to understand some of the ways that we actually create more suffering for ourselves and how we can respond with greater kindness not only to ourselves, but to others as well. Let's face it: litigation in and of itself can be really difficult. So, why not learn how to cultivate a bit more compassion to level the playing field? Mindfulness practices allow us to develop this grace.

We can also cultivate greater awareness by informally weaving mindfulness in our day-to-day activities. For example, we can practice mindfulness when we communicate with others, or even during some of our daily routines, such as walking the dog, cleaning the dishes, or simply taking a shower. By pausing periodically, we are able to "stop in our tracks" figuratively and notice when the mind has begun to wander.

The acronym "PRO" is a helpful way to remember how to "drop in" to the moment. The "P" stands for simply *pausing* throughout the day, which can seem, as noted above, completely counterintuitive to life as we know it as attorneys. But the ability to pause throughout the day serves as a check-in with ourselves. We create space between what we may be telling ourselves (which, frequently, is not an accurate take on what is actually happening), and "get out of our heads."

The "R" in "PRO" stands for *relax*. Once we are able to pause in the midst of our busy lives, we invite the body to relax and let go as much as possible. We bring attention to how the body is at any given moment. For example, when responding to a contentious email from an adversary, we become aware of sensations within the body, such as a racy heartbeat, clenched forehead, tension in our jaw and shoulders, a knot in the belly, and so on. Once we are aware of how stress is in the body, we extend a gentle invitation to ourselves to let go as much of the tension as we are

possibly able, without forcing ourselves to be a certain way.

The breath is a wonderful way to work with the mind and body because as long as we are alive, it's always here for us. There is actually a physiological connection through which a change in the breath can alter the mind-body state, and we can use the breath to incline us in the direction of relaxation. Although it's not a formal mindfulness practice per se, just taking three gentle sighs throughout the day can help the body and mind relax so that we can be more present to the moments unfolding right in front of us.

After we are able to pause and relax, we are better able to step away from reactivity. Accordingly, the "O" in "PRO" stands for *opening*: we open to what is here for ourselves, as well as others, rather than trying to change the situation or run away from it. By turning toward what is, we are better able to accept even the most stressful of moments and can then choose the best response, rather than mindlessly reacting to the situation.

Mindfulness Can Help Lawyers Navigate the Chaos

While mindfulness will not remove stress from the work that we do as attorneys or render it a world of euphoria, it can teach us skillful ways to support ourselves so that we are better able to navigate through the chaos and stress associated with our roles as both problem solvers and caretakers to our clients. Mindfulness is something that we are all born with, and by paying attention in a certain way, it is more readily available to us, even during some of our most stressful of moments. When regularly practiced both formally and informally, we begin to wake up to our lives. So, why not give mindfulness a shot? Who knows? As your mindfulness practice deepens, you may discover that what once seemed to be an insurmountable obstacle opens you up to a world of exciting challenges and vast opportunities!

Perspective Two: The Stressed-Out Claims Professional

Life as a claims professional can be very demanding and stressful. Claims professionals have a vicious combination of high caseloads, increasing regulatory require-

ments, and performance standards that necessitate prolonged and repetitive clerical tasks, all of which take their toll.

Claims Professionals Face Headache-Inducing Day-to-Day Stress

Just as in every professional setting, burn-out due to stress or overwork is common among claims professionals. Besides the constant phone calls and emails, supervisors, insureds, and brokers are constantly asking claims professionals for information and updates on claims. Most claims professionals are responsible for a large number of claims, and each claim is full of paperwork and administrative headaches. Additionally, each workday involves investigating the claims, resolving conflicts and striking a balance between providing top-notch customer service, and looking out for the interest of their employers and the insureds.

For example, let's say that a claims professional gets notice of a lawsuit against an insured. The claims professional must review the petition, contact the necessary parties, prepare a coverage evaluation, and monitor the litigation by participating in strategy decisions and obtaining updates from defense counsel. In addition to those tasks, the claims professional must monitor litigation and the legal spend and payment of defense counsel invoices. Now imagine handling 150 additional claims similar to that.

The Relationships Juggled by Claims Professionals Add Stressful Layers

A claims professional is involved in relationships with at least two other parties in each case, and sometimes, more than that. Each case involves a defense counsel and the insured, which is commonly referred to as the tripartite relationship. Sometimes, the insured has independent counsel, as well. In addition to interacting with the insured, the defense counsel, and an independent counsel, the claims professional also has to interact with insurance brokers and underwriters, providing case information and updates to them on a regular basis.

Understanding the relationship outlined above, when a claims professional gets notice of a lawsuit against an insured, his or her stress level increases dramatically. Imagine all of the parties that the claims



professional has to contact when the claim arises: the insured, the defense counsel, and the broker to acknowledge receipt, just to start. In addition to preparing a coverage evaluation, monitoring the litigation, and monitoring the legal spend and payment of invoices of defense counsel, in some cases, as mentioned, the insured requests independent counsel to participate, which adds

While maintaining a positive attitude may be difficult during the pendency of the matter, focusing on the “why” behind the claim professional’s job may help alleviate some of the stress associated with the position.

another layer of stress for the claims professional. With each new party, the claims professional’s obligations grow.

How Can Claims Professionals Cope with Stress?

Claims professionals need to make sure that they develop ways to cope with the stress of each case and the overall job. Here are some techniques to use to alleviate stress and make sure that a case does not kill you!

Think About and Meditate on the “Why”

At the end of each case, a claims professional gets the satisfaction of knowing that he or she has helped people in unfortunate circumstances. While maintaining a positive attitude may be difficult during the pendency of the matter, focusing on the “why” behind the claim professional’s job may help alleviate some of the stress associated with the position.

Know Your Limits

Claims professionals should be in tune with what they can and cannot handle. A

claims professional will encounter many different types of claims and can determine the areas of his or her strengths and weaknesses. For example, if a claims professional is not good with math, having an abundance of claims involving accounting malpractice would not be a good fit and would be very stressful for that person because it would be hard to follow along and be involved in the strategy guiding the defense of that insured. Likewise, if a claims professional is familiar with real estate and the laws affecting it, having more claims involving real estate professionals would also alleviate stress since the claims professional would be familiar with that industry.

Variety Keeps Boredom Away

A claims professional should also request a variety of claims, which include some mundane matters, some that are intellectually engaging and improve the overall performance indicators of a claims department, and some that make their effect known by helping the parties significantly affected by the claim. Claims professionals who have the time to spend reviewing and understanding claims trends in addition to handling claims are more likely to avoid boredom than those who are rubber-stamping paperwork. Additionally, when claims professionals have the time to provide the appropriate level of care to insureds, they offer insureds much appreciated guidance, which also better serves their claims department’s interests through the retention of customers. A claims professional can add value by facilitating strong relationships with insureds and minimizing claim costs by intervening early in potential claims. A claims professional can also intervene before claimants get mad, get an attorney, or get unnecessary care, and costs get out of control.

Build a Network

Claims professionals should get to know co-workers and have a collaborative work environment. The insurance industry is full of resources and groups that claims professionals can join. Various industry associations bring together claims professionals who share a single specialty or who hold a variety of similar skills. The wide variety of associations give a claims pro-

essional the option of choosing the one that fits his or her particular needs and desires. Becoming involved in an association, locally or nationally, will provide enrichment, create contacts, and help a claims professional become more knowledgeable about the industry and how to handle claims. Although each claim may be unique, there is a good chance that another claims professional has experienced something similar before. Business networks, such as LinkedIn, allow professionals with similar interests to exchange ideas and discuss experiences. Group discussions also help claims professionals to explore problems from other angles in order to resolve them as quickly as possible.

Mentor and Be Mentored

Along the same lines as building a network, inexperienced claims professionals will want to find knowledgeable and experienced claims professionals who are willing to share what they know. Likewise, experienced claims professionals will find joy and satisfaction in helping someone in the industry increase his or her knowledge. Being able to learn on the job from other experienced people about what works and what does not when handling claims is important. A good mentor will take the time to help a less experienced person, which will provide a meaningful reprieve from handling claims and will also add value to the future of the profession.

Use Your Time-Management Skills, or Learn New Ones

Time management is a key component to managing the stress associated with claims management. Although we all wish that we had more than twenty-four hours in a day, twenty-four hours is the maximum amount of time that we all get. Just as in many other professions, a claims professional can experience long hours and long work weeks. To avoid burnout, each claims professional must be as efficient as possible. Claims management will mandate that each claim be closed quickly and accurately; however, with litigation, we all know that quickly is not the norm. The long process of litigation causes caseloads to increase. To manage the high caseload, a claims professional can create a schedule of days when certain tasks must be com-

pleted. Mondays, for instance, are for new claim and claim updates, and Tuesdays are for coverage letters, and Wednesdays are for paying invoices. Or follow a diary to ensure that you prioritize activities and meet deadlines. Additionally, maintaining a “to-do” list and a calendar for recurring or special events ensures that deadlines will be met.

Maintain a Sense of Humor

Claims professionals have the unique opportunity to be involved in a wide variety of cases. Some of the allegations involved are quite funny. We all have our stories, so share them, and laugh to alleviate stress. We have all heard the saying that laughter is the best medicine, so make sure that medicine is a part of your daily, even hourly, routine. Laughter may even help a claims professional generate new ideas or ways of thinking that can help solve problems.

Take a Vacation Whenever You Can

As with any profession, a claims professional should have interests and activities outside of work. Companies provide their employees with vacation time. Use it. At most companies, there will be a person in charge to handle claims while someone is on vacation. Therefore, a claims professional can put an “out of office” message in his or her email and not check messages until he or she returns. When going back to work after a vacation, a claims professional will be recharged and ready to handle his or her claims. Time off will increase productivity and efficiency.

Take Care of Yourself

Everyone has heard the saying, “An apple a day keeps the doctor away.” Claims professionals must remember to eat right, i.e., the apple, and take care of their minds and bodies. A claims professional should eat right, get plenty of exercise, and get enough sleep to function properly during each workday. Exercise has been shown to increase endorphins, which increase energy and positively effect mood. Some easy ways for a claims professional to get more exercise include parking the car at the back of the lot, taking the stairs, or going for a walk at lunch. A claims professional should look for little ways to incorporate

more sleep, more exercise, and healthy eating options into his or her day to increase overall productivity and longevity in this profession.

The Bottom Line on Stress Management for Claims Professional

By observing certain professional claims practices to support efficiency, and by observing other personal practices, designed to maintain self-care, as stressed claims professionals, we can effectively manage and reduce stress.

Perspective Three: Attorneys as Counselors: Recognizing the Stress of Litigation for Clients

In 1989, a psychological disorder called “litigation response syndrome” was identified by Dr. Paul R. Lees-Haley. Due to Lees-Haley’s other questionable opinions, such as arguing that mold spores did not affect indoor air quality, he was largely ignored. However, in the last twenty-five years, psychologists have acknowledged the connection between litigation and symptoms of anxiety, depression, and physical illness. Psychologists have given several names to this condition without agreement. “Critogenic” (law-caused) harm is defined as the “intrinsic and often inescapable harms caused by the litigation process itself, even when the process is working exactly as it should.” “Litigation-response syndrome” is “made up of complaints that arise solely from the experience of being personally involved in a lawsuit, rather than the events that precipitated the litigation.” Finally, there is “forensic stress,” which is the burden of stress accompanying litigation that can develop into “forensic stress disorder.” See Michaela Keet, Heather D. Heavin, & Shawna Sparrow, *Anticipating and Managing the Psychological Cost of Civil Litigation*, Windsor Yearbook of Access to Justice, vol. 34, issue 1 (2017). <https://ssrn.com/abstract=3148000>.

One article illustrated the idea by examining the *Exxon Valdez* case. The spill occurred in 1989, but the trial did not take place until five years later. Then, another fifteen years went by as the parties conducted post-trial appeals. In total, the approximate 40,000 plaintiffs had to litigate the matter for a total of twenty years. After the spill, people affected were asked

questions from the Impact of Event Scale. The recipients of this test were given statements about their mental condition, such as “I feel anxious,” and they ranked these statements from one to four, with four being the most extreme. Not surprisingly, significant stress was reported by all the test takers. However, the people involved in the lawsuit against Exxon experienced

“Litigation-response syndrome” is “made up of complaints that arise solely from the experience of being personally involved in a lawsuit, rather than the events that precipitated the litigation.”

heightened stress, as well as “intrusive” stress—common among individuals suffering from posttraumatic stress disorder. Intrusive stress is thoughts, mental images, flashbacks, nightmares, and unpleasant emotions in recalling events, which, in this case, involved the spill. The litigants experienced memories as if they were happening in the present rather than the past. This was due, in part, to having to relive the events during the discovery phase and trial, as well as having to experience the ongoing litigation, which did not allow the wounds to heal.

Dr. R.K. Pittman discussed the way litigation stress interferes with psychological functions. He opined that patients involved in lawsuits are no longer able to rely on the psychological defense of avoidance, due to the necessity of consulting with their attorneys and experts, testifying at depositions, and testifying again at trial. This failure to avoid causes them to remember the traumatic events repeatedly. L.H. Strasburger, *The Litigant-Patient: Mental Health Consequences of Civil Litigation*, 27 J. Am. Acad. Psychiatry Law 203–211 (1999). Dr. Sey-

mour Halleck noted that there are psychological consequences for plaintiffs in personal injury litigation, particularly when their veracity is called into question. *Id.* A therapist of a litigant will encounter not only the trauma that produced the lawsuit, but the distress and disruption of litigation. And this is not even taking into consideration the financial burden.

According to Dr.

Sharyn Ann Lenhart and Dr. Diane K Shrier, the litigants who fare the best emotionally are those who set realistic goals, maintain a sense that they have some control in the litigation process, seek adequate support, appreciate and focus energy on restoring the original equilibrium to their lives, and adequately acknowledge and grieve the losses that come with litigation, even when it has a favorable outcome.

What Can We Do to Ameliorate Clients' Stress?

First and foremost, to ameliorate clients' stress, we need to recognize that stress actually exists and our role as counselors. In the age of email, most communication is written, which can result in the client

not feeling heard or not feeling that he or she has an advocate. This can be particularly true when the case has been assigned by an insurance company, and there is no relationship between the attorney and the insured client. With greater awareness, lawyers can better prepare their clients for litigation stress, and when it is appropriate, we can take preventive actions to minimize the negative aspects of the litigation experience.

Prepare the Client

During the first meeting with the client, explain the process. This is particularly necessary when the client has never been involved in litigation before. Understanding the litigation map can reduce the stress. This includes discussing the anticipated involvement of the client, the timeframe of the litigation, and a plan to handle the case. It is also recommended that the client be advised of the very real possibility of settlement to prevent a feeling of betrayal or disappointment that the client did not "get his [or her] day in court."

Keep the Client Informed

Part of the stress that a client feels is caused by the client feeling a lack of control. According to Dr. Sharyn Ann Lenhart and Dr. Diane K Shrier, the litigants who fare the best emotionally are those who set realistic goals, maintain a sense that they have some control in the litigation process, seek adequate support, appreciate and focus energy on restoring the original equilibrium to their lives, and adequately acknowledge and grieve the losses that come with litigation, even when it has a favorable outcome. Keet, Heavin, & Sparrow, *supra*. An attorney can reduce a client's stress by keeping the client up-to-date on the case, advising of next steps, and explaining how others in the same position have felt.

Set Realistic Expectations for the Client

By advising the client of the strengths and weakness of his or her case and the expected outcome, the attorney allows the client to make informed decisions, which also increases a sense of control. It is also important that the client be advised of the anticipated social and psychological effect of litigation. Many clients feel righteous

and want to move forward to trial so that they can have a jury of twelve confirm that they were right. What they do not understand is the amount of stress and anxiety that a trial can induce.

Discuss the Financial Cost to the Client

In addition to providing information regarding the merits of the case, it is also important that the client understand the true cost of litigation. This is true whether the client is paying out of pocket, has a deductible, or is covered by insurance. Understanding the financial implications is one more piece of information that will allow a client to make informed decisions, such as to pursue settlement.

Watch for Client Stress

An attorney will need to watch for client stress, and this is important in depositions, mediation, and trial. Studies show that if a party to a lawsuit is required to make repeated decisions, he or she will get "decision fatigue," the result of which is failing to make a decision at all, maintaining the status quo. This can inhibit settlement and mean that a client will move forward to trial because it is the easiest decision. If a client is new to litigations, looking out for decision fatigue is particularly crucial.

So How Do I Keep This Case from Killing Everybody?

The first thing to do, regardless of who we are—the stressed-out lawyer or the stressed-out claims professional—is to acknowledge that litigation is stressful for us all: the attorneys, the claims professionals, and our clients. Even the most seasoned attorney or the most experienced claims professional experiences litigation-related stress. For our clients, the less experienced the client, the more stressful litigation can be.

Second, as attorneys and claims professionals, we need to observe good professional and personal self-care, live more fully in the present moment, and achieve greater balance and better health, and as a result, vitality. We hope that the strategies discussed in this article will put you well on your way. Only after we take care of ourselves can we then take care of our clients and fulfill our role as counselors. 