

# Small Steps Can Help Employers Beat Attorney Burnout

By **Chad Sarchio** (January 19, 2022)

Perhaps more than other professionals, lawyers seem to identify so thoroughly with their work that the line between the professional and the personal can appear fuzzy or even nonexistent. That characteristic can serve as something of a badge of courage, and also a curse.

All workers, no matter their field or enterprise, experience the inevitable ebb and flow of careers they care about, but the low points tend to hit those married to their jobs particularly hard.

So it comes as no surprise that now, still in the grips of a global pandemic, amid bitter social and political reckonings, and facing uncertainty about what our ever-beckoning — and hackneyed — new normal will look like, more lawyers have experienced serious personal and professional challenges and been laid lower than at any point in recent memory.



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We can dismiss the problem and chalk it up to part of the so-called Great Resignation.

We can champion the lucky ones who withdraw from their legal work and manage to pursue their passions remuneratively or their retirements successfully.

We can tell ourselves that this will all pass eventually of its own accord when COVID-19 is more of a footnote than a headline.

But let's be honest and call this what it is: burnout — on a massive, unprecedented scale.

## **Connected and Exhausted**

Experts, advocates and the media have already begun studying, dissecting and explaining this phenomenon.

For example, attorney and well-being expert Patrick Krill, in partnership with the District of Columbia Bar, which I currently lead, and the California Lawyers Association, co-authored a stunning report last May revealing troubling truths about how the pandemic's isolation, economic disruption and unique stressors on work-life balance have driven many lawyers into increased alcohol use, depression and other unhealthy channels, and out of the profession.[1]

Krill and his collaborators unearthed the especially concerning fact that these traps have snared women even more frequently and cruelly than men.

His Pulse article from June on the topic and the report itself are must-reads.

Also, The Atlantic ran an interesting article in March 2021 about America's latest, greatest burnout.[2] The piece emphasized several broad themes that should be obvious but maybe aren't just yet.

Burnout shares many characteristics with depression. It predates and will outlive the pandemic, though this health crisis has served as burnout's catalyst and accelerant.

And because burnout is primarily about work and workplaces — particularly unsatisfying, unrewarding and overly competitive workplaces — employers hold many of the keys to addressing burnout.

As Bree Buchanan, board president of the Institute for Well-Being in Law, put it in a communication with my association's lawyer assistance program staff, this pandemic has brought

nonstop demands for our energy, persistent anxiety, and ongoing uncertainty about the future, all of which has led to exceedingly high levels of burnout among lawyers and legal professionals. ... [It] is one of the most significant and challenging issues facing the legal profession at this time.

A bit of shorthand I overheard recently sums up the situation neatly and cleverly, if not reassuringly: It's not so much that we're working from home, but that we've moved into our offices.

Pre-pandemic, I suspect most associates, partners, solo practitioners, in-house counsel, law professors, government lawyers and legal services providers alike would have said such a shift sounds depressing, frightening and generally unhealthy.

All of these observations lead inexorably to some questions that cut to the core of the matter as we prepare — for at least the third time now — for the also clichéd return to work: How can legal employers create a work environment, work ethos and workforce inoculated against not just the coronavirus, but also against the disease of burnout?

Moreover, if organizations decide to retain innovations adopted during the pandemic that spurred employees' constant connectivity, how will they counter the downsides of the accompanying always-on work expectations?

Given the legal vantage points I enjoy or have enjoyed — government, military, judicial, classroom and, vicariously through my wife, the much more talented lawyer in our household, BigLaw — I believe the most natural conclusion one can reach is that it comes down to the little things. As so often is the case, God, the devil or both lurk in the details.

In this vein, Buchanan suggests a good first step: for legal employers to develop a greater capacity for empathy and compassion, which in turn requires that they become better listeners. That seems correct to me.

The next questions then become: What smaller issues with arguably outsize impacts on employees might employers expect to hear about, and how should they react?

### **Protect Lawyers' Time**

Most of the chatter around potential remedies for burnout cluster around reasonably modest practices that individuals can adopt: Exercise more. Sleep more, and better. Eat well. Drink less or no alcohol and avoid other mood-altering substances. Eschew perfectionism. Make time to decompress and for engaging family and friends. Practice self-forgiveness and forgiveness of others. Develop satisfying hobbies or other meaningful nonwork outlets.

That all sounds right and reasonable, yet it seems like lawyers' to-do lists just got longer and more complex. One begins to wonder whether it's possible to burn out on anti-burnout

tactics.

This is an area where I believe institutional players can and should seek to make a difference because they can control the most precious personal resource and professional commodity that lawyers possess: time.

If lawyers need to take time to hone burnout-proofing self-care practices, legal employers must help make that time available.

Would anyone disagree that it is like manna from heaven when they receive that email from their boss encouraging them to start a holiday weekend, or any weekend, a few hours earlier?

Even if a trial, a client meeting or work travel foils such largesse, the positive psychological impact of such gifts of time is undeniable.

To be sure, the pandemic's impetus to address burnout won't defeat time challenges, especially the dreaded billable hour. But other metrics for legal productivity and billing exist. So now, while burnout is front and center, employers should explore and embrace more forgiving temporal practices.

They must also acknowledge that while "time is money," this isn't true in every sense. Especially in BigLaw, managers must come to grips with the reality that throwing bonuses and other money at lawyers who feel time-whipped and are burning or burned out will eventually prove an inept, inapt strategy.

That money may be better spent increasing head count, or hiring contract lawyers or other temporary, outsourced support, to offer real relief for at least some time-based demands. The proper response to a time shortage is to provide and protect more time, not more money.

Equally important, firms of all practice sizes might consider using their institutional heft or influence to help mitigate time-insensitive client demands. Hard-and-fast court dates, regulatory deadlines and production schedules may be unavoidable, but self-imposed, overly aggressive, often arbitrary targets seem legion.

Serious calls for moderation with clients, as well as campaigns to ease firm, department or agency bureaucracy, can help alleviate the kind of fraught work pace and pressure that wears lawyers out — sometimes right out of the practice of law altogether.

Clients need what they need when they need it, but burning out and burning through their most talented or dedicated representation runs counter to everyone's short- and long-term best interests.

### **Invest in Practical Microsolutions**

In my experience, kinder, gentler workplaces and schedules can produce forceful, innovative, effective lawyering as reliably as, or more reliably than, adverse, competitive ones.

From my service in the military to the classroom, I have seen time and again how tested but well-treated people have more to fight for, and are better prepared to fight and win, than overworked, overstressed and overlooked ones.

If managers don't sit in the middle and take pains to make this case, nobody else will.

Similarly, employers shouldn't just leave all those self-care practices entirely in individuals' hands. Office leaders can and should sponsor and join these sessions, thereby proving that self-care is recognized and truly valued by team owners and managers, not just the players.

They might declare Meditation Mondays, Workout Wednesdays or Phone-a-Friend Fridays, and then offer time, trainers, space or other reasonable resources to engrain these days as facets of office or firm culture.

These small, powerful gestures, requiring modest investments, are only limited by our own imaginations and sense of priorities.

Focusing on the little things is an inherently practical approach. I favor this style of problem-solving because practical solutions tend to have broad appeal and the best odds of success.

Overcoming the inertial forces that often plague decision makers and their thought processes is no mean feat. I have seen such forces smother grander thinking, complex schemes and nuanced solutions many times in both my civilian and military legal careers.

Furthermore, employers, managers and leaders — these are not generally the same people, or at least employing, supervising and leading are not the same things — who take the time to identify even the smallest real problems, then make the effort to devise and deploy effective solutions, themselves become gifts that keep giving.

They come across as genuine, attuned and involved stewards who, consequently, become a positive presence in the daily lives of their personnel.

Employees, like all people, tend to prefer problem-solvers over troublemakers, or those indifferent to troubles at hand. When they feel understood and valued, they get invested and remain so.

Colleagues who believe they are part of a proactive team, rather than isolated free agents or beleaguered defensive forces, typically become bodies in motion that stay in motion, generally while heading in the right direction.

Often, those who thrive are people with a stake in their businesses and bottom lines, who have the ability to make an impact on their work and its rewards, and who have sufficient wherewithal to influence their routines and shape their lives.

This last notion in particular holds as true for solo practitioners as it does for attorneys in broader practice settings.

I'll leave you with a final thought. As we all grapple with the scourge of burnout — our own and that of our colleagues, subordinates, friends and loved ones — it wouldn't hurt to strive for better measures of humility and levity.

All of us experience doubt and failure. Any of us can inspire confidence or achieve success. We have caused this problem or fallen prey to it somehow.

But with positive attitudes, open hearts and — deep breath — the determination to find

some humor in our struggles, we can pool our talents, resources and creativity to unravel and overcome them.

Taken together, these dynamics and deliverables strike me as the closest thing to an antidote for, and the antithesis of, burnout. As the old song says, little things mean a lot. Onward and upward, together, one step at a time.

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[1] <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0250563>.

[2] <https://www.theatlantic.com/politics/archive/2021/03/how-tell-if-you-have-burnout/618250>.