

# JUDICIAL Wellness



JULY 2022

NATIONAL JUDICIAL TASK FORCE TO EXAMINE  
STATE COURTS' RESPONSE TO MENTAL ILLNESS



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# Acknowledgments

In 2020, the ABA published [the largest study of American jurists](#) ever conducted regarding their levels of stress, resiliency, and well-being. *Stress and Resiliency in the U.S. Judiciary* highlighted a variety of methods judges use to promote their own well-being, as well as those methods about which judges expressed the greatest interest. This compendium of well-being strategies — all scientifically tested and evidence-based — was developed to provide judges and court personnel with straightforward information on how to better promote their individual resilience in the face of ongoing, unprecedented changes in our court systems.

This information was curated by [Bree Buchanan](#), President, [Institute for Well-Being in Law](#), with input from the ABA [Commission on Lawyers Assistance Programs'](#) Judicial Committee and the National Judicial Wellness Collaborative. Authors include: [David X. Swenson PhD LP](#), [Katheryn Yetter](#), [Joan Bibelhausen](#), [Danielle M. Hall](#), [Hon. Jeremy Fogel](#), [Sean Ginty](#), and [Hon. Paige Petersen](#).

# Laughter is Good Medicine

This document was prepared by [Prof. David X. Swenson PhD LP](#), a member of the ABA CoLAP Committee on Judicial Assistance and Research.

Throughout history philosophers have opined about the function of laughter, but serious scientific investigation did not occur until the mid-1960s. At that time, Norman Cousins, an editor of *The Saturday Review*, was diagnosed with a rare but painfully debilitating arthritis condition of the spine. Rejecting the idea of complete disability, Cousins instead developed his own treatment consisting of watching humorous movies popular at that time including Laurel & Hardy, the Marx Brothers, and *Candid Camera*. Remarkably, the laughter and resulting positive attitude helped him recover. In his 1979 book, *The Anatomy of an Illness*, he said that “10 minutes of belly laughs” gave him about two hours of pain free sleep. His experiences prompted the extensive research into the benefits of laughter and its use in stress management and resiliency.



Humor refers to a stimulus such as a joke, movie, or story that involves some incongruity or surprise that results in laughter, but laughter does not need an external stimulus to drive it. Research shows that the body cannot distinguish between simulated and spontaneous laughter (Ripoll, 2017). There is much to be said for the use of laughter as a stress management technique: it is safe and easy to practice, thinking is not required, it is non-invasive and non-pharmacological, it is emotionally safe, it can be done alone or with others, and it tends to be socially contagious. As Cousins discovered and research has found, laughter can have wide ranging beneficial effects on our physiology and psychology (Savage et al., 2017; Yim, 2016; Zander-Schellenberg et al., 2020).

## Physiological benefits



- Exercises and relaxes muscles; relieves muscle tension
- Stimulates circulation and reduces blood pressure
- Decreases stress hormones (e.g., cortisol)
- Releases pleasure producing hormones such as endorphins
- Strengthens the immune system by increasing natural killer cells and white blood cells
- Improves respiration by increasing ventilation and volume of air, and forceful exhalation can remove pulmonary secretions
- Increases the threshold and tolerance of pain and discomfort
- Psychological benefits
- Reduces unpleasant sensations and moods such as anxiety, anger, depression

- Endorphins elevate mood, self-esteem, hope, and energy
- Improves cognition including memory and creative thinking
- Improves interactions with others including friendliness and helpfulness

### Laughter practice



- Watch videos that involve surprise, awe, gratitude, joy, and positive emotions. You can build your own viewing list in Youtube or store links on your device to view whenever you want, especially after a tiring or emotionally draining case.
- [\*Baby Laughing Hysterically at Ripping Paper\*](#) is a good example to start with. Notice how watching someone else laugh draws you in and how you feel sharing the laughter.
- Review a photo scrapbook of fond memories and funny situations. Smiling has many of the same effects as laughter, though to a lesser degree.
- Browse for videos with tags like, “funny animals,” “baby animals,” “unusual animal friends,” and “pets that welcome homeowners.”
- Try “laughter yoga.” First thing in the morning, let go with a laugh that builds to a guffaw over about three minutes. The simulated laugh can grow into a spontaneous one and the results are the same. Classes in laughter yoga are sometimes available in communities and online.
- Be around people who like to tell interesting stories and jokes. Laughing is contagious and laughing with others builds relationships.

### References

Cousins, N. (1979). [\*The Anatomy of an Illness\*](#). W. W. Norton.

Jacobi, T., & Sag, M. (2019). [\*Taking laughter seriously at the Supreme Court\*](#), *Vanderbilt Law Review*, 72(5), 1423-1496.

Malphurs, R. A. “[\*People did sometimes stick things in my underwear\*](#)”: [\*The function of laughter at the U.S. Supreme Court\*](#). *Communication Law Review*, 10(2), 48-75

Ripoli, R. M. (2017). [\*Simulated laughter techniques for therapeutic use in mental health\*](#). *Journal of Psychology and Clinical Psychiatry*, 8(2), 00479

Savage, B. M., Lujan, H. L., Thipparthi, R. R., & DiCarlo, S. (2017). [\*Humor, laughter, learning and health! A Brief review\*](#). *Advances in Physiology Education*, 41, 341-347

Yim, J. E. (2016). [\*Therapeutic benefits of laughter in mental health: A theoretical review\*](#). *Tohoku Journal of Experimental Medicine*, 239, 243-249

Sander-Schellenberg, T., Mutscher-Collins, I., Miche, M., Guttman, C., Lieb, R., & Wahl, K. (2020). [\*Does laughing have a stress-buffering effects in daily life? An intensive longitudinal study\*](#). *PLoS One*, 15(7), e0235851 ►

# Standing at the Bench: Tradition, Health Effects, and Solutions

This document was prepared by [Prof. David X. Swenson PhD LP](#), a member of the ABA CoLAP Committee on Judicial Assistance and Research.

A judge sits at the bench in a position of dignity and authority. In fact, judges spend much of their day, up to 50 hours a week or more, sitting at the bench, in chambers, or working remotely from home during COVID-19. Medical science has clearly established that prolonged sitting adversely affects our physiology and psychology at a time when judges need both of those resources to manage the intense and prolonged stress of judicial responsibilities.



## Background and health implications

As a species, humans have historically stood or squatted during daily tasks, with the latter disappearing with the socialized advent of chairs. Medical research links prolonged sitting with a variety of health conditions including cardiovascular disease, decreased blood circulation, increased blood pressure, high blood sugar, abnormal cholesterol, and excess fat around the midsection. Other physical results can include decreased blood flow and deformation in blood vessels, muscle imbalance, aches and pains, varicose veins and edema in the legs, joint stress, muscle tension, and tendon and ligament damage (CCOHS, 2022; Kallings, 2021; Maffetone, 2015). Those who sit more than eight hours a day run about the same degree of health risks as for obesity and smoking (Laskowski, 2020). Common stress symptoms from prolonged sitting include anxiety, depression, loneliness, and reduced feelings of wellbeing (Pears et al., 2021).

Prolonged sitting and the resulting progressive fatigue can affect judicial judgment (Danziger et al. 2011). A study of 1,112 judicial rulings by probation judges, showed that at the beginning of the day 65% of the rulings were favorable, but favorability decreased markedly down to zero due to fatigue. With breaks, lunch, and recesses, favorability again briefly increased to about 65%, only to decline again regardless of the severity of the crime. Adding compassion fatigue to physical stress exacerbates impairment and can include feelings of disempowerment, anxiety, indecisiveness, and diminished sense of safety (Chambers, 2021).

## Countering Sitting Fatigue

Exercise and other physical activity can reduce anxiety, depression, and negative mood (Pelletier et al., 2017; Kandola et al., 2018; Parker et al, 2016), and can improve short-term memory and decision making throughout the day (Wheeler et al., 2019), as well as promote

better sleep. Judges with limited mobility can exercise from a wheelchair with upper limb exercises that have been shown to improve cardiac and respiratory fitness (Ellapen et al., 2017).

Short breaks during which judges do loosening and stretching exercises (e.g., yoga, tai chi, or runner’s stretches), light calisthenics (e.g., pushups, jogging in place), or simply going for a walk around the courthouse can all help reduce sitting fatigue and stimulate one’s physiology and mental alertness.

**Recommendations:** Simple physical activity counters the detrimental effects of sitting.



- Every hour (or as close to an hour as possible) take a break from sitting; set a vibrating alarm on your phone to remind you to get up and move.
- During breaks, do a brief series of stretches for legs, back, shoulders and neck. Explore online offerings for simple stretching moves that can be done while sitting in a chair. Try this [Introduction to Chair Yoga](#) video (25 minutes).
- Stand while talking on the phone or watching media (e.g., computer, tablet, phone, television).
- If you work at a desk, try a standing desk — or improvise with a high table or counter.
- Walk with your colleagues to meetings and use the stairs, rather than sitting in a conference room. Consider having walking meetings.
- Position your work surface above a treadmill — with a computer screen and keyboard on a stand or a specialized treadmill-ready vertical desk — so that you can be in motion throughout the day. (Laskowski, 2020)
- Try a [balance cushion](#) (aka wobble cushion) while seated to build core strength.
- Try the “20 rule”: Every 20 minutes look away from the remote device or screen to a distance of at least 20 feet for 20 seconds to avoid eye strain.

## References

- CCOHS (2022). [Working in a sitting position - Fact Sheets](#). Canadian Centre for Occupational Health and Safety.
- Chambers, A. (2021). [Judges and compassion fatigue: What is it and what to do about it](#). The MissouriBar.
- Danziger, S., Levav, J., & Avnaim-Pesso, L. (2011). [Extraneous factors in judicial decisions](#). Proceedings of the National Academy of Sciences, 108(17), 6889-6892.
- Ellapen, T. J., Hammill, H. V., Swanepoel, M., & Strydom, G. L. (2017). [The health benefits and constraints of exercise therapy for wheelchair users: A clinical commentary](#). African Journal of Disability, 6, 337.
- Kallings, L. V., Blom, V., Ekblom, B., et al. (2021). [Workplace sitting is associated with self-reported general health and back/neck pain: a cross-sectional analysis in 44,978 employees](#). BMC Public Health, 875(2021).
- Kandola, A., Vancampfort, D., Herring, M., et al. (2018). [Moving to beat anxiety: epidemiology and therapeutic issues with physical activity for anxiety](#). Current Psychiatry Reports, 20(8), 63.
- Laskowski, E. R. (2020). [What are the risks of sitting too much?](#) Mayo Clinic.
- Maffetone, P. (2015). [Sitting stress](#). MAF Institute.
- Parker AG, Hetrick SE, Jorm AF et al (2016) [The effectiveness of simple psychological and physical activity interventions for high prevalence mental health problems in young people: a factorial randomised controlled trial](#). J Affect Disord 196:200-209
- Pears, M., Kola-Palmer, P. M., & De Azavedo, L. B. (2021). [The impact of sitting time and inactivity on mental health during COVID-19 lockdown](#). Sport Sciences for Health, (2021).
- Pelletier L, Shamila S, Patten Scott B, Demers A (2017) [Self management of mood and/or anxiety disorders through physical activity/exercise](#). Health Promot Chronic Dis Prev Can. 27 May; 37(5):149-159.
- Prestogeorge, T. (2018). [Standing in judgement: A modern judge's bench](#).
- Wheeler, M. J., Green, D. J., Ellis, K. A. et al. (2019). [Distinct effects of acute exercise and breaks in sitting on working memory and executive function in older adults: a three-arm, randomised cross-over trial to evaluate the effects of exercise with and without breaks in sitting on cognition](#). British Journal of Sports Medicine, 2019. ►

# Nutrition

This document was prepared by [Katheryn Yetter](#), while at the National Judicial College and a member of the National Judicial Wellness Collaborative.

The link between healthful eating and stress management is well-documented. What people may not know is that when our bodies are poorly fed, stress takes an even greater toll on our health. Stress places a greater demand on the body for what it needs to thrive: oxygen, energy, and nutrients. Ironically, people who are experiencing stress may crave foods that are contrary to what the body needs such as snack foods that are highly processed and low in nutrients.

The concept of healthful eating is not just about consuming nutritious foods; it also involves practices for how those foods are consumed. A large [2020 study](#) of U.S. jurists uncovered sources of stress and coping mechanisms used to combat the stress' effects. Fatigue and low energy after hearing several cases in a row was ranked as their number one effect of stress. But good nutrition can be part of the solution! In fact, of those responding to the survey, almost all judges (99%) were interested in balanced nutrition and regular meals as a way of coping with stress, but only 89% were actively engaged in healthful eating.

**Resiliency to stress can be promoted through sound nutrition.** The following recommendations can help:

- Practice mindful eating. When we are feeling stress, we may eat without noticing how quickly, or how much, we're eating. We may also feel too pressured to prepare meals and opt for fast food or other non-nutritive foods, all of which can lead to detrimental effects. [Mindful eating](#) practices are designed to alleviate the impacts of stress on eating by encouraging you to slow down, make thoughtful food choices, focus your attention on the



Of those responding to the survey, **99%** of judges were interested in balanced nutrition and regular meals as a way of coping with stress.



*I use mindfulness techniques when I am eating during the day – bringing my attention to the meal and allowing myself to be present in the moment.*

- Judge John Russo

meal and the experience of eating, and allow yourself to be fully present in the moment. Benefits of mindful eating include enhanced enjoyment of the meal, improved digestion, and attention to sensations of hunger and fullness.

- Make time to fuel your body. Skipping meals and eating on the run can make the effects of stress feel worse. Dehydration and nutrition deficits can lead to headaches, stomach aches, and “hanger” (hunger + anger).
- Avoid or limit stimulants. Caffeinated beverages like coffee, tea, energy drinks, and sodas can exacerbate feelings of stress and can make stressful situations seem more intense. A better option would be to drink



*Drink more water, and maybe get one of those jugs with the hours of the day on the side to give you goals.*

- Judge Kaarin Lueck

water to stay hydrated. If you currently drink several caffeinated beverages per day and want to cut back, research supports doing so slowly; caffeine withdrawal can cause headaches and issues with concentration.

- Avoid eating to relieve stress. When feeling stress, some people may crave sweet or salty snacks, or may find comfort in eating, sometimes referred to as “stress eating” or “eating your feelings.” If you find that you are eating when you’re not truly hungry, find other activities that may also relieve your stress such as deep breathing, walking, stretching, or chatting with a close friend.
- Stock up on healthy snacks. Already know that you have a time crunch or stressful event coming up? Fuel up on healthy snacks that are minimally processed and have good amounts of protein and fiber to keep you feeling satisfied. Some examples are apples with peanut butter, almonds, low-fat cheese and fruit, or low-sugar Greek yogurt.

- Stabilize your blood sugar by eating regularly. Your body requires fuel and nutrients to function, and your brain requires carbohydrate in the form of blood glucose to perform at a high level. Ensuring that your body is receiving the right kind of calories regularly throughout the day can stabilize blood glucose and keep your brain functions in check.
- Eat good fats. Good fats, like those contained in flax and chia seeds, some fish and other seafood, and walnuts, are high in Omega-3 fatty acids. These “good fats” can give you energy, boost brain function, and benefit your heart, lungs, immune system, and endocrine system.
- More fiber is a plus. Foods that are high in fiber (whole grains, nuts, legumes and pulses, fruits, and vegetables) can help keep you feeling fuller, longer. Additionally, fiber intake is associated with better cognition and can bolster feelings of resilience against stress.

## Resources

[Stress and Health](#), The Nutrition Sources, Harvard T.H. Chan School of Public Health.

[Nutrition and Stress](#), Campus Health, The University of North Carolina at Chapel Hill. ►

## Sleep, Rest, and Resiliency

This document was prepared by [Prof. David X. Swenson PhD LP](#), a member of the ABA CoLAP Committee on Judicial Assistance and Research.

National surveys shows that we seldom get as much sleep as we physically and psychologically need, and about two-thirds of American adults report some degree of sleep problems. These interruptions can have adverse effects on our physical and emotional health, as well as our judgement, cognitive efficiency, and performance. Some studies have shown that prolonged sleep deficits have the same effect on cognition and errors as a .08 blood alcohol level.

A [large study of American jurists](#) revealed “sleep disturbance (insufficient sleep, awakenings, daytime drowsiness)” as the second highest effect of stress from their employment. Research also shows that chronic sleep deprivation can wreak havoc on the ability to concentrate, make decisions, demonstrate empathy, and function at the level demanded by judicial responsibilities. Sleep related fatigue can also result in irritability, dozing off in court, inattention, distractibility, etc.



Deep rest and regeneration occur most in periods of deep sleep when the day’s experiences are consolidated into memory. This vital process promotes the immune system and healing, helps stabilize and reduce stressful emotions, and eliminates cellular waste in the brain that is related to dementia. During Rapid Eye Movement (REM) sleep when you often dream, there is a rapid reduction of stress hormones related to memories and events of the day. This often takes the emotional tone out of memories while the content remains for consideration the next day.

Research on effective sleep shows several strong recommendations for achieving a sleep that is restful and regenerative:

- Assess your own sleep habits and learn the amount of sleep needed at your life stage (those over 65 years of age need 7-8 hours of mostly continuous sleep).
- Develop a ritual for bedtime such as decreasing activity, a hot bath or shower, light snack or warm non-caffeinated beverage, soft music, reading pleasant literature, and relaxing or meditating. Avoid reviewing news items near bedtime.
- Create a restful bedroom with pleasant surroundings and a supportive mattress that is no older than a decade. Keep TV’s and work-related items (files, laptops) out of the bedroom. To eliminate its temptation, charge cell phones in another room.
- Avoid TV, cell phone and devices an hour before bed since the light from them can delay production of melatonin, the brain hormone that initiates sleep. Blackout curtains and covering lighted displays can also help. Consider using a sleep mask if the light cannot be eliminated.

- If there are disturbing noise levels, consider a “white noise” device or finding computer apps of falling rain or “deep brown noise” to mask extraneous sounds. Consider ear plugs but be sure to learn how to effectively insert them.
- If thoughts come to mind, jot them down on a notepad so you can recall them later, or imagine packing them away in a mental box to open in the morning.
- Practice [progressive muscle relaxation](#) or other [guided meditations](#) (even listening to bedtime stories) to assist in falling asleep more quickly.
- Light snacks before bed can be relaxing, but avoid alcohol, caffeine, or spicy foods a few hours before bedtime that can interrupt the sleep cycle.
- Exercise is a tried-and-true method to beat insomnia but avoid it within a couple hours of sleep.
- Insomnia is a medical condition and should be discussed with one’s primary care physician who will be trained in a variety of science-based interventions and treatments.
- Snoring and associated sleep apnea can pose a serious health problem and should also be discussed with a physician.

EPWORTH SLEEPINESS SCALE				
0 = would never doze 1 = slight chance of dozing	3 = moderate chance of dozing 4 = high chance of dozing			
<b>It is important that you circle a number (0 to 3) for EACH situation.</b>				
SITUATION	CHANCE OF DOZING			
Sitting and reading	0	1	2	3
Watching television	0	1	2	3
Sitting inactive in a public place (theater/meeting)	0	1	2	3
As a passenger in a car for an hour without a break	0	1	2	3
Lying down to rest in the afternoon	0	1	2	3
Sitting and talking to someone	0	1	2	3
Sitting quietly after lunch (with no alcohol)	0	1	2	3
In a car, while stopped in traffic	0	1	2	3
TOTAL SCORE _____				

Johns, M. W. (1991). A new method for measuring daytime sleepiness: the Epworth Sleepiness Scale. *Sleep*, 14, 50-55. For scoring see <https://epworthsleepinessscale.com/about-the-ess/> ►

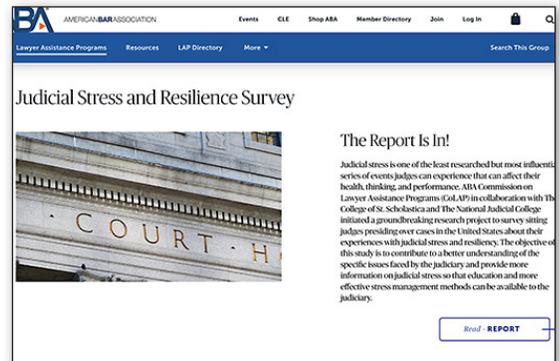
# Behavioral Health Resources for Judges

This document was prepared by [Patrick Ginty](#), chair of the ABA CoLAP Committee on Judicial Assistance and Research.

The results from the National Judicial Stress and Resiliency Survey identified sources of judicial stress and their impact on well-being and performance for the judiciary. Some judges may want or need assistance with implementing these recommendations, improving their own well-being, or finding resources for lawyers or personnel in their court.

## American Bar Association Commission on Lawyer Assistance Programs

The CoLAP mission is devoted to advancing well-being in the legal profession, as well as assuring that every judge, lawyer, and law student has access to support and assistance when confronting alcoholism, substance use disorders or mental health issues. [CoLAP's website](#) contains resources for judges, including a directory of state Lawyer Assistance Programs (all of which also serve judges), a listing of national entities that assist those suffering from specific substance use disorders or mental health issues, and a variety of educational resources.



## Berkeley Judicial Institute

The Berkeley Judicial Institute (BJI) fills a long-standing need to establish an effective bridge between the legal academy and the judiciary for the primary purpose of promoting judicial integrity and judicial independence. Judicial integrity encompasses professional competence, high ethical standards, objectivity, impartiality, respect for due process, and judicial wellness. The [BJI website](#) features projects, publications, and resources centered on judicial well-being.

## Institute for Well-Being in Law

The Institute for Well-Being in Law (IWIL) is dedicated to the betterment of the legal profession by focusing on a holistic approach to well-being. Through advocacy, research, education, technical and resource support, and stakeholders' partnerships, we are driven to lead a culture shift in law to establish health and well-being as core centerpieces of professional success. The IWIL hosts conferences and numerous articles and resources on its [website](#) related to well-being in the legal profession.

## National Center for State Courts



The [National Center for State Courts \(NCSC\)](#) promotes the rule of law and improves the administration of justice in state courts and around the world. The [Conference of Chief Justices \(CCJ\)](#) is part of the NCSC. Both entities have resources and educational materials covering judicial wellbeing.



## National Helpline for Judges Helping Judges: (800) 219-6474

Sponsored by the American Bar Association, judges calling this hotline can be paired with other judges who have gone through treatment for a substance use or mental health disorder. Judges who have volunteered to be a personal resource to other judges are uniquely positioned to share their experiences, strengths, and hope. All information is confidential and protected by statute.

## The National Judicial College

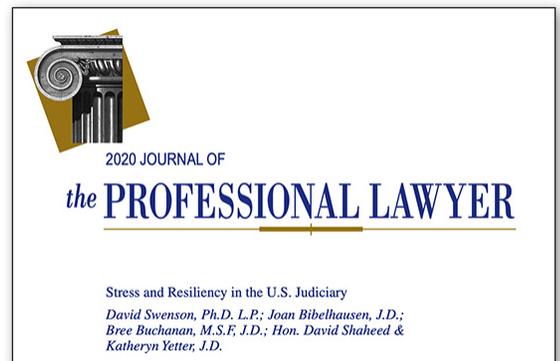
The [National Judicial College \(NJC\)](#) is the nation's premier judicial education institution and works with the judiciary to improve productivity, challenge current perceptions of justice, and inspire judges to achieve judicial excellence. The [Judicial Resilience Alliance](#) is part of the NJC. It is a collective of judges, judicial educators, academic researchers, policymakers, and lawyer assistance program representatives that calls upon judges—and the entities that regulate, support, and educate them—to consider systemic changes that will bolster well-being, resilience, and stress hardiness. The Judicial Resilience Alliance offers conferences, classes, articles, and papers to its members. ►

# Vicarious Trauma

This document was developed by [Danielle M. Hall](#), Executive Director, Kansas Lawyers Assistance Program, and Policy Committee Chair of the Institute for Well-Being in Law.

Judges and courtroom personnel are susceptible to vicarious trauma through repeated exposure to photos, videos, recordings, testimony, and victim impact statements of violent and/or deeply disturbing events of cases on their dockets. Judges and court staff, especially those with responsibility for specialized dockets or cases involving domestic violence, drugs, or mental health, are prone to experiencing vicarious trauma<sup>1</sup>. Also, greatly impacted are those with jurisdiction over family, criminal, immigration, or personal injury law matters.

Research supports the theory that judges are at risk for vicarious trauma. A [2019 study](#) of over 1,000 U.S. judges revealed that 30% attributed (in some part) their stress-related difficulties to being exposed to dockets involving evidence of “severe trauma or horror.” In a [2003 study](#) of 105 family and juvenile court judges, most (63%) reported one or more symptoms of work-related vicarious trauma. Short-term symptoms most frequently reported by the judges were sleep disturbances (17%), intolerance of others (11%), and physical complaints (8%). Long-term symptoms more frequently reported were sleep disturbances (7%), depression (5%), and isolation (5%). A similar result was found in a [2008 study](#) regarding immigration judges displaying symptoms of vicarious trauma.



The scientific research and literature suggest that vicarious trauma can manifest itself in ways that are behavioral, physical, cognitive, emotional, and social. The [negative effects](#) of vicarious trauma, can include, but are not limited to:

- Difficulty managing emotions
- Feeling emotionally numb or shut down
- Fatigue, sleepiness, or difficulty falling asleep
- Difficulty focusing or concentrating
- Physical problems or complaints, such as aches, pains, and decreased resistance to illness
- Loss of a sense of meaning in life and/or feeling hopeless about the future
- Relationship problems (e.g., withdrawing from friends and family, increased interpersonal conflicts, avoiding intimacy)
- Feeling vulnerable or worrying excessively about potential dangers in the world and loved ones' safety

- Increased irritability; aggressive, explosive, or violent outbursts and behavior
- Destructive coping or addictive behaviors (e.g., over/under eating, substance abuse, gambling, taking undue risks in sports or driving)
- Lack of or decreased participation in activities that used to be enjoyable
- A combination of symptoms that comprise a diagnosis of [Post-Traumatic Stress Disorder](#) (PTSD) due to traumatic exposure over long periods of time

If you are experiencing signs of vicarious trauma, taking a [self-test](#) may be helpful in determining next steps for implementing prevention strategies or seeking help.

Due to the significant risk that judges and court personnel have for developing vicarious trauma, they should learn and deploy [strategies to mitigate vicarious trauma](#) that include:

- Being aware of your emotional response and knowing the signs and symptoms of vicarious trauma
- Implementing self-care practices that include the basics such as getting enough sleep, having healthy eating habits, and getting exercise
- Seeking healthy work/life boundaries to promote balance
- Taking regular breaks, including short breaks throughout your day and longer breaks such as a vacation
- Finding a sense of meaning and purpose in your work
- Implementing a meditation and mindfulness practice
- Seeking help and support when needed.



If you think you may be experiencing vicarious trauma, seek help. Your state Judicial Assistance Committee or Judges and Lawyers Assistance Program may be able to help. You may also reach out to the National Helpline for Judges Helping Judges at **1-800-219-6474** for confidential support, referrals, and access to peer support of other judges. ►

<sup>1</sup> Vicarious trauma is also referred to as secondary trauma, secondary traumatic stress, or compassion fatigue.

## Problematic Alcohol Use

This document was prepared by [Joan Bibelhausen](#), executive director of the Minnesota Lawyers Concerned for Lawyers and a member of the ABA CoLAP Committee on Judicial Assistance and Research.

*I was on my way to the courthouse on a Tuesday after  
a holiday weekend full of excess and excuses. The  
knowledge deep within burst to the surface as I rounded  
a corner in my commute: It was time.  
Time to do something about my drinking.*



A [2016 national survey](#) of the legal profession found that 20.6 % of the lawyers and judges reported unhealthy levels of drinking. A [2020 survey](#) of judicial officers revealed that 9.5% of judges met criteria for unhealthy use. The rate for the population as whole is 6.6%. The disparity might be explained in several ways:

- Lawyers with the highest levels of problematic alcohol use and other distress leave the profession
- Lawyers become judges later in their legal career at a time when they may have changed their behavior having recognized an emerging problem
- The judicial survey results could underestimate the level of problematic use because respondents were more determined to mask and deny problematic use

Regardless of the reasons for the disparity, a rate of 9.5% problematic alcohol use for judges is significant. The pandemic has also accelerated unhealthy drinking as revealed in a Rand Corporation study that showed those working remotely increased their level of drinking. Research suggests that people who drink to cope with stress and/or uncomfortable emotions — as opposed to drinking for pleasure — have a higher risk of developing alcohol use disorder.

This simple exercise, the CAGE test, can help you think about your use. The CAGE acronym stands for:

**CUT DOWN?** Have you ever felt you should—or perhaps have tried unsuccessfully to—cut down on your drinking/use/behavior?

**ANNOYED?** Have you ever felt annoyed when other people have criticized—or merely commented on—your drinking/use/behavior?

**GUILTY?** Have you ever felt bad or guilty about your drinking/use/behavior or anything you may have done while under the influence of alcohol/drugs?

**EYE OPENER?** Have you ever had to—or needed to—consume alcohol/drugs in the morning, perhaps to steady your nerves or to get rid of a hangover?

*I drank to forget the stress of tough cases. I needed to find another way. Now, when I drink, it is enjoyable and in moderation. I manage my stress in other ways.*



If you would like to talk with someone about your alcohol use, [your state's lawyers and judges assistance program](#) can help. All programs are confidential, can be accessed anonymously, and provide services to the judiciary. You can also contact the confidential National Helpline for Judges Helping Judges at **1-800-219-6474** which is sponsored by the ABA. ►



- Mindfulness can strengthen one’s ability to sustain one’s focus and concentration.
- Mindfulness is also an essential practice when working to counteract unconscious biases. By creating more space for taking in the many dimensions of a given encounter, it also provides a way of mitigating the unconscious assumptions that judges (and people in general) make when they are under stress.
- And by strengthening one’s ability to act intentionally, mindfulness practices help judges regulate their emotional responses and maintain exemplary judicial demeanor.

## Resources

As mindfulness practices have become more widely known in medicine, business, professional sports, and the military, numerous useful resources have appeared in the public domain. One of the most comprehensive is the [Greater Good Science Center](#) at the University of California, Berkeley. The [National Judicial College](#) provides a robust array of resources and programming on this topic, as well. Additionally, the internet is replete with guided meditations and mindfulness practices, as well as digital apps, including [Headspace](#), [InsightTimer](#), and [Calm](#). ►

# How a Growth Mindset Can Enhance Judges' Resilience and Enjoyment of Work

This document was prepared by [Hon. Paige Petersen](#), Utah Supreme Court, and member of the ABA CoLAP Committee on Judicial Assistance and Research.

Judges continuously take on new challenges. We are regularly presented with new areas of law. We see novel factual circumstances, which require a nuanced and careful application of the law. And we often take on new projects within the judicial system and the legal community.

These opportunities for continuous learning are part of why being a judge is so rewarding. But oftentimes, this continuous learning is hard to fully enjoy. Taking on a new challenge can spark fears that you should already know what you don't know, that you're not learning fast enough, or that you're just not good at this new thing you've been asked to do.

Having a growth mindset can help judges handle the new challenges their work presents because it combats some of the stressors that those new challenges bring with them. People with growth mindsets "believe their talents can be developed through hard work, good strategies, and input from others," stated by [Carol Dweck](#), who coined the phrase. On the other hand, a fixed mindset tells people that talents are innate gifts — inferring that your skills and talents are fixed in place.

To develop a growth mindset:

- Reflect on the extent to which our innate fear of failure effects your daily activities.
- Try to see your challenges as opportunities and your mistakes in conquering them as a necessary part of the process.
- Face your imperfections and work towards accepting them as part of your inherent humanity; learn about resources that can help you overcome or manage them.
- Monitor your internal self-talk and avoid harsh, deprecating internal commentary, particularly once it's become repetitive.
- Remember what Einstein said, "genius is 1% talent and 99% hard work."



Individual therapy using cognitive behavioral techniques can help you overcome some of these hurdles to achieving a growth mindset. Learn more by watching this [short video](#) on growth mindset.

When I remind myself that my talents can be developed through hard work, good strategies, and collaboration with others:

- I can accomplish hard things more easily, and with less stress and anxiety.
- I spend less time worrying about whether I'm learning fast enough or that I should have already known how to do the task at hand, and more time focused on learning what I need to know.
- I enjoy the learning.
- I'm more aware of my own personal growth, which is very satisfying and makes me want to take on new big challenges.



As judges, we have to do hard things.

Having a growth mindset makes doing hard things easier. ►

# Building Resilience in an Upside-Down World

This document was prepared by [Joan Bibelhausen](#), executive director of the Minnesota Lawyers Concerned for Lawyers and a member of the ABA CoLAP Committee on Judicial Assistance and Research.

As we look at our place in an uncertain world, it becomes even more important to focus on all aspects of who we are and what emotions we are experiencing. It is possible to build resilience, which will help us adapt in the face of adversity and persist when faced with challenges. We all have the potential to develop resilience behaviors, actions, and thoughts. Some of the emotions that can test our resilience include:



**FEAR** When we are faced with an unknown and threatening situation, our normal response is fear. Fear helps us with a flight, fight or freeze reaction to become safe. In the face of this pandemic and other challenges, we don't have a clear sign of when the danger will be past or how large the threat will be. We may deny, we may become paralyzed, or we may lash out. This same fear reaction, when viewed mindfully, can also show us where we need to pay attention.

**GRIEF** We are grieving individually and as a society. You may be in a place of denial and isolation, anger, bargaining, sadness (or depression), or acceptance in different places for different losses. Recognizing you are grieving can help you move through it, sometimes with the assistance of others.

**BURNOUT** This psychological syndrome arises in response to chronic interpersonal stressors on the job. It may result in feelings of cynicism, detachment, ineffectiveness, and exhaustion. Burnout may impact each of us in different ways, but all of these are connected and can be affected. We feel powerless and overwhelmed.

**TRAUMA** This complex topic is the unique individual experience of an event, series of events, or set of circumstances, and can include secondary trauma. The individual's ability to integrate their emotional experience is overwhelmed and the experience is physically or emotionally harmful or threatening and has lasting effects on the person's functioning and physical, social, emotional, or spiritual well-being.

We identify these challenges to recognize we can lessen their impact. As our stress develops over the course of a day or week, it will build until there is a noticeable stress reaction. It may be depression or an anxiety disorder or we may lash out, withdraw from meaningful connections, drink to forget, or something else. The point is, we reached a limit. But if we accept we are at risk and mitigate the impact more frequently, our risk is lower. To be clear, we can reduce our risk for mental health or substance use issues, but it is no more our fault when we develop a mental health disorder than if we develop cancer. If there is one silver lining of the pandemic, it is that stress and distress are now universally recognized as something we have permission to address.

## Tools for Resilience

Resilience gives us the courage to grow from stress. Basic self-care, such as the way we eat, sleep, and move, is critical to enhancing our immune systems. All of us, including people in recovery from any mental health issue are facing new risks. The tools that follow are intended to support higher level needs while we attend to our basic needs as well.

**SELF-AWARENESS AND MINDFULNESS** How many of us were advised to “count to 10” when something angered us as children? This is mindfulness! This can range from a simple breathing exercise to active yoga or meditation practices to seriously reviewing our world view and how we make positive impacts. By being aware of the present, we are less likely to ruminate on the past or the future. We can appreciate what we can actually control. Try this exercise: within your environment, what are 5 things you can see, 4 things you can touch, 3 things you can hear, 2 things you can smell, and 1 thing you can taste? Engage all of your senses, and repeat as often as you need.

**CONNECTIONS** Ample evidence supports the importance of touch to release hormones that help us feel connected and develop trust (those missing handshakes). If you are away from people you might normally embrace, the loss may be palpable. Human connection helps our immune system, reduces our risk for mental and physical health challenges, and reduces perceptions of pain and threat. The five senses mindfulness exercise reminds us that we have more senses than touch. Look for opportunities for positive interactions with people, even if remotely. Hear everything, not just the words. Look someone in the eyes. Direct eye contact activates mirror neurons leading to the same social benefits as touch.

**BOUNDARIES** What is your personal space and how is it different for parties, attorneys and court staff, and personally? Think about and create your safe positive space with each of these groups. Think about how you will protect and secure it so you can do your best thinking and be your best self. What is safe, reasonable, and permissible? Don't be afraid to ask for what you need.

**PERSPECTIVE.** When you find yourself creating an inventory of all the ways in which you feel deficient, turn it around. Are you doing the best you can? Probably. Think about where you feel you are doing well, and spend some time with that part of yourself.

There are situations and scenarios we cannot control. Focus on what you can, because that's where you will see the greatest positive result, and the greatest likelihood of mitigating your stress.

**GRATITUDE.** Gratitude is a true appreciation for what you receive and acknowledging a source that is outside of you. You can be grateful for past experiences, for future opportunities (optimism) and just for today. Gratitude practices have been linked to improved personal and professional relationships, and improved physical and mental health. Just eight weeks of a gratitude practice can alter our brains to experience more empathy and satisfaction.

**ASK FOR HELP.** As we face challenges we have never before seen in our lives, we need help. We need help to care for our loved ones in new ways. And we need help for our well-being. We need not wait for a sign, omen, crash, or event to seek it. There is no threshold. Judge and lawyer assistance programs are an incredible resource. If you think it will get better on its own, it won't. Ask for help. ■



**National Helpline for Judges Helping Judges — 1-800-219-6474**

[www.ncsc.org/behavioralhealth](http://www.ncsc.org/behavioralhealth)