

2023 Real Property Law Health & Wellness Retreat



March 24–26, 2023
Fairmont Sonoma Mission Inn
Sonoma, CA


Stress – Your Brain Screaming “Pay Attention” and How that Can Help You Succeed in Law Practice

Michelle Greer Galloway on March 25, 2023

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Questions

Have you ever had success

Without paying attention?

Do you want success

Without wellbeing?

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Without Wellbeing This Is True . . .

*I'm
so poor
I can't
even pay
attention!*

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Lawyer Competence

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Invest – In Yourself

“The single most powerful investment we can ever make in life is investment in ourselves, in the only instrument we have with which to deal with life and to contribute. We are the instruments of our own performance, and to be effective, we need to recognize the importance of taking time regularly to sharpen the saw.”

S. Covey, *Daily Reflections for Highly Effective People*

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Model Rule 1.1 Competence

- “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

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CA Rule 1.1 Competence

- “(a) A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.
(b) For purposes of this rule, “competence” in any legal service shall mean to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably* necessary for the performance of such service.”

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Stress and Competence

Decision Making?
Difficult Discussions?
Professionalism?
 How we treat others

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Other Rules and Opinions

Rule 1.3 Diligence
Duty re impaired attorneys CA Op 2021-206
Rules 5.1, 5.2 and 5.2 Duties of supervisory and supervised attorneys
Proposed Rule 8.3 re reporting misconduct and public comments

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Causes and Evidence of Lawyer Stress

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This is Not Wellbeing



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Causes

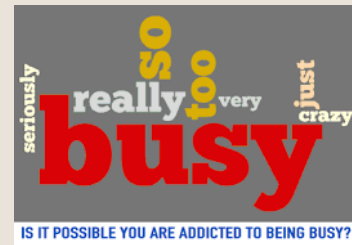


Perfectionism
is self-abuse
of the highest
order.

I want
100% Certainty



Inflated
Responsibility



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Daily Challenge



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Lawyers Suffer

THE EVIDENCE IS IN ON LAWYER WELL-BEING
We can no longer ignore our profession's well-being problem.
(Source: Krill et al., 2016; Mental Health Daily report of suicide by occupation)

| ALCOHOL | DEPRESSION | STRESS | ANXIETY | SUICIDE |
|--|--|--|---|--|
| 36% | 28% | 23% | 19% | TOP 10 |
| 21-36% qualify as problem drinkers. Higher for men; under age 30; and private practice, especially solo practitioners. | 28% report mild or higher depression symptoms. Highest for men and solo practitioners. | 23% report mild or higher stress symptoms. Highest for women and solo practitioners. | 19% report mild or higher anxiety symptoms. Highest for women and solo practitioners. | Ranked #8 in a study of suicide by occupation. Rate is 1.33 times the national norm. |

<https://lawyerwellbeing.net/lawyer-well-being-week/>; see also
<http://www.hazeldenbettyford.org/about-us/news-and-media/press-release/aba-hazelden-release-first-study-attorney-substance-use>

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Loneliness

In a recent study on loneliness:

“In a breakdown of loneliness and social support rates by profession, legal practice was the loneliest kind of work, followed by engineering and science. This is perhaps not surprising, given the known high prevalence of depression among lawyers.”

Shawn Achor, Gabriella Rosen Kellerman, Andrew Reece, and Alexi Robichaux, America’s Loneliest Workers, Harvard Business Review (Mar. 19, 2018)

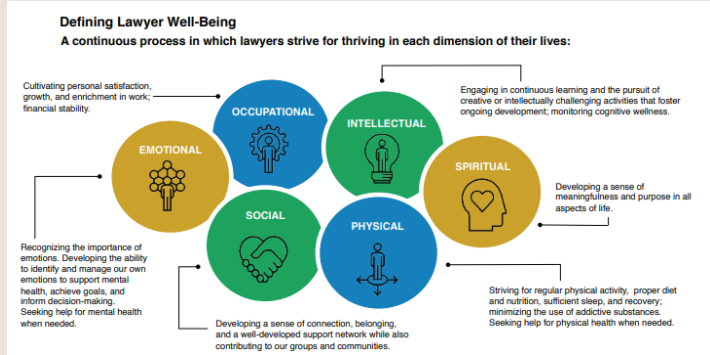
“Research shows that loneliness has the same effect as 15 cigarettes a day in terms of health care outcomes and health care costs.” *Id.*

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ABA National Task Force

The Path To Lawyer Well-being: Practical Recommendations For Positive Change, The Report Of The National Task Force On Lawyer Well-being



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Stress Responses

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What is Stress?

Reaction to a challenge

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Stress Response – Limbic System

Fight



Flee



Freeze



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Stress Hormones

Adrenaline -- increases heart rate, elevates your blood pressure

Cortisol -- increases sugars (glucose) in the bloodstream; curbs the nonessential systems

Norepinephrine – more alert/awake; shifts blood to essential organs

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Stress Addiction

Stress releases dopamine

Dopamine is “pleasurable”; chemical associated with motivation

Dopamine activates reward system and encourages a repeat behavior

Dopamine converts to adrenalin, decreasing the level of dopamine

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Chronic Stress and Brains

Reduce neuroplasticity

Capacity of brain to reshape its neural pathways with new experiences

Reduce neurogenesis

Production of new brain cells in the hippocampus (memory processing)

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Things to Watch For

Self-awareness, Other-awareness

Change – this is how we usually observe – through contrast with past behaviors

Physical

Social/emotional

Sense of inefficacy (using always and never statements)

Cynicism

Analysis paralysis

Missed meetings/calls, missed deadlines

Short tempered – reactivity; judgment

Difficulty concentrating/lack of attention

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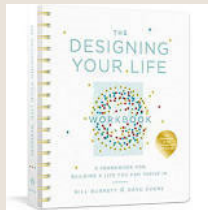
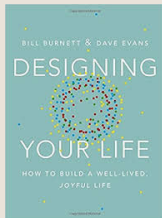
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Exercise: Your Energy Part I

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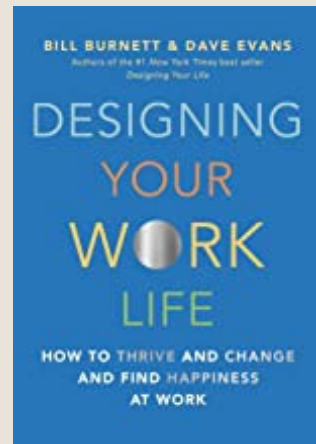
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Applying Design Thinking To The Problem



- List your top energy giving or draining regular activities or engagements.
- 3 minutes

<https://designingyour.life/>



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Do You Think About Stress?

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Which Belief?




**Stress is a
Positive Force**

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Cognitive Health



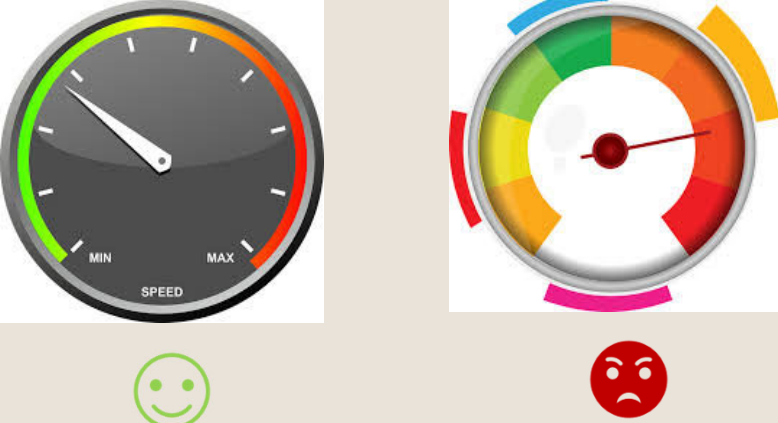
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Is It All In Your Head?

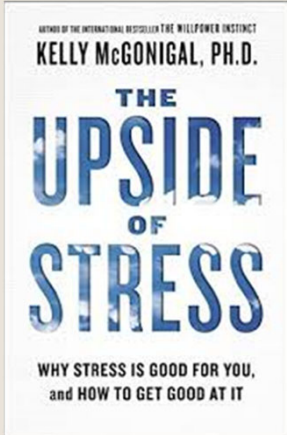
Stress-O-Meter



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Benefits to Stress



Stress Can Enhance Performance



Protective Stress Mindsets

“1) to view your body’s stress response as helpful, not debilitating – for example, to view stress as energy you can use;
2) to view yourself as able to handle, and even learn and grow from, the stress in your life; and
3) to view stress as something that everyone deals with, and not something that proves how uniquely screwed up you or your life is.”

<https://news.stanford.edu/2015/05/07/stress-embrace-mcgonigal-050715/>

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Stress As A Cue for Lawyers to “Pay Attention”

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How often do you feel like this?

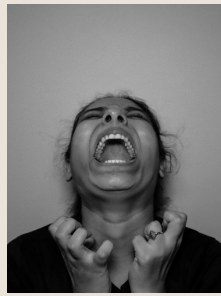


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Photo by [Manuel bonadeo](#) on [Unsplash](#)

Your Brain Is Screaming . . .



Attentional Filter

“Attention is the most essential mental resource for any organism. It determines which aspects of the environment we deal with, and most of the time, various automatic, subconscious processes make the correct choice about what gets passed through to our conscious awareness. For this to happen, millions of neurons are constantly monitoring the environment to select the most important things for us to focus on. These neurons are collectively the attentional filter. They work largely in the background, outside of our conscious awareness.”

D. Levitin, *The Organized Mind: Thinking Straight In the Age of Information Overload* (2014)

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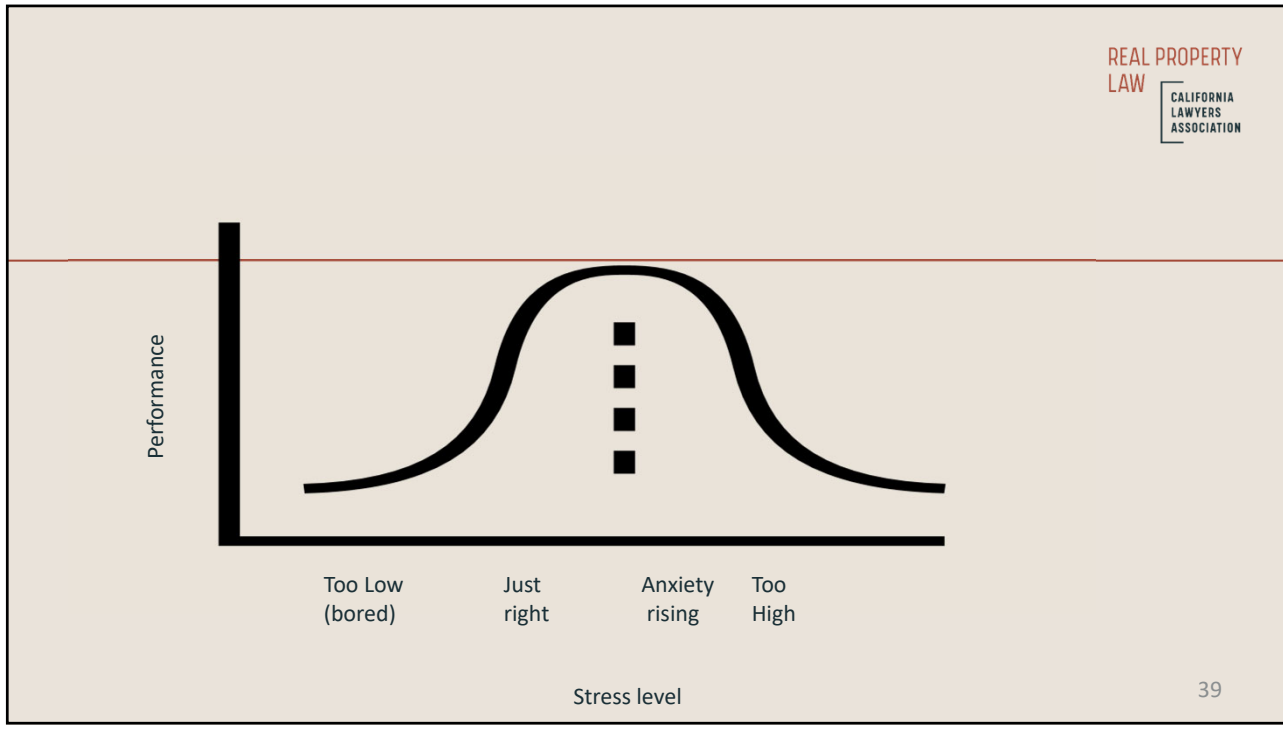
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Moderate Stress Can Help

Improve
Motivation
Alertness
Performance
Memory

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How Do Lawyers “Pay Attention” Given Technology

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Question

Have you heard of the term nomophobia?

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Nomophobia

NO MOBILE PHONE PHOBIA

See Sudip Bhattacharya, Md Abu Bashir, Abhay Srivastava and Amarjeet Singh,
NOMOPHOBIA: NO Mobile Phone PhoBIA, J. Family Med. Prim Care (2019) available
at

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6510111/#:~:text=The%20term%20NOMOPHOBIA%20or%20NO,a%20particular%2Fspecific%20things%E2%80%9D>.

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Lawyers and Technology

“ICTs are considered one of the main influencing factors of employee health and work stress (Berg-Beckhoff, Nielsen, & Larsen, 2017; Burman & Goswami, 2018). Chronic work stress that is not successfully managed can cause burnout (WHO, 2019), a syndrome that has become a major challenge to employees’ health and the performance of their organizations, representing economic, social, and psychological costs to workers, employers and society (Shirom, 2011; EU-OSHA, 2014).”

Katharina Niaus, Sandra Diehl, and Ralf Terlutter, *Employee Perceptions Of Information And Communication Technologies In Work Life, Perceived Burnout, Job Satisfaction And The Role Of Work-family Balance*, 136 J. of Business Research (2021)

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Technology and Addiction

“FOMO, FOBO and nomophobia are acknowledged as 21st century digital diseases (Rosen & Samuel, 2015), triggering addictions, anxieties, and mental health issues. Research in the last decade has demonstrated the negative impact of media multitasking on memory and attention performance (Uncapher & Wagner, 2018). As such, if employees cannot regulate their behavior and focus on work due to constant distractions, their sense of achievement, involvement with work, and performance satisfaction will be negatively impacted. Similarly, without fully engaging with work activities due to both relevant and irrelevant technology interruptions, it becomes difficult to experience the positive feelings associated with work.”

Mehmet A. Orhan, Sylvaine Castellano, Insaf Khelladi, Luca Marinelli, and Filippo Monge, *Technology Distraction at Work: Impacts on Self-Regulation and Work Engagement*, J. of Business Research (2021)

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Techno-Stress

“As a result there is a need to consider technological well-being – or its inverse ‘technological ill-being’ (Leclercq-Vandelannoitte, 2019) - alongside facets such as productivity and efficiency. In fact, productivity gains due to remote working may come at a high price in terms of long-term work-related stress and mental illness for employees, workplace outcomes which are already thought to cost industrialized countries between US\$221.13 million and \$187 billion per annum (Hassard et al., 2018).”

Elizabeth Marsh, Elvira Perez Vallejos, and Alexa Spence, *The Digital Workplace and Its Dark Side: An Integrative Review*, 128 Computers in Human Behavior (2022)

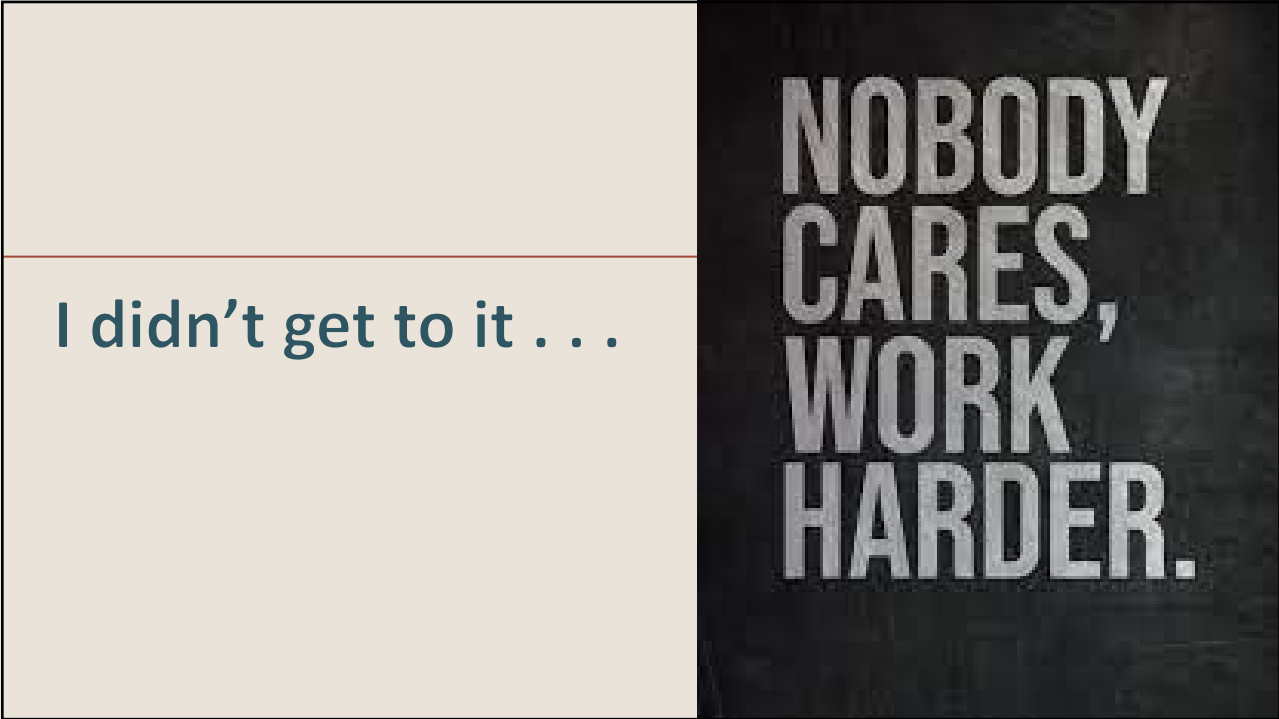
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Set Priorities

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Why is it Hard to Set Priorities?

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Time and Energy to Pay Attention

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168 Hours This Week

| | 168 |
|--------------------------------|-----|
| Sleep | 49 |
| Work | 56 |
| Commute | 7 |
| Errands and housework | 13 |
| Cooking, childcare, home-front | 20 |
| Exercise | 3 |

How many hours are left? 20 Hours

Relax, You Have 168 Hours This Week, Harvard Business
Review Network (Aug. 1, 2014)

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Exercise: Your Energy Part II

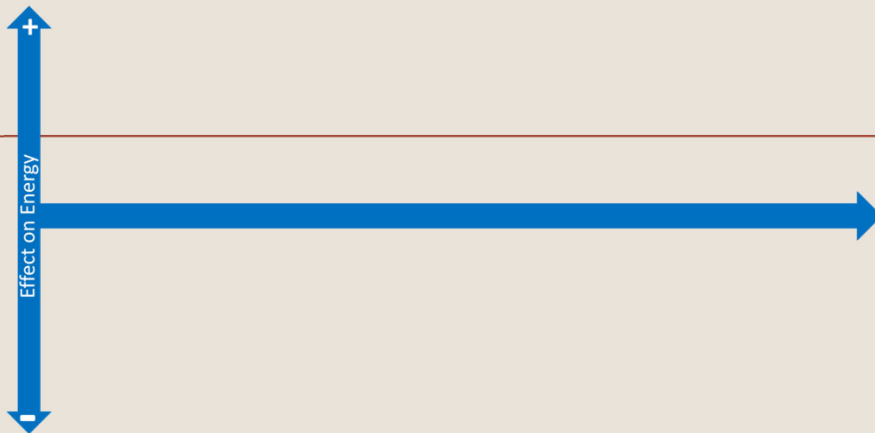
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Energy-Engagement Assessment

Draw a bar for each of your major activities during a typical week. Place the bar above the line if you are energized by the activity (+) or below the line if the activity drains your energy (-). The taller the bar, the more it energizes or drains you.

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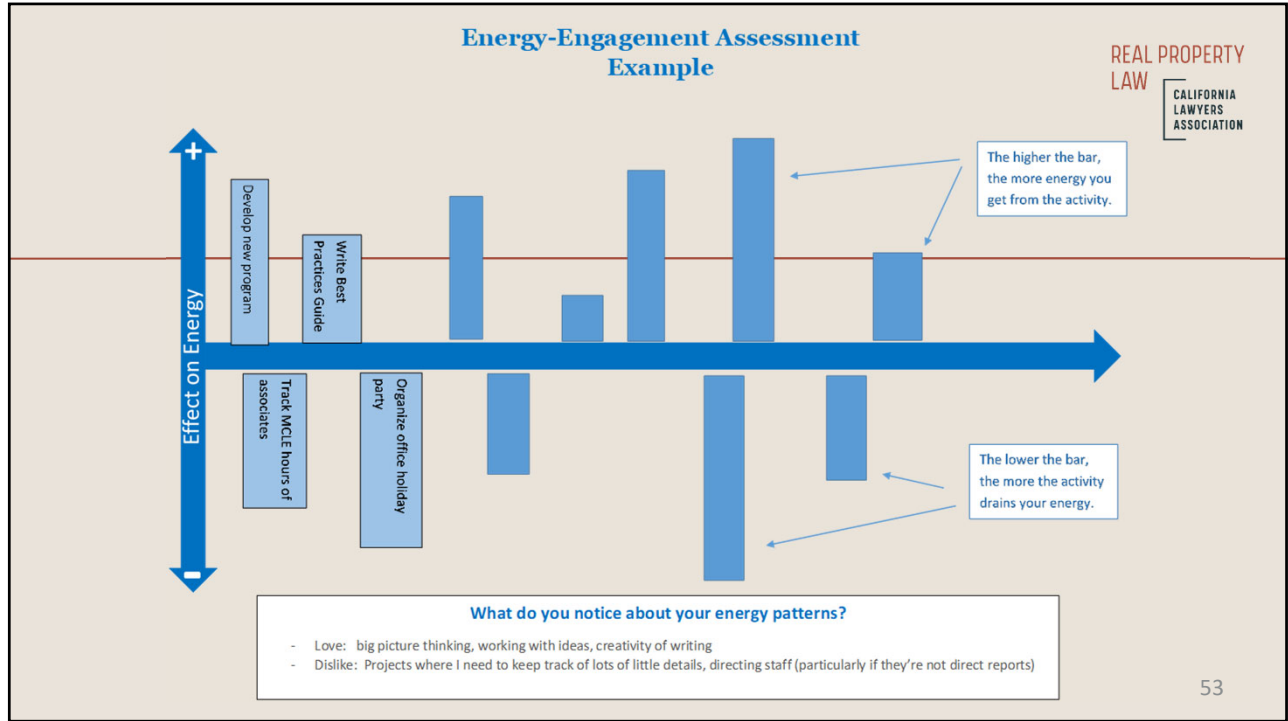


What do you notice about your energy patterns?

Adapted from *Designing Your Life* Energy-Engagement Map Worksheet - <http://designingyour.life/wp-content/uploads/2016/08/DYL-Energy-Engagement-Worksheet-v21.pdf>

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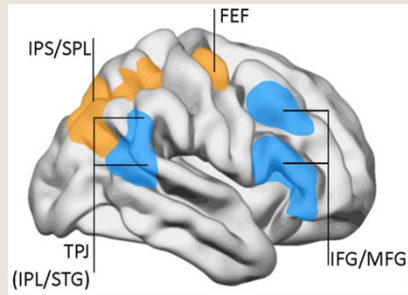
Change The Message – Promote WellBeing

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Attention

20 Minutes – Max



Josh Davis, Maite Balda, David Rock, Paul McGinniss and Lila Davachi, *The Science of Making Learning Stick: An Update to the AGES Model*, *NeuroLeadership Journal*, Issue 5 (2014)



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Can you . . .



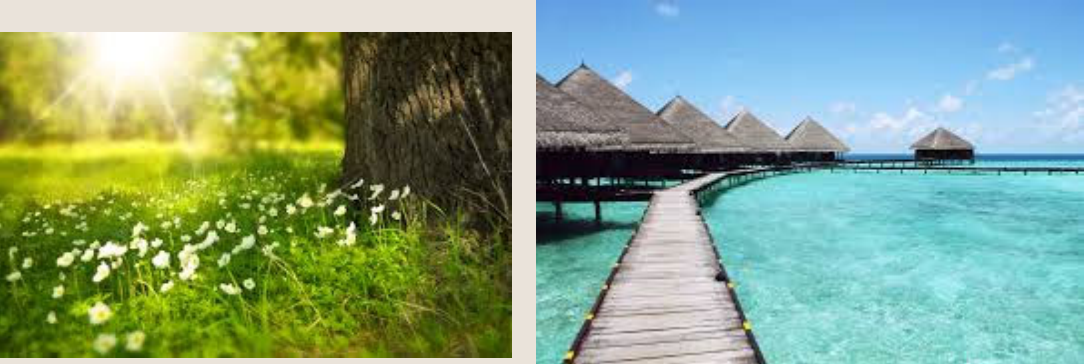
Photo by [Brett Jordan](#) on [Unsplash](#)

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Emotion




Lila Davachi, Tobias Kiefer, David Rock and Lisa Rock, *Learning that Lasts Through AGES*, NeuroLeadership Journal, Issue 3 (2010)

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Insight



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Promote Insight

Slightly happy (positive mood)
Inward looking
Quiet
Not working directly on the problem
Letting mind drift after initial intense focus



Josh Davis, Christine Chesebrough, David Rock, Christine Cox, *Why Insight Matters: How And Why The 'Aha!' Moment Is Central For Leading Behavior Change*, Neuroleadership Journal , Vol. 6 (Sept. 2015)

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Reduce Stress For **GREATER**
FOCUS
Retention
Insight

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Final Thoughts

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Assess the Positive and Write It Down

Who did I help today?
What impact did I have on others today?
What did I make progress on today?
What am I grateful for?

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Resources For Lawyers

Wellness – General information

https://www.americanbar.org/groups/lawyer_assistance/working-group_to_advance_well-being_in_legal_profession/

“Toolkits” available for lawyers and employers at same site

California Lawyers Association

Health and Wellness Committee

<https://calawyers.org/health-and-wellness/>

State Bar of California – Lawyer Assistance Program

<https://www.calbar.ca.gov/Attorneys/Attorney-Regulation/Lawyer-Assistance-Program>

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Volunteering

https://wetheaction.org/our_vision

“Founded on the fundamental premise that lawyers have the power to do good.”

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Conclusion

These materials are intended as an introduction to the subject matter covered in the presentation. The presentation and the materials contained herein do not attempt to provide legal advice for any particular situation. Each particular situation must be analyzed individually in light of all of the surrounding facts and circumstances. Because of the complexity of the legal issues that will always arise in connection with the subject matter hereof, it is critical that counsel be involved. These materials are provided for educational and discussion purposes only and are not to be copied, used or distributed outside of this seminar without the express written consent of Michelle Galloway. Copyright Cooley LLP, Michelle Greer Galloway 2023.

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