

Modern Lawyer

Ideas for Legal Leaders

Editor: Alex Davies

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Featured in this issue

Collaboration is one of your strategic pillars – now what?

The power of physical wellbeing – beyond self-help and mental health practices

Transforming and nurturing our humanity in an AI-mad world

ESG: society reinstated



The human touch

“The measure
of intelligence is the
ability to change”



“The proper functioning of society is the reason lawyers exist,” says Jenifer Swallow in this issue. She caveats this statement by questioning whether that lofty aim is currently being achieved. ESG is a major focus of this issue, and not just in the two excellent articles on the subject. Increased emphasis on environmental, social, and governance issues is pervading the general consensus and influencing pretty much every agenda.

“The measure of intelligence is the ability to change,” said Albert Einstein, and change is very much a process that we all – as lawyers and as members of society generally – are going through. Artificial intelligence is no substitute for actual intelligence, and as Stephanie Barnes notes in her article, we must remember our humanity in an AI-obsessed world.

A key feature of this humanity is remembering that – unlike AI – we are physical, living, breathing creatures that require more than battery power. A greater awareness of the importance of physical wellbeing will ensure that human lawyers continue to do all the great, compassionate, intelligent work that allows society to function and thrive. Sick lawyers will not do anyone any good.

Another aspect of this humanity is the drive towards inclusion and advancement. In their thought-provoking article, Bendita Cynthia Malakia and Morgan Reams discuss the hidden biases that humans have towards each other, and the damaging effects these can have on people’s health, happiness, and careers. We talk a great deal about the bias that is built into AI algorithms – but we are the root causes of those prejudices. If we are to fully live the principles embedded in ESG, now might be the time to heed Einstein’s words and think about how our collective intelligence is the way we can effect this change.

A handwritten signature in black ink that reads "A. Davies". The signature is fluid and cursive.

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The power of physical wellbeing – beyond self-help and mental health practices

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When emotions are considered a sign of weakness, we drift away from their immense potential for them to lead us toward professional success. Emotions are in our bodies. The whole point of emotions is to stir us into action to change something that isn't right in this world – the word “emotion” comes from the Latin “to move away”. According to Eastern medicines, emotions are our allies to understand ourselves, make better decisions, and listen to our body's signs to manage stress and avoid burnout. The key to professional success is to establish balance into our personal lives. I define “Balance” as the equilibrium between our emotional and physical needs and our desires, aiming to feed both at the same level of personal investment. Hitting the gym a few times a week is not enough to maintain a sustainable balance to perform at our best. When physical wellbeing meets mental wellbeing, we get to fully explore our potential and expand on the infinite possibilities of achieving new goals.

The current literature on lawyer wellbeing generally focuses on mental health, in that lawyer wellbeing is conceptualized primarily as ill-being. Since the 1990s, we have gathered data on depression, burnout, and anxiety for lawyers – the “negative facets”. Yet, wellbeing is broadly framed as multidimensional, comprising positive facets such as work engagement, motivation, job satisfaction, personal growth, purpose, and meaningfulness – the “positive facets”.

Recent research shows that there are limitations in the way we perceive lawyer wellbeing. Roles vary depending on country, jurisdiction, and area of practice. A criminal attorney in Minnesota will not have the same schedule and type of work as an in-house counsel in Paris. The day-to-day life of a “big law” partner in Canada will not look like the life of a freelance attorney working remotely from Costa Rica. General conclusions on lawyer wellbeing should not be drawn unless contextualized.

In her study, “Towards a context-specific approach to understanding lawyers' wellbeing: a synthesis review and future research agenda”,¹ Lucinda Soon invites us to conduct more context-driven research on wellbeing. To date, the physical aspect of lawyer wellbeing has not been explored, which leads me to agree with Soon, that studies in this field have conceptualized lawyer wellbeing purely in relation to psychological dimensions.²

Since the COVID-19 pandemic, there has been greater awareness of the importance of physical wellbeing to perform better and be more productive at work. We have seen a rise in organic and plant-based diets, matcha lattes replacing coffee, and morning workouts before logging in on Zoom. But hitting the gym and making sure we get our 30-minute daily walk is not enough. Research shows that exercising in short bursts, or to target certain muscles, is like taking vitamin supplements to try and offset an unhealthy diet.³ The importance of movement to achieve better work performance goes beyond releasing shots of endorphins and dopamine.

Since the COVID-19 pandemic, there has been greater awareness of the importance of physical wellbeing to perform better and be more productive at work.

A greater connection should be established between our emotions and how we feel in our bodies. Movement contributes to reaching our optimal state of performance.⁴ Beyond the importance of mental health, our optimal state cannot be achieved by focusing only on the psychological aspect of wellbeing. For the recipe to be complete, the physical facets of wellbeing are inevitable to reach our optimal state.

The three pillars of physical wellbeing – nutrition, sleep, and movement

“It is not the strongest of the species that survives, not the most intelligent that survives. It is the one that is the most adaptable to change.” Charles Darwin

Imagine your body as a car. Picture it as a machine that needs the right fuel to function. At the gas station, you know which fuel to put in the car and if

Research shows that the human brain is nearly 60% fat. Essential fatty acids are required to maintain optimal brain health; therefore, an imbalanced dietary intake of fat will impair performance.

you put in the wrong one, the car will malfunction. Your body has special needs – if you give it the wrong food or deprive it of sleep, it will malfunction. If you stop giving it the right amount of food, sleep, and movement, it will break. The car example is extreme, but you get the idea.

For every performance, whether you are a lawyer or an athlete, you need the following:

1. Diet.
2. Sleep.
3. Mental health.
4. Coping mechanisms to manage stress.
5. Physical training, which includes performance (yang) and recovery (yin).

Athletes have strict and tailored schedules and diets for performance and preventive reasons – an injury would take them out of the competition. For lawyers, an imbalance in this recipe, when not addressed, may eventually lead to burnout, PTSD, or depression.

Why would point 5 apply to you as a lawyer if you are not training for the Olympics? You may be pleading in court, drafting legal arguments, negotiating a contract, having a meeting with the executive team to try to convince them to comply with newly enacted laws to avoid lawsuits. These are all performances. Try to see yourself as an athlete when you perform these tasks. Will you perform at your best if you have been sleeping for three hours per night and skipping breakfast, then sitting at your desk for ten hours straight? No. You will most likely experience stress and make mistakes. Eventually,

you may have to take an imposed break that your body will ask for without much room for negotiation.

Research shows that the human brain is nearly 60% fat.⁵ Essential fatty acids are required to maintain optimal brain health; therefore, an imbalanced dietary intake of fat will impair performance. Additionally, science shows that getting the right amount of sleep (seven to eight hours a night for an adult) helps us perform better and improves memory, sharpness, and the ability to manage stress. According to science, making the decision to stay up at night impairs your brain's ability to get rid of toxic waste products that build up during the day.⁶ A recent study from the University of Iowa⁷ showed that patients who had smaller amounts of sleep, or more sleep disruptions, accumulated more Amyloid β , responsible for Alzheimer's disease.

Research suggests that lawyers rank second among the most sleep-deprived professions.⁸ Lawyers are most likely to spend over ten hours a day working on average. Do the math. Several methods exist to improve sleep – meditation and exercise to name just two – but most importantly, if you want to reach and sustain your optimal state of performance, sleep and nutrition must be on top of your priority list.

Why is movement critical to your professional success?

“All truly great thoughts are conceived by walking.”
Friedrich Nietzsche

To date, most research into lawyer wellbeing has focused on mental health and developing techniques to manage stress and anxiety. By “movement”, I do not mean “exercise” – hitting the gym twice a week, going for a run, or taking a Zumba class. We've known for years that exercise is the best-proven way to boost brain health and cognitive skills. Whilst exercise falls under the definition of Movement, it does not fully encompass the benefits of movement to our brain performance. Here, Movement is not understood as a tool to burn calories and build body strength, but rather as a way to oxygenate the brain, shift perspectives, and build creativity.

Our stomach is made of nerve cells, which scientists also call our “second brain”. Our enteric nervous system (ENS) is two thin layers of more than 100 million nerve cells.⁹ It is not random that we have a “gut feeling” when we make decisions or “butterflies in our stomach” when we meet someone. Our body speaks. Emotions are stored in our bodies. Chinese medicine and Ayurveda (Hindu medicine) defend that each organ is connected to an emotion – our liver contains anger, our kidneys store our fears, our psoas retains emotions and stress, and so on. Western medicine tells us that our vagal nerve is directly connected to our brain and reacts to extreme situations of stress, which can manifest as fainting in the worst cases. The psoas is anatomically connected to the diaphragm and neurologically tied to the brain’s natural response to keep us safe. In other words, our body reacts to an external stressful situation, which puts us in fight–flee–freeze mode, and ultimately affects our decision-making and performance.

Walking allows us to shift perspective and puts us in a positive frame for the rest of the day. A recent *ABA Journal* article showed that many attorneys found benefits in walking every morning before work.¹⁰ Science shows that the brain responds to physical movement by adding more capacity (new cells) in the memory banks. According to Rodolfo Llinás, thinking and moving are basically the same thing.¹¹ Thinking allows us to move forward while remaining still, while moving allows us to move forward in space. The concept of moving forward remains the same. Moving changes the way we think and the way we feel. Moving in space inspires thoughts of the future, which is connected to hope, creativity, and problem-solving – the “I can, and I will” mindset. Daniel Goleman calls it the state of “flow” when we are flourishing and are at the peak of our performance state. Flow is, by definition, movement, and water.

One of my peers, a successful American CEO, once told me that he used to take long showers to get new business ideas. Your lawyer brain is highly solicited to come up with creative solutions, adding to this the long hours, expectations, and time-sensitive requests. Your decisions will affect the outcome of your case or the outcome of a deal negotiation. Most of your “aha!” moments might very well happen

during those movement breaks, and you might eventually come up with the solution to a problem you’ve been looking for. To perform at your best and meet such expectations – which are highly demanding expectations of our profession – incorporating movement in your daily life will contribute to your success in the long-term.

Walking allows us to shift perspective and puts us in a positive frame for the rest of the day.

Burnout or injury? When demands exceed the resources to meet them

“My mind seems to have become a kind of machine for grinding general laws out of large connection of facts... [resulting in] a loss of happiness, and may possibly be injurious to the intellect, and more probably to the moral character, by enfeebling the emotional part of our nature.” Charles Darwin

Mary is a first-year lawyer at a big law firm in New York. She just graduated from a top law school and passed the bar exam. She is excited about her new job and feels like she has “finally made it”. She has always been a hard-working student and does not want to disappoint her new supervisor. She skips dance class, stops seeing her friends, and stays in the office until two am. She gets less sleep and forgets to eat during the day. Her performance at work suffers. She thinks she is not working hard enough and keeps going. After four months, Mary is diagnosed with burnout and is forced to quit her dream job. Mary has invested seven years in her studies to end up jobless and hopeless, now having to pay for medical care.

Brandon is a basketball athlete. He has been training since the age of ten to be an NBA player. He

has “finally made it”. The recipe for him involved intense training (including recovery), a strong supportive system, sleep, and a strict diet, which included no alcohol, smoking, or other toxic substances. Brandon sacrificed his youth for his dream. He starts going out with his new friends, he is being highly solicited by the media, he starts drinking and uses substances to cope with stress and loneliness. He doesn’t have time to build a support system. He feels like he’s not training hard enough and doubles his training hours. He gets injured and his athletic career is over. He will spend the rest of his professional life coaching young players.

Law is one profession in which we find some of the highest levels of distress. This is no surprise. Long hours and difficult work can place too many demands on the lawyer.

These stories are not uncommon. Behind highly successful profiles, hidden demands often exceed our resources. In both cases – athlete or lawyer – performance decreases when our bodies are unbalanced, given the wrong fuels, and prevented from undertaking necessary recovery. We see two things in these scenarios – (1) outside demands and (2) a lack of tuning into physical needs. The first is not under our control – but the second is.

Ronda Muir stresses that “the behavioral manifestations of anxiety and stress include irritability, obsessive thoughts, feelings of inadequacy, difficulty concentrating, a sense of worry and impending danger, sleep deprivation, heart palpitations, sweating, fatigue, and muscle tension”.¹² Recognizing symptoms may be challenging because they are not unique to the condition of burnout, and they “arise slowly, like a frog in a slowly boiling pot who does not realize he is getting cooked”.¹³ Burnout has different stages of

severity, some of which are harder to recover from than others, or are even sometimes irrecoverable.

Law is one profession in which we find some of the highest levels of distress. This is no surprise. Long hours and difficult work can place too many demands on the lawyer. An inability to manage stress at work may cause serious health issues, increasing the risk of burnout, to the point where lawyers start to withdraw from colleagues, friends, and family. Additionally, many lawyers can show traits of appetite for competition, which adds to the expectation to undertake long hours, imposing high pressure on themselves and not allowing themselves to recharge, exercise, and rest. Rebecca Norman, a former lawyer and executive coach for attorneys in law firms, observed during her training that lawyers who would take a walk or run during their lunch break had a much higher capacity to manage stress.

The art of recovery – creating balance within and without external noises

“Wherever you go, there you are.” Jon Kabat Zinn

There is an African proverb that says, “If you can walk, you can dance”. I have repeated those words to my dancing students many times.¹⁴ A lot of them, especially beginners, would say to me that they don’t know how to dance, or that they look ridiculous when they do. Dancing is not a performance when it is used to release stress stored in the body. Dancing is a meditative practice as part of the recovery process for the brain and even walking, if done with focus, can be considered dance. Rebecca Barnstaple, PhD, tells us that dance does something fundamental to our physiology, allowing us to process bodily alarm signals and return to a biologically balanced state, free from stress hormones, and with the chemical hallmarks of wellbeing flowing through our veins instead.¹⁵ Dance has the edge of improving mood, self-perception, and general confidence. Dance on your own in your living room when no one is watching and observe what happens in your body and mood. Your ability to tune in with your body, letting it move in space, will not only improve your ability to spot emotions but it will also allow you to read emotions in other people’s movements without prior training.

There is increasing concern in North America that traditional legal education contributes to depression among law students and alienation in the legal profession. Research shows that law students with normal mental health patterns at orientation display significant anxiety, depression, and reduced motivation by their second year.¹⁶ My experience as a yoga instructor gave me the opportunity to testify to this finding. Stress can reach critical levels and emotional toxicity may seriously affect law students, which perpetuates when they start their law career. I once had to deal with a student having a panic attack during class. I cued breathing techniques and gently offered Reiki, which eventually calmed her down. Although a panic attack can be a source of many different factors, the impact of stress and anxiety on the body is often underestimated. Yoga – or moving meditation – can significantly help the person manage stress and improve self-awareness.

Yoga is often recommended to lawyers because it opens us up both emotionally and physically. It can help us see the world through fresh eyes, slow us down, bring us closer with our true selves, and get us in touch with our bodies, which helps us experience emotions more fully and form more meaningful relationships with others.

Additionally, some yoga styles such as Yin and Restorative Yoga are beneficial to lawyers. They aim to bring stillness into the body and hold into the posture. Yin Yoga brings discomfort into the body and lets stillness set in so we can observe the flow of our thoughts without engaging with them. Lawyers are often overworked, and their schedules do not allow for space to slow down. Restorative yoga aims to gently restore the body, pause, and allow the mind to rest, using specific parts of the body where emotions are stored. A Yin and Restorative practice is useful to stop mind chatter, allows us to reset more easily, clarifies our thinking, and makes us more efficient, not to mention being more self-aware and empathetic.

Over the years, I have come up with strategies to improve physical wellbeing, inspired by research by Caroline Williams on Movement:

- Get into a routine that works for you, whether it is going for a walk, dance, run, and/or incorporating mindfulness practices in your day-to-day life.¹⁷ Add these to your calendar as non-negotiables.

Stress can reach critical levels and emotional toxicity may seriously affect law students, which perpetuates when they start their law career.

- If you are sleep-deprived, you may want to start there. Make sure that your sleep and nutrition are well-balanced first. Various techniques are available out there to improve both. It is usually not a quick fix but is worth focusing on those two in the long-term.
- Wander to think. Whether walking or running, make sure you maintain a pace that feels easy enough to turn the “thinking” brain down and let the mind wander to boost creativity and problem-solving. Try to do this before a meeting.
- When you’re feeling stressed, take a break to move. Throw yourself off balance by dancing a few minutes a day. Research shows that moving lightly on your feet is a fast way to lift your mood.
- Breathe. After a period of shallow breathing, inhale for four seconds and exhale for six seconds. Then inhale for five seconds and exhale for seven seconds. Then inhale for six seconds and exhale for nine seconds. And so on. Do this for one minute. Sigh after the exercise to release stress and move on.

In a nutshell, physical wellbeing is a critical component of wellbeing. Mental aspects are not sufficient to reach a state of optimal performance at work. If you learn to master your body, you will master your mind. Movement is essential to boost creativity and problem-solving as well as helping recharge your brain when highly solicited. By incorporating movement into your daily life, you

will be ahead of the game. Not only will you reach higher levels of performance, you will also build a sustainable and balanced routine to thrive throughout the upcoming years of your career.

Disclaimer: This is not medical advice and the techniques mentioned above may not be suitable for some people. If you have a medical condition or any health issues, please consult your doctor.



Naïs Mouret brings over seven years of work experience in both the public and private sectors. She is a certified emotional intelligence practitioner and leadership consultant. She advises leaders and managers on implementing emotional intelligence tools and leadership practices. Born and raised in the south of France, Naïs obtained a BA in Political Science and History from La Sorbonne Paris 1 and her JD/BCL from the McGill Faculty of Law. She started her career in human rights based at the United Nations in Geneva and implemented over 30 projects worldwide. Fascinated by compliance matters in business, she pursued her legal career as in-house counsel. She worked for companies in Switzerland, Canada, the US, and France. She held roles such as head of legal affairs at a California-based company and more recently as senior legal counsel at L'Oréal in Paris. Naïs is also a certified yoga instructor and is passionate about alternative methods to improve wellbeing at work and foster productivity in the legal environment. She can be reached at naismouret.com.

- 1 Lucinda Soon, "Towards a context-specific approach to understanding lawyers' wellbeing: a synthesis review and future research agenda", 2022, www.tandfonline.com/doi/full/10.1080/13218719.2023.2206879.
- 2 I will nuance this argument. I did find an article published this year on lawyer physical wellbeing: <https://theimpactlawyers.com/articles/lawyers-should-embrace-physical-activities>. If you are aware of any additional research being published, please reach out to me.
- 3 Caroline Williams, *Move, How the New Science of Body Movement can Set Your Mind Free*, Hanover Square Press, Toronto, 2021.
- 4 Daniel Goleman and Cary Cherniss, *Optimal: How to Sustain Personal and Organizational Excellence Every Day*, Harper Business, 2024.
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- 7 National Library of Medicine, Sleep Duration and Amyloid β Among Cognitively Healthy Later-Life Adults: A Systematic Review and Meta-Analysis, www.ncbi.nlm.nih.gov/pmc/articles/PMC10153382/
- 8 *ABA Journal*, www.abajournal.com/news/article/law_is_second-most_sleep_deprived_profession_federal_survey_finds/
- 9 www.hopkinsmedicine.org/health/wellness-and-prevention/the-brain-gut-connection
- 10 One attorney stated, "I started doing a morning walk – sometimes with a neighbor, sometimes with a dog, sometimes just with a podcast – and every time, it improved my mood. In hindsight, I always realized I did have the time, or at least 20 minutes. The change of scenery/outdoor time makes me better for the rest of the day."
- 11 Caroline Williams, *Move, How the New Science of Body Movement can Set Your Mind Free*, Hanover Square Press, Toronto (2021).
- 12 Ronda Muir, *Beyond smart: lawyering with emotional intelligence*, Chicago: American Bar Association, Section of Dispute Resolution, 2017.
- 13 Ronda Muir, *Beyond smart: lawyering with emotional intelligence*. Chicago: American Bar Association, Section of Dispute Resolution, 2017.
- 14 This is based on my experience as a professionally trained dancer and former salsa dancing instructor.
- 15 Caroline Williams, *Move, How the New Science of Body Movement can Set Your Mind Free*, Hanover Square Press, Toronto, 2021.
- 16 Colin James, "Seeing Things as We Are – Emotional Intelligence and Clinical Legal Education", 2005, *Int'l J Clinical Legal Educ* 8.
- 17 If you don't know what works for you yet, I suggest taking a few minutes a day to try techniques I have suggested in this article. Trying out new things will boost your creativity and willingness to get moving.

This article 'The power of physical wellbeing – beyond self-help and mental health practices' by Naïs Mouret is from the April 2024 edition of *Modern Lawyer*, published by Globe Law and Business. www.globelawandbusiness.com/journals/Modern-Lawyer-Journal



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