

Addressing Secondary Trauma in the Legal Profession

By ANNIE T. LE*

“The raging river is the client’s life The boulder falling is the trauma occurring. The image of secondary trauma is a lawyer standing in the river. They don’t get hit by the boulder, but they feel the ripple effect.”

– Jean Koh Peters¹

Introduction

CALIFORNIA RULE 1.1 OF PROFESSIONAL CONDUCT requires a lawyer’s competency, not just education and skills, but also “mental, emotional, and physical ability.”² Stress can negatively affect mental and emotional ability, and a high level of stress is known to be associated with the legal profession.³ While being invested in the clients’ cases and showing empathy, lawyers sometimes absorb clients’ suffering. Over time, repeated exposure to the first-hand traumatic experiences of others may lead to secondary traumatic stress, also called secondary trauma.⁴ Common symptoms of secondary trauma include avoidance, hypervigilance, lack of tolerance, numbness, and substance abuse.⁵ For

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1. Arin Greenwood, *Ripple Effects: Education and Self-Care Can Help Lawyers Avoid Internalizing Client Trauma*, A.B.A.J., Jan. 2006, at 20. Jean Koh Peters is a clinical professor at Yale Law School. *Id.*

2. CAL. RULES OF PROF. CONDUCT 1.1 (STATE BAR OF CAL. 2021).

3. *See* Greenwood, *supra* note 1.

4. Shirley Porter, *Secondary Trauma: Definition, Causes, & How to Cope*, CHOOSING THERAPY (Aug. 30, 2022), <https://www.choosingtherapy.com/secondary-trauma/> [<https://perma.cc/N8YX-QNGZ>].

5. Christina Rainville, *Understanding Secondary Trauma: A Guide for Lawyers Working with Child Victims*, A.B.A. (Sept. 1, 2015), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/september-2015/understanding-

a lawyer, all of these symptoms indicate a potential violation of Rule 1.1, which is intended to ensure that lawyers function with proper mental ability. Anger or irritability resulting from traumatic stress may appear as a litigator's zealous advocacy, but nonetheless may be damaging to the attorney and client.⁶ Lawyers work hard to get through law school, pass the bar exam, and practice law. Stress management techniques may be learned along the way even if not formally taught,⁷ but mental health treatments are often stigmatized in the legal community,⁸ and ironically, a lawyer's inability to manage stress can result in disciplinary actions that are as severe as loss of the job itself.

What areas of law are most susceptible to secondary trauma? The American Bar Association has recognized that criminal and family lawyers may be especially susceptible due to regular exposure to trauma,⁹ and secondary trauma has been noted in immigration law as well.¹⁰ This Comment focuses on those three areas of law. Part I defines secondary trauma. Part II discusses secondary trauma in criminal law, family law, and immigration law. Part III discusses how the legal profession and lawyers may address and manage secondary trauma.

I. What Is Secondary Trauma?

"The worst parts of their stories [build our understanding] of their legal case As human beings, we aren't meant to hear that level of suffering over and over and over and over without our bodies telling us that there's something

secondary-trauma—a-guide-for-lawyers-working-with/ [https://perma.cc/N8P4-VE7F].

6. Jennifer Brobst, *The Impact of Secondary Traumatic Stress Among Family Attorneys Working with Trauma-Exposed Clients: Implications for Practice and Professional Responsibility*, 10 J. HEALTH & BIOMEDICAL L. 1, 20 (2014).

7. See Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 535, 537–38 (2011).

8. *New Study on Lawyer Well-Being Reveals Serious Concerns for Legal Profession*, A.B.A. (Dec. 2017), <https://www.americanbar.org/news/abanews/publications/youraba/2017/december-2017/secretcy-and-fear-of-stigma-among-the-barriers-to-lawyer-well-bei/> [https://perma.cc/J7A6-4FR6].

9. *Compassion Fatigue*, A.B.A., https://www.americanbar.org/groups/lawyer_assistance/resources/compassion_fatigue/ [https://perma.cc/2ATR-MSXK].

10. Eric Hill-Tanquist, *Managing Secondary Trauma in Humanitarian Aid Work*, NO VISA NEEDED: UNIV. S. F. IMMIGR. POL'Y CLINIC (Nov. 6, 2022), <https://podcasts.apple.com/us/podcast/episode-6-managing-secondary-trauma-in-humanitarian/id1602296932?i=1000585283457> [https://perma.cc/286S-JD9M]. Hill-Tanquist is the Pro Bono Coordinator of Al Otro Lado. *Our Team*, AL OTRO LADO, <https://alotrolado.org/our-team> [https://perma.cc/KR7S-YA5V]. Al Otro Lado provides direct, free legal services to refugees, deportees, and other migrants in the United States and Tijuana, Mexico, including unaccompanied minors entering the United States. See *Justice for Migrants*, AL OTRO LADO, <https://alotrolado.org/aboutus> [https://perma.cc/W94K-6A92].

wrong.”

– Eric Hill-Tanquist¹¹

Secondary trauma is the cumulative negative impact of repeatedly hearing stories of trauma.¹² The American Psychological Association defines trauma as an emotional response to something terrible, ranging from immediate shock and denial to lasting adverse effects such as flashbacks or unpredictable emotions, strained relationships, and physical symptoms such as nausea or headaches.¹³ Approximately one-third of U.S. adults experience severe trauma in their lifetime.¹⁴ Trauma may fit in categories such as acute, chronic, complex, and historical and racial.¹⁵ Acute trauma stems from a single, isolated event.¹⁶ Chronic trauma results from repeated and prolonged exposure to stress.¹⁷ Complex trauma develops from childhood traumatic events.¹⁸ Historical and racial trauma may be collective and cumulative across generations.¹⁹

Secondary trauma mimics post-traumatic stress disorder (“PTSD”)²⁰ and is caused by indirect exposure to someone else’s trauma.²¹ Trauma-exposed work includes not only attorneys but all helping professions,²² including healthcare, social services, education, first responders, justice sector, military, and informal helpers with either direct or second-hand exposure to threat,

11. Hill-Tanquist, *supra* note 10.

12. Sabrineh Ardalani, *Constructive or Counterproductive? Benefits and Challenges of Integrating Mental Health Professionals into Asylum Representation*, 30 GEO. IMMIGR. L.J. 1, 7 (2015).

13. *Trauma*, AM. PSYCH. ASS’N, <https://www.apa.org/topics/trauma> [https://perma.cc/Q65T-3DQY].

14. VIVIANNE MBAKU, TRAUMA-INFORMED LAWYERING 1 (National Center on Law & Elder Rights 2020), <https://ncler.acl.gov/files/trauma-informed-lawyering.aspx> [https://perma.cc/5BUY-EYJJ].

15. LegalEDweb, *Trauma Informed Lawyering by Jessica Den Houter*, YOUTUBE (Sept. 1, 2020), https://www.youtube.com/watch?v=_t5lpeIwOLE [https://perma.cc/T8XP-B3S7].

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *See Post-Traumatic Stress Disorder (PTSD): Symptoms & Causes*, MAYO CLINIC (July 6, 2018), <https://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967> [https://perma.cc/VB3E-84LZ]. Post-traumatic stress disorder (“PTSD”) is triggered by experiencing or witnessing a terrifying event. *Id.* Symptoms vary over time and from person to person, but typically include “intrusive memories, avoidance, negative changes in thinking and mood, and changes in physical and emotional reactions.” *Id.*

21. *See* Rainville, *supra* note 5.

22. *APA Dictionary of Psychology*; AM. PSYCH. ASS’N, <https://dictionary.apa.org/helping-professions> [https://perma.cc/3UUY-7V9J] (defining helping professions as “occupations that provide health and education services to individuals and groups”).

danger, injury, or suffering.²³ Those who experienced a personal childhood trauma are more vulnerable to developing secondary trauma, especially if working with clients who suffered a similar trauma.²⁴ Secondary trauma affects an attorney's effectiveness and longevity on the job.²⁵

Symptoms of secondary trauma vary widely, depending on the person, ranging from shutting down to becoming short-tempered and explosive.²⁶ Secondary trauma often manifests through visualization of stories that the person heard that didn't happen to them, which can lead to nightmares, intrusive thoughts, and irritation.²⁷ If the emotional aspects of representation are not addressed, disastrous consequences may occur, such as missed deadlines that sabotage cases, inability to focus, and memory loss.²⁸ Some attorneys may have infinite compassion for clients, but lack patience and tolerance for their staff, friends, and families.²⁹

A lawyer's personal experience, exposure to clients' trauma, empathy, and employment dynamics can lead to burnout and secondary trauma.³⁰ Symptoms of secondary trauma and burnout can also lead to a state of compassion fatigue.³¹ This can affect an attorney's health and wellness, as well as the ability to thoroughly and zealously advocate for clients.³²

II. Secondary Trauma in Criminal Law, Family Law, and Immigration Law

“A public defender reviews police dash camera footage of her client's apprehension and arrest. Her client runs from the police, and they run him over with their police cruiser Watching a client be brutalized can engender

23. PATRICIA FISHER, RESILIENCE IN TRAUMA-EXPOSED WORK: UNDERSTANDING AND ADDRESSING THESE UNIQUE STRESS ENVIRONMENTS 2 (Tend Academy 2016), https://www.tendacademy.ca/wp-content/uploads/2016/12/ParticipantBooklet_ResilienceInTraumaExposedWork_FillablePDF.pdf [<https://perma.cc/HHJ3-XUNY>].

24. See Rainville, *supra* note 5.

25. See Brobst, *supra* note 6.

26. Hill-Tanquist, *supra* note 10.

27. *Id.*

28. Amy F. Kimpel, *Violent Videos: Criminal Defense in a Digital Age*, 37 GA. ST. U. L. REV. 305, 317, 345, 352–53 (2021).

29. See Hill-Tanquist, *supra* note 10.

30. Hannah C. Cartwright et al., *Vicarious Trauma and Ethical Obligations for Attorneys Representing Immigrant Clients: A Call to Build Resilience Among the Immigration Bar*, 2 AM. IMMIGR. LAWS. ASS'N L.J. 23, 24–25 (2020).

31. *Id.* at 24–25.

32. *Id.* at 25.

sympathy, but watching the client inflict violence can alienate.”

– Amy F. Kimpel³³

A. Secondary Trauma in Criminal Law

1. Prosecutors

Imagery from crime scenes may be gruesome and distressing, with increased volume and graphic nature due to the proliferation of high-definition cameras.³⁴ While all attorneys can experience secondary trauma from reviewing disturbing media, prosecutors may face unique risks arising from the relationship with survivors and the expectation to assist.³⁵ Prosecutors are bombarded with trauma through prolonged exposure to gruesome evidence, survivors’ accounts of brutal crimes, and the duty to relay those violent details to judges and juries.³⁶ Prosecutors are highly likely to experience secondary trauma in their careers due to high caseloads and direct work with traumatized clients.³⁷

Not all prosecutors develop symptoms or manifest them to the same degree.³⁸ Emotional symptoms may manifest through cynicism, depression, or aggression.³⁹ Anger may be drawn from exposure to victims’ severe pain and suffering.⁴⁰ Too much compassion is destructive, as it invites cognitive bias and stereotypes that limit a prosecutor’s effectiveness in evaluating the case’s merits.⁴¹ Physical symptoms, such as headaches and poor sleep, can lead to poor job performance, deteriorated relationships, substance abuse, burnout, and high job turnover.⁴² There is a stigma to exhibiting vulnerability, as prosecutors largely pride themselves on being mentally tough, upholding the dignity of

33. Kimpel, *supra* note 28, at 308, 314.

34. *Working with Traumatic Imagery*, DART CTR. FOR JOURNALISM & TRAUMA: A PROJECT OF COLUM. JOURNALISM SCH. (Aug. 12, 2014), <https://dartcenter.org/content/working-with-traumatic-imagery> [<https://perma.cc/C7X5-32LE>].

35. Major Evan R. Seamone, *Sex Crimes Litigation as Hazardous Duty: Practical Tools for Trauma-Exposed Prosecutors, Defense Counsel, and Paralegals*, 11 OHIO ST. J. CRIM. L. 487, 495 (2014).

36. Eric M. Werner, Comment, *Avoiding the Second Assault: A Guidebook for Trauma-Informed Prosecutors*, 25 LEWIS & CLARK L. REV. 573, 603 (2021).

37. *Id.*

38. *Id.*

39. *Id.* at 603–04.

40. *See* Seamone, *supra* note 35, at 540.

41. *Id.* at 542.

42. *See* Werner, *supra* note 36, at 603–04.

victims, and avenging them and society.⁴³

2. Defense Attorneys

With the Sixth Amendment right to counsel comes high expectations of the defense attorney to be a client's shield in an unjust system.⁴⁴ There are high caseloads, lack of funding, constant exposure to trauma, and unsympathetic police, prosecutors, and courts.⁴⁵ Defense attorneys face pressure to tell an "efficient narrative" built around defined elements and evidentiary rules.⁴⁶ In reality, client's stories are not easy to simplify, often complicated by poverty, housing and food insecurity, mental health issues, racism, sexism, and homophobia.⁴⁷ Not just bearing witness to stories, attorneys face their own complicity in the system of broken bail, coercive pleas, and rules with little promised protection.⁴⁸ It is not uncommon to negotiate far more guilty pleas than winning "not guilty" verdicts.⁴⁹ Then, the attorney's errors are dissected upon a client's ineffective assistance of counsel claims.⁵⁰ Beyond the usual systemic impediments, the recent COVID-19 pandemic hinders representation through lack of access to clients and courts.⁵¹

Defense attorneys show higher rates of secondary trauma symptoms than other trauma workers.⁵² Fighting for the dignity of the dehumanized, defense attorneys may experience burnout, insomnia, emotional numbing, physiological hyperarousal, depersonalization, and distancing, all of which affect connection with clients, legal advice, and litigation strategies.⁵³ Extreme symptoms on the spectrum include drinking and drug abuse, ineffective assistance of counsel that leads to disbarment, or suicide.⁵⁴ At the trial level and on appeal, "a review of convictions overturned by DNA testing reveals a trail of sleeping, drunk, incompetent and overburdened defense attorneys."⁵⁵

43. See Seamone, *supra* note 35, at 533.

44. Jenny E. Carroll, *If Only I Had Known: The Challenges of Representation*, 89 FORDHAM L. REV. 2447, 2454 (2021).

45. *Id.* at 2458.

46. *Id.* at 2460.

47. *Id.* at 2459–61.

48. *Id.* at 2459–60.

49. *Id.* at 2465.

50. *Id.* at 2462.

51. *Id.* at 2457.

52. *Id.* at 2458.

53. *Id.* at 2458–59.

54. *Id.* at 2462–63.

55. *Inadequate Defense*, INNOCENCE PROJECT, <https://innocenceproject.org/causes/inadequate-defense/> [https://perma.cc/3G44-8ZMW].

B. Secondary Trauma in Family Law

After her client lost child custody to an allegedly abusive father, a Colorado attorney advised the mother to take possession of her children and run, advised her on safe house programs to avoid being caught, and assisted her with liquidating assets.⁵⁶ Ultimately, the client was convicted of felony violation of a child custody order, and the attorney was disbarred.⁵⁷ Though the attorney was experienced in high-conflict divorce cases, personal attachment to the parties led to cognitive bias and misconduct.⁵⁸

From domestic violence to child abuse, family law has a high emotional context and a high concentration of trauma-exposed clients.⁵⁹ Some attorneys are drawn to the practice area by their own histories with trauma.⁶⁰ While personal background may enhance empathy, attorneys may become biased and overzealous in representing their clients.⁶¹ Heightened sensitivity to others is an invaluable skill for a family attorney when clients face an ex-spouse's threats, potential loss of visitation or custody, or an intimidating courtroom experience.⁶² However, devotion to client needs should not occur at the attorney's expense.⁶³

C. Secondary Trauma in Immigration Law

For immigration attorneys, trauma presents itself in clients' stories, evidence, and legal data.⁶⁴ Migrants may be exposed to trauma in their country of origin, in relocation, or in criminal victimization.⁶⁵ The process of applying for relief can also cause stress and emotional strains.⁶⁶ Long backlogs and processing delays during the COVID-19 pandemic negatively impacted immigrants' ability to work, obtain legal status, and reunite with family.⁶⁷ High

56. Brobst, *supra* note 6, at 32; *see also* People v. Chappell, 927 P.2d 829 (Colo. 1996).

57. Brobst, *supra* note 6, at 32; *see also* Chappell, 927 P.2d at 831.

58. Brobst, *supra* note 6 at 33.

59. *Id.* at 2-3.

60. Karen Oehme & Nat Stern, *Improving Lawyers' Health by Addressing the Impact of Adverse Childhood Experiences*, 53 UNIV. RICH. L. REV. 1311, 1323 (2019).

61. *Id.*

62. *See* Brobst, *supra* note 6, at 21.

63. *Id.*

64. *See* Cartwright et al., *supra* note 30, at 24.

65. *Id.* at 23.

66. *Id.* at 23-24.

67. Andrea Castillo, *More than a Million Could Die Waiting for Green Cards as U.S. Immigration Buckles Amid COVID*, L.A. TIMES (Aug. 4, 2022, 4:09 PM), <https://www.latimes.com/politics/story/2022-08-04/la-na-pol-backlogs-immigration-system?consumer=googlenews> [https://perma.cc/372Z-JBNJ].

caseloads, tight deadlines, politicization, and constant changes in legal landscapes are realities of immigration lawyering.⁶⁸

In particular, asylum attorneys have higher self-reported symptoms of secondary trauma and burnout than immigration judges, social workers, and prison wardens.⁶⁹ Female-identifying attorneys, attorneys of color, and solo practitioners reported higher symptoms.⁷⁰ Asylum attorneys help refugees who have a well-founded fear of future persecution or have suffered persecution in the past.⁷¹ It is unsurprising that mental consequences may come from listening to the fears and details of atrocious treatments.⁷²

With this inherent stress involved in immigration law, attorneys are susceptible to secondary trauma based on empathetic interactions with their clients. Eric Hill-Tanquist of Al Otro Lado acknowledged the sense of hopelessness as Title 42 of the U.S. Code turned away asylum seekers.⁷³ He also noted some attorneys' infinite compassion for clients, which can be ironically paired with limited patience for others in their lives whose problems are shrugged off as "first-world" problems.⁷⁴

III. Addressing and Managing Secondary Trauma

"Vicarious trauma changes individuals and the culture of an organization. Solutions require risk taking and change in new directions that recharge these workplaces with the hope and vitality that started the journey."

– Jan I. Richardson⁷⁵

Vicarious trauma symptoms should be acknowledged and mitigated, not ignored or penalized.⁷⁶ Secondary trauma may be addressed in the workplace, in addition to personal trauma management. The ABCs of addressing secondary trauma include awareness, balance, and connection, in professional,

68. See Cartwright et al., *supra* note 30, at 29.

69. Lindsay M. Harris & Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733, 734 (2021).

70. *Id.*

71. *Id.* at 748.

72. *Id.*

73. Hill-Tanquist, *supra* note 10.

74. See *id.*

75. JAN I. RICHARDSON, GUIDEBOOK ON VICARIOUS TRAUMA: RECOMMENDED SOLUTIONS FOR ANTI-VIOLENCE WORKERS 97 (Health Canada 2001), https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/os_vicarious_trauma_guidebook-508.pdf [<https://perma.cc/5E87-FUN2>].

76. See Cartwright et al., *supra* note 30, at 37.

organizational, and personal lives.⁷⁷

A. Organizational Help

Secondary trauma often develops in the workplace, and mitigating secondary trauma requires addressing the root cause.⁷⁸ If not addressed, there are real consequences, such as lower morale, lower productivity, staff turnover, inconsistent client representation, and longer hours devoted to filling vacancies.⁷⁹ Mindfulness and awareness of secondary trauma means recognizing trauma and its effects, knowing how to respond, and helping rebuild a feeling of control and empowerment.⁸⁰

1. Awareness

The legal profession often perpetuates patterns of trauma by applauding compartmentalization, suppressed emotions, and perseverance rather than compassion, awareness, and vulnerability.⁸¹ To combat secondary trauma, organizations can normalize conversations about it by training employees to talk openly and understand the symptoms within themselves and others.⁸² Trainings in trauma management and stress reduction may be integrated with orientation for new prosecutors and in continuing legal education.⁸³ Staff may need training in recognizing their own triggers and burnout levels, and how this may affect their work with clients.⁸⁴ Supervisors should be trained to recognize warning signs of secondary trauma and the need for check-ins.⁸⁵ Supervisors should also ensure that mental health care is covered by employer-provided health care plans.⁸⁶

Additionally, traumatic imagery in client files should be clearly signposted with clear guidelines on storage and distribution.⁸⁷ Written notes of the evidence's distinctive features can help minimize the frequency of rechecks and

77. See RICHARDSON, *supra* note 75, at 29.

78. See Rainville, *supra* note 5.

79. See Cartwright et al., *supra* note 30, at 29.

80. *Resilient Youth of Somerset*, CHILD'S HOPE INITIATIVE, <https://childrenshopeinitiative.org/resilient-youth-of-somerset/> [https://perma.cc/7Z4W-K8V8].

81. See Cartwright et al., *supra* note 30, at 30.

82. See Rainville, *supra* note 5.

83. See Werner, *supra* note 36, at 604.

84. *Delivering Trauma-Informed Services*, 14 HEALING HANDS, Dec. 2010, at 1, 4.

85. See Werner, *supra* note 36, at 604.

86. See Cartwright et al., *supra* note 30, at 36.

87. *Working with Traumatic Imagery*, *supra* note 34.

thus repeat exposure.⁸⁸ Eliminating needless repeat exposure, adjusting the computer viewing environment, and taking frequent screen breaks are all important.⁸⁹ Workplaces that deal with violent imagery should build in some visual separation, such as incorporating windows with an outside view, plants, and other natural elements into the office.⁹⁰

2. Balance

A comfortable work-life balance is important to emotional well-being and vital in mitigating secondary trauma.⁹¹ Rather than waiting until someone quits or is terminated for misconduct, institutions can implement leaves of absence or non-emergency duties for at-risk staff.⁹² Those who work around trauma need regular, defined breaks, not longer hours or pressure to reply to communications on days off.⁹³ Encouraging staff to take breaks, go to lunch, use vacation time, and develop other strategies to create and maintain work-life balance are all crucial.⁹⁴

Diversifying practice areas for attorneys is one of the best options to combat secondary trauma.⁹⁵ Though many attorneys may stick to one type of law or specific legal issue due to years of expertise or personal fulfillment, giving back is also possible in another capacity.⁹⁶ For example, high-conflict family lawyers may try collaborative family law with fewer complex or high-conflict cases.⁹⁷ Attorneys may take a step back from client cases to mentor and train new attorneys, teach as a law school adjunct professor, or serve on a nonprofit board serving the same type of community.⁹⁸

Autoreplies can be set up by staff and volunteers. With thousands of messages coming in, individual replies are almost impossible. Al Otro Lado uses an automated system that provides pieces of information upon request, lessening the pressure on attorneys and the fear that something bad might

88. *Id.*

89. *Id.*

90. *Id.*

91. Nefra MacDonald, *Work-Life Balance for Lawyers*, CLIO, www.clio.com/blog/lawyer-work-life-balance/ [<https://perma.cc/NP6X-FZEA>]; see RICHARDSON, *supra* note 75.

92. See Brobst, *supra* note 6, at 51.

93. See Rainville, *supra* note 5.

94. See *Delivering Trauma-Informed Services*, *supra* note 84, at 4.

95. See Brobst, *supra* note 6, at 52.

96. *Id.*

97. *Id.*

98. *Id.*

happen upon delayed response.⁹⁹

In Eric Hill-Tanquist’s opinion, a healthy workload is what can be done within normal business hours.¹⁰⁰ If staff members work every second of every day and still feel that they’re getting farther and farther behind, then something is wrong.¹⁰¹ A support system is needed, so no attorney is on call 24/7 or feels like they’re the “end all, be all” of help for any client at any given time. It is okay to take breaks.¹⁰²

3. Connection

During the COVID-19 pandemic, lawyers working from home, who were already struggling with depression and substance abuse, experienced an erosion of boundaries between work and personal life, which made their mental health worse.¹⁰³ Remote work meant increased isolation and misunderstood emails.¹⁰⁴ To address this, firms held conferences with mental health professionals to advise attorneys on how to take care of their mental health amid the pandemic.¹⁰⁵ Reconnecting and communicating build rapport, reduce isolation, break the silence of unspoken pain, and increase validation and hope.¹⁰⁶

It is important that supervisors create intentional check-ins and regular social activities to help employees break out of the “hamster wheel of constant work.”¹⁰⁷ As the risk associated with COVID-19 declines and more people are vaccinated, in-person connection is returning. People can meet indoors as well as outdoors. Work friendships boost morale, well-being, and enhance team effectiveness.¹⁰⁸ Get-togethers help build rapport and camaraderie among co-workers, which can have a positive financial and social effect on an

99. See Hill-Tanquist, *supra* note 10.

100. *Id.*

101. *Id.*

102. *Id.*

103. Dylan Jackson, *Legal Professionals Were Already Struggling with Stress and Isolation, and the Pandemic Has Made Things Much Worse*, THE AM. LAW. (May 3, 2021, 5:00 AM), <https://www.law.com/americanlawyer/2021/05/03/lawyers-were-already-struggling-with-stress-and-isolation-and-the-pandemic-has-made-things-much-worse/?slreturn=20220916223210> [https://perma.cc/67VH-Q32E].

104. Hill-Tanquist, *supra* note 10.

105. Jackson, *supra* note 103.

106. See RICHARDSON, *supra* note 75, at 29.

107. Hill-Tanquist, *supra* note 10.

108. Dana Brownlee, *Work Friendships Are Key for Team Camaraderie, but How Do You Cultivate Them Remotely?*, FORBES (Sept. 1, 2020, 3:40 PM), <https://www.forbes.com/sites/dana-brownlee/2020/09/01/work-friendships-are-key-for-team-camaraderie-but-how-do-you-cultivate-them-remotely/?sh=3f73f87f3fcc> [https://perma.cc/4SWC-9FN5].

organization.¹⁰⁹

B. Self-Help

“I don’t think that most people have the emotional endurance to stay in this work for a particularly long period of time, unless they do set very strict boundaries for themselves.”

– Eric Hill-Tanquist, *Al Otro Lado*¹¹⁰

“Self-awareness, self-assessment and self-care are critical”

– Jan I. Richardson¹¹¹

1. Self-Awareness

Beyond the job, secondary trauma also impacts personal life, from hopelessness to strained relationships and compromised parenting.¹¹² Each attorney has their own experiences, privileges, strengths, vulnerabilities, and coping mechanisms that either mitigate or exacerbate vicarious trauma.¹¹³ Self-awareness is being mindful of one’s personal needs, emotions, physical and mental limits, and resources.¹¹⁴ Posture, pause, vocal volume, and breathing are all worth noting. What topics trigger a negative emotional response? What makes you particularly upset? What hurts you most when you hear it?

When discussing cases with clients—though many may seem “numb” to trauma—content warnings and sharing only essential details may be necessary, both for attorneys and clients.¹¹⁵ To alleviate the stress of the process up front, lawyers should explain their motivations, their role, the role of the court, and what can happen during representation.¹¹⁶ Defining the scope of needed details helps clients avoid relaying and reliving traumatic details that aren’t necessary for the case.¹¹⁷ This lessens the trauma both for clients and attorneys. Setting realistic expectations enables lawyers to provide referrals to additional services as needed, and not feel like they should carry the case on their shoulders

109. *Team Camaraderie: Why It’s Important & 7 Strategies to Build Team Camaraderie*, TEAM BLDG. HUB, <https://teambuildinghub.com/team-building/benefits/camaraderie/> [https://perma.cc/Z66P-W9JZ].

110. Hill-Tanquist, *supra* note 10.

111. *See* RICHARDSON, *supra* note 75, at 12.

112. *See* Rainville, *supra* note 5.

113. *See* Cartwright et al., *supra* note 30, at 35.

114. *See* RICHARDSON, *supra* note 75, at 29.

115. *See* Rainville, *supra* note 5.

116. *See* MBAKU, *supra* note 14, at 2.

117. *See* Hill-Tanquist, *supra* note 10.

alone.¹¹⁸

For law students, it is important to begin addressing stress management while in law school. Lawyers' culture of hard work is shaped by the legal education's socialization, the competitive grade curve, pressure to perform for the "prizes" of class standing and journal participation.¹¹⁹ After incurring crushing debt to pay for law school, law students experience financial stress, which can make it difficult for them to enjoy their careers.¹²⁰ But according to a 2014 survey sponsored by the American Bar Association, forty-five percent of law students surveyed avoided mental health treatment during school because they felt it would negatively affect their application for bar admission.¹²¹ For this reason, California and some other states have removed questions about mental health treatments from the state bar character and fitness evaluation, but thirty-eight states still inquire about mental health on their questionnaires.¹²² Law schools recognize the mental health issues faced by students, and may offer formal or informal education in stress reducing techniques such as mindfulness, which is a form of meditation.¹²³ Training in these skills should be more widely implemented. Law students should take advantage of these opportunities and carry the techniques forward into practice.

2. Self-Assessment and Balance

Inner balance allows attention to all aspects of oneself, including work, play, and rest.¹²⁴ Attorneys should take steps to de-escalate after long periods of writing or testimony preparation, instead of burying emotions and pushing on to the next case, which can negatively affect another client.¹²⁵ Working late into the night or checking emails right before bedtime doesn't allow the

118. See MBAKU, *supra* note 14, at 2.

119. Debra S. Austin, *Killing Them Softly: Neuroscience Reveals How Brain Cells Die from Law School Stress and How Neural Self-Hacking Can Optimize Cognitive Performance*, 59 LOY. L. REV. 791, 794-96 (2013).

120. Staci Zaretsky, *Crushing Law School Debt Is Destroying Lawyers' Mental Health*, ABOVE THE LAW (Oct. 27, 2020, 1:13 PM), <https://abovethelaw.com/2020/10/crushing-law-school-debt-is-destroying-lawyers-mental-health/> [<https://perma.cc/KM9M-HC6P>].

121. See Shira Feder, *Law Students Say They Avoid Therapy Because They Worry It Could Affect Their Job Prospects*, INSIDER (Feb. 25, 2020, 11:58 AM), <https://www.insider.com/law-students-avoid-getting-mental-health-treatment-due-to-stigma-2020-2> [<https://perma.cc/T3Z3-YC2R>].

122. *Id.*

123. See Tim Iglesias, *Offering and Teaching Mindfulness in Law Schools*, 49 UNIV. S.F. L. REV. F. 24, 26, 28, 31 (2015); see Magee, *supra* note 7, at 537. As early as orientation, some law schools offer introductions to mindfulness. *Id.* at 559.

124. See RICHARDSON, *supra* note 75, at 29.

125. See Cartwright et al., *supra* note 30, at 34.

unconscious brain time to solve problems.¹²⁶ It is important to define breaks, leave the office at a reasonable hour, and refrain from working or contacting colleagues during off-hours unless there is truly an emergency.¹²⁷ Self-help measures can include adequate sleep, nourishing food, professional therapy, and regular exercise.¹²⁸ Mental health days, sick days, vacations, and days off after intense cases all help increase the sustainability of advocacy.¹²⁹ Having colleagues who can cover for you can help ease the stress of potentially losing a client or falling behind.

While old norms linger and inner balance may be hard to strike, the recent pandemic created the ability for workers to bargain for flexibility, compensation, and accommodations for healthier lives.¹³⁰ Taking time off and drawing boundaries can be difficult, as many lawyers work long hours because of the feeling of empathy and responsibility for their clients. Many family attorneys work in small firms or as solo practitioners, which means they both practice law and manage the business, making time off seem impossible.¹³¹ However, respite is not a luxury, it is a necessity to avoid harm to both lawyer and client.¹³² Time off is important to avoid general burnout and compounded symptoms of traumatic stress, including nightmares, sleep disorders, hypervigilance, and lowered immunity to disease.¹³³ Impulsivity and avoidance are grave dangers that may lead to competency issues.¹³⁴ Ultimately, the client is better served by a lawyer who has achieved balance.

3. Self-Care and Connection

The get-togethers mentioned in Section III.A.3 not only help the organization but help individual attorneys as well by building rapport, which aids in self-care.¹³⁵ For the attorney who is mindful of the possibility of secondary

126. Shailini Jandial George, *Are You a Law Warrior Burning the Midnight Oil? Research Says Stop*, BLOOMBERG L. (Sept. 28, 2021, 1:01 AM), <https://news.bloomberglaw.com/us-law-week/are-you-a-law-warrior-burning-the-midnight-oil-research-says-stop> [https://perma.cc/5MG5-TUY9].

127. See Rainville, *supra* note 5.

128. *Id.*

129. See Cartwright et al., *supra* note 30, at 34.

130. Lara Bazelon, *Will Employers Finally Listen to What Mothers Need?*, THE CUT (June 9, 2022), <https://www.thecut.com/2022/06/working-mothers-pandemic-flexibility.html> [https://perma.cc/VG3D-9V6M].

131. See Brobst, *supra* note 6, at 51.

132. *Id.* at 51–52.

133. *Id.*

134. *Id.* at 33.

135. Hill-Tanquist, *supra* note 10.

trauma, seeing a therapist can be helpful, not because of a particular active need but in preparation for changes that may result from constant exposure to trauma.¹³⁶ A listener with no connection to personal life or work can lessen the pressure of sharing.¹³⁷

In addition to a therapist, one such “listener” can be a pet. Generally, people with pets experience less stress than people without pets, and the act of petting a dog or cat can lower a person’s blood pressure.¹³⁸ Many lawyers have work-related demands that preclude having much of a social life and the resulting loneliness can lead to stress that pets can help alleviate.¹³⁹ Pets provide not only companionship but social interaction when pet owners make pet playdates or meet at dog parks.¹⁴⁰ Therapy animals have been introduced at law schools to help increase student happiness and wellbeing.¹⁴¹ The University of San Francisco School of Law offers therapy dogs on campus during inherently stressful times including midterm and final exam periods.¹⁴² Some law firms allow lawyers to bring their dogs to work in order to attract and retain new legal talent, noting improved staff engagement and retention as well.¹⁴³ Some state and federal courts employ therapy dogs to help comfort victims and witnesses, particularly children,¹⁴⁴ although the practice has been opposed by defense attorneys.¹⁴⁵ For law students and lawyers, the unconditional love shown by

136. *Id.*

137. *Id.*

138. Julie Houth & Ashley Kloenhamer, *Pet Your Stress Away*, A.B.A., https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/personal-life/pet-your-stress-away/ [<https://perma.cc/QH3U-CDT3>].

139. *Id.*

140. *Id.*

141. Timothy Williams, *For Law Students with Everything, Dog Therapy for Stress*, N.Y. TIMES (Mar. 21, 2011), <https://www.nytimes.com/2011/03/22/education/22dog.html> [<https://perma.cc/XGL7-STQU>].

142. USF School of Law (@usflaw), INSTAGRAM (Oct. 7, 2021), <https://www.instagram.com/p/CUvItowPgCv/?igshid=MDE2OWE1N2Q=> [<https://perma.cc/LH5Z-FWBD>]. The University of San Francisco School of Law has implemented a Mental Health Awareness Week, which includes visits from therapy dog, Brixton, and other resources for self-care. *Id.*

143. See Jyoti Mann, *One of Britain’s Most Prestigious Law Firms Is Letting Lawyers Bring Their Dogs to Work to Reduce Stress*, INSIDER (June 19, 2022, 3:50 AM), <https://www.businessinsider.com/magic-circle-law-firm-lets-lawyers-bring-dogs-to-work-2022-6> [<https://perma.cc/Y7ZZ-WCJ7>].

144. *Canines Take the Stand in Court Dog Programs*, MASSEY L. GRP., P.A. (Apr. 28, 2022), <https://www.masseylawgroup.com/canines-take-the-stand-in-court-dog-programs/> [<https://perma.cc/Q7HP-W9ST>].

145. Dan Wiessner, *U.S. Courtroom Dogs Spark Legal Debate*, REUTERS (Sept. 12, 2011, 8:30 AM), <https://www.reuters.com/article/us-usa-courtroom-dogs-idUSTRE78B4KN20110912> [<https://perma.cc/J3WP-2P7M>].

therapy animals and pets as well as interaction with other pet owners can be an effective means of self-care and connection.

Conclusion

In the difficult but diligent work of lawyering, many attorneys are secondary witnesses to trauma, through hearing clients' stories, validating their feelings, and offering support. Empathy makes lawyers effective in understanding clients' experiences. However, while being invested in the cases, lawyers may absorb clients' suffering and thus risk secondary trauma. Whether it's being aware of the attorney's own vulnerabilities, taking time off for balance, connecting with others for acknowledgment or help, implementing mindfulness, or socializing with a therapy animal, managing stress and secondary trauma is crucial to prevent burnout, avoidance, impulsivity, and other symptoms that are dangerous to both attorneys and clients. With proper diligence, attorneys can successfully navigate the dangers of secondary trauma, comply with Rule 1.1, and sustain fulfilling careers as advocates for justice.