

Getting Down To Business

About Sleep in the Legal Profession



By Laura Mahr

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Sleep and Our Profession

In the past six years of providing resilience coaching and stress reduction training for lawyers, judges, and law school students, one thing is abundantly clear to me: Our profession rates high on stress and low on quality sleep. When I ask my coaching clients and mindfulness students about their sleep habits, many share that they struggle to get a good night's sleep. Some can't fall asleep, others don't stay asleep, others struggle to wake up in the morning. The more neuroscience research proves the benefits of quality of sleep and reveals the connection between physical, mental, and emotional ailments related to sleeplessness, the more the high rates of stress, burnout, depression, anxiety, and addiction in our profession add up.

Sleep fuels our bodies and brains; law demands too much of us to continuously practice on a drained fuel tank. Working chronically tired can lead to ineffective lawyering resulting from making mistakes, missing solutions to problems, forgetting, and acting out emotionally. Bottom line: Bad sleep is bad for our business, even if what is preventing a good night's sleep is a good intention to do well at work.

A Lawyer's Experience

A recently retired lawyer who practiced for 40 years shared that he never slept more than three or four hours at a time. He worked late after his family went to bed and then went to sleep. After a few hours, he awakened with a start, his mind racing through his cases and his to-do list. The only strategy he had to calm his mind was to get up, go to the office, and start his work day at 3:30 a.m.

I asked him in retrospect what would have been helpful for him during those many years of sleepless nights. He replied, "I wish someone had taught me the kinds of tools I'm learning now...like how to calm down with mindfulness." "For most of my career, nobody was talking about sleep or stress or what to do about it...I didn't get the correlation between sleep and productivity. I certainly didn't talk about my sleep problems at work. I didn't want my colleagues or my clients to think that I didn't have what it takes to get my job done right."

The Connection between Restorative Sleep and Effective Client Services

It's useful for us to connect the dots between getting restorative sleep and effective client services. Quality sleep helps us to learn more quickly and retain what we learn; when we are rested, we

think and problem solve more effectively and more creatively, and we feel more motivated. In addition, there's a strong connection between effective leadership and getting enough sleep ([see bit.ly/1XvbWX1](http://bit.ly/1XvbWX1)).

It's easy to comprehend the logic that follows: We lawyer and preside over courtrooms better when we learn quickly, retain what we learn, think creatively, and are motivated.

The Downside of Poor Sleep

Conversely, our cognitive functioning declines rapidly with sleep deprivation (*see Neurocognitive Consequences of Sleep Deprivation*, *Semin Neurol.* 2009 Sep.; 29(4): 320–339, available online at bit.ly/2zfpeG). It's compelling for our profession to understand that this neuroscience research shows that while certain parts of our brains can function fairly well on little sleep, the prefrontal cortex—the "executive functioning" part of our brain that does our lawyering (reasoning, organizing, planning, and problem solving)—struggles greatly with sleep deprivation. The article summarizes these eye-opening cognitive performance effects of sleep deprivation:

- Involuntary microsleeps (falling asleep).
- Attention-intensive performance is unstable with increased errors of omission (lapses) and commission (wrong responses).
- Psychomotor response time slows.
- Both short-term recall and working memory performances decline.
- Reduced learning (acquisition) of cognitive tasks occurs.
- Performance requiring divergent thinking deteriorates.
- Response suppression errors increase in tasks primarily subserved by the prefrontal cortex.
- Response perseveration on ineffective solutions is more likely to occur.
- Increased compensatory effort is required to remain behaviorally effective.
- Tasks may begin well, but performance deteriorates as task duration increases.
- Growing neglect of activities judged to be nonessential (loss of situational awareness) occurs.

When we work when we are tired, we are less efficient and make more mistakes, and we ultimately become further exhausted as we push the neocortex to function when it would rather be restoring its energy through sleep. In addition, when we work when we are sleepy, we are more prone to distraction, such as

surfing the web or checking our phones (see bit.ly/2Y54bBq). Therefore, tasks that would otherwise take only a few minutes may drag on because we lose our focus.

In addition, an interesting study on sleep and leadership, *You wouldn't like me when I'm sleepy: Leader sleep, daily abusive supervision, and work unit engagement*, available online at bit.ly/2JWtSvo, found that the quality of sleep of a workplace leader plays a role in the supervisor's abusive behavior. The study also makes the connection between abusive behavior by leaders and employee disengagement and lowered job performance. The study's authors recommend that leaders "attempt to delay important interactions or decisions on days when they have had a poor night of sleep the night before." Another interesting study found that employees who experience high amounts of workplace telepressure from their employers—the preoccupation and urge to immediately respond to email or text messages—tend to have poor sleep quality and high rates of work exhaustion (Barber & Santuzzi, 2015, bit.ly/2ZgIueq).

The Upside of Quality Sleep

Quality sleep, on the other hand, helps us to feel good. It reduces stress and inflammation, and supports a healthy immune system and heart (see bit.ly/2DNqQbS). Getting quality sleep is one way to uplevel our physical health and our work-life satisfaction. Neuroscience research shows that quality sleep helps us to stabilize our moods, and decrease irritation and emotional volatility (*Overnight Therapy? The Role of Sleep in Emotional Brain Processing*, bit.ly/2Y6Aosn). As attorneys and judges, we want to feel emotionally stable at work. It's desirable for effective client services, in-house teamwork, professional collegiality, and decision making to be able to think and act calmly, without getting emotionally triggered. Additionally, most clients and courtrooms respond well to a calm, emotionally stable demeanor. When our mood is regulated, things tend to work out better all around—for our clients, our cases, and ourselves.

Ideas for Improving our Profession's Relationship with Sleep

We need sleep. We know it. Yet most of us aren't getting the sleep we need, in part because of our anxiousness about doing well, and in part because we are members of a profession that is still learning about wellbeing. Circling back to the retired attorney and his hesitancy to talk about his sleep challenges at work, he's correct in pointing out that our current legal culture isn't accustomed to talking about the toll practicing law or sitting on the bench takes on us, including our ability to sleep peacefully. For most lawyers and judges, it is uncomfortable and feels foreign to talk about our need for greater wellbeing, or our need for help. What would happen if we acknowledged our discomfort, and then set it aside and turned toward productive ways to address our profession's lack of sleep and its impact on our wellbeing and performance?

If you would like to begin the conversation at your place of employment or improve your own sleep hygiene, here are a few places to start:

Ways legal employers can cultivate an office culture that supports good sleep habits:

1. Host a CLE/training for the entire organization on sleep hygiene that includes sleep theory and practical tools that promote restful sleep.
2. Create sleep-supportive policies and practices regarding staying "plugged in" after normal business hours. Talk about the communication policies with teams. Leaders can share their expectations for staff regarding returning emails, phone calls, and texts to clients and other team members after hours. It may be helpful to hire a professional to facilitate the conversation.
3. Come up with "blackout times" after which no one at the firm is expected to check any kind of work communication, unless it's an emergency.

Ways we can help ourselves to sleep, perform, and feel better:

1. Review the article *Sweet Dreams* (see <https://www.ncbar.gov/media/730541/journal-24-3.pdf#page=28>) that the NC Lawyer Assistance Program Director Robynn Moraites contributed to the Journal this month. Read her list of suggestions for improved sleep. Pick one suggestion from the list and incorporate it into your life for the next month.
2. Look again at the list above from the *Neurocognitive Consequences of Sleep Deprivation* article. Print it out and put it on your desk. When you have an impulse to work when you are tired, look at the list as a gentle reminder of the benefits of taking a restful break. Then take a break, get some restful sleep, and return to work with your prefrontal cortex back on line.
3. Set "blackout times" for yourself after which you won't check any kind of work communication, unless it's an emergency.

Enjoy trying out some new positive sleeping habits and initiating new conversations with your colleagues about sleep and wellbeing. To all a good night! ■

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