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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

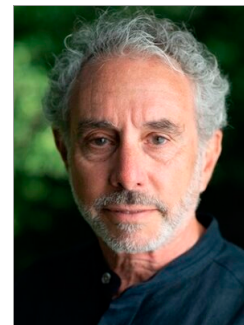
Atty Well-Being Efforts Ignore Root Causes Of The Problem

By **Jonathan Baum** (July 1, 2024, 4:28 PM EDT)

The legal profession is engaged in a critical conversation about **lawyers' mental health** and general well-being. That focus is almost exclusively on how to manage or mitigate the stress in the profession, rather than addressing the underlying causes.

Indeed, the recent Well-Being Week in Law featured five days of activities and webinars on subjects ranging from improving sleep quality to taking more breaks during the workday — but there was no discussion of reducing workloads.[1]

Before we can effectively address professional well-being, we must first consider the fundamental question of whether one key element of the current law firm model, excessive workloads, is even compatible with lawyer well-being.



Jonathan Baum

And if it's not, what impact would reduced workloads have on lawyers, law firms and their clients?

Excessive Workloads Are Leading Cause of Psychological Distress

A career in law is often marked by **high levels of stress** that seem untamed by wealth and prestige. Those in the profession often struggle with higher incidences of depression, substance abuse, divorce and **suicide**. [2]

This story mentions suicide. If you are experiencing thoughts of suicide, the Suicide and Crisis Lifeline is available 24 hours a day at 988 or online at 988lifeline.org.

The causes don't appear to be in dispute, as study after study links **poor mental health** to the "work hard" culture. [3]

The Université de Sherbrooke's 2022 "National Study on the Health & Wellness Determinants of Legal Professionals in Canada" stands out among studies of lawyer well-being and mental health for its thoroughness. [4]

In one section of their targeted recommendations, the authors of the study focused on the impact of billable hour requirements on lawyer well-being. Among their conclusions were the following:

- Pressure to meet billable hour quotas "increas[ed] psychological distress, depressive symptoms, and burnout."
- "The discrepancy between billable hours and actual hours worked" was an aggravating

factor.

- The pressure to meet billable hour quotas "did not decrease with experience and years of practice."
- "As billable hour targets increased," lawyers "became less emotionally committed to their profession and their intention to leave it increased." [5]

The adverse impact of billable hour requirements extends beyond psychological distress. The Canadian study found that "70.7% of respondents with a billable hours target of between 1,200 and 1,800 hours per year were afraid of starting a family, and this proportion rose to 81.5% among professionals who were required to complete over 1,800 billable hours." [6]

Worse, the study found that female lawyers suffer the most. [7]

The Response of the Legal Profession

With numerous surveys and studies confirming that billable hours and excessive workloads are detrimental to a lawyer's well-being, the legal profession has responded with what has become a movement to help lawyers cope with the crushing stress of practicing law.

BigLaw, in particular, has established support groups and programs to help their legal teams manage in a pressure-cooker culture. Some have designated wellness officers. Others have established hotlines and wellness resource guides. One firm even brought in four therapy dogs to visit their hard-working associates. [8] And another big firm honored World Sleep Day by giving their associates sleep-themed gifts, including branded silk eye masks. [9]

On a broader scale, organizations such as the Institute for Well-Being in Law provide a robust catalog of strategies for legal professionals to manage stress and improve mental health.

Unfortunately, the common theme of all these programs, efforts and gimmicks is to help lawyers cope with the stress of being overworked, rather than to address the underlying problem of why a lawyer is overworked in the first place. Except for a few distant voices, [10] this entire piece of the analysis is conspicuously absent.

In order to resolve the underlying problem, the legal profession needs to examine whether excessive workloads are compatible with lawyer well-being. And, the focus must shift to making meaningful changes to workload demands, rather than simply encouraging the most pernicious aspect of this work culture, which is the implicit victim-blaming message of "if you can't take the heat..."

Legal professionals can safely take and publicize the American Bar Association's "Stepping Towards Well-Being" pledge, [11] adopt the Mindful Business Charter, [12] or even take the New York State Bar Association's personal wellness assessment [13] without ever addressing excessive workload levels. It's as if Smokey Bear were only concerned with burn care.

By ignoring the root problem, the well-being crisis among lawyers will only deepen and expand. When long hours are taken as an unchallenged given in the profession, then everyone loses — including associates, partners, firm leadership and clients.

After all, if you were a client, would you want a stressed out, burnt-out, sleep-deprived, overworked lawyer working on your bet-your-company litigation or public offering registration statement? Maybe not.

Does It Have to Be This Way?

With a few obvious exceptions, there is nothing inherently urgent or crucially time-sensitive about most lawyers' work. Lawyers are not EMTs or U.S. Navy SEAL team members. There are comparatively few emergencies in law. Deadlines can be reasonable if properly anticipated and

appropriately staffed.

These pressures cannot be attributed to **client demands**. Clients expect quality work delivered in a timely and cost-effective manner. No one could reasonably argue that the longer a lawyer works on any given day or night, the better their work product.

And in those instances where an urgent deadline looms, the client will be better served by more lawyers working fewer hours, than by one lawyer working through the night.

But instead, with or without "emergencies," lawyers work daily marathons. While this may be a path to peak profitability, it is not a recipe for peak performance.

We must also ask whether the issue is simply one of money. Some may ask: What's the problem if the firm is willing to pay \$250,000 for a first-year associate, and the associate is willing to put in 2,400 billable hours?

If that's the analysis, is there no upper limit to the number of hours that a firm and a willing associate can agree upon if the price is right?

A Better Way

If the causes of lawyer burnout and stress are so evident, so widely acknowledged and within each firm's capacity to remedy, why aren't they addressed? The most obvious objection to any remedy is that it may reduce profitability.[14]

Findings from the U.S. Department of Labor and the World Health Organization suggest that this may be a misguided objection. For example, WHO estimates that "for every dollar U.S. employers spend treating common mental health issues, they receive a return of \$4 in improved health and productivity." [15]

Imagine the enhanced profitability if that \$1 were spent preventing the stress in the first place. Perhaps more importantly for a profession that extols the quality of its work product, as stress goes down, the quality of work goes up.[16]

Even if profitability were to take a hit, reducing high workload quotas would benefit lawyers and their clients. What would a firm be willing to forego in profitability in order for its lawyers to live without stress and be more productive?

Who among us would not want to work at a firm that, for instance:

- Puts limits on how many hours its lawyers work;
- Mandates vacations;
- Rewards quality over quantity;
- Staffs projects appropriately; and
- Offers flexible hours?

A firm that embraces the above model will promote lawyer well-being; produce a better work product; improve responsiveness to client needs; attract and retain the best and brightest talent; [17] attract and retain the best clients,[18] especially those who have ethical sourcing standards; [19] and likely increase profitability through greater productivity and lower disability-related absences.

The current and increasing levels of workload demands have put the profession on an unsustainable trajectory that no amount of therapy can cure. The argument that it drives profit per partner has to be countered with the question, "At what cost?"

It's time to shift the focus from palliative care to preventative solutions. In doing so, we will create a safer, more productive and arguably more profitable workplace.

Jonathan Baum is the founder at Avenir Guild LLC.

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[1] <https://lawyerwellbeing.net/well-being-week-in-law/daily-schedule/>.

[2] We are not exceptional. Other professions, such as consulting and investment banking, subject themselves to very similar dynamics and suffer similar outcomes. <https://tinyurl.com/4d6b3n7k>.

[3] <https://tinyurl.com/4k7mfdjb>, for example.

[4] <https://tinyurl.com/bddhpaba>.

[5] <https://tinyurl.com/bddhpaba> at page 7.

[6] <https://tinyurl.com/bddhpaba> at page 7.

[7] <https://tinyurl.com/bddhpaba> at page 11.

[8] <https://tinyurl.com/yvuaewmn>.

[9] <https://tinyurl.com/2u9jwx5v>.

[10] <https://tinyurl.com/4kn6xzef>.

[11] https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls-colap-working-group-pledge-and-campaign.pdf.

[12] <https://tinyurl.com/49n2vb72>.

[13] <https://nysba.org/app/uploads/2020/04/Self-Assessment-Well-Being-Worksheet.pdf>.

[14] <https://tinyurl.com/3c26j9wd>.

[15] <https://www.osha.gov/workplace-stress/employer-guidance>.

[16] <https://www.business.com/articles/stress-and-productivity-what-the-numbers-say/>.

[17] <https://tinyurl.com/bddhpaba> at page 18. "Legal workplaces should remember that billable hour targets encourage a certain type of performance from professionals to the detriment of their acquiring the skills that are essential to high-quality practice."

[18] "Enthusiastic and well-rested to do our best for you" could be a new branding opportunity.

[19] If an "ethical sourcing" retailer won't purchase goods produced by a sweatshop, why would it consume legal services from a firm that works its associates almost to death?