



Compassion fatigue: Are
you at risk?

Yes ☐

No ☐

SECONDARY/ VICARIOUS TRAUMA AND COMPASSION FATIGUE

Vicarious or secondary trauma experience has always been part of legal practice, although many do not acknowledge the risk it can have on the mental health, well-being, and performance of legal professionals. The listening to, observing, and then detailing of traumatic events for the purposes of legal process may, in some cases, harm lawyers who need to work closely with clients, victims, and witnesses.

According to Colin James, “[m]any lawyers are exposed to trauma in their day-to-day work, and there is little recognition in the legal profession of the effect that exposure may have on their well-being and effectiveness.”¹

BY KRISTINE KUZEMKA, ESQ.

While this is likely true, the State Bar of Nevada is working toward acknowledging the vicarious trauma issues faced by attorneys and judges, along with support staff, and endeavoring to raise awareness and provide education and resources to address the same.

In September 2019, the state bar hosted its first well-being summit, and among others, the topic of the effects of secondary and vicarious trauma was addressed by the participants, which included attorneys and judges. Four panelists covered aging and transitioning out of practice, substance-use disorders, mental health, and secondary and vicarious trauma in the legal profession.

The presenter on secondary and vicarious trauma was a retired judge from the Eighth Judicial District Court who relayed a personal accounting of a matter that impacted her.

The Judge’s Story

At the beginning of the presentation, the judge relayed the fact that she sometimes looked at fashion magazines. While sitting as a judge in a case regarding sexual assault on a young girl, the judge listened to the young girl’s harrowing testimony. In that testimony, the girl described how her assailant would assault her from behind and while doing so, he would look at a torn-out picture of a model from a fashion magazine.

After the trial, the judge found she could no longer read fashion magazines due to the impact of the testimony. A seemingly innocuous and entertaining activity – looking through a magazine –

now reminded the judge about what she heard during the sexual assault trial.

While this is just one illustration of the difficult matters and stories heard by attorneys, judges, and court staff on a regular basis, there are a multitude. Beyond criminal matters, personal injury cases often contain graphic depictions of injuries, whether in photographs or through testimony. There are also domestic dispute matters in which children are injured, immigration asylum rulings that force the client to go back to a country where they are certain to face atrocities, or an employment attorney representing a recipient of sexual harassment or the alleged perpetrator of the sexual harassment. Whatever the circumstances, we as practitioners, judges, courtroom staff, and organization support staff suffer the effects of various secondary and vicarious trauma.

Some of the signs and symptoms of secondary and vicarious trauma in the workplace include:

- Avoidance (arriving late, leaving early, missing meetings, avoiding clients, skipping certain questions during interviews);
- Hypervigilance (feeling on edge, perceiving clients and colleagues as threatening, feeling like all clients are in danger);
- Seeing things as “black or white” rather than tolerating ambiguity;
- Becoming argumentative; and
- Shutting down or numbing out (alcohol and drug use are common coping mechanisms).

A researcher cited in the ABA article says that organizations often view employees with these symptoms as poor-performing workers, rather than realizing the impact the work has on the employee. Rather than focusing on an issue as a disciplinary matter, organizations should work to better prepare and sustain staff through their difficult work.³

Personal physical symptoms may include headaches, stomach pain, sleep disturbance and nightmares, extreme fatigue, negative thinking, a tendency to become upset about everything, strained relationships with family and friends, compromised parenting, and doubts about whether the world is safe.⁴

Exposure to trauma may be better managed by professionals in the mental health field, who have the advantage of having received trauma-specific training and access to informed peer support.⁵

While the author attended law school in the early 2000s, there was no class offered on the effects of working with traumatic subject matter or clients experiencing the effects of trauma that necessitated a lawyer. When lawyers hear the accounting of traumatic events from clients, it has an effect on them. Often, the effect can build and result in problematic symptoms, which are often suffered alone and without tools to address these effects. In fact, the culture of the legal profession for years has been to “suck it up,” and colleagues may say, “don’t be a baby,” “don’t let your emotions take over,” or “just deal with the facts.”

It is necessary to change and transform the legal community’s culture to

one more focused on acknowledging that secondary and vicarious trauma reduce the well-being and efficacy of both judges and attorneys. Finding a balance between ice-cold detachment on the one hand with compassionate humanity on the other is not only possible, but also essential.

One answer to the problem is organizations becoming “trauma informed” to facilitate individuals’ ability to work more safely and effectively with cases involving trauma. For example, a law firm or other legal organization could establish a peer support team with the necessary training that provides tools to intervene in traumatic situations in an appropriate way.

With firms’ focus on billing targets as a performance measure, coupled with the fact that firms and public agencies don’t have trauma-informed training, lawyers have little opportunity for education on the possible effects of trauma or professional training on how to manage the exposure of clients’ trauma in daily practice.⁶

Synonymous with secondary and vicarious trauma is compassion fatigue. The ABA lists symptoms as:

- Perceiving the resources and support available for work as chronically outweighed by the demands;
- Having work demands regularly encroach on personal time;
- Feeling overwhelmed, and physically and emotionally exhausted;
- Having disturbing images from cases intrude into thoughts and dreams;
- Becoming pessimistic, cynical, irritable, and prone to anger;
- Viewing the world as inherently dangerous, and becoming increasingly vigilant about personal and family safety;
- Becoming emotionally detached and numb in professional and personal life or experiencing increased problems in personal relationships;
- Withdrawing socially and becoming emotionally disconnected from others;
- Becoming demoralized and questioning one’s professional competence and effectiveness;
- Secretly self-medicating or

The State Bar of Nevada has a resource to help. Learn more about the Nevada Lawyer Assistance Program at www.nvbar.org > For Lawyers > Resources > Lawyer Wellbeing or call 866-828-0022.

In an article published by the American Bar Association (ABA) in 2015, secondary traumatic stress is defined as:

[A] condition that mimics post-traumatic stress disorder. It is caused by being indirectly exposed to [someone] else’s trauma ... Many lawyers, judges, and others who work in the juvenile court system are unaware that secondary trauma might be affecting them or their colleagues. You do not have to work directly with the traumatized child to develop secondary traumatic stress: anyone who works in a courtroom and listens to testimony about traumatic events can be at risk.²

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experiencing addiction (alcohol, drugs, work, sex, food, gambling, etc.); and

- Becoming less productive and effective professionally and personally.⁷

The ABA lists several ways to mitigate compassion fatigue.

- **Awareness:** Understand what compassion fatigue is and periodically self-assess for it.
- **Debriefing:** Talk regularly with another practitioner who understands and is supportive. This process involves talking about the traumatic material, how you think and feel about it, and how you are personally affected by it.
- **Self-care:** Proactively develop a program of self-care that is effective for you. This includes healthy eating, exercising regularly, getting adequate rest, and learning how to turn off the “fight-or-flight response” of your sympathetic nervous system and turn on the “relaxation response” of your parasympathetic nervous system.
- **Balance and Relationships:** Take steps to simplify, do less, ask for help, and stop trying to be all things to all people, including your clients. Start thinking about how you can work on balance, rather than the reasons you can’t. Working to develop and maintain healthy interpersonal relationships will also increase your resilience.

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- **Professional Assistance:** Treatment from a licensed provider specializing in trauma may be beneficial.
- **Being Intentional:** If you are overwhelmed and struggling with depression, anxiety, substance abuse, or compassion fatigue, put a plan for change in place. Recognize that the attributes that contribute to your professional success and your work environment may be contributing to an imbalance in your life. Monitor your thoughts, emotions, and behaviors.

By raising awareness of physical and mental health effects caused by secondary and vicarious trauma or compassion fatigue, we can begin to transition the legal profession toward a more balanced, healthy, rewarding, and most importantly, effective avenue for clients to achieve justice in all areas of law.

ENDNOTES:

1. Colin James (2020) “Towards trauma-informed legal practice: a review.” *Psychiatry, Psychology and Law*, 27:2, 275-299, DOI: [10.1080/13218719.2020.1719377](https://doi.org/10.1080/13218719.2020.1719377)
2. Rainville, Christina. “Understanding Secondary Trauma: A Guide for Lawyers Working with Child Victims.” *Child Law Practice Today*. September 2015, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/september-2015/understanding-secondary-trauma--a-guide-for-lawyers-working-with/.
3. *Id.*
4. *Id.*
5. See generally Maguire, Grace & Byrne, Mitchell. The law is not as blind as it seems: relative rates of vicarious trauma among lawyers and mental health professionals. *Psychiatry, Psychology and Law*, 24:2. <https://www.tandfonline.com/doi/full/10.1080/13218719.2016.1220037>.
6. See note 1.
7. American Bar Association Commission Lawyer Assistance Programs. “Compassion Fatigue” available at https://www.americanbar.org/groups/lawyer_assistance/resources/compassion_fatigue/.

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