



An egoless lawyer?

Can learning to meditate really help you professionally? According to this attorney guru, your new outlook on a dispute may be just an “OM” away



BY CHUCK CORDES

An egoless lawyer. Try to imagine that. What might such a creature look like, act like, think like? To most people the thought of a lawyer without an ego makes no sense, like picturing fire without heat. It's also a little disturbing, like imagining a toothless tiger trying to eat or a belly-up turtle baking under a hot sun. The ego is how we lawyers do combat; force the issue; get the result we want. The ego keeps our clients safe from the forces of darkness and keeps ourselves safe from the dangers of the marketplace. Take away the ego and the life of a lawyer quickly becomes solitary, poor, nasty, brutish and short – or so we believe.

I want to suggest that maybe it's time to put the ego on hold – not permanently, but for stretches of time – and that doing so will lead to greater happiness and a new kind of strength. People have been suspending the ego through meditation for thousands of years. Meditation is the centerpiece of a host of Eastern religions, all basically aimed at achieving the ego's opposite, “oneness” with the universe – a celestial goal if there ever was one. But even here on the earthly plane inhabited by busy lawyers, we're aware that meditation is an oft-suggested antidote to physical and psychological stresses. The biofeedback movement of the 1970's showed that meditation could be used to change the body's autonomic operations. Doctors using biofeedback mechanisms showed that Indian swamis, entering a meditative trance, were able to lower and raise their heart rate and blood pressure at will, as well as shift their brain wave patterns from the beta waves of ordinary wakefulness to those associated with light to deep sleep, alpha, theta, and delta waves. These changes – the so-called “relaxation response” – came to dominate Western thinking about meditation, viewing it as a kind of conscious sleep substitute,

improving mental clarity and cardiovascular health, blunting the impact of stress and anxiety.

It is, of course, no secret that lawyers are stressed and depressed. As noted in the March issue of this magazine, twenty to twenty-five percent of lawyers exhibit symptoms consistent with depression, a rate four times higher than the general population. This lawyerly malaise arises not just from the physical stress of long hours, but the psychological stress that flows from constant and ever-increasing adversarial pugilism – the famed epidemic of professional incivility regularly decried in bar journals. Add to that the very real insecurity of a shrinking legal services market and you've got a lot of lawyers feeling as though they're trapped in a David Mamet play vying for a set of steak knives. In the face of rising internecine struggle, law-firm HR departments pay lip service to meditation during “stress awareness week,” but continue to present it as just another method for dispelling residual angst, like a shiatsu massage without the \$80 bill.

Mindfulness

What about lasting psychological change? Although it's nice to get a break from anxiety while floating in a meditative trance, what about when you come back to earth? You're still a worrywart, albeit a temporarily relaxed one. Here's where recent scientific studies offer a glimpse into a more enduring kind of change achievable through meditation. In the past decade some scientists have come to believe that meditation can alter the structure and functioning of the brain, so-called “neuroplasticity.” Neuroplasticity is how stroke victims are often able through repetitive physical therapy to train undamaged parts of their brain to take over functions formerly handled by damaged brain tissue. But this kind of change is brought about by physical actions. What about brain changes initiated by thinking alone?



In a now-famous 2004 study, Neuroscientist Bruce Davidson of the University of Wisconsin published evidence suggesting that thoughts alone – generated during meditation – could change the brain’s physical structure, increasing the functionality of areas associated with psychological well being. Using functional magnetic resonance imaging, Davidson compared brain images of novice meditators to highly-practiced Buddhist monks who had each clocked more than 10,000 hours doing “mindfulness” meditation. In Buddhist meditation practice, mindfulness is a kind of generic term. In mindfulness you calm the mind and concentrate on an object, which can be a thing, an idea, a feeling, even your own thinking. When you are mindful of your own thinking, you focus awareness on your own ideas as objects. You become a watcher of the internal monologue, the chattering ego that is constantly judging, assessing, speculating, about your past, present and future, and which you ordinarily think of as yourself. When you become the observer of your thinking mind, you open a space for stillness and calm, the space of no-mind in which deep peace and serenity may enter. Mindfulness can also be attuned to physical processes such as breathing or walking. It is a concentration of awareness on the sensation of walking or breathing and the consequent calming of the egoic mind through this self awareness.

In Davidson’s study both groups performed “compassion” meditation, a concentrative mindfulness practice in which the meditator focuses on thoughts of loving kindness toward all beings. The monks’ brains showed substantially elevated gamma wave activity, associated with the creation of neuronal connections, greater conscious awareness, and peak mental performance. The novices had only slight gamma wave increase. Significantly, the monks showed much greater activity in the left prefrontal cortex, an area of the brain associated with positive emotions like happiness, and very little activity in their right prefrontal cortex, associated with negative

emotions like anxiety. The study suggested that the monks’ meditative practice had enlarged their capacity for awareness, rewiring their own brains and creating positive feelings of joy.

In another study, Davidson tested the stressed-out employees of a Wisconsin high-tech company before and after an eight-week, three-hours-per-week, training session conducted on site by John Kabat-Zinn, a long-time exponent of mindfulness meditation and the author of “Wherever You Go, There You Are: Mindfulness Meditation In Everyday Life.” Again employing functional magnetic resonance imaging, Davidson tested the employees’ baseline brain state at the outset of the study and found that on average they had greater activity in their right prefrontal cortex, indicating the dominance of negative thinking and consequential emotional states. After eight weeks of training, the employees were retested.

Their baseline average now showed greater activity in the left prefrontal cortex, implying a more positive outlook and associated emotional states. The employees also reported improving subjective mental states, describing feelings of stress and anxiety at the beginning of the eight weeks and greater well being and positivity toward work at the end.

Other studies have reached similar conclusions. Thus, while the matter is still the subject of scientific debate, there is a growing body of evidence suggesting that sustained meditative practice can lead to a basic change in attitude, toward greater optimism and flexibility, that will endure even after your meditation session is over.

A personal story

I can offer my own anecdotal evidence in support of this proposition. I have been meditating regularly now for seven years. I meditate in the morning and again in the evening for 20 minutes. In that time I have clocked approximately 1700 hours of meditation. I took up meditation for the classic modern purpose – stress management.

About three years into my life as a lawyer, I found that the constant driving pace and pressure associated with litigation were taking their toll on me physically and mentally. I had gained 50 pounds since graduating law school. I was generally anxious and often depressed. I needed to do something to reduce the constant barrage of negative feelings. I thought that meditation might be the answer. I started off with guided meditations, in which you are led on an imaginary mind journey, generally to peaceful locations such as a warm mountain meadow or gleaming tropical beach. Later I added mantra meditation, in which a word or words are spoken over and over to induce a trance state, and *pranayama*, the Indian practice of controlled breathing.

The lawyer and the Dalai Lama

I soon found myself more and more relaxed and positive with my work and my life in general. Within six months I lost the 50 pounds that I had gained. And, with each passing week of meditation, I felt myself achieving deeper and deeper altered states of consciousness. More recently the positive feelings have grown into bouts of ebullient joy. This happened quite by accident. I read an article in the New Yorker in which the Dalai Lama was said to meditate from one to two hours every morning and again for one to two hours every evening. This seemed like an unusually long time for a daily meditation practice. Nevertheless, one Saturday I decided to “go long” like the Dalai Lama. I settled into a chair and started repeating my mantra and focusing on my breathing. As 15 minutes quickly became 45 minutes, I continued to go deeper and deeper. Eventually I started seeing colors and shapes, like a psychedelic movie in my mind’s eye. After about an hour came the onset of joy. Everything just seemed so right. At first I smiled peacefully, but the feeling didn’t stop. I just kept getting happier and happier. In time I was grinning like somebody who’d just one the Nobel Prize or a Powerball Lottery. It made no sense at all. But I was happier in that



space of time than I have ever been for any “real” reason in my entire life.

I finally had to quit because my face began to hurt from all the grinning I’d done. Overwhelming joy, I learned, can be painful. Opening my eyes, I looked at the clock – I’d been mentally away for over two hours. I was still incredibly happy, and as I walked out of the room I was amazed at the now-vibrant colors in my home. I went to the window and looked at the asphalt playground across the street. I’ve never seen a sunset over the ocean that looked as beautiful as that asphalt playground.

Uncaused joy

The Buddhists say that mindfulness leads to insight – the understanding of a fundamental truth. I think that one insight I gained that day is how Buddhist monks – who never have sex, drink alcohol, or eat meat – can be as chirpy as love-struck teenagers. I have since talked to other long-time meditators who have had similar experiences. I now think of this feeling as “uncaused joy.” It is uncaused because it does not depend on any state of affairs in the outside world. In fact, things in the outside world might not be going so well, as is often the case for lawyers, and still you can get to joy. A pleasant side effect of consciously creating this state during meditation is a shift in thinking during the many hours you aren’t meditating. Petty annoyances that used to weigh on your awareness don’t even enter your mind. Bigger things that used to bother you a lot, don’t have as much sting. Gradually, you feel more like you and less like a hunted thing. No small feat in today’s legal world. And it is consistent with the feelings of positivity reported by the participants in Davidson’s studies.

Who’s meditating?

So, who is meditating? The short answer is, your friends and neighbors. Probably even some of your colleagues or opponents. In 2008 the Centers for Disease Control and Prevention reported that over 20 million adults in the United States

had meditated in the previous year. Lawyers, too, are beginning to appreciate the benefits of meditation. In October 2010 the U.C. Berkeley Law School hosted a three-day symposium entitled, “The Mindful Lawyer, Practices and Prospects for Law School, Bench and Bar,” billed as the “first ever national conference exploring the integration of meditation and contemplative practices with legal education and practice.” The conference quickly sold out and even after the maximum attendance was raised from 150 to 185, a long waiting list developed. Conference chair Charles Halpern is a long-time mediator who teaches a seminar on the topic at U.C. Berkeley Law School. Halpern regularly leads meditation retreats for judges and lawyers.

Still, lawyers, especially litigators, are often skeptical of meditation. The thought of turning off your chattering mind or generating loving kindness for the world at large smacks of mental self-abnegation or Pollyanna distraction, sure to detract from your skills as an advocate. In his law review article, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and their Clients*, Leonard Riskin devotes several pages to addressing concerns that empathy and mindfulness might run counter to a lawyer’s adversarial role. Riskin, the Director of the Center for Dispute Resolution at the University of Missouri-Columbia School of Law, observes that “some might worry, for instance, that a lawyer who develops great compassion for others might not be willing to tear down a hostile witness in a trial, twist the facts, or otherwise push hard enough for her clients’ positions.”

I have observed skeptical lawyers voicing such fears. Several years ago I attended a one-day seminar on “Mindful Negotiation” at Hastings College of the Law in San Francisco given by Daniel Bowling, a long-time practitioner of Buddhist meditation. This was a room of approximately 40 litigators who had come, it turned out, to find new tricks for tough negotiating, not how to reach a

fair resolution through greater understanding. When Bowling suggested that an empathic awareness of the opponent’s point of view could lead to a smoother mediation process, you’d have thought he proposed sending up the white flag in the name of universal love. Rather than learn about mindful self-awareness, mindful listening, mindful advocacy, the bulk of the day was taken up by litigators interrupting Bowling to fret that even contemplating the other side’s thoughts or emotions could result in a dangerous crediting of the opposition’s position.

But does it have to be so? Empathic awareness can lead a litigator to understand the emotions driving a dispute and to address delicate matters with greater equanimity. Some of the resistance to contemplative practice also seems to derive from an assumption that effective advocates must be stressed or angry. A relaxed, happy litigator, so the thinking goes, will lack the drive and zeal to pursue the client’s goals effectively. I found exactly the opposite to be the case. As I moved deeper into my meditation practice, dealing with ornery opposing counsel, contentious hearings, and asking hard questions of unwilling witnesses, actually got easier – fun even. Meditation seemed to me liberating, not limiting in any way. The part of the ego that meditation tones down is the guy looking over your shoulder, kibitzing, getting in your way. If anything, meditation creates greater clarity and equipoise in the face of things that are ordinarily considered stressful. Frankly, it just seems weird to suppose that you can’t do as effective a job if you’re happy.

If you are ready to jump in, there are many, many books on meditation. There is in fact a bewildering variety of ways humans focus their mind under the general rubric, meditation. One of the best general introductions is *Journey of Awakening, A Meditator’s Guidebook*, by Ram Dass. This clearly written how-to book addresses the mechanics of meditation and describes the main types of meditation.



MAY 2011

Another excellent book, in the Buddhist tradition, is Thich Nhat Hanh's *The Art of Power*, which details Buddhist principles for living and working in a modern, post-industrial world and provides an appendix of specific mindfulness meditations. If you would rather be taught by a meditation teacher, Northern California is a horn of plenty for meditation centers.

It probably wasn't long after leaving law school that most lawyers discovered that lawyering is not for the faint of heart. Often it's downright hard and stressful. Fortunately there are things you can do to make it easier. One path is meditation. A new outlook may be just an OM away.

Chuck Cordes is a litigator who practices law and lives in San Francisco. On his Web

site, guruatlaw.wordpress.com, he provides information aimed at getting attorneys and others started meditating. He can be reached by e-mail at guruatlaw@gmail.com.



Cordes

