



FLORIDA BAR NEWS

MINDFULNESS, EMOTIONS, AND THE LIKELIHOOD OF CONFUSION

By Scott Rogers ▶ Special to the News ▶ Columns

October 18, 2023



Members of the legal profession operate within a complex social milieu that, when not seen clearly, can have consequences for their professional lives and wellbeing. Legal ethics expert Jan L. Jacobowitz notes how the Rules Regulating The Florida Bar help lawyers navigate relationships with many groups including clients, counterparties, colleagues, judges, and the public.

Given the adversarial nature of the legal profession, the meaning of another's words or deeds are rarely extended the benefit of the doubt, motives and intentions are often questions, and there is a strong tendency to take things as a personal attack. This, in turn, fuels the fire of fear and anger as a cycle of hostility is set in motion. At such time, we can find ourselves overreacting in ways that conflict with our values and better judgment, where not only might the prospects for discipline loom, but we are more likely to make mistakes, feel anxious, and be unduly self-critical. So too, important relationships can be damaged. At such time, we may not be *seeing things clearly*.

LIKELIHOOD OF CONFUSION

Astute decision making, whether it pertains to developing and implementing a legal strategy or weighing alternative responses to another's actions, depends on the ability to see things clearly. The phrase "seeing things clearly" refers to being relatively free of distraction and emotional agitation so that one's beliefs and actions and the acquisition of information is less likely to be unduly influenced by prior conditioning, assumptions, preconceptions, and bias. It is a state where the signal to noise ratio is high — that is, strong signal, low noise.

When our view of things is distorted by agitated emotions, mistaken beliefs, and distractedness, the likelihood of confusion grows and we are prone to make mistakes — cognitively, emotionally, and interpersonally. Two powerful agents of this confusion are anger and fear. While anger and fear are normal human emotions that can offer us useful data, the inability to skillfully hold and metabolize these

emotions can leave a residue that does not serve us well. At such times, the signal-to-noise ratio drops, we misread situations and people, and the quality of our decision-making and conduct diminishes, along with our wellbeing.

Through the practice of mindfulness we become more readily able to detect mind wandering, witness the arising of emotions, and observe sensations in the body accompanied by a deep knowing that thoughts are not facts, emotions like thoughts, arise and pass away, and unpleasant sensations can be experienced in the body without always needing to do something to feel immediate relief. You can read more about the Focused Attention, Body Scan, and Open Monitoring practices in the previously published column, [Four Mindfulness Practices for These Times](#). You might be asking about the “fourth” practice, Connection? This practice, also known as lovingkindness, is the subject of this month’s column.

A MINDFUL INOCULATE TO CONFUSION

The Connection practice, which involves sending warm wishes to ourselves and others, can help inoculate us against the likelihood of confusion that can so quickly surface amid highly charged interactions with others. And when such confusion does arise, having a regular practice in place, along with a relaxation techniques at the ready, can help to reduce the noise and augment the signal. I experienced the profound power of this practice many years ago when embroiled in a heated and stressful exchange with another attorney. I was surprised how the intensity of the emotional charge, feelings of adversity and anger, and the tenacity of assumptions began to subside even though the other’s conduct did not change. It helped illuminate the Roman Emperor and philosopher Marcus Aurelius’ insight, “if you are distressed by anything external, the pain is not due to the thing itself, but to your estimate of it; and this you have the power to revoke at any moment.”

Below I share with you this practice which was popularized by [Sharon Salzberg](#). It is a favorite practice for many as its benefits can be realized in all forms of relationships, both personal and professional.

THE CONNECTION PRACTICE

The Connection practice begins by bringing yourself to mind, then someone who cares about you, then someone relatively neutral, then a difficult person, and then all beings, and in turn wishing for each happiness, safety, health, and ease.

Many experience this practice as a powerful antidote to feelings of anger, fear, jealousy, self-judgment and resentment — without having to compromise zealous advocacy or the ability to have difficult conversations and address important issues. At each step along the way, we wish for four qualities of kindness: happiness, safety, health, and ease, in the following form:

You begin with yourself, wishing:

- May I be happy
- May I be safe
- May I be healthy
- May I live with ease

You then move onto others, beginning with someone (or a beloved pet) who cares deeply for you, wishing:

- May you be happy
- May you be safe
- May you be healthy (or “be well,” if they have passed away)
- May you live with ease (“be with ease” if they have passed away)

Midway through the practice you are invited to bring to mind a person who you find to be challenging.

While the practice offers you an opportunity to soften the edges around interpersonal difficulties, it is not itself meant to cause you any emotional harm so take care in who you choose, perhaps selecting someone you would rate a 6 or 7 on a 10-point scale. It can be helpful to remember that, like you, this person wants to be happy and is struggling in ways you may never know.

It is not expected that you are able to offer these well wishes with ease or that you treat the person differently; nor is it intended that you forgive the person. The practice is a purely internal gesture, offered to generate self-awareness, to cultivate positive regard for ourselves, and to view others with greater clarity. Building this capacity can attenuate agitated feeling states when they get in the way of constructive conversations, block resolution, forestall healing, or reinforce a false sense of separateness.

While the four phrases have been around for a while, feel free to modify the language so that it resonates with you. The key is that you are cultivating your innate warmth and kindness. Doing so helps to support

satisfying relationships and eases the stress and heartache around complicated ones. When you reach the last group — all beings — you can modify its size as you choose.

We live in a complicated world and our interactions with others, which can comprise a good deal of our workday and home life can be a source of great comfort and joy; indeed positive social relations are a cornerstone to wellbeing. Of course, we have chosen a profession that necessarily involves moving into domains of high conflict and personal animosity. Doing so *skillfully* allows us to have greater mastery over our work and wellbeing.

You can read more about the lovingkindness practice in this [2021 Florida Bar News](#) column and listen to a [10-minute practice \(guided by Shauna Shapiro\)](#), a [15-minute](#) practice guided by myself, and a powerful 15-minute practice guided by attorney Luke Arrington as part of a [Florida Bar News interview](#). You will also find many guided lovingkindness practices on Youtube and in meditation apps. I hope you find this practice to be of benefit. Should you ever find that time is short, practicing for even a few minutes can be powerful. It begins by offering warm wishes to yourself, as sometimes this may be the most challenging of all. Indeed:

- May you be happy
- May you be safe
- May you be healthy
- May you live with ease



*Scott Rogers, M.S., J.D., is a nationally recognized leader in the area of mindfulness in law and founded and directs the University of Miami School of Law's Mindfulness in Law Program where he teaches mindful ethics, mindful leadership, mindfulness and negotiation, and mindfulness in law. He is the creator of Jurisight, one of the first CLE programs in the country to integrate mindfulness and neuroscience and conducts workshops and presentations on the role of mindfulness in legal education and across the legal profession. He is author of the recently released, "**The Mindful Law Student: A Mindfulness in Law Practice Guide**," written for all audiences.*