



DIGITAL ADDICTION: IS IT TIME FOR A DETOX?

IMPACT OF DIGITAL ADDICTION ON ATTORNEY WELL-BEING

Technology is a wonderful thing. It has brought us huge advantages in being able to connect anytime and anywhere. It allows us to work remotely and flexibly. It can also bring with it, however, the inability to unplug and refresh. This inability can lead to adverse effects on our well-being and possibly even turn into a digital addiction. Digital addiction can lead to a whole host of problems, including potential ethical violations by attorneys. During this session, we will discuss how detaching from your devices can increase your productivity and overall well-being, as well as offer strategies for unplugging.

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Lawyer Well-Being

In 2017, the National Task Force on Lawyer Well-Being issued a report which included startling statistics on the state of mental health among our profession, as well as law students.¹ The report relied on upon two surveys conducted in 2016, the ABA CoLAP and Hazelden Betty Ford Foundation’s study of mental health and substance use disorders among lawyers, and the national Survey of Law Student Well-Being. In addition to the statistics, the report also included recommendations in hopes of improving and destigmatizing mental health within the profession.

The American Bar Association Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation partnered to conduct the relied upon studies. They published their study of nearly 13,000 currently practicing lawyers. It found that between 21 and 36 percent of respondents qualify as problem drinkers, and that approximately 28 percent, 19 percent, and 23 percent are struggling with some level of depression, anxiety, and stress, respectively. Additionally, 15 law schools and over 3,300 law students participated in the Survey of Law Student Well-Being. It found that 17 percent experienced some level of depression, 14 percent experienced severe anxiety, 23 percent had mild or moderate anxiety, and six percent reported serious suicidal thoughts in the past year. As to alcohol use, 43 percent reported binge drinking at least once in the prior two weeks and nearly one-quarter (22 percent) reported binge-drinking two or more times during that period.

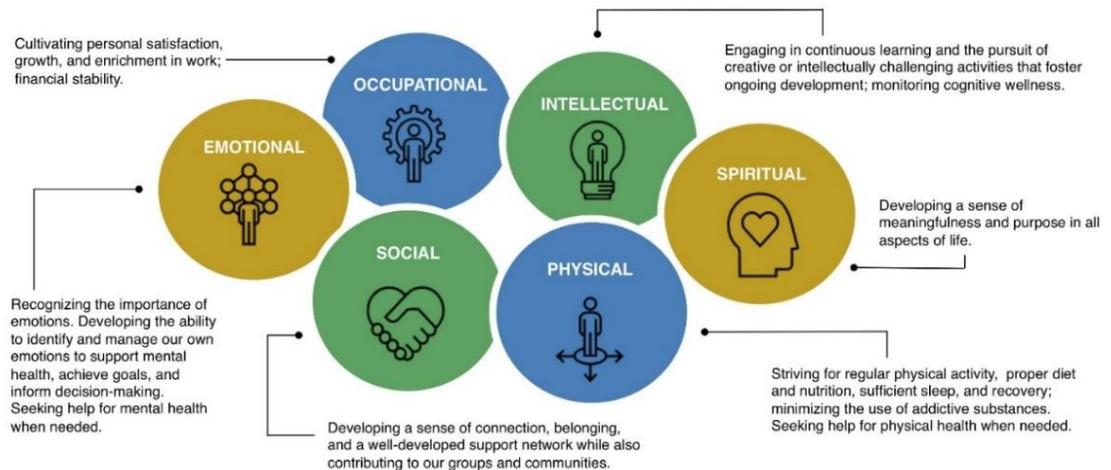
Based upon those alarming figures, the National Task Force offered several reasons why we need immediate action to improve the overall mental health of lawyers and law students. I think the National Task

Force said it best when they summarized by saying the reasons to improve attorney well-being include that it is “good for business, good for clients, and the right thing to do.” The National Task Force made a conscious decision to define lawyer well-being “as a continuous process

whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life,

Defining Lawyer Well-Being

A continuous process in which lawyers strive for thriving in each dimension of their lives:



¹ The Path to Lawyer Well-Being National Task Report can be found at:

<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>

physical health, and social connections with others.” It is important to stress that well-being is not solely defined by the absence of illness.

In addition to acknowledging the issues surrounding mental health, the National Task Force also identified key stakeholders and made recommendations for each group to facilitate the improvement of well-being within the profession. The stakeholders include: judges, regulators, legal employers, law schools, bar associations, lawyer’s professional liability carriers, and lawyer assistance programs. I am pleased to report that in 2019, Kansas formed a state task force to review and consider each of the recommendations that came from the national report. Currently, there are representatives on the state task force appointed from each of the stakeholder groups. This group will be working to implement the recommendations made by the national taskforce, and ultimately improve lawyer well-being in Kansas.

What about digital addiction? Is this a thing? What does it have to do with well-being?

The National Task Force for Lawyer Well-Being report says something very specific that in my opinion is crucial to this issue of whether digital addiction is a real thing, “to be a good lawyer, one has to be a healthy lawyer.” When mental health is discussed within the legal profession, however, we often only hear references to addictions that include the use of alcohol or drugs. I hear lawyers talk about LAP programs as being the place you go to only if you are suffering from an alcohol or drug addiction. LAP programs, however, are much more than that. Reason being? Lawyer well-being includes more than just those two issues. For instance, if you were to visit the KLAP website, you will see references to services, not just for substance abuse issues, but things such as anxiety, depression, and burnout.² My point being is that we as lawyers can be affected by other addictions and other mental health conditions, so unhealthy relationships with technology, just like any other unhealthy relationship, can lead to other potential issues ultimately affecting your overall well-being.

I can tell you that a digital or technology addiction is most certainly something that is being discussed and studied by those in the medical community. Just last year, the World Health Organization recognized internet gaming as a diagnosable addiction.³ Technology addiction is even addressed on the Hazelden Betty Ford Foundation website. There is a vast amount of information out there about digital addictions with respect to children and teenagers, however, adults can be affected, too. For instance, one in eight Americans suffers from problematic Internet use, according to a study published in *The International Journal of Neuropsychiatric Medicine*. This is not the only study recently published, and there have been many stories and articles published in the mainstream media warning about these addictions. If you were to just Google digital addiction, for instance, you could find articles in the general public on *The Washington Post*, *New York Times*, and *Forbes* regarding this topic.

² The Kansas Lawyers Assistance Program website can be found at: kalap.com

³ Healy, Melissa, *World Health Organization says video game addiction is a disease. Why American psychiatrists don't*, *The Washington Post*, July 2, 2018. Article can be found at: https://www.washingtonpost.com/national/health-science/world-health-organization-recognizes-a-new-form-of-addiction-gaming-disorder/2018/06/29/fb3eb2e2-74b3-11e8-805c-4b67019fcfe4_story.html

Just to be clear, when we talk about a digital or technology addiction, we are not talking about a healthy relationship with devices, or even one that you may *think* gets in the way at times. Instead, we are talking about a constant need and urge. It is the urgent need to post, share, or check, so much so that you begin to possibly feel anxious if you are in a situation where you cannot.⁴ This irresistible urge to check is sometimes referred to as the phenom of FOMO – the fear of missing out. Of course, you can be a social media star and not be addicted to digital devices: addiction has more to do with how a device or substance affects your day-to-day life. Jessica Wong, a state-certified prevention professional at the Hazelden Betty Ford Foundation in Saint Paul, Minnesota, says that people can be addicted to technology the same way they are addicted to online porn and video games. “It impacts the same area of the brain as drugs and alcohol,” Wong has explained. “Still, it takes a lot for technology use to meet the definition of dependence. We call it addiction when it starts to impact day-to-day function, relationships with children, spouses, and friends.”

“It affects the same area of the brain as drugs and alcohol.”

Keeping this explanation in mind, the statistics that are readily out there regarding our device usage is telling. For instance, studies show:

- We check our phones an average 52 times a day.⁵
- 2/3 of us check our phones within 15 minutes of getting up.⁶
- Half of us sleep with our phone on our nightstand or in the bed.⁷
- 80% of us check work email while on vacation.⁸
- More than half of our waking lives is spent staring at some sort of screen.⁹

Given these statistics you can easily see how you can go from a healthy relationship with technology to one that crosses over to addiction. These statistics, coupled with the nature of our services as lawyers, makes us a vulnerable population to this type of addiction.

We, as a society, have become so focused on our devices, that we have also created a new health condition that comes along with it, “text neck.” Yes, this is *actually* a physical condition. A recent report published last year in The Spine Journal concluded that text neck – the position

⁴ Tepper, Roberta, *Time for A Digital Detox: A Spoon Full of Sugar May Help the Medicine Go Down*, ABA TECHSHOW, 2019.

⁵ 2018 Global Mobile Consumer Survey from [Deloitte](#)

⁶ Sharon Nelson and John Simek, *Lawyers and Digital Addiction*, Sensi Enterprise, 2019. Article can be found at www.sensinet.com

⁷ Chatterjee, Camille, *3 Reasons to Not Sleep with Your Phone in the Bed*, December 8, 2016. Article can be found at <https://www.health.com/mind-body/3-reasons-not-to-sleep-with-your-phone-in-your-bed>

⁸ McAfee, Report: Digital Detox – *Unwind, Relax and Unplug*, June 2017. Report can be found at

<https://www.mcafee.com/enterprise/en-us/assets/executive-summaries/es-unplugging-study-digital-detox.pdf>.

⁹ Schmall, Tyler, *Americans Spend Half Their Lives in Front of Screens*, New York Post, August 13, 2018. Article can be found at <https://nypost.com/2018/08/13/americans-spend-half-their-lives-in-front-of-screens/>

we assume while checking our phones is not only an orthopedic problem but has other health risks including negative impacts to our nervous and circulatory systems. “Smartphone addiction” may seem like a cliché — an eye-roll-inducing first-world problem — but it can obviously have devastating effects.

Sharon Nelson of Sensi Enterprises recently spoke at the 2019 ABA TECSHOW on the topic of digital addiction and detoxing, along with the Arizona Bar Association Practice Management Advisor, Roberta Tepper. During the presentation, Nelson discussed how to spot a digital addiction. Here are some of the warning signs she mentioned:

1. The inability to control the amount of time spent online
2. The constant compulsion to check emails, texts, social media, etc.
3. Anxiety when a smartphone battery is low or when circumstances deprive you of the ability to be connected. You panic if you leave your phone at home or at the office.
4. Connecting in situations where you know you shouldn't – a funeral, a wedding, in a client meeting, etc.
5. The inability to focus on other tasks – writing a brief, reviewing a contract, etc. because you are constantly distracted.
6. Your social life suffers. You may be online more than with other people, which can lead to depression or a sense of loneliness and isolation. Your family may be angry with you because you are focused more on your devices than on your time with family members. Your spouse may be upset because you can't eat a nice dinner at a restaurant or go to a play or movie without constantly look at your smartphone.
7. You feel guilty – you know you are not doing your best work as a lawyer, you are having troubling concentrating on legal matters, and you are aware that you are not paying sufficient attention to family members.
8. You sleep with your phone and check it during the night. You check your phone first thing in the morning.
9. You have physical symptoms – weight loss or gain, dry or red eyes, a stiff neck, carpal tunnel, headaches, painful hands, etc.
10. You find yourself losing track of how much time you are online. You may lie about it. You become anxious when not online or euphoric when you are. You can't get your work done, or its quality suffers – you miss deadlines.



11. You text and drive even though you know how dangerous it is – and in some states, illegal.¹⁰

Digital Addiction can Affect Your Practice, Your Work/Life Balance, and Yes, Even Your Loved Ones.

A digital addiction can have significant effects including sleep disruption, anxiety, depression, stress, inability to focus on anything other than your devices, and even an inability to interact normally with people. Lawyers can become addicted to work and lose their focus on work-life balance. This addiction to the device can also affect those around you, including your family. The lawyer can also be distracted from work by their devices. This causes the lawyer to be unable to focus on important tasks. Instead, the lure of the device interrupts workflow, and even reduces productivity. This device distraction can affect whether a lawyer can enter into “deep work” and can affect the overall work quality of the lawyer.¹¹ Meaning, the lawyer may not produce the best work product they are capable of.

When we begin talking about your devices affecting your work, we may also see conduct that leads to violations of the Rules of Professional Conduct. For instance, violations of 1.1 Competence, 1.3 Diligence, and 1.4 Communication can result if the lawyer is so distracted from work by the use of the device that they are not completing tasks or are rushing through tasks, just so they can get back to Facebook, for instance. We can also see violations of 1.6 Confidentiality occurring. This can be in the form of a social media post that went too far, or the rushed email that was sent to the wrong recipient, or the knee jerk reaction of needing to check or respond that we forget to protect client confidentiality when using the public Wi-Fi at the coffee shop or that we respond so quickly that we lack professionalism.



The need to check and respond by lawyers is the one aspect of this that I find most interesting. In my travels across Kansas teaching CLE relating the use of technology, I am constantly hearing lawyers say they answer text messages and emails from clients into the wee hours of the night, on the weekends, and even during holidays and vacations. Now, I am not certain if there is a false believe that the Rules of Professional Conduct require this level of communication with a client, but I am here to tell you that it

does not. I will write that one more time, IT DOES NOT. Instead, the rule on communication requires keeping your client reasonably informed. Our rule on diligence also does not require you to answer a text message from a client at 2 a.m., however, if you set this expectation of immediacy for your clients, then yes, that is what they are going to expect from you time and

¹⁰ Nelson and Simek, *see supra* 6

¹¹ Deep work is professional activities performed in a state of distraction-free concentration that push your cognitive capabilities to their limit. These efforts can improve your skills. To learn more about deep work, I recommend reading the book *Deep Work* by Cal Newport.

time again. As a result, I often encourage lawyers to set boundaries at the very beginning of the representation with their clients, especially with respect to these informal methods of communication. If you don't, then this behavior could lead you down a path of developing bad habits.

How Does This Work with the New Rule on Technology Competence?

If you have ever attended another one of my continuing legal education programs, you have probably heard me stress the importance of lawyers being competent with their use of technology, which per our rules say that a lawyer must be “aware of the risks and benefits associated with the use of technology.” I often talk about how lawyers should embrace the use of technology to deliver better clients services. So, you may now be asking yourself, isn't a digital detox counterproductive to embracing technology? In looking at this issue at first glance it would appear to be on its face juxtaposed to one another, however, I found some great advice from current San Diego Bar Association President, Lilys McCoy. In a recent bar publication, McCoy suggests that in addition to having a work/life balance, you also need a work/work balance in order to adhere to the different competencies a lawyer faces throughout one's day.¹²

There are always different competencies a lawyer must obtain depending on the circumstances. Yes, you should know how to use technology to ensure you are using it competently for your clients, however, if your screen time crosses over to interrupting your ability to do or complete work, then that can lead to other incompetency within in your work. The lawyer must learn to balance the need to use technology versus feeling the need to constantly check or post.

What Can You Do and How Can You Unplug?

If you find yourself exhibiting some of the above warning signs of a digital addiction, know that there are steps you can take to prevent yourself from developing a full-blown addiction. Here are some suggestions:



1. Create a plan, one that is specifically workable.
2. Don't go cold turkey.
3. Set healthy boundaries with clients.
4. Here is a crazy idea, use technology to help you control technology.
5. Turn-off your push notifications and disable sound notifications.
6. Try implementing the pomodoro technique, or some other time management tool to help you focus at work.
7. If you are an employer, consider setting healthy policies for after hour communication.

¹² McCoy, Lilys, *Harmonizing Work-Life Balance and Work-Work Balance*, San Diego Lawyer, Mar/Apr 2019.

I will be the first to admit detoxing from our digital devices is not an easy task. Many of our devices are required for the work we do, so it is not like we can just throw them out. If you are planning to implement some healthy digital habits in your life, then start with a small goal. Maybe that goal is simply saying no devices at dinner, or in the bedroom at night for that matter. Ultimately, the goal is to improve your work/life and work/work balance in addition to your relationships with those around you. If you implement steps to take a break from the devices, you will benefit both personally and professionally.

If you find yourself in a situation where you feel that you are suffering from a digital addiction and need help, know that there are resources out there for you. Everything from digital detoxing camps¹³, to inpatient treatment facilities, to counseling that can help you with your addiction. If you are struggling to limit your device usage and it has affected your professional and personal well-being, consider contacting your Lawyer's Assistance Program to see what types of services they may be able to offer.

¹³ See, *Summer Camp Offers Adults a Detox from Their Digital Devices*, American Bar Association. Article can be found at http://www.abajournal.com/magazine/article/summer_camp_offers_adults_a_detox_from_their_digital_devices/news/article/do_you_volunteer_on_a_regular_basis/?utm_campaign=sidebar.