

Mark R. Siwik, "Using Exercise to Reduce Corporate Law Practice Stress: It's a Marathon, Not a Sprint," *ACCA Docket* 19, no. 6 (2001): 58-77.

Using Exercise to Reduce

By Mark R. Siwik

Corporate Law Practice Stress: It's a Marathon, Not a Sprint

John Fry, an attorney with Marconi Medical Systems in Cleveland, began running three years ago when he sensed he was at a personal crossroads. Worried about his increasingly sedentary lifestyle and accompanying weight gain, Fry, then 36, also started inline skating for fun. The intellectual property lawyer now sees health and exercise as a “metaphor for learning, career growth, and life in general.”

Unisys attorney Charlie Rowan, 43, runs for an hour at lunchtime to “achieve a mental break” and to remind himself about the importance of pacing. “Cases are won and marathons are completed,” Rowan says, “by those who realize that it takes thousands of small steps.”

Fry and Rowan are two examples, among many, of corporate counsel who have improved the quality of their careers and their lives through consciously healthy lifestyles and regular exercise. With the legal press of the past 20 years emphasizing the treatment of chronic distress in our profession,¹ success stories like theirs have not received much attention. Yet they have a lot to teach us about how to achieve and sustain healthy levels of stress.



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AMERICA'S HEALTH

During the past decade, health care costs in the United States have skyrocketed. National annual expenditures for health care now exceed \$1 trillion, and stress is a major contributing factor to these costs.¹ In fact, stress accounts for an estimated 60 to 80 percent of all work-related injuries and is a principal factor in 75 to 90 percent of primary care physician visits.² Poor health and high levels of stress also negatively affect employment costs. Studies show that 30 to 40 percent of American workers view their jobs as “very or extremely stressful,”³ which contributes heavily to job turnover.⁴

The statistics about Americans' lack of physical activity are even more discouraging. Government surveys show that more than half of the U.S. population never exercises and that less than 20 percent get the physician-recommended 30 minutes of moderate exercise five to six days a week.⁵ Comparable statistics for lawyers are at the same, if not higher, levels.

Obesity levels in American adults and children also are reaching epidemic proportions. The average American (and, thus, the average lawyer) carries an estimated 20 to 30 pounds of excess body fat.⁶ Excess body fat is a risk factor for heart disease, hypertension, diabetes, many cancers (breast, prostate, colon, uterus, and gall bladder), and premature death from other causes.⁷ Although proper diet and nutrition are essential to maintaining a healthy weight, exercise plays a key role in maintaining long-term weight loss.⁸

1. See Nicholas DiNubile, *Exercise and the Bottom Line, Promoting Physical and Fiscal Fitness in the Workplace: A Commentary*, THE PHYSICIAN AND SPORTSMEDICINE, Feb. 1999.
2. See William Atkinson, *Strategies for Workplace Stress*, RISK & INS., Oct. 15, 2000.
3. *Id.*
4. *Id.*
5. See generally PETER MCLAUGHLIN, CATCHFIRE: A 7-STEP PROGRAM TO IGNITE ENERGY, DEFUSE STRESS AND POWER BOOST YOUR CAREER (1998). Lack of exercise among adults also adversely affects children. Like adults, children who do not exercise are more at risk for developing heart disease, high blood pressure, and other life style diseases. Nearly half of all children in the United States fail to get regular physical exercise; the percentage of overweight young people (25 percent under age 19) has more than doubled in the past 30 years. See John Brant, *A for Effort*, RUNNER'S WORLD, Sept. 2000, at 90-97.
6. See Harold Elrick, *Commentary: Exercise is Medicine*, THE PHYSICIAN AND SPORTSMEDICINE, Feb. 1996.
7. *Id.*
8. *Id.*

There is such a thing as good stress, or “eustress,” from the Greek word “eu,” meaning good.² Stress is not simply a sign of weakness or failure, as many within the corporate bar believe; it is also a necessary component of lasting success in law practice. We need stress to challenge ourselves and to reach our ambitious goals. We also need to start thinking about stress in a different way. In our current approach to lawyer assistance programs, we generally focus on treating the most acute aspects of chronic distress, such as alcoholism and depression, instead of thinking about how we can maintain appropriate levels of good stress in our lives.

Good health and regular exercise improve our feelings of self-esteem and effectiveness, which, in turn, lead to increased productivity and better job performance. Good health and exercise improve our mental functioning, including our creativity and problem-solving skills. They also increase our resistance to the symptoms of chronic distress and decrease the threat of morbidity and mortality from a host of diseases and illnesses. Moreover, these benefits serve the bottom line, particularly at a time when companies of all sizes are looking for ways to attract and keep good employees and to lower health care costs. (See sidebar on “America's Health.”)

This article will examine the nature of stress and its mind-body consequences and explain how lawyers can use exercise as one way to achieve optimal stress levels. It will advocate a preventative approach to stress management and suggest ways in which in-house counsel can promote wellness, both individually and in the workplace. The legal profession and the corporate bar need a new model of stress management that promotes the value of good stress and emphasizes the prevention of chronic distress through exercise.

CHRONIC DISTRESS IN CORPORATE LIFE

According to surveys conducted by the American Bar Association, more than 70 percent of all lawyers have little time or energy for family or personal life and interests.³ Many also express a high level of dissatisfaction in the development and maintenance of “self.”

Lawyers who “live to work” rather than “work to live” are particularly vulnerable to unhealthy distress.

Indeed, the rate of alcoholism and depression among attorneys ranges between an estimated 15 to 20 percent, almost twice that of the general U.S. population.⁴ Stress is a principal factor in legal malpractice claims, which generally arise from missed deadlines, client communication failures, and procrastination.⁵

In a 2000 profile of in-house attorneys, ACCA members reported the following sources of stress:

- Long hours and time management.
- Client relations—satisfying demands for results with little cost (that is, demonstrating value).
- Staying current and accessing legal information and data in wide-ranging topics.
- Productivity—doing more faster with fewer resources.⁶

During the past 30 years, the legal profession has made tremendous strides in advancing knowledge and programs to help lawyers whose alcoholism, drug addiction, and mental health problems have impaired their practices. In 1980, only 26 states had lawyer assistance programs; today, all 50 states have lawyer assistance programs or committees.⁷ A priority for these programs is educating lawyers about addiction, depression, and mental health issues and the available means of treatment.⁸ The programs use intervention, peer counseling, and referral to 12-step programs to assist in a lawyer's recovery process.⁹

Some companies and law firms make similar efforts in their employee assistance programs ("EAPs"), workplace-based programs designed to assist employees with resolving personal problems so that they can return to maximum job performance.¹⁰ Lawyer assistance programs and EAPs are essential for treating lawyers and other employees suffering from chronic distress. They decrease absenteeism and medical costs and promote job satisfaction and productivity.¹¹ But waiting to help a lawyer when he or she is experiencing debilitating distress harms both the individual and the organization. We must do more sooner.

We must incorporate preventative practices into our assistance programs, our corporate legal department practices, and into our own individual lives that limit the potential for chronic distress to occur. Used appropriately, the human stress response can increase our concentration, strength, creativity, and productivity. Increased energy from the stress response can even save our lives, as it was meant to do, in an emergency. We can make good use of stress. First, however, we need to understand its many facets better.

UNDERSTANDING DISTRESS

Scientists define stress as our response to events or demands that stimulate the innate "fight-or-flight" or "stress response."¹² The stress response dates back to prehistoric times, when it was necessary for us as human beings to protect ourselves from physical danger.¹³ The stress response consists of the following sequence of elements:

Stimulus → Thought → Emotion → Behavior¹⁴

During the stress response, a number of biochemical reactions occur in the body to prepare it to expend physical energy. Some body systems, such as the cardiovascular system, accelerate their functions, while others, such as the gastrointestinal system, slow down their operations.¹⁵ This basic survival response worked well to protect our ancestors when they confronted saber-toothed tigers. They needed the energy boost to fight or flee.

Obviously, this survival response does not apply as readily to the challenge of meeting tight deadlines or resolving difficult legal problems as it does to fighting tigers. But under stress, our bodies still produce the same chemicals and hormones that propelled our ancestors. Unused, however, they remain in our bodies as a sort of "chemical stew."¹⁶ Unmanaged, this stew can produce a variety of short- to long-term adverse emotional and physical consequences ranging from temporary stress overload to professional burnout. The danger signs, described in ascending order of severity, include the following:

- EMOTIONAL:
 - Disillusionment, boredom, or decline in self-confidence.
 - Irritability, anxiety, and growing inability to relate to clients.
 - Frustration, anger, detachment, and cynicism.
 - Despair, sense of failure, pessimism, and emptiness.
- PHYSICAL:
 - Muscle tension, indigestion, and heart racing or pounding.
 - Physical exhaustion or fatigue and sleep problems.
 - Negative addictions to alcohol, drugs, food, and so forth.
 - Lingering colds, depression, or serious physical illness.¹⁷





Because distress is progressive, we must identify symptoms at the earliest possible stage in order to thwart its destructiveness. If we do not, we remain vulnerable to suffering the most severe forms of distress, such as physical illness, unhealthy compulsive behaviors, mental breakdown, or death.

We humans tend toward chronic distress, engaging in a mind-body free fall, because of the so-called general adaptation syndrome.¹⁸ When something initially stimulates our stress response, we recognize the signs. For example, all of us have probably felt road rage or the anxiety of having to meet an important deadline. After repeated exposures invoke our stress response, however, our bodies adapt and will continue to adapt until they reach exhaustion, including death. Unfortunately, such adaptation also slowly mutes our alarm reaction to the point that we begin to accept chronic distress as a way of life even though we earlier might have considered the same lifestyle to be inappropriate and even harmful.

Law attracts hard-driving, competitive, goal-oriented people often referred to as “Type A” personalities.¹⁹ Physiological research shows that people with Type A personalities trigger the stress response far more often than the general population.²⁰ Because of their heightened responses, Type As are more likely to develop chronic problems related to stress. In short, Type A people continually adapt to chronic distress as they pursue their goals and objectives with determination, all the while ignoring the warning signs.²¹

STRESS MANAGEMENT THROUGH EXERCISE

The goals of corporate legal department stress management programs should be to teach in-house counsel how to achieve optimal levels of stress and to place the responsibility for such management on the attorney. On the one hand, an insufficient level of good stress, known as passive distress, can result in boredom, poor self-esteem, depression, or just a feeling that life is passing us by.²² But on the other hand, as explained above, too much active or chronic distress decreases or limits our ability to function at peak performance. As attorneys, each of us should strive to find our own comfortable stress level: the middle zone between being understimulated and overstimulated.²³

A stress management approach that teaches attorneys to seek a comfortable stress level is in keeping with the medical community’s growing recognition that injury and disease prevention is the most effective long-term strategy for lowering health care costs.²⁴ And the chief preventative device is exercise. Some physicians have begun espousing the view that, if exercise were a pill, it would be the most powerful medication known to mankind and inactivity would be a disease state. These doctors also believe that, despite all of the great advances made in understanding and treating pathological processes, including stress, the medical profession has failed to teach exercise physiology or the science of human performance.²⁵

For many years, one of the leading proponents of preventative medicine and exercise was Dr. George Sheehan, a cardiologist from New Jersey and a former member of the President’s Council on Physical Fitness and Sports. Sheehan, who died in 1993 at age 74, had resumed running at age 45 as a way to regain control of his life.²⁶ As he explained in his book, *Personal Best*,

In a sense, I was like a closet drinker. My deterioration was masked by the assumption of those around me that functioning adequately means you are normal. But one can function adequately while using only about 10 percent of one’s potential. And I was locked into a routine that utilized only a small percentage of my capabilities, imprisoned in a physical and professional and social existence that no longer allowed me to express my real personality. I ran to find myself.²⁷

Through running, Sheehan rediscovered his comfortable stress level. He used exercise as a means of engaging in healthy stress by teaching his body and mind to grow through healthy adaptation and coping. He also learned to let that growth flourish by regularly bringing his bodily systems back to a state of rest.

I devote the balance of this article to teaching my fellow in-house lawyers how they can use exercise to achieve optimal or comfortable levels of stress in their lives and careers. Regular exercise has many therapeutic benefits, and it strongly correlates with increased productivity, creativity, and resistance to the unhealthy effects of distress. You can devise an individual exercise program for yourself, you can derive

benefit from a corporate-sponsored program if one is already in place where you work, or you can help your legal department set up a program for you and your colleagues.

Individual preference and experience should guide your choice of exercise. I use examples from the sport of running for three reasons. First, running (or walking) does not require special training or skills.²⁸ Second, a substantial base of research exists to establish the stress-reduction benefits of running. Third, I have personal familiarity with running, as do a number of other lawyers, several of whom have kindly agreed to be interviewed for this article.

BENEFITS OF EXERCISE

Exercise can benefit attorneys in three ways. First, regular exercise increases our ability to perform at optimal levels. Second, exercise helps us think better. Third, exercise helps build immunity to disease and illness.

Achieving Optimal Performance—“Flow”

For years, business efficiency experts have studied how to promote peak performance in the workplace. One often-cited model is the Yerkes-Dodson law, which states that performance increases as anxiety rises.²⁹ A corollary of this law is that performance reaches its highest level when anxiety is at an ideal level. If anxiety is too high, performance declines. Business experts also have discovered that the human motive to achieve reaches its highest level of success when the probability of success is 50 percent.³⁰ In other words, people are most motivated to pursue a goal or to master a task when (1) it is a challenge or a stretch and (2) they have a very good chance of succeeding.

Psychologists have learned the same thing in studying athletes, such as Michael Jordan, and other top performers in professions ranging from music to medicine. For most of us, the optimal experiences in our lives come when our minds or bodies stretch to their limits in a voluntary effort to accomplish something difficult and worthwhile. Psychologist Mihaly Csikszentmihalyi calls these optimal experiences “flow.”³¹ Flow experiences arise in the same manner as described by the Yerkes-Dodson law. When they occur, we become immersed in the activity to the point of losing track of time and forgetting ourselves;

we feel in control, and the activity becomes its own reward.³² We derive a sense of accomplishment from confronting a difficult physical and/or psychological task, which explains why people often say, “At least my workout was something worthwhile I did today.”

To date, we have given too little credit to the power of exercise to create states of ideal anxiety or flow. Instead, we continue to believe that the mental-health benefits of exercise flow from the release of endorphins in our brains. The term endorphin originates from the words *endogenous* (made in the body) and morphine and refers to a naturally occurring body chemical that purportedly acts in the same manner as a narcotic in controlling physical pain.³³ The historical purpose of endorphins was to block the sensation of pain that our ancestors experienced when fighting or fleeing from those saber-toothed tigers.³⁴

Until recently, scientists believed that endorphins were the principal cause for people feeling better emotionally after exercise and becoming addicted to exercise or the “runner’s high.” Many researchers now believe that most people do not feel high after exercise nor do they become addicted to it (less than 5 percent).³⁵ Instead, the medical community is learning that improved moods and emotional wellness likely result from increased levels of self-esteem and effectiveness. In simplest terms, people who exercise feel a greater confidence in completing a specific task.³⁶ To succeed with exercise, therefore, an individual must have a plan that involves skill development and goal achievement.

Marconi lawyer John Fry describes the benefits of sticking with his training program as improved conditioning and discipline. Fry started his running regimen slowly and gradually improved to the point of being able to complete a marathon. Calling it a “tremendous life experience and confidence booster,” Fry believes that his physical exercise routine and goals taught him to work within his abilities and to maximize them in a given situation, noting, “If nothing else, my regimen gives me the ability to outlast the person on the other side in a long negotiation.”

Dr. Sheehan, who did much to advance the cause of exercise for middle-aged and senior professionals, once offered the following advice:

Begin with the body. The body mirrors the soul and the mind, and is much more accessible than either. Become proficient at listening to your body, and you will eventu-



ally hear from your totality—the complex, unique person you are.

If decreases in the body's functions are due to non-use and not to aging, is it unreasonable to suggest that our mental and psychological and spiritual capabilities deteriorate the same way? If so, our

rebirth will be a long and difficult task. It will begin with the creative use of the body, in the course of which we must explore pain and exhaustion as closely as pleasure and satisfaction. It will end only when we have stretched our mind and soul just as far.³⁷

WOMEN LAWYERS AND STRESS

ACCA's 2000 Annual Meeting program on the success of female general counsel brought to light the fact that women attorneys often experience higher levels of stress than their male counterparts. This finding is consistent with surveys that show that women, in general, are twice as likely as men to experience significant stress.¹ Much of this distress can be attributed to the amount of time women spend working at the expense of other activities, such as those that are family-related or personal.² Women also identify stress as a principal cause of failed marriages or of not getting married at all.³

Even though we have made great strides as a society in furthering women's rights in education and employment, career demands typically involve more personal sacrifice for women than for men.⁴ Only 50 percent of married male lawyers have wives who work in contrast to 95 percent of married women lawyers who have working husbands.⁵ This difference means that, among married lawyers, men have much greater support at home than women do. Unfortunately, it also is still more socially acceptable, even if not healthy, for men to leave family responsibilities solely to women.

Obviously, much must be done to level the gender playing field, including changing societal attitudes and offering meaningful part-time work, job-sharing arrangements, telecommuting, and career slowdowns that take into account child-rearing and life cycles.⁶ Short of these changes, a strong exercise program can go a long way toward helping women lawyers acquire the skills necessary to achieve professional and personal success. Consider the following inspiring story of a young female attorney who granted an interview but preferred not to be identified:

I started running before the third year of law school to help me lose a little weight and feel better about myself. At first, I couldn't run more than a mile, so I ran as far as I could, then walked the rest of my workout. I also started dating a new boyfriend (another law student) who was running to lose weight as well.

Three years into my practice, I completed my first marathon. I've never been known for being particularly tenacious. My parents will tell you that,


as a child, I wanted to stop as soon as something became difficult. Training for the marathon helped me prove to myself that I could persevere even when the going gets tough. It taught me to dig deep inside myself to find strength and courage that I never knew I had. I really enjoyed the mental and physical challenge of pursuing a difficult goal.

It's hard to describe, but when I am consistent about my exercise, I am more focused about my work and more productive. When work demands make it difficult to squeeze in a run, I start to feel lethargic and I become less efficient and creative. My non-running friends think this sounds insane, but, to me, running can be just as relaxing as having a massage for the simple reason that I can just let my mind wander.

Running has enabled me to connect with several clients who are runners. Running also gives me some quiet, quality time with my husband, a fellow lawyer and runner. As you can imagine, we talk about the law a lot! Interestingly, though, we rarely seem to talk about work while we're running.

If any lawyers are considering taking up running or completing a marathon, I encourage you. In our profession, it is so easy to be overwhelmed by stress, which can lead to a sedentary lifestyle and poor eating habits. Take it from me, running will keep you healthier and make you feel better! And if you are a woman lawyer, consider Claire Kowalchik's *The Complete Book of Running for Women* and the women's running forum on the Runner's World's website, www.runnersworld.com.

1. See AMIRAM ELWORK, *STRESS MANAGEMENT FOR LAWYERS* 23 (2d ed. 1997).
2. *Id.*
3. *Id.*
4. See DEBORAH HOLMES, *WORK-FAMILY STRESS, LIVING WITH LAW* 43-44 (1997).
5. *Id.* at 44.
6. *Id.* at 43-44.



MEET THE AUTHOR AT ACCA'S 2001 ANNUAL MEETING

Please join the author of this article, Mark Siwik, at ACCA's 2001 Annual Meeting October 15–17 in San Diego, where he will be presenting the following courses:

- **014 MCLE—Stressing the Bottom Line**

Time pressures, anxiety, and conflict can hurt your productivity and rob you of career satisfaction. Like many other business skills, however, performing well under stress is a skill that can be learned. Through interactive dialogue, you will learn how to identify your stressors and develop skills to manage those stressors in a way that enhances your performance and productivity.

- **035 A Law Department Built to Last**

What makes the difference in building an exceptional legal department that is truly valued by your company and outlives your career? Is it strictly talent and compensation, or do values and core ideology matter? Explore the answers to these questions in an interactive program that will teach you how to assess your values and ideology and those of your company. You will also learn to use these values and ideologies to improve client service and satisfaction, promote personal growth, and create a work environment that inspires dedication and excellence.

See the Annual Meeting section of this issue of the *ACCA Docket*, pages 101–132, or go to www.acca.com/education2k1/am to learn more about what the meeting has to offer you.

Lawyer-runners make similar comments. (See “Women Lawyers and Stress” sidebar on page 66.) To manage stress better, you must begin with the body and stretch to the mind.

Thinking Better

Many great thinkers and writers have sought refuge from the relentless churning of the mind through exercise. Ralph Waldo Emerson walked to bring order to his thoughts. Pulitzer Prize-winning biographer Robert Caro put it this way: “I don’t know how the creative process works, but it always seems, as I’m running . . . that thoughts start coming in; sentences start coming in.”³⁸

Similarly, Unisys lawyer Charlie Rowan swears by his midday run:

I run at lunch two to four times a week, and on those running days, I find that it gives me a terrific mental boost for the afternoon.

For me, my midday run is a chance to rejuvenate myself, and I studiously avoid running with people who want to talk business.

How does exercise improve mental acuity and creativity? Part of the secret lies in the calming and restorative effects of exercise on the mind and the body. In the 1970s, Herbert Benson of the Harvard University Medical School coined the term “relaxation response” as the flip side of the stress response. Benson explained that our nervous system has two components: a sympathetic nervous system that contains the stress response and a parasympathetic nervous system that heals and repairs the body.³⁹ In his pioneering work, Benson focused on teaching patients how to trigger the relaxation response or parasympathetic nervous system when confronted with stress.

A simple way to invoke the relaxation response is through light or moderate exercise. Certain rhythmic exercises, such as walking, running, swimming, and cycling, use large muscle groups that, in turn, increase alpha-wave activity in the brain, producing a calming effect similar to meditation.⁴⁰ Exercise also triggers the relaxation response by elevating the body temperature, thereby producing changes in brain waves, reflexes, and muscle tension. The overall effect is to lower anxiety in the exercise participant.⁴¹

Many lawyers feel awkward and silly, at first, incorporating relaxation and meditation into their daily routine. Yet leaving the sympathetic nervous system (the stress response) on all of the time causes excessive wear and tear; the mind and body never have a chance to rest and rejuvenate. Many good athletes understand this theory. Those who have followed only the “no pain, no gain” theory have found to their extreme discomfort when injury or illness has finally sidelined them that they needed to balance that theory with the “train, don’t strain” rule. Overtraining taxes the body, causing fatigue, injury, or poor performance.

Many good athletes also build recovery into their regimens. They alternate stress and recovery periods. Many runners take 48 hours to recover from hard workouts and 72 hours or more to recover from races. They plan yearly schedules that consist

of a fitness base, a few races, and several weeks of light exercise to allow the body to recover and heal. In sum, they follow a simple formula: stress applied on top of stress equals breakdown; stress followed by recovery equals progress.⁴²

Throughout his more than 30 years of running and practicing law, Washington, DC, lawyer Ray Pushkar has followed the stress + recovery = progress formula. A government and contracts lawyer in his early 60s, Pushkar completed his first marathon last year. Pushkar believes his daily running makes him a better lawyer because it gives him a chance to rest, think, and meditate. "Because running takes time and has few distractions, it allows me time to truly think through legal problems, arguments and strategy," he says. "There have been many times when a new argument or strategy comes to me while running, as my mind is clear and open. Relaxed and tension-free, I go back to my office and put down so easily what I had in my head."

Building Immunity and Maintaining Weight

Regular exercise not only improves performance and mental fitness, but also builds physical immunity. When physically fit people become ill or injured, they tend to have more stamina and greater resiliency to fight the discomfort. Fit individuals also recover more quickly.

One of the best ways to build immunity is by maintaining proper weight. The average American (and hence the average lawyer) carries an estimated 20 to 30 pounds of excess body fat.⁴³ (See sidebar on "America's Health" on page 60.) In 1998, the medical definition of obesity changed to a body mass index ("BMI") calculation. Under the new measurement, which describes a weight-to-height ratio, more than 50 percent of American adults are obese.⁴⁴ Obesity doubles an individual's chance of heart disease, triples the risk of high blood pressure, and increases the likelihood of diabetes by fivefold.⁴⁵

Oprah Winfrey taught us that diet alone, though essential, cannot produce successful weight loss and maintenance. Several years ago, she lost weight using a very low low-calorie diet and showed off her results on her television show. Unfortunately, she quickly regained the lost weight after having ended her diet. The next time around, however, she made

lifestyle changes that included regular exercise, and she became proficient enough to complete a marathon.

What happened? Oprah's regular exercise helped change her "set point," which regulates the amount of fat in the human body. By our mid-twenties, most of us have settled into an accustomed level of calorie-burning and calorie consumption that leads to a certain level of body fat. Our bodies automatically raise our fat set points each year, thus producing a slow increase in fat accumulation. Consequently, our intuitive set-point mechanism views a diet as a form of starvation. When faced with starvation, our set point actually lowers our metabolic rate in order to conserve fat and to process food into more fat. Jeff Galloway, former Olympic runner and running expert, explains the process in his book *Marathon* (2000).

REGULAR EXERCISE NOT ONLY IMPROVES PERFORMANCE AND MENTAL FITNESS, BUT ALSO BUILDS PHYSICAL IMMUNITY. WHEN PHYSICALLY FIT PEOPLE BECOME ILL OR INJURED, THEY TEND TO HAVE MORE STAMINA AND GREATER RESILIENCY TO FIGHT THE DISCOMFORT. FIT INDIVIDUALS ALSO RECOVER MORE QUICKLY.

Moderate exercise three or more times a week is one of the best ways to increase the metabolic rate and lower the amount of bad fat and, in turn, to lower our set point. The trick is to train our muscles to burn fat. Walking and other forms of aerobic exercise, when done slowly and for more than 45 minutes regularly, are effective in retraining muscles in the legs, waist, back, and buttocks, where fat builds up. In fact, abdominal fats, which increase the risk of heart disease, high blood pressure, and diabetes, are especially vulnerable to reduction through a consistent program of walking, cycling, jogging, or swimming.⁴⁶

*From this point on . . .
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ONLINE:

- Help for runners over age 40 at www.nationalmasternews.com.
- Help for runners who think that they may belong in John Bingham's Penguin Brigade at www.waddleon.com.
- Help for women runners at www.womens-running.com.
- Help with figuring out how healthy you are or aren't at www.realage.com.
- Help with food at www.vegetariantimes.com.
- Help with helping your children exercise at www.kidsrunning.com.
- Help with helping your teenagers exercise at www.highschoolrunner.com.
- Help with running at www.jeffgalloway.com.
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- Help with yoga at www.yogajournal.com.
- Help with yoga tapes and props at www.livingarts.com.
- Information on getting started at www.active.com.
- Library on nutrition and a good starting place for learning how to improve your diet at www.navigator.tufts.edu.
- "The Medical Basis of Stress, Depression, Anxiety, Sleep Problems, and Drug Use" at www.teachhealth.com/.
- "Quiz: How Vulnerable Are You to Stress?" at www.mckinley.uiuc.edu/health-info/stress/vul-stre.html.
- "The Sedona Method for Stress Management" at www.sedona.com/stress_new.html.

ON PAPER:

Stress Management Books for Lawyers:

- AMIRAM ELWORK, *STRESS MANAGEMENT FOR LAWYERS: HOW TO INCREASE PERSONAL AND PROFESSIONAL SATISFACTION IN THE LAW* (2d ed. 1997).
- AMIRAM ELWORK AND MARK R. SIWIK, *SUCCESS BRIEFS FOR LAWYERS: INSPIRATIONAL INSIGHTS ON HOW TO SUCCEED AT LAW AND LIFE* (2001).
- GEORGE KAUFMAN, *THE LAWYER'S GUIDE TO BALANCING LIFE AND WORK: TAKING THE STRESS OUT OF SUCCESS* (1999).
- *LIFE, LAW AND THE PURSUIT OF BALANCE* (Jeffrey Simmons ed., 1996).
- *LIVING WITH THE LAW: STRATEGIES TO AVOID BURNOUT AND CREATE BALANCE* (Julie Tamminen, ed., 1997).
- BENJAMIN SELLS, *THE SOUL OF THE LAW* (1994).

General Books on Health and Exercise:

- E.R. BURKE, *COMPLETE HOME FITNESS HANDBOOK* (1996), a guide to establishing the right home environment for exercise.
- LINN GOLDBERG AND DIANE ELLIOT, *THE HEALING POWER OF EXERCISE* (2000), explains how exercise can be used to prevent and treat all forms of major physical illnesses.
- JOE HENDERSON, *DID I WIN?* (1995), a biography of George Sheehan, fitness guru and philosopher, and one of the best books ever written on the body-mind-spirit connection.
- GAIL KISLEVITZ, *FIRST MARATHONS* (1998), an inspiring collection of the stories of 37 people about the life-changing experience of running a marathon for the first time.
- LARRY LEITH, *EXERCISING YOUR WAY TO BETTER MENTAL HEALTH* (1998), excellent summary of scientific literature with respect to exercise and mental health, as well as best strategies for alleviating stress through exercise.
- LARRY SCHWARTZ, *THE PROFESSIONAL'S GUIDE TO FITNESS* (1999), a guide for Type A people, who are driven to succeed at all things, including exercise.

Article:

- "A Virtual Checkup—Advice on Health, Fitness and Parenting Can Make the Web a Lifeline," *U.S. NEWS & WORLD REPORT*, Dec. 4, 2000, at 62–66.

PROMOTING WELLNESS

Individual lawyers and their law departments and companies can succeed in making health and exercise a part of employees' everyday work and personal life. All we have to do is to promote wellness.

Individual Efforts

For many busy lawyers under stress, exercise is the least favorite coping behavior. Instead, they prefer a negative behavior that brings immediate pleasure or numbing relief, such as drinking, eating, or vegging out in front of the television. To make exercise a lifetime habit, therefore, it is important to make it fun, simple, and, for some people, social. The more enjoyable, achievable, and sociable the exercise is, the more likely we are to exercise frequently and to adopt it as a new lifestyle. A good wellness goal would be six months of sustained regular exercise.

Some scientists have determined that our attitudes and behaviors toward exercise fall into one of six phases and that most of us keep cycling through these phases. Knowing which phase you are in and what you need to do to keep developing is your first step toward change.⁴⁷ See whether you recognize yourself in the descriptions of the six phases in the sidebar below.

Because law can be a sedentary occupation, an exercise program for lawyers should contain three elements: (1) aerobic training for cardiovascular conditioning, (2) resistance training for muscle tone and bone strength, and (3) stretching for flexibility. The frequency and duration of the exercises depend on your goals. Generally, you cannot sustain physical fitness without three 30-minute sessions of moderate exercise per week. For most people, however, this minimal level of activity will not be sufficient to restore physical health and/or achieve the health rewards from exercise. Consequently, many medical

WHICH PHASE OF EXERCISE ARE YOU IN?

1 Needing to learn

Uninterested in exercise. You need to correct misperceptions about exercise and learn more about its benefits.

2 Prioritizing

Don't have time to exercise. You need to realize that even busy people have time to train and be active. For example, according to Joe Henderson, *RUNNING COMMENTARY*, Oct. 24, 2000 (issue 332), after having run his first marathon in the fall of 2000, U.S. Surgeon General Dr. David Satcher told the press that he had never thought he had the time to train for one. "In the last two months, I've traveled over 100,000 miles," he said, "but I've been able to train. I guess my message to everybody is that we all have the time to be physically active."

3 Searching

Looking for specific advice about exercise. You need to set some short-term goals for the next two weeks and consider getting a pre-exercise medical evaluation and hiring a personal trainer.

4 Beginning

Just getting started and have been exercising regularly for a few weeks. You need to keep setting new short-term goals and rewarding yourself for accomplishments so that you achieve six months of regular exercise.

5 Maintaining

Getting the recommended amount of regular exercise and have done so for six months or more. This category includes 20 percent of all adults. You need to have sufficient variety in exercise to keep your interest level up and to overcome obstacles, such as bad weather or injury.

6 Relapsing

Relapsed before hitting the six-month goal of regular exercise or maintenance phase. You need to start the cycle again as soon as possible.

The phases are described at length by Linn Goldberg and Diane Elliott in The Healing Power of Exercise (2000), pages 212-14.

professionals encourage people to exercise with sufficient effort five to six days a week.

If you are concerned in any way about the risks of exercise, get a basic physical exam before starting your program or consult the The American College of Sports Medicine's *Guidelines for Exercise Testing and Prescription*.⁴⁹ People at risk for heart disease, sedentary men over 40, and sedentary women over 50 should have physicals before starting any exercise program.⁵⁰

Remember that it is important for you to choose a form of exercise that you enjoy. If you don't like running, don't run! If you think of exercise as additional work or stress, then it will not benefit you. For example, if you agree with Mark Twain that "golf is a good walk spoiled," then don't force yourself to take up golfing. You also must have patience. Acquiring confidence and mastering new skills may take a few weeks or months, and the benefits of exercise, such as weight loss, may not become evident for six to eight weeks or even longer. Accordingly, for many novices,

walking or running may be the best choice. Each is readily available, safe, and suitable for doing alone or with others. See the sidebar on "The Penguin" below for inspiration.

Workplace Initiatives

For years, businesses have tried to motivate employees to do a better job with promises of all-expenses-paid trips to Hawaii and Europe. In a spin on this technique, J.G. Wentworth, a 250-employee company in Philadelphia, focused on exercise to start one of the most creative incentive programs. The Wentworth Wobblers program rewards employees who take up running by giving them one point for each mile raced. For example, an employee would earn three points for running a 5K race (3.1 miles). Employees who earn 120 points within a seven-month period receive an all-expenses-paid trip to the marathon of their choice. In April 2000, J.G. Wentworth sent 30 employees to the London marathon. Michael Goodman, Wentworth's executive

EVEN A PENGUIN CAN SUCCEED AT EXERCISE

One of my favorite exercise success stories belongs to John "The Penguin" Bingham, a columnist for *Runner's World* magazine, academic, and musician. Bingham remembers being 100 pounds overweight at the age of 43. He knew he had to do something about his heft, but he was determined not to change any more habits than he absolutely had to. In his writings, he recalls being angry that he couldn't live an irresponsible lifestyle. Why couldn't he be decadent and fit? Why couldn't he overeat and overtrain?

After a year of exercising, Bingham realized that his priorities were changing. The more miles he put behind him, the more he thought about the miles ahead. He became an athlete, not by design, but by default. He learned what Dr. Kenneth Cooper, the father of modern aerobics, teaches: you cannot reverse 20 years in 20 days; progress is slow, but rewarding. Looking back on his journey in a recent column, Bingham marvels over all the things he's not. "I'm not angry," he writes. "I'm not fighting my destiny. I'm not afraid to find out where my limits are and I am not afraid to accept those limits. More than anything, I'm not afraid to change, to learn, and to grow."¹

For more information about John Bingham, read *Runner's World*, and visit his website at www.WaddleOn.com.

1. See John Bingham, *Tied in Nots*, *RUNNER'S WORLD*, Feb. 2001, at 86.



ACHIEVING OLYMPIAN EXCELLENCE

Exercising the body is an important element of what I believe constitutes human wellness, and it is beautifully expressed in the Olympian model. It is only one of three elements, however, and the other two are exercising the mind and living life in accordance with one's values. Lawyers, who regularly engage in the pursuit of excellence, have the capacity and often the desire to attain all three. At least, that is what my personal and professional experience teaches me.

Lawyers' ability to change themselves rests, in large measure, on their aspirations to fulfill their highest human potential. If we want to change ourselves and the world around us, we must assess the value that we place on full development of mind, body, and spirit and those same elements in the communities in which we live and work. When we nurture all three and work to overcome the obstacles that impede their full development, we become our personal and collective best.

In its pure form, pursuit of the Olympian model expresses this concept of personal and community excellence and the development of the body as a complement and conduit to the mind and spirit. Moreover, the true Olympian model is not elitist. Each one of us has the innate desire to be more than a mere human animal; each one of us should want to be an outstanding human being. The developmentally disabled among us, for example, prove that they do every time they compete in the Special Olympics.

Although he wrote in the pre-Title IX era, novelist Brian Glanville in *The Olympian* (1969), page 4, captured the Olympian model, for both men and women, when he pondered:

Why were the Greeks the true, original athletes?

Because the Greeks were the inventors of the golden mean. They did not neglect the body for the mind. In our age, we have neglected the body for the machine. What we have to do is to rediscover the body, stop poisoning it with false stimulants, stop filling it with noxious substances, stop treating it only as a means of self-indulgent pleasure. A plant needs water, and a body needs exercise. If you deprive a plant of water, it dies. If you do not exercise a body, it corrupts, and the mind corrupts with it. . . . [There] are people who have no bodies, only heads. And many athletes have no heads, but only bodies. A champion is a man [or woman] who has trained his body and his mind. . . . A great athlete is at peace with himself and at peace with the world; he has fulfilled himself. He envies nobody.

vice president and chief operating officer, believes that running "is the most effective corporate training program we have. It promotes healthy living. It promotes teamwork. And it provides a common goal with an uncommon reward."⁵¹ See sidebar for an Olympian perspective of practicing law.

Goodman's sentiments are consistent with studies of more than 50 high-profile corporate wellness programs. Researchers have found that such programs attract employees with a favorable attitude toward work and health, reduce absenteeism and employee turnover, increase productivity, and reduce health care costs.⁵² Interestingly, neither program participation nor individual health improvements rise in direct proportion to the capital invested in wellness personnel, programs, facilities, and equipment. Instead, cost-effectiveness is greatest for a moderate exercise facility and enthusiastic leadership.⁵³

If we truly want to prevent distress and improve our working conditions, we can begin by supporting work-site wellness programs within our legal departments and our companies. Such programs can take many forms, including the provision of subsidies for health club memberships and the hiring of a part-time health consultant and maybe even a massage therapist. A moderately well equipped in-house facility containing cardiovascular and resistance equipment and some yoga mats would accommodate many lawyers who are parents because it would allow them to integrate exercise into their job schedules without the added stress of what to do about their kids while they're out running or lifting weights. Women are particularly reluctant to take time away from their work or their families to care for their own physical and mental well-being. Enthusiastic participation from senior in-house counsel, coupled with educational programming on stress management, nutrition, weight loss, and smoking cessation could increase the likelihood of the success of such programs. What are we waiting for?

CONCLUSION

Chronic distress caused by rigid deadlines, enormous workloads, and other fast-lane burdens is a major contributing factor to problems confronting

the legal profession in general and in-house counsel in particular. Distress hurts both our fiscal and our physical bottom line. Corporate America pays a heavy price in employee absenteeism, turnover, poor morale, low productivity, and other health-related costs even in the legal department. The solution is not to reduce all stress, but to concentrate on achieving positive stress and preventing chronic distress. In-house counsel can use exercise to achieve optimal or comfortable levels of stress. Exercise is a powerful form of prevention: it transforms the body and mind through appropriate and safe methods of coping, adapting, and growing in response to good stress.

We can extend and expand the work of the lawyer-assistance and employee assistance programs to include the prevention of chronic distress. We can find healthy new ways of working and living. We need not wait until our colleagues manifest danger signs, such as depression or alcoholism, before we intervene. Corporate counsel can lead both by individual example, with our own exercise regi-

For your running and walking pleasure at ACCA's 2001 Annual Meeting October 15-17 in San Diego:

Calling All Joggers (and Walkers Too)!

Are you a morning person? Can you be found out jogging or walking while the rest of the city is hitting the snooze button? Well, you're not alone. Join others interested in exercise companionship at 6 a.m. each morning (Monday-Wednesday). You may discover that your fellow walkers and runners know a better route or have a wealth of tips for healthy living. When you return, we'll have refreshments waiting. See onsite materials for the meeting place.

mens, and by the promotion of wellness within our legal departments and companies. We can support work-site exercise programs and encourage more study and research on the relationship between exercise and stress.

There is an old Spanish proverb that a person who is too busy to take care of his health is like a mechanic too busy to take care of his tools. We in-

house lawyers have a special responsibility to care for our tools because our companies depend on us to use them to solve some of the most difficult problems in our world. We are the frontline troops, charged with resolving the conflicts in human relations. If we are to undertake important professional obligations, do them well consistently, and also find satisfaction and fulfillment in our work, we must care for our physical and mental health. We must exercise more than our brains. So go put on your sneakers, and rediscover the champion you are. ■

NOTES

1. See, e.g., RONALD L. HIRSCH, *THE STATE OF THE LEGAL PROFESSION* (ABA 1990); ABA, *AT THE BREAKING POINT: THE EMERGING CRISIS IN THE QUALITY OF LAWYERS' HEALTH AND LIVES—ITS IMPACT ON LAW FIRMS AND CLIENT SERVICES* (ABA 1991).
2. See ARCHIBALD HART, *ADRENALIN AND STRESS* 24 (1986).
3. See generally Heidi McNeil, *Problems Identified: The Bar Surveys*, in *LIFE, LAW AND PURSUIT OF BALANCE* 9-15 (1996).
4. *Id.* at 10.
5. See generally Carol Wilson, *Lawyer Stress and Malpractice*, in *LIVING WITH THE LAW* 7-14 (1997).
6. The ACCA member survey *In-House Corporate Attorneys: A Profile of the Profession* is available at www.acca.com/news/press/survey2.html.
7. For a complete list of state lawyer assistance programs, see the American Bar Association's Commission on Lawyer Assistance Programs at www.abanet.org/cpr/colap/home.html.
8. *Id.*
9. *Id.*
10. See John Maynard, *Employee Assistance Programs in Law Firms*, in *LIVING WITH THE LAW* 55-59 (1997). These employee assistance programs ("EAPs") have the following elements: (1) educational materials and activities to make employees aware of the program, (2) training for managers and supervisors on ways to recognize troubled employees and refer them to EAPs for help, (3) professional assessment and counseling for employees and their family members, and (4) confidential feedback from users regarding the results they achieved and overall program effectiveness. See Hart, *supra* note 2, at 24.
11. See William Atkinson, *Strategies for Workplace Stress, RISK AND INS.*, Oct. 15, 2000.
12. See generally Dennis Kozich, *Stress: What Is It?*, in *LIVING WITH THE LAW* 1-6 (1997).
13. *Id.* at 1.
14. See AMIRAM ELWORK, *STRESS MANAGEMENT FOR LAWYERS* 35 (1997).
15. See Kozich, *supra* note 12, at 1.
16. *Id.*

17. See generally Sue Gillmore, *Balance or Burnout: Which Way Are You Headed?*, in LIFE, LAW, AND THE PURSUIT OF BALANCE 16–28 (1996).
18. See Kozich, *supra* note 12, at 1.
19. See Gillmore, *supra* note 17, at 17–20.
20. *Id.* at 18 (citing PETER HANSON, THE JOY OF STRESS (1985)). See also Hart, *supra* note 2, at 24.
21. Because Type A personality characteristics, such as being competitive and goal-oriented, work to lawyers' advantage, we need to learn to recognize the risks associated with these characteristics and to avoid the pitfalls. Fortunately, a number of excellent books teach lawyers how to manage their stress better (see resources sidebar on page 70). The techniques described in the literature fall into one of three approaches: (1) relaxation, (2) behavioral, and (3) cognitive.

Relaxation helps us to respond to ordinary environmental stressors, such as traffic congestion or routine work and interpersonal demands. Techniques include active muscle relaxation (contracting and relaxing major muscle groups), passive muscle relaxation (e.g., listening to music or using a sauna), meditation (clearing the mind), and visual imagery (coping). See ROCHELLE SIMMONS, STRESS—YOUR QUESTIONS ANSWERED, 48–79 (1997).

The behavioral approach focuses on specific stress-reducing behaviors, such as time management and nutritional adjustments. We can anticipate and prepare for recurrent stressors and thus minimize their adverse effects by managing time, setting priorities and limits, delegating responsibility, and avoiding procrastination. Similarly, we can control stress and reduce our fatigue and mood swings by cutting down on alcohol, caffeine, and sugar. Christopher Hobbs, *Stress and Natural Healing*, 30–60 (1997).

The cognitive or thinking approach is the most effective for long-term elimination of chronic distress. It works especially well with professionals who look for logic and reason in solutions. In his widely acclaimed book, *Stress Management for Lawyers: How to Increase Personal and Professional Satisfaction in the Law*, Amiram Elwork, Ph.D., director of the Law-Psychology (J.D.–Psy.D.) Graduate Program at Widener University, teaches lawyers to identify their thoughts in response to stimuli and to determine to what degree these thoughts are negative, distorted, or dysfunctional. See Elwork, *supra* note 14, at 65–75. If our thoughts are perfectionistic, for example, our chances of feeling stressed increase because expectations of perfection are unrealistic. Once we have identified our perfectionistic thoughts as distorted or dysfunctional, we can move to the next step of the cognitive approach: recognizing the emotions that such dysfunctional thoughts have created. For perfectionistic thinking, the harmful emotions are likely to be anger, hostility, and/or fear. Such harmful emotions, in turn, create the negative behaviors that underlie distress. Consequently, if we can learn to identify our thought patterns and heed the accompanying emotions, we will learn, with practice and patience, to revise our thoughts and emotions and, in turn, to improve our behavior.
22. See Simmons, *supra* note 21, at 112–13.
23. *Id.*
24. See Nicholas DiNubile, *Exercise and the Bottom Line, Promoting Physical and Fiscal Fitness in the Workplace: A Commentary*, THE PHYSICIAN AND SPORTSMEDICINE, Feb. 1999, at 1–2.
25. See Elwork, *supra* note 14, at 2.
26. GEORGE SHEEHAN, PERSONAL BEST ix–xi (1989).
27. *Id.* at x.
28. See Elwork, *supra* note 14, at 6.
29. See generally JUDITH BARDWICK, IN PRAISE OF GOOD BUSINESS (1998).
30. *Id.*
31. See Jonathan Beverly, *It Hurts So Good*, RUNNING TIMES, Sept. 2000, at 49–53.
32. *Id.* at 52.
33. See generally LINN GOLDBERG AND DIANE ELLIOTT, THE HEALING POWER OF EXERCISE 212–14 (2000).
34. *Id.* at 214.
35. *Id.* at 213.
36. See Chantal Gosselin and Adrian Taylor, *Exercise as a Stress Management Tool*, STRESS NEWS, Oct. 1999. In fact, the people most likely to experience increased levels of self-esteem and effectiveness are middle-aged adults and children. *Id.* The increased effectiveness stems from mastery of a form of exercise. See LARRY LEITH, EXERCISING YOUR WAY TO BETTER MENTAL HEALTH 34 (1998).
37. JOE HENDERSON, DID I WIN? A FAREWELL TO GEORGE SHEEHAN 7 (1995).
38. MARK WEBER, THE QUOTABLE RUNNER 36 (1995).
39. See generally HERBERT BENSON, THE RELAXATION RESPONSE (1975).
40. See Gosselin and Taylor, *supra* note 36.
41. See Leith, *supra* note 36, at 5, 47.
42. See BOB GLOVER AND PETE SCHUDER, THE NEW COMPETITIVE RUNNER'S HANDBOOK 45–46 (1988).
43. Elwork, *supra* note 14, at 5.
44. Goldberg and Elliott, *supra* note 33, at 125.
45. *Id.*
46. *Id.*
47. See generally Goldberg and Elliott, *supra* note 33, at 22–31.
49. THE AMERICAN COLLEGE OF SPORTS MEDICINE, GUIDELINES FOR EXERCISE TESTING AND PRESCRIPTION (6th ed. 2000). See ACSM's website at www.acsm.org/books.htm.
50. See DiNubile, *supra*, n. 24.
51. See Rich Benyo, *Working Assets*, MARATHON AND BEYOND, July/Aug. 2000, at 1–3.
52. See Roy Shephard, *Do Work-Site Exercise and Health Programs Work?* THE PHYSICIAN AND SPORTSMEDICINE, Feb. 1999.
53. *Id.*