



Warrior One.

Essential Mindfulness For Lawyers®: Effectiveness, Wellbeing, And Thought Leadership in the Profession

Mindful Conflict: Practicing Peace vs. Going to War Spirit Rock Meditation Center

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I. Understanding Conflict

- Origins of the word, “conflict” are, “to strike together,” and, “to contend,” from late Middle English and Latin
- Definition of conflict:
 - A fight, battle or struggle based on preferences
 - An opposition of principles
 - The incompatibility of one desire, event, or activity with another
 - An internal struggle
- Battles based on preferences
 - A case or matter that’s contentious or difficult, based on the preferences of the parties, or, sometimes, on the attorneys
 - A difficulty in a relationship based on preferences
 - Either of the above, disguised as based on principles
- Conflicts of principles
 - Prosecution and defense attorneys
 - Gun control, same-sex marriage, climate change, politics in general

- Conflicts between one desire, event, or activity and another
 - Conflict of interest in the ability to take a case
 - Wanting to be home when you have to stay and work; missing one event due to the demands of another
 - Wanting a different job or role or profession than the one you have

- Internal struggles
 - Wanting your quality of mind to be other than it is (less stressed/more peaceful; less triggered/more stable, less hijacked/more at choice)
 - Wanting past conditions to have been different than they were
 - Wanting future conditions to be a certain way

II. Mindfulness in Conflict

- Mindfulness **in** conflict instead of mindfulness **and** conflict
 - Our commitment to mindfulness
 - Showing up and paying attention
 - Speaking and acting with truthfulness, thoughtfulness and respect, caring about and appreciating others
 - Not grasping, not being so attached to outcome, not being so attached to our own position or one-sided or myopic, not needing to be right every time about your position or about other people, not having to win every battle

 - Acknowledging the impediments
 - Showing up/paying attention vs. multi-tasking and even having the hope of getting everything done that we need to get done
 - Truthfulness: there's a case to support almost any reasonable position.
 - Thoughtfulness and respect...when the "other side" is anything but; caring about and even appreciating people who seem to be intentionally nasty and aggressive
 - Letting go of having to be right, when, if we're wrong, we'll be fired. Not being attached to outcome when we're being paid to achieve that outcome.

- Mindfulness in battles about preferences
 - How you show up
 - Quality of attention
 - Quality of heart
 - How you view the “other side”
 - How it feels to be fighting about (someone else’s) preferences
 - How much is wanting to win, or wanting to be right, driving things?
How much are these a measure of your internal sense of success?
 - These battles may be part of your job
 - Choosing who you want to be in battles about preferences

- Conflicts that are about principles
 - Showing up
 - Is this an essential principle, or a point of view?
 - What qualities of heart and attention do you bring?
 - The other side: just human beings with whatever wisdom is available to them
 - In a battle based on principles, is your view of needing to be right or to win, different? What emotions are informing your words and actions?
 - Who do you want to be in this kind of conflict? What impact do you want to have on the other humans involved on all sides? Are you differentiating yourself from the others in a mindful way?

- Conflicts between one desire, event, or activity and another
 - This is an all-too-common phenomenon: missing an preferred event because we have too much work to do, or something has been scheduled that we can’t control (a hearing, a filing and we can’t get an extension). Or not being able to take a case because we are conflicted out.
 - How do we show up for our own emotions – sadness, resentment, frustration?
 - How do we greet the emotions of others – their disappointment, their dismay?

- Can we give ourselves over to the difficult conversations with friends & family whom we are disappointing or letting down?
- How can we be the person we want to be in these situations?
- Internal struggles and conflicts
 - States of mind you'd prefer not to have: "I'm not angry," and other ideas
 - Maintaining the surprise of seeing what's really happening internally
 - Classical suffering: wanting things to be different than they are, wanting the past to have been different, wanting to control what happens in the future

III. Conflict with Conflict: Competent Lawyering & Practicing Peace

California MCLE rule 2.72 states that a member must have...one hour of education addressing substance abuse or other mental or physical issues that impair a member's ability to perform legal services with competence.

Mindfulness is the key to mental competence: employing the above inquiries is crucial to competent lawyering. Essentially, the goal is to:

- Make peace with conflict, but acknowledging and befriending our own impulses
- Cultivate wisdom, by shifting from aggression to passion
- Cultivate compassion, by remembering that we are human, and everyone else involved in the matter is human

IV. Practical Suggestions

- Peace is not the absence of conflict but the ability to meet conflict with wisdom & compassion. We can ask ourselves, "Am I practicing peace or am I going to war?"
- Mindful conflict in action
 - Take a breath
 - Make the following inquiries:
 - Clarify the conflict

- What is this conflict about?
- Are preferences at stake? Principles? What are they?
- What internal conflicts are occurring?
- What needs to be clarified: what is understood? What is misunderstood?
- What cultural assumptions and values are at play?
- What institutional pressures exist?
- Clarify your own experience
 - How invested are you in winning? How invested is the client?
 - What part of that investment, if any, is about needing to be right?
 - What values are at stake? Whose values are they?
 - Where are you aligned with your own values? Misaligned?
 - Where are your values aligned with the “other side,” and is this easy or difficult to see?
- Take the following actions:
 - Stay present.
 - Be patient.
 - Care about the other people.
 - Listen mindfully.
 - Show up (non-distracted attention)
 - Pay attention to words, actions, facial expressions, tones, gestures, movements, nonverbal nuances, pauses and silence – yours and those of the other people
 - See each person as whole, with nothing wrong, and nothing to fix: practice non-judgment
 - Take in all other points of view, even those with which you don’t agree
 - Listen to your own body, including signs of fight, flight, freeze and collapse, and your thoughts and emotions. Give them space. Change the pasture for the horse.
 - Speak mindfully.
 - What’s your intention?

- Continue listening to your own body and emotions
 - Say only what is true – your experience, your needs, your client's needs
 - Say only what is useful: all actions have consequences; no unnecessary harm
 - Make reparations immediately if you see you've caused unnecessary harm
 - Check back again later and do the same if you see you've caused unnecessary harm
 - Do your best, but let go of outcome
- Mindfully reframe.
- Restate positions in common interest terms
 - Change complaints to requests
 - Move tense interactions from blaming statements to mutual-focused, problem-solving statements
 - Help each other recognize the benefits of a win-win, synergistic approach
 - Keep looking for and articulating the big picture
 - Love everyone involved as best you can