

THE EMPIRICAL CASE FOR

CORPORATE BASED
MINDFULNESS TRAINING
IN LAW FIRMS

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INTRODUCTION

Lawyers today face many challenges including mounting pressure, stress, and disruption. Furthermore, with the speed of distractions today, our attention is under constant siege, with research showing that people are mentally off-task 47% of the time. Under these conditions, lawyers are experiencing high deficits in performance, resilience, and innovation in relation to their potential. As a result, law firms are underperforming and experiencing high turnover.

Fortunately, mindfulness training has been demonstrated as an effective remedy for these issues. This booklet summarizes empirical research about the effects of mindfulness specifically for lawyers and other knowledge workers in relation to efficacy, focus, client relations and communications, resilience and stress, staff turnover, and creativity and innovation. It also highlights the professional value of these attributes to lawyers and law firms.

ABOUT POTENTIAL PROJECT

Potential Project is a global leadership training, organizational development and research firm. We help leaders and organizations enhance performance, innovation and resilience through mindfulness. In addition to our in-depth experience helping lawyers and law firms, we partner with forward thinking companies like Cisco, LEGO, Accenture, Microsoft and 450+ other clients globally to help create people centric cultures and truly human leadership.

EFFICACY

The Value of Improved Efficacy

Low efficacy—negative evaluations of self-rated productivity and job satisfaction—is often related to burnout, brought on by the intense pressure to succeed. Individual career success in law is correlated with high productivity and impeccable work quality. While the pressure to perform at high levels can be a stimulating challenge, it may also drive lawyers to experience harmful, counterproductive stress levels. Burnout is frequently expressed through psychological resignation, poor self-worth, and social withdrawal from colleagues and clients. As emotional fatigue and cynicism develop, lawyers' belief in their own professional capabilities can plummet, resulting in critical damage to self-esteem.

In contrast, high efficacy is a sign of positive work engagement focused on highlighting one's strengths and accomplishments. This is critical to the long-term success and well-being of lawyers.

The Impact of Mindfulness on Efficacy

Numerous studies demonstrate that mindfulness increases lawyers' efficacy. Some of the most important factors behind increased efficacy are the **enhanced ability to maintain focus and conserve energy** on one hand, and to **regulate stress, negative thoughts and feelings** on the other hand (Dane & Brummel, 2014; Kozlowski & Salas, 2010; Banich, 2009; De Gray Birch, 2012; Shao & Skarlicki, 2009). Other studies point to mindfulness increasing efficacy by **increasing awareness and decreasing absentmindedness** (Glomb et al., 2011; Shao & Skarlicki, 2009). One study found a 17% increase in efficacy after eight weeks of mindfulness training (Ström & Ström, 2013).

Studies have also shown that mindfulness increases various attributes of work that are related to efficacy. Reb et al. (2013) found increased efficacy based on the psychometric results of **increased task performance, greater organizational citizenship behaviors, and lower deviance**. Mindfulness is also correlated with **increased reliability in production** (Weick & Sutcliffe 2006; Weick et al. 1999) and **better productivity** in industries with intense competition and rapid change (Dane, 2011). In addition to quantitative improvements, mindfulness enhances lawyers' **creativity and quality of work**. Greenberg et al. (2012) "found a tremendous impact of focused-attention (mindfulness) and open-monitoring meditation (observing without judging) on creativity."

Potential Project CBMT Program - Impact on Efficacy

Herbert Smith Freehills	+35%* Potential Project
UK Lawyer Team	+11% (Näsström, 2016)
Vendemore	+17% University of Stockholm (Ström and Ström, 2013)
Roche	+9% Karolinska Institutet (Swartling, 2015)
IKEA	+7% Karolinska Institutet (Swartling, 2015)

**Self-rating, using a non-validated scale.*

Measures used validated, self-rating scales, unless otherwise indicated.

FOCUS

The Value of Improved Focus

The strongest predictor of lawyers' success, according to some authorities, is focus – the ability to maintain sustained attention on one's object of choice; it is not intellectual brilliance, university rank, law school rank, law school pedigree, LSAT score, or grades (Goldberg, 2007; Henderson, 2008; Näsström, 2017).

Capacity for focus and awareness achieved a top ranking among success factors in a 2017 study of Swedish lawyers (Näsström). This outcome was replicated in a collated survey of 98 British and Australian lawyers (Näsström, 2016). It is important to remember that all critical tasks for lawyers, such as listening, problem solving, writing, arguing etc., are highly cognitive activities and therefore are wholly dependent on lawyers' capacity for sustained focus.

Mind wandering impairs performance in terms of both quality and quantity. Mind wandering is especially an issue in our modern technological environment, which produces constant work interruptions and distractions. A large study showed that mind wandering occurs 46.9% of the time in an average population (Killingsworth & Gilbert, 2010). There is also a link between mind wandering and depression. Fortunately, mindfulness can reduce mental wandering (Deng et al., 2012).

A phenomenon related to mind wandering is multitasking, which results in more mistakes and more time needed to complete a task (Ophir et al., 2009). Multitasking also makes us less creative, slower, and more prone to making poor decisions (Dean & Webb, 2011). We also get worse at multitasking the more we do it; one might say that multitaskers are the worst at multitasking. According to Stanford University professor Clifford Nass, multitasking not only makes it harder for us to concentrate, but also to learn new things and to treat our coworkers nicely (Ophir et al., 2009).

The Impact of Mindfulness on Focus

Numerous studies have replicated the positive effects of mindfulness on **focus, endurance, and multitasking** (Schmertz, Anderson, & Robins, 2009; Evans, Baer, & Segerstrom, 2009; Hodgins & Adair, 2010; Moor & Malinowski, 2009; Speca et al., 2000; Bishop et al., 2004; Posner & Peterson, 1990; Chambers, Lo, & Allen, 2008; Tang et al., 2007; Slagter et al., 2007; Moore & Malinowski, 2009; Zeidan et al., 2010; Maclean et al., 2010; Valentine & Sweet 1999; Jha et al., 2010).

Mrazek et al. (2013) found that mindfulness both **increases the capacity of the working mind and reduces mind wandering**, which replicated an earlier finding about mind wandering (Mrazek, 2012). Two attributes closely related to mind wandering are **employee awareness** and **employee absentmindedness**. Mindfulness can have positive effects on both of these, which in turn leads to **increased well-being** and **increased ability to perform** (Reb et al., 2013).

Potential Project CBMT Program - Impact on Focus

Herbert Smith Freehills	+45%* Potential Project
UK Lawyer Team	+11% (Näsström, 2016)
IKEA	+27% Karolinska Institutet (Swartling, 2015)
Global Pharma Company	+19% Karolinska Institutet (Swartling, 2015)

** Self-rating, using a non-validated scale.*

Potential Project CBMT Program - Impact on Multitasking

Herbert Smith Freehills	-18% (Näsström, 2016)
Reduction of Multitasking in UK Lawyer Team	-11,2% (Näsström, 2016)

Measures used validated, self-rating scales, unless otherwise indicated.

CLIENT RELATIONS AND COMMUNICATION

The Value of Improved Client Relations and Communication

There is ample evidence that clients and lawyers have substantially different ideas of client service. Lawyers consistently overrate themselves compared to their clients' evaluations:

- 62% of law firms in a study rated themselves "A" for overall performance, contrasting with a mere 19% of their clients giving them an "A" (Kiser, 2010)
- 32% of corporate counsel would recommend their primary firm (BTI Consulting Group, 2006)
- 57% of clients agree with the statement, "Most lawyers are more concerned with their own self-promotion than their client's best interests" (American Bar Association Section of Litigation, April 2002)
- 81% in a study asserted that it was important that lawyers "do a better job of communicating with their clients" (Ronda, 2007)

The ability to listen to clients is the basis for understanding them and their case, including their motives and emotional states (Portnoy, 2000). Social skills have been found to be a common trait among successful lawyers (Shneidman, 1984), and interpersonal skills have been correlated with top performers (Kelley & Kaplan, 1993). Furthermore, empathy and interpersonal skills have been found to be characteristics among top Canadian corporate litigators (Irene, 2002).

The significance of effective communication for the professional success of lawyers has been pointed out by Kiser (2017), as well as by Shultz and Zedeck (2009), who identified four communication skills among the 26 success factors: writing, speaking, listening, and advocating.

The Impact of Mindfulness on Client Relations and Communication

Numerous studies have demonstrated the value of mindfulness in helping lawyers improve their client relations and communication. While Risking (2002) pioneered this discussion, the interpersonal gains for lawyers have been outlined in numerous studies (Codiga, 2002; Freshman, Hayes, & Feldman, 2002; General Mills, 2010; Shapiro et al., 1998; Dekeyser et al., 2008).

The impact of mindfulness has similarly been noted in other professions, such as healthcare. For instance, one's natural capacity for mindfulness and enhanced capacity through mindfulness training improved communication, **including listening with enhanced awareness and being less judgmental of others** (Beckman et al., 2012), as well as **boosting client-rated relationships** (Beach et al., 2013).

Mindfulness may also **improve communication** and the **capacity to communicate emotional content** (Wachs & Cordova, 2007).

Potential Project CBMT Program - Impact on Client Relations and Communication

Lego	+24%* Potential Project
Microsoft	+26% Potential Project

** Self-rating, using a non-validated scale.*

Measures used validated, self-rating scales, unless otherwise indicated.

“One of things in the program they encourage is really to focus on listening to someone. I often think, as lawyers we’ll have an anxiety, or at times confidence if you will, to establish our credentials, and we’ll often do that by thinking, ‘let me just blurt out everything I know’. A particular client I met this morning raised a quite complicated question. Halfway through, I thought, ‘I know the answer to this’, but then I stopped myself to let him finish. Then one or two other elements came out, and I paused and went through the response. The reaction was great for him as well; he had a real sense that I actually had listened to him and understood him. I think the benefits in having a real sense of inner calmness in yourself and how you interact with clients and others are really spectacular. If you think about doing the course, I can definitely recommend it.”

Peter Dunne
Partner, Herbert Smith Freehills

“The perceived social effects are communal feelings, fewer conflicts, and more effective communication.”

Maria Swartling
Researcher at Karolinska Institutet, evaluating the impact of CBMT
at a global pharma company through qualitative interviewing

RESILIENCE AND STRESS

The Value of Resilience and Stress Management

Resilience is the general quality that allows individuals to come back after a severe strain. In law firms, this strain takes the form of stress and emotional exhaustion, whereas resilience is strongly correlated with stress and stress management. Stress is a major issue for lawyers across the globe. For instance, there is major consensus within the field of legal psychology that American lawyers experience high levels of stress (Daicoff, 1997; Elwork & Benjamin, 1995; Elwork, 1997). In 2004, almost half of the health insurance cases for lawyers in Sweden were stress-related (Hellberg, 2004) and 48% of long-term sick leave was due to “psychological problems” often associated with stress and burnout (Swedish Bar Association, 2004). Studies also confirm that the harmful effects of stress are widespread within the profession, with lawyers experiencing depression, anxiety disorders, burnout, and substance abuse (Allen, 1997; Andrew, Benjamin, Darling, & Sales, 1990; Eaton, Anthony, Mandel, & Garrison, 1990).

The Impact of Mindfulness on Resilience and Stress

Mindfulness has been demonstrated to enhance the ability to maintain focus and conserve energy on one hand, and to regulate stress, negative thoughts and feelings on the other hand (Dane & Brummel, 2014; Kozlowski & Salas, 2010; Banich, 2009; De Gray Birch, 2012; Shao & Skarlicki, 2009). Research also strongly suggests that in addition to reducing stress, mindfulness builds stress resilience (Ludwig & Kabat-Zinn, 2008; Creswell, 2014).

Potential Project CBMT Program - Impact on Stress Levels

Herbert Smith Freehills	-35%* Potential Project
Vendemore	-37% University of Stockholm (Ström and Ström, 2013)
Roche	-37% Karolinska Institutet (Swartling, 2015)
IKEA	-27% Karolinska Institutet (Swartling, 2015)

* Self-rating, using a non-validated scale.

Potential Project CBMT Program - Impact on Emotional Exhaustion Levels

UK Lawyer Team	-14,6% (Näsström, 2016)
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Measures used validated, self-rating scales, unless otherwise indicated.

“The Corporate Based Mindfulness Training has had a profound effect on me. My team says that I have become more serene, and I notice how quickly I feel stressed if I don’t do my daily practice. I have noticed a marked difference in clarity of thought and feel much calmer.”

Nicole Lacy
Special Counsel, Herbert Smith Freehills

STAFF TURNOVER

The Value of Reducing Staff Turnover

Staff turnover in the law industry is notoriously high. Law firms lose on average almost one-fifth of their associates every year (Williams, 2008), and 37% of associates at big law firms leave the firm after 3 years of practice (Jones, 2006). Talent loss aside, associate turnover was calculated in one Canadian study of over 1,400 lawyers to cost an average of \$315,000 each (i.e., twice the average associate's salary) (Catalyst, 2005). Another review estimated attrition costs to be 150%-200% of each attorney's salary (Project for Attorney Retention, 2000). Negative effects of staff turnover in law firms include lost productivity (for the vacant position and for the team and managers who cover for the vacant position, as well as those who train the new hire), increased labor costs (due to overtime or contractor needs, hiring, and onboarding costs), decreased customer satisfaction, increased future turnover, and loss of institutional knowledge (Saratoga, 2006).

The Impact of Mindfulness on Staff Turnover

There is a clear link between stress and employee turnover, and many who change jobs do so because they can't cope with the stress, not because they don't enjoy their workplace (Blomkvist & Skoglund, 2007). The effects of mindfulness on **decreasing stress** are well-documented (Lee & Ashforth, 1996). There are also links between employee turnover and emotional fatigue (Wright & Cropanzao, 1998). Mindfulness has been shown to **reduce emotional fatigue** (Hülshager, Alberts, & Lang, 2012; Weinstein, Brown, & Ryan 2009; Narayanan et al., 2011) and a correlated **reduction in employee turnover** as a result (Narayanan et al., 2011).

Interpersonal issues also result in increased employee turnover (Gerstner & Day, 1997). Several studies show that mindfulness effectively **addresses the psychosocial problems of bad relationships, aggression, and conflicts** in the workplace (Davidson et al., 2003; Anderson et al., 2007; Heppner et al., 2008; Saavedera et al., 2010; Wachs & Cordova, 2007; Barnes et al., 2007; Riskin, 2002).

Potential Project CBMT Program - Impact on Reducing Staff Turnover

While Potential Project has not yet conducted a study on staff turnover, companies such as IF Insurance and Carlsburg have reported an increase in employee loyalty.

"As a large global law firm we need to be focused, be clear in our thinking, and lift our performance. Mindfulness is the key to achieve that. We partner with Potential Project because their program is evidence-based, practical, and engaging. And for my audience of highly critical thinkers, it's a winner."

Murray Paterson
Head of Learning & Development, Herbert Smith Freehills in Australia

CREATIVITY AND INNOVATION

The Value of Creativity and Innovation

Creativity and innovation are critical for growth, improved productivity, increased profits, and sustained success in certain business models (Heunks, 1998; Morris et al., 1974). Yet common stressors in the business world, such as adverse organizational climates, weak support systems, challenging market environments, time pressures, and environmental uncertainties all inhibit creativity (West, 2002). Methods for reducing the effects of stress and enhancing creativity in the workplace are needed. The World Economic Forum has concluded that we are now entering the fourth industrial revolution, in which technology and AI will make a quantum leaps in their ability to perform knowledge work. Some experts predict that computers within ten years will outperform the human brain (Feinberg, 2017). The computer system, Watson, has been identified as the world's #1 chess player, the #1 Jeopardy player, and the #1 doctor (Friedman, 2014).

The legal profession is also drastically changing as AI disrupts the industry and algorithms take over certain legal tasks. In a recent study by LawGeex, 20 experienced US attorneys were outperformed by algorithms both in accuracy and in speed while spotting risks in NDA's:

- Accuracy: humans at 85% versus algorithms at 94% (and becoming better in the near future)
- Speed: machines were 212 times faster in performing the task

In a competition at CaseCrunch in London in 2017, over 100 lawyers lost against software in predicting the outcomes of historic insurance misselling claims. While there was criticism against the way information was distributed and for using lawyers without subject matter experience, the results have given lawyers cause for concern.

In this environment, creativity and innovation will become increasingly critical to remain relevant, adapt, and offer the – still – distinctly human qualities of divergent thinking.

The Impact of Mindfulness on Creativity and Innovation

Mindfulness reflects the ability to attend to emotions, thoughts, and sensations occurring in the present moment. Mindfulness practices are believed to **enhance multiple aspects of creativity, including perceptual change, invention, fantasy, and visualization** (Dawson 2003; Horan 2009; Cowger et al., 1982; Ding et al., 2014a and 2014b; Baas et al., 2014). Mindfulness may **facilitate problem solving that requires insight and creative responses** (Ostafin et al., 2012).

The mindfulness practice of detached, non-judgmental witnessing of thoughts, feelings, and sensations **reduces cognitive rigidity**. In Greenberg et al. (2012), mindfulness participants had less “tendency to be ‘blinded’ by experience,” in that they were **less likely to persevere in the use of old, familiar strategies**. Horan (2009) concluded that mindfulness supports **creative**

thinking and cognitive flexibility, by enhancing awareness, sensitivity, cognitive performance, and novelty seeking, while **reducing habituation to stimuli and strong associative thinking**. Colzato et al. (2012, 2014) found that open-monitoring meditation, which promotes flexible and unrestricted attention to sensations or thoughts, **encourages the generation of multiple new ideas** (“divergent thinking”).

The benefits of mindfulness on creativity have been noted across multiple settings, disciplines and cultures, from education (Sarath, 2006; Justo et al., 2014) to business (Langer et al., 2000). Apple, Google, McKinsey & Company, Proctor & Gamble, General Mills, Target, and Lululemon (The Mindfulness Initiative, 2016) have harnessed the benefits of meditation to enhance creativity.

Potential Project CBMT Program - Impact on Creativity

AXA +28%*

Potential Project

**Self-rating, using a non-validated scale.*

“Since undertaking mindfulness training, I have been pleasantly surprised by the positive impact the training has had on my creativity. By choosing to focus on only one task at a time, I engage in more useful conversations with my colleagues and have also found that my enhanced concentration has significantly improved my overall creative output.”

*Nick Foley
President SE Asia and Japan, Landor*