

Lawyers' Losses

How Understanding Our Grief Makes Us Better Lawyers

by Susan Ann Koenig

We've never gotten comfortable talking about death. Consequently, we're not great at talking about grief. But in a profession where loss is impossible to escape, life would be better if we did. Though we may understand mourning and grieving after a loved one dies, we often don't see the other losses in the life of a lawyer that merit acknowledgment and care.

Law school didn't teach us how to process and move forward from the myriad of moments in the course of our careers when something we once had—a winning case strategy, a great client, a treasured coworker—is gone. To thrive in our work and in our lives, we must recognize losses, honor them, and intentionally care for ourselves as we move through them.

Recognizing our Losses—Courtrooms, Clients, Coworkers, Career

"Are you feeling alright?" asked my mother-in-law. "I've never seen you without an appetite."

Susan Ann Koenig



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Any shame about my historically enthusiastic consumption of her Swedish meatballs was immaterial. My stomach was still in a tight knot from Jeremy's jury's verdict earlier that day. It would send the soft-spoken and hardworking young man to a federal prison for the next five years, far away from his family and longtime sweetheart. We'd thought our defense to his sale of a couple of grams of LSD was strong. It wasn't strong enough.

A defeat in the courtroom is easy to recognize. Anger at injustice intertwines with the angst we feel for our client who must live with the outcome. Other losses, though, are often overlooked, despite their impact on us.

We all lose clients. Maybe you fired the client. Maybe they fired you. Maybe they died. Whatever the reason, you no longer have a relationship that meant something to you.

When I learned of Yvette's sudden death, I suspected it was her heart. It had been crushed from years of mostly unsuccessful litigation with the hope of restoring her relationship with her only daughter. She'd kept in touch with me over time to share her sorrow or celebrate small bits of progress. She was 47 when I got the call. Twenty years later, the photo she sent me of her pink Japanese magnolia in full bloom sat on my altar alongside images of my late husband, brother, and parents.

Coworkers too leave our lives and, in this era, at a pace my generation never imagined. A 2022 survey by the American Bar Association revealed that one in five attorneys under 40 were considering leaving their current position in the next five years. Even with our hybrid work models, our buddy in the office next door is there on Mondays to talk about the Kansas City Chiefs or on Wednesdays to commiserate in the break room about the crummy ruling from Judge So-And-So. When our colleague is gone, we are bound to feel the void.



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Career losses come, too. Years ago, I aspired to be a juvenile court judge. The governor interviewed me multiple times. But the only calls that ever came from the governor's office after those meetings were ones from his staff to say I wasn't selected.

When we experience a loss, we grieve for not only the absence of what we once had but also the hopes and dreams for our future. What would it have been like to work for that nonprofit you loved? Were you hoping to take a family vacation if you got the verdict you asked for? Were you looking forward to being mentored by the attorney who left? When possibilities vanish, we feel that pain, too.

One loss rarely talked about among us is that of our identity as an attorney when we are in a new position or facing retirement. Longtime lawyers understandably struggle to see who they would be if they stopped doing what they've always done. Newer generations may feel more at ease letting go of seeing themselves largely as a lawyer. But the "die at my desk" mindset of many means they will face the loss of being the managing partner, the chief rainmaker, or the top litigator.

While the magnitude of our losses varies, each deserves at a minimum to be acknowledged. Once acknowledged, we can mourn for a moment or as long as we need.

Grief's Many Appearances

Sometimes we are grieving but don't recognize its symptoms. The experience of grief is as unique as the loss and the individual. The nature of our personality, our past, and the circumstances have influence.

Our bodies are not disconnected from our brain and heart. Consequently, grief affects the cells in our body. It activates our stress response, increasing cortisol levels and inflammation. It can cause the release of cytokines, increasing our sensitivity to pain. You might not realize that



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your experience of one or more losses shows up as these symptoms of grief:

- Feeling sad, helpless, or hopeless
- Difficulty focusing and making decisions

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- Fatigue or exhaustion
- Lack of interest in formerly enjoyable activities
- Inability to sleep
- Weakened immune system
- Physical pain such as headaches, back aches, or joint pain

In short, it's suffering in many forms. Members of our profession are already at risk for exhaustion, depression, and substance abuse. A failure to acknowledge the impact of our losses and to attend to our grief increases our risks in all these areas of vulnerability. While there is no "right" or "wrong" way to grieve, some choices when responding to our pain are healthier than others.

Healthy Tending to Our Grief

If ever there was a time in life when we deserve a bit of self-kindness, it's when we are hurting. With our strong analytical minds, we attorneys sometimes struggle getting from our heads to our hearts. Other people, like my uncle, can be uncomfortable in the presence of our pain. "I didn't think lawyers cried," he joked just minutes after I gave the eulogy of my father who'd died on Christmas Day.

In her book *On Death and Dying*, Elisabeth Kubler-Ross named multiple phases of grief. Today, we recognize its greater complexity in these non-linear stages:

- *Shock & Denial*. Our disbelief is likely our brain trying to protect us from experiencing all of the overwhelm at once.
- *Pain & Guilt*. The suffering can be excruciating. Feelings of remorse about things said or done—or not—may arise.
- *Anger & Bargaining*. "Why me?" or pleas to a higher power may begin.
- *Deep Sadness, Reflection, Loneliness*. This can be a time of feeling despair or empty. You recognize the magnitude of your loss. Well-meaning friends or family may encourage you to end your grieving, but grief is not to be rushed.
- *The Upward Turn*. You begin to feel calmer and perhaps more organized. Your physical symptoms might lessen, and the depth of your sadness lighten somewhat.
- *Reconstruction & Working Through*. Your mind becomes clearer. You begin to tackle solutions to practical problems presented by the change you've experienced.

- *Acceptance & Hope*. You learn to accept the reality of your life now. You find a way forward and anticipate good times in the future.

Mariame Kaba says hope is a discipline. If so, it's a place we may choose to go when we have a loss, be it big or merely that minor pretrial motion.

Grief is not a straight line.

Travel through grief does not have a predictable map. For a day or an hour or a moment, you might feel as though life is back to normal. You have a day of enjoying the flow of your work. You belly laugh at a joke. You look forward to the weekend basketball game. Then suddenly your mind starts to replay the words of last month's appellate decision.

My younger brother Tim remained fiercely independent in his final year while living with AIDS. Unable to drive, we had a standing date for Wednesday night grocery shopping. Months after his death, I found myself sitting in a Baker's Supermarket parking lot, not remembering the drive there. It was a Wednesday night. Sobbing ensued as I sat alone in my car in the dark. Each grief takes its own route, and we never know when it will revisit us.

It's just how grief is.

Grief is hard work.

Most in our profession are hard workers with high standards. Many admit to being perfectionists. We are accustomed to pushing through big challenges we meet. But when hit by a loss, our drive and usual capacity for production dips. We are exhausted, and our billable hours drop. "Why am I so tired? What did I do all day?" we wonder.

Grief consumes vast amounts of energy, and we might not be up to our usual standards of productivity. Grief can wear a person out, because we are working hard to move through it. It might be time for an adjustment of expectations and for being just a little less hard on ourselves.

The Next Most Necessary Thing

When our energy is low, decision-making can be a struggle. Motivation is lacking and inspiration is even more remote. Start by checking in with yourself and asking, "What do I need?" Sometimes, it's best to simply seek the "next most necessary thing," as author Oliver Burkeman recommends. When you're tired, rest. When you're hungry, eat. When you're sad, let the tears flow without shame.

You deserve no less kindness than what you would give to others who facing the loss you have had. Consider this:

- *Allow extra rest*. Sleep in. Take a 20-minute nap. Go to bed early.

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- *Do just a little for others.* This could be as small as saying an encouraging word to a coworker or as big as getting into the office when you didn't feel like it.
- *Invite intentional mourning.* Share your loss with a caring colleague. Allow the sadness to move through you. Consider performing a small ritual to mark the experience you have just gone through.

The depth of your grief might mean that the support of a grief counselor or grief coach would be helpful. Groups for those with a shared type of loss can be especially supportive. These strategies allow feelings of safety, security, and calmness to return so that one can move forward.

NLAP Offers Support

Lucky for us in Nebraska, we can turn to advice from Chris Aupperle, Director of the Nebraska Lawyer Assistance Program (NLAP). Chris recommends the **ACT** model to support someone who is grieving a death, and it can help us in other times of loss, too.

- Acknowledge
- Compassion and Companion
- Talk and Tools

Acknowledge the loss. Name the feeling. Remember, losses come in all shapes and sizes.

Compassion and Companion. There is no shame in experiencing a loss. Call forth your self-compassion, or if that feels like too much, some self-kindness. Invite others to support you with their listening. Let them know what you need.

Talk and Tools. Along with sharing your sorrow, remember the tools that support you to find peace and calm. They are the very tools that help lawyers remain resilient in the face of our everyday challenges of lawyering:

- Breathing deeply
- Being in nature
- Moving your body

- Journaling
- Listening to music

If, over time, we build these practices into habits of our daily life, we can more readily access them when the inescapable loss arrives.

Chris reminds us of his message we can listen to ourselves and share with others:

NLAP was built on the premise of lawyers helping lawyers in their time of need. We are here to help. If you are a lawyer, judge, or law student, give us a call. It's free and confidential. To take advantage of our services, just call.

Your Care is Client Care

Caring for ourselves will empower us to be our best at being zealous advocates. By better understanding the toll of loss and how to live with it, we expand our compassion for clients. We better understand how to support them when they are non-responsive to our third request for information while they navigate the loss of a business, a home, or a spouse. We can put ourselves in their shoes in some small way.



Education in each profession gave me many lessons, but most of what I've learned about grief came from life's inevitable endings.

I started my own practice over 40 years ago when I'd lost hope of landing a law job. Like any litigator, I had my share of courtroom losses. I lost having my young children with me seven days a week when I divorced. I became a life coach a few years later. My second marriage ended with the loss of my spouse to cancer, after a journey of losses along the way. Three years ago, I became an end-of-life doula, a person who supports those facing their own death or that of a loved one. A year ago, I joyfully remarried. As an aspiring centenarian, I read every obituary the bar association sends out, seeing names of more friends each year.

Our losses are reminders of what gives our life meaning. And each one is a chance for a new beginning. To make the transition, we need others.

Three years ago, my son Benjamin was in a catastrophic head-on car crash. By a miracle, he survived. I mourned so much of his life lost. Members of the bar made the journey easier with their support and kindness. I hope you'll ask for and receive that sort of kindness when you need it. You will move forward at your own pace, and every step you take will be a victory to celebrate.

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