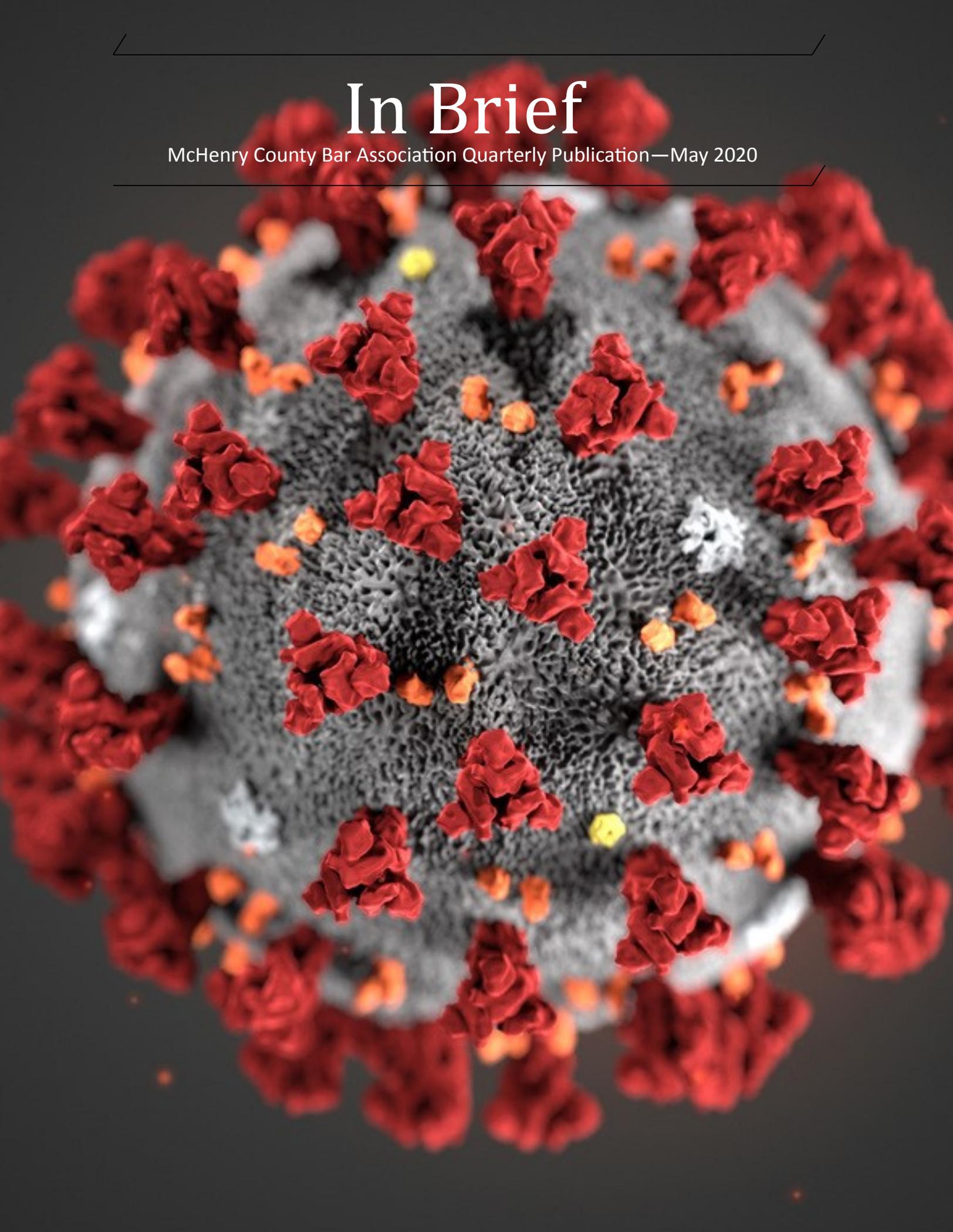


# In Brief

McHenry County Bar Association Quarterly Publication—May 2020



# Upcoming Events

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2018/19

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Date	Event	Location	Time
May 14	Civil Law Section Meeting	Virtual	Noon
May 19	Board of Governors Meeting	Virtual	Noon
May 21	Criminal Law Section	Virtual	Noon
May 26	PSLS CLE	Virtual	Noon
June 16	Board of Governors Meeting	TBD	Noon
June 23	MCBA Annual Meeting	TBD	Noon
July 9	Civil Law Section Meeting	TBD	Noon
July 21	Board of Governors Meeting	TBD	Noon
July 28	General Meeting	TBD	Noon

## Board Meeting Minutes

[January Meeting Minutes](#)

[February Meeting Minutes](#)

[March Meeting Minutes](#)

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## New Members Welcome to the MCBA!

Eric Vogel

James Hartman

# President's Page

By Jennifer L. Johnson

2019/20 MCBA President



As I write my final article as President, I want to start by thanking all of you for your support. Serving as President is not an easy task, but I appreciate all of the support and kind words received from so many of you during my term. It has been an honor to serve the membership in this role, and I am forever thankful for the opportunity and the knowledge gained by doing so.

As I have said throughout my term, professionalism and integrity are the cornerstones of our profession. I hope that you have all gleaned something from my articles, even if it is just the notion of being kind to one another. I truly believe that we can advance our profession by leaps and bounds if we all act with professionalism and integrity to each other, to our clients and to the judges before whom we appear. I think we can all agree that exhibiting professionalism is an easy thing to do, and in turn, it helps advance our practice as a whole.

I hope you have all taken the opportunity to at least consider, or hopefully participate in, one of our programs that advance access to justice for all. I have written about these programs that we have here in our county in earlier articles—the Attorney Volunteer Help Desk on Mondays at our courthouse (albeit by phone for the time being), the Pro Se Mediation Program on Thursday mornings at the courthouse or even volunteering for case assignments or in other ways with Prairie State Legal Services. We have so many opportunities here in McHenry County to facilitate the Illinois Supreme Court's mission for Access to Justice, and I hope that you will consider volunteering as often as you are able. I can assure you that the satisfaction that you will feel by helping others is unmatched.

Finally, I hope that everyone finds benefit in membership in the McHenry County Bar Association. From the CLE offered at nearly all meetings, to social events, to support for our profession and each other, we have a wonderful value for the services offered to our members. I encourage those of you who know a colleague that is not a member to encourage them to join the Bar Association!

To say the least, the last month or so has been taxing on all of us. Our daily routines turned upside down, and for so many, loss of livelihood. I am hopeful that in the coming days, weeks and months, normalcy will begin to return for all of us. I wish you all good health, prosperity and happiness. Thank you to each one of you for allowing me to serve you in this position over the last year.

## CIVIL DIVISION PANDEMIC UPDATE

By Judge Mike Chmiel

Notwithstanding the pandemic challenging the community in which we live and work, the business of the Court in the Civil Division of the Twenty-Second Judicial Circuit continues in remote fashion, through the attorneys who are handling cases in our courtrooms, the dedicated staff of the Court, and the Judges assigned to the Division.

St. Patrick's Day 2020 was unique, with events like the annual luncheon of the Celtic Law Society cancelled in Chicago. Moreover, in the afternoon, the Supreme Court of Illinois issued an Order through which it caused operations in the Circuits to be limited to those which were "essential." Days before, the Circuit had put into operation a plan which was drafted by the Trial Court Administrator and adopted by the Circuit Judges during the tenure of the namesake of the Michael J. Sullivan Judicial Center. Then late in the afternoon in which most wore green, a management team under the plan met to review its *next* steps, which included the closing of the courthouse the next day to all but a few litigants and practitioners who were involved in cases deemed essential.

**Beginning on March 18, 2020**, courtroom operations in the Civil Division were limited to "emergencies." While unable to point to a specific definition of an emergency in this season, some define it to involve "life, limb, or liberty." On that next day, the Civil Division also began working at the MJSJC through its Designated Civil Judge (inspired by the television show *Designated Survivor* of a few seasons ago with Kiefer Sutherland). A DCJ was scheduled to be stationed at the MJSJC at least between the hours of 9 a.m. and 4 p.m. to handle emergencies.

For the first month with the DCJ, the Civil Division handled two emergencies in open court, on April 9, involving a temporary guardianship for a disabled adult and a temporary restraining order for law enforcement. When called in open court, the guardianship matter actually transpired through CourtCall, with the attorney for the petitioner, a guardian *ad litem*, and a witness each participating remotely. Both matters involved set up through e-filings, email, and cell phones.

**In chambers**, business has been a bit more brisk. Pursuant to joint Standing Orders issued by and for the five Judges of the Division, each Judge has had a steady stream of Agreed Orders and proposed Orders to consider. As required by the Judges (with *emphasis* added):

All parties in a case may stipulate or otherwise agree to the entry of an order in a case. Proposed orders may be emailed to [proposedorders@22ndcircuit.illinoiscourts.gov](mailto:proposedorders@22ndcircuit.illinoiscourts.gov). ***Proposed orders must be signed by all parties (or their attorneys) in the case, or by an attorney with a representation that presentation of the proposed order involves an agreement of the parties.*** The Court reserves the right to enter and/or modify any such proposed order. With reduced staff, proposed orders will be filed and otherwise made available when they have been processed, which may take a week or more.

In considering any proposed Order, the Court needs something for the record to memorialize the agreed nature of the submission, or filings which support entry; typically, this can also involve the filing of a joint motion, stipulation, or the like, before the submission of the proposed Order. (*Submissions (emails), by the way, should come from attorneys, in that they represent a communication with the Court with regard to a pending case.*)

As well, the Judges of the Division have been reviewing the cases assigned to them, with an eye toward advancing the case. “Through proposed orders, parties may suggest a briefing schedule on a matter and/or ask the Court to decide a matter through filings.” In its last Standing Order, the Judges of the Division did not *encourage* remote hearings, but as well, they did not deny the opportunity for the same. Through webinars produced by the National Center for State Courts in April, courts have now been encouraged to operate remotely to the extent possible.

In the Civil Division, over the last few years, each courtroom has been equipped for remote operations. Further, each Judge in the Civil Division has the capacity to also otherwise engage parties remotely. With the reduced operations at the MJSJC, however, any such engagement must involve the agreement of each or the parties in the case *and the Court*. For security reasons, the email addresses of the Judges of the Division are not generally published; Judges can be contacted through Court Administration at (815) 334-4385. As well, please note the remote operations of each Judge is left to her or his sole discretion.

*As for emergencies*, with the reduced access to the MJSJC, contact should (must) first be made with the Court through Court Administration at (815) 334-4385 during normal hours - *ideally* between 9 a.m. and Noon, Monday through Friday, excepting Court holidays. (Of course, for true emergencies outside “normal” hours, a Duty Judge is always “on duty” to handle matters which might arise in any Division of the Circuit; the Duty Judge can generally be reached through the Office of the McHenry County Sheriff.) At any point in time, with or without reduced access to the MJSJC, emergencies cannot simply be put on a call; instead, the DCJ (or the other assigned Judge as the case may be) must authorize the case to be called at a particular time and at particular place, whether it be in a courtroom or through a remote medium. In addition to the nature of the request, other factors involving staffing, the record for the proceeding, safety, and security need to be considered.

**In handling any matter with the Court**, please recall the dictates of the Judicial Canons, especially that which is found in Rule 63(A)(5) of the Supreme Court of Illinois:

A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, *ex parte* communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the *ex parte* communication and allows an opportunity to respond.

(b) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge’s adjudicative responsibilities or with other judges.

(c) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(d) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(e) A judge may consult with members of a Problem Solving Court Team when serving as a Judge in a certified Problem Solving Court as defined in the Supreme Court “Problem Solving Court Standards.”

**During this unprecedented season**, the Court has experienced great cooperation, which is truly appreciated. We are blessed to be able to serve those who have cases to process, to the extent we can. While we eagerly await the allowance for more normal access to the MJSJC, perhaps as early as May 18, 2020, at present, we will continue to work on cases and various administrative matters, and look to explore further remote operations. Your continued cooperation and patience is much appreciated. Be safe, and be well!

## MCBA goes “High-Tech.”

By: H. Case Ellis, Chair- Civil Practice Section

The “under 40’s,” take to technology like a duck to water. However, even today I encounter “vintage” lawyers who are still befuddled by the use of email, much less such “social networking” platforms as Twitter, Facebook, Linked In, etc...etc...etc. If there’s a silver lining to the black cloud that is Covid-19, it’s the fact that on-line activity may be the only way much can be accomplished in this world of social distancing. In other words - learn it, love it and live it...or watch from the sidelines as the world (and the practice of law) passes you by.

Our judges, along with those throughout the country, are working hard to create a virtual courtroom where business can be conducted remotely. The Illinois Supreme Court has just announced that it will entertain oral arguments via Zoom. Not a day goes by when we don’t receive emails about videoconferencing for discovery depositions, platforms for on line mediations, seminars teaching how to exist and prosper in the virtual world. Our Bar Association has suspended all meetings due to the fact that we are all “sheltering in place” and gatherings at the MCBA office would be violative of the current stay-at-home order, not to mention the fact that none of us want to risk coming down with the dreaded virus.

Our Civil Practice Section decided in April to blaze a trail into this virtual world and conduct a meeting and a one-hour CLE seminar via Zoom. Five civil judges presented a timely update on what is happening in our courthouse while we shelter in place. Thirty-five attorneys attended via their computers or smart phones and everything went without a hitch. Further on-line meetings are bound to occur and perhaps our bar association can help drag some of us “vintage” lawyers into the world of technology. Stay tuned...





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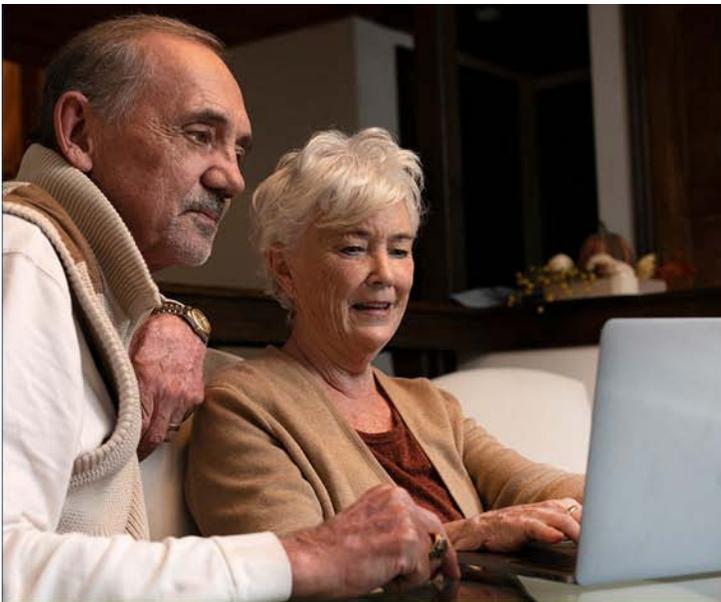
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## Fear No Evil: Covid19 Driven Anxiety

Tony Pacione, LCSW, LAP Deputy Director

### The New Normal

Not too many things in our lives motivate us to change our behavior like fear. I was in a grocery store early on a Sunday morning after the Illinois Governor issued a “Shelter in Place Order.” The store was not as crowded as it was only a week or two earlier. Some people wore PPEs as they quietly, orderly and deliberately shopped while keeping their social distance. Just a week or so earlier the same store was a mass of confusion, anxiety and worse, as common items like toilet paper, soap and hand sanitizer flew off the shelves at speeds approaching that of light (the fastest known quantity in the universe).

Fear and anxiety, driven by the uncertainty of a new pandemic, seemingly changed my world and my own behavior in the course of a few days. I no longer saw my neighbors, acquaintances, or colleagues as supportive and friendly souls who share my daily world, but as potential carriers of a deadly disease; and I’m certain they viewed me in the same light.

What drives me and others I know as stable, rational denizens of my sphere to act in this manner? The straightforward answer is a well-researched and predicable concept named the “loss aversion effect (Kahneman & Tversky, 1979).” The effect has shown that people respond to potential losses twice as much emotionally as we do to potential gains. The fear that your daily lives, health and happiness can be swept away in a matter of days or a couple of weeks is strong enough to change how we think and behave. In other words, feelings about losing something (money, health, freedom of movement, etc.) are stronger than feelings about gaining the same thing. It’s a powerful bias that is summed up as “potential losses loom larger than potential gains.”

Many years ago when I was an undergraduate student a wise person once said to “act on your hopes and not on your fears.” The loss aversion effect tricks us into acting “on our worst fears.” My belief is this: Fear and anxiety are often driven by two things a) uncertainty, and b) using availability as a heuristic, or short cut in our thinking, and in making predictions of future events.

### The Role of Uncertainty in Anxiety

Consider many of the situations in your life that are associated with anxiety. There often exist elements of uncertainty in these circumstances, as with the current pandemic. Questions abound like “will I or my family get stricken with the disease and how severely? What will happen to my law practice, my income, or my investments in an unstable stock market? Will my life and livelihood return to ‘normalcy’?” I believe there is a simple correlation between uncertainty and anxiety. We tend to conflate high salient emotions (like fear) with reality. Once the fear of uncertainty starts, we unwittingly practice becoming more anxious with each passing day. Fear and anxiety are contagious and self-supporting, and the more we and others practice it, the better we become at producing it.

We can employ strategies to manage and decrease uncertainty in reasonable ways. The Governor and public health officials remind us frequently during this pandemic of actions to be taken that reduce the risk of becoming infected, but also in reducing uncertainty: washing your hands frequently, social distancing, and other practices that have been demonstrated to lower risk and uncertainty.

## The Role of Mental Heuristics in Anxiety

Often media reports are presented over and over by different sources until they become very “available” to us in our thinking on a daily basis. This in large part generates the heuristic effect of using highly charged emotional states as mental shortcuts in making quick decisions (e.g., “I need 400 rolls of toilet paper stat!”). If we see others panicking and making quick decisions, we too will be less likely to take the time to consider the long-term consequences of quick and emotionally driven decisions.

Another way that our mind and thinking generates quick; emotional decisions is through the formation of mental images or ‘pictures’ we develop in our thoughts that are associated with strong emotions like fear or anger. It has been demonstrated that our thoughts are constructed from mental images, which are associated with positive or negative emotions that then influence future perceptions of events (Damasio, 1996). When I think of myself or a loved one becoming stricken by Covid19, I have a mental image of myself or one of my sons lying in a crowded hospital ward attached to a ventilator and unable to have visitors. This image generates immediate and strong fear.

Having fearful images that are constantly available to us (media images of overcrowded hospitals with the very sick and dying) tend to confuse the “possibility” of a bad outcome that may occur, with the “probability” that it will. It’s also important to remember that we often can survive bad outcomes. All we need is a healthy, flexible mindset, and good support, and we can overcome a deleterious outcome.

## A Strategy to Mitigate our Emotions in Uncertain Times

Individuals may develop a habit of practicing anxiety laden thoughts or fear until they get very accomplished at generating them. To counter this effect, they need to spend an equal amount of time practicing non-anxious or relaxing thoughts. The following link is to LAP’s website where you can download a clinical tool to help develop the ‘relaxation response:’ <https://illinoislap.org/mental-health-resources/mental-health-videos/>.

[This type of ‘mindful mediation’ can help stimulate the longest nerve in the human body: the Vagus Nerve Complex \(vagus meaning “wanderer” in Latin, because it wanders through out your upper torso\). This nerve signal pathway only travels in one direction- from the diaphragm up to the brain. This deep and relaxed breathing meditation can stimulate the vagus nerve sending a calming signal to the brain. Research has demonstrated a positive feedback loop between vagal stimulation, positive emotions, and good physical health \(Bajbouj et al, 2010\). Try it!](#)

During this time of great fear and uncertainty you can help to more effectively manage your thinking and emotions by understanding how uncertainty, fear, and emotional decisions can create a quickly descending spiral of anxiety and despair. And remember LAP is available to help!

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## LAW DAY 2020

By Jenette Schwemler, 2020 Law Day Chair

Law Day is a celebration held each year to recognize the rule of law in American society and to cultivate a deeper understanding of the legal profession and how the legal process protects our liberties. This year, the Law Day theme was *“Your Vote - Your Voice - Our Democracy.”*

As part of the celebration, the McHenry County Bar Association (MCBA) holds activities including law related presentations for elementary schools and high schools and an essay contest for middle schools to educate children about the importance of the rule of law. This year, the middle school essay theme was “The 19th Amendment was enacted to allow more people to vote, but some people still chose not to vote. Why do you think people choose not to vote, and how can we encourage all people to vote?”

The MCBA has a committee of lawyers who review the essays (from which the author’s name has been removed) and selects three winners. Each of the winners receives a \$100 prize. The winners usually present a synopsis of their essays at a courtroom ceremony at the Michael J. Sullivan Judicial Center where they are publicly recognized for their achievement and celebrated at a reception. This year, Wintrust Bank funded the prizes. Home State Bank was scheduled to sponsor a reception for the winners.

Unfortunately, due to the Covid-19 pandemic, the MCBA had to cancel the courtroom ceremony and reception. All of the authors worked very hard on their essays, and the MCBA felt it was important to publicly recognize the winners this year. We are proud to announce that the winners of the 2020 Law Day Essay Contest are:

REBECCA FLINT: 8th grade

GRACIE SMITH: 8th grade

ADDISON TAEGE: 8th grade

All of the contest winners hail from Hanna Beardsley Middle School. Their teacher is Mrs. MacNally. Congratulations to all!



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# 2020 Law Day Essay Contest Winners

## Rebecca Flint—Hannah Beardsley Middle School

One hundred years after women won the right to vote, many eligible citizens still choose to not exercise this right. Giving up an opportunity like this is giving up your voice in your community, giving up your rights, giving up your freedom. Voting has been taken for granted, and this must not happen any longer. Citizens have the opportunity to make a difference. We have a say in who represents us at all levels of government. Why do almost 50 to 60% of people choose to not vote?

The average excuse to not cast a vote sounds like this, "my vote doesn't matter." If every voter who has this mindset casts their vote, politics and campaigns would drastically change. One way to get more people involved would be to show how just one vote does matter. Some elections are decided by a small difference in votes. For instance, in 2018 primary elections for the 51st House district, incumbent House representative Helen Miller was challenged by Mary Edly-Allen, there was only a one-vote difference.

The vote you cast is far more important than a check in a box. One vote can provide change. With the change, comes new opportunities. If you choose to not voice your opinion the results may turn out not to be in your favor, due to this, laws or decisions can be made that you are not in favor of, and it can then affect your daily life. For example in the presidential election, you may be supporting one candidate and they may drop out. You can either choose to vote for someone who has a similar opinion, or you can choose to not vote for anyone running in the election. Now if the person with the same thoughts wins the election then they can make laws that appeal more towards your opinions, and if you choose to not vote at all then it is very possible that no policies whatsoever will be made that you entirely agree with. It is always smart to be safe rather than sorry.

There is more to voting than just electing the president, there are local elections that can change the way you live in your community, you can make a change in many ways, like voting for a new mayor, a school district board, referendums on things that involve taxes. Who's to say voting in a small town election isn't as important as the presidential election or even electing new senators, change can be seen in all shapes and sizes.

While voting is extremely important there are often times when people don't have the ability or resources to vote. For many people, it is often hard to understand and get all the knowledge they need to know about who they are voting for, they might not have time to sit and watch the news or read the newspaper, so because of this they don't vote. People need easier access to the information they need to make an informed and smart choice. If we were able to complete this I am sure that the percentage of eligible voters who vote would increasingly go up. Another reason people might not vote is that they don't feel the choices presented to them in an election fairly represent their views. People might not want to vote if there is not a candidate they like. A choice is often presented in elections, do I vote for someone just to not vote for the other choice. Wouldn't people feel better about voting for a person they believe in, instead of voting against someone? How does a rich politician represent everyday citizens?

In other countries, voting is a privilege, yet in America, it is your right. In order to change the mindset of 40-50% of Americans about exercising their rights. Voting needs to be preached to the American people. Candidates need to be more upfront about their policies, and information should be easier to obtain. Voting is more than a right, voting is your superpower.

## Gracie Smith—Hannah Beardsley Middle School

Blood was spilled and lives were sacrificed, so that all American citizens could have the right to vote, but yet, 47% of Americans did not vote in the last presidential election. Are Americans thinking of the bloodshed and sacrifices that were made for them, or are they only worried about getting home after a long day of work? Americans should be honoring the heroes that made it possible to vote. Astonishingly, Americans have the right to make their voice heard and they choose not to. All Americans should exercise their right to vote.

Many Americans believe that they are just a small drop of water in a large ocean and their vote doesn't make a difference. That is simply not true, even one vote can make a difference. There have been several instances throughout history where just a couple of votes could have changed the entire course of the election. In the U.S. presidential election of 2000, only 54.2 percent of eligible voters cast their votes. The result of the election was nearly a tie. George W. Bush won 47.9 percent of popular votes. Al Gore received 48.4 percent of the popular votes. However, because of the electoral system, George W. Bush won the election. If all of the eligible US voters would have cast their ballots, the result of the election would probably have been a lot more clear. Anyone could be the person that changes the course of the election.

Secondly, there is no good excuse not to vote. Many people complain about long lines, or just simply not having enough time. This, however, is neglecting the obligations of a good citizen. Thirty-eight states are sanctioned to hold early voting. This provides a time for eligible voters to vote if they are too busy to vote on Election Day. This means that there is no excuse for people who are too busy to vote. Early voting may also mean shorter lines on Election Day. Americans need to build voting into their daily routine just like they do with their haircuts and carwashes.

For seven long years, in the 1700s, American soldiers fought for independence and democracy. Women picketed and protested for years so that they could have the right to vote, before finally being allowed on August 18, 1920. Americans have fought for the right to vote for centuries. However, eligible voters decide not to vote. Americans owe it to the forefathers that came before them. Some who gave their lives to fight for the cause. After a long day of work, can people only think about getting home? They need to think about the tragedies of battle, as well as the sore feet and hoarse voices after a long day at the picket line. All Americans should vote because they owe it to American heroes who made it possible.

It can be frustrating and perplexing when you are not passionate about any of the candidates. Rumors about candidates on both sides can be upsetting and even more confusing. People don't know what to think when they hear undesirable qualities about the candidates. It can feel like you are forced into choosing the greater between two evils. Many people think that no vote is better than a vote for a candidate that you don't like. Why would someone waste their time and vote if they don't even like the prospects? This makes sense, however, citizens need to find it in themselves to vote anyway. Even if the candidates don't appeal to someone, they could still vote for a candidate that fortifies an issue that they also support. Everyone should exercise their right to vote because there has to be at least one desirable quality or conception that you agree with about a candidate.

In conclusion, next time a community member wishes school had more sports opportunities, or that the state had lower taxes, or that our troops had more money overseas, remember it is in the people's hands. Decisions made in our country and community are up to the leaders that everyday people vote into office. When election day rolls around again everyone should remember that every vote makes a difference and everyone should exercise their right to vote.

## **Addison Taege—Hannah Beardsley Middle School**

Does the date of August 18, 1920 ring a bell to you? It most likely does not, nonetheless this day is very monumental in history. It is the day that after all the protests and petitions, women finally achieved the right to vote. However, in the 2018 midterm elections, only 55% of women eligible to vote filled out a ballot. Countless people think that it is very tedious and not worth it to stand in line for something that might not even make a difference. This is an immense misconception because your vote does matter and has the potential to make a colossal difference.

Voter's apathy has become more relevant in every election. One reason for this is because registering to be able to vote takes a lot of work. In other countries, the process of registering is a lot more manageable. Many people do not care enough to go through the whole enrollment process. In 2012, the Pew Research Center study found that 1 in 4 people eligible to vote, did not register. When the Washington Post interviewed people, Rene Dionne from Washington said, "I forgot to register in time. That's why I'm for automatic registration at 18 for all U.S. citizens." This shows that forgetting to vote and not having the effort to register is reducing the number of ballots that are filled out significantly. If the U.S made the voter registration process easier, the voter turnout would probably improve. If the registration laws were to be enhanced, we would see an increased voter turnout.

Another major reason that people who live in the United States don't vote is simply that they cannot. Seven percent of the United States population is not a citizen. To become an American citizen, you have to have an established continuous residency for 5 years and be physically present in the U.S. 21,695,500 people can't vote because they have not gained their citizenship. The Washington Post interviewed some people who didn't vote to see their reason behind it and Wouter Deconinck from Norfolk stated, " For the past 15 years of living in this country, I have not been able to vote, because I was not a citizen. Although affected constantly by the policies and choices of the elected government, I was not even allowed to financially support any candidate running for office." If they changed the law to three years of United States residency more people would be eligible to vote. Some people have to wait very long to have a voice in our government's choices when others who are granted the privilege without having to wait do not take advantage of their vote.

One of the biggest reasons that people are reluctant to vote is because they do not think one tiny vote will matter, or make a difference. When statisticians did the math on the 2016 election, they found for the second time in the past five elections that the people's votes were overruled by the electoral college votes. Hillary Clinton received three million more votes than Trump from the people. However, Donald Trump received 74 more electoral college votes and in the end, overruled Clinton. Citizens think that it isn't worth it to vote if the electoral college can invalidate their votes. This is an enormous misconception because if more people voted, then their votes would start to add up, and soon the people's vote would be more important than the electoral college votes.

Overall, your vote most definitely does matter and you should greatly consider voting before you decide to skip out. Abraham Lincoln stated in his famous Gettysburg Address "... that government of the people, by the people, for the people, shall not perish from the earth." The United States is supposed to be a democracy but unfortunately, only 55.7% of Americans voted in the last election. The official definition of a democracy is, " a system of government by the whole population or all the eligible members of a state, typically through elected representatives." A key phrase in this definition is "the whole population". Can we call our government a democracy when just over half of our population is participating in votes? Registration can be tedious but you should go through with the process so that you can cast a vote to help our country. Millions of people do not vote. They are ineligible because they do not have their citizenship. But if they are patient enough to wait, they will eventually have a voice in our government. And finally, a copious amount of people believe that their single vote will not make a difference but this is the worst thing that you could think. Your vote matters, so use it.

# Co-parenting in the Pandemic

By: Tom Vaclavek

For most divorced or separated families, co-parenting can be hard even in the best of times. Things get even more difficult when people are faced with the uncertainty and pressures of living with unprecedented rules required during the pandemic. As a family law attorney, a divorced father who co-parents with my ex-spouse, and a remarried Stepfather with a blended family, I see the difficulties that parents face when they are being told on the one hand to shelter-in-place, but on the other hand to leave their cocoon of safety to exchange children for parenting time. Not only do you have the issue of moving children from one home to another; you also have issues of e-learning, eating habits, chores, free time and other matters that parents aren't always in agreement on. What one parent thinks is appropriate, the other might think is an over or under reaction.

In the early days of this pandemic, I received many calls from parents wanting to simply keep their kids home and not allow the other parent to have any time. In a lot of ways that made sense to me. How are you supposed to trust the person you divorced with protecting and keeping your children safe? How do you know that they don't have the virus or might allow the kids to get it? Worse yet, if you are in blended families, you may have other kids that are going back and forth and being forced to trust people you do not know is even harder.

We are, no doubt, in unprecedented times, which means it isn't necessarily best for the children to follow the agreement that both parties worked so hard to come up with during the divorce. Clearly, many of the issues people are experiencing during the pandemic are not mentioned in their Parenting Agreements. Children certainly need to have a positive relationship with both parents, maybe even more so during this time. But what if one parent is out of work and is better able to manage the children's e-learning while the other parent is working? Or what happens if one parent gets sick but insists on having the children. What would happen if one parent simply refused to allow the other parent their time? Would the police get involved? Could a parent be arrested for refusing to comply with the terms of their Parenting Agreement?

These are issues that the court system has not had to deal with until now. In speaking to other practitioners, there have been a lot of questions without easy answers. As attorneys, we like to be able to rely on the law. We like to be able to tell our clients that they can rely on our counsel because it is well-founded on fact and decisions of the Court but there are no clear-cut answers during this pandemic. Further, addressing disputes isn't easy when the courthouses are closed except for emergencies.

While it is easy to tell our clients to just follow the Parenting Agreement, is it always right? In the examples above, what would you do if your ex-spouse was working and came in contact with someone that tested posi-

tive for the virus but was not showing signs or symptoms? We know that it can take up to two weeks for someone to begin suffering from the virus. In this case, maybe following the Parenting Agreement would not be in the best interests of the children. Who really could blame a parent for not wanting to take the chance of their son or daughter being exposed to the virus?

As this pandemic has continued, and I have received more and more calls with questions and concerns about how to handle the many new issues that are presenting themselves. I have tried to counsel my clients to take a step back before making decisions when faced with issues and their ex-spouse. I have reminded clients that it isn't easy for anyone during this time and that they have to remember their children are experiencing many of the same questions, concerns and difficulties they are. Not every ex-spouse is trying to manipulate this situation to get more time or to keep the other parent from spending time with the kids. Everyone is having to adapt during this "new normal" and the only right answer is what is best for their children. Just as is the norm in our practice, what the right answer is for one family may be the wrong answer for another.

Luckily, the American Academy of Matrimonial Lawyers and others have provided some guidelines to help. Their recommendations consist of seven ideas to assist parents in these difficult situations. They recommend parents to be healthy by complying with federal and state guidelines and to be sure to hand wash and maintain social distancing guidelines. They also suggest that parents be mindful of the things they say in front of their children. They suggest that parents remain compliant with court orders and custody agreements but also be creative when necessary to encourage positive relationships for the children and both parents. They recommend that parents be transparent and provide honest information to their co-parents about possible exposure to the virus. In cases where one parent misses out on time with the kids, the AAML suggest co-parents make reasonable accommodations and give the other parent makeup time. Finally, they recommend that co-parents be understanding about the economic hardships caused by the pandemic and to work together to ensure their children are provided for.

It is times like these that will show children that despite their differences, divorced parents can still work together and do what is best for them. How parents conduct themselves during this pandemic will have lasting effects on their children. If parents do not conduct themselves reasonably and in the best interests of their children, their children will remember and so will their co-parent. Hopefully these difficult times will pass and we will be able to get back to life as we remember it. But even if it is never quite the same, at least the children of divorced parents can remember how their parents came together to do what was best for them when it was needed the most.

## Tips for Developing Your Meditation Practice to Achieve Happiness and Make the Most of Your Wellness Breaks During COVID-19 and Beyond

In a demanding, time-consuming, and high-stress profession it is difficult to take time out to focus on our individual well-being. But, finding a balance, doing what makes us happy, practicing meditation, and fostering community will increase our resiliency and productivity, reduce stress, and boost our immunity.<sup>1</sup> As a certified yoga and meditation instructor since 2012 and practicing attorney since 2015, I can confirm that the practice of meditation and law are incredibly challenging and ever-evolving, and I continue to struggle with anxiety and finding a work-life balance on a daily basis. My goal with this article is to explore, encourage, and explain tips for achieving a sense of presence and wellness during our work breaks via the practice of meditation, and provide readily available local community resources and tools to help you practice well-being with as much passion and presence as you practice law.

### How to Find a Work-Life Wellness Balance

Justice Jorgensen of our Second District Court of Appeals encourages her clerks to take a lunch break and time away their desks. Specifically, Justice Jorgensen believes that “a lunch break and time away from your desk is good for the soul and honestly, I think actually boosts rather than diminishes productivity. Balance is good for everyone—but it is particularly important for those in our profession.” One of Justice Jorgensen’s clerks, Christine Kuenster, goes on runs during her breaks and explained, “I often think about a case in a new way after exercising.” Further, Chicago based attorney wellness coach Erin Clifford smartly suggests setting wellness alarms each day for breaks, meals, meditation, outreach, exercise, and connecting with others.<sup>2</sup>



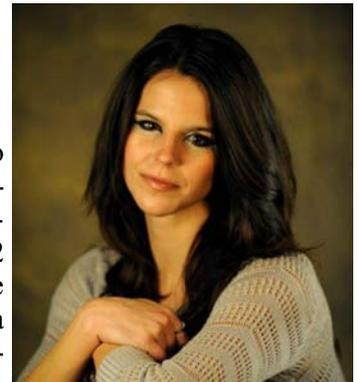
I like to provide my yoga students with a pen and paper and ask them to write down at least five activities or things that make them happy. What they write down is important because it is a reminder of what they are living for. I then direct my students to turn to their neighbors to share what they wrote, and it is always different for everyone. Make your “happy list” and incorporate the things or activities on your list into your daily work-life balance breaks. I set goals each day but also remind myself to be forgiving because we all know there’s always that one thing on our to do list that has to get pushed forward because something came up. That is completely okay—but, Erin reaffirms that the wellness to-do list should be treated like a work to-do list. Make it mandatory, rather than optional.

### How to Understand and Incorporate Meditation into Your Daily Routine to Optimize the Benefits of Your Work-Life Balance Breaks

“There is a little Buddha in all of us.” – Venerable Bhante Sujatha, Blue Lotus Buddhist Temple & Meditation Center, Woodstock, Illinois

Meditation, like law, is a constant and evolving practice unique to every individual. So, what is meditation? I believe it is the practice of seeking and re-seeking presence of mind in order to separate yourself from inner chatter and achieve a calm sense of clarity and purpose. Venerable Bhante Sujatha from the Blue Lotus Buddhist Temple & Meditation Center in Woodstock suggests that meditation is a lifetime process, and after 40 years, he is still presented with challenges, even and especially during this pandemic. Fear and worry quickly snuck into Bhante’s mind, and as a result he has taken to virtual platforms to share how he confronted his personal struggles, changed his perspective, and reconnected with the purpose of his brand of loving kindness meditation—to have a peaceful mind and connect with that “little Buddha in all of us.”

Still, many of us have expectations about the type of clarity that will be achieved in a meditation session. Local instructor, yoga teacher trainer, and founder of Shima Flow Yoga, Jodi Shimabukuro, pointed out that meditation is not going to get rid of our thoughts, but rather, take us to a quieter and calmer space. Jodi, who has been teaching for 19 years, emphasizes that regular practice of yoga and meditation teaches us to be present and exist in a calmer more peaceful state.



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Cindy Krueger, another experienced local yoga and meditation instructor who completed a 10 day intensive Vipassana meditation retreat<sup>3</sup> in total silence says that, “getting students to focus and see what is going on in that moment in their mind is the beginning to disconnect the crazy thoughts that are always happening. The more you can sit and notice and continue to focus back to your breath, the more it starts to open up and you feel this ‘silent presence’ which you will realize is always there and available to you.” But, “if there is too much expectation, you will not get there,” Cindy importantly points out.

Many of us, including myself, are going to have excuses to skip a brief meditation and/or yoga session because I don’t have the space or the time or I’ll do it later. Nonetheless, every practitioner contributing to this article suggests scheduling a time and a space each day. For Jodi and me, fitting a brief meditation in first thing in the morning is the ideal way to avoid putting off your practice. I personally try to get up early to take a walk outside while listening to music, do a short yoga session, and end with a ten minute reclined meditation using an internal mantra to focus my mind and breath before thinking of at least three things I am thankful for, rising to a seated position to bring my hands to a mudra or prayer, and finally bowing to say “namaste.”<sup>4</sup>

The more you explore various forms of practice the more you will develop your own style to fit your individual needs.<sup>5</sup> I am always happy to provide a free telephonic or virtual consultation to anyone who may be interested in meditation or yoga exercises tailored to their individual needs. Jodi and Bhante and the Blue Lotus Temple are also on Facebook and Instagram and keeping full calendars of virtual events for yoga and meditation. Following and connecting with Bhante and Jodi and reaching out to me to stay up to date on upcoming virtual events are great first steps to begin developing your peace of mind practice. If you want live yoga and meditation resources, Jodi welcomes finding her on Facebook or following her on Instagram and sending her a message to let her know that I referred you to her for additional resources. For meditation, Jodi recommends the Free Meditation App Insight Timer, which shows how many people are meditating on the App with you and provides options for meditations anywhere from one minute to one hour. Jodi’s Shima Flow Yoga YouTube channel also has an excellent variety of yoga and meditation classes.

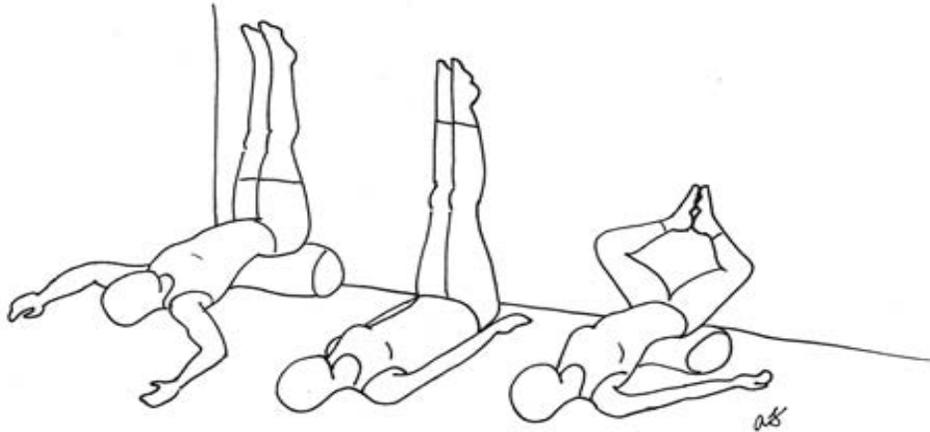
### **Why Listening to Music Should Be on Everyone’s Meditation Platform and “Happy List”**

Studies suggest that music promotes well-being and youthfulness, boosts immunity, reduces stress, and is even used by musical therapists to mimic the effects of opioids on the brain to treat pain.<sup>6</sup> Your music selections do not necessarily have to be generally categorized as relaxing to produce positive results because some evidence suggests that our personalities and moods subjectively regulate our responses.<sup>7</sup> Listen to what appeals to you in the moment, but also take some time to experiment with how sound can heal you. When teaching yoga and meditation to developmentally disabled adults throughout law school, I successfully used humming and buzzing sounds to create a soothing effect for high anxiety students. The sound of ocean waves is also naturally soothing to humans and mimicked when we lightly cup our hands over our ears while practicing a specific type of yogic breathing called ujjayi pranayama (“the victorious breath”).<sup>8</sup>

When the stay at home order is not in effect and we safely reopen, local yoga instructor Caroline “Cari” Heroux does a fantastic crystal bowl sound healing meditation class on the first Friday of each month at Melt Pilates & Hot Yoga in Algonquin. Cari is hoping to have a sound healing demo up soon for your virtual viewing and listening pleasure, and I will email out a link to anyone who is interested. Both Jodi and Cindy also have public Spotify channels under their full names with their entire yoga and meditation playlists available. DJ Taz Rashid is another local yoga favorite to follow on Facebook and Instagram for stellar meditation music.<sup>9</sup> I personally use the free iHeartRadio app to explore stations of my favorite genres and artists and listen to the Ron Burgundy Podcast because Ron Burgundy is one of the things on my “happy list.”

### **My Personal Class Sample to Help You Start Meditating Right Now**

So, you made your “happy list,” set alarms for your mandatory breaks, and want to try to achieve a sense of presence in those breaks. What now? Just like our “happy lists” are all different, so are our meditation techniques. Bhante also reminds us that meditation is a practice and not a punishment, so you must always modify to fit your individual needs. I always begin any yoga class with a minimum of five minutes of meditation in a supported reclined butterfly or legs up the wall pose (pictured below with modifications). With their eyes closed and covered with a folded towel, I guide students to develop their breath awareness prior to transitioning into a minimum of five minutes in the seated form of meditation that most instructors encourage. Breathing is one thing that currently healthy individuals have perhaps the most control over, and strategic breathing can immediately signal the brain to stop stress responses in the body. Techniques like equal breathing (five counts inhale and five counts exhale) or adding an internal mantra to your breath (inhale think “just” exhale think “breathe”) work to enhance focus on the breath and in turn feel the benefits of deep breathing. In fact, the even count inhale and even count exhale technique known as “Sama Vritti” has had success in treating high anxiety in schizophrenic and autistic patients. If you are in a relaxed yoga pose, I highly recommend placing one hand on your heart and the other on your belly and feeling the rise and fall of these equal breaths and tracking the movement of the breath as you count it.



Beginning in a relaxed yoga pose before transitioning to a seated form of meditation is a personal style choice. I start students this way because poses like legs up the wall reverse your blood flow, lower blood pressure, help with chronic pain, and provide a feeling of relaxation that helps slow the mind so we can go deeper. During this introductory sequence I also generally play artists like Deuter in the background to add to the overall relaxation effect.

Now, what about the seated part? Once you have slowly transitioned out of the restorative pose, sit in a comfortable cross-legged seated position. Place a pillow, bolster, rolled up blanket, or yoga block underneath your seat to elevate your hips so the knees and hips are even. Lift and roll your shoulders up, back, and down. Place your ears over your shoulders and continue to pull the shoulders down the back as you let your head float over your neck, maybe wobbling from side to side. Relax your jaw by moving your tongue to your lower palate. With the eyes eased closed, focus the third eye of the mind (the spot between the eyes) on an image or a color and breathe into that picture in your mind’s eye. Assign a mantra to your breath if it helps you (inhale think “just” exhale think “breathe”). Thoughts will be there, but like clouds, just notice them and let them pass. Continue to focus on your image or color, and inhale “just” exhale “breathe.” If the mind wanders, do your best to bring it back to your vision and breath. When you feel ready to come back to reality, come back with a positive thought or intention (“Sankalpa” in Sanskrit). Perhaps that intention is something that is on your “happy list,” and you should strive to carry it with you as best as you can throughout your day.

### **Final Tidbits**

Your breaks are important and mandatory—you need to make the most of them! Take a moment to make a short “happy list.” Like your legal practice, your “happy list” and meditation practice will continue to evolve and present new challenges. Thoughts about work, things at home, and current events will always be there in the backdrop, but, using any of the above tips and tools will train your mind to move more easily into a space of clarity when you need it to. You have a local yoga and meditation community at your virtual fingertips, and we come bearing playlists! Now is the time to explore your inner self and develop strength in presence of mind to best carry out your individual purpose with the pleasure of your “happy list” readily available and accessible during those few and far between, but necessary breaks.

Thank you for letting me share my practice tips, goals, and ideas with you during this time of unprecedented uncertainty. I will leave you with a derivative of an Irish blessing that I close all of my classes with.<sup>10</sup> “May the long time sun shine upon you, may all love surround you, and may the pure light within guide you on your way home. Infinite blessings to you upon your path. Namaste.”

<sup>1</sup>E.g., Tracy Brower, *How to Thrive During the Pandemic: 10 Strategies For Resilience Based on Brain Science*, Forbes (Apr. 28, 2020, 7:30 AM), <https://www.forbes.com/sites/tracybrower/2020/04/28/how-to-thrive-during-the-pandemic-10-strategies-for-resilience-based-on-brain-science/#4c1285bb5cd7>; Adam Wenger, *If Happy People Live Longer Lives, This is Why*, Healthline (Feb. 25, 2015), <https://www.healthline.com/health/happy-healthy-living#1>; Alice G. Walton, *New Clues Into How Meditation May Boost The Immune System*, Forbes (Sep. 6, 2016, 11:13 AM) <https://www.forbes.com/sites/alicegwalton/2016/09/06/new-clues-into-how-meditation-can-boost-the-immune-system/#7b972e8e3698>; Ozbay F, Johnson DC, Dimoulas E, Morgan CA, Charney D, Southwick S. *Social support and resilience to stress: from neurobiology to clinical practice*, Psychiatry (Edgmont). 2007;4(5):35–40, <https://>

[www.ncbi.nlm.nih.gov/pmc/articles/PMC2921311/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2921311/).

<sup>2</sup>Erin Clifford is an amazing resource for coaching attorneys on overall well-being and has resources at [healthylawyers.com](http://healthylawyers.com) and [erincliffordwellness.com](http://erincliffordwellness.com). Follow Erin on Facebook @erincliffordwellness and on Instagram @erinwellness.

<sup>3</sup>For more information on Cindy's retreat and this style of meditation visit <https://www.dhamma.org/en/about/qanda>.

<sup>4</sup>"Namaste" is used to express the wisdom that the light in me honors, respects, and recognizes the light within you.

<sup>5</sup>Keep an eye out for a Zoom Meditation Session hosted by MCBA Young and New Lawyers this Summer.

<sup>6</sup>Mona Lisa Chanda and Daniel J. Levitin, *The neurochemistry of music*, TRENDS IN COGNITIVE SCIENCES (Apr. 2013) Vol. 17, No. 4, 179, 183-185 available at <http://www.downloads.imune.net/medicalbooks/Neurochemistry%20of%20music.pdf>

<sup>7</sup>*See id.*

<sup>8</sup>This breath is easily achieved by inhaling and then exhaling out of your mouth as if you are saying "ha" and then repeating this cycle to slowly close your mouth while making that "ha" sound more and more on each exhale. It will feel as if you are fogging up a mirror in the back of your throat. Practicing this breathing technique will increase your oxygen and energy flow.

<sup>9</sup>Dj Taz Rashid's Official Website is available at <https://www.djtzrashid.com/>.

<sup>10</sup>Thanks to my yoga teacher trainer Mary Wolters for re-emphasizing this blessing and mantra to me throughout my teacher training.