



The phone, the fridge and the liquor cabinet

THE DARK SIDE OF WORKING FROM HOME

Working from home during the pandemic undoubtedly provides us with new opportunities for the more efficient practice of law, from arguing virtual motions in our bunny slippers to objecting at a deposition on a Zoom screen. On the other hand, the tautological work-from-home (“WFH”) agenda may also lead to the development of unhealthy habits, addiction and harmful behaviors. Round-the-clock access to the dating and escort apps, appealing social media, food, alcohol, drugs and pornography are now all competing for our attention throughout the day.

Other than a fleeting acknowledgment that working from home could be isolating and depressing, mass media and bar associations rarely discuss the potential for addiction while working from home, and the possible negative

impact on the legal profession. As we are still weathering the viral storm, the real portrait of a “WFH lawyer” is still emerging, and many are left to navigate the “new normal” without a compass. We are the guinea pigs of this historic “mass lockdown” experiment without a helpful “WFH handbook” to give us a meaningful set of rules, guidance and resources.

While we can all appreciate the benefit and convenience of arguing a motion in our sweatpants from our living rooms, at the same time, having easy and unlimited access to the apps, the fridge and the liquor cabinet could be destructive and, in most cases, has the potential to cause significant and undetected harm. There is a growing concern that prolonged isolation due to COVID-19 and the “stay at home” orders have created a perpetual witching hour for our mental health, with no end in sight.

Trial lawyer blues: When you have no one to impress

Trial wins are exhilarating and the dopamine release of a “verdict high” is an emotionally gratifying experience that many of us are determined to replicate someday soon. The abrupt halt on trials and future uncertainty of the “stay at home” orders may leave many accomplished trial lawyers in a void that they will struggle to fill. For some lawyers, civil trials are our *raison d’être* – the reason to exist to the point where being a “trial lawyer” becomes one’s primary identity. Taking trials away from a trial lawyer is similar to taking away top athletes’ ability to compete at the Olympics or an actor’s lead role in a feature film. The acute need for validation, coupled with chasing an exhilarating “high” from another source while working from home, be it drugs,

alcohol, pornography or social media, is a dangerous possibility that we should all be aware of.

Netflix's "The Queen's Gambit" is a highly relatable (albeit fictional) series, where an extremely successful female chess genius, Beth Harmon, falls victim to out-of-control sexual behavior as well as drug and alcohol abuse. Chess subsumed her entire identity, and when she could not compete and get her "victory high" at chess tournaments, her deep isolation at home in Kentucky created unfortunate opportunities for unhealthy habits to develop without any coping tools or anyone to help. Her experience closely parallels our isolation in the legal profession during this pandemic and serves as a cautionary tale to warn our trial peers to avoid similar pitfalls.

Addictive behaviors and unhealthy habits do not develop in a vacuum. They may gradually develop during stressful situations, mutate from an existing non-harmful habit, follow an emotional trauma, unresolved childhood issues, the loss of a loved one or a relationship, career failure or any other demoralizing event that could affect anyone, from celebrities to our friends and neighbors. The recent disclosure of alcoholic violence by Shea LeBouf, as well as Jeffrey Toobin's "Zoom incident" during the COVID-19 pandemic are hardly surprising given the circumstances.

The "dopamine clicks" and social media

Social media is a powerful, unslayable beast that does not eat or sleep. It pervades our lives in multiple forms, be it Facebook, Instagram, Twitter, Tinder and the like. While drug and alcohol addiction may be easier to detect, addiction to social media is a lot less obvious, but could be just as disruptive.

In a way, the cards are heavily stacked against the "WFH lawyer," who could easily browse his or her Instagram during a Zoom deposition and scroll for hours during the day, unable to "unplug." In the new Netflix documentary "The Social Dilemma," former employees of Facebook, Instagram and other social



media platforms reveal the harrowing truth behind intentional design of such apps to develop social media addiction: such as content specifically targeting your interests to other visual "hooks" to keep you on these apps as long as possible.

Social media overload became the new normal during COVID-19 and a new tool for some to cope with boredom, isolation, low self-esteem, sometimes becoming a substitute for human interaction. Although not currently included as a diagnosis in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-5), "social media addiction" has the potential of becoming a serious concern among legal professionals. Researchers have observed a dramatic increase in the use of social media in recent years. For instance, as of 2016, 79 percent of all adults online used Facebook (Shannon Greenwood, Andrew Perrin, and Maeve Duggan, Pew Research Social Media Update 2016, Pew Research Center, November 2016).

The American Bar Association has warned that "psychological factors associated with social media addiction include high stress, low empathic concern, low self-esteem, low levels of conscientiousness, and increased depressive symptoms." (*Social Media, Mental Health, and Lawyers' Well-Being*, Krista Howard, Merab Gomez, Stephanie Dailey, and Natalie Ceballos, December 1, 2019.)

Social media addiction is even more dangerous for lawyers who attach their self-worth to the approval of others.

Psychologists classify this as a dependency on "external validation" – a vicious cycle that can be exacerbated by social media, especially when seeking repeated approval from the digital community becomes a daily priority. Without any meaningful social interaction, bar association events, mixers and in-person CLEs, social media has become the primary source of validation and admiration for attention addicts. From obsession with "likes" on Instagram or Facebook to the steady stream of potential interested mates on Tinder, social media provides attention addicts with a temporary dopamine rush that they are destined to repeat. Because their self-worth is directly dependent on how other people perceive them, this becomes a dependency tool for attention addicts to chase new "highs." They reach for their phones immediately after they wake up to see if they got another Tinder match or a new Instagram follower. Of course, it will be just a matter of time until they feel dissatisfied again, and seek out more followers or "likes," or Tinder "matches" to feel that they matter, both to themselves and to others.

Practical solutions to limit social media addiction

Everything is good in moderation, even Instagram models. Social media addiction is similar to drug addiction – there is no bright line or loud warning siren to warn you when you are about to go over the cliff. (*New Study Suggests Excessive Social Media Use Is Comparable To Drug Addiction*, Jena Hilliard, September 4, 2019). When you wake up and the first thing you do is to reach for your phone to see what's happening on Facebook, Instagram, Tinder or any other app, it might be time to slow things down and engage in some self-evaluation.

When you spend hours on social media daily, you may have reached a point where it may be time to turn things around. When social media becomes your ongoing daily "escape," be it from your pandemic reality, your family, your own negative feelings of loneliness or

boredom, especially when your practice of law has been your primary source of validation, beware.

These may likely be all too familiar signs of addictive, maladaptive behavior. Solutions might include time limits on social media, pausing or deleting certain apps, and unfollowing certain accounts that suck up most of your time. Another way to help curb the potential for social media addiction is to adjust notification settings on your devices in order to limit excessive exposure to social media stimuli. Some social media sources allow you to manage settings that allow you to see certain social media posts first, or to only see posts from “close friends.” It is important to accurately assess your time spent on these apps, as most users grossly underestimate how much time they spend on social media. [Google, for example, has taken this into account by creating a “Digital Wellbeing” app which helps users determine how much time they spend using certain apps on their phone.]

Addictions to sex and pornography

Given how easy it is to access digital pornography and dating apps like Tinder, mental health professionals are reporting an alarming increase in sex addiction in society. The number of people in the United States living with sex addiction is currently estimated at 12-30 million. Both men and women can be affected, though scant research exists on female sex addiction. Ten percent of men and seven percent of women report having significant levels of stress and dysfunction because of their sexual thoughts or behaviors. (<https://www.nbcnews.com/health/health-news/sex-addiction-may-affect-10-percent-men-survey-finds-n934456>). This would potentially make compulsive sexual behavior problems more common than major depression, which is believed to affect five percent of people. (*Ibid.*) Like drug or alcohol dependence, sex addiction has the potential to materially and negatively impact a person’s physical and mental health, personal relationships, quality of

life, and safety. (<https://www.healthline.com/health/addiction/sex>)

Unlike drugs and alcohol, the mental harm of porn or sex addiction is not immediately obvious. Resultantly, addiction to pornography is perhaps the fastest-growing non-substance addiction in the United States and around the world. (<https://oconnorpg.com/pornography-addiction-signs-symptoms>) Internet pornography has become so widespread because its ease of access makes regular consumption easily habit-forming. The COVID-19 pandemic has only caused internet pornography to become even more popular as a maladaptive coping mechanism. According to PornHub’s own data, its web traffic increased as much as 25% in March 2020 over the year before, making it one of the top 10 most visited websites in the United States (<https://www.nature.com/articles/s41443-020-00380-w>)

While many frequent users may discount their dependence on pornography as simply a harmless pastime or a quick way to relieve stress or boredom (which can be understandable during this seemingly never-ending quarantine), danger lies when this habit begins to gradually interfere with one’s personal relationships, professional tasks or family life. This addiction can also lead to embarrassing and career-ending consequences, as in the unfortunate case of Jeffrey Toobin’s “Zoom incident,” when he unwittingly exposed himself during a Zoom call in front of numerous colleagues.

Unfortunately, the California State Bar’s Lawyer Assistance Program (“LAP”) website is remarkably silent on the topic of sex and pornography addiction. There are no resources on the LAP website which address or recognize sex addiction as a possible problem for lawyers. We have yet to see any continuing education on this subject by the State Bar or any local bar association. Sex and pornography addiction seems less important, or at least less well-addressed, than traditional drug and alcohol addiction, as perhaps the topic is viewed as too racy for the

legal profession to meaningfully address. This is truly unfortunate. Avoiding discussions of this important subject does a disservice to our colleagues, especially during these trying times of COVID-19. The legal community needs to address, acknowledge and provide resources to lawyers who may need help with these potentially harmful addictive behaviors.

Psychology behind Tinder’s Skinner box

Online dating sites like Match.com, eHarmony, Zoosk, and OkCupid are widely used, especially by millennials. However, like with social media, the algorithm behind these apps has a serious potential dark side. Remember the Skinner box experiment from your college psychology class?

In his experiment with lab mice, scientist B.F. Skinner studied the variable reward system and its effect on the brain. Skinner observed that lab mice responded most voraciously to *random* reward schedules. The mice would press a lever and sometimes they would get a small treat, other times a large treat, and other times nothing at all. Research by Psychology Today revealed that Tinder uses almost exactly the same type of algorithm to hook its users – similar to casino slot machines, players do not know when, while pulling a lever or pressing a button, they will hit a jackpot. Tinder, as it turns out, was able to successfully re-create a digital version of the Skinner box to elicit addictive responses: Since users do not know who may accept a match and how they could respond, the unpredictable variability of this reward system is at the core of the app’s design.

According to a Psychology Today study, “interacting with Tinder long enough changes the brain’s response to it. Neurobiological models have suggested that the algorithm of reward learning is associated with dopamine. . . and over time, the user may begin to experience a reward response simply from the notification.” (<https://www.psychologytoday.com/us/blog/after->

service/201805/the-science-behind-what-tinder-is-doing-your-brain)

The purpose of this discussion is not to vilify pornography or Tinder. Indeed, most millennials learned about sex from adult websites and grew up with unlimited access to pornography and find their love interests by swiping right. It has been normalized for millennials to look for dates on “hookup” apps like Tinder, Bumble or Hinge and to engage in risky sexual behaviors for personal validation and boost their self-esteem. While this has become a “new normal” for many lawyers, that does not necessarily mean that such behaviors are harmless. Curiously, social isolation caused by the pandemic and working from home has dramatically increased the use of “hookup” apps and increased traffic to pornographic web sites – a starting point for addiction to sex and pornography.

“Emotional eating” during the pandemic

The “stay at home” order has effectively placed all of us on an indefinite house arrest, and this has profoundly affected the population’s lifestyle and eating habits. One study of eating habits conducted during the COVID-19 lockdown in Italy revealed that almost half of the respondents felt anxious due to their lockdown eating habits, this anxiety being linked to the increased consumption of comfort food and increased food intake due to stress and isolation. (*Psychological Aspects and Eating Habits during COVID-19 Home Confinement: Results of EHLC-COVID-19 Italian Online Survey*, US National Library of Medicine, July 19, 2020.) The study explained that the COVID-19 lockdown has caused “emotional eating” – a drive to eat as a reaction to negative feelings or stress, with females displaying a higher state of anxiety-related eating compared to males.

Another global study revealed that the pandemic has caused our population to consume more junk food during the quarantine. Either way, the alluring temptation of a well-stocked refrigerator while working from home is hard to deny.

But it’s not only about the quantity, there is also the quality of the food that we are ingesting that causes harm. In these stressful times, people tend to crave food higher in fat and sugar, in part because their bodies require more energy to function when stressed, and simple carbohydrates are the fastest way to get a quick hit. (*Harvard Mental Health Letter*, 2018.) Taking that into consideration, emotional eating can lead to regret, physical discomfort, and weight gain, as the original stressors remain, independent of our eating behavior. Coping mechanisms might include recognizing triggers for emotional eating, making conscious choices about your food intake, getting support from friends, family and mental health professionals, and better educating oneself on the topic.

Home office “happy hours”

A bottle of whiskey next to your home office keyboard may not look like a serious threat. However, some studies reveal a rapid growth in “WUIs” – Working Under Influence, during the COVID-19 pandemic. About one in three Americans are drinking alcohol while working from home during the current COVID-19 lockdown according to a new study published on the website Alcohol.org. (*Happy Hours: More People Drinking While Working from Home During COVID-19*, Tony Hicks, April 13, 2020.) Cabin fever, coupled with the moving target of “stay at home” orders, are causing Americans to stockpile alcohol and pour themselves increasing numbers of drinks in between their Zoom meetings.

Isolation and easy access to alcohol during work hours should be a cause for alarm. The transition from habitual drinker to alcoholic is similar to drowning – unless someone is closely watching, it has the potential to be a silent and undetected demise. In most cases, even close friends and family cannot exactly pinpoint the time and date that a habitual drinker they knew became hopelessly alcoholic. The slow descent into alcoholism is an incremental process

dependent on the fallacy that a “few drinks here and there won’t hurt.”

There are various early warning signs of alcohol abuse, with some being more obvious than others. The red flags include making excuses for excessive drinking, such as that it is needed to relax, to deal with stress, to “feel normal,” to feel confident and drinking to feel better and fill a void – all these rationalizations are risk factors that we are becoming more susceptible to during this seemingly perpetual and certainly isolating pandemic. Individuals with a history of emotional or other psychological trauma are at increased risk of alcohol use disorder.

Lawyers, unfortunately, are even more at risk for alcohol abuse. Statistics do not lie: In a study commissioned by the American Bar Association (ABA), in collaboration with the Hazelden Betty Ford Foundation, 20.6% of licensed, employed attorneys showed signs of problematic drinking, compared to just 11.8% of the total workforce with the same level of educational attainment. (<https://www.alcoholrehabguide.org/resources/alcohol-abuse-lawyers-legal-professionals/>). Fortunately, our State Bar LAP’s program offers confidential counseling and other programs to assist lawyers with this type of addiction. In addition, “The Other Bar,” a network of recovering lawyers, law students and judges throughout the state, provides workshops, counseling opportunities and other assistance to lawyers struggling with alcohol addiction. (<https://otherbar.org/>)

Unhealthy relationships

Finally, some lawyers may have found themselves in toxic relationships, which have come to cause more harm than good. This year may be the best time to make an affirmative decision to find a way out. Especially if your relationship has suffered from serious pre-existing conditions, the COVID-19 pandemic may be the impetus for a final rupture of the unhealthy relationship.

The California stay-at-home order, intended to protect public health and

prevent widespread infection, has effectively trapped many men and women in unhealthy or even abusive situations. Some lawyers may stay in abusive or toxic relationships out of fear of isolation and loneliness, or because of low self-worth.

Other lawyers have decided to suffer through their unhealthy relationships, but have created a “deadline” to end the relationship as soon as COVID-19 is over – however, this may prove to be a potentially dangerous solution, given that the actual “end” date of the “pandemic” is becoming less and less certain. Some of our colleagues have found themselves trapped in oppressive living arrangements with unpleasant family members or significant others, lacking the financial resources to move out and embark upon a healthier life. If you are in an unhealthy relationship, please do not wait to get help. Remember: you only

have one life to live. If you have given the relationship your best shot and you are still experiencing feelings of unhappiness and unfulfillment, you may consider making an important life-changing decision this year to pursue a healthier, better future.

What’s next?

If you are going through a difficult time, please do not hesitate to reach out. CAALA has a Wellness Committee, offering its members a number of resources, including webinars on substance abuse and other similar topics. For alcohol abuse, there is The Other Bar – a network of recovering lawyers, law students and judges throughout the state, dedicated to assisting others within the legal profession who are suffering from alcohol and substance abuse problems. (<https://otherbar.org/>). If you want to talk

to someone, you may find a mental health professional online via Heal app or via www.betterhealth.com. There are many interesting podcasts on addiction, navigating mental health issues and difficult relationships, such as Sex, Love and Addiction with Dr. Rob or The Jordan Harbinger Show. If you are a Netflix fan, you may want to check out “The Truth About Alcohol” and the “The Social Dilemma.”

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