

New Mexico Judges and Lawyers Assistance: Judicial Roundtables



*Justice Edward L. Chavez (Ret.)
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Presenter Biographies:

Edward L. Chavez went to school back east for his undergraduate degree—Eastern New Mexico University in Portales, New Mexico. He received his Juris Doctorate Degree from the University of New Mexico School of Law in 1981. He served as a Justice on the New Mexico Supreme Court from March 7, 2003 until his retirement on March 9, 2018. He was the Chief Justice on the New Mexico Supreme Court from January 10, 2007 until April 7, 2010. He currently pretends that he is retired.

Sarah Myers is the Executive Director of the Colorado Lawyer Assistance Program (COLAP). She received her B.A. from the University of Richmond in Virginia, her M.A. from Naropa University in Boulder, Colorado, and her J.D. at the University of Denver in Colorado. She is a Colorado licensed attorney, licensed marriage and family therapist, and licensed addiction counselor. Ms. Myers is also a licensed post-graduate level secondary teacher, certified trauma and abuse therapist, and certified LGBTQ therapist. She has over 20 years of experience specializing in stress management, psychoneuroimmunology, compassion fatigue, and professional burnout as a program director, therapist, clinical supervisor, and educator.

Judge Sarah (Sallie) L. Krauss (Ret.) is an Outreach Coordinator for the New York State Bar Association Lawyer Assistance Program. In that regard, she assists local bar associations in presenting Ethics education programs as well as provides monitoring of attorneys who are in the discipline process. Judge Krauss is a Vice Chair of the Brooklyn Bar Association's Lawyer Helping Lawyer Committee and is a member of the New York State Bar Association's Lawyer Assistance Committee and the Judicial Wellness Committee.

Previously, Judge Krauss served as Chair of the American Bar Association's Commission on Lawyer Assistance Programs (CoLAP) - 2011 to 2014 and also served as Chair of the Judicial Assistance Initiative (JAI) -2008 to 2011. During her tenure as chair of the JAI, the JAI published an ABA resource guide entitled "Judges Helping Judges; Resource and Education" in order to assist judges in finding help for themselves for mental health and addiction issues amongst the judiciary which might hinder successful careers.

In the past, Judge Krauss had served as the Chair of the New York State Bar Association's Lawyer Assistance Committee from 2006 -2010 and served as Co-Chair of the New York State Bar Association Judicial Wellness Committee. Judge Krauss has been active as a lawyer/judge assistance volunteer and committee person in New York State since 1990.

Judge Krauss has presented education on the issues of impairments in the legal profession and in the judiciary and on the issues of wellness, stress and vicarious trauma for many bar associations and judges' groups in New York as well as in Arkansas, Arizona, California, New Jersey, Michigan, Tennessee, Texas, Virginia and Washington, D.C. and in 2017 addressed students at a University in New Delhi, India on these topics. In 2017 and 2019, Judge Krauss presented to the National Association of Women Judges of New York on the topic of Judicial Wellness and substance abuse challenges in the Judiciary.

Judge Krauss was elected to the New York City Civil Court in 1994 and again in 2004, served in the Brooklyn Civil and Criminal Courts from 1995 to 2004 and served as an Acting Supreme Court Justice in both the Supreme Court and the Family Court in Brooklyn, New York, from 2005 until her retirement in 2012.

Colorado Lawyer Assistance Program



Mitigating Stress, Secondary Trauma & Compassion Fatigue in Judicial Officers: General Outline

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Disclaimer: This is a general outline of the presentation and is meant to be an introduction to the material with some quick and easy tips for participants & attendees. Additional resources can be found on our website at: www.coloradolap.org

I. Understanding Stress

- **Stress vs. Stressor:** Stress is the body's response to (real or imagined) danger, and a stressor is the event, situation, or perspective that causes stress. It's important to understand that while we cannot usually control the "stressors," we can control how our body and our mind responds to them, which means we can control stress with the right tools.
- **Good vs. Bad Stress:** There is "good" stress, called eustress, and "bad" stress, called distress. Eustress motivates us and saves our lives in life threatening situations. Distress, on the other hand, feels stressful and compromises our health. The trigger for distress is uncertainty, chronic stressors that you have no control over, and believing that you don't have the resources to cope with a situation.
- **Health vs. Distress:** When the body and the mind are perpetually stressed, systems in the body that are not essential to survival go "off line." Our digestive, reproductive, and immune systems are not crucial in a life-threatening emergency, so if the body is experiencing distress for long periods of time, we will experience difficulties with digestion, reproduction (including sex drive), and our immune response. That is why we often get sick if we've been stressed for long periods of time.

II. Signs & Symptoms of Distress

- Signs and symptoms of distress include:
 - Cognitive - memory problems, poor judgement, seeing only the negative, anxious or racing thoughts, constant worrying
 - Emotional – moodiness, irritability, agitation, feeling overwhelmed, sense of loneliness, depression/general unhappiness
 - Physical – aches and pains, digestive issues, chest pain, frequent colds
 - Behavioral – changes in eating/sleeping patterns, procrastinating, use of drugs or alcohol, nervous habits (pacing, nail biting)
- Stress responses include:
 - Fight or flight strategies such as catastrophizing/anxiety and anger/resentment.
 - Freeze or faint strategies such as apathy/depression and dissociation or “zoning out.”
- Stress and emotions are contagious & addictive
 - Track what is “yours” and what is someone else’s stress or emotional reaction.
 - Track how you respond to stressors. What types of reactions, thoughts and emotional reactions do you tend to repeat on a daily basis?

III. Stress on the Bench – Cause & Effect

- **Magic Wand Myth:** Many people believe that you have power or control over situations that you don’t; there is no magic wand. Sometimes your hands are tied by case law, rules, statute, or any number of factors. Many judges reflect that they feel “in between a rock and a hard place” with certain decisions, in addition to concern about dealing with disgruntled (and even dangerous) litigants, defendants, and respondents who are upset about your ruling, and/or review boards, public opinion, the media, and any number of others who want to “weigh in” on your conduct both on

and off the bench. When we are regularly concerned about what others think about us because our livelihood, career, or even families could be impacted, stress levels escalate exponentially.

- **Limited Self-Expression:** Judges are in the unique position of voluntarily giving up some 1st Amendment rights for the job. Your political views, for example, cannot be expressed in most forums, and many judges have to censor what they communicate in public (inside or outside of the courtroom). While this is part of professionalism, it can also leave you feeling restricted in your self-expression. Research shows that closely related to the limited self-expression is a fear of scrutiny from peers and public, particularly if concerns about retention arise.
- **Isolation on the bench:** Research shows that isolation and lack of supervisor or collegial support put judges at increased risk of stress and compassion fatigue.
- **Too Many Hats:** You might wear many hats in a day: judge, manager, writer, disciplinarian, director, communicator, spouse/partner, parent, friend, etc. The more hats we wear, the more tasks we have to accomplish. While you are capable of *doing* two things at the same time, the brain cannot *concentrate* on two tasks at the same time. You are constantly exposed to information both on and off the bench. Switching tasks quickly or often makes the brain “stop and go,” requires tremendous energy, and depletes chemicals in the brain needed to concentrate and process information, leaving you exhausted and cloudy-headed.
- **Dealing with Difficult Personalities:** Coping with difficult people can be a daily stressor for judges that can lead to resentment, anxiety, exhaustion, depression, compassion fatigue, and burnout.
- **Exposure to Traumatic & Dramatic Content:** Consistent exposure to traumatized people and sensitive material cases can lead to difficulty sleeping, emotional or mental numbness, compassion fatigue and secondary trauma.

IV. Research & Evidence-Based Tips to Mitigate Stress

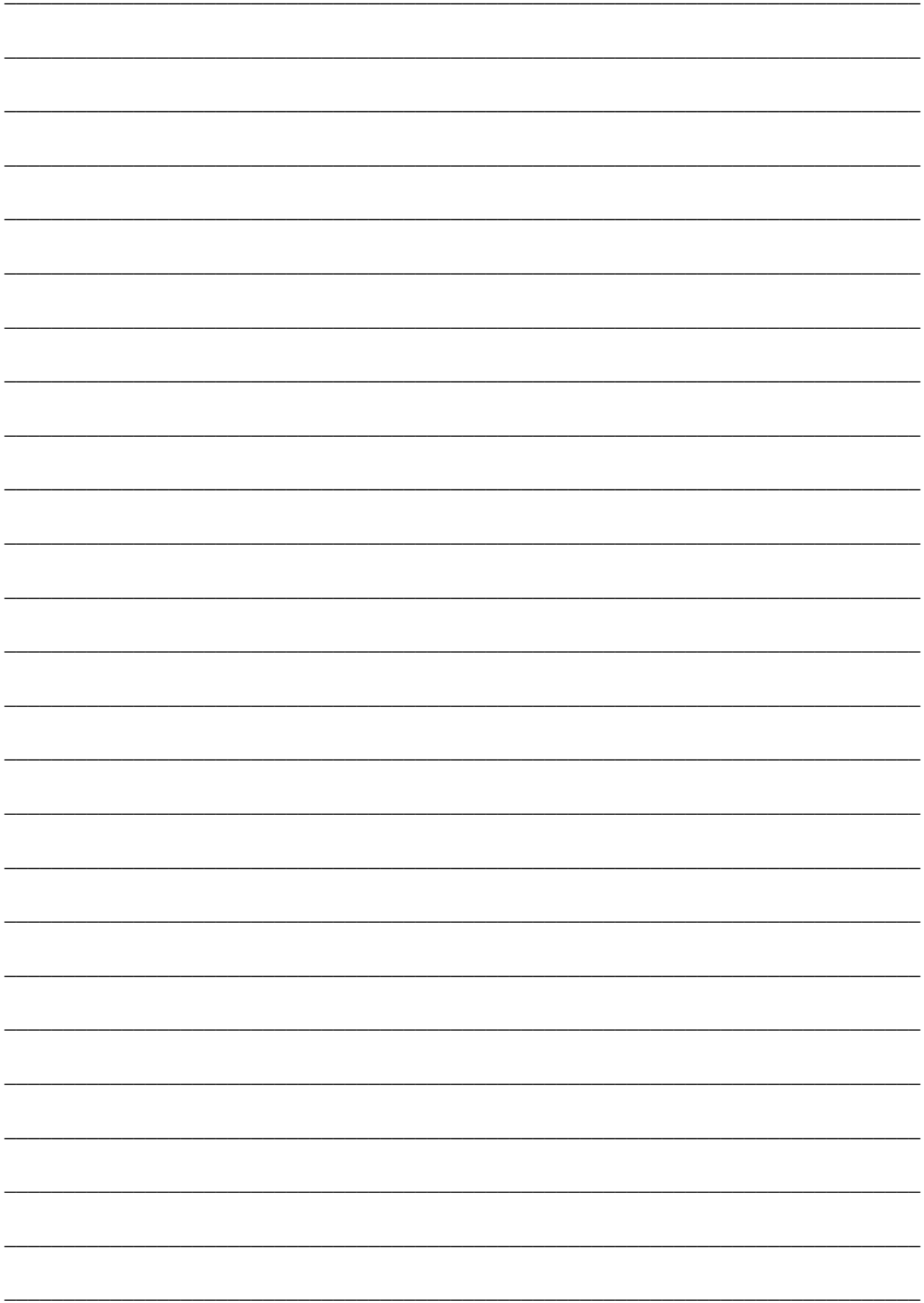
1. PARTICIPATE IN JUDICIAL ROUNDTABLES! Activating the social engagement system, or social nervous system, is the key to healing the damage that stress causes in our brains and our bodies.
 - There are many chemicals in the body that are released during the stress response. One of them is oxytocin, a chemical that motivates us to seek bonding and attachment with others. When we are stressed, our body motivates us with oxytocin to get help, talk to someone we trust, or work with others as a resource to cope such as colleagues in a safe and confidential environment.
 - These types of social interactions entail communicating with others in an honest way without wearing the “mask” you need to wear while on the bench. Research shows that interactions like these:
 - Build new networks in the brain that reduce the risk of cognitive decline.
 - Activate neuroplasticity (changing the brain) and neurogenesis (creation of new neurons) in ways that improve attention and focus.
 - Enhances the prefrontal cortex, hippocampus, hypothalamus, nucleus accumbens, and dorsal cingulate cortex in ways that improve:
 - executive functioning,
 - learning and memory,
 - regulation of body temperature, growth, weight, emotions, and sleep, and
 - production of dopamine (motivation, joy, concentration) and serotonin (increases happiness, decreases anxiety).
2. Take off your “judge hat” when you aren’t at work: refrain from perpetually problem solving, managing, arguing, etc. when you are with your friends and loved ones.

3. Stand up and move more; at least every 30 minutes. Research shows that sitting for prolonged periods contributes to many physical health issues, including increased blood pressure and heart disease, high blood sugar, excess body fat, and abnormal cholesterol levels.
4. When possible, do one task at a time rather than attempting to multitask. As tasks come to mind, write them down on a to-do list and then get back to the task at hand.
5. Listen to music that uplifts you or calms you down.
6. We often self-sabotage when we are stressed and overwhelmed, so practice moderation in your behaviors and choices, and amp up the self-care during periods of chronic stress.
7. Play more; do more of the things that bring you happiness and joy.
8. Take breaks throughout the day, even if they are just momentary breaks to mindfully breath, look around, and orient yourself.
9. Relax your jaw and release your tongue from the roof of your mouth.
10. Breathe deeply into your lower belly. Inhale for 5-10 seconds, pause, and exhale for 5-10 seconds.
11. Get at least 7-8 hours of sleep a night. Sleep deprivation negatively impacts our cognitive, physical, and mental health.

By Sarah Myers, Esq., LMFT, LAC

Executive Director, Colorado Lawyer Assistance Program

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Appendix C

JUDICIAL ROUNDTABLES - Wisconsin

Background

In September of 2011, the New York Times ran a story about the growing use of "Schwartz Rounds" [<http://well.blogs.nytimes.com/2011/09/15/sharing-the-stresses-of-being-a-doctor/>]. According to the article, over the last fifteen years the Schwartz Center for Compassionate Healthcare (<http://www.theschwartzcenter.org>) has created and implemented a hospital based program (Schwartz Rounds) to give medical clinicians an opportunity to discuss emotionally challenging cases or issues in their work. According to their website, the goals of the Rounds are to improve relationships and communication with patients and among providers and to enhance providers' sense of personal support. The Rounds are one-hour, case-based, interactive discussions held monthly or bimonthly and led by a physician and/or a professional facilitator. Each session begins with a brief presentation of a patient (or family) case by members of the health care team who cared for the patient. This presentation introduces multiple perspectives on selected psychosocial topics. Audience members and the presentation team participate in the facilitated group discussions that follow.

At that time, Paul Curtin, the Special Projects Coordinator for the New York State Office of Court Administration, was searching for a format to encourage judges to talk about their experiences of being judges with their colleagues, for the purpose of mutual support. He seized on the Schwartz Rounds idea and proposed its adaption for judges. Thereafter, Paul and the Honorable John Rowley, Chair of the New York State Judicial Wellness Committee, secured and invitation to and attended several Schwartz Rounds sessions at a local hospital. They took what they learned and began planning and holding "Judicial Roundtables" for judges in New York State.

Judge Rick Brown, who serves on the ABA CoLAP Commission, has brought the idea of Judicial Wellness Roundtables to Wisconsin. The Wisconsin project has been named the Dennis Barry Initiative in honor of Judge Barry who lost his life to suicide two years ago. Judge Brown has consulted with Judge Rowley about implementing Judicial Wellness Roundtables in Wisconsin.

Judicial Roundtable discussions will be implemented beginning with Districts 1, 2 and 10 with the intent of continuing throughout all judicial districts. The purpose of the roundtable discussions is to give judges a forum to discuss the experiences of being a judge with their colleagues for mutual support. These informal discussions provide a forum for judges to share ideas about finding support in and outside of work, getting recharged, transitioning from work to home, and other concerns as put forth by the judges.

Guidelines

- Our Judicial Roundtables always involve face-to-face discussions.
- We only permit judges to be in the room during the Roundtable, with the exception of a facilitator.
- These Judicial Roundtables are planned around a theme relevant to judges and arrived at through planning between the facilitators (in our case, one judge and one mental health professional) and a supervisory judge or planning committee in the local jurisdiction.
- After introductory comments, we usually divide into groups of about 8-10 judges, mixing judges together regardless of status or title. What follows is 30-45 minutes of semi-structured discussion during which judges go around the table answering prepared questions.

Format

- If there is an administrative/supervisory judge present who wants to make some introductory remarks, they get to do that. Then, after thanking our hosts and anyone else that helped make the event happen, our facilitator judge usually starts off the program with some hopefully funny and self-revelatory comments about the emotional experience of being a judge. We then like to get our local judge to do the same.
- The facilitators then give a brief introduction to the format, specifically, that we are going to ask the judges to divide up into groups of 8-10 and to answer a series of questions which are handed out.
- We prefer to have a facilitator at each of the discussion tables.
- Generally, the discussions flow easily. Our recommended format is to have the facilitator start things off in an organized fashion by asking a judge to answer the first question and then proceed around the table with each judge answering the first question, then the second, etc. Often the questions become less important than the discussion. However, it is important that all the judges at the table are given an opportunity to weigh in. If a judge is getting long-winded, the facilitator has the responsibility to hit his/her pause button.

Common Pitfalls

- Problem solving – if one judge shares about their difficulties with a particular issue or procedure, some judges (especially male judges responding to female judges) like to jump in to try and solve the problem. While this cannot be prevented, it should be short-circuited. The point is not to solve problems, the object is for judges to talk about the emotions they experience as judges. The facilitator might turn the tables on a problem solver by asking them how they feel when they are up against an unsolvable problem, etc.

- War stories – stories about our experiences as judges are inevitable in these settings but again, they generally take us off topic. The facilitator might say, “We all have war stories, but let’s look at these questions (which are focused on the here and now).”
- Wrap up – we usually have to call a stop to the discussion at the end of our allotted time. Our co-facilitator will then give a brief wrap-up. The major point that we emphasize is that all of us came in today with worries and stresses; we shared them with our colleagues; and although nothing has changed about the existence of those worries and stresses, we feel better.

After the Roundtable

- We send written thank you notes to everyone who helped make the event happen.
- We try to get a complete list of all the judges in attendance. We send them an email thank you for participating and invite them to let us know if they would be interested in organizing related events.
- Generally, we ask participating judges to respond by email to a series of evaluation questions. A sample set is attached.
- Judges have generally responded very well to this format. I have lots of written comments that I could provide upon request.
- Going forward, our goal is to hold two roundtables a year in any given geographic area. We are also looking to develop a pool of judges in these localities who can help with the planning and the mutual support this creates.

Appendix D

Dennis Barry Project - Topics and Questions for Judicial Roundtables

The Judicial Roundtable Process

- What are your beliefs about the need for judicial support systems?
- What are the barriers you see for judges to have increased peer support?
- What are your ideas for removing those barriers?
- What are things you have always wanted to ask another judge about but never had the nerve/opportunity/appropriate forum?
- You may be feeling that you have nothing to contribute; what would change your mind about that?
- This roundtable is geared toward helping judges shed the feelings of guardedness, vulnerability, and isolation that exist in our profession. Do you find this a worthwhile goal?
- Some judges report feelings of isolation that are problematic. Do you experience this, and do you feel that anyone besides a judicial colleague can understand this type of isolation?

Impaired Attorneys in the Courtroom

- What types of issues have you encountered among impaired attorneys in your courtroom?
- How have you responded to impaired attorneys who appear before you?
- What are your thoughts on referring impaired attorneys to the OLR vs. WisLAP?
- What would motivate you to intervene with an impaired attorney?
- What would your hesitations be about intervening with an impaired attorney?
- What is the best protocol to intervene with an impaired attorney: in chambers? In open court?
- Have you ever felt it necessary to report an attorney for discipline? Do you have someone with whom to discuss this? How does this make you feel?
- Are there particular attorneys that appear in front of you that cause particular stress? How do you handle it?

Difficult Attorneys in the Courtroom

- What types of conduct and preparedness issues have you encountered among attorneys in your courtroom?
- How have you responded to problematic attorneys who appear before you?
- What has worked and not worked when responding to these attorneys?
- Have you ever felt it necessary to report an attorney for discipline? Do you have someone with whom to discuss this? How does this make you feel?
- Are there particular attorneys that appear in front of you that cause particular stress? How do you handle it?

Work Stress Issues

- We know that you have stress in your life. How do you eliminate/limit/work with/handle/redirect the stress, including 'performance-induced stress'?
- Have the demands on your time increased?
- What's the busiest/most hectic period of time for you?
- Are you able to schedule time for yourself during the day?
- What are you like to be around when you don't schedule time for yourself?
- What is one of the challenges of your work that you were not expecting but has proved to be significant?
- In this climate of having to do more with less, what keeps you motivated to remain a judge?
- The public and even most legal professionals have little or no idea about the insular world of judges. What misperceptions would you like to counter if you could?
- When you think about the ideals that brought you into the legal profession, have you been able to reconcile the reality of life as a judge with all its competing demands with your initial idealism about jurisprudence?
- What kinds of cases cause you the most/least stress? Is there a way to avoid the stressful ones?
- Has anyone made a complaint about you to the Judicial or Ethics Commissions? Do you have someone with whom you can discuss this?
- Do you feel undervalued and overworked? With whom can you discuss this?
- Are you concerned about the public perception of the judiciary?
- Have you heard of "compassion fatigue?" Do you know where to go for assistance if this is causing you difficulty?

Work With Peers/Colleagues/Staff

- Do you have judge friends to socialize with?
- How do you handle conflict with your clerks, staff, and colleagues?
- How do you work to improve the morale of court staff?
- What are some steps that could be taken to improve collegial relations?
- What advice would you give to a new judge just coming on to the bench?
- What effect do deteriorating relationships and morale have on you personally?

Life Outside the Courtroom

- How do you make the transition from work to home?
- Does your family or friends criticize you for reverting to "judge mode" at home?
- Conversely, do you find that you want to surrender your "judge mode" in your personal life but that the people in your life expect you to act authoritatively in many situations or defer to you overly?

- What is the emotional toll of your career on your family? Are you able to talk openly to your family about this?
- Has the sacrifice of time with friends and family been worth it? Why or why not?
- Due to your prestige and perceived power, it can be hard to have a “normal” relationship with people. How have you found this to be true in your life?

Judicial Decision Making

- What are the hardest decisions you have to make? Do you routinely have the opportunity to talk these decisions over with someone before you make them?
- Can you think of a decision you made that turned out badly or that you later concluded was wrong or erroneous? How do you handle feeling like you made the wrong decision?
- Do you ever have cases that you delay making a decision on because you are so conflicted or uncertain about how you will decide it?
- Do you ever experience distress when you want to “bench” a decision but are not certain you have it right? If you do criminal sentencing, have you ever had the experience of not being certain what sentence you would impose until you pronounce it? What is that like?

Politics

- Was a decision of yours ever mischaracterized for political purposes?
- Are you ever influenced or lobbied to make a certain decision?
- Has your career been adversely affected by the partisan political climate? How do you cope with that?
- You want to be liked and re-elected. How do you reconcile this with the demands of the job?

Everybody Has An Opinion About Your Opinion

- Have correct opinions with bad outcomes become attacked in the press? How have you handled it?
- How do you respond to the criticisms of those who don't know the law?
- Has your personal privacy been invaded as a result of what occurs in your courtroom?
- Has personal privacy become a relic of the past in today's hyper-connected media and social environment?
- How do you respond to pressures from different groups: “you are too tough, you are too this or that” as a (juvenile court judge.)

Misc.

- What are the challenges of being a judge in a small community?
- What are your experiences as a female judge? Do you feel your experience differ from those of your male colleagues?
- For judges close to retirement, what changes do you anticipate in your self-image? What challenges do you anticipate as you transition back into private life?

Example Set I per Judge Rowley

1. Brags and Drags: What do you like best and dislike the most about your job?
2. What internal changes in approach, attitude and/or perspective could make your job more enjoyable?
3. How would your partner or close friend know that you were feeling stressed? What grade would they give you for taking care of yourself physically/emotionally/spiritually? Do you disagree with their grading?
4. Are you worried about your physical/mental health? What are you doing to take care of yourself? What do you wish you were doing?
5. Do you lean on anyone for support at work? Can you think of ways you could connect more with supportive people?