



# Break glass in case of emergency

## Successfully navigating the downs in litigation's ups and downs



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The lawyer attempted to take it in stride. Rather than heading into final trial prep, the judge had just granted summary judgment on what, to the lawyer, felt like a straightforward case. Even the defense counsel was surprised. The long trip back didn't help. Compounding the issue was another ruling, a week earlier, in a separate case that also seemed wrong. The one-

two punch made the lawyer start to question the basics. Was it simply a bad run, the type that happens when one dares to take on challenging cases in an adversarial system? While one could consult a higher power (here an appellate court, not a god) the cost, time, and uncertainty was little consolation in the moment. So how does one settle the mind?

### Flow

First a bit on flow. I recall scuba diving years ago. The divemaster warned that the return would be challenging. A tidal flow surged in and out through a chute we had to enter to get back. It would take all one's strength to stay in place in front of the chute as the tide surged out, and then the tide would shift. Suddenly the reversal would blast a diver through the chute with tremendous force, like a cork from a champagne bottle. Litigation life has similarities. There can be long struggling periods where one swims against the tide. Torts seem torturous. Then there are other times with that tidal push: momentum without effort. Every case one touches pops off. When the momentum fades though, so can we if we do not remind ourselves of the ebbs and flows.

It happens to the best of us. One lawyer I know, a name-in-lights lawyer, an "I wish I had a modicum of that lawyer's talent," type, long ago received a challenging appellate ruling following an amazing trial victory. It included an unwarranted personal attack and set the lawyer back. Then the lawyer came back swinging, producing a decade of record-breaking verdicts. Personal battles and self-reflection can be necessary chrysalis periods before we become our best selves.

### Do as I say

Normally I can handle a loss. No-one likes them, and yet they come with the territory. It helps when one fights both smart and hard, leaves nothing behind, knows no punches were pulled. Something about the back-to-back losses we had just experienced was particularly challenging. I entered anhedonic state. That's a fancy word for feeling numb. It may not be clinical depression but it sure isn't happiness. With our work it wasn't the first time,

nor will it be the last. I have the good fortune of having a brother who is a battalion chief. Fire departments exist for when things go sideways for those of us in everyday life. In fact, firefighters have plans upon plans upon plans for sideways events. Lawyers know things can go sideways. Many of us lack an emergency self-care plan for the inevitable. We need one, ready-made before it becomes necessary.

Much like eating vegetables rather than fast food, most of us already know what to do. My plan isn't magic, yet the results feel magical. Exercise, preferably in nature. This doesn't need to be a Himalayan summit. Walking in a nearby park will do, although the worse I feel, the more I want to red-line myself, typically with a can-I-actually-accomplish-this bike adventure. Write about the issue. Set a window, 15 minutes to an hour, and simply let whatever surfaces stream onto paper. It is amazing how the body expels poison through the pen. Breathe. Meditate. And as soon as one can partially shed that black cloud, spend time with loved ones. I'm fortunate to presently have younger children, and their positive energy makes it hard to stay in a funk.

One thing missing from this list? Self-medicating. Numbing the already numb with foreign substances is akin to trying to get healthy through consuming junk food. It may sound preachy to hear this from an alcoholic in recovery. Yet as someone who has both self-medicated and practiced self-care, I've come to recognize the second provides sustainable dopamine modulation without the self-loathing associated with the former. The key takeaway? Take the time now – before you are funky up – to draft your own plan. Figure out what works for you and save it in an easy-to-find place. When a wave knocks you down – and it will – you then have your own rescue plan.

### Outro

Back to our lawyer. The lawyer finished the long trip back. The lawyer put on boots, packed a notebook and a lightweight pack chair, and set out. Hiking through the amazing wilderness tucked within the confines of the city, the lawyer got eyeballed by a coyote at one point. The lawyer sat and wrote out the challenges. And then the lawyer walked home to rib-displacing hugs from two children. Over it? Not yet. And still, so much better than before.

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