

**PRESENTED AT**

2015 Trial Skills Training Camp

September 25, 2015 – Dallas, Texas

October 23, 2015 – Houston, Texas

**Clear Thinking at Trial:  
Be Centered, Be Aware, Be in the Moment**

**Melissa M. Garner**

Author Contact Information:

Melissa Garner

Melissa Marks Garner, Corporate  
Wellness

Dallas, TX

[Melissa@MelissaMarksGarner.com](mailto:Melissa@MelissaMarksGarner.com)

214-986-5101

## **Clear Thinking at Trial: Be Centered, Be Aware, Be in the Moment**

**Stressed in trial prep and at trial? Inevitable? Yes. Manageable? Absolutely. Learn actionable techniques and tips for yourself and your witnesses in order to stay focused and effective.**

The first part of this course will address some of the reasons why lawyers are prone to stress and some of the consequences inherent in operating from a stressful disposition (both at trial and in general). The next part of the course will address how Mindfulness can be an effective way to deal with stress in trial prep and at trial, as well as in life. The last segment of the course will provide actionable techniques and tips you and your witnesses can use.

### **1. MINDFULNESS IN LAW**

There are a number of resources addressing the issues of Mindfulness and Stress in the law community. Mindfulness classes are being taught at various law schools across the country, and many professional resources are being developed to assist lawyers in understanding and applying the concepts of Mindfulness. This is all taking place alongside a recent scientific explosion supporting the power of Meditation across many fields and disciplines. Between 2000 and 2010, there were over 1,000 peer-reviewed academic articles published on Mindfulness and related subjects, largely in journals related to Psychology, Health, and Neuroscience, and there is a growing body of scientific literature that supports the overwhelming benefits of Mindfulness practices to the mind and body. Scott Rogers, the Director of University of Miami School of Law's Mindfulness in Law Program, has developed an entire curriculum for integrating Mindfulness into law, which has served as a model for other law schools across the country.

In addition to U Miami, a few examples of Mindfulness in Law include the following:

- Berkeley's Boalt Hall School of Law
- The Law Program, Center for Contemplative Mind in Society
- The Center for Law and Renewal
- The Initiative on Mindfulness in Law and Dispute Resolution

### **2. AT TRIAL**

Roger Williams University School of Law professor David Zlotnick describes what he sees as the two biggest areas of concern for trial attorneys:

1. How to adapt when "things fall apart"
2. Finding an authentic voice in court

Adaptability is key for remaining calm under pressure. How does one truly embrace change when it is happening in the moment and potentially making everything you've worked so hard for look like its heading south?

Zlotnick describes what he sees in the following manner: A large number of analytical people tend to "live in their heads" and often are operating solely from their thinking selves. In addition, many less experienced attorneys are "trying on" versions of themselves or aspects of personalities they believe will make a good trial attorney. Often these attorneys are using examples of mentors or even television characters they perceive as effective.

Zlotnick points out that often times attorneys appear stiff and inauthentic when they are doing this. Instead, he points to the benefits of Mindfulness to help attorneys connect to their true selves. Oftentimes attorneys are reluctant to let go of their trial persona and allow their true personalities (flaws included) to come out. The irony is that in most cases, this whole-person approach is what makes a person relatable and likeable to others, especially jurors. The other added benefit is that simply put, if you are comfortable with yourself that often translates to others being comfortable with you as well. If you are hiding parts of yourself in court, people pick up on that and you appear to be less authentic and therefore less trustworthy. People know if something rings true by how it feels to them. If you are not speaking from your own authentic voice, it is often felt by others.

Both of these concepts have an underlying component, which is fear and stress. They are also two areas that Mindfulness addresses.

#### Prevalence of Stress in America:

It's hard to ask anyone not to be stressed about something that is important to them. It's even harder to ask someone not to be stressed when most people are operating in a similar fashion. Even harder still is asking someone not to be stressed when there are outside pressures contributing to their worry. This is the case for the American worker in general, not just the trial attorney.

The statistics on stress are staggering. The American Psychological Association states that 1/3 of American workers report chronic stress and working more hours than ever. Some of the reasons workers report feeling stressed are the following:

- Not paid enough
- Not enough opportunities for advancement
- Volume of work has increased
- Velocity of work has increased
- More demands on fewer people

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Clear Thinking at Trial: Be Centered, Be Aware, Be in the Moment

Also available as part of the eCourse

[Ethics: Developing a Winning Case Strategy, Thinking Clearly at Trial and Preserving Error at Each Stage](#)

First appeared as part of the conference materials for the  
2015 Trial Skills Training Camp session

"Clear Thinking at Trial: Be Centered, Be Aware, Be in the Moment"