

Excerpted from the book, *Untangling Fear in Lawyering: A Four-Step Journey Toward Powerful Advocacy* (ABA 2019) (available at www.americanbar.org)

by
Heidi K. Brown
Brooklyn Law School

Appendix E

Suggested Topics for “Untangling Fear” Discussion Groups, Workshops, or Courses

Session #1: Societal Messages/Stereotypes about Fear

- What societal messages or stereotypes do we often hear and absorb about fear?
 - Advertisements? Marketing?
 - Instagram memes?
 - T-shirt slogans?
- Do we hear any messages about *fear* from family members, coaches, other authority figures, classmates, colleagues, friends?
- What stereotypes are perpetuated about fear in lawyering?
- How do we internalize these messages or stereotypes?
- How do these messages or stereotypes affect our lawyer personas?
- Is it hard to be authentic or vulnerable about fear in lawyering?
- Homework Options:
 - Heidi K. Brown, “Turning the Fear of Lawyering into the Power of Advocacy,” http://www.abajournal.com/magazine/article/fear_of_lawyering (January 2018)
 - Preface and Introduction to *Untangling Fear in Lawyering* book
 - Chapter 6: *The Ineffectiveness of “Pro-Fear” Messages*
 - Notice and write down any fear messages/stereotypes encountered over the next week (in the news, on social media, on subway advertisements, in TV commercials, etc.).

Session #2: Fear Scenarios in Lawyering; Character-in-Context

- What lawyering activities spark fear in some of us? Why exactly? What precisely are we afraid of? Fear of failure? Judgment? Making mistakes?
- Do “good” lawyers ever make mistakes?
- Is it hard for us to admit that we are afraid in law school or law practice?
- Is it hard for us to admit that we made a mistake? If so, why? Do we feel fear? Guilt? Shame?
- Is it ever hard to communicate or talk about someone else’s mistake? If so, why?
- What does it mean to have “character” as a lawyer?
- Is character in the context of lawyering learnable, or able to be further developed? Or is it something we either have or don’t have?

- Homework Options:
 - For law students: Chapter 1: *Fear in Law Students*
 - For lawyers: Chapter 2: *Fear in Lawyers*
 - Chapter 4: *The Role of Fear in Mistake-Making*
 - Free “character strengths test” offered by the VIA Institute on Character, <http://www.viacharacter.org/www/Character-Strengths-Survey>
 - Patricia Snyder, “Super Women Lawyers: A Study of Character Strengths,” *Arizona Summit Law Review* 8 (Spring 2015): 261-315.

Session #3: The Science of Fear

- What happens to our bodies when we are afraid? What physical manifestations of fear do we individually experience (these likely will differ for each of us)? Shaking, sweating, blushing, heart racing, shortness of breath?
- What happens to the brain’s ability to process information, or our ability to quickly respond to questions or form coherent sentences, when we are afraid?
- Does fear block our learning and performance? If so, how?
- Does fear sometimes mask itself in other emotions? Which emotions?
- Homework Options:
 - Chapter 5: *The Science of Fear*
 - Chapter 7: *How Fear Blocks Learning and Performance*
 - Chapter 8: *How Fear Hides behind Other Unproductive Emotions*

Session #4: Do Our Clients Experience Fear?

- How can fear (and other emotions) in our clients affect the attorney-client relationship?
- What is a lawyer’s duty or responsibility with respect to identifying and addressing clients’ emotions?
- Is a lawyer qualified to identify or address clients’ emotions?
- Can we improve our skills at recognizing, and then untangling, clients’ fears (and other emotions)?
 - Homework Options: Chapter 3: *Fear in Clients*
 - Appendix D: *Practical Strategies for Helping Clients Untangle Fears*

Session #5: Can We Learn from How Other Professions Address Fear and Mistake-Making?

- Is the legal profession “unique,” or can we learn from other professions about how to address fear and mistake-making?
- Homework Options:
 - Chapter 9: *A Glimpse into Fear and Mistake-Making in Medical Education and Training*
 - Chapter 10: *A Glimpse into Fear and Mistake-Making in Journalism Education and Training*
 - Chapter 11: *A Glimpse into Fear and Mistake-Making in Engineering Education*

and Training

- Chapter 12: *A Glimpse into Fear and Mistake-Making in Entrepreneurship and Business Education and Training*

Session #6: Attitudes about Failure and Mistake-Making in the Legal Profession

- How is failure or mistake-making perceived in the legal profession?
- Do we feel open to talking about fear, failure, and mistake-making in the classroom or law office? Why or why not?
- Is there anything we can learn from being open about fear, failure, or mistake-making, especially in law school before transitioning to practice?
- Is there a benefit to discussing and debriefing fears, failures, and mistakes in law practice?
- Homework Options:
 - Barry Boyce, "Why Our Brain Thrives on Mistakes," <https://www.mindful.org/brain-thrives-mistakes/> (May 3, 2017)
 - Doug Lemov, "Culture of Error," <http://teachlikeachampion.com/cultureoferror/>
 - Kaci Bishop, "Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience," *Arkansas Law Review* 70, No. 4 (January 2018): 959-1006.
 - Excerpts from:
 - Henry Petroski, *Success through Failure*. Princeton, NJ: Princeton University Press, 2006.
 - Paul J. H. Schoemaker, *Brilliant Mistakes: Finding Success on the Far Side of Failure*. Wharton Digital Press, 2011.
 - Robert Sicina, *Learn from Failure: The Key to Successful Decision Making*. AuthorHouse, 2017.

Session #7: Comparative Fearlessness

- Are there scenarios or situations in our lives in which society, our families, or our friends might think or suggest we *should* feel fear, but we *don't*?
- Are there scenarios or situations in our lawyering lives in which we think we *shouldn't* feel fear, but we *do*?
- What are the differences between these scenarios?
- Can we bring some of the *swagger* we feel in the first scenarios into the second ones?
- Homework Option:
 - Chapter 14: *Step 1: Untangling Fear* (and end-of-chapter exercise)

Session #8: Mental Reboot

- When we anticipate a fear-inducing performance scenario, what negative mental messages about ourselves, or what fear-based mantras or slogans do we automatically hear?

- Can we rewrite our mental soundtrack for our new lawyering personas?
- Homework Option:
 - Chapter 15: *Step 2: Mentally Rebooting* (and end-of-chapter exercise)

Session #9: Channeling Our Inner Scholar-Athlete

- When we anticipate a fear-inducing performance scenario, what automatic physical responses do our bodies launch? Do we hunch down, cross our limbs, or fold inward, accidentally closing off our flow of oxygen, blood, and energy?
- Can we identify any unhelpful automatic physical fear reactions, and train ourselves to approach a performance event like an athlete – in an open and balanced stance?
- Can we develop a “pre-shot” routine or a physical performance checklist that will power us through a lawyering activity with a calm mind and body, like an athlete stepping into a competition arena?
- Homework Options:
 - Chapter 13: *A Glimpse into Fear and Mistake-Making in Sports Training*
 - Chapter 16: *Step 3: Channeling Our Inner Athlete* (and end-of-chapter exercise)
 - Amy Cuddy, TED talk, “Your Body Language May Shape Who You Are,” https://www.ted.com/talks/amy_cuddy_your_body_language_shapes_who_you_are (TED Global, 2012)

Session #10: Cultivating a Culture of Fortitude

- Can we reject the not-so-helpful cliché messages to “just do it,” “fake it till you make it,” “just do what scares you,” or “embrace fear as a great motivator”?
- Can we build character-in-context in the legal arena by consciously seeking opportunities to learn more about lawyering scenarios that ignite fear?
- Can we develop a realistic protocol for approaching mentors to ask questions – and get substantive, procedural, logistical, and tactical guidance – about specific lawyering scenarios that ignite fear or worries about making a mistake?
- Can we seek out general opportunities to learn more about substantive, procedural, logistical, and tactical challenges that may arise in particular lawyering scenarios or in our specific area of practice?
- Can we develop protocols for handling difficult situations, asking for help, and knowing (and having the strength to undertake) the proper protocol if something does go wrong?
- Can we seek opportunities to better understand client fears and help clients (and others) untangle those fears?
- Homework Option:
 - Chapter 17: *Step 4: Cultivating a Culture of Fortitude* (and end-of-chapter exercise)

Session #11: Reducing Fear of the Unknown

- This session could involve a panel of lawyers and insurance providers discussing lawyering mistakes of different types (in a nonintimidating tone that fosters a growth mindset); panelists could explain how ethics hotlines and malpractice insurance protocols work.
- The session could focus on establishing communication channels in law office settings for asking questions about tricky lawyering issues, and identifying what to do upon discovery of a potential or actual mistake.
- Participants could engage in role-playing tough situations that entail asking for help or bringing a perceived mistake to the attention of a supervisor or mentor.
- Homework Options:
 - Mark Bassingthwaighte, "Fear of the Public Eye Can Be Disastrous," 2005-FEB *West Virginia Lawyer* (January/February 2005): 17-18.
 - Mark Bassingthwaighte, "Malpractice and Fear of the Public Eye," ALPS blog, www.blog.alpsnet.com (November 9, 2012).
 - Dolores Dorsainvil, Douglas R. Richmond, and John C. Bonnie, "My Bad: Creating a Culture of Owning Up to Lawyer Missteps and Resisting the Temptation to Bury Professional Error," Annual Conference of the Litigation Section of the American Bar Association, New Orleans (April 16, 2015).
 - Catherine Gage O'Grady, "A Behavioral Approach to Lawyer Mistake and Apology," *New England Law Review* 51 (2017): 7-51.

Session #12: Recognizing Trauma-Related Fear in Ourselves and Others

- This session could involve a panel of trauma experts discussing how to recognize signs of trauma-related fear in ourselves and clients.
- Homework Options:
 - Sara E. Gold, "Trauma: What Lurks beneath the Surface," *Clinical Law Review* 24 (Spring 2018): 201-245.
 - Sarah Katz and Deeya Haldar, "The Pedagogy of Trauma-Informed Lawyering," *Clinical Law Review* 22 (Spring 2016): 359-393.

Session #13: Continuing to Untangle Fear Together

- Can we craft slogans about fear related to lawyering that are better and more helpful than "just do it!" or "face your fears!" or "fake it till you make it!"?
- How can we cultivate a culture of *fortitude* in our own classrooms, school environments, or law offices?
 - Can we reduce or eliminate the *stigma* associated with talking about fear, mistakes, or failure?
 - Can we incorporate principles of vulnerability, authenticity and "intellectual humility" into discussions about fear, mistakes, or failure in the legal context?
- How can we support others in their own quests to untangle fear?

- How can we become changemakers for the legal profession regarding lawyer well-being when it comes to fear?



The Introverted Lawyer

By **Heidi K. Brown**

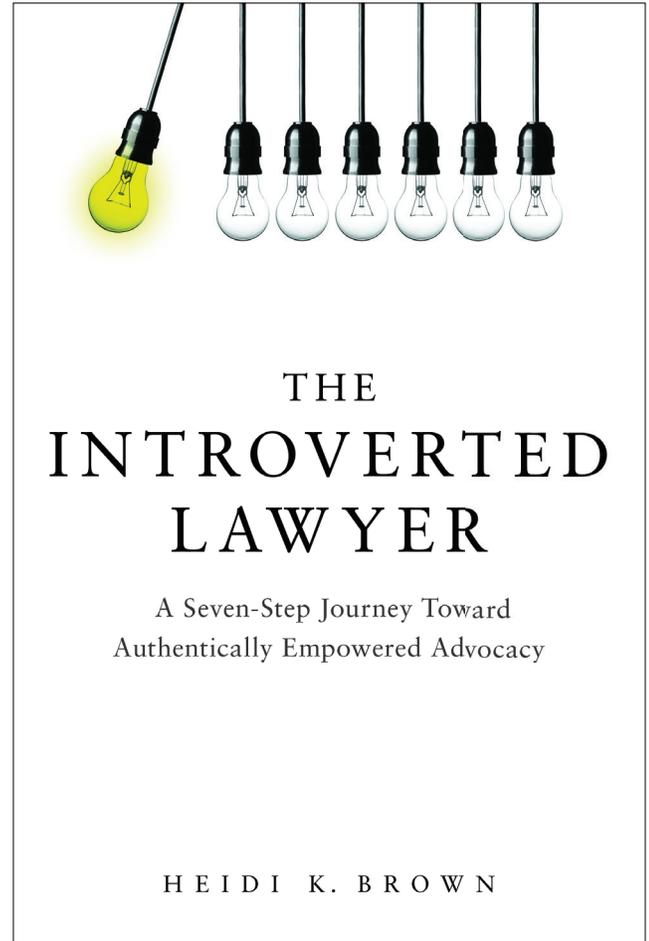
While naturally loquacious law professors, law students, lawyers, and judges thrive in a world dominated by the Socratic question-and-answer method and rapid-fire oral discourse, quiet thinkers and writers can be sidelined. *The Introverted Lawyer* (2017) illuminates the valuable gifts that introverted, shy, and socially anxious individuals bring to the legal profession – including active listening, deep thinking, empathy, impactful legal writing, creative problem-solving, and thoughtful communication.



The first half of this book:

- Explains the differences among introversion, shyness, and social anxiety and how each can manifest in the legal context.
- Explores the impact on quiet individuals of the push toward extroversion in law school and law practice.
- Highlights greatly valued proficiencies that quiet individuals offer the legal profession through nurturing instead of repressing innate strengths.

The second half of this book outlines a practical seven-step process to empower introverted, shy, and socially anxious individuals to amplify their voices without compromising their quiet assets.



Paperback and eBook

List Price: \$17.95

ABA Member Price: \$14.35

Amazon Prime Price: \$17.05

Author **Heidi K. Brown** is a former litigator in the construction industry who struggled with extreme public speaking anxiety and the perceived pressure to force an extroverted persona throughout law school and nearly two decades of law practice. She finally embraced her introversion and quiet nature as a powerful asset in teaching and practicing law.

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Untangling Fear in Lawyering is a practical resource for law students, lawyers, legal educators, and law practice mentors to eliminate unnecessary drivers of fear in our profession that impact learning, performance, and individual well-being.

Responding to the National Task Force on Lawyer Well-Being's call to action for the profession to reduce the level of toxicity in our profession, this book helps law students and lawyers deconstruct and understand fear so that they can become authentically powerful advocates.

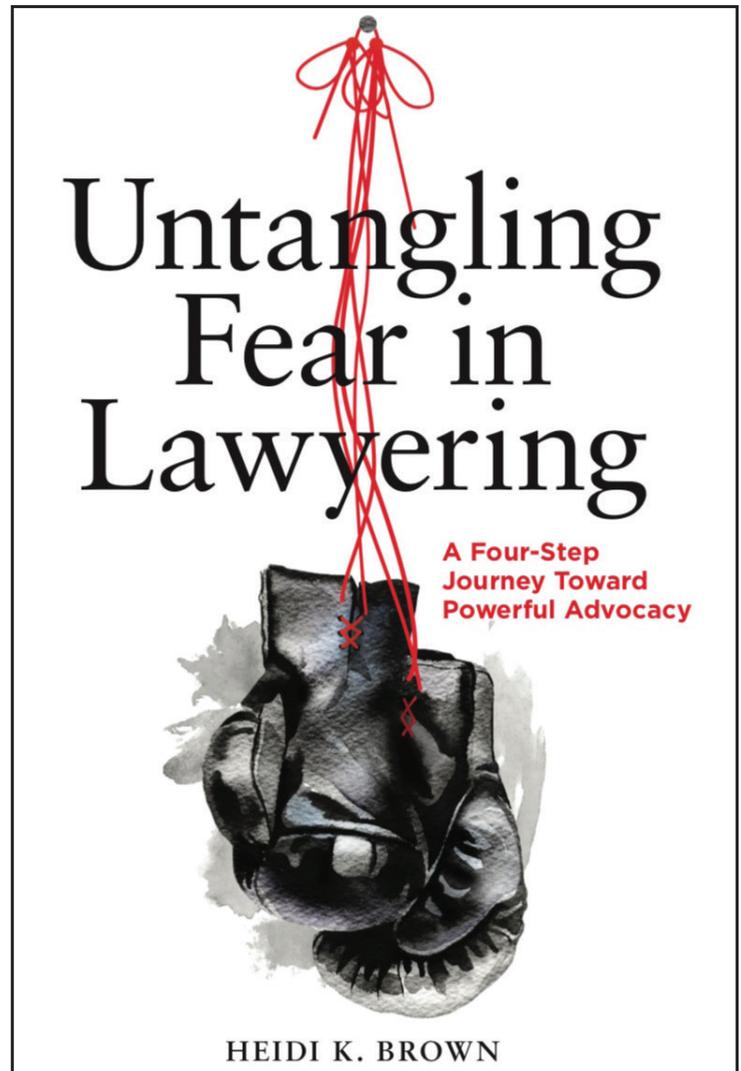
The book discusses the reality, causes, manifestations, and consequences of fear in legal education and practice, from the standpoint of law students, junior attorneys, and clients. It analyzes fear from a cognitive, physical, and emotional perspective.

The book draws guidance from how other industries address fear (and mistake-making) in education and training. The book concludes with a four-step process for law students and lawyers to reframe fear into fortitude.



Heidi K. Brown is a graduate of The University of Virginia School of Law, a law professor at Brooklyn Law School, and a former litigator in the construction industry. Having struggled with anxiety and fear as a law student, attorney, and new law professor, she finally untangled her fears, embracing authenticity as a powerful asset in teaching and practicing law. She is also the author of *The Introverted Lawyer: A Seven-Step Journey Toward Authentically Empowered Advocacy* (ABA 2017).

Her website is www.theintrovertedlawyer.com, and she loves to hear from readers on Instagram @introvertedlawyer and Twitter @introvertlawyer.



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