



## FLORIDA BAR NEWS

### 'HOW MINDFULNESS HELPED ME WIN A JURY TRIAL'

By Scott Rogers ▶ Special to the News ▶ Columns

October 28, 2022



In this month's column, trial attorney Roger Feicht shares some of the ways the practice of mindfulness meaningfully influenced the course of a fiercely contested federal trial. He writes that "it is indisputable that a few simple mindfulness practices helped me perform at my highest level as a trial attorney." Roger wrote of his experience in a short piece titled, "How Mindfulness Helped Me Win a Jury Trial,"

and below are some informative excerpts.

Writing about how mindfulness practice helped ease some of the anxiety commonly experienced in the practice of law, he writes:

*In years past, I would get nervous the moment the jury panel entered the courtroom. Thankfully, a few simple phrases adopted from various mindfulness books and podcasts vanquished any nervous energy at my most recent trial. I was able to confidently look jurors in the eye and share my client's story. I sensed some nervous energy building as members of the media, courthouse staff, and my coworkers (often-times the toughest critics) entered the courtroom to watch opening statements. I repeated the phrase "I am here now" to myself. This short sentence, common in mindfulness training and meditations, reminded me to stay present in the moment and enabled me to remain focused and less distracted.*

One of the first things that is realized when people begin practicing mindfulness is that the mind will continue to wander. What mindfulness practices train, is the ability to notice mind wandering sooner:

*Later in the week, as I waited my turn to give my closing argument, I caught my mind wandering about what might happen when the jury began deliberations later that afternoon. I remembered a phrase used by some meditation teachers and professional athletes: "Be where your feet are." Looking down at my own shoes in a federal courthouse felt silly, but it helped me avoid worrying about the future and reset my focus on giving the best argument possible.*

Sleep is a precious and elusive resource, both in and out of the courtroom:

*Thanks to working long hours preparing for trial, I was not getting the ideal quality and quantity of sleep. However, I had more energy during the day after I spent ten minutes each morning practicing mindfulness. I first spent about five minutes doing some simple stretches, but nothing graceful or sophisticated enough to be considered yoga. I then spent another five to eight minutes doing a guided meditation. While I have always been too impatient and busy to meditate on a daily basis, it was easy to follow along with the instructor's calm instructions to focus on breathing. Starting my day at peace boosted my energy to power through the day's work.*

Roger offers the following suggestions for starting a mindfulness practice:

*Like establishing any new habit, the biggest challenge is getting started. As are many others, I am guilty of procrastinating in implementing healthy habits. I have always been too easily distracted to get through a long meditation. As a father to a newborn baby, I even had a built-in excuse to push off mindfulness training until the planets aligned and my schedule magically cleared. One day, I finally appreciated that lamenting that "I don't have time for mindfulness today" ignored the simple fact that we all have the same 24 hours in the day. Instead, I needed to be ruthless in prioritizing the things in my life that matter the most. In the weeks leading up to my trial, I committed to just ten minutes a day to incorporate the simple habits described above. There are countless options and I encourage you to try (and fail!) at them to find what works for you.*

*If you would like to learn more about mindfulness, there are countless books and podcasts available that further describe the benefits and offer more tactical suggestions. I recommend starting small and try to avoid judging yourself for not being perfect in whatever new practice you try. If you commit to just ten minutes a day for ten days of a mindfulness practice, I am confident you will see benefits. It might even help you win your next trial or close your next deal.*

I asked Roger what books, podcasts, and apps he recommended and he replied that an easy read on mindfulness is Thich Nhat Hanh's "You Are Here: Discovering the Magic of the Present Moment," an enjoyable podcast is "Chasing Excellence" with Ben Bergeron, and that he uses the "Guided Mind" app, which can be accessed for free in the Apple Store.

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I am grateful to Roger for sharing his thoughts on mindfulness practice from the very practical perspective of its application amid a contentious trial. Roger Feicht is a board-certified litigator with Gunster who focuses his practice on employment litigation and business disputes. Roger is deeply involved in his local community and serves on the Palm Beach County Bar Association's Judicial Relations and Professionalism Committees. He can be reached at [RFeicht@gunster.com](mailto:RFeicht@gunster.com).



*Scott Rogers, M.S., J.D., is a nationally recognized leader in the area of mindfulness in law and founded and directs the University of Miami School of Law's Mindfulness in Law Program where he teaches mindful ethics, mindful leadership, mindfulness and negotiation, and mindfulness in law. He is the creator of Jurisight, one of the first CLE programs in the country to integrate mindfulness and neuroscience and conducts workshops and presentations on the role of mindfulness in legal education and across the legal profession. He is author of the recently released, **"The Mindful Law Student: A Mindfulness in Law Practice Guide,"** written for all audiences.*