**Wrestling With Ethical Dilemmas:**
**We Have Met the Enemy…**

**1.0 Hour Agenda**

12:30 *Introduction, Format, and Ground Rules*

12:35 **Professional(s) Wrestling is Real**: Juggling the Manifold Demands on Your Time & Energy

1:00 **Knowing When You're Overmatched**: The Interplay of Stress, Mental Health, and Ethical Dilemmas

1:20 **We Have Met the Enemy**: Practical Steps to Maintaining Your Ethical Commitments, *Before* You are "Down for the Count"

1:30 *Adjourn*

REELTIME CLE

# *Win Win,* Scene 2—**"What are you so stressed about?"**

## Discussion Questions

1. What does Mike say triggered his panic attack? What are some of the other underlying factors that may have led to his panic attack?

2. What do you think about his choice to withhold his concerns from his wife? Why did he make that choice?

3. What good choices has he made so far? What are some things he could have done differently?

4. Discuss his reaction to the idea of supplementing his income. In what ways, if any, can you relate to his sentiments? How could his beliefs about himself and his legal practice be impacting his thought process on this subject?

***For Further Reflection*:** *Can you relate to the stressors that Mike describes in this scene? What sources of stress do you frequently encounter?*

*What do you do to relax, in general, or in times of higher stress? Is it effective?*

REELTIME CLE

# *Win Win,* Scene 3—"**Did we win**?"

## Discussion Questions

1. The beginning of this scene shows Mike trying to address his slowdown in work. How does he feel once his colleague calls him back and tells him he has no overflow work? Where does his mind go from there?

2. What thoughts are going through Mike's mind as he appears in court?

3. What choices does Mike make in his interactions with (a) the judge, (b) opposing counsel, and (c) his client, Leo Poplar? How are they problematic, ethically?

4. How do you think Mike rationalizes his conduct? How do you think he feels about it?

5. From all that you have seen, what things in Mike's life do you think are most important to him? How are his values now in conflict?

***For Further Reflection*:** *What drew you to the practice of law in the first place?*

*What are your "core values"? What do you feel like you need or must have to be happy? What things in your life are too important to lose?*

**<u>Going to the Mat</u>**: Practical Steps to Maintaining Your Ethical Commitments--*Before* You Go Down for the Count

- **<u>Strive for Self-Awareness.</u> It is beneficial—in fact necessary—for attorneys to pay attention to the sources of stress, fear, pressure, or compulsions that affect our decision-making. Consider:**

  - What are the warning signs that you are under stress, pressure, anxiety or fear? What do you do with these emotions or sensations when you realize that they are at work? Is there anyone helpful that you can talk to about it?

  - Which sources of stress are legitimate, and to be expected in your practice? Which ones can you do something about, and how?

  - What is your "action plan" for maintaining your sense of ethics, integrity, and presence of mind, in the face of ordinary stress? What about in the face of *extraordinary* stress?

- **<u>Recognize the cumulative impact of everyday choices</u>: Unethical behavior does not usually "appear" out of the blue. Mike Flaherty made a number of bad decisions, any one of which could have been made differently with less disastrous consequences. The road to unethical and/or unprofessional conduct is made up of many small, incremental decisions over time, rather than one or two monumental choices.**

  - Be rigorously ethical with the "small things," even when you are tempted to think "no one will know," or "no harm, no foul."

  - A good rule of thumb is to "DO WHAT'S HARDER WHEN IT'S EASIER"- Untangling one lie or mistake is ultimately simpler than building a house of cards--only to see it fall.

- **<u>Don't try to fly solo:</u> Isolation can increase stress, and robs us of valuable resources that may be available to deal with it well. Mike Flaherty did well to consult his doctor, and he did at least speak with Terry about his situation with Leo, Cindy, and Kyle. But when he was considering the course of action he took, he did not appear to consult with another attorney regarding his available options or the potential consequences of his actions.**
    - Find a colleague or mentor that you can trust and ask for feedback on your situation. What are you doing, if anything, that might be making things worse? What could you be doing differently? What are you doing well?
    - If you are in a small firm or solo practice, form connections with other similarly situated practitioners, perhaps though a Bar committee or practice Section.
    - Leverage the resources available from your local or state bar.
    - It may also be helpful to talk about your practice with someone outside the legal world as well. A friend, spouse, mentor, spiritual advisor, or counselor may see relational dynamics at work that we lawyers assume are just to be expected, but in fact may be part of the problem.
- **<u>Find, or help create, a healthy work culture</u>: Mistakes will happen in the practice of law, as in life. The culture of a law office is determined in part by the reactions to those mistakes. You can't address what you don't know, and you won't know what folks are afraid to tell you, often until it is too late. Which of the following sounds more like your workplace? Which would you prefer? What can you do to bring about that climate?**
    - Are errors viewed as monumental, frequently blown out of proportion, or otherwise handled in a way that is undignifying? Are those who fail shamed, privately or publicly? Do folks know that they'd better "toe the line," and fear the repercussions when they don't?
    - Or are mistakes accepted and understood as a challenge that can be met? Are the folks who make them given support, constructive feedback, and opportunities for improvement?

- **<u>Maintain a healthy perspective</u>: What we desire (or expect, or demand) from the practice of law, or from our lives, will have a big impact on how we act, and the kind of person each of us becomes. It takes some reflection to discern what one is really aiming for in a given situation. It may be beneficial to ask yourself the following questions:**

  - What am I living for? Why do I get up every morning and do what I do? Why am I in the practice of law in the first place? What is my definition of "happiness?"

  - What are my real "core values"? What principle, or object, or goal, is so important in my life that, when I fear losing it, I am more liable to lose my ethical moorings? (What do I spend extra time or money on, when I have it? Or, when I find myself getting angry, what is it that I am wanting but not getting, or what is it that I am afraid of losing?)

  - What do I <u>truly need</u> to be happy, fulfilled, or OK with myself? What overall goal or purpose is informing--or even dictating--my choices? Is it money, status, comfort, a sense of control, approval in relationships, or something more?

# Wrestling With Ethical Dilemmas:
# We Have Met the Enemy…

## Getting Into Shape

1. When I feel stress, I can tell because:

_____
_____
_____

2. The situations/tasks/people that are most likely to cause me stress include:

_____
_____
_____

3. The three things most important to me in life are:

_____
_____
_____

How does my current allocation of time, money, and energy match up to these most important parts of my life?

_____
_____
_____

4. Given my personality, current employment, and type of practice, I am most vulnerable to compromising my ethical principles for the sake of:

_____
_____

5. In a typical week, how often do I take time to care for my mental well-being (e.g., exercise, reading for pleasure, socializing, arts & entertainment, spiritual/religious activities, hobbies)? Is this enough?

_____
_____

6. One thing I may need to change about my life or my practice based on what we have discussed today is:

_____
_____