

We never talk about the losses.

By: Stephanie Langer

There has been much in the news lately about the mental health of attorneys and the stresses of practicing law. This is especially true for attorneys who have a litigation practice and for those of us who work with vulnerable populations. I have spent nearly my entire career working with vulnerable populations. I love my work and I love knowing that I am helping people every day in small ways and big ways. What I never talk about, however, are the losses. I lose, not as often as I win, but I do lose and when I lose it has devastating consequences that I carry with me. Even when I do everything correctly, I lose. This year I have had some unexpected losses that I am struggling to understand. For the first time, in a long time, I am feeling burned out and overwhelmed and I believe it stems from these losses. I did everything right. I was prepared, I was organized, I was motivated, I was excited, my clients were prepared, but I lost. I take full responsibility for the losses. I have lost before. I have lost big before. I once had a case dismissed – after years of litigation – and thousands of dollars spent – because the judge did not like the facts of the case. I have been out litigated. I once lost a criminal case because the defense attorney (a public defender) was just better than me and convinced the jury that I had not proven my case. I have picked bad juries. I once put a doctor on a jury and he turned the entire panel against my client arguing that everyone is too litigious. I have missed deadlines, and had clients lie to me and settled cases that probably should have been litigated. I am human. So I ask myself, why now am I struggling to understand these losses. I ask myself, is it the political climate, am I feeling more stressed because the world feels upside down. Maybe. But I am also watching the federal department of education destroyed from the inside out, school board attorneys across my state feeling emboldened and brazen in their actions against families and little to no oversite by the state department of education. I am also experiencing losses for the very first time in areas where I was confident I would win because I had never before lost. Special education is not a level playing field – it never has been. Anyone working in this area of the law, if they are honest, will tell you that the school boards have the upper hand and win more often than they lose. School Boards believe that there is a slippery slope and if they do the right thing for one student they will have an overwhelming number of students asking for the same things. School Boards make the choice to litigate against families rather than provide students with what they need to be educated safely and appropriately. It defies logic, business or otherwise. School Boards will spend more to litigate than it would cost to provide the family with *everything* they are seeking. This is nothing new. What I am finding hard to stomach is that there seems to be no check on the districts from the courts. I litigate cases in administrative hearings, state and federal courts. I expect the districts to treat each case as if it was a federal case. What I am struggling with is how synchronized the courts' decisions seem to be with the districts' positions. The districts can seem to do no wrong. Leave a student with cerebral palsy in a hallway alone for hours at a time – no violations found. Unilaterally transfer a student to a new school because of his disability –

no violations found. Hit a nonverbal student and get caught on video tape, twice – no violations found. How do you tell the client that we lost? What do you do when they close their eyes, drop their head and cry, silently or they scream in rage and frustration. It feels *extra* unfair and *extra* not right. But, I show up for work every day. I file an appeal. I settle a case. I revel in the small wins and big wins. I take every kind word to heart. I hear them and let them in and marinate in them so that I have the strength to keep going. Special education is a civil right. I sometimes call myself a civil rights attorney. And when I feel tired, I think of Dr. Martin Luther King Jr.'s well-known paraphrase of Amos 5:24 - We will not be satisfied *until justice rolls down like waters and righteousness like a mighty stream*. To all you warrior parents out there, you are not alone. You are seen, you are heard.