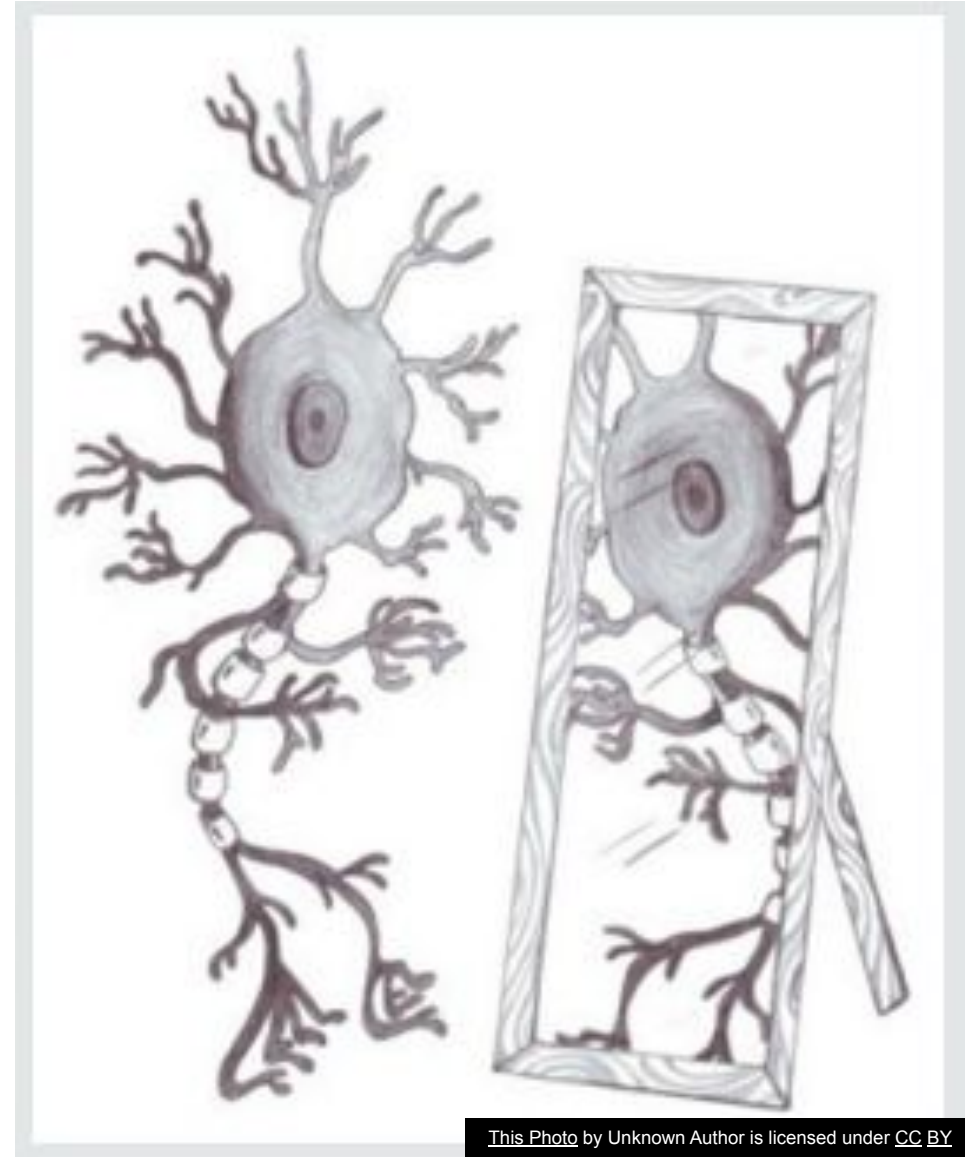
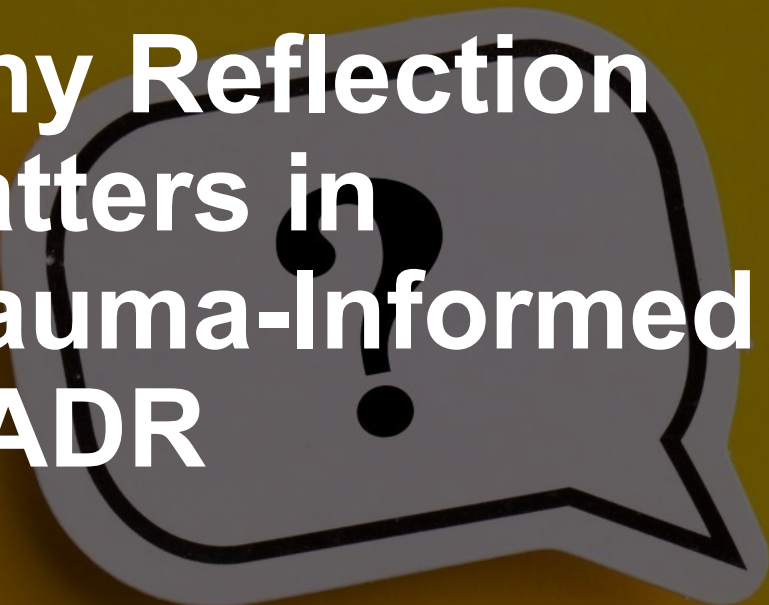

Bias, Burnout and Blind Spots:

Why Reflection Matters in Trauma-Informed Law & Alternative Dispute Resolution

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Why Reflection Matters in Trauma-Informed Law & ADR



From detached objectivity to reflective competence:

- Proposition that legal professionals pride themselves on objectivity.
- *What if the greatest threat to objectivity is believing we already possess it?*

The Myth of Detached Objectivity

Traditional Assumption

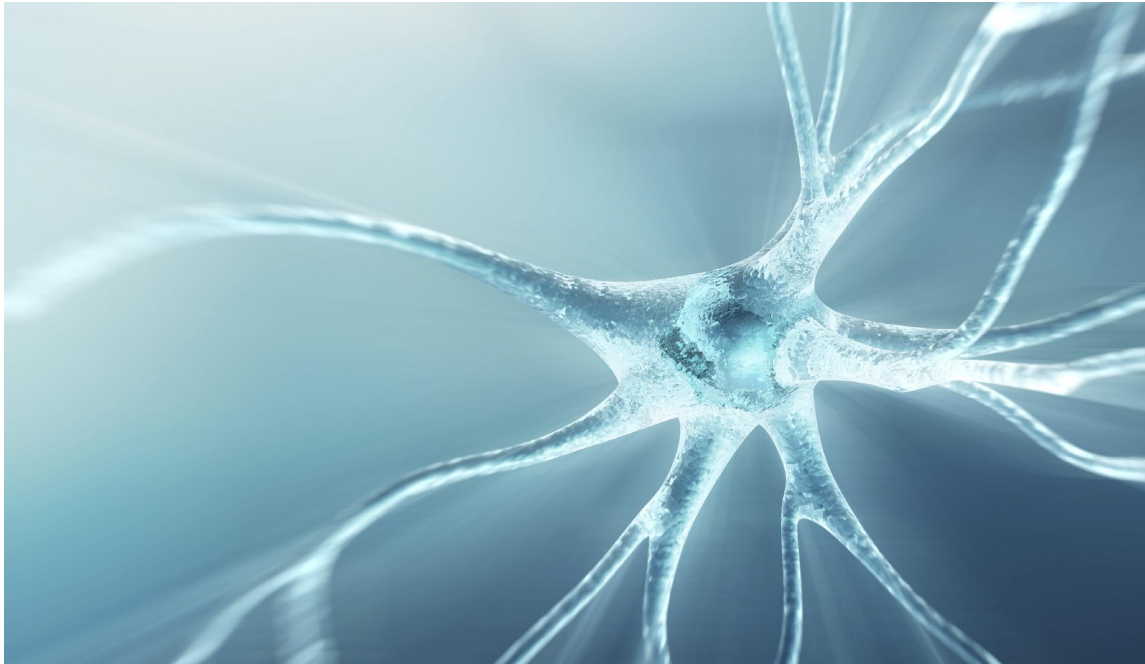
- Emotion compromises judgment
- Professionals should suppress responses
- Reflection is about wellbeing

Our Proposition

- Unrecognised emotion compromises judgment
- Professionals need to understand and regulate responses
- Reflection is about competence

We cannot separate legal reasoning from the nervous systems doing the reasoning.

... That Means We Must Factor in Human Neurobiological Realities.



This is not diagnostic.

Trauma-informed vs Trauma-based services



Brief Overview of Trauma



A psychophysical experience
(Rothschild, 2000).

Normal coping mechanisms are
overwhelmed in response to the
perception of threat (Cozolino, 2002).

Inability to protect oneself and stay
safe (Wood, 2018).

“There’s always a reasonable reason
for the unreasonable behaviour”

- Mediation Aphorism



A scenic landscape featuring a stone path that winds through lush green fields. In the background, there are rolling hills under a sky with scattered clouds. The path is made of flat, grey stones and leads the viewer's eye into the distance.

This is an approach.

See, for example:
Geoffrey Sculthorpe's
three-part blog,
adapting this work to
the practice estates
law and mediation.

Mediators' Considerations When Making Process Choices



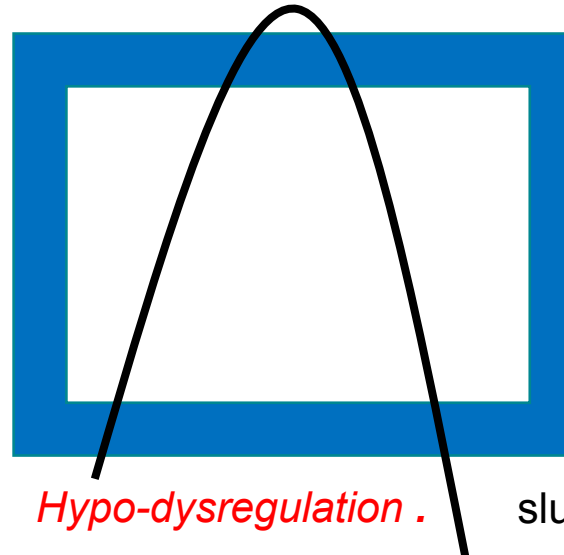
Saini, Lalani Dahya, & Polak,
*A Framework for Trauma-Informed
Mediation: A Heart & Mind
Approach to Conflict Resolution*,
Cardozo Journal of Conflict
Resolution, September 2025

Window of Tolerance

(Levine, Ogden, Siegel)

Examples: emotionally regulated, ability to self-soothe, may be stressed but has cognitive availability and ability to express one's self.

Hyper-dysregulation !



Hypo-dysregulation .

Hyper-dysregulation examples: crying, screaming, shaking, red-face, hostility, hyper-vigilance, signs of distress, anxiety, or panic, etc.

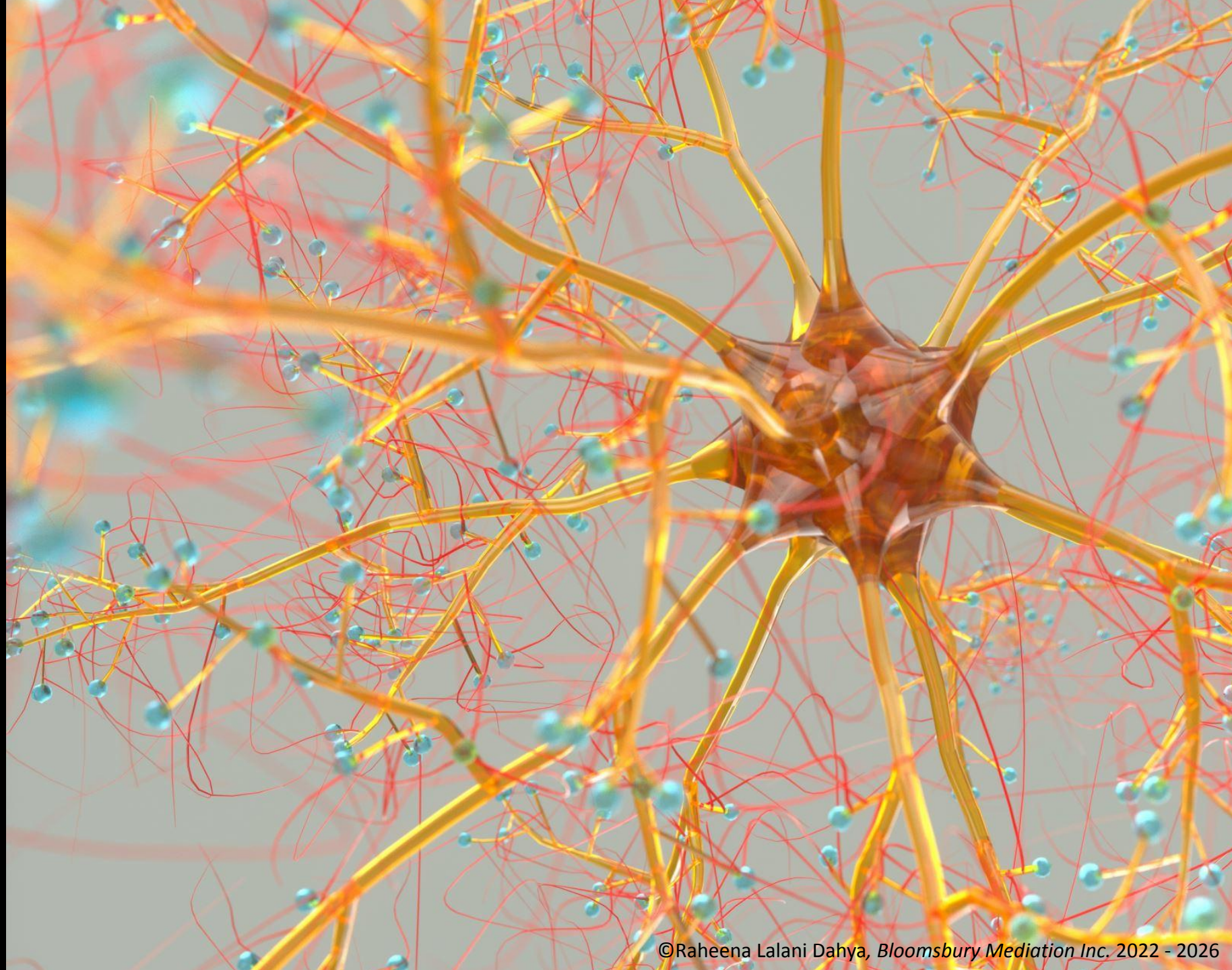
'healthy stress' □ propelling

'healthy stress' □ depleting

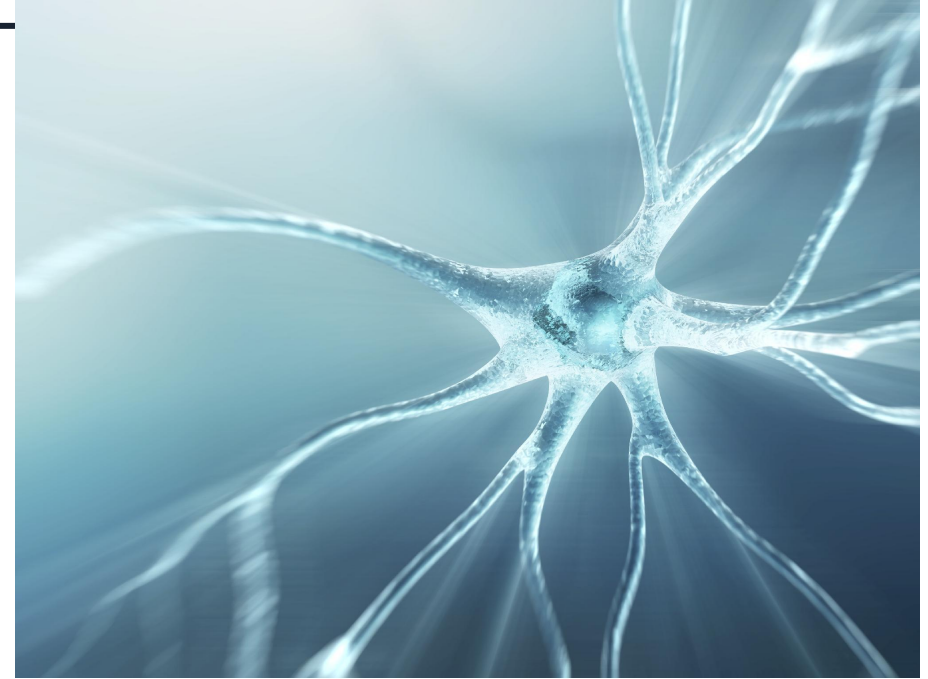
Hypo-dysregulation examples: withdrawing, slumping, fatigue, lethargy, 'fuzzy brain', flat affect, signs of depression or disorientation.

Autonomic Nervous System

*Sympathetic and
Parasympathetic
activation*

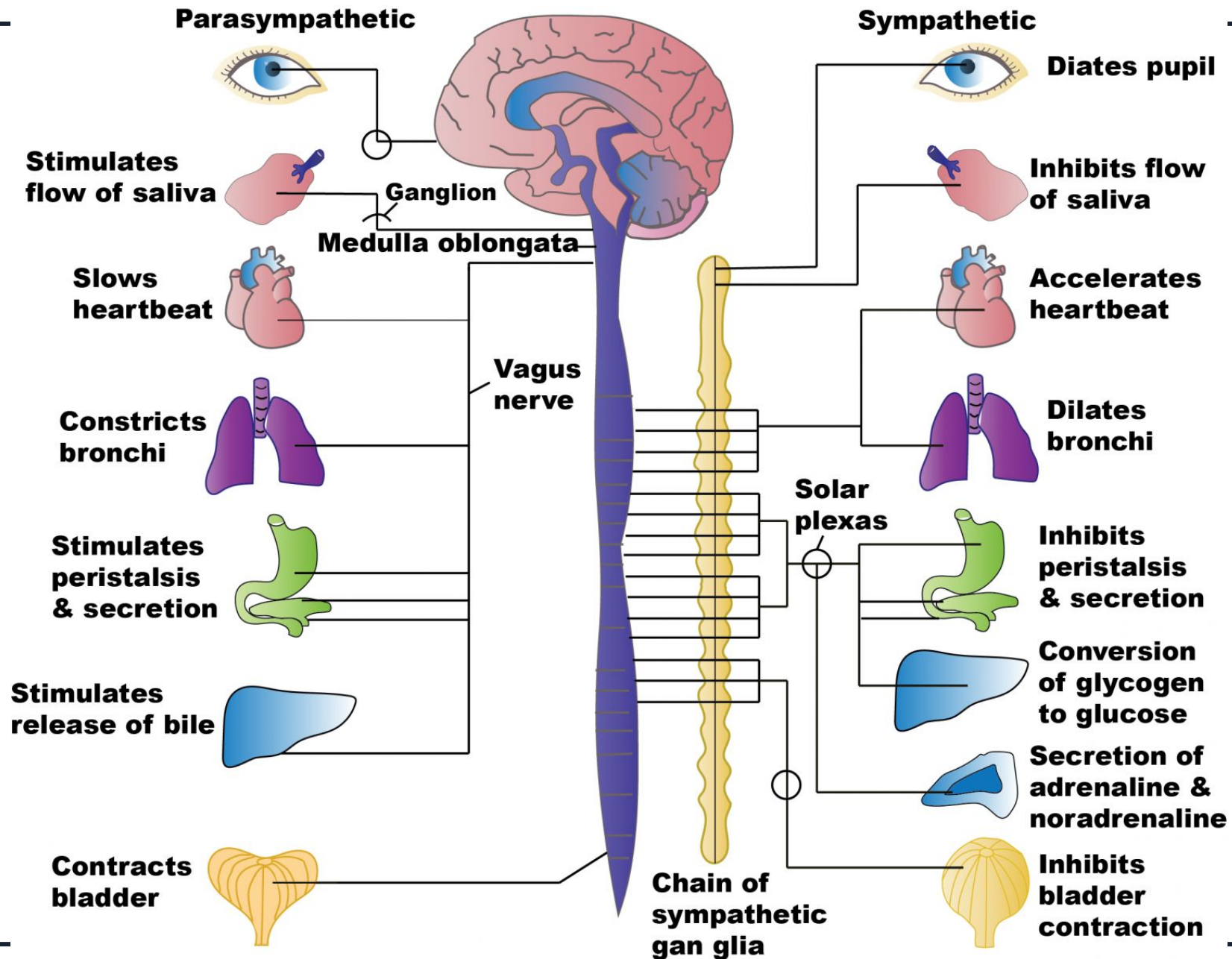


Autonomic Nervous System

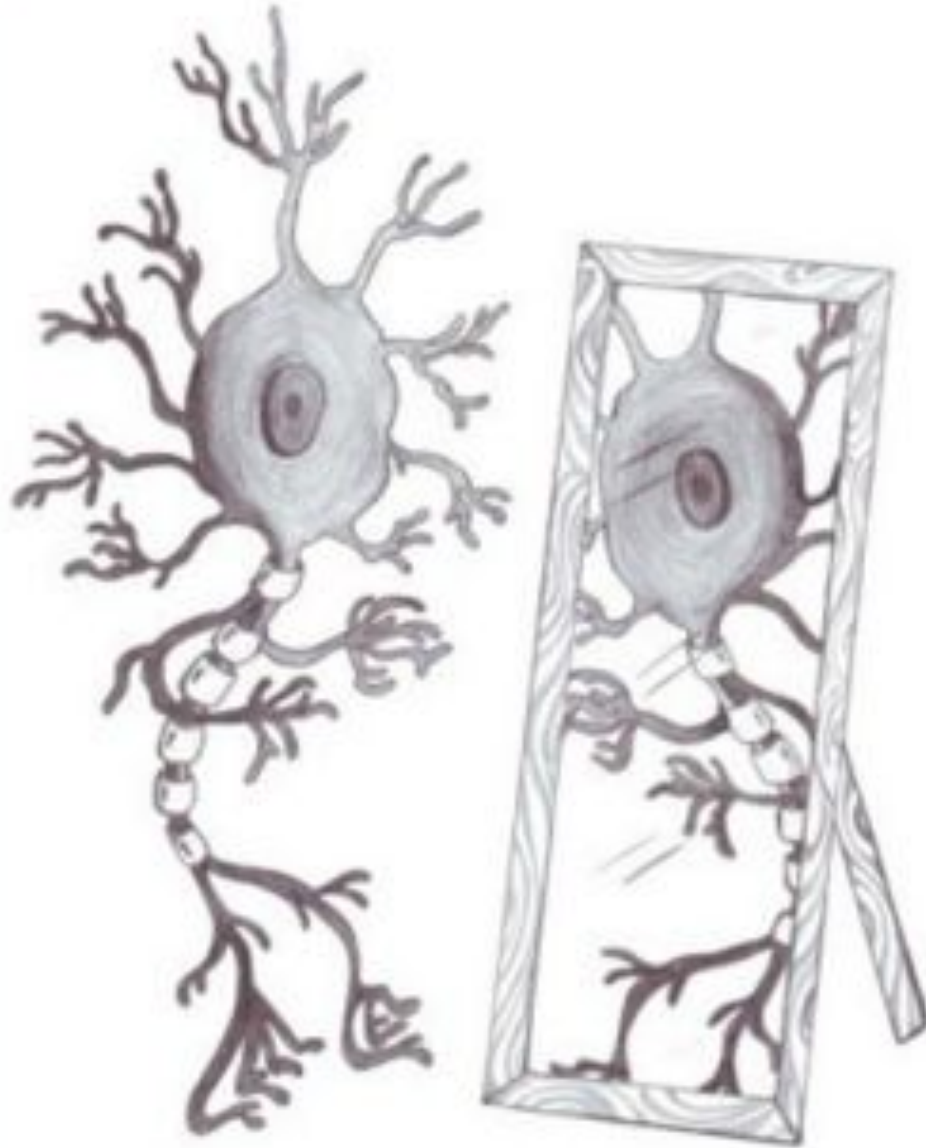


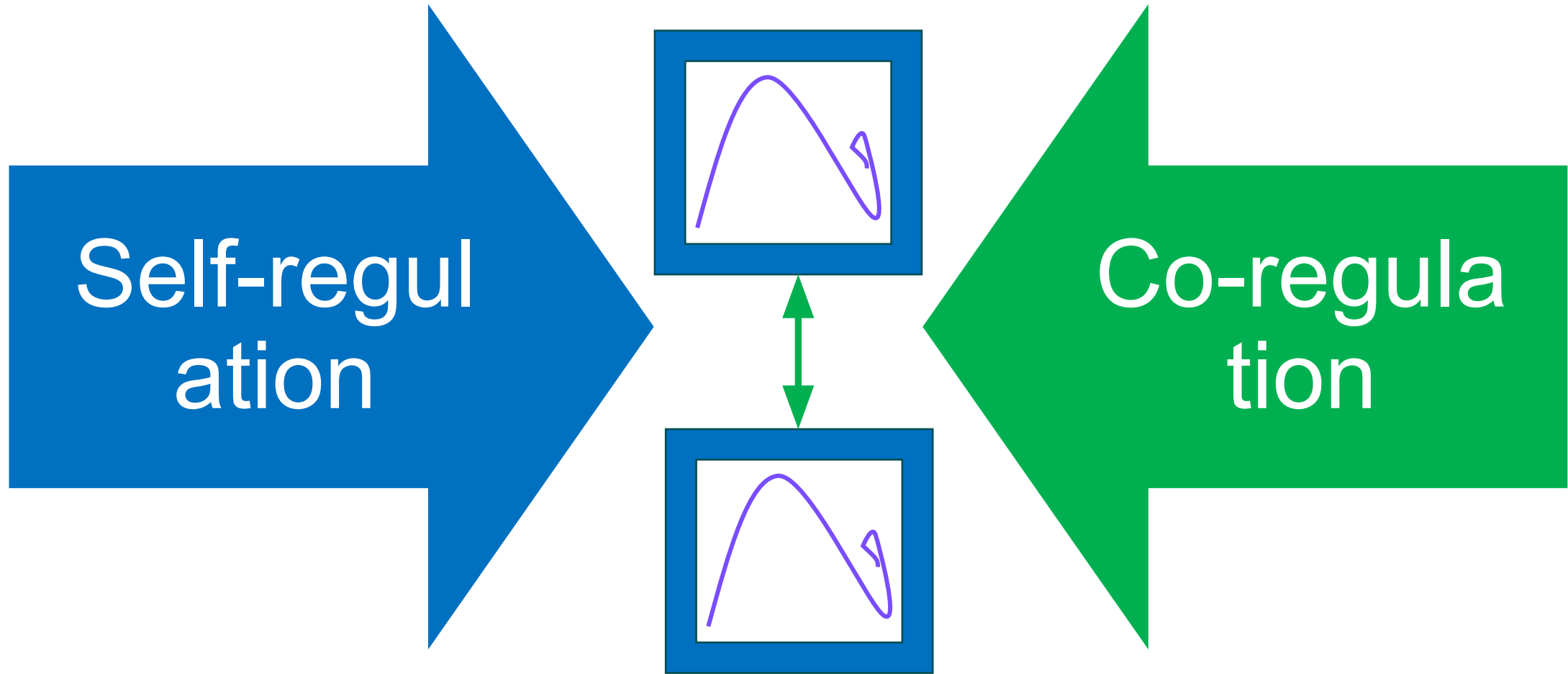
Parasympathetic

Sympathetic



Mirror Neurons





Why This Matters for Lawyers & ADR Professionals

Example: Stress / Threat □ Attention narrows □ Interpretation shifts /
Communication impaired □ Decision-making changes □ Client outcomes change

Cognition is embodied: physiology affects our reasoning so it's important that practitioners recognise and understand its influence.

Self-Reflection Engages the Pre-frontal Cortex

Reflection Protects Against Three Key Risks

Bias	Burnout	Blind spots
• Misreading distress as dishonesty • Reactivity in advocacy • Confirmation bias	• Chronic emotional suppression • Cynicism and depersonalisation • Moral injury	• Confusing our responses with objective reality • Missing/misinterpreting trauma responses • Reduced curiosity

Reflection as Safeguarding

*Reflection □ improved
self-awareness □ improved
attunement □ improved
communication □ improved integrity of
outcomes*

- protects witnesses
- supports client decision-making
- reduces re-traumatisation
- improves professional judgment

Reflection as a Professional Competency

Reflective practice sits alongside:

- ethical decision-making
- professional conduct duties
- risk mitigation
- supervision
- continuing professional development
- Advocacy
- Legal Skills

Awareness of one's own cognitive and physiological state is part of competent professional judgment.

Examples of Tools For Reflection

Journaling

Walking reflection

Intentionally selected
music

Verbal processing with
someone within the
chain of confidentiality