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Symposium

Perspectives on Lawyer Happiness

***217 FOREWORD: PERSONAL SATISFACTION IN PROFESSIONAL PRACTICE**Deborah L. Rhode [\[FN1\]](#)

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One is happy as a result of one's own efforts, once one knows the necessary ingredients of happiness--simple tastes, a certain degree of courage, self-denial to a point, love of work, and, above all, a clear conscience. [\[FN1\]](#)
- George Sand

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Introduction

How do lawyers define happiness and how successful or reflective are they in its pursuit? The evidence available on that point is not encouraging. This symposium and this foreword suggest why. Equally to the point, they make clear why it matters.

Ethics, said Socrates, “is not just about any question, but about the way one should live.” [\[FN2\]](#) In addressing that question, ethicists today have ***218** increasing competition. They are joined not just by spiritual leaders but also by a burgeoning industry of therapists and self-help pundits, and an emerging field of positive psychology. The legal profession is an obvious audience for these advisors, given its relatively high rates of dissatisfaction and psychological dysfunction.

And legal education should be equally receptive, given its frequent contribution to the problem rather than the solution. The articles that follow make clear why the profession should pay more attention to research on happiness. A wide range of benefits follow from increased life satisfaction, including greater productivity and career success, better interpersonal relationships, fewer disciplinary problems, more charitable contributions, enhanced physical and mental health, and longer life expectancy. [FN3] Employers, clients, and society generally also have a stake in strategies that improve attorneys' performance. Given the centrality of law and lawyers in American life, these issues deserve more serious attention. To that end, this foreword offers a brief overview of lawyer satisfaction: the nature and extent of discontent; the most significant causes; and the most plausible individual and institutional responses.

I. The Profession and its Discontents

How happy are lawyers? That, of course, depends on how we define and assess happiness. Most experts distinguish between positive emotions (or pleasure), engagement, and meaning, and find that the most satisfied people orient their activities toward engagement and meaning. [FN4] According to Martin Seligman, founder of the positive psychology movement, "authentic happiness" comes from identifying and exercising one's *219 strengths. [FN5] Unlike momentary pleasure, which may not be a frequently recurring state, full engagement of one's talents in some valued activity produces a more lasting sense of fulfillment. [FN6]

To gauge this more sustained form of happiness in professional life, researchers typically ask people how satisfied they are and whether they would choose the same career again or recommend it to someone else. This symposium's articles by Richard Delgado and Jean Stefancic, Peter H. Huang and Rick Swedloff, and Nancy Levit and Douglas O. Linder, review the evidence available about lawyers' satisfaction. [FN7] As these authors note, most recent data paint a dispiriting portrait. Surveys by the National Opinion Research Center and the American Bar Association find that only about half of lawyers are very satisfied or satisfied with their work. [FN8] Law does not rank among the top twelve professions for satisfaction; lawyers rate their jobs about the same as accountants, civil engineers and car salesman, and significantly below dentists, physicians, police officers, and real estate agents. [FN9] Although four-fifths of legal practitioners are proud to be lawyers, only about half that number would recommend their career to a young person. [FN10]

*220 Lawyers' discontent is reflected in other measures, such as high rates of attrition and psychological difficulties. Almost half of all associates leave law firms within three years; three quarters leave within five years. [FN11] An estimated one-third of lawyers suffer from depression or alcohol or drug addiction; attorneys have about three times the rate of depression and almost twice the rate of substance abuse of other Americans. [FN12] The stress and unhappiness reflected in these behaviors are costly for all concerned. Although the economic model of most law firms presupposes substantial attrition, the current hemorrhaging of associates is anything but cost-effective. Most junior lawyers leave before generating substantial profits. [FN13] Each departure imposes between \$200,000 to \$500,000 in expenses to recruit and train a replacement, and creates harder-to-quantify losses in disrupted client and collegial relationships. [FN14] Moreover, the lawyers who leave are not necessarily the ones firms want to lose; dissatisfaction rates are highest among those with the best credentials. [FN15] Further costs result from attorneys who cope with discontent through drugs and alcohol; they account for a highly disproportionate share of the profession's discipline and performance problems. [FN16]

*221 Satisfaction rates vary somewhat across different practice settings and demographic groups, and highlight the range of factors contributing to disaffection. [FN17] Attorneys in large firms are the least satisfied (forty-four percent) and attorneys in the public sector are the most satisfied (sixty-eight percent). [FN18] Recent graduates of the highest ranked law schools who work in the most prestigious large law firm settings are the least likely to be extremely satisfied with their decision to become a lawyer (twenty-four percent) and the most likely to plan on leaving their position within

two years (sixty percent). [FN19] By contrast, forty-three percent of graduates of fourth tier schools are extremely satisfied with their choice of career and only forty percent plan to change jobs within two years. [FN20] Such variations reflect differences both in working conditions and expectations for attorneys with different backgrounds, values, and credentials.

Race, gender and ethnicity also play a role In the American Foundation study of recent graduates, African-Americans were the most satisfied with their decision to become lawyers, and with the substance of their work, but the least satisfied with the social conditions and opportunities for professional development and influence. [FN21] Women were more satisfied than men with the substance of what they did and less satisfied with its context and opportunities; they were also more likely to leave their positions, particularly if they worked in large firms. [FN22] Other studies, including those reviewed in Theresa Beiner's comprehensive article in this symposium, find that women of color are the least satisfied of all groups with almost all aspects of their workplaces. [FN23] Such variations *222 underscore the progress that remains to be made in valuing equal opportunity in practice as well as principle.

II. Sources of Dissatisfaction

What would make lawyers happier? The findings reviewed in this symposium, and in related research, suggest that professional satisfaction reflects a combination of genetic predispositions, working conditions, and personal efforts. [FN24] Experts generally believe that people have a genetically determined set point for happiness, and that at least fifty percent of the variation in satisfaction reflects this physiological baseline. [FN25] Changes in circumstances, such as health, finances, and personal relationships, move people up or down in happiness levels, but over time, most individuals return to their set points. [FN26] Some research also suggests that law attracts a disproportionate number of individuals with set points and personality traits that work against satisfaction. [FN27] Pessimism, combativeness, and competitiveness often bring professional rewards, but not the outlook and collegial relationships that foster personal satisfaction. [FN28] However, even researchers who stress the importance of inherited predispositions also note the potential for individual improvement. People need not let their “genetic steersman have his way Within wide latitude, they can control their destination.” [FN29]

The nature and conditions of work are also important. Job satisfaction *223 depends on how well a position meets basic psychological needs for self-esteem, control, competence, security, and relationships with others. [FN30] People are happiest when they feel they are being effective, exercising strengths and virtues, meeting life's challenges, and contributing to socially valued ends that bring meaning and purpose. [FN31] Individuals also benefit from benefiting others. Volunteer work is correlated not only with greater satisfaction but also with greater physical and mental health, and self-esteem. [FN32] For lawyers, pro bono activities enhance career development; they are a way to build skills, reputation, and contacts, while advancing causes to which individuals are committed. [FN33] By these standards, the opportunities available in many legal workplaces fall short. [FN34]

One cluster of problems involves the substance of legal practice and the gap between expectations and realities. Individuals often choose law as a career with little knowledge of what lawyers actually do. [FN35] Law in prime time media offers some combination of wealth, power, drama, or heroic opportunities. Law in real time is something else, particularly for those at the bottom of the pecking order. The sheer drudgery of many legal matters, particularly in large firms, exacts a heavy price. It is not surprising that recent graduates from the most prestigious schools, although working in the *224 most prestigious firms, express the greatest dissatisfaction with their careers; they expected more from their credentials. [FN36]

Commentators identify further problems with the substance of legal work. Delgado and Stefancic fault formalism,

the law's excessive focus on precedent and authority. [FN37] Critics also emphasize the adversarial, zero-sum, and uncivil aspects of practice, as well as the pressure without control that characterizes much of associate life. [FN38] When lawyers function largely as scribes, or as scapegoats for acrimony not of their own making, they are bound to feel disaffected.

Surveyed lawyers and law firms stress other factors. In their accounts, performance and career advancement issues, as well as work-life balance, play more important roles than the substance or adversarial aspects of legal practice. [FN39] Over four-fifths of lawyers in the American Bar Association's ("ABA") most recent national survey found their work to be intellectually stimulating. [FN40] The greatest source of disappointment with practice, according to the Association's earlier studies, is the lack of contribution to the social good. [FN41] As one career guide puts it, the results clients are fighting for generally "are not going to make the world a better place." [FN42] Individuals who chose legal careers partly out of concerns for social justice have often shared Archibald MacLeish's inability to care very much "whether \$900,000 belong[s] this way or that." [FN43]

One obvious response to this disaffection is pro bono work. Yet many legal employers endorse such involvement more in principle than in practice. When a recent joint study by the National Association of Law Placement and the American Bar Foundation asked relatively new entrants to the profession to rate their satisfaction with sixteen aspects of practice, *225 they ranked pro bono opportunities second to last. [FN44] In my own survey, about half of lawyers reported dissatisfaction with the amount and quality of pro bono activities. [FN45] The average contribution for the profession as a whole is less than half-an-hour a week, and what counts as charity may include favors for other lawyers, clients, families, and supervising attorneys' "pet organizations." [FN46]

Other sources of dissatisfaction involve the increasing pace, pressure, and competitiveness of modern practice. Technological innovations have intensified demands for instant responsiveness, and predictably unpredictable demands can amplify the problem. Legal life lurches from deadline to deadline, as lawyers remain tethered to their offices with email, Blackberries, cell phones, and faxes. Although these developments have made it easier for attorneys to work from home, they have also made it harder not to.

The pressure for constant accessibility is compounded by growing competition. Over the last three decades, the number of American lawyers has more than doubled, and they face increasing challenges from non-lawyers and international providers of legal services. [FN47] Corporate clients, who are experiencing greater pressures in their own markets, have responded by curtailing costs, refusing to subsidize associate training, and parceling out work on the basis of short-term competitive considerations, rather than long-term relationships. [FN48] That, in turn, has increased the time lawyers have to spend on marketing their services and reduced the time and opportunities available for mentoring junior colleagues. Those most likely to fall through the cracks are women and minorities, who often remain out of the loop of support. In the ABA's most recent survey, sixty-two percent of women of color, and sixty percent of white women, but only four percent of white men, felt excluded from formal and informal networking opportunities. [FN49]

Competition within, as well as across, law firms has also intensified, *226 leading to more internal rivalries and less collegial relationships. [FN50] Partnership has become less accessible and less attractive. Fewer lawyers gain full equity status and partnership no longer promises lifetime security or saner schedules. [FN51] In effect, private practice has become "leaner and meaner." To many attorneys, the struggle looks increasingly like a "pie eating contest where the prize is more pie." [FN52]

These problems have been exacerbated by the priority of profits and its affect on pro bono work and billable hours. In *The Paradox of Success*, John O'Neil notes that monetary achievement brings many rewards, but not necessar-

ily the ability to enjoy them. [FN53] For lawyers, escalating incomes come with escalating demands and have squeezed out time for family, friends, public service, and personal interests that would ultimately prove more satisfying. Only one quarter of surveyed lawyers are in workplaces that fully count pro bono work toward billable hours and almost two-thirds feel that such work is a negative or unimportant factor in promotion and compensation decisions. [FN54]

What is, however, highly rewarded is a willingness to work extended hours and inflexible schedules. A New Yorker cartoon captures the prevailing ethic: it features a well-heeled professional advising a younger colleague that “[a]ll work and no play makes you a valued employee.” [FN55] Yet these norms are a major cause of dissatisfaction and attrition, particularly among women lawyers, who bear a disproportionate share of family responsibilities. [FN56] Only one-fifth of mothers with full-time *227 schedules are satisfied with the amount of time that they have for childcare. [FN57] Women who temporarily opt out of the labor market to address that problem often fail to find a satisfactory position when they are ready to return. [FN58] Most lawyers report that they do not have sufficient time for themselves and their families. [FN59] Only one-third to one-half of those surveyed believe that their employers support balanced lives and flexible workplace arrangements. [FN60] Most men as well as women indicate a willingness to take lower salaries in exchange for more time with their families. [FN61] Four-fifths of associates responding to an ABA Journal poll would make that tradeoff. [FN62]

*228 Excessive hours carry a substantial cost. Overwork is a leading cause of disproportionately high rates of stress, substance abuse, reproductive dysfunction, and mental health difficulties. [FN63] In a profession in which half the talent pool is now female and most men, as well as women, want a balanced life, employers can ill afford policies that prevent it. Today's generation of lawyers grew up expecting fulfillment in both work and family, and are increasingly unhappy about settling for less.

III. Misplaced Priorities

Why do so many lawyers put up with unfulfilling practice, and why do so many legal employers fail to make adjustments that would improve not only satisfaction, but also recruitment, retention, and performance? The explanations are, of course interrelated. If too few disaffected lawyers vote with their feet, employers have too little incentive to respond. By the same token, if too few workplaces are implementing effective reforms, too few attorneys will see somewhere else to go.

Part of the problem is that people are surprisingly inaccurate judges of what will make them happy. Lawyers are no exception. Psychologists identify a number of factors that interfere with rational choices. One is that focusing on highly salient events or other extrinsic rewards inflates their importance. [FN64] So, for example, lawyers may overestimate the well-being that will flow from making partner or scoring a large bonus, because they overlook contextual factors and adaptive mechanisms that moderate the effect. Desires, expectations, and standards of comparison tend to increase as rapidly as they are satisfied. People become trapped on a “hedonic *229 treadmill”: the more they have, the more they need to have. [FN65] As psychologist David Myers notes, it is better to let “our best experiences be something we experience fairly often” than to sacrifice daily sources of pleasure in pursuit of occasional but elusive brass rings. [FN66] Satisfaction is less a matter of “getting what you want [than of] wanting what you have.” [FN67]

In particular, money plays a much smaller role in promoting personal satisfaction than most people, including lawyers, commonly assume. Americans' income, controlled for inflation, is more than twice what it was in the late 1950s, but fewer people report being very happy, and more objective evidence concerning mental health difficulties also suggests a decline in well-being. [FN68] Researchers consistently find that for individuals at lawyers' income levels, differences in compensation bear little relationship to differences in satisfaction. [FN69] Individuals earning \$100,000 are not

significantly happier than those earning half that much. [FN70] There is also no relationship between compensation and fulfillment across different fields of practice. Discontent is greatest among well-paid large firm associates and least pronounced among relatively low-earning academics and public sector employees. [FN71]

*230 One reason for this disconnect between wealth and satisfaction is that most of what high incomes can buy does not yield enduring happiness. The novelty of new purchases or circumstances quickly wears thin, expectations escalate, and the transitory pleasure that results is less critical in promoting well-being than other factors, such as individuals' relationships with families, friends, and communities, and their sense of contributing to larger societal ends. [FN72] A second reason for the limited effect of money is that satisfaction is most affected by relative, not absolute, income, and increases in wealth are generally offset by changes in reference groups. [FN73] To a large extent, pay is a “positional good”; individuals' satisfaction with their economic status depends on its position relative to others. [FN74] Yet the increasingly public nature of lawyers' salaries has made the competition for relative status easier to play and harder to win. [FN75] This kind of arms race has few winners and many losers. There is, in fact, no room at the top. [FN76] Attorneys who look hard enough can always *231 find someone getting something more.

Other dynamics help trap lawyers into over-valuing income. One is the difficulty of downward economic mobility. Attorneys who initially chose well-paying jobs in order to gain training and prestige, or to pay-off student loans, often become accustomed to the lifestyle that such positions make possible. So too, the work required to generate high income creates needs that fuel financial demands. Attorneys working sweatshop hours feel entitled to goods and services that will make their lives easier and more pleasurable. This pattern of compensatory consumption can become self-perpetuating. As one refugee from large firm practice observes, lawyers frequently use the “substantial income from their jobs in an attempt to fill the voids created by their jobs.” [FN77] Professionals who accept grueling schedules to afford comfort for themselves or their families often find that they have little time to enjoy it. Yet, luxuries can readily become necessities, and many attorneys feel unable to afford a more satisfying balance of personal, professional, and public service pursuits.

The desire for status and the equation of money with merit push in equally counterproductive directions. For many individuals, including lawyers, income is a key measure of achievement and self-esteem, and a marker of social status. [FN78] The desire to impress and display is deeply rooted in human nature, and in America's increasingly materialist culture, self-worth is linked to net worth.

These dynamics skew the priorities not only of individual lawyers but also of the firms that employ them. Because money is at the top of almost everyone's scale, it is easier to reach consensus on maximizing compensation than on other values such as reducing hours or subsidizing substantial pro bono commitments. Firms that sacrifice profits for other workplace satisfactions risk losing talented rainmakers and recruits who prefer greater earnings. [FN79] Once high pay scales are established, they are difficult to dislodge. Downward mobility is painful, and the working conditions necessary to sustain such incomes then encourage the sense of deprivation and entitlement that fuel desires for more compensation. [FN80] It is also easier for employers to offer money or perks than to address deeper *232 problems in workplace culture. The result is bigger bonuses and widening arrays of glitzy amenities, everything from massages and pet insurance to take-out dinners delivered on silver trays. [FN81]

Yet, as experts note, these extrinsic rewards are less likely to be effective than strategies that heighten the intrinsic satisfaction of work and that ensure sufficient time for life outside it. [FN82] That message has been slow to catch on. Many workplaces have responded at only the most superficial level: providing surprise treats like candied apples, reminding supervisors to say “Thank you,” imposing ineffectual mentoring requirements, and instituting part-time policies that only five percent of lawyers feel able to use. [FN83]

Part of the problem is that billable hours have assumed symbolic significance. A willingness to work extended schedules has become a proxy for harder-to-measure qualities such as commitment, ambition, and reliability under pressure. [FN84] Attorneys who have made the sacrifices that such schedules require are often resentful of colleagues who want “special” accommodation. [FN85] Backlash is particularly likely if those working “normal” hours have to assume a disproportionate share of inconvenient weekend, holiday, and late-night work.

Yet a growing body of evidence suggests that humane schedules, alternative work arrangements, and other family-friendly policies can be cost-effective strategies. Such initiatives improve recruitment and retention, and help reduce stress and other health-related disorders. [FN86] Some recent estimates suggest that every dollar invested in these policies *233 concerning quality of life results in two dollars saved in other costs. [FN87] Other surveys find that part-time employees are generally more efficient than their full-time counterparts, particularly bleary, burned-out professionals clocking sweatshop hours; any additional overhead expenses are more than offset by reduced attrition. [FN88] In short, balanced lives can benefit bottom lines.

The same is true of pro bono opportunities, which enable lawyers to develop new skills, areas of expertise, and potential client contacts, as well as enhance their reputations and self-esteem. [FN89] As one attorney notes, such activity can be “an enormous morale booster for the entire firm Everyone feels that they touched a life No office picnics or parties can give you that.” [FN90] Public service can also enhance the reputation of the profession as a whole, in which legal employers have an obvious stake. “In one representative public opinion poll that asked what could improve the image of lawyers, the response most often chosen was free legal services to the needy.” [FN91] Two-thirds of those surveyed indicated that it would improve their opinion of the profession. [FN92] In a world in which competition for talent is increasing, and the status of lawyers and number of law school applicants is declining, the bar could clearly benefit from public service initiatives that enhance its reputation. [FN93]

*234 IV. Strategies for Reform

A profession that has structured its role around solving problems for others has been curiously passive in the face of its own discontent. Recent changes in the conditions of practice have left many lawyers in a state of wistful resignation. They see workplace demands increasing, and civility and collegiality moving in the opposite direction. Yet many seem to lack a sense of control over their collective future. What most needs to change is a belief about what change is possible. In an influential essay, *The Importance of What We Care About*, philosopher Harry Frankfurt emphasized a point that also emerges from the psychological research summarized in this symposium. [FN94] Individuals are most fulfilled when they engage in work that they find meaningful and reflect at the deepest level about what meets this definition. [FN95] It is, in short, important to remind ourselves what we care most about, and to refuse to settle, at least in the long term, for workplaces that fall short. Although not all the downsides of legal practice are easily avoided, lawyers could do much more, both individually and collectively, to reduce the gap between expectations and experience in their professional lives.

At the individual level, lawyers need to be more proactive in identifying and developing their strengths, and in finding work that will engage their capacities and aspirations. [FN96] That, in turn, will require individuals to become more informed and self-reflective in their career choices. One step to that end is the emergence of rankings and data bases, like the Building a Better Legal Profession movement, and the American Lawyer A-List, which grade selected law firms on factors such as diversity, work/life programs, associate satisfaction and pro bono activities. [FN97] *235 Students should demand, and insist that their placement offices demand, more such information, including how workplace policies function in practice. How does part-time status or substantial pro bono involvement affect promotion and compensation de-

cisions? How much control do lawyers exercise over their schedules and over the kinds of assignments and public service opportunities available?

Once employed, practitioners also need to press for such control. That is particularly important for women, who are socialized not to appear pushy or aggressive. As the title of the path-breaking book on negotiating behavior noted, *Women Don't Ask*. [FN98] But when it comes to professional development and work/family tradeoffs, lawyers of both sexes need to ask; they must actively pursue what is necessary for fulfillment. In one study on career advancement, the most effective strategy was impatience; individuals benefited from seizing every opportunity and leaving a position when a more challenging opportunity became available. [FN99] So too, professionals committed to improving their current situation often find strength in numbers. Organizing colleagues both within and across workplaces can significantly improve diversity and work/family policies. [FN100]

At the institutional level, legal employers must do more to address sources of discontent and to evaluate the adequacy of their responses. A commitment to quality of life needs to be reflected in workplace priorities, policies, and reward structures. That, in turn, will require systematic evaluation of lawyers' satisfaction, and of practices that affect it, such as mentoring, diversity, and work/family initiatives. Decision makers must track whether underrepresented groups such as women and minorities are advancing in numbers equal to white male counterparts, whether all groups feel equally well supported in their professional development, and whether they find part-time and mentoring policies effective. So, for example, do *236 lawyers working reduced hours find that their schedules are respected, that their pay and benefits are proportionate to their performance, and that they retain opportunities for advancement and desirable assignments? Do participants in formal mentoring programs feel that their assigned mentor has sufficient time, interest, incentives, and knowledge to provide the necessary support? Are supervising attorneys adequately trained and evaluated in mentoring, performance appraisals, and treatment of subordinates? [FN101] Do junior attorneys have an opportunity to rate supervisors in forms that matter in the organization's reward structure? [FN102] Too many employers now lack adequate evaluation structures, and invest substantial time and money in initiatives that fail to meet the needs of their intended beneficiaries. [FN103]

Too many legal organizations are also insufficiently supportive of pro bono work. Recent research makes clear what has to change. Employers must make a visible commitment to public service that is reflected in resource allocation and reward structures. In particular, employers should:

- provide full credit for pro bono work toward billable hour requirements;
- value pro bono work in promotion and compensation decisions;
- develop an effective system for matching participants with work that they find fulfilling, and ensuring adequate training, supervision, and performance;
- require lawyers to meet the ABA's aspirational rules on pro bono representation, which requires fifty hours per year or the financial equivalent;
- adopt a definition of pro bono work that focuses on the public good not the concerns of family, friends, partners, or paying clients. [FN104] *237 Reforms are also necessary in the structure of practice. One promising initiative involves law firm tracks that allow different hours and compensation tradeoffs without second-class status. [FN105] Another option is for organizations to match attorneys with projects that fit their substantive and scheduling preferences; often this work is done from home or client offices to maximize flexibility and minimize overhead expenses. [FN106] Fee arrangements that reduce reliance on hourly billing can also be helpful in reducing pressures for overwork. [FN107]

So too, more lawyers could experiment with dispute resolution models that mitigate the acrimony often accompanying adversarial processes. One example is collaborative lawyering, in which parties commit to cooperative problem solving.

ing; if they are unable to reach a negotiated settlement, their lawyers will not provide representation in subsequent litigation. [FN108] By removing lawyers' economic incentives to prolong proceedings, the arrangement gives all participants a stake in minimizing conflict.

Clients should also pressure legal employers to address sources of chronic dissatisfaction. On some issues, clients have an obvious financial interest. They seldom get cost-effective service from bleary, burned out practitioners, and high rates of attrition involve disruption, inconvenience, and additional training expenses. So too, a growing number of corporate counsel see diversity as an economic as well as moral imperative. They want firms that make full use of available talent, and that offer lawyers with a range of backgrounds and perspectives. To that end, many large corporations have pledged to consider diversity in allocating legal work. [FN109] More clients need to follow suit, to put teeth in their commitments, and to *238 add concerns like pro bono activities. [FN110]

Bar associations, for their part, could also do more to support diversity, public service, and quality of life reforms. For example, some local bar groups have enlisted law firms to support goals and timetables for racial and gender equity. [FN111] Others have developed initiatives to increase pro bono involvement, and a few states have required lawyers to report pro bono work. [FN112] Since Florida imposed a reporting requirement, the number of hours devoted to assisting the poor has grown by 160%, and financial contributions have grown by 243%. [FN113] By raising the visibility of pro bono involvement, bar associations can pressure employers to support work that would be rewarding to all concerned.

V. The Role of Legal Education

Law schools have an obvious role to play in addressing issues of professional satisfaction, but it is not one that most have been inclined to assume. Part of the problem is the lack of consensus that there is a serious problem. Faculty are relatively well insulated from the sources and symptoms of discontent. Their own satisfaction levels are the highest in the profession, partly because they have considerable control in pursuing work that they find meaningful on a schedule that suits their needs. [FN114] So too, they are not surrounded by constituencies manning the barricades for change. In the most recent survey on law student engagement, about four-fifths rated their educational experience as excellent or good, and almost the same number reported that they would probably choose the same school again. [FN115] Although law students have disproportionately high levels of stress, substance abuse, and other mental health difficulties, the symptoms are not always obvious, and legal education has failed adequately to *239 acknowledge or address the problem. [FN116]

Law schools have also failed to insure student involvement in pro bono service and to make clear its connection to professional fulfillment. A majority of graduates do not participate in pro bono work as part of their educational experience, and many who do are engaged at only token levels. [FN117] Nor are issues of social responsibility and public service part of core curricula. [FN118] In my own national survey, only one percent of lawyers reported that pro bono service received coverage in orientation programs and professional responsibility courses; only three percent reported that it received visible support from faculty. [FN119]

Issues concerning the conditions of practice and lawyer satisfaction are also noticeable for their absence. And with reason. Law schools have strong interests in maximizing student applications, retention, and job placement; an institution's financial well-being depends on a steady stream of tuition, and its status depends partly on selectivity in admissions and employment of its graduates. [FN120] None of those interests are served by delivering unwelcome messages about the downsides of practice.

Yet legal academics are also the branch of the profession best situated to address its problems, and with that opportunity comes a corresponding obligation. In his celebrated 1934 address on the Public Influence of the Bar, United States Supreme Court Justice Harlan Stone noted that legal academics were the members of the profession most “detached . . . from those pressures of the new economic order which have so profoundly affected their practicing brethren.” [FN121] That independence gave them a unique capacity for disinterested analysis of the “Bar as an institution” and *240 for “an informed understanding of its problems. . . .” [FN122] Some sixty-five years later, Harvard Law Professor David Wilkins echoed similar themes in a plenary address to the Association of American Law Schools. As he noted, one of the responsibilities of professional education is to study and teach about the profession: “[a]t a time when the American legal profession is being radically transformed on almost every dimension . . . the legal academy must become an active participant in developing . . . the . . . knowledge about legal practice that will allow us to construct a vision of legal professionalism fit for the twenty-first century.” [FN123]

Part of that academic responsibility is to give law students and applicants an accurate picture of the conditions of practice. Although it may be implausible to expect law schools as institutions to rain on the parade, individual law professors can teach, counsel, and write for popular audiences about the realities of lawyering. Legal education also can do more to prepare future generations to address, individually and collectively, the sources of professional discontent. For example, law schools can expose students to different practice settings and the literature on satisfaction; help them identify and exercise their own core strengths; and require employers conducting campus interviews to disclose relevant information. More law faculty should also pursue research that would promote professional fulfillment. We need to know much more about what works in the world. For example, what law school and employer initiatives are most effective in improving health and satisfaction over the long term? What incentives and pressures are most likely to secure practices that we know are effective?

Legal academics take pride in working at the forefront of social change. We like to believe that our teaching and research contribute to more just and efficient governance institutions. We need now to turn more of our efforts toward our own profession, and to promote forms of practice that fulfill lawyers' deepest needs and aspirations.

[FNd1]. Ernest W. McFarland Professor of Law and Director of the Center on Ethics, Stanford University.

[FN1]. Letter from George Sand to Charles Poncy (Nov. 16, 1866), in André Maurois, *Lélia: The Life of George Sand* 418-19 (Gerard Hopkins trans. 1953) (quoting 5 George Sand, *Correspondence* 106).

[FN2]. Plato, *The Republic* 352D (Allan Bloom trans. 1968).

[FN3]. For research on the physical, psychological, and career benefits, see sources cited in Sonja Lyubomirsky, *The How of Happiness: A Scientific Approach to Getting the Life You Want* 25 (2008); Kennon M. Sheldon & Sonja Lyubomirsky, *Is It Possible to Become Happier? (And If So, How?)*, 1 *Soc. & Personality Psychol. Compass* 129, 143-45 (2007) [hereinafter Sheldon & Lyubomirsky, *Is It Possible*]; Sonja Lyubomirsky, Laura King & Ed Diener, *The Benefits of Frequent Positive Affect: Does Happiness Lead to Success?*, 131 *Psychol. Bull.* 803, 803-55 (2005). For the relationship between psychological dysfunction and performance and disciplinary problems, see sources cited in Deborah L. Rhode & David Luban, *Legal Ethics* (5th ed. 2008) (forthcoming 2008). For research on increased charitable contributions, see Lyubomirsky, *supra*, at 25; Gregg Easterbrook, *The Progress Paradox: How Life Gets Better While People Feel Worse* 166 (2003).

[FN4]. See Christopher Peterson, Nansook Park & Martin E.P. Seligman, *Orientations to Happiness and Life Satisfac-*

tion: The Full Life Versus the Empty Life, 6 *J. Happiness Studies* 25, 25, 37 (2005); Martin E.P. Seligman et al., Positive Psychology Progress: Empirical Validation of Interventions, 60 *Am. Psych.* 410, 413 (2005) [hereinafter Seligman et al., Positive Psychology Progress].

[FN5]. Martin E.P. Seligman, *Authentic Happiness: Using the New Positive Psychology to Realize Your Potential for Lasting Fulfillment*, at xiii (2002) [hereinafter Seligman, *Authentic Happiness*].

[FN6]. See *id.* at 119; Richard M. Ryan & Edward L. Deci, On Happiness and Human Potentials: A Review of Research on Hedonic and Eudaimonic Well-Being, 52 *Ann. Rev. Psychol.* 141, 145 (2001); Kennon M. Sheldon & Sonja Lyubomirsky, Achieving Sustainable Gains in Happiness: Change Your Actions, Not Your Circumstances, 7 *J. Happiness Studies* 55, 82-83 (2006) [hereinafter Sheldon & Lyubomirsky, *Achieving Sustainable Gains*].

[FN7]. See generally Richard Delgado & Jean Stefancic, *Can Lawyers Find Happiness*, 58 *Syracuse L. Rev.* 241 (2008); Peter H. Huang & Rick Swedloff, *Authentic Happiness & Meaning at Law Firms*, 58 *Syracuse L. Rev.* 335 (2008); Nancy Levit & Douglas O. Linder, *Happy Law Students, Happy Lawyers*, 58 *Syracuse L. Rev.* 351 (2008).

[FN8]. Tom W. Smith, Job Satisfaction in the United States, 3 (Apr. 17, 2007) (National Opinion Research Center, University of Chicago), available at <http://www.norc.org/NR/rdonlyres/2874B40B-7C50-4F67-A6B2-26BD3B06EA04/0/JobSatisfactionintheUnitedStates.pdf> (fifty-two percent very satisfied, compared with forty-seven percent of Americans in general); Stephanie Francis Ward, *Pulse of the Legal Profession*, 93 *A.B.A. J.* 30, 32 [hereinafter Ward, *Pulse*] (fifty-five percent satisfied). A slightly more positive picture emerges from the American Bar Foundation's survey of recent graduates, which found that the vast majority were extremely satisfied (thirty-five percent) or moderately satisfied (forty-four percent) with their decision to become a lawyer. Ronit Dinovitzer & Bryant G. Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 *Law & Soc'y Rev.* 1, 9 (2007).

[FN9]. On the Job, Time, Nov. 26, 2007, at 42; Smith, *supra* note 8, at 5.

[FN10]. Ward, *Pulse*, *supra* note 8 at 30, 32 (finding that eighty percent are proud, but only forty-four percent would make the recommendation).

[FN11]. Nat'l Ass'n for L. Placement, Update on Associate Attrition 11 (2006) [hereinafter NALP, Update]. See also Kristin K. Stark & Blane Prescott, Why Associates Leave: Research Shows that Attrition Has Very Little to Do with Money, 30 *Legal Times* 45, 45 (2007), available at <http://www.law.com/jsp/dc/index.jsp>; Nat'l Ass'n for L. Placement, Toward Effective Management of Associate Mobility: A Status Report on Attrition 10 (2005) [hereinafter NALP, Toward Effective Management] (forty percent leave within three years; over seventy-five percent leave within five years).

[FN12]. Fred C. Zacharias, *A Word of Caution for Lawyer Assistance Programming*, 18 *Geo. J. Legal Ethics* 237, 237 n.1., 241 n.15 (2004) (reviewing studies); Sue Shellenbarger, Even Lawyers Get the Blues: Opening Up About Depression, *Wall St. J.*, Dec. 13, 2007, at D1 (noting that about nineteen percent of lawyers, compared with seven percent of the population, suffer from depression, and twenty percent suffer from alcohol abuse, compared with ten percent of the population). See also Debra Cassens Weiss, Lawyer Depression Comes Out of the Closet, *A.B.A. J.--Law News Now*, Dec. 13, 2007, http://www.abajournal.com/news/lawyer_depression_comes_out_of_the_closet/; Jean Guccione, Attorneys Find Defense Against Dependency, *L.A. Times*, Aug. 30, 2002, at B2.

[FN13]. See Deborah L. Rhode, *Balanced Lives: Changing the Culture of Legal Practice* 21 (2001) (prepared for A.B.A. Comm'n on Women in the Profession), <http://www.abanet.org/women/balancedlives.pdf>.

[FN14]. *Id.*; Patti Giglio, Rethinking the Hours: New Push on Workplace Flexibility Aims to Put Life on the Agenda, with No Penalty, 27 *Legal Times* 33, 33 (2004); Stark & Prescott, *supra* note 11.

[FN15]. See Dinovitzer & Garth, *supra* note 8, at 11-12 (noting that graduates of elite law schools are least satisfied).

[FN16]. See Zacharias, *supra* note 12, at 241 n.15; J. Nick Badgerow, [Apocalypse at Law: The Four Horsemen of the Modern Bar--Drugs, Alcohol, Gambling and Depression](#), 18 *Prof. Law. 2*, 2 (2007).

[FN17]. See, e.g., Ward, Pulse, *supra* note 8, at 34; Dinovitzer & Garth, *supra* note 8, at 11-12.

[FN18]. Ward, Pulse, *supra* note 8, at 32.

[FN19]. Dinovitzer & Garth, *supra* note 8, at 12.

[FN20]. *Id.*

[FN21]. See Ronit Dinovitzer et al., After the J.D.: First Results of a National Study of Legal Careers 3, 58, 64-65 (2004). Asians were least satisfied with substance, but shared white attorneys' high satisfaction with other working conditions. *Id.* at 64-65.

[FN22]. *Id.* at 58. For information on women in the law, see generally A.B.A. Comm'n on Women in the Profession, A Current Glance at Women in the Law (2006), <http://www.abanet.org/women/CurrentGlanceStatistics2006.pdf>; Theresa M. Beiner, Not All Lawyers Are Equal: Difficulties that Plague Women and Women of Color, 58 *Syracuse L. Rev.* 317 (2008).

[FN23]. “If their average rankings were expressed as grades... women of color [would have given their career satisfaction]... a B- [or] C+”; white men would have given their experience an A, and white women and men of color would have given theirs a B. Beiner, *supra* note 22, at 329 (alterations in original). See also A.B.A. Comm'n on Women in the Legal Profession, Visible Invisibility: Women of Color in Law Firms, Executive Summary (2006), <http://www.abanet.org/women/VisibleInvisibility-ExecSummary.pdf> [hereinafter A.B.A. Comm'n on Women in the Legal Profession, Visible Invisibility]; D.M. Osborne, The Woman Question, *Am. Law.*, Nov. 2007, at 106 (noting that minority women gave firms lower ratings in quality of work, satisfaction with work and professional growth); Jill Schacner Chanen, Early Exits, *ABA J.*, Aug. 2006, at 33, 34 (discussion attrition rates for minority women).

[FN24]. See, e.g., Delgado & Stefancic, *supra* note 7, at 250-52; Huang & Swedloff, *supra* note 7, at 339-40; Levit & Linder, *supra* note 7, at 357-59, 361; Beiner, *supra* note 22, at 328-30.

[FN25]. David Lykken & Auke Tellegen, Happiness is a Stochastic Phenomenon, 7 *Psychol. Sci.* 186, 186-89 (1996); Ed Diener et al., Subjective Well-Being: Three Decades of Progress, 125 *Psychol. Bull.* 276, 279 (1999); Sheldon & Lyubomirsky, Is It Possible, *supra* note 3, at 56; Levit & Linder, *supra* note 7, at 358-59.

[FN26]. Diener et al., *supra* note 25, at 279.

[FN27]. Susan Daicoff, [Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism](#), 46 *Am. U. L. Rev.* 1337, 1342 (1997).

[FN28]. Martin E.P. Seligman, Paul R. Verkuil & Terry H. Kang, [Why Lawyers Are Unhappy](#), 23 *Cardozo L. Rev.* 33, 39-41 (2001). For an overview of lawyers' personality types, see generally Susan Swaim Daicoff, [Lawyer, Know Thy-](#)

self: A Psychological Analysis of Personality Strengths and Weaknesses (2004); Daicoff, *supra* note 27, at 1340. For the importance of optimism, see Diener et al., *supra* note 25, at 281.

[FN29]. David T. Lykken, *Happiness: The Nature and Nurture of Joy and Contentment* 60 (2000); accord Sheldon & Lyubomirsky, *Achieving Sustainable Gains*, *supra* note 6, at 82-83.

[FN30]. William C. Compton, *Introduction to Positive Psychology* 48-49, 53-54 (2004); Kennon M. Sheldon et al., What is Satisfying About Satisfying Events? Testing 10 Candidate Psychological Needs, 80 *J. Personality & Soc. Psych.* 325, 325-27 (2001); Diener et al., *supra* note 25, at 276.

[FN31]. David G. Myers, *The Pursuit of Happiness: Who is Happy--and Why* 32-38 (1992); David G. Myers & Ed Diener, Who is Happy?, 6 *Psychol. Sci.* 10, 17 (1995); surveys reviewed in Deborah L Rhode, *In the Interests of Justice: Reforming the Legal Profession* 26 (2000) [hereinafter Rhode, *Interests of Justice*]. For discussion of strengths and virtues, see Compton, *supra* note 30, at 170-72; see generally Christopher Peterson & Martin E.P. Seligman, *Character Strengths and Virtues: A Handbook and Classification* (2004).

[FN32]. See research summarized in Alan Luks with Peggy Payne, *The Healing Power of Doing Good*, at xi-xii, 17-18, 45-54, 60 (2d ed. 2001); John Wilson and Marc Musick, *The Effects of Volunteering on the Volunteer*, 62 *Law & Contemp. Probs.* 141, 142-43 (1999); Marc A. Musick, A. Regula Herzog, & James S. House, *Volunteering and Mortality Among Older Adults: Findings From a National Sample*, 54B *J. Gerontology* S173, S178 (1999); John M. Darley, *Altruism and Prosocial Behavior Research: Reflections and Prospects*, in *Prosocial Behavior* 312, 312-27 (Margaret S. Clark ed., 1991).

[FN33]. Deborah L. Rhode, *Pro Bono in Principle and in Practice: Public Service and the Professions* 29-30 (2005) [hereinafter Rhode, *Pro Bono*]; Deborah L. Rhode, *Profits and Professionalism*, 33 *Fordham Urb. L.J.* 49, 58 (2005) [hereinafter Rhode, *Profits*].

[FN34]. Rhode, *Interests of Justice*, *supra* note 31, at 28-38; Rhode, *Pro Bono*, *supra* note 33, at 1-2, 19-21, 134-48; Rhode, *Profits*, *supra* note 33, at 61-70.

[FN35]. Dinovitzer & Garth, *supra* note 8, at 11-12; K. Charles Cannon, *The Ultimate Guide to Your Legal Career* 4, 9 (2007).

[FN36]. See Dinovitzer & Garth, *supra* note 8 at 11-12; Cannon, *supra* note 35 (noting the disillusionment of associates trapped in tedious document review who feel “this is not what they went to Harvard Law School for”).

[FN37]. Delgado & Stefancic, *supra* note 7, at 253-54.

[FN38]. Seligman, Verkuil & Kang, *supra* note 28, at 47-48 (discussing the adversarial nature of practice); Ward, *Pulse*, *supra* note 8, at 31 (noting that sixty-nine percent of lawyers believe that the profession has become less civil); Walt Bachman, *Law v. Life: What Lawyers Are Afraid to Say About the Legal Profession* 117 (1995) (describing acrimony).

[FN39]. NALP, *Toward Effective Management*, *supra* note 11, at 8-9; NALP, *Update*, *supra* note 11, at 25.

[FN40]. Ward, *Pulse*, *supra* note 8, at 32.

[FN41]. ABA Young Lawyers Division Survey: Career Satisfaction, 20 (2000), available at http://www.abanet.org/yld/satisfaction_800.doc

[FN42]. Cannon, *supra* note 35, at 13.

[FN43]. Jean Stefancic & Richard Delgado, *How Lawyers Lose Their Way: A Profession Fails its Creative Minds* 14-15 (2005).

[FN44]. Dinovitzer, et al., *supra* note 21, at 49.

[FN45]. Rhode, *Pro Bono*, *supra* note 33, at 147-48.

[FN46]. *Id.* at 20, 148. Those estimates are not inconsistent with the American Bar Association's findings that two-thirds of lawyers averaged thirty-nine hours of pro bono work per year. ABA, *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers* 4 (2005). That study used an extremely broad definition of pro bono, based on Model Rule 6.1, which included participation in bar association activities. *Id.* at 10.

[FN47]. Rhode, *Interests of Justice*, *supra* note 31, at 29-30.

[FN48]. See *id.* at 30.

[FN49]. See A.B.A. Comm'n on Women in the Legal Profession, *Visible Invisibility*, *supra* note 23.

[FN50]. Rhode, *Interests of Justice*, *supra* note 31, at 35.

[FN51]. *Id.*; Ashby Jones, *Law-Firm Life Doesn't Suit Some Associates*, *Wall St. J.* May 2, 2006, at B6.

[FN52]. Marie Beaudette, *Associates Leave Firms in Droves: Becoming Partner is No Longer Priority--And if it is, It is a Difficult Goal*, *Nat'l L. J.*, Oct. 6, 2003, at 8 (quoting Mark Plotkin, *Covington & Burling*).

[FN53]. John R. O'Neil, *The Paradox of Success: When Winning at Work Means Losing at Life* 26-31 (1994).

[FN54]. Rhode, *Pro Bono*, *supra* note 33, at 138-40.

[FN55]. Leo Cullum, *The New Yorker*, Apr. 20, 1998, available at <http://www.cartoonbank.com>.

[FN56]. Joan Williams, *Unbending Gender: Why Family and Work Conflict and What to Do About It* 71-73 (2000); Boston Bar Ass'n Task Force on Work-Family Challenges, *Facing the Grail: Confronting the Course of Work-Family Imbalance* 39 (1999), <http://www.bostonbar.org/prs/workfamilychallenges.htm>; Catalyst, Inc., *A New Approach to Flexibility: Managing the Work/Time Equation* 20-21 (1997). For women's disproportionate share of family responsibilities, see generally United States Bureau of Labor Statistics, *New American Time Use Survey* (2006), <http://www.bls.gov/news.release/pdf/atus.pdf>; Suzanne M. Bianchi, John P. Robinson & Melissa A. Milkie, *Changing Rhythms of American Family Life* (2006); sources cited in Deborah L. Rhode & Barbara Kellerman, *Women and Leadership: The State of Play*, in *Women and Leadership: The State of Play and Strategies for Change* 1, 13-15 (Barbara Kellerman & Deborah L. Rhode eds., 2007); Edmund L. Andrews, *Survey Confirms It: Women Outjuggle Men*, *N.Y. Times*, Sept. 15, 2004.

[FN57]. Jean E. Wallace, *Juggling It All: Exploring Lawyers' Work, Home, and Family Demands and Coping Strategies* 15 (Law School Admission Council 2002).

[FN58]. Sylvia Ann Hewlett & Carolyn Buck Luce, *Off-Ramps and On-Ramps: Keeping Talented Women on the Road to Success*, *Harv. Bus. Rev.*, Mar. 2005, at 3-4 (of surveyed professional women who had opted out, one-quarter failed to

find acceptable jobs, and about half failed to find full-time positions).

[FN59]. ABA Young Lawyers Division, *supra* note 41, at Table 20.

[FN60]. See Gregory J. Mazares, [Associate Retention for Law Firms: What Are Your Lawyers Saying About You?](#), 29 *Cap. U. L. Rev.* 903, 905 (2002) (finding that one-third of associates believe that lawyers at their firms are encouraged to create a balance between work and life outside it); Martha Neil, *Lawyers Shun Firms' Offers of Part-Time Work*, *Chi. L. Bull.*, Dec. 19, 2000, at 1 (suggesting that about half of surveyed practitioners have reason to doubt that their employers truly support flexible workplace arrangements).

[FN61]. The Family & Work Institute's National Study of the Changing Workforce, involving some 2800 workers, found that workplace flexibility and family support was the most significant factor in job satisfaction, followed by job quality. See Steven Ginsberg, *Raising Corporate Profits by Reaching Out to Families; Study Shows Company Support Programs Boost Worker Productivity, Loyalty, and Rank as Biggest Factor in Job Satisfaction*, *Wash. Post*, Apr. 19, 1998, at H7. For discussion of the generational shift in priorities as young men, as well as women, express a greater desire for time with their families, see Families and Work Institute, *Generation and Gender in the Workplace* (2004); Joan C. Williams, [Canaries in the Mine: Work/Family Conflict and the Law](#), 70 *Fordham L. Rev.* 2221, 2230-31 (2002) [hereinafter Williams, *Canaries*]; Douglas M. McCracken, *Winning the Talent War for Women: Sometimes it Takes a Revolution*, *Harv. Bus. Rev.*, Nov.-Dec. 2000, at 159, 162; Bruce Balesier, *'Mommy Track' No Career Derailment*, *N.Y. L.J.*, June 9, 2000, at 24; Terry Carter, *Your Time or Your Money: Groundswell Supports Less Billable Hours, Alternate Tracks to the Top*, 87 *A.B.A. J.* 26, 26 (2001). One survey by Harris Interactive and the Radcliffe Public Policy Center found that almost three quarters of men in their mid-thirties, compared to only one-quarter of men over age sixty-five, would be willing to take lower salaries in exchange for more time available for their family. Kirstin Downey Grimsley, *Family a Priority for Young Workers: Survey Finds Change in Men's Thinking*, *Wash. Post*, May 3, 2000, at E1.

[FN62]. Stephanie Francis Ward, [Such a Deal: Does Perkins Coie Have the Best Time-Money Solution?](#), 93 *A.B.A. J.* 29, 29 (2007); Stephanie Francis Ward, [The Ultimate Time-Money Trade-off](#), 93 *A.B.A. J.* 24, 24 (2007).

[FN63]. Almost half of women lawyers, and almost two-thirds of those working more than forty-five hours a week, report stress levels that have adverse effects on reproductive health. Marc B. Schenker, et al., *Self-Reported Stress and Reproductive Health of Female Lawyers*, 39 *J. Occupational & Env'tl. Med.* 556, 556-68 (1997). Stress levels also adversely affect happiness. Easterbrook, *supra* note 3, at 209. By contrast, adequate time for significant family involvement helps to buffer problems experienced in the workplace and improves health and performance. Faye J. Crosby, *Juggling: The Unexpected Advantages of Balancing Career and Home for Women and Their Families* 86-67 (1991). For general discussion of the costs of excessive workloads, see Sylvia Ann Hewlett & Carolyn Buck Luce, *Extreme Jobs: The Dangerous Allure of the 70-Hour Workweek*, *Harv. Bus. Rev.*, Dec. 2006, at 46; Jill Andresky Fraser, *White-Collar Sweatshop* 36-37 (2001); Ellen Galinsky, Stacy S. Kim & James T. Bond, *Feeling Overworked: When Work Becomes Too Much* (Families and Work Institute 2001).

[FN64]. Christopher K. Hsee & Reid Hastie, *Decision and Experience: Why Don't We Choose What Makes Us Happy*, 10 *Trends in Cognitive Sci.* 31, 31-36 (2006). See, e.g., Daniel Kahneman et al., *Would You Be Happier if You Were Richer? A Focusing Illusion*, 312 *Sci.* 1908, 1908 (2006) (indicating that contrary to widespread belief, high income is not always associated with higher levels of happiness).

[FN65]. Seligman, *Authentic Happiness*, *supra* note 5, at 49; Ed Diener, Richard E. Lucas & Christie Napa Scollon, *Beyond the Hedonic Treadmill: Revising the Adaptation Theory of Well-Being*, 61 *Am. Psychologist* 305, 305 (2006); Sheldon & Lyubomirsky, *Achieving Sustainable Gains*, *supra* note 6, at 60; Ed Diener & Robert Biswas-Diener, *Will Money*

Increase Subjective Well-Being? A Literature Review and Guide to Needed Research, 57 Soc. Indicators Res. 119, 121 (2002).

[FN66]. Myers, *supra* note 31, at 63.

[FN67]. *Id.* at 39.

[FN68]. Easterbrook, *supra* note 3, at 164; Bureau of the Census, Census of Population and Housing (1990), available at <http://www.census.gov/hhes/www/income/cphls/cphls.html>; Sheldon & Lyubomirsky, *Is It Possible*, *supra* note 3, at 131; Patrick J. Schlitz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 Vand. L. Rev. 871, 881, 883 (1999).

[FN69]. Myers & Diener, *supra* note 31, at 13; Juliet B. Schur, *The Overspent American: Upscaling, Downshifting, and the New Consumer* 7 (1998); Robert H. Frank, *Luxury Fever: Why Money Fails to Satisfy in an Era of Excess* 112 (1999); Easterbrook, *supra* note 3, at 169-71; Matthew Herper, *Money Won't Buy You Happiness*, *Forbes*, Sept. 21, 2004.

[FN70]. Frank, *supra* note 69, at 112. See also Robert E. Lane, *Does Money Buy Happiness?*, 113 *Pub. Interest* 56, 58, 61 (1993); Daniel Gilbert, *Stumbling on Happiness* 217 (2006) (noting that people who earn five million dollars are not much happier than those who earn one million dollars).

[FN71]. Dinovitzer et al., *supra* note 21, at 50; Kenneth G. Dau-Schmidt & Kaushik Mukhopadhyaya, *The Fruits of Our Labors: An Empirical Study of the Distribution of Income and Job Satisfaction Across the Legal Profession*, 49 *J. Legal Educ.* 342, 346-47 (1999); Marc Galanter, "Old and in the Way": *The Coming Demographic Transformation of the Legal Profession and its Implications for the Provision of Legal Services*, 1999 *Wis. L. Rev.* 1081, 1108-09.

[FN72]. Seligman, *Authentic Happiness*, *supra* note 5, at xiii (arguing that pleasure is less related to enduring happiness than engagement in relationships and a sense of meaning, which involves using personal capacities to make a broader societal contribution). See also Herper, *supra* note 69; Jonathan Haidt, *The Happiness Hypothesis: Finding Modern Truth in Ancient Wisdom* 83 (noting how adaptation to improved material circumstances erodes their value); Tim Kasser & Richard M. Ryan, *A Dark Side of the American Dream: Correlates of Financial Success as a Central Life Aspiration*, 65 *J. Personality & Soc. Psychol.* 410 (1993) (finding that a focus on financial success and social recognition were less correlated with physical and psychological well-being than a focus on affiliation and community).

[FN73]. Robert H. Frank, *How Not to Buy Happiness*, 133 *Daedalus* 69, 69-71 (2004); Kahneman et al., *supra* note 64, at 1910. See also Myers, *supra* note 31, at 39 (noting that satisfaction is a function more of perceived than actual wealth); Compton, *supra* note 30, at 62 (discussing perception of comparative well-being).

[FN74]. See Compton, *supra* note 30, at 62 (discussing social comparisons).

[FN75]. As Steven Brill, the former editor of the *American Lawyer*, has noted, once legal periodicals began comparing law firm salaries, "[s]uddenly, all it took for a happy partner making \$250,000 a year to become a malcontent was to read that his classmate at the firm on the next block was pulling down \$300,000." Steven Brill, "Ruining" the Profession, *Am. Law.*, Jul.-Aug. 1996, at 5. See also Vivia Chen, *Rich Lawyer, Poor Lawyer: In the Land Where Hedge Fund and Private Equity Czars Still Reign, Lawyers Making a Million Dollars a Year are a Dime a Dozen*, *Am. Law.*, Dec. 2007, at 15 (noting that lawyers in the "uberprivileged enclaves of New York and Silicon Valley" live in the shadow of financial investors who skew wealth comparisons upward).

[FN76]. Robert H. Frank & Philip J. Cook, *The Winner-Take-All Society: How More and More Americans Compete for Ever Fewer and Bigger Prizes, Encouraging Economic Waste, Income Inequality, and an Impoverished Cultural Life* 41, 66 (1995); O'Neil, *supra* note 53, at 29-30; William R. Keates, *Proceed With Caution: A Diary of the First Year at One of America's Largest, Most Prestigious Law Firms* 144 (1997); Schur, *supra* note 69, at 5-12. See generally Mike Papantonio, [Legal Egos on the Loose](#), 85 *A.B.A. J.* 108 (1999).

[FN77]. Keates, *supra* note 76, at 126.

[FN78]. See Richard Conniff, *The Natural History of the Rich: A Field Guide* 145 (2002).

[FN79]. William D. Henderson & David Zaring, [Young Associates in Trouble](#), 105 *Mich. L. Rev.* 1087, 1100 (2007).

[FN80]. See Keates, *supra* note 76, at 126.

[FN81]. Lynnley Browning, *For Lawyers, Perks to Fit a Lifestyle*, *N.Y. Times*, Nov. 22, 2007, at C1.

[FN82]. NALP, *Toward Effective Management*, *supra* note 11; Huang & Swedloff, *supra* note 7, at 338; Deloitte Research, *It's 2008: Do You Know Where Your Talent Is?: Why Acquisition and Retention Strategies Don't Work*, 4, 7, 9 (2007), <http://www.deloitte.com/dtt/research/0,1015,sid%253D26551%CC2526cid%253D71444,00.html>.

[FN83]. For "thank you" strategies see Alex Williams, *The Falling-Down Professions*, *N.Y. Times*, Jan. 6, 2008, at 91. For treats, see Browning, *supra* note 81, at C1. For mentoring programs, see Leigh Jones, *Mentoring Plans Failing Associates: High Attrition Rates Still Hit Firms Hard*, *Nat'l L.J.*, Sept. 18, 2006, at 1; Stark & Prescott, *supra* note 11, at 45. For part time use, see *About 75% of Part-Time Attorneys are Women*, *Nat'l L.J.*, Dec., 17, 2007, at 3.

[FN84]. See Cynthia Fuchs Epstein et al., *The Part-Time Paradox: Time Norms, Professional Lives, Family, and Gender* 4-5 (1999); Renee Landers et al., *Rat Race Redux: Adverse Selection in the Determination of Work Hours in Law Firms*, 86 *Am. Econ. Rev.* 329, 329, 342 (1996).

[FN85]. *Id.* at 343-44.

[FN86]. See *Families and Work Institute*, *supra* note 61. But see Henderson & Zaring, *supra* note 79, at 1101 (finding no effect on surveyed law firm's bottom line from family-friendly policies).

[FN87]. Richard Ellsberry, *The Family Friendly Office*, *Office Systems*, March 1, 1999, at 42; Mackenzie Carpenter, *A Few Ounces of Prevention: Nationally Companies Recognize Need to Help with Family Care*, *Pittsburgh Post-Gazette*, June 5, 1996, at A1; Keith Cunningham, Note, [Father Time: Flexible Work Arrangements and the Law Firm's Failure of the Family](#), 53 *Stan. L. Rev.* 967, 1004 (2001).

[FN88]. Williams, *supra* note 56, at 112; Williams, *Canaries*, *supra* note 61, at 2227; Lotte Bailyn, *Breaking the Mold: Women, Men, and Time in the New Corporate World* 80-84 (1993); Linda Bray Chanow, Report for the Women's Bar Ass'n of D.C., *Lawyers, Work, and Family: A Study of Alternative Schedules at Law Firms in the District of Columbia* 8 (2000); M. Diane Vogt and Lori-Ann Rickard, *Keeping Good Lawyers: Best Practices to Create Career Satisfaction* 55 (2000).

[FN89]. John P. Heinz et al., [Lawyers' Roles in Voluntary Associations: Declining Social Capital?](#), 26 *Law & Soc. Inquiry* 597, 599 (2001); Jill Schachner Chanen, [Pro Bono's Pros--and Cons: Rewards Are Great, But it Takes a Deft Balance of Time and Effort](#), 84 *A.B.A. J.*, 80, 80 (1998); Jack W. Londen, *The Impact of Pro Bono Work on Law Firm Eco-*

nomics, 9 *Geo. J. Legal Ethics* 925, 926 (1996); Thomas J. Brannan, *Pro Bono: By Choice or By Chance?*, 84 *Ill. B.J.* 481, 481 (1996); Ronald J. Tabak, *Integration of Pro Bono Into Law Firm Practice*, 9 *Geo. J. Legal Ethics* 931, 932 (1996).

[FN90]. Talcott J. Franklin, *Practical Pro Bono: How Public Service Can Enhance Your Practice*, *S.C. Law.*, Jan.-Feb. 1999, at 15, 19-20.

[FN91]. Peter D. Hart Research Assoc's, *A Survey of Attitudes Nationwide Toward Lawyers and the Legal System* 29 (1993).

[FN92]. *Id.*

[FN93]. For the decline in status of the legal profession, see Williams, *supra* note 56, at 1, 8-9; Debra Cassens Weiss, *Legal Careers Lose Their Allure, Drop to Dentistry Status*, *A.B.A. J.--Law News Now*, Jan. 11, 2008, http://www.abajournal.com/weekly/legal_careers_lose_their_allure_drop_to_dentistry_stat/. For the decline in applications, which is greater among women than men, see Leigh Jones, *Fewer Women Are Seeking Law Degrees: A Rejection of the 'Lawyer's Life' Seen*, *Nat'l L. J.*, Oct. 1, 2007, at 1 (noting that in 2006, male applicants dropped 6.7%, female applicants, 7.7%, and in 2005, male applicants dropped 4.1% and female applicants dropped 5.4%).

[FN94]. Harry Frankfurt, *The Importance of What We Care About*, 53 *Synthesis* 257 (1982).

[FN95]. *Id.*

[FN96]. For similar suggestions, see Huang & Swedloff, *supra* note 7, at 337-38; Seligman et al., *Positive Psychology Progress*, *supra* note 4, at 416; Sheldon & Lyubomirsky, *Achieving Sustainable Gains*, *supra* note 6, at 82-83; Seligman, Verkuil & Kang, *supra* note 28, at 45-46.

[FN97]. The student-run Building a Better Legal Profession movement considers diversity, billable hours, and pro bono activities. See Peter Schmidt, *Advocates of Diversity Grasp for Ways to Drive Change in Legal Profession*, *Chron. of Higher Educ.*, Nov. 29, 2007, available at <http://chronicle.com/news/article/3519/advocates-of-diversity-grasp-for-sticks-to-drive-change-in-legal-profession>; G.M. Filisko, *Students Aim for BigLaw Change: Group's Protest Letter Results in Only One Meeting--But One that Mattered*, 93 *A.B.A. J.* 28, 28 (2007). The American Lawyer A-List considers profitability, associate satisfaction, diversity, and pro bono work. See *The A-List*, *Am. Law.*, July 2007, at 80.

[FN98]. Linda Babcock & Sara Laschever, *Women Don't Ask* 1-11 (2003). For other research on the forces that socialize women to avoid seeming pushy or aggressive, see Rhode & Kellerman, *supra* note 56, at 7.

[FN99]. Kimberly A. Eddleston, David C. Baldrige & John F. Veiga, *Toward Modeling the Predictors of Managerial Career Success: Does Gender Matter?*, 19 *J. Managerial Psychol.* 360, 378 (2004).

[FN100]. Examples include women's networks within law firms, and bar association task forces that enlist legal employers to commit to hiring and advancement goals and timetables. See Rhode & Kellerman, *supra* note 56, at 30, 34.

[FN101]. For the importance of training and evaluating those in supervisory positions, see Stark & Prescott, *supra* note 11.

[FN102]. For the value of 360 performance evaluations, see Elizabeth Goldberg, *Playing Nice: Partners are Treating As-*

sociates Better Than Ever--They Don't Have a Choice, *Am. Law.*, Aug. 2007, at 100.

[FN103]. For the frequent inadequacy of part-time policies, see Williams, *Canaries*, supra note 61, at 2223-24. For the lack of demonstrable benefits from diversity and harassment policies, see Kimberly D. Krawiec, *Cosmetic Compliance and the Failure of Negotiated Governance*, 81 *Wash. U. L.Q.* 487, 507-08, 514 (2005). For the inadequacy of mentoring policies, see Katherine Giscombe & Mary C. Mattis, *Leveling the Playing Field for Women of Color in Corporate Management: Is the Business Case Enough?*, 37 *J. Bus. Ethics* 103, 113, 117 (2002).

[FN104]. Rhode *Pro Bono*, supra note 33, at 138-40. For the ABA's rule see Model Rules of Prof'l Conduct R. 6.1 (1983).

[FN105]. For examples of innovative arrangements see Natasha Sarkisian, *Who Says Being a Lawyer Has to Suck?*, *San Fran.*, available at http://www.sanfran.com/home/view_story/1517 (last visited Feb. 20, 2008); Lisa Belkin, *Who's Cuddly Now? Law Firms*, *N.Y. Times*, Jan. 24, 2008, at G1.

[FN106]. Leigh Jones, *The Rise of the New Model Firm: Different Culture, Lower Rates Spur Anti-Big Firm Style*, *Nat'l L. J.*, May 21, 2007, at 1.

[FN107]. ABA Comm. on Billable Hours, *Report to the House of Delegates*, ix (2002).

[FN108]. Sheila M. Gutterman, *Collaborative Law: A New Model for Dispute Resolution* 12-13 (2004); Sherrie R. Abney, *Avoiding Litigation: A Guide to Civil Collaborative Law* (2006); Pauline H. Tesler, *Collaborative Law: Achieving Effective Resolution in Divorce Without Litigation* 4 (2001); *Principles and Guidelines for the Practice of Collaborative Law*, <http://www.wakcollaborativelaw.com/docs/pdf4.pdf>.

[FN109]. For clients' diversity efforts, see Karen Donovan, *Pushed by Clients, Law Firms Step Up Diversity Efforts*, *N.Y. Times*, July 21, 2006, at C6.

[FN110]. For discussion of public sector clients who make pro bono a consideration, see Rhode, *Profits*, supra note 33, at 168.

[FN111]. Lauren Stiller Rikleen, *Ending the Gauntlet: Removing Barriers To Women's Success in the Law* 371-74 (2006) (discussing the San Francisco "No Glass Ceiling Initiative" and the Chicago Bar Association's Alliance for Women Call to Action); Rhode & Kellerman, supra note 56, at 34.

[FN112]. Five states require reporting and twelve have voluntary reporting systems. *State-by-State Pro Bono Service Rules*, <http://www.abanet.org/legalservices/probono/stateethicsrules.html> (last visited Feb. 20, 2008). For the value of such rules see Rhode, *Profits*, supra note 33, at 167-69.

[FN113]. Standing Committee on Pro Bono Legal Service, *Report to the Supreme Court of Florida, the Florida Bar, and the Florida Bar Foundation on the Voluntary Pro Bono Attorney Plan*, 4-6 (2006) available at <http://www.floridaprobono.org/library/folder.118064>.

[FN114]. See Dau-Schmidt & Mukhopadhaya, supra note 71, at 346.

[FN115]. *Law School Survey of Student Engagement*, *Student Engagement in Law Schools: A First Look*, 8 (2004) [hereinafter LSSSE].

[FN116]. Robert P. Schuwerk, [The Law Professor as Fiduciary: What Duties Do We Owe to Our Students](#), 45 S. Tex. L. Rev. 753, 764-66 (2004) (noting that most law professors are unfamiliar with the psychological dysfunction of their students or attribute the causes to factors outside law school control); accord Lawrence S. Krieger, [Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence](#), 52 J. Legal Educ. 112, 115 (2002). For the general problem, see Thomas Adcock, [Despite '93 Report, Substance Abuse Persists at Law Schools](#), N.Y. L.J., June 30, 2003, at 16; Kennon M. Sheldon & Lawrence S. Krieger, [Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory](#), 33 Personality & Soc. Psychol. Bull. 883, 883 (2007).

[FN117]. LSSSE, *supra* note 115.

[FN118]. William M. Sullivan et al., [Educating Lawyers: Preparation for the Profession of Law](#) 187 (2007).

[FN119]. Rhode, [Profits](#), *supra* note 33, at 162.

[FN120]. Richard A. Matasar, [The Rise and Fall of American Legal Education](#), 49 N.Y.L. Sch. L. Rev. 465, 478-79 (2004); Rhode & Luban, *supra* note 3; Henderson & Zaring, *supra* note 79, at 1104.

[FN121]. Harlan F. Stone, [The Public Influence of the Bar](#), 48 Harv. L. Rev. 1, 11 (1934).

[FN122]. *Id.*

[FN123]. David B. Wilkins, [The Professional Responsibility of Professional Schools to Study and Teach About the Profession](#), 49 J. Legal Educ. 76, 76 (1999).
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