

## LAW 779.01 SYLLABUS

### Course Title and Description: WELL-BEING AND THE PRACTICE OF LAW

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*“The practice of law is not fully intelligible without reference to (the) great philosophical issues in ethics . . . (N)either is the practice of law fully intelligible without reference to the inner mind of each of us who engages in the practice of law.” - Geoffrey C. Hazard, Jr.*

"Well-being and the Practice of Law," will examine why the “pursuit of happiness,” a phrase written by a lawyer, has proved futile for many members of the legal profession and those aspiring to its ranks. There is considerable data (*that predates the current recession in the legal market*) indicating that lawyers and law students suffer from greater rates of depression and anxiety than other professions, along with accompanying social maladies such as substance abuse and stress-related illness. There is also considerable evidence of high career dissatisfaction among lawyers, and many others are leaving the profession or performing well below their capability. This seems unfathomable given the high levels of education, affluence, and respect lawyers enjoy (or will enjoy), factors which predict happiness and job satisfaction in other areas of life. Importantly, research indicates these problems *begin in law school*. That something happens between graduation from college and the beginning of practice that negatively impacts life satisfaction at a rate far beyond other professional or graduate educational models.

The class also focuses on a very important, but underexplored, question: what is the impact of all of this on legal professionalism? Are well-being and professionalism interrelated? Or, in layperson’s terms, is a happier lawyer a better, more ethical one? If so, why and what should legal institutions do about it?

The class will present the research to date on lawyers and psychological health. We will examine the scientific data and academic literature on lawyer maladies, and look for holes in the collective wisdom where it exists and why many lawyers are quite content. While acknowledging the very real problems of the profession, we will address the question many lawyers and law professors legitimately ask – so what: who said lawyers are supposed to be happy? Finally, we will then review simple actions law schools, bar associations and law firms can take to improve the collective health of the profession, as well as the productivity and engagement of its individual practitioners.

In particular we will explore psychological traits and character strengths and the importance of aligning them with career choices in law practice and life. Accordingly, we will offer (free, voluntary, and non-intrusive personality and strengths testing) for members of the class. These measurements are the same that are the subject of ongoing studies I am working on at two separate law schools, preliminary data from which will be shared with the class. One thing that will *not* be a central focus of this class will be blowing up the current economic and/or pedagogical model of legal education and practice. Although there are many good reasons to do so, one might argue, and we will certainly discuss these and other institutional issues during this class, our central focus

will be on what individuals can do to find life satisfaction in the law and thrive as legal professionals.

To summarize, here are the major themes you will study, discuss, and upon which your writing assignments will be based:

- 1). What is going on with lawyers? Why is happiness in the law so elusive for so many?**
- 2). Is it possible for professionalism and the highest ethical behavior to flourish under these circumstances? If not, should legal institutions encourage well-being?**
- 4). What are the roles role personality, emotions, and character strengths play in the lives of lawyers? Should firms and lawyers take personality into account in career choices, assignments, etc.?**
- 5). What does scientific research into “happiness” have to offer us, and how can you apply it in your own life and career?**
- 6). How can these issues be articulated in a persuasive manner to leaders of legal institutions? What actions would you encourage law schools and firms to take?**

This is a serious course with substantial rigor; there will be intensive reading and writing requirements, but within the bounds of a one-credit hour course. Each class will present a mix of: a) theory and data, b) discussion of assigned readings and exercises, and c) applied knowledge. Additionally, we will have several guest speakers from leadership roles in practice, the academy, and the judiciary.

Class participation is very important. Your views on the issues and questions presented, and willingness to engage in application exercises, are important to the progression of the course. It is also important in developing my understanding of law students and what is important in their lives. *Laptops are permitted, but please use them sparingly, and not for robotic note-taking, chatting, tweeting, and the like.*

Grades will be based upon your participation in class, and the writing assignments. It will be curved according to school policy. Here is what I will look for in assigning grades. It is my expectation that over the course of the semester you will develop your own theory of well-being that you will present in your writing and class participation, centered around the above five themes. Your hypothesis need not support with the central premise of the class; grades will be based upon how well you synthesize the readings and discussions along with your own experience into a cohesive and insightful theory on the relationship of well-being and professionalism. An excellent paper will show a firm grasp of the material and issues presented, be well-organized with appropriate references, be persuasively written, and engage the reader intellectually.

#### **Grade weighting**

*First paper: 25% of your grade.*

*Second paper: 60% of your grade.*

*Participation (includes discussion board): 15%*

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*Note* - Timeliness of written submissions will be taken into account.

If results from experience and research repeat themselves, the self-awareness this course helps you explore might very well increase your overall life satisfaction as a law student. Even if not, with the right amount of effort you will learn a great deal about an important topic in the lives of lawyers, and be find intellectual stimulation of a sort different than most law school classes.

*Note about the syllabus:* because we will have several outside experts speaking to our class, the order of presentation on some of these topics will vary during the course of the semester depending upon speaker availability. Accordingly, the order of the reading assignments - while taken from the documents posted on blackboard - is subject to change and modification, and I have not posted all of the reading assignments beyond the first three classes. Also, because we are on the cutting edge in exploring these issues in law school, the direction of this class (whether deeper into theory or practical application, for example) will be influenced by you. I am available at any time (electronically since I don't live in Durham) for discussing this with you or anything else. In fact, I encourage it. While the syllabus and order of presentation might change, the due dates for the writing assignments and the discussion board hypothetical will not change.

### ***Class 1: Wednesday, August 24. Introduction.***

Overview of the course, where we introduce questions about the definition of well-being, its history, current research in hedonics and positive psychology, possible remedial measures in law school and practice - structural and behavioral, and ask the fundamental question: why are lawyers unhappy, and what can be done about it? This will be centered upon an orienting presentation by Professor Bowling and class discussion. The remainder of the classes will follow the theory, discussion, and application format set out above.

### **First Written Assignment:**

Please write a 4-5 page paper (double-spaced, 12-point type, Times New Roman or Georgian, app. 1000-1250 words) answering the following questions:

- 1) What do I want and expect out of law school?
- 2) What do I want and expect out of law practice?
- 3) What do I want and expect out of this class?
- 4) What to I want and expect out of myself as a professional?

Please answer the questions as precisely as you can. Also, address each question from both the standpoint of the institution (i.e., I expect the law school to get me a job, I expect that I do my best in every class, etc.) and from a personal standpoint. **The paper is due by Friday, September 9th, at midnight.**

**Reading Assignment:** 1. M. Seligman on *Unhappy Lawyers*; 2. Aristotle on the *Good Life*; 3. *EEOC v. Bloomberg*; P. Huang on *Happiness and Meaning in Law Firms* (these are in Course Documents).

### ***Class 2: Wednesday, August 31. What is well-being?***

1. *Theory*

A. Philosophical roots

1. Aristotle and the Western tradition
2. Other cultures and traditions

B. Scientific roots

1. Pre-WW II psychology (Maslow and humanistic psychology)
2. Post-WW II psychology (disease focus)
3. Hedonics
4. 21<sup>st</sup> Century approaches – Martin Seligman and positive psychology
5. Other disciplinary approaches: neuroscience, etc.

C. What well-being is not

1. Self-help or New Age mysticism
2. Failed approaches: Self-esteem movement, etc.
3. Pure happiness and unbridled optimism

D. Can well-being be learned, and thus, taught?

2. *Class Discussion of Writing Assignment and Readings: Orienting Questions*

1. Who cares about happiness: Is well-being important for lawyers?
2. What findings in the Seligman study do you find persuasive? What findings do you find unpersuasive?
3. Do you agree that pessimism is useful for lawyers and law students? Or do think “optimistic realism” thinking tools should be encourage

3. *Application Exercise - Challenging Your Thinking Patterns and Optimistic Realism*

**Reading Assignment for September 14:** 1. *Law Students, Depression, and Positive Psychology* (pp.1-39). 2. *Making a Happy, Healthy, Ethical Lawyer* (pp. 871-873; 906-924).

**FIRST ASSIGNMENT DUE: SEPTEMBER 9**

***Class 3: Wednesday, September 14. Lawyers, law students, and the stresses and strains upon them.***

1. *Theory and discussion of readings*

- A. Happiness for lawyers - was it ever meant to be?

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B. The evidentiary case: review of data on illness and dysfunction among lawyers and law students

C. Law schools

1. History of jurisprudence in America and the law school experience

2. Does legal pedagogy destroy well-being?

a. The paper chase

b. Intrinsic vs. extrinsic motivation: the problem of money

c. Thinking like a lawyer and the values conflict

d. The absence of meaning

3. Problems with economic model of law schools and student debt issues

D. Law firms

1. Hourly billing model

2. The money chase

3. Law as business

4. Impersonality and dehumanization

5. Is there a life outside of work?

6. Electronic communication: the 24-7 lawyer

7. Other factors

E. Dissenting Voices

1. Challenges to the data; gaps in research

2. Lawyers are unhappy? So what?

3. Differences in legal career path

2. *Application. Guest Lecturer: The Honorable Robert Hunter, North Carolina Court of Appeals. View from the bench. Also, focus on BarCares: Efforts of NC Bar to help lawyers who suffer from emotional and mental problems.*

**Reading Assignment for September 21:** Hull rebuttal article; Resilience training article

***Class 4: Wednesday, September 21. Resilience Training and Depression Avoidance: Can law students and lawyers learn from cognitive behavioral training used in other professional domains?***

1. *Theory - what is resilience and how it is taught?*

2. *Application and discussion of readings*

- system; results
- A. Teaching resilience in the Philadelphia school
  - B. Executive coaching/counseling for lawyers based on resilience theory and examples.
  - B. Penn-U.S. Army cognitive training
  - C. Applicability of above examples to other high-stress professions and domains.
3. *Guest speaker - Jean Sean Doyle*

**Reading Assignment for September 28:** 1. *Aristotle and Virtue Ethics*; 2. *Krieger on Professionalism*; 3. *Kronman on Professionalism*.

***Class 5: Wednesday, September 28. Well-being, professionalism, and ethics***

1. *Theory*

A. Ethics

- 1. Legal Ethics
- 2. Moral Ethics
- 3. Conflict and Overlap

B. Professionalism

- 1. Definition
- 2. Code of Professional Responsibility
- 3. Normative standards
- 4. Anti-competitive and exclusionary?
- 5. Relationship to well-being: is there still such a thing as the citizen-lawyer?

2. *Discussion of Readings*

3. *Application: Guest speaker, Wynne Kelley, U.S. Atty's Office*

**Reading Assignment:** See course documents, near the top. Required reading is pp. 39-59, 66-68, and 79-81 of the previously assigned "Stemming the Tide" article. There is a good discussion of the VIA and its application in there. Also, I strongly recommend *Character Strengths in Organizations*, but it is not required.

**Discussion Board Assignment:** See course documents. I have posted instructions there.

***Class 6: Wednesday, October 5. Psychological factors impacting well-being in law practice, and a review of ways to improve well-being. NOTE- this order of***

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*presentation will be changed and our focus in class will be primarily on strengths in the practice of law.*

### 1. Theory

#### A. Optimism vs. pessimism: The role of explanatory style

1. Learned helplessness: is it induced by law school and the large firm associate experience?
2. How explanatory style can be changed

#### B. The Role of Positive Emotions

1. Neuroscience: the 3-1 ratio of positive to negative emotions
2. Are positive emotions possible in law?
  - a) Legal pedagogy
  - b) Associate life
  - c) role of law blogs

### 2. Discussion of Readings

### 3. Application

**Reading Assignment: Take the PANAS (Positive and Negative Affectivity) and the SWLS (Satisfaction with Life Scale) surveys on the following website: [www:authentic happiness.com](http://www.authentic happiness.com). You will have to create a log in and password. The surveys are quite short, but well-validated. Be prepared to discuss your results. Also, scroll around the website and be prepared to ask questions about some the other measures, or take them and share your results with the class. Finally, review the powerpoints on Learned Helplessness/Optimism and the VIA posted under course documents near the top. Email me with any questions, of course ([dabowling@gmail.com](mailto:dabowling@gmail.com)).**

**Class 6: Wednesday, October 19. Can the science of well-being and its empirical findings help?**

1. Theory (note - we will spend some time on some of the theories we have not focused on as much, such as learned optimism. Also, please bring your own questions - we will have a free-wheeling discussion).

#### A. Hedonics and Positive Psychology

1. Hope theory; goal theory
2. Positive meaning
3. Flow
4. Engagement
5. Accomplishment

#### 2. Discussion of Readings and Survey Results

#### 3. Application discussion

#### *4. Wrap-up*

##### **FINAL EXAM/PAPER:**

In lieu of a final exam, you will write a paper advancing your theory of well-being and the practice of law, to be supported by the readings, the lectures, and your personal observations. Although a certain amount of personal reflection is encouraged, it should be academic in style, substance, and tone, with appropriate citations.

Among other things, your paper should cover the following:

1. What is your definition of well-being. Note the similarities, or differences, in its definition to those offered in the assigned readings. Is it important for law students and lawyers? Why, or why not?

2. What, if any, is the role of well-being in legal professionalism? Can lawyers represent clients to the best of their ability while ignoring their personal well-being, or those they work with? What are the ethical issues, if any, with well-being from the standpoint of the Code of Professional Responsibility?

3. How might law schools, firms, bar associations, and individuals seek to increase well-being in the profession? Provide specific, detailed examples.

4. As an appendix, please expand upon your discussion board commentary (but in the paper) on the VIA strengths survey. Also, discuss your PANAS and SWLS scores. Please offer in no more than 3 pages (this counts against your overall total) your thoughts on your scores; also, whether you find these valid and useful tools for lawyers seeking to understand more about well-being. Also, offer your thoughts on whether the study of well-being this semester had any effect on your personal well-being.

**The paper should be 7-10 pages, double-spaced, 12 point type, Times New Roman or Georgia font (no more than 10 maximum). It is due no later than Tuesday, November 22.**

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