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BOARD OF GOVERNORS STATEMENT

To all members of the State Bar of Nevada:

The views expressed in the President's Column in the May 2014 issue of the *Nevada Lawyer* do not represent those of the Board of Governors, its individual members, or the State Bar of Nevada as a whole.

The State Bar of Nevada and the Board of Governors embrace and welcome viewpoints of every kind and the board assures all of our members that diversity and tolerance are valued and respected by the state bar.

The Board of Governors assures all members of the bar and the public that the State Bar of Nevada does not support any use of the President's Column for political statements. The board has a policy that requires the state bar president to refrain from using the *Nevada Lawyer* to advance personal political viewpoints.

Message from the President

By Alan J. Lefebvre, Esq., President, State Bar of Nevada

A NOTE ON PRESIDENT'S COLUMNS

Journalistically, a column is opinion-based, and the last two of mine have caused hurt feelings and anger among some of our members. I apologize for that offense. I thank those who read and emailed me about the issue or called. I have responded to each individual who has taken the time to write.

Should the editors of *Nevada Lawyer* have exercised prior restraint? Historically, the editors of *Nevada Lawyer* have not censored the president's column.

Have my other columns, from August 2013 forward, expressed opinions? Yes, starting with the first in August and continuing on, unbroken, to the March edition (to praise legislation (AB 74), its proponent by name, and its implementation by the Secretary of State's office). One even discussed a ballot question.

Neither of these last columns was read, let alone vetted or approved, by the Board of Governors in advance. None of the Board of Governors agree with my columns, nor were they asked. Is any opinion column bar policy? No.

I take to heart the hurt feeling I caused. I apologize.

The *Nevada Lawyer* Editorial Board includes in this edition letters received in response to the column, to give voice to the concerns raised.



Lawyer Well-Being and Even Happiness... *Come on, get happy!*

That was the Partridge Family's anthem, above in italics. We're lawyers, so ours must be something more dignified. How about, "embrace well-being!"

The literature on lawyer career satisfaction is dense and turgid. Here is the latest contribution to it: <http://www.>

legalethicsforum.com/blog/2014/04/lawrence-s-krieger-kennon-m-sheldon-what-makes-lawyers-happy-transcending-the-anecdotes-with-data-fr.html

The study is a chore to distill, but here is one take: factors relating to prestige and money (income, rank in an organization, position as perceived by the outside world) showed zero to small correlations with lawyer well-being. “Factors marginalized in law school and seen in previous research to erode in law students (psychological needs and motivation) were the very strongest predictors of lawyer happiness and satisfaction,” in the mature years of practice.

The study assumes that law students were all happy campers before the first year, but law school tore them down and reassembled the psyche, served up with a healthy dose of anxiety. Hoping for an invitation to law review, class rank, good grades, better grades and grades for higher class rank all held the promise of hope for a bright future back then; high grades fed first-year ambitions and stress, but now an unforgiving employment market raises the stress markers in all years of school.

The factor that seems to indicate the ability to achieve happiness, or its cousin “well-being,” is “autonomy” coupled with a collaborative environment, once the graduate is employed. That is really not surprising; who among us wants to be bossed?

POST-LAW-SCHOOL EXTREMES

Not surprising, the happiest among us are judges: black robe = positive vibes. Judges are never at risk of being late, they enjoy a private entrance to the building (and thus no security screening), and everybody stands up when you enter the room. How bad can that be?

The biggest downer after law school, the study reports, is the slavish bond of billing in private practice. The mantra of grades, grades, grades from school is replaced by billings, receipts, work in process, new matters reports, and aged accounts receivable reports. The most dreaded is the “over 90 day” AR report, which you get to explain when summoned to the corner office (as you take a break from pounding out the work, to be turned into revenue, to keep the doors open and the staff paid).

LET’S START WITH THE ROLE LAW SCHOOL ITSELF PLAYS

One psychologist observes that basic law school training changes student values, “unmoors the ‘self,’ marginalizes fairness, justice, morality, emotional life, and caring for others, and exclusively emphasizes competitive processes to the extent that they become the only goal.” That sounds accurate, at least to those educated in the past. I trust it is better now. The competitive atmosphere in school is exasperated by the espoused goal of a high-paying job in a prestigious law firm. (“How can I get a job when hiring is way down even for the top 5 percent, and they are struggling for employment?!”)

THE FIRST JOB AND THE INTRODUCTION TO THE LEGAL ENVIRONMENT

The perfect first job can turn to fool’s gold once the grip of reality sinks in, unless the practice setting is superlative and *collaborative, permitting a degree of autonomy*. Even the most altruistic of the law school starting class seem to covet the *first job* at the big firm, with nice furniture, trappings of affluence and a big salary. Remember “The Firm” and the luxury car for Tom Cruise, to transport him to work in the dark? It looked inviting.

Whatever the first job, the commentators find that “self-actualization” from “self-determination theory” (SDT), to be a major marker of early success or failure of the first experience in the field.

The most important prong of fulfillment: “A fourth important construct of SDT is the effect of supportive (vs. controlling) supervisors, teachers, or mentors. Research has shown that providing autonomy support to subordinates

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Questions? Comments?

Nevada Lawyer welcomes feedback from our readers! Contact us at nvlawyer@nvbar.org.

Message from the President

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enhances their ability to perform maximally, fulfill their psychological needs, and experience well-being.” Translated: that early practice is hell unless the supervisor is collaborative and does not treat the new lawyer as a young skull of mush. That makes sense. A lousy boss is still just a lousy boss, in law or at a 7-11 two blocks down the street.

THE LONG HAUL IN PRIVATE PRACTICE

The higher one ascends the so-called prestige ladder on the private practice side, the lower the satisfaction from things not related to the practice. The ability to travel, vacation and pursue interests for pleasure contracts with each ascent up the career ladder. The proof seems to be in the statistics, and it makes sense. (I got stuck in a middle seat on a cross-county flight. The chatty passenger in the next seat was an in-house lawyer, whose brother, he described, was a high-power private-practice fool. “You know,” he said, “I never considered private practice. I have too many life interests to be bogged down in a law firm.” I should have listened.)

Law firm websites don’t lure high-paying clients in with, “place your matter in our care, as laid-back lawyers, leading a well-balanced life, we will fight for you, but not on weekends, or after 6 p.m., or if it interferes with the firm-sponsored half-marathon. Our kids have soccer practice at 4, but we take work home.” Private practice clients don’t want well-balanced lawyers.

The alcohol factor? The numbers tell the story:

“... [M]ean consumption for men was slightly greater than for women ($M = 1.89, 1.56, p .001$), and among the racial and ethnic groups, Caucasian lawyers drank most and African Americans least ($M = 1.80, 1.41$ respectively; $p < .001$). Subjects earning more income drank slightly more ($r = .04, p = .003$). Lawyers in public service positions also drank less than private attorneys, particularly those in positions that typically provide the most income ($M = 1.67$ vs. $1.90, p < .01$).”

THE PRO BONO EFFECT

The data bears out that lawyers engaged in pro bono representation, as a relief from their routine, find satisfaction and fulfillment from law in the trenches... *it only takes one case*. The fact that a pro bono lawyer engages professionally with organizations like our state’s major pro bono providers and draws from their professionalism and experiences likely has the good “effects” on the rest of the private practice. Being able to solve a problem for somebody else has its own satisfaction... and perhaps a better perspective on what had become mundane.

The experience in a whole new area law (being a CAP lawyer for instance) makes each lawyer have an appreciation of how valuable their training has become for someone in need.

WHY ARE PUBLICALLY EMPLOYED LAWYERS MORE CONTENT AND CAN LET HAPPINESS INTO THEIR LIVES?

The study groups diverse factions together: high-tension criminal justice lawyers on both sides and those who give advice to and represent governments. (Defending a client on trial for their life has to be more stressful than say, a merger/acquisition.) The empirical data suggests it is drawn more from those in civil law, public employment.

Those in public service are tasked with problem solving and usually do so in a collaborative context, to aid policy makers/office holders and facilitate solutions to complex problems in a corner of the law that is unique; they can become highly specialized, and that permits creativity to solve a problem or assist in reaching consensus on how to give effect to a federal mandate or new code, or to craft the regulation to pass muster when challenged in court. One example: a city attorney staffer gets immersed in giving effect to the medical marijuana law. Crafting land use regulations for grow houses requires schooling in issues like the curtailment of the odor of standing crops, and it befalls the lawyer to know how to write an ordinance to protect the neighbors from offensive odors emanating from the standing crops. The technology is amazing, but it is the law that puts it into use, by what the law requires.

Winning and losing are defined differently and are not always attached to a flat-out financial result that causes “more money” to fall into the “win” column. The Hobbesian choice, that one side is a winner and the other is the loser, is not at the fore in public service law, at least not always.

ANY CONCLUSIONS?

Most went to law school because they were perhaps a little brighter, liked the world of concepts, thrived in the abstract world of making and winning argument and debate; then in law school, the smart student got positive feedback from sharpened intellectual gifts and the power of persuasive argument... “just words” spoken or words on a paper could have a great effect on others in persuading to a point of view and... effect a result in the real world: change, all brought about by the lawyer’s gift.

The study begins with the observation: “It is pretty hard to tell what does bring happiness. Poverty and wealth have both failed.” Happiness is largely self-determined and won’t drop on your head, without some experimentation. ■