

Coming Out in the Classroom: Law Professors, Law Students and Depression

Brian S. Clarke

Introduction

In January 2014, CNN ran a piece entitled “Why Are Lawyers Killing Themselves?”¹ In general, the piece focused on a spate of lawyer suicides in Kentucky and other states over the last several years. Most of the Kentucky suicides (15 since 2010) were seemingly successful lawyers.² One was a relatively young (37) and popular adjunct professor at Northern Kentucky University’s Chase College of Law.³ More recently, two lawyers in New York City, including a highly successful partner at Debevoise & Plimpton in Manhattan, committed suicide by jumping from their high-rise apartments.⁴ In my home state of North Carolina, prominent lawyer suicides in recent years have included one of the founders of King & Spalding’s Charlotte office,⁵ who was profoundly successful; a prominent litigator in McGuire Woods’ Raleigh office;⁶ and numerous quietly successful small town lawyers.

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1. Rosa Flores & Rosa Marie Arce, *Why are lawyers killing themselves?*, CNN U.S. (Jan. 20, 2014), <http://www.cnn.com/2014/01/19/us/lawyer-suicides>.
2. *Id.*
3. *Id.*
4. See Daily Mail Reporter, *Prominent Manhattan Lawyer, 55 ‘Emails Ex-wife Suicide Note Before Jumping 22 Stories to His Death,’* THE DAILY MAIL, <http://www.dailymail.co.uk/news/article-2631632/Prominent-Manhattan-lawyer-55-emails-ex-wife-suicide-note-jumping-22-stories-death.html>.
5. See David Boraks, *Obituary, Deaths: George Covington, Davidson Grad, Ex-WDAV Chair*, DAVIDSONNEWS.NET (Dec. 11, 2008) <http://davidsonnews.net/blog/2008/12/11/deaths-george-covington-davidson-grad-ex-wdav-chair>.
6. See *Death Notices, Mark Alan Ash*, NEWSOBSERVER.COM (Feb. 24, 2011) <http://www.newsobserver.com/2011/02/24/1010118/mark-alan-ash.html>.

One of the most thoroughly reported lawyer suicides in recent years was that of Mark Levy, the chair of Kilpatrick Stockton's Supreme Court and appellate litigation practice in Washington, D.C. Mr. Levy was a top Supreme Court advocate, having argued 16 times before the Court and, in January 2009, won a 9-0 victory for DuPont in an important ERISA case.⁷ However, in April 2009, as the economy slipped deeper into recession and law firms looked to cut costs, Kilpatrick Stockton informed Mr. Levy that his services were no longer needed. So, Mr. Levy came to work on April 30, 2009, sat down at his desk, activated the "out of office" auto-reply feature on his email account and shot himself in the head. Chillingly, the "out of office" message Mr. Levy activated that morning was as follows:

As of April 30, 2009, I can no longer be reached. If your message relates to a firm matter, please contact my secretary. If it concerns a personal matter, please contact my wife⁸

The common thread running through these suicides? Clinical depression (also called "major depressive disorder"). According to, among others, the American Psychological Association,⁹ the American Psychiatric Association,¹⁰ and the National Institute of Mental Health (NIMH),¹¹ depression is the most likely trigger for suicide.¹² According to one study, "lawyers, as a group, are 3.6 times more likely to suffer from depression than the average person."¹³ Another major study found that "lawyers manifested clinical levels of depression, anxiety, phobia, and interpersonal sensitivity 5 to 15 times more commonly than the general population."¹⁴ Of 104 occupations, lawyers were the most likely to suffer depression.¹⁵

7. Kennedy v. Plan Adm'r for DuPont Sav. & Inv. Plan, 555 U.S. 285 (2009).
8. See Richard B. Schmitt, *A Death in the Office*, ABA JOURNAL, Nov. 2009, at 30, 36.
9. See Am. Psychological Ass'n, *Suicide*, AM. PSYCHOL. ASS'N, <http://www.apa.org/topics/suicide> (last visited June 13, 2014).
10. See Am. Psychiatric Ass'n, *Suicide*, <http://www.psychiatry.org/suicide> (last visited June 13, 2014).
11. See Nat'l Inst. of Mental Health, *Suicide in America: Frequently Asked Questions*, <http://www.nimh.nih.gov/health/publications/suicide-in-america/index.shtml> (last visited June 12, 2014).
12. See also AM. ASS'N OF SUICIDOLOGY, FACTS ABOUT SUICIDE AND DEPRESSION 2 (2012) http://www.suicidology.org/c/document_library/get_file?folderId=262&name=DLFE-622.pdf.
13. William W. Eaton, et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUP. ENVIRON. MED. 1079, 1085 (1990).
14. Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 262 (2004) (citing C.J. A. Beck, B.D. Sales & C.A.H. Benjamin, *Lawyer Distress: Alcohol-related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & HEALTH 1 (1995)).
15. William W. Eaton, James C. Anthony, Wallace Mandel & Roberta Garrison, *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUP. ENVIRON. MED. 1079, 1085 (1990).

Further, according to a two-year study completed in 1997, suicide accounted for 10.8 percent of all deaths among lawyers in the United States and Canada and was the *third leading cause of death*.¹⁶ Of more importance was the suicide rate among lawyers, which was 69.3 suicide deaths per 100,000 individuals, as compared to 10 to 14 suicide deaths per 100,000 individuals in the general population.¹⁷ In short, the rate of death by suicide for lawyers was nearly *six times* the suicide rate in the general population.

A quality of life survey by the North Carolina Bar Association in the early 1990s, revealed that almost 26 percent of respondents exhibited symptoms of clinical depression, and almost 12 percent said they contemplated suicide at least once a month.¹⁸ Studies in other states have found similar results.¹⁹

What is worse is the state of our students. According to one study, by the spring of their 1L year, 32 percent of law students were clinically depressed, despite being no more depressed than the general public (about 8 percent) when they entered law school.²⁰ By graduation, this number had risen to 40 percent.²¹ While this percentage dropped to 17 percent two years after graduation, the rate of depression was still double that of the general public.²² These statistics, which likely have not improved in recent years, are terrifying.

Why do lawyers and law students suffer from mental illness at such disproportionate rates? The answer to that question is quite complex and has been the subject of a number of studies.²³

One of the more eloquent “whys” for the high incidence of depression and suicide among lawyers was contained in an opinion piece by Patrick Krill (a lawyer, clinician and board-certified counselor) that accompanied the CNN

16. Adrian Hill, *Countering Despair*, THE CANADIAN BAR ASS'N (2006), <https://www.cba.org/CBA/national/augsep03/PrintHtml.aspx?DocId=6493>.

17. *Id.*

18. Michael J. Sweeney, *The Devastation of Depression*, A.B.A. BAR LEADER, at 11 (March-April 1998).

19. Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 874-76, 879-80 (1999) (citing G. Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INT'L J.L. & PSYCHIATRY 233, 240 (1990)).

20. See G. Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse and Cocaine Abuse Amongst United States Lawyers*, 13 INT'L J.L. & PSYCHIATRY 233, 234 (1990) (citing G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. B. FOUND. RES. J. 225, 246 (1986)).

21. *Id.*

22. *Id.*

23. See SUSAN SWAIM DAICOFF, *LAWYER, KNOW THYSELF: A PSYCHOLOGICAL ANALYSIS OF PERSONALITY STRENGTHS AND WEAKNESSES* (2004) (reviewing empirical research through 2003); Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U.L. REV. 1337 (1997) (comprehensively reviewing the empirical literature about law students and lawyers through 1996).

article on lawyer suicides.²⁴ As Mr. Krill put it, “lawyers are both the guardians of your most precious liberties and the butts of your harshest jokes [i]nhabiting the unique role of both hero and villain in our cultural imagination. . . .”²⁵ Krill explained that the high incidence of depression was due to a number of factors but that “the rampant, multidimensional stress of the profession is certainly a factor.”²⁶ Further, “there are also some personality traits common among lawyers—self-reliance, ambition, perfectionism and competitiveness—that aren’t always consistent with healthy coping skills and the type of emotional elasticity necessary to endure the unrelenting pressures and unexpected disappointments that a career in the law can bring.”²⁷

Practicing law is hard. The law part can certainly be difficult, but the business side of law is more demanding than many law students expect. Keeping tasks and deadlines in dozens (or hundreds) of cases straight and getting everything done well and on time is a constant challenge. Finding clients, billing time, collecting money, paying staff, and paying the rent, are all part of daily reality. The fear of letting one of those balls drop can be terrifying, especially for the Type A perfectionist who is always terrified of making a mistake or doing a less than perfect job. Forget work-life balance. Forget vacations. Every day out of the office is another day you are behind.

Plus, as a lawyer (and especially as a litigator), no matter how good a job you do, sometimes you lose. That inevitable loss is made worse by the emotion that the lawyer often takes on from his or her client. Almost no client is excited to call her lawyer. Clients only call, of course, when they have problems. Those problems can range from the mild (for example, a traffic ticket) to the profound (like a capital murder charge). But whatever the problem, the client is counting on the lawyer to fix it. Every lawyer I know takes that expectation and responsibility very seriously. As much as you try not to get emotionally invested in your client’s case or problem, you often do. When that happens, losing hurts. Letting your client down hurts. This pain leads to reliving the case and thinking about all the things you could have done better. This then leads to increased vigilance in the next case. While this rumination is

24. See Patrick Krill, *Why Lawyers Are Prone to Suicide*, CNN OPINION (Jan. 21, 2014), <http://www.cnn.com/2014/01/20/opinion/krill-lawyers-suicide/>.

25. *Id.*

26. *Id.* See also Beck, Sales & Benjamin, *supra* note 14 (The adversarial nature of legal education and the legal system encourages the development of a world view that fosters suspiciousness, hostility, and aggression.); AM. BAR ASS’N, AT THE BREAKING POINT: THE REPORT OF A NATIONAL CONFERENCE ON THE EMERGING CRISIS IN THE QUALITY OF LAWYERS’ HEALTH AND LIVES, AND ITS IMPACT ON LAW FIRMS AND CLIENT SERVICES (1991) (finding links among career dissatisfaction and three concerns: a) pressures of a deteriorating work environment, b) increased levels of mental and physical distress (*e.g.*, depression, anxiety, stress-induced physical illness, interpersonal problems, alcohol/drug abuse, and obsessive/compulsive behavior) and c) decreased ability to cope with it (*e.g.*, social support, relaxation, exercise, expression of humor, etc.)).

27. Krill, *supra* note 24. See also Daicoff, *supra* note 23 (discussing various personality traits in lawyers and law students).

not necessarily a bad thing, for some lawyers it leads to a constant fear of making mistakes, then a constant spike of stress hormones that, eventually, wear the lawyer down. The impact of this constant bombardment of stress hormones can trigger a change in brain chemistry that, over time, leads to major depression.

Depression is not a character flaw. It is not a weakness. It is not a moral failing. You cannot “just get over it.” No amount of will-power, determination or intestinal fortitude will cure it. While the causal mechanism(s) of clinical depression are complex and there is disagreement in the broader scientific community,²⁸ there is mainstream consensus that depression is a disease caused (in very basic and general terms) by an imbalance and/or insufficiency of two neurotransmitters in the brain: serotonin and norepinephrine.²⁹ In this way, it is biologically similar to diabetes, which is caused by the insufficiency of insulin in the body. As a disease, depression can be treated—and treated very effectively.³⁰ But it takes time and it takes help—personal help and professional help.

Regardless of its causes, depression is a subtle and insidious disease. By the time you are sick enough to recognize that you have a problem, your ability to engage in accurate self-evaluation is significantly impaired. It is a strange thing to know, deep down, that something is wrong with you but not be able

28. This debate seems largely focused on semantic disagreement in the medical and psychological literature about whether or not clinical depression fits the dictionary definition of a “disease.” The debate in this regard seems to be based on the distinctions between disease vs. illness vs. disorder. The Centers for Disease Control and Prevention refers to clinical depression interchangeably as a “disorder,” an “illness,” and “a chronic disease in its own right.” See Ctrs. for Disease Control & Prevention (2013), <http://www.cdc.gov/mentalhealth/basics/mental-illness/depression.htm>. Similarly, NIMH refers to depression as a “serious illness,” the same terminology it applies to cancer, Parkinson’s and many other diseases. See Nat’l Inst. of Mental Health, Depression (2011), <http://www.nimh.nih.gov/health/publications/depression/index.shtml>.
29. According to the National Institute of Mental Health, “[l]ongstanding theories about depression suggest that important neurotransmitters—chemicals that brain cells use to communicate—are out of balance in depression.” Nat’l Inst. of Mental Health, *supra* note 28. However, “it has been difficult to prove this.” *Id.* There is scientific evidence of biochemical and structural differences in the brains of people with depression and those without (both on brain scans and in postmortem analysis). Much of this research has focused on the prefrontal cortex of the brain and glial cells. One point of view on the research regarding the biological basis for depression is Peter D. Kramer, *Where Depression Might Reside*, PSYCHOLOGY TODAY (July 25, 1998), available at <http://www.psychologytoday.com/blog/in-practice/200807/where-depression-might-reside>. For a contrary view see generally ALLAN V. HORWITZ, CREATING MENTAL ILLNESS (2002); ALLAN V. HORWITZ & JEROME C. WAKEFIELD, THE LOSS OF SADNESS: HOW PSYCHIATRY TRANSFORMED NORMAL SORROW INTO DEPRESSIVE DISORDER (2007).
30. As depression is a complex and multifaceted disease, treatment is likewise multifaceted and often includes some combination of medication, talk therapy, lifestyle changes, and the development of effective strategies for coping with stress. Electroconvulsive therapy is also an effective option for difficult cases. According to the CDC: “The use of medications and/or specific psychotherapeutic techniques has proven very effective in the treatment of major depression” CTRS. FOR DISEASE CONTROL, *supra* note 28.

to recognize the massive changes in yourself. Helping yourself at that point is often impossible. Unfortunately, those suffering from depression become expert actors who are extremely adept at hiding their problems and building a façade of normalcy. Eventually, it takes all of your energy to maintain this façade. The façade becomes the only thing there is.

Coming Out

I will admit to being a bit nervous about even raising this topic. Mental illness and suicide are not comfortable subjects for most people. There remains a very real stigma attached to mental illness. Many people believe that suffering from clinical depression, anxiety disorder, bipolar disorder, or a host of other mental illnesses is a character flaw or a weakness.³¹ Having one of these diseases has, traditionally, been something of which the sufferer should be ashamed. This attitude has been in place for too long for people to easily change their perceptions and opinions.

However, as lawyers and law professors, we must do more. It is clear that our students need us to do more. When you are depressed, you feel so terribly alone. You feel different. You feel ashamed. You feel weak. You feel like you will never be happy and that you can never be the person you want to be.

If 40 percent of our students feel this way, we must do more. Our students look up to us. They see us as role models and mentors. They see us as strong and successful and confident. They need to see that suffering from depression or anxiety or bipolar disorder will not curse them for all time and destroy their lives. These are treatable diseases, not character flaws. Our students need us to be brave and be honest.

A few law professors have publically “come out” (so to speak) about their struggles with mental illnesses: Professor Elyn Saks at USC (schizophrenia);³² Professor Lisa McElroy at Drexel (anxiety disorder);³³ Professor James Jones at Louisville (bipolar disorder);³⁴ and Professor Marjorie Silver at Touro (depression).³⁵

31. As stated by the CDC, “this disorder is still misconstrued as a sign of weakness, rather than being recognized as an illness.” *Id.* Fear of what people will think keeps people with depression suffering in silence, without effective treatment. Too many of those people take their own lives.
32. See ELYN R. SAKS, *THE CENTER CANNOT HOLD: MY JOURNEY THROUGH MADNESS* (2007).
33. Lisa T. McElroy, *Worrying Enormously About Small Things*, SLATE (July 18, 2013), http://www.slate.com/articles/health_and_science/medical_examiner/2013/07/living_with_anxiety_and_panic_attacks_academia_needs_to_accommodate_mental.html.
34. James T.R. Jones, *Walking the Tightrope of Bipolar Disorder: The Secret Life of a Professor*, 57 J. LEGAL EDUC. 349, 349 (2007).
35. Marjorie Silver, *A Transformational Melancholy: One Law Professor's Journey Through Depression* (2011), available at <http://ssrn.com/abstract=1908992>.

And then there is me: an untenured,³⁶ assistant professor, who left a generally successful practice career to teach at Charlotte School of Law.

My name is Brian Clarke. I am a father of five, a husband, a lawyer and a law professor. And I suffer from major depressive disorder and generalized anxiety disorder.

Though I likely had been depressed for a long while, I was diagnosed with severe clinical depression in late 2005 or early 2006. As another lawyer who helped me put it, suffering from depression is like being in the bottom of a dark hole with—as you perceive it from the bottom—no way out. The joy is sucked from everything. Quite often, you just want to end the suffering—not so much your own, but the perceived suffering of those around you. You have frequent thoughts that everyone would be better off if you were not around anymore, because, being in such misery yourself, you clearly bring only misery to those around you. When you are in The Hole, suicide seems like the kindest thing you can do for your family and friends, as ending your life would end their pain and misery.

While I do not remember all of the details of my decent into The Hole, it was certainly rooted in trying to do it all—perfectly. After my second child was born, I was trying to be all things to all people at all times. Superstar lawyer. Superstar citizen. Superstar husband. Superstar father. Of course, this was impossible. The feeling that began to dominate my life was guilt, a constant, crushing guilt. Guilt that I was not in the office enough because I was spending too much time with my family. Guilt that I was letting my family down because I was spending too much time at work. Guilt that I was letting my bosses down because I was not being the perfect lawyer to which they had become accustomed. Guilt. Guilt. Guilt. The deeper I sunk into The Hole, the more energy I put into maintaining my façade of super-ness and the less energy was left for either my family or my clients. And the guiltier I felt. It was a brutal downward spiral. Eventually, it took every ounce of energy I had to maintain the façade and go through the motions of the day. Suicide seemed rational.

There were danger signs, of course, but neither I nor anyone around me recognized them for what they were. I burst into tears during a meeting with four partners in my firm.³⁷ I started taking the long way to work in the morning and home in the evenings—often taking an hour or more to make the five-mile trip. Eventually—after months of this—my wife asked me what was wrong and I

36. Professors Saks, Jones, Silver and McElroy were all tenured when they “came out.” While this does not make their actions any less brave or path breaking—and I do not mean to diminish their bravery in any way—tenure provides some measure of comfort that one is not committing career suicide by coming out. While I have some measure of confidence that I am not doing so (refusing to hire or retain me because of my illness would violate the Americans with Disabilities Act), it is more “psychologically and professionally risky for an individual pre-tenure to” come out. *Id.* at 2 n.6.

37. As a 6' 1", 250-plus pound man, this was fairly mortifying but neither I nor my partners connected the dots in any meaningful way.

responded, “I just don’t know if I can do this anymore.” She asked what “this” was. I said, “you know . . . life.” And I started bawling. The façade crumbled and I was utterly adrift. [I don’t actually remember this conversation with my wife, but she does.]

After getting over the initial shock of my emotional collapse, my wife forced me to go to the doctor and get help. She took the initiative to find a doctor, make the appointment and take me (which is good, because I was utterly incapable of doing any of those things). She called my firm and told them I needed FMLA leave. One of my colleagues put me in touch with the N.C. State Bar’s Lawyer Assistance Program, as well as with a prominent local attorney—Louis Allen, the Federal Defender for the Middle District of North Carolina—who had suffered from severe depression and recovered. With Louis’s help, treatment from my doctor and the support and love of my family, I got better. I started taking medication and clawed my way to the top of The Hole. But, for more than a year, I was sort of clinging to the edge of The Hole about to plummet back down. I changed doctors and medications and did a lot of talk therapy. Eventually, after more than 18 months, I was back to some semblance of my “old self.” I was happy again (mostly). I was a good father again (mostly). I was a good husband again (mostly). I enjoyed being a lawyer again (mostly). I enjoyed life again.

There have been a couple of relapses but I never fell all the way back down. I will happily take medication and regularly see a therapist for the rest of my life. I will be forever vigilant regarding my mental state. These are small prices to pay.

Had I not gotten help, I would not be writing this essay. I would have taken my own life and become one more in the line of grim statistics recounted above. No amount of willpower or determination could have gotten me out of The Hole. Only by treating my disease with medication and therapy was I able to recover, control my illness and get my life back.

I don’t write any of this to solicit sympathy or pity. I am doing fine. I have five wonderful (if occasionally maddening) children and an amazing wife. I have a job that I love and am truly good at. I have the job that I was put on this earth to perform, which makes me incredibly lucky. I have wonderful students who will be outstanding lawyers. I have no complaints.

I write this because I know that when you are depressed you feel incredibly, profoundly alone. You feel that you are the only person on earth who has felt the way you do. You feel like no one out there in the world understands what you are dealing with. You feel like you will never feel “normal” again.

This is how 40 percent of our students feel by the time they graduate.

Coming Out in the Classroom

Every student who is struggling with depression needs to know that he or she is not alone and that there are lots of people who understand. They need

to know that understanding and help are there for the asking and that asking for help does not make one weak; rather, it is a sign of profound strength.

Most law schools strive to provide mental health programing for their students. However, among the major shortcomings of most mental health efforts focused on law students is that they are “arm’s length effort[s] to confront . . . a deeply personal and painful human experience.”³⁸ Moreover, most of the people who present these programs are well-meaning, but either (1) have no credibility with the students because the students do not know them; (2) have never experienced serious mental illness; (3) if they have experienced serious mental illness, they are unwilling to disclose their personal experiences; or (4) some combination of these three. These shortcomings make it all too easy for students to tune out.

A third or more of our students are struggling with mental illnesses that are exacerbated or triggered by the significant stresses of law school (and the various issues surrounding it, including—to be frank—cost, debt loads, and job prospects). According to the research, if a person suffers a single episode of clinical depression, he has a 50 percent chance of experiencing another even if he takes antidepressant medication.³⁹ After two episodes, there is an 80 percent chance of recurrence.⁴⁰ I, for example, experienced my first bout of (undiagnosed) clinical depression in college. I likely had at least one recurrence during college, but again went undiagnosed. The first time I actually sought mental health treatment was during my first year of law school.

So, there is a very good chance that the depressed law students of today will be the depressed lawyers of tomorrow. Given this state of affairs, we must consider abandoning these well-meaning but arm’s length efforts.

Our students need help to better understand the challenges of the profession they are entering: the potential for dissatisfaction, disillusionment, mental illness (including depression, anxiety and substance abuse), burnout, and more. We owe it to them to be open and honest about the realities of law practice.⁴¹ Further, “knowledge is power.”⁴² With knowledge of the challenges

38. Daniel T. Lukasik, “Law School Depression, Lawyers with Depression,” <http://www.lawyerswithdepression.com/law-school-depression> (last visited June 13, 2014).

39. See Stephanie L. Bircusa and William G. Iacono, *Risk for Recurrence in Depression*, 27 CLIN. PSYCH. REV. 959, 960 (2007).

40. *Id.*

41. Now, don’t get me wrong. I love the law and there were many, many aspects of practicing law that I loved (and at which I excelled). There were also aspects that I did not love (and tried my best to tolerate, sometimes less than successfully). I know, without reservation or qualification, that being a lawyer can be a highly rewarding career: emotionally, intellectually, and financially. If I was not honest with my students about the challenges of being a lawyer, however, I would be doing them a disservice.

42. SIR FRANCIS BACON, *MEDITATIONES SACRAE* (1597); THOMAS HOBBS, *LEVIATHAN* (1651); see also Letter from Thomas Jefferson to Joseph Cabell, (Jan. 22, 1820), available at <http://memory.loc.gov/cgi-bin/ampage?collId=mtj1&fileName=mtj1page051.db&recNum=1039>.

and some of their causes, our students will be better equipped to meet and overcome them.

Thus, I made the conscious choice to “come out” in the classroom and use my personal struggles with depression and anxiety to teach my students about mental health issues in the legal profession.

In raising these issues with my students my basic goals are as follows: (1) to help destroy—via openness, honesty, and shamelessness—the very real stigma associated with mental illness in general and depression and anxiety in particular; (2) to make sure my students know that if they are struggling with depression or anxiety, they are not alone (even if they feel that way) and that there is no reason in the world for these illnesses to hold them back in any way; (3) to offer myself as a resource for any among them who are struggling; (4) to educate them about the challenges of practicing law; (5) to get them thinking about why they are in law school and what they want their lives in the law to be like (or if they even want a life in the law); and (6) to get them thinking, critically and proactively, about the different career paths, options, settings, locales that are available to those with law degrees, all of which can have a significant impact on their personal well-being.

So, what do I do? I talk openly and honestly about my struggles and experiences and I do so in class, in first year Civil Procedure.⁴³ Of course, I do not do this on the first day of class. I am not that crazy.

On the first day of Civil Procedure, I spend about 20 minutes talking about the depth of my litigation experience, the fact that I have litigated or used in practice virtually every rule and theory we will study, the places I practiced and some of the companies I represented. In short, I establish my credibility. During the semester, I build my credibility with my students by being a highly competent and effective teacher with a deep knowledge of the subject matter and a willingness to do whatever I can to help them learn the material. As the semester progresses, I sense that my students (generally speaking) respect me and, from what I understand, are a bit intimidated by me (which is at least partly due to the fact that I am somewhat physically imposing).

Usually about two weeks before the end of the term—when I see the strain of writing papers and the approach of final exams beginning to take a toll—I will put the Civil Procedure issue of the day on hold and tell my story. I don’t prepare them for this in any way, I just start class by saying, “There is something that I need to talk to y’all about today.”

The story I tell is generally that which appears in the second section of this article, although it is often a bit more haphazard as it is still much easier to write about this subject than talk about it. I often get choked up at least once, usually when talking about suicide (though I have managed to avoid this once or twice). I have even cried in telling my story. There are usually at least a few

43. Professor Nancy Rapoport at University of Nevada, Las Vegas Boyd School of Law does the same in her Contracts classes.

people with freely flowing tears by the end of my story and many stunned looks.

After building my credibility in the eyes of my students for most of the semester, I intentionally shatter their perceptions of me. This dynamic makes the discussion of my mental illness and the challenges of practicing law more impactful in an “if that can happen to Professor Clarke, it can happen to me” sort of way.

I then segue into some of the statistics cited in the first section of this essay and talk about the scope of the problem with depression and anxiety in the legal profession. I explain that I know many of them are having a hard time handling the stress of law school given the workload, the competitiveness, their Type A personalities and perfectionist tendencies, and the like. I bluntly tell them that if they think being a 1L is hard, they “ain’t seen nothing yet.”⁴⁴

I tell them about the challenges of practicing law including taking on the emotional weight of clients’ problems; the inherent competitiveness of the adversarial system; the joys of dealing with unreasonable and unprofessional opposing counsel; the fact that someone must lose in litigation; the impact losing may have on a client’s life; the nature of the billable hour; the difficulty of billing 1,900-plus hours a year; the unrealistic expectations many of them may have about being lawyers; the “keeping up with the Joneses” (and corresponding financial stress) that is common in the lifestyles of lawyers; the common narrative that “success” as a lawyer is dependent on having a “Big Firm” job and making partner/member/shareholder and the profound unlikelihood of these happening; the lack of boundaries and the need to be “on the job” 24/7/365 (especially in a big firm); and so on.

I discuss a truth I have known for many years (and for which I now have empirical support), namely that making a lot of money is ultimately not the thing that makes most people or most lawyers happy in life or satisfied professionally.⁴⁵ I caution them about the materialism that is common among lawyers and the dangers of measuring happiness by the make of your car or the size of your house.⁴⁶ I challenge them to think about why they came to law school and to identify what it is about the law that really turns them on (professionally). I encourage them to find a way to follow that passion, because they will be better lawyers and more satisfied, professionally and personally,

44. BACHMAN-TURNER OVERDRIVE, *YOU AIN’T SEEN NOTHING YET* (Mercury Records 1974).

45. See Kennon M. Sheldon & Lawrence S. Krieger, *Service Job Lawyers Are Happier Than Money Job Lawyers, Despite Their Lower Income*, 9 J. POSITIVE PSYCHOL. 219 (2014); Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? Transcending The Anecdotes With Data From 6200 Lawyers*, 83 GEO. WASH. L. REV. (forthcoming 2015).

46. This point was vividly illustrated in an ABA JOURNAL online article on March 31, 2014, wherein a young lawyer bemoaned the fact that because of his student loans from law school he drives a Chevrolet instead of a Mercedes or Audi and that he cannot buy a bigger house. Debra Cassens Weiss, *US Has \$1 Trillion in Student Debt; Indebted Lawyer Laments His Chevy Lifestyle*, ABA J. NEWS (Mar. 31, 2014), http://www.abajournal.com/news/article/us_has_1_trillion_in_student_debt_indebted_lawyer_has_chevy_lifestyle.

if they do so.⁴⁷ I tell them that, for many lawyers (including me), finding a balance between work and life is difficult, in part, because of technology and that they must be cognizant of the dangers of always being plugged in. I talk to them about the importance of boundaries (a concept with which I still struggle).

While many of these issues are old hat to us as professors and lawyers, they come as a revelation to many students. Many still come to law school simply because they did not know what to do with their B.A. in history and have never contemplated what about the law (if anything) really interests them.⁴⁸ Many have never thought that there were career paths other than one in a big law firm and many are convinced (by their peers, by popular culture, by the Internet) that success as a lawyer means being a rich partner in a big firm, and nothing else. Many are shocked that they have only somewhat worse odds of winning the lottery than making equity partner/member/shareholder in a big law firm.

I answer questions and let the conversation go where the students lead it for about an hour. Then we wipe our eyes, blow our noses and get back to civil procedure.

I have had this talk with about ten sections of students as of the end of the 2013-14 academic year.⁴⁹ Every time I do it, it has a significant impact. I have had many students (looking sort of shell shocked) tell me that they had no idea that anyone else had felt or thought the things they had felt and thought, but which I articulated during class. I have had students come see me a semester later or even years later and tell me that by talking about my issues, it gave them the strength to get help for their own depression or anxiety issues. I have had several students seek me out in times of crisis and ask me for help, which I have willingly provided (via moral support and referrals to professional mental health resources). Many students have sought me out to talk about career paths and even whether they should stay in law school. The bottom line, however, is that every single student I have ever talked to about these issues has appreciated—above all else—my openness and honesty, not only about my illness, but about the challenges of being a lawyer. And (to the best of my knowledge) not a single one thought less of me or lost any respect for me as a result. On the contrary, to the best of my knowledge, my openness and honesty increased their respect for me as a person and as a teacher.

47. See Sheldon & Krieger, *supra* note 45.

48. I encourage these folks to seriously reconsider whether they should be in law school.

49. Each time I prepare to do this talk, I worry how the class will react. I worry that they will no longer listen to me about Civil Procedure because of my illness. I worry that they will not respect me anymore if they know the “truth” about me. I worried about similar things in writing on THE FACULTY LOUNGE and continue to worry about them in writing this essay.

Conclusion

Not all law professors are mentally ill, and those that are may not feel comfortable “coming out.”⁵⁰ However, each of us—regardless of background—can start a dialogue with students, either in or out of class, about the importance of mental health, the dark side of being a lawyer, and the need for students to make conscious, intentional and meaningful choices regarding their futures. These discussions are critical to the long-term well-being of our students and, ultimately, the legal profession.

50. It has been, however, profoundly cathartic to “come out” and turn my negative experiences into positive ones for others—worth the risk and the fear.