

The Happy Lawyer, Making a Good Life in the Law: Is Happiness Enough?

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If you have any interest in your personal happiness or the happiness of those around you, you will enjoy and benefit from reading Nancy Levit's¹ and Douglas O. Linder's² illuminating, thought provoking book, *The Happy Lawyer: Making a Good Life in the Law*.³ You need not be an academic, a law student, or an attorney to find the book a stimulating, provocative read on happiness. The book is written by two outstanding law professors who truly care about their students and the legal profession. The book is packed with more insight, interestingly presented, than a shelf full of recent publications on happiness.⁴ Reading

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² Professor Linder is a recipient of the Elmer P. Pierson Teaching Award (twice, most recently in 2003), the Daniel L. Brenner Faculty Publishing Award, and was selected as a UMKC Trustees Fellow. In 2001, Professor Linder received the title of Elmer Powell Peer Professor of Law. Professor Linder has published numerous articles in the fields of constitutional law, famous trials, environmental law, and communications law. The *Famous Trials* website, the Web's largest and most visited collection of original essays, images, and primary documents pertaining to great trials, has been an ongoing project of Professor Linder's since 1996. Douglas O. Linder, *Famous Trials*, (2011), <http://www.law.umkc.edu/faculty/projects/ftrials/ftrials.htm>.

³ NANCY LEVIT & DOUGLAS O. LINDER, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* (2010).

⁴ In 2008 there were 4,000 books published on happiness. *Id.* at 18.

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the book will inspire most readers to examine their career and personal satisfaction.⁵

One of the authors' goals is to reduce the number of unhappy lawyers. Unhappy lawyers have a higher degree of professional and ethical lapses than happy lawyers, and those lapses often significantly harm clients. Helping legal professionals feel happier is beneficial for reducing lawyer-induced harm to clients and improving the quality of life of those in the legal profession. That goal is salutary and makes the book well worth reading because of the reduction of lawyer-created client harm and the wide range of benefits associated with life satisfaction: increased productivity, satisfying sustainable interpersonal relationships, reduction in disciplinary problems, increased physical health, improved mental health, longer life expectancy, and satisfied clients.

Who are the "unhappy lawyers" who need a book on how to be a happy lawyer? Briefly defined, unhappy lawyers are those who, given the opportunity, would change careers.⁶ According to some studies, approximately one-third of currently-practicing lawyers report they would not remain lawyers if given the choice to select another career.⁷ This is not an all encompassing definition of "unhappy lawyers," but merely a working definition for purposes of this review.

The first chapter of the book surveys some current studies on lawyer unhappiness to assess the need for the book. The authors point out that there are two camps of studies of lawyer satisfaction, and the findings are so different as to question whether there are two markedly different pools of lawyers. One branch

⁵ Cf. PLATO, APOLOGY, § 38a ("and if again I say that to talk every day about virtue and the other things about which you hear me talking and examining myself and others is the greatest good to man, and that the unexamined life is not worth living, you will believe me still less. This is as I say, gentlemen, but it is not easy to convince you.").

⁶ LEVIT & LINDER, *supra* note 3, at 6 (citing a Johns Hopkins University study of 12,000 workers in 104 occupations which found that three to five percent of the general population suffers from major depressive disorders and only three job categories have a more than 10 percent rate: secretaries, pre-kindergarten and special education teachers, and lawyers).

⁷ Cf. Connie J. A. Beck et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J. L. & HEALTH 1 (1995-96).

of studies finds lawyers are unhappy and depressed.⁸ Many of the surveys drawing this conclusion have low response rates and the validity of these surveys is subject to “methodological challenge on the grounds of sample bias, i.e., the possibility that the dissatisfied portion of the legal profession is heavily over-represented among those who respond to the survey.”⁹ The other branch is based on generally accepted social science methods. These studies support the conclusion that a significant majority of lawyers are happy in their work.¹⁰

One of the most important “lawyers are happy studies” is the After the JD Study (AJD). This study is tracking the professional lives of more than 4,500 lawyers during their first ten years after law school. The AJD study is conducted by the National Association for Law Placement (NALP), a number of research institutions, including Harvard Law School, the University of Denver, the Law School Admission Council, and the National Conference of Bar Examiners with support from the American Bar Association. The study began in 2002, was followed-up in 2007, and the NALP plans to conduct a final follow-up in 2011. The first wave of the study surveyed respondents admitted to the bar in 2000. Sample members were surveyed by mail questionnaire in May 2002, with a 71% response rate. The AJD report issued after the 2007 follow-up concluded that lawyers report substantial levels of satisfaction with their career choice and professional work.¹¹

⁸ Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999). See also Martin E. P. Seligman et al., *Why Lawyers are Unhappy*, 23 CARDOZO L. REV. 33 (2001).

⁹ John Monahan & Jeffrey Swanson, *Lawyers at Mid-Career: A 20-Year Longitudinal Study of Job and Life Satisfaction*, 6 J. EMPIRICAL LEGAL STUD. 451 (2009) (University of Virginia Law School, Public Law and Legal Theory Working Paper Series, Paper No. 104, 2008). For an excellent review of methodological problems in studying lawyer unhappiness, see Kathleen E. Hull, *Cross-Examining the Myth of Lawyers' Misery*, 52 VAND. L. REV. 971 (1999). For a review of the “satisfaction debates,” see Ronit Dinovitzer & Bryant Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 LAW & SOC'Y REV. 1 (2007).

¹⁰ See, e.g., Monahan & Swanson, *supra* note 9.

¹¹ “The AJD respondents report a relatively high level of general satisfaction, with 80% expressing that they were ‘moderately’ or ‘extremely’ satisfied with their decision to become a lawyer. This figure does not differ greatly from

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Chapter two is a primer on happiness in general and provides a succinct, if brief, review of current writing on happiness. The authors strongly advocate that law schools, law firms, and individuals in the legal profession pay close attention to the happiness of those working in the legal arena. The legal world has shunned the study of happiness until recently. Levit and Linder hope their book will help open the investigation into factors comprising enjoyment of the practice of law. The authors point out that the factors identified to date as increasing enjoyment of practicing law include examination of one's thoughts and practices and taking action through conscious choices of when and how to practice law.

The third chapter looks at what makes lawyers happy and unhappy. The list of factors leading to unhappiness is long – stress, technology, excessive dedication to work, perceptions that law is a profit oriented business rather than a helping profession, incivility, the adversarial system, and lack of public approbation are but a few of the negative factors. Practicing law has obvious challenges: dehumanizing work schedules, the significant gap between lawyers' desire for interesting work versus the frequently repetitive nature of legal work, the significant gap between the ideals of new lawyers and experienced lawyers' perception of the realities of practicing law. The list of factors leading to happiness seems comparatively short – lawyers help people, lawyers solve interesting puzzles, lawyers make positive contributions to their clients' lives, lawyers can achieve justice for their clients, and lawyers even can be peacemakers. Reading this chapter leads the reader to conduct his or her own research on happiness and

the Chicago Lawyers finding that 83% of Chicago lawyers (of all ages) report being 'fairly' or 'very' satisfied with their jobs (Heinz, Nelson, Laumann, and Sandefur, 2005). In the *After the JD* questionnaire, when respondents were asked to rate their satisfaction with 16 specific aspects of their jobs, the average response of the AJD lawyers in every category was on the 'satisfied' portion of the continuum." RONIT DINOVTZER ET AL., NALP FOUNDATION FOR LAW CAREER RESEARCH AND EDUCATION & AMERICAN BAR FOUNDATION, *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* 47 (2004), available at <http://www.americanbarfoundation.org/uploads/cms/documents/ajd.pdf>.

to take some of the many, interesting, self-scoring happiness evaluation tests available on the Internet.¹²

Chapter four, *The Happiness Toolbox*, focuses on honing skills such as resilience, empathy, gratitude, and adaption, among others.¹³ The chapter reviews some of the key findings that show that happiness comes from doing what one enjoys, building positive relationships, being self-confident, and being a resilient problem-solver.

Chapter five focuses on changing law school into a springboard for career satisfaction.¹⁴ The authors are critical of the popular, present definitions of success in law school – being in the top ten percent of law students attending the top ten law schools. That top slice is a very small number of law school graduates and the authors question the rationality of 90% plus of law school graduates being outside the definition of successful in law school. The authors are also critical of the way law is taught in most law schools. Levit and Linder surveyed almost 200 ABA-approved law schools and found only six that offered specific classes on career satisfaction and nine others that offered, as part of a broader curriculum in courses such as professional responsibility or law practice management, some content on career

¹² See Steve Wright, *Oxford Happiness Questionnaire*, MeaningandHappiness.com, Oct. 17, 2008, <http://www.meaningandhappiness.com/oxford-happiness-questionnaire/214> or Steve Wright, *Life Satisfaction—Measure Yours*, MeaningandHappiness.com, Sept. 14, 2008, <http://www.meaningandhappiness.com/life-satisfaction-measure-yours/63/>, and take the shorter Life Satisfaction Test constructed by Ed Diener, a psychology professor at the University of Illinois, aka “Dr. Happiness,” a leading psychological researcher of human happiness. See Ed Diener et al., *Satisfaction With Life Scale*, 49 J. PERSONALITY ASSESSMENT 71 (1985), available at the Center for Outcome Measurement in Brain Injury, <http://www.tbims.org/combi/swls/swlsrat.html> (last visited Jan. 11, 2011). He’s also been called the “Jedi Master of Happiness.” See ED DIENER & ROBERT BISWAS-DIENER, *HAPPINESS: UNLOCKING THE MYSTERIES OF PSYCHOLOGICAL WEALTH* (2008). For a variety of testing instruments, such as the Authentic Happiness Inventory Questionnaire, see Martin Seligman, *Authentic Happiness*, <http://www.authentic happiness.sas.upenn.edu/Default.aspx> (last visited Jan. 11, 2011) The authentic happiness website of Dr. Martin Seligman, Director of the University of Pennsylvania Positive Psychology Center has over 700,000 registered users.

¹³ PETER J. BOWLER, *EVOLUTION: THE HISTORY OF AN IDEA* (3rd ed. 2003). Adaptation is the evolutionary process whereby a population becomes better suited to its habitat.

¹⁴ LEVIT & LINDER, *supra* note 3, at 112.

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satisfaction. The authors report, “Harvard Law School boasts more than four hundred seminars and courses but no courses on happiness or career satisfaction, although its undergraduate college offers one of the best-attended happiness courses in the country.”¹⁵

The professors briefly analyze current generational expectations of happiness. As Baby Boomers approach the end of their legal careers, Generation X’ers and Gen Y’ers (or “Millennials”) are forming the new majority of lawyers. Gen X’ers’ and Gen Y’ers’ expectations of their profession differ from Baby Boomers’ expectations. Diversity also affects the degree of happiness or unhappiness in the practice of law. In the early 1970’s, few women graduated from law school. By 2007, 48% of law students were women.¹⁶ The authors point out that the methodology of running law firms the Traditionalist Way (the generation born before 1946) is changing. Younger lawyers link happiness to and want more autonomy at work and seek a more reasonable work-life balance.

Chapter six, *What Law Firms Can Do to Make Lawyers Happier*, is a discussion of the “dark side” of practicing law in large firms with recommendations for law firm managers toward improving the satisfaction of lawyers practicing in big law firms. The authors document, both normatively and anecdotally, widespread unhappiness among lawyers practicing in large firms – generational differences, client demands, the billable hours “straitjacket,” lack of autonomy, and mind-numbing work. Commonly identified career derailers, from overwork to the pressures of being on or not on a partnership track, are identified as the key contributors to the dark side of the practice of law. Among the authors’ insights in this chapter is the importance of work-life balance in the practice of law.

“Lawyer’s Stories” is the heading for chapter seven, but there are only a few “war stories.” Rather, the chapter provides numerous suggestions of significant practical value such as the virtue of balancing work and life, working with people you actually like and trust, and aligning legal work and personal values.

¹⁵ *Id.* at 123.

¹⁶ American Bar Association, *Law School Enrollment Statistics for 2007-08 Show Only Slight Changes*, Mar. 4, 2008, http://www.abanet.org/abanet/media/release/news_release.cfm?releaseid=268

The last chapter, Seeking Happier Ground, is the most interesting in the book. Here, with full awareness of the risks of reductionism, the authors discuss the elements of the examined, well-lived, but not always happy life. Levit and Linder argue that, regardless of one's profession or job, one has to prepare for and work at being happy. All institutions, including the law, tend, ultimately, to reduce individual happiness. It takes conscious effort, talent, perseverance and motivation to overcome institutionally-inherent negativity. We ignore this warning at our own peril. This final chapter does not present a concluding peroration to a strongly-argued case. In that sense, the book ends abruptly for my taste. Perhaps that is because happiness is an unlimited subject, difficult to tackle even when limited to studying whether lawyers are, en masse, professionally unhappy. As the authors point out more than 4,000 books on happiness were published in 2008.¹⁷

I would also like the authors to develop their observation that the public's general perception of lawyers as "merchants of misery" affects lawyer happiness.¹⁸ Do lawyers succumb to general public opprobrium? If so, why don't lawyers do more to change the public's perception? Certainly lawyers often work for people in times of stress and crisis and not every lawyer can make every client happy all the time. Would public opinion and, therefore, lawyer happiness change if less legal work was perceived as a zero-sum game?

The book would benefit from a more extensive discussion of the recent research on "subjective well-being" or "life-satisfaction." For example, psychologists and economists such as Daniel Kahneman and Alan Krueger have teamed up to analyze well-being not only from a psychological perspective but from the economists study of *revealed* preferences for maximizing their well-being, i.e., how people actually choose to spend their money or their time, rather than how people say they would like to, or say they intend to, spend their money or their time.¹⁹

¹⁷ LEVIT & LINDER, *supra* note 3, at 18.

¹⁸ *Id.* at 65.

¹⁹ Daniel Kahneman & Angus Deaton, *High Income Improves Evaluation of Life But Not Emotional Well-being*, PROC. NAT'L ACAD. SCI., Sept. 7, 2010, http://www.princeton.edu/~deaton/downloads/deaton_kahneman_high_income_improves_evaluation_August2010.pdf.

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Also missing from the book is a discussion of any of wealth of publications on happiness outside the legal realm but apposite to legal professionals—for example, Jonathan Haidt's *The Happiness Hypothesis* (2006), Felicia Huppert's, Nick Bayliss', & Barry Keverne's *The Science of Well-Being* (2005), Daniel Kahneman's, Ed Diener's, & Norbert Schwarz's *Well-Being: The Foundations of Hedonic Psychology* (1999), and Martin Seligman's *Authentic Happiness: Using the New Positive Psychology to Realize Your Potential for Lasting Fulfillment* (2002).

Also missing is discussion of economics and happiness, lawyers being among the best paid service providers. A discussion of the Easterlin Paradox would be practical and helpful to readers.²⁰ The 2010 Keirse Research study identifying the happiest Americans as “self-identified extroverts with an annual household income of at least \$75,000 (82% very or somewhat happy) and the least happy Americans are unemployed (46%), closely followed by those who are separated but not divorced (48%)” calls into question why, if lawyers generally have high incomes, are so many unhappy?²¹

To their credit, the authors analyze some of the work of psychologist Sonja Lyubomirsky, professor of psychology at the Uni-

²⁰ The Easterlin Paradox is a key concept in happiness economics. It is named after economist Richard Easterlin who discussed the factors contributing to happiness in his 1974 paper, “Does Economic Growth Improve the Human Lot? Some Empirical Evidence,” in *NATIONS AND HOUSEHOLDS IN ECONOMIC GROWTH: ESSAYS IN HONOR OF MOSES ABRAMOVITZ* (Paul A. David & Melvin W. Reder eds. 1974), available at <http://graphics8.nytimes.com/images/2008/04/16/business/Easterlin1974.pdf>. Easterlin found that within a given country people with higher incomes are more likely to report being happy. However, in international comparisons the average reported level of happiness does not vary much with national income per person, at least for countries with income sufficient to meet basic needs. Thus, for example, while income per person rose steadily in the United States between 1946 and 1970, average reported happiness showed no long-term trend and declined between 1960 and 1970. The implication for government policy is that once basic needs are met, policy should focus not on economic growth or GDI [gross domestic income], but on increasing life satisfaction or “GNH” [gross national happiness]. Perhaps there is a lesson in this for those in the legal profession.

²¹ Keirse Research, *Wealthy Extroverts Are Happiest Americans*, *Keirse Research Study Reveals*, Sept. 1, 2010, http://www.keirseresearch.com/keirse_happiness_survey.pdf.

versity of California, Riverside.²² Positive psychologists, like Lyubomirsky, study the traits and conditions that lead to human thriving. They and we are interested not only in happiness, but also in joy, contentment, gratitude, optimism, resilience, and the like. Positive psychologists focus on getting people beyond “emotional neutral” to “happy,” the place where the entire list of states, traits, and emotions that combine to make life well worth living are experienced daily. A review, if not an analysis, of what positive psychologists offer those in the legal profession would be helpful to legal professionals in evaluating and improving their career and life satisfaction.

More from the scientists intrigued by happiness would also be a welcome addition to the book. In the past twenty years neuro-anatomists have been at the forefront of scientific research on happiness. Functional imaging experiments have revealed that the insular cortex of our brains has an important role in the experience of a number of basic emotions, including happiness and sadness as well as anger, fear, empathy, and addiction.²³ Neuro-anatomists and others are prospecting for the answers to “How responsible for our happiness is our genetic makeup?” “Do we have genetically determined ‘set points’ for happiness?” “If so can we raise those set points temporarily or permanently?” To their credit the authors devote several pages to the “set point for happiness” debate, but more discussion is needed than is currently provided. For example, the authors quote Martin Seligman’s contention that there is “a surprising correlation between pessimism and success in law school,” but they generalize “a pessimist finds it much easier to conjure up the worst-case scenarios that it is a lawyer’s job to guard against” rather than provide studies from which their generalization may be judged.²⁴ Can a lawyer thoroughly review a contract and leave the pessimistic

²² SONJA LYUBOMIRSKY, *THE HOW OF HAPPINESS: A SCIENTIFIC APPROACH TO GETTING THE LIFE YOU WANT* (2008). Dr. Lyubomirsky’s website includes a song at rap cadence summarizing her conclusions about happiness. <http://www.faculty.ucr.edu/~sonja/index.html>.

²³ K. LUAN PHAN ET AL., *Functional Neuroanatomy of Emotion: A Meta-Analysis of Emotion Activation Studies in PET and fMRI*, 16 *NEUROIMAGE* 331 (June 2002).

²⁴ LEVIT & LINDER, *supra* note 3, at 35.

emotional magnifying glass through which the contract was reviewed in his or her desk drawer?

The book has a good, but cursory, review and discussion of current neurological research on happiness. The authors briefly discuss the role of cortisol, dopamine, oxytocin, and serotonin on happiness. They acknowledge research suggests that while some of our feelings of happiness depend on our individual chemical make-up, we have the power to affect our happiness by our actions and thoughts. The authors conclude that well-chosen happiness strategies can increase our happiness levels, but the connection between chosen happiness strategies and production of these important chemicals by our bodies is tenuously made at best.²⁵

The book lacks a review of historical thought on happiness. It is difficult to deeply think about happiness without an understanding of the work on happiness that has gone on before today. Thinking and writing about happiness is a Western tradition that goes back at least to such Greeks as Aristotle, Socrates, and Plato, and probably well before that.²⁶ The examined life, of course, is attributed to Socrates but many have borrowed this wisdom.²⁷ Seneca the Younger's major work, *On the Happy Life* (*De Vita Beata*) and St. Augustine's work of the same title deserve mention, if not discussion.²⁸ Some understanding of St. Augustine's *De Vita Beata* illuminates thoughts on happiness well worth considering. St. Augustine's book reminds that Homer's

²⁵ *Id.* at 42.

²⁶ The Greek word "eudaimonia" is commonly translated as "happiness." "Human flourishing" is considered by some a more accurate translation. "Eudaimonia" is a central concept in ancient Greek ethics. The Greek word "arete" is often translated as excellence combined with fulfillment of purpose or function: the act of living up to one's full potential. Arete in ancient Greek culture included courage and strength in the face of adversity. In classical Greek, eudaimonia was used as a term for the highest human good. Debate between virtue of character (aretē) and happiness (eudaimonia) is one of the central preoccupations of ancient ethics.

²⁷ Cf. Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1336, 1375 (1997).

²⁸ Lucius Annaeus Seneca, *On the Happy Life*, in MORAL ESSAYS II, (John W. Basore trans., 1932).

Odysseus experienced happiness at his challenges.²⁹ Jeremy Bentham's proposal to measure happiness numerically (felicific calculus) in *hedons* (pleasure) and *dolors* (mental suffering, anguish, displeasure) is also relevant.

The Happy Lawyer is a rich, interesting, memorable, entertaining, and instructive book well worth the time it takes to read. The book provides the needed reminder that there is no path to happiness, happiness is the path.³⁰ The authors wisely and prudently remind us that being happy is not "everything" and for some people not even the most important thing. Happiness is appropriately measured over long periods of time, not daily. The examined, well-lived life consists not only of happiness, but also of tribulations to keep us strong, sorrow to keep us human, failures to keep us humble, and successes to keep us growing.

²⁹ Arete was occasionally personified as a goddess, the sister of Harmonia, the personification of concord and daughter of the goddess of justice, Praxidike.

³⁰ Cf. Thich Nhat Hanh, *There is No Path to Peace. The Path is Peace*, SHAMBHALA SUN, July 2004.

