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# STRESS HARDINESS AND LAWYERS

*Pamela Bucy Pierson, Ashley Hamilton, Michael Pepper and Megan Root\**

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## ABSTRACT

*This article empirically analyzes original data to look at stress and stress hardiness in the legal profession. A number of studies address stress in the legal profession and its impact on the mental health of lawyers. Our study, however, is the first to examine stress hardiness in the legal profession. Drawing on quantitative data gathered from 2013-2016 in surveys of 530 law students and lawyers and qualitative data from 106 in-depth interviews with lawyers, and building on the work of research psychologists Salvatore Maddi and Suzanne Kobasa, we look at the following questions: Are some lawyers more stress hardy than others? If so, what makes them stress hardy? Are their strategies teachable and learnable? Our data show the following: (1) some lawyers are more stress hardy than others, (2) although no demographic factors correlate to stress hardiness, three behaviors: maintaining a sense of control, a sense of purpose, and cognitive flexibility show a significant correlation to stress hardiness; (3) these behaviors build on each other such that use of one strengthens the use of others, (4) maintaining a sense of purpose, a sense of control and cognitive flexibility are teachable and learnable, (5) the type of stress lawyers experience varies by practice area, (6) the level of stress experienced by law students and lawyers remains fairly constant throughout law school and law practice, (7) law students and lawyers report using the following strategies to help manage stress: exercise, social connectedness and three habits of thought: planning and organization, perspective, and gratitude, (8) lawyers report less reliance on exercise and social connectedness as they age and greater reliance on substance use, (9) reliance on drugs and alcohol to manage stress correlates to greater stress.*

## I. INTRODUCTION

In the late 1970s, Salvatore R. Maddi, a research psychologist was “looking around for a sample of highly stressed people.”<sup>1</sup> He found them

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1. Salvatore R. Maddi, *The Story of Hardiness: Twenty Years of Theorizing, Research, and Practice*, 54 CONSULTING PSYCHOL. J.: PRAC. AND RES. 173, 173 (2002).

at Illinois Bell Telephone (IBT) Company, a subsidiary of AT&T. At the time, IBT was facing dramatic downsizing and reorganization as part of deregulation of the telecommunications industry.<sup>2</sup> There was little job security, much uncertainty, and a highly stressful environment for IBT employees. As Maddi explained, “IBT . . . went from roughly 26,000 employees in 1981, to just over 14,000 in 1982.”<sup>3</sup> For six years, Maddi studied IBT employees’ performance and health data. He found that “two-thirds of the employees . . . fell apart, showing various breakdown symptoms . . . [including] heart attacks, strokes, kidney failures, cancers, . . . suicides, . . . depression, anxiety, excessive spending, divorces, and dependency on alcohol, drugs, and other addictive experiences.”<sup>4</sup> However, one-third of employees thrived under the stress.<sup>5</sup> These employees “tended to rise to the top of the heap in the reorganization” or if they left IBT, excelled where they went. “If anything,” Maddi found, these employees “showed more excitement, enthusiasm, motivation, and fulfillment than they had before the upheaval.”<sup>6</sup> This study of IBT employees led to the science of stress hardiness.<sup>7</sup>

Our article applies the science of stress hardiness to the legal profession. We analyze data collected from 2013-2016 to look at stress and stress hardiness in law students and lawyers. While a number of studies address stress in the legal profession and its impact on the mental health of lawyers,<sup>8</sup> our study is the first to examine stress hardiness in the legal

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2. Maddi, *supra* note 1, at 174

3. Salvatore R. Maddi, *Personal Hardiness as the Basis for Resilience*, SPRINGERBRIEFS IN PSYCHOLOGY 7, 11. [hereinafter Maddi, *Hardiness*].

4. Maddi, *Hardiness*, *supra* note 3, at 11.

5. *Id.* at 11.

6. *Id.*

7. Salvatore R. Maddi, Richard H. Harvey, Deborah M. Khoshaba, John L. Lu, Michele Persico, Marnie Brow, *The Personality of Construct of Hardiness, III: Relationships with Repression, Innovativeness, Authoritarianism and Performance*, 74 J. OF PERSONALITY 575, 576 (2006); Salvatore R. Maddi, *Resilience Under Stress*, 11 PSYCHOL. REV. 20, 20 (2005); Salvatore R. Maddi, *On Hardiness and Other Pathways to Resilience*, 60 AMER. PSYCHOLOGIST 261, 261 (2005); Salvatore R. Maddi, *Hardiness: An Operationalization of Existential Courage*, 60 J. OF HUMANISTIC PSYCHOL., 279, 285 (2004) [; Salvatore R. Maddi, Deborah M. Khoshaba, Michele Persico, John Lu, Richard Harvey, Felecia Bleeker, *The Personality Construct of Hardiness*, 36 J. OF RESEARCH IN PERSONALITY, 72, 74 (2002) [hereinafter Maddi et al., *Personality Construct of Hardiness*]; Maddi, *Hardiness* *supra* note 2, at 173; Salvatore R. Maddi, Stephen Kahn, Karen L. Maddi, *The Effectiveness of Hardiness Training*, 50 CONSULTING PSYCHOL. J. 78, 78 (1998) [hereinafter *The Effectiveness of Hardiness Training*]; Salvatore R. Maddi and Deborah M. Khoshaba, *Hardiness and Mental Health*, 63 J. OF PERSONALITY ASSESSMENT 265, 265 (1994) [hereinafter *Hardiness and Mental Health*]; Suzanne Kobasa, *Stressful Life Events, Personality and Health: An Inquiry into Hardiness*, 37 J. OF PERSONALITY AND SOCIAL PSYCHOL. 1, 3 (1979). [hereinafter Kobasa, *Stressful Life Events*].

8. See, e.g., Jerome M. Organ, David B. Jaffe, Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Wellbeing and the Reluctance of Law Students to Seek Help for Substance Abuse and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 136-138 (2016) [hereinafter Organ, Jaffe, Bender, *Survey of Law Student Wellbeing*]; Lawrence S. Krieger with Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L.

profession. Analyzing quantitative data gathered between 2013-2016 in surveys of 530 law students and lawyers<sup>9</sup> and qualitative data from 106 in-depth interviews with lawyers,<sup>10</sup> we look at the following questions: Are some lawyers more stress hardy than others? If so, what makes them stress hardy? Are their strategies teachable and learnable?<sup>11</sup>

Our data show that some lawyers are more stress hardy than others, and that three behavioral characteristics differentiate these lawyers from the rest of us. These behaviors are: a sense of control, a sense of purpose, and cognitive flexibility. Use of these behaviors shows a significant inverse correlation to stress; the stronger these behaviors, the less stress a lawyer reports. A fourth behavior, relying on alcohol or drugs to manage stress, positively correlates to stress; lawyers who report such reliance experience more stress. Other findings in our data include: the type of stress lawyers experience varies by practice area; while the level of stress experienced by law students and lawyers remains fairly constant throughout law school and law practice, the sources of stress change; as lawyers age, they report less reliance on exercise and social connectedness, and greater reliance on alcohol and drug use to manage stress.

Part II of this article addresses the science of stress, the human biological response to stress, and the difference between “good” and “bad”

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REV. 554, 599 (2015) [hereinafter Krieger & Sheldon, *What Makes Lawyers Happy?*]; ANGUS LYON, *LAWYER'S GUIDE TO WELLBEING AND MANAGING STRESS* 12 (Ark Group 2015) [hereinafter LYON, *LAWYER'S GUIDE TO WELLBEING*]; Patrick J. Schlitz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 893 (1999) [hereinafter, Schlitz, *Happy Healthy and Ethical Member*]; Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism* 46 AM. U. L. REV. 1337, 1377 (1997) [hereinafter Daicoff, *Lawyer, Know Thyself*]; Rick B. Allan, *Alcoholism, Drug Abuse and Lawyers: Are We Ready to Address the Denial?*, 31 CREIGHTON L. REV. 265, 265-266 (1997); Connie J.A. Beck, Bruce D. Sales, G. Andrew H. Benjamin, *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J. OF L. AND HEALTH 1, 1-3 (1995-96) [hereinafter Benjamin, *Lawyer Distress*].

9. IRB # 16-OR-280, “Stress Hardiness in Students and Lawyers”

10. All interviews were conducted as part of the program at the University of Alabama School of Law, The Business of Being a Lawyer (BBL). All interviews are videotaped and publicly available on the BBL webpage of the University of Alabama School of Law webpage: <https://www.law.ua.edu/programs/the-business-of-being-a-lawyer/what-is-bbl/>. There are four indices for the interviews: (1) Name and title of interviewee, (2) Topics discussed, (3) Practice Areas, and (4) 34 Strengths from Gallup Strength Finders. Most of the interviewees took the Gallup Strength Finders 2.0 online strength assessment prior to their interview and discuss in their interview their strongest 5 strengths according to this assessment, and how they use their strengths in their day-to-day practice. As part of the BBL course, students take the Gallup Strength finders strength assessment and learn their strongest 5 strengths. They may then click on a lawyer with the same strength and learn how that lawyer uses his/her strength.

11. This article analyzes the empirical data we collected from lawyers in IRB # 16-OR-280, “Stress Hardiness in Students and Lawyers.” Our future manuscripts address the empirical data we have gathered in this survey regarding law students and comparative data on undergraduate students and graduate students in fields other than law. This article draws on qualitative data we have collected from law students in this IRB.

stress. Part II further discusses why some level of stress is necessary, productive, and helpful. Part III focuses on stress in the legal profession, reviews major studies of stress, and highlights some of the reasons lawyers experience stress, including the “lawyer personality,” the nature of law school and law practice, and impediments within the legal profession to seek help by lawyers in distress. Part IV looks at the science of stress hardiness and the characteristics of stress hardy individuals. Part V explains our study methodology and describes the demographics of the groups we studied. Part VI discusses our findings which are: (1) some lawyers are more stress hardy than others, (2) although no demographic factors correlate to stress hardiness, three behaviors show a significant correlation to stress hardiness: maintaining a sense of control, a sense of purpose, and cognitive flexibility<sup>12</sup>; (3) these behaviors build on each other such that use of one strengthens use of others, (4) these behaviors are teachable and learnable, (5) the type of stress lawyers experience varies by practice area, (6) while stress levels remain fairly constant throughout law school and law practice, the sources of stress change, (7) law students and lawyers report the following strategies that help them manage stress: exercise, social connectedness, and three habits of thought: preparation and planning, perspective, and gratitude, (8) lawyers report less reliance on exercise and social connectedness as they age and greater reliance on substance use, (9) reliance on substance use to manage stress correlates to greater stress.

## II. THE SCIENCE OF STRESS

This section discusses the biology of the human stress response, the evolutionary reasons for this response, the physical impact of stress, and when stress is good and bad. As this section notes, the human stress response is designed for acute emergencies. In these situations, our stress response is essential to our survival. However, when our stress response lasts longer than the acute emergency, it does “nasty”<sup>13</sup> things to our bodies, including heart disease, ulcers and other digestive dysfunctions, skin disease, depression, autoimmune disease, impaired cognitive ability and an enhanced likelihood of dementia.

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12. Specifically, our data shows a significant inverse correlation between stress and three major traits of stress hardiness: sense of control ( $r = -.552$ ;  $p < .01$ ), sense of purpose ( $r = -.556$ ;  $p < .01$ ), and cognitive flexibility ( $r = -.227$ ;  $p < .01$ ) discussed in Part V *infra*.

13. JOHN MEDINA, BRAIN RULES 171-195 (Pear Press 2008) [hereinafter MEDINA, BRAIN RULES].

### A. *The Biological Response to Stress*

Stress is any “life event . . . [that] causes changes in, and demands readjustment, of an average person’s normal routine.”<sup>14</sup> The body’s response to stress is amazingly effective – if we need to run away from a lion. When we sense danger, our adrenal glands, located above our kidneys, shoot two hormones: adrenaline and cortisol, throughout our bodies. Adrenaline increases heart rate and blood pressure.<sup>15</sup> Our blood flow increases 300 - 400% as our body pumps oxygen-rich blood to our large muscles to make us stronger and faster.<sup>16</sup> Our digestive system shuts down, diverting blood to large muscles. Blood flows away from skin to our large muscles to make us stronger, less sensitive to pain, and reduce bleeding if we are wounded.<sup>17</sup> Adrenalin flowing to our pancreas, liver, muscles, and fatty tissues inhibits the production of insulin to stimulate the synthesis of sugar and fat and give a quick burst of energy.<sup>18</sup> Adrenaline causes our brains to release “neuropeptide S,” which increases alertness and anxiety (anxiety helps give a sense of urgency to act).<sup>19</sup> Our senses of sight, hearing, and smell become sharper as “shifts occur in cognitive and sensory skills.”<sup>20</sup>

### B. *When Stress is Good*

*[O]n a warm summer evening in Tucson, Arizona, Tom Boyle, Jr. was sitting in . . . his pickup truck stopped at a traffic light.<sup>21</sup> Hearing the squeal of tires, Boyle watched the car in front of him hit the gas and run over a cyclist who apparently was in the driver’s blind spot. The cyclist, pinned under the car with his legs caught in the car’s chassis, was dragged for 20 feet before the*

14. Kobasa, *Stressful Life Events*, *supra* note 7. Cf. JOHN MEDINA, *BRAIN RULES*, *supra* note 13, at 173 (stress occurs when there is “an aroused physiological response, . . . perceived as aversive, . . . [the person must not feel in control of the stressor.]”).

15. MEDINA, *BRAIN RULES*, *supra* note 13, at 173; ROBERT M. SAPOLSKY, *WHY ZEBRAS DON’T GET ULCERS* 37-50 (Holt, 3d Ed. 2004) [hereinafter SAPOLSKY, *ZEBRAS*].

16. SAPOLSKY, *ZEBRAS*, *supra* note 15, at 22 – 50.

17. MEDINA, *BRAIN RULES*, *supra* note 13; SAPOLSKY, *ZEBRAS*, *supra* note 15.

18. *Stress Weakens the Immune System*, AM. PSYCHOL. ASS’N (Feb. 23, 2006), <http://www.apa.org/research/action/immune.aspx>; (2006); *How Your Brain Responds to Stress*, THE FRANKLIN INSTITUTE, <http://www.fi.edu/learn/brain/stress.html>. (Note: Link takes to FI homepage).

19. *Stress Weakens the Immune System*, *supra* note 18; The Franklin Institute, *How Your Brain Responds to Stress*, *supra* note 18; cf. HANS SELYE, *THE STRESS OF LIFE* 97-127 (McGraw-Hill 1976) [hereinafter SELYE, *THE STRESS OF LIFE*] (discussing the biological mechanism of stress); MEDINA, *BRAIN RULES*, *supra* note 13, at 171-195; SAPOLSKY, *ZEBRAS*, *supra* note 15, at 10-15.

20. SAPOLSKY, *ZEBRAS*, *supra* note 15, at 12.

21. JEFF WISE, *EXTREME FEAR: THE SCIENCE OF YOUR MIND IN DANGER* 25-27 (Palgrave MacMillan 2009) [hereinafter WISE, *EXTREME FEAR*].

*driver stopped. Boyle jumped out of his truck and ran to the car. He reached under the car and lifted it as the cyclist screamed, "Mister! Mister! Higher! Higher!" Boyle held the car for 45 seconds as the driver pulled the cyclist free. Although Boyle is a large person (6'4" and 280 pounds) and strong (able to deadlift a 700-pound barbell), the car weighed 3,000 pounds. The world record for deadlifting a barbell is 1,008 pounds.*<sup>22</sup>

What Boyle experienced was an acute stress response.<sup>23</sup> Although most of us have not single-handedly lifted a car, we have all experienced an acute stress response - slamming on brakes to avoid hitting a car in front of us, for example, or jumping when startled by an unexpected noise. An enhanced ability to respond to sudden danger or perceived danger is essential to survival. And, in appropriate doses, stress is essential to our development as human beings.<sup>24</sup> Thoughts of doubt and fear help us anticipate and solve problems.<sup>25</sup> "Moderate levels of . . . catecholamines [stress hormones] . . . sharpen focus and decision-making."<sup>26</sup> Stress causes our brains to grow new cells responsible for memory.<sup>27</sup> Exposure to stress triggers an increase in nerve cells that helps ward off depression, boosts our cognitive abilities,<sup>28</sup> makes us more resilient,<sup>29</sup> motivates us to succeed, and builds confidence. Stress increases the production of DHEA, a neurosteroid, that "helps [the] brain grow stronger from stressful experiences."<sup>30</sup> Insufficient stress leads to underdeveloped brains in

22. WISE, *EXTREME FEAR*, *supra* note 21, at 25-27.

23. *Id.*

24. Children born to mothers who experienced "mild to moderate stress" while pregnant have "greater motor and developmental skills by age 2" than children born to unstressed mothers. Amanda MacMillan, *5 Weird Ways Stress Can Actually Be Good for You*, TIME, Aug. 22, 2014, at 3. (Discussing, Janet A. DiPietro, *Maternal Psychological Distress During Pregnancy in Relation to Child Development at Age Two*, 77 CHILD DEVELOPMENT 573, 573-87 (2006))

25. KELLY MCGONIGAL, *THE UPSIDE OF STRESS* 181 (Penguin Random House 2015) [hereinafter MCGONIGAL, *UPSIDE OF STRESS*]; STEVEN M. SOUTHWICK & DENNIS S. CHARNEY, *RESILIENCE* 20 (Cambridge University Press 2015) [hereinafter SOUTHWICK & CHARNEY, *RESILIENCE*].

26. SOUTHWICK & CHARNEY, *RESILIENCE supra* note 25, at 57. "In acute stress, this response triggers the release of substances called catecholamines, which include epinephrine, norepinephrine, and cortisol, from the adrenal glands. These substances prepare the body to react to immediate danger by increasing heart rate, increasing oxygen delivery to the brain, dilating blood vessels in skeletal muscles, and increasing blood glucose levels." MILLER-KEANE *ENCYCLOPEDIA AND DICTIONARY OF MEDICINE, NURSING, AND ALLIED HEALTH*, Seventh Ed. (Elsevier, Inc., Saunders, 2003).

27. KELLY MCGONIGAL, *THE UPSIDE OF STRESS* 54 (Penguin Random House 2015) (Acute but short-lived stress helps our brains develop and mature. "[S]tress can make you smarter, stronger, and more successful. It helps you learn and grow. It can even inspire courage and compassion." *Id.* at XVII.)

28. *Id.* SOUTHWICK & CHARNEY, *RESILIENCE supra* note 25, at 57.

29. *Id.* at 20 ("[T]he truth is, when stress can be managed, it tends to be very good and even necessary for health and growth. Without it, the mind and body weaken. If we can learn to harness stress it can serve as a catalyst for developing greater strength and even greater wisdom.")

30. *Id.* MCGONIGAL, *UPSIDE OF STRESS supra* note 27, at 9.



children<sup>31</sup> and “boredom, rigidity, monotony” in life.<sup>32</sup> Stress is part of “being in the flow.” “Flow,” a phenomenon studied by Professor Mihaly Csikszentmihalyi, occurs when we are doing something we enjoy, that is, when we “are so involved in an activity that nothing else seems to matter.”<sup>33</sup>

Facing some adversity “predispose[s] us to better outcomes when facing later difficulties.”<sup>34</sup> As Kelly McGonigal and other psychologists have reported, it is our attitude toward stress, not the stress itself, that matters most: “When you believe that stress is harmful, anything that feels a bit stressful can start to feel like an intrusion in your life,” but if “you face difficulties head-on, instead of trying to avoid or deny them, you build your resources for dealing with stressful experiences.”<sup>35</sup> As McGonigal explains: Realizing that stress can be helpful “becomes a self-fulfilling prophecy,”<sup>36</sup> as we “become more confident in [our] ability to handle life’s challenges,”<sup>37</sup> and “create a strong network of social support.”<sup>38</sup>

A career in law will be stressful at times because it requires one to learn something new, conquer difficult challenges, rise above expectations, and achieve something important and hard. This also makes the practice of law personally rewarding. Our data corroborated this. Many of the lawyers we interviewed spoke about the stress of being a lawyer, but also talked about how much they loved practicing law. Their faces lit up when they told us about a tough case they won or a difficult situation they handled.

### C. *When Stress is Bad*

Although essential to our survival, our biological stress response is *not* well suited to chronic stress.<sup>39</sup> Today, much of the stress in life is chronic, lasting hours, days, months, or years. We sit in traffic jams. We have demanding work schedules. We don’t get enough sleep. We juggle crying toddlers, rebellious teenagers, aging parents, debt, and career upheavals.<sup>40</sup>

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31. Janet A. DiPietro, *Maternal Stress in Pregnancy: Considerations for Fetal Development*, 51 J. OF ADOLESCENT HEALTH S3, S3-S8 (2012) [hereinafter DiPietro, *Maternal Stress*].

32. LYON, *LAWYER’S GUIDE TO WELLBEING*, *supra* note 8.

33. MIHALY CSIKSZENTMIHALYI, *FLOW* 39-70 (Harper Perennial 1990) [hereinafter CSIKSZENTMIHALYI, *FLOW*].

34. CSIKSZENTMIHALYI, *FLOW* *supra* note 33, at 39.

35. MCGONIGAL, *UPSIDE OF STRESS*, *supra* note 27, at 18; *Cf.* at 69.

36. *Id.* at 18.

37. *Id.*

38. *Id.*

39. MEDINA, *BRAIN RULES*, *supra* note 13, at 176-188.

40. Not sure if you’re stressed? Here are the clues:

With chronic stress, our “stress-response can become more damaging than the stressor itself.”<sup>41</sup> The adrenaline and cortisol our bodies produce as part of a natural stress response damages our bodies over time.<sup>42</sup> A prolonged rush of adrenaline scars blood vessels and clogs arteries<sup>43</sup> while elevated levels of cortisol suppress our immune system.<sup>44</sup> Individuals experiencing chronic stress are three times more likely to get colds and suffer from autoimmune diseases such as asthma and diabetes.<sup>45</sup> Because our digestive system shuts down during times of stress, chronic stress can lead to constipation,<sup>46</sup> diarrhea,<sup>47</sup> irritable bowel syndrome,<sup>48</sup> and peptic

- 
- Tight neck or jaw muscles
  - Tight shoulders or back
  - Jutted-out chin
  - Gritting or grinding of teeth
  - Tight, strained voice
  - Hunched shoulders
  - Tightly curled toes or fingers
  - Drumming with your fingers
  - Foot tapping, legs constantly in motion
  - Rigid spine
  - Tight forehead muscles, sometimes with a headache
  - Sweating hands, feet or armpits
  - Irritability, overreacting to small things
  - Frowning
  - High pulse rate, heart pounding rapidly
  - Brusque, jerky movements with muscles tight or braced
  - Irregular, shallow breathing or sighing respiration
  - Feeling of suffocation
  - Nervous stomach, cramping, or nausea
  - Urinating frequently
  - Smoking intensely
  - Fluttering eyes or eyestrain.

PETER HAURI & SHIRLEY LINDE, *NO MORE SLEEPLESS NIGHTS* 106 (John Wiley & Sons 1991); *see also* SELYE, *THE STRESS OF LIFE* *supra* note 19, at 173-178 (self-observable signs of stress).

41. SAPOLSKY, ZEBRAS, *supra* note 15, at 13.

42. MEDINA, *BRAIN RULES*, *supra* note 13, at 176-188.

43. *Id.* at 176; *cf.* SELYE, *THE STRESS OF LIFE*, *supra* note 19 at 203-212 (discussing the hypertension that results from a “transient corticoid overdose.”).

44. SELYE, *THE STRESS OF LIFE*, *supra* note 19, at 218-246 (discussing inflammatory diseases, focal infections, arthritis, and rheumatic and rheumatoid diseases caused or exacerbated by stress.)

45. MEDINA, *BRAIN RULES*, *supra* note 13, at 177.

46. SAPOLSKY, ZEBRAS, *supra* note 15, at 80-81 (“all(“[a]ll that stuff sitting in your large intestines . . . is just dead weight.”).

47. *Id.* at 81 (in a stress response, if food and water area already in your large intestine, “everything gets pushed through too fast for the water to be absorbed optimally. Diarrhea, simple as that.”).

48. *Id.* at 81-84 (“among the most common of stress-sensitive disorders,” *id.* at 82).

ulcers.<sup>49</sup> Because blood flow is diverted from our skin we are under stress, individuals under constant stress are prone to skin disorders.<sup>50</sup>

Chronic stress can make us depressed. The hormone, dopamine, known as “cerebral joy-juice,”<sup>51</sup> regulates moods and provides feelings of happiness and pleasure. Dopamine is also what our bodies use to make adrenaline. Reduced levels of dopamine, which will occur when dopamine is converted to adrenalin, can cause depression.<sup>52</sup> Chronic stress also impairs our cognitive ability. Elevated levels of cortisol damage the hippocampus which governs memory and cognitive function.<sup>53</sup> Rats with raised cortisol levels, for example, are unable to find their way through mazes they easily traversed when not under stress. Humans with high levels of stress perform 50% worse on cognitive tests.<sup>54</sup> “Stress hurts declarative memory (things you can declare) and executive function (the type of thinking that involves problem-solving).”<sup>55</sup> Chronic stress increases our long-term risk of dementia.<sup>56</sup> When experiencing stress, blood is diverted from the hippocampus to enhance our senses.<sup>57</sup> Over time, less blood in the hippocampus causes it to shrink. A shrunken hippocampus correlates with dementia and Alzheimer’s disease.<sup>58</sup>

Chronic stress makes it harder for us to deal with stress. When we experience a stressful experience, a rise in our cortisol level depletes our body’s store of magnesium.<sup>59</sup> Magnesium is a calming mineral and its loss increases our vulnerability to stress.<sup>60</sup> The hippocampus is designed to shut down our stress response by signaling our brains to stop producing cortisol. When we are under chronic stress this signal is never triggered, and we continue to pump cortisol and deplete magnesium. In this way, we become locked in a destructive cycle of stress:

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49. *Id.* at 84-91.

50. *Stress Weakens the Immune System*, AM. PSYCHOL. ASS’N (Feb. 23, 2006), <http://www.apa.org/research/action/immune.aspx>; (2006); *How Your Brain Responds to Stress*, THE FRANKLIN INSTITUTE, <http://www.fi.edu/learn/brain/stress.html>. (Note: Link takes to FI homepage).

51. David Watson, *Positive Affectivity*, HANDBOOK OF POSITIVE PSYCHOLOGY 207, 207-16 (Oxford University Press 2009).

52. MEDINA, BRAIN RULES, *supra* note 13, at 180.

53. *Id.* at 177-78; *cf.* SAPOLSKY, ZEBRAS, *supra* note 15, at 202-225 (stress and memory).

54. MEDINA, BRAIN RULES, *supra* note 13 at 178.

55. *Id.* at 178.

56. *Id.* at 178-80.

57. *Id.*

58. *Id.*

59. DHARMA SINGH KHALSA WITH CAMERON STAUTH, BRAIN LONGEVITY 203 (Hachette Book Group 1997).

60. *Id.*

“[L]ike a fortress overrun by invaders, enough stress hormones will eventually overwhelm the brain’s natural defenses and wreak their havoc. In sufficient quantities, stress hormones are fully capable of turning off the gene that [hold stress hormones in check. Stress hormones . . .] [n]ot only . . . overwhelm our natural defenses, but they can actually turn them *off*.”<sup>61</sup>

There is no question that chronic stress is bad for our bodies. The question is whether lawyers experience more stress than other professions? As discussed in the next section, it appears so.

### III. STRESS AND THE PRACTICE OF LAW

*“When I was sixteen I had a job at K-Mart stocking shelves. When I got done at 10 o’clock at night and went home or went to hang out with my friends, I didn’t have a single thought about stocking those shelves but practicing law isn’t like that at all. If my client is in danger of significant risk for an adverse verdict, or I’m handling a pro bono matter, dealing with a child custody issue, that bothers me. I wake up in the middle of the night thinking about what is going to happen in a case.”*<sup>62</sup>

It is well documented that the stress in the legal profession impacts lawyers’ quality of life.<sup>63</sup> A greater percentage of lawyers experience psychological distress than the general population.<sup>64</sup> Lawyers are in remarkably poor mental health with a higher incidence of depression, alcoholism, illegal drug use, and divorce than almost any other profession.<sup>65</sup> A 2016 study of 12,825 licensed, employed attorneys showed “[s]ubstantial rates of behavioral health problems . . . with 20.6% screening positive for hazardous, harmful, and potentially alcohol-dependent drinking” and “[l]evels of depression, anxiety, and stress . . . were

61. MEDINA, BRAIN RULES, *supra* note 13, at 179 (explaining that stress hormones turn off the gene that makes Brain Derived Neurotrophic Factor (BDNF) in hippocampal cells. BDNF is a group of proteins in the hippocampus that hold hormones in check and prevent them from doing damage).

62. Lawyers’ quotes throughout this article may be found at BBL Video Library, <http://www.law.ua.edu/resources/BBLcourse/> or in IRB survey responses. IRB Survey Data is maintained by the authors.

63. See sources cited *supra* note 7.

64. Connie J.A. Beck, Bruce D. Sales, G. Andrew H. Benjamin, *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J. L. & HEALTH 1, 1-3 (1995-96) [hereinafter *Lawyer Distress*].

65. Schlitz *Happy Healthy and Ethical Member* *supra* note 9; Rick B. Allan, *Alcoholism, Drug Abuse and Lawyers: Are We Ready to Address the Denial?*, 31 CREIGHTON L. REV. 265-66 (1997); Sue Shellenbarger, *Even Lawyers Get the Blues: Opening Up About Depression*, WALL ST. J., Dec 13, 2007.

significant, with 28%, 19%, and 23% experiencing symptoms of depression, anxiety, and stress, respectively.”<sup>66</sup>

This section discusses why people who tend to choose law as a profession may be more prone to stress, why lawyers and law students are often reluctant to seek help in managing stress, and how the dynamics of law practice contribute to stress. This section also examines how the law school experience may contribute to the deterioration in the psychological health of many students and what some law schools are doing in response to such data. This section concludes with a discussion of one type of stress common to many law students and lawyers: financial debt.

### A. *The Lawyer Profile*

A certain level of intelligence is necessary to become a lawyer. Individuals with an IQ lower than 115 (about 85% of the population) have difficulty succeeding in law school.<sup>67</sup> Because the legal profession is a demanding career, it tends to attract individuals who are motivated, intelligent, and ambitious.<sup>68</sup> Studies of lawyers consistently show that “[l]awyers are . . . more achievement-oriented, more aggressive, and more competitive than other professionals and people in general.”<sup>69</sup> On the Myers-Briggs personality assessment, lawyers, compared to the general population, “disproportionately represent the ‘Thinking’ type rather than the ‘Feeling’ type.”<sup>70</sup>

The “lawyer personality” appears to exacerbate lawyer distress by making it less likely that attorneys will seek help when they need it: “Most attorneys are self-reliant, ambitious, perfectionistic and highly motivated to

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66. Patrick R. Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46-52 (2016) [hereinafter *Prevalence of Substance Abuse*].

67. DAVID LYKKEN, HAPPINESS: THE NATURE AND NURTURE OF JOY AND CONTENTMENT 51 (St Martin’s Griffin 2000)

68. Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism* 46 AM. U.L. REV. 1337 (1997) [hereinafter Daicoff, *Lawyer, Know Thyself*] (summarizing a number of studies of law students and lawyers conducted in 1960 – 1980).

69. *Id.* at 1390.

70. *Id.* at 1392 (citing Paul Van R. Miller, *Personality Differences and Student Survival in Law School*, 19 J. LEGAL EDUC. 460, 465 (1967) (“in a survey of 897 law students, 72% were thinkers, compared to 54% of liberal arts graduates.”)); see also TOM RATH, STRENGTHS FINDER 2.0 37 (Gallup Press 2007). The “lawyer personality” appears to be borne out in the Gallup Strengthsfinder assessment taken by 238 law students at the University of Alabama School of Law in 3 semesters (Fall and Spring, 2015 and Spring, 2016) as part of the course, *The Business of Being a Lawyer*. This strength assessment, one of the most widely used in the business world, identifies thirty-four strengths and ranks the top five strengths for each person who takes this assessment. The most common strength, shown by one-third of the 238 students taking this assessment, was “achiever.” Gallup describes achievers as measured in this assessment as driven, possessing a “constant need for achievement”, a need to “achieve something tangible in order to feel good about yourself.” *Id.*

provide good service to their clients. As a group, however, attorneys are among the last to seek assistance, or to even acknowledge a problem.”<sup>71</sup> A 2016 study of almost 12,000 U.S. attorneys with mental health or substance abuse problems reported that “[t]he 2 most common barriers” in seeking help were “not wanting others to find out they needed help . . . and concerns regarding privacy or confidentiality.”<sup>72</sup> In a 2012 British study of 1,000 lawyers, 70% of whom said they experienced their workplace as stressful, two-thirds said they would “be concerned about reporting feelings of stress to an employer.”<sup>73</sup>

Dynamics within the legal profession may compound lawyer reluctance to seek help. Lawyers understandably worry about their professional reputation in a tough market: If clients know their lawyer is in psychological distress or suffering from substance abuse, will they look for other counsel? What will one’s partners say if a lawyer checks into a substance abuse facility? Who will handle the lawyer’s cases and deadlines? Will a lawyer’s depression or substance abuse lead to disciplinary proceedings with the bar? As Robert Thornhill, Director of Alabama’s Lawyer Assistance Program, notes: “The fear of damaging their reputation is pervasive and keeps many attorneys from receiving the assistance and treatment that they need.”<sup>74</sup>

The lifestyle lawyers experience also leads to stress. Practicing law often entails long hours. The average associate in private practice bills just over 2000 hours per year.<sup>75</sup> Because not every hour worked can be billed, it takes about 3000 hours of work per year to bill 2000 hours annually. To work 3000 hours per year requires working fifty-eight hours per week, fifty-two weeks a year.<sup>76</sup> In the past few years, this billing pressure on lawyers has intensified as more firms evaluate their lawyers internally for purposes of setting salaries, bonuses and other perks based upon fees collected from clients, not just fees billed.<sup>77</sup> A 2012 study of 2,862 U.S.

71. Robert B. Thornhill, *Alcohol Abuse and Mental Health Concerns among American Attorneys*, 77 ALA. LAWYER 199 (May 2016).

72. *Prevalence of Substance Abuse*, *supra* note 66, at 46.

73. LYON, *LAWYER’S GUIDE TO WELLBEING*, *supra* note 8, at 4.

74. Robert B. Thornhill, *Alcohol Abuse and Mental Health Concerns among American Attorneys*, 77 ALA. LAWYER 199 (May 2016).

75. National Association for Law Placement [hereinafter NALP], <http://www.nalp.org/billablehours> (“The most recent information available on hours worked and billed by associates suggests that both hours worked and billable hours worked increased in the most recent two-year period reported (2013 and 2014). Overall, average hours worked were 2,081 per year in 2014, compared with 2,067 per year at these same offices in 2013.”).

76. Schlitz, *Happy Healthy and Ethical Member*, *supra* note 8, at 894.

77. Schlitz, *Happy Healthy and Ethical Member*, *supra* note 8, at 894. ([Y]ou will also not be able to bill for much of what you will do at the office or during the workday – going to lunch, chatting with your co-workers . . . , going down the hall to get a cup of coffee, . . . attending the weekly meeting of your practice group, filling out your time sheet, . . . preparing a ‘pitch’ for a prospective client . . .

lawyers showed that lawyers report a median work week of forty-seven hours, with 15.3% reporting working more than 60 hours per week.<sup>78</sup> A 2012 study of 1,000 English lawyers found that more than two-thirds “worked late every day or at least several times a week.”<sup>79</sup> As noted in a 2001 report by the American Bar Association’s Commission on Women in the Profession: “[e]xcessive workloads are a leading cause of lawyers’ disproportionately high rates of reproductive dysfunction, stress, substance abuse, and mental health difficulties.”<sup>80</sup>

The unpredictable and adversarial nature of practicing law adds stress. Lawyers often experience unpredictable outcomes and difficult cases, clients, colleagues, or adversaries. As Sheldon and Krieger note: “[a]dversarial, zero-sum contests are stressful by nature, and the uncertain outcomes often have serious consequences for clients.”<sup>81</sup> As one judge we interviewed said:

I remember the Michael Cain character in the movie *Batman* who talked about how there are good people, evil people, and people who just want to see the world burn. There are folks in our community who exist simply to inflict pain and suffering and it’s not necessarily the criminals who are charged with the worst crimes. It can also be litigants in a divorce case, a civil dispute, a land line dispute. In my job, the people who want to see the world burn are very stressful to handle.

Angus Lyon, a British solicitor, psychotherapist, and author of a book on lawyers and stress, concurs: “I learned long ago, never to wrestle with a pig. You get dirty, and besides, the pig likes it,”<sup>82</sup> Lyon notes that dealing with difficult clients, opponents, and co-workers leaves you feeling “emotionally shattered”<sup>83</sup> and, in his book offers helpful strategies for dealing with difficult people in the practice of law.<sup>84</sup> Notably, all of the

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interviewing a recruit . . . doing pro bono work, reading advance sheets, . . . attending CLE seminars . . .”).

78. NALP, ABA, *AFTER THE JD III: THIRD RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* 32 fig. 4.1 (2016) [hereinafter *AFTER THE JD III*] (studying lawyers who were admitted to the bar in 2000. Phase one Surveyed the group three years after graduation (4,538 respondents); phase two surveyed the group seven years after being admitted to practice (3,705 respondents); and phase three surveyed the group twelve years after being admitted to practice (2,862 respondents)).

79. LYON, *LAWYER’S GUIDE TO WELLBEING*, *supra* note 8, at 3-4.

80. ABA, *COMMISSION ON WOMEN IN THE PROFESSION, BALANCED LIVES: CHANGING THE CULTURE OF LEGAL PRACTICE* 12 (2001) [hereinafter *ABA, BALANCED LIVES*].

81. Krieger & Sheldon, *What Makes Lawyers Happy?*, *supra* note 8, at 599.

82. LYON, *LAWYER’S GUIDE TO WELLBEING*, *supra* note 8, at 97 (quoting George Bernard Shaw).

83. *Id.*

84. *Id.* at 97-103.

strategies Lyon suggests are, in fact, skills of cognitive flexibility, which as we discuss *infra*,<sup>85</sup> is a behavior characteristic of stress hardy individuals.

Lawyers today also face stress because of ongoing, dramatic changes in the legal profession.<sup>86</sup> No longer does a lawyer simply “practice law.” Attorneys must also succeed in the business of practicing law: meeting yearly billing requirements, developing a client base, representing clients on a cost efficient basis, recreating their specialty when their expertise becomes commoditized or disappears, competing with non-lawyers who are gaining an increasing share of the legal marketplace.<sup>87</sup> Today, lawyers must be effective “free agents” throughout their careers, constantly reinventing themselves to ensure that their skill set “adds value” to their clients and to their firm. Lawyers must master rapidly changing technology and the dramatic changes it causes in the practice of law.

Traditionally, life became easier when lawyers become partners: “[p]artners could scale back their workload, mentor new lawyers, and focus on bar association activities and public service.”<sup>88</sup> But today, as one partner explains: “[t]he hours don’t get any better for partners; partners have even more pressure than associates do.”<sup>89</sup> In the current legal environment, if partners “do not bring in and retain clients, bill a significant number of hours, and keep their firms intact, they risk a breakup of their firm or being de-equitized.”<sup>90</sup> As Sheldon and Krieger note in their recent study of 6,226 attorneys, although “[m]aking partner” represents a milestone of success in law firm culture,” partners “experience no greater happiness than the associates.”<sup>91</sup> Sheldon and Krieger caution: “[a]lthough students and lawyers likely assume that making partner after several years of often difficult associate work will ‘pay off’ with great happiness, such expectations are entirely unsupported . . . .”<sup>92</sup>

85. See discussion *infra* Section VI.B.3.

86. See, e.g., PAMELA BUCY PIERSON, *THE BUSINESS OF BEING A LAWYER* 161-201 (West Academic 2014) [hereinafter PIERSON, *THE BUSINESS OF BEING A LAWYER*]; LYON, *LAWYER’S GUIDE TO WELLBEING*, *supra* note 8, at 105-06; Krieger & Sheldon, *What Makes Lawyers Happy?*, *supra* note 8.

87. See, e.g., PIERSON, *THE BUSINESS OF BEING A LAWYER* *supra* note 86; RICHARD SUSSKIND, *THE END OF LAWYERS* (Oxford University Press 2010); Rachel M. Zahorsky & William D. Henderson, *Who’s Eating Law Firms’ Lunch?*, 99 ABA J. 32 (2013); William D. Henderson & Rachel M. Zahorsky, *Law Job Stagnation May Have Started Before the Recession – And It May Be a Sign of Lasting Change*, ABA J. (July 1, 2011).

88. PIERSON, *THE BUSINESS OF BEING A LAWYER*, *supra* note 86, at 182; *cf.* 182-83; *Cf.* SOL M. LINOWITZ & MARTIN MAYER, *THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY* (Reed Business Information, Inc. 1994).

89. Kimberly Kirkland, *Ethics in Large Law Firms: The Principles of Pragmaticism*, 35 U. MEM. L. REV. 631-639 (2005) [hereinafter Kirkland, *Ethics in Large Law Firms*].

90. PIERSON, *THE BUSINESS OF BEING A LAWYER*, *supra* note 86, at 182.

91. Krieger & Sheldon, *What Makes Lawyers Happy?*, *supra* note 8, at 597-98.

92. *Id.* at 598.



In summary, the following factors contribute to the stress felt by many lawyers in their practice of law: the “lawyer” personality which leads to a reluctance to seek help for stress related problems, dynamics within the legal profession that further discourage attorneys from seeking needed help for mental health issues, the constant need to meet billing quotas, develop clients, “demonstrate value,” and update one’s skills to meet a changing marketplace, and the fact that the pressures in the profession do not taper off as one advances in one’s career. As the next section discusses, many of these stresses begin in law school.

### *B. It Begins in Law School*

*“If you have a demon you haven’t dealt with, law school will find it.”*<sup>93</sup>

Empirical studies of law students since the 1960’s have documented the anxiety, “changes in . . . personality . . . , drop in sociability[, and] an increase in psychological distress,” that occur in law school.<sup>94</sup> Data from a 2014 study of 3388 law students from fifteen law schools, for example, reported that 37% of respondents met the criteria for anxiety, 14% met the criteria for severe anxiety, 17% screened positive for depression, and 27% for eating disorders.<sup>95</sup> Substance abuse was prevalent: “[m]ore than half of the [respondents] reported getting drunk at least once in the past 30 days, with 22 percent saying they binge drank . . . two or more times in the previous two weeks”;<sup>96</sup> “14% of respondents reported having used prescription drugs *without a prescription* in the prior twelve months.”<sup>97</sup> Our data were consistent. Forty-five percent (45%) of 1L students (42 out of 93) and 52% of 2L/3L students (65 out of 124) in our survey reporting “feeling nervous and stressed” within the past month “fairly often” or “very often.”

Stress can become a “demon” for many law students because of the “competitive, unforgiving nature of law school.”<sup>98</sup> As John Delony, Associate Dean for Student Life of Texas Tech School of Law, notes: for many law students, law school is the first time “[t]hey are . . . as talented,

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93. John Delony, Associate Dean for Student Life, Texas Tech Law School, quoted in Karen Sloan, *Schools Tackle Mental Health*, NAT’L L. J. 1 (May 9, 2016) [hereinafter Sloan, *Schools Tackle*].

94. *Survey of Law Student Wellbeing*, *supra* note 8, at 118-22; *see also* Krieger & Sheldon, *What Makes Lawyers Happy?*, *supra* note 9, at 883 (explaining that in their 3-year study of students at two law schools: “[t]he popular notion that law school is an exceptionally stressful experience for many students has been substantiated by longitudinal studies.”).

95. *Survey of Law Student WellBeing*, *supra* note 8, at 136-38 (review of literature).

96. Sloan, *Schools Tackle*, *supra* note 93, at 2.

97. *Survey of Law Student Well-Being*, *supra* note 8, at 134 (emphasis in the original).

98. *Id.* Sloan, *Schools Tackle*, *supra* note 93, at 2.

smart and gifted as everyone else around them. The stakes are higher. They're stressed out. They're overwhelmed."<sup>99</sup>

Legal education's traditional pedagogy may also be to blame. As one psychologist noted in an interview with us: "Lawyers are trained to digest a lot of facts and a lot of information and spit those facts back in a way to win. They are not traditionally trained in social skills, emotional intelligence and empathy, all of which are important for success in any profession, even law."<sup>100</sup>

Law students begin law school with more reading than most have ever experienced. Each day, law students must read dozens of cases, understand them, brief them, find the "IRAC" in each, and be able to explain everything in front of their professors and classmates. Whereas law students enter a "boot camp" of reading, facts, arguments, and counterarguments in torts, criminal law, property, economics, and constitutional law, they receive no training in how to take care of themselves in a stressful profession. Sheldon and Krieger identify the following aspects of the law school experience that contribute to a "pressure cooker"<sup>101</sup> atmosphere: "overvaluing theoretical scholarship and undervaluing the teaching function, . . . unsound teaching and testing methods, . . . emphasizing abstract theory rather than providing practical training." They suggest that this type of law school experience "train[s] students to ignore their own values and moral sense, undermine[s] students' sense of identity and self-confidence, and create[s] cynicism."<sup>102</sup>

99. *Id.* (quoting Patrick Krill who runs a substance-abuse treatment program for lawyers and judges at Hazeldon Betty Ford Clinic).

100. Interview with Beverly Thorn, Ph. D., Professor, University of Alabama, BBL Video Library, <http://www.law.ua.edu/resources/BBLcourse/>.

101. Sloan, *Schools Tackle*, *supra* note 93 at 1.

102. Krieger & Sheldon, *What Makes Lawyers Happy?* *supra* note 8, at 883.

Legal education may be changing as law school curricula expand to include more clinics, externships and skills training and more schools recognize the importance of adding training in emotional intelligence skills to law school curriculum. *See, e.g.*, Presidential Address Remarks of Blake D. Morant, 2015 AALS President, Dean of George Washington University Law School, and Robert Kramer Research Professor of Law, Benefits from Challenge: The Continual Evolution of American Legal Education, AALS NEWS (Apr. 15, 2015; address delivered Jan. 4, 2015), available at <http://jle.aals.org/cgi/viewcontent.cgi?article=1294&context=home> (last visited Sept. 8, 2017); Presidential Address); Remarks of Luke Bierman, Dean and Professor of Law, Elon University Law School, Four Steps for Reinventing Legal Education (posted April 15, 2015), available at [http://www.abajournal.com/legalrebels/article/four\\_steps\\_for\\_reinventing\\_legal\\_education](http://www.abajournal.com/legalrebels/article/four_steps_for_reinventing_legal_education) (last visited Sept. 8, 2017) <http://www.abajournal.com/legalrebels/>; Alfred S. Konefsky & Barry Sullivan, *In This, The Winter of Our Discontent: Legal Practice, Legal Education, and the Culture of Distrust*, 62 BUFF. L. REV. 659 (2014).

*See also* Organ, Jaffe, Bender, *Survey of Law Student Well-being* *supra* note 8, at 146-156 (providing specific suggestions of how law schools and bar associations can "help law students dealing with substance use or mental health issues"); Krieger & Sheldon, *What Makes Lawyers Happy?* *supra* note

Law students are often reticent to seek help for mental health for fear of hurting their job prospects or preempting them from sitting for the bar exam. As noted by Organ, Jaffe and Bender in their 2014 survey, “significant majorities of . . . law students most in need of help are reluctant to seek it.”<sup>103</sup> Students’ concerns about seeking help for mental health issues may be well founded: “41 states include questions on their bar exam application about the candidate’s mental health history, diagnosis or treatment” and “[a]nswering affirmatively triggers the potential disclosure of medical records.”<sup>104</sup> It is little wonder that law students who must, often under oath, account for their mental health treatment history to obtain the right to practice law are reluctant to seek the care they may need.

### C. *The Financial Albatross*

One factor that adds stress for lawyers and law students is the financial situation many face.<sup>105</sup>

Recent ABA studies show that law graduates carry an average law school debt ranging from \$122,158 (graduates from private schools) to \$84,000 (graduates from public schools).<sup>106</sup> Notably, these figures

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8, at 71 (suggesting law schools and bar associations provide law students and lawyers more training in managing law school debt).

As Professor Joseph Bankman of Stanford Law School explains when discussing why he created a course for law students on emotional intelligence:

“I have all these brilliant students whom I can help by giving them some useful knowledge and improving their analytical skills. But, as I came to realize over the years, if they crash and burn it will not be because they lack these necessary skills. It will be because they lack emotional resilience to cope with the stresses and challenges of a demanding professional career.”

Randee Fenner, *Stanford law professor creates new way to help students deal with the stress of it all* (Apr. 7, 2015), available at <http://news.stanford.edu/pr/2015/pr-bankman-law-anxiety-040715.html> (last visited Sept. 8, 2017).

103. Krieger & Sheldon, *What Makes Lawyers Happy?* *supra* note 8, *Id.* at 116.

(“If one looks at the subgroup of slightly over 300 respondents who reported binge-drinking two or more times in the prior two weeks and indicated five or more problem behaviors associated with alcohol use, the percentages of those believing they are better off keeping the problem hidden increase to 58% (alcohol/drugs) and 56% (mental health) . . .”) *Id.* at 142.

104. Sloan, *Schools Tackle*, *supra* note 93.

105. Pamela Bucy Pierson, *Economics, EQ and Finance: The Next Frontier in Legal Education*, 65 J. LEGAL EDUC. 864, 873-874 (2016) [hereinafter Pierson *EQ*] (discussing financial facts that affect tomorrow’s lawyers). See, e.g., Krieger & Sheldon, *What Makes Lawyers Happy?* *supra* note 8, at 146 (“The transition for many of our students from college to law school, which includes . . . . managing the debt many take on to finance their legal education, creates [ ] stressors [ ] for which many are unprepared.”).

106. *Average Amount Borrowed*, A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE B. (ABA, Dec. 11, 2013), available at

understate the law graduate debt because they do not include undergraduate debt, interest accruing before graduation, and debt from loans to study for the bar exam.<sup>107</sup>

Studies show that lawyers in mid-career also carry significant educational debt. A survey in 2012 by the American Bar Association and National Association of Law Placement, Inc. (AFTER THE JD, III) showed that 12 years into practice, 53% of the 2,862 lawyers sampled carried a median student debt of \$50,000<sup>108</sup> (with “notable” ethnic variations: 77% of African American law graduates in the survey carried a median debt of \$57,000 while 70% of the Hispanic lawyers in the survey carried a median debt of \$75,000<sup>109</sup>). Our data is consistent. Lawyers in their mid-30s in our survey reported both the highest percentage with educational debt (75%) and the highest average debt of all groups we surveyed (\$49,169). Forty percent (40%) of lawyers in their mid-40s in our survey reported an average educational debt of \$33,215.<sup>110</sup>

In their study of over 7,000 lawyers, Professors Sheldon and Krieger found law students have “unrealistic expectations . . . for earnings following graduation.”<sup>111</sup> Lawyers “broadly reported that their expectations when entering law school for their early career earnings were not realized in their actual careers.”<sup>112</sup> Sheldon and Krieger suggest that “[t]his information gap could be addressed by law schools and state and national bar associations, yielding important positive consequences both for individuals and the profession as a whole.”<sup>113</sup> The ABA agrees. In 2015, the ABA Task Force on the Financing of Legal Education and the ABA

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[https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/avg\\_amnt\\_brwd\\_authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/avg_amnt_brwd_authcheckdam.pdf) (last visited Mar. 18, 2015). Cf. Aaron Sohaski, *Comments of the Law Student Division Related to ABA Commission on the Future of Legal Services' Examination of Issues Related to the Delivery of, and the Public's Access to, Legal Services in the United States*, A.B.A. L. STUDENT DIV. (Dec. 10, 2014), available at [https://www.americanbar.org/content/dam/aba/images/office\\_president/law\\_students.pdf](https://www.americanbar.org/content/dam/aba/images/office_president/law_students.pdf) (last visited Sept. 8, 2017).

107. A.B.A. SEC. OF LEGAL EDUC. & ADMISSIONS TO THE B., *supra* note 106, ABA, Cf. Aaron Sohaski, *supra* note 106. Law students in our survey reported less total debt than these averages, presumably because they are paying less law school tuition than most American law students. *Best Value Law Schools 2016*, NAT'L JURIST: PREL. (Aug. 15, 2016, 9:50 AM), *Law Schools*, <http://www.nationaljurist.com/content/best-value-law-schools-2016>; Melissa Stranger, *The 15 Best Value Law Schools in America*, BUS. INSIDER (Oct. 7, <http://www.businessinsider.com/best-value-law-schools-2013>), Sixty-seven percent (67 of 1Ls in our survey reported an average debt of \$21,235, and 73% of 2Ls and 3Ls reported an average debt of \$51,164).

108. AFTER THE JD, III, *supra* note 78, at 81 (Table 10.1).

109. *Id.*

110. We did not ask whether the educational debt lawyers bear is from their own education or for their children. Conceivably, as the lawyers we surveyed aged, their reported educational debt could be debt they have incurred on their children's education.

111. Krieger & Sheldon, *What Makes Lawyers Happy?* *supra* note 8, at 614.

112. *Id.* at 617.

113. *Id.*

Young Lawyers Section recommended that law schools and bar associations do more to help law students and lawyers navigate the financial future they face.<sup>114</sup>

#### D. *Where from Here?*

Clearly law students and lawyers will face stress in their chosen career. As the science of stress shows, however, this is not necessarily bad. Some stress is necessary to have a fulfilling, interesting life. The question is how much stress one faces and how to handle it. Law schools, bar associations and other professional groups can do more to help law students and lawyers. It is possible to teach stress management skills as shown by the rigorous, systematic courses business graduate schools have offered for years.<sup>115</sup>

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114. Karen Sloan, *ABA Tackles Law School Debt: House of Delegates to Vote on Helping Students Know What They're Getting Into*, NAT'L L. J. (Jun 29, 2015); Dennis W. Archer, *The Report of the Task Force on Financing Legal Education*, AM. BAR ASS'N (Jun 17, 2015), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/reports/2015\\_june\\_report\\_of\\_the\\_aba\\_task\\_force\\_on\\_the\\_financing\\_of\\_legal\\_education.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/reports/2015_june_report_of_the_aba_task_force_on_the_financing_of_legal_education.authcheckdam.pdf); The American Bar Association Section of Legal Education and Admission to the Bar is the recognized accreditor of Juris Doctor programs in the United States.; *ABA Standards and Rules of Procedure for Approval of Law Schools 2014-2015*, AM. BAR ASS'N 34 (2014), [https://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2014\\_2015\\_aba\\_standards\\_and\\_rules\\_of\\_procedure\\_for\\_approval\\_of\\_law\\_schools\\_bookmarked.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2014_2015_aba_standards_and_rules_of_procedure_for_approval_of_law_schools_bookmarked.authcheckdam.pdf) ("A law school shall demonstrate reasonable steps to minimize student loan defaults, including provision of debt counseling at the inception of a student's loan obligations and again before graduation.").

The Business of Being a Lawyer (BBL), a thirteen-part educational video series created and produced at the University of Alabama School of Law provides financial education for law students. Two of the one-hour programs in this series present personal financial basics by following two hypothetical law students who fall in love, get married, and navigate forty years of financial decisions such as choosing careers, changing careers, paying student debt, starting a family, making major purchases, savings and retirement. The series contains interviews with lawyers, financial experts, graphics exercises for students and resources to consult throughout one's career. CLE ALABAMA, <http://www.clealabama.com> (last visited Aug. 30, 2017).

115. Cf. *Authentic Leader Development*, HARV. BUS. SCH., <http://www.hbs.edu/coursecatalog/2090.html> (last visited Aug. 30, 2017) (stating that the purpose of this course is "to help [Harvard students] become more effective, authentic individuals and leaders. We do this by carving out some sacred time and space in your busy lives to engage in a theoretically-supported, disciplined, meaningful conversation about who you are and the purpose of your leadership."); *OB 547: Entrepreneurial Leadership: The Six Essential Skills of Extraordinary Entrepreneurs*, EXPLORECOURSES STAN. (2014-2015), <https://explorecourses.stanford.edu/search;jsessionid=1a4vmktm3ku2c401myoex0e48?q=OB&view=catalog&filter-term-Spring=on&page=0&filter-coursestatus-Active=on&filter-departmentcode-OB=on&academicYear=20142015> (last visited Aug. 30, 2017) (describing the purpose of Stanford's Entrepreneurial Leadership in this way: "How do some people turn ideas into enterprises that endure? Why do some people succeed why so many others fail? Based on more than 200 interviews with leading entrepreneurs conducted over the past five years by Amy Wilkinson, this course will focus on the six skills of successful entrepreneurs. The class will include brief lectures and class discussions with a set of the successful entrepreneurs featured in a recent book authored by the instructor, "The Creator's Code." The class is designed to help students integrate these skills into their own future ventures."); *The*

Some law schools and bar associations are beginning to offer curricula on emotional intelligence. A 2014 survey of U.S. law schools, for example, showed that 49% currently offer courses or programs covering emotional intelligence skills.<sup>116</sup> Dozens of CLEs are now offered to lawyers on emotional intelligence.<sup>117</sup> These efforts raise the question, however: exactly how do you teach law students and lawyers to manage stress? As the next section discusses, there is an answer. There are specific, identifiable behavioral characteristics that stress hardy lawyers use to manage stress.<sup>118</sup> These characteristics are teachable and learnable.

#### IV. “STRESS HARDINESS”

Studies of various groups under stress including, deployed U.S. Military personnel, West Point Military Academy cadets,<sup>119</sup> recent immigrants,<sup>120</sup> undergraduate college students,<sup>121</sup> self-employed management consultants,<sup>122</sup> high school basketball players,<sup>123</sup> and nurses in hospital operating theatres and hospices,<sup>124</sup> consistently show that some percentage of every group are “stress hardy.” Stress hardy individuals,

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*Power Lab*, POWER SYS.: ACCELERATING LEADERSHIP DEV., <https://www.powerandsystems.com/workshops-with-impact/power-lab.html> (last visited Aug. 30, 2017) (describing the benefit of Power Lab course in this way: “Organizations at the forefront of change require leaders with a deep understanding of how human systems operate along with the courage and skills to navigate the complexities of system life. The Power Lab, like no other executive program, is the training ground for the development of such leaders.”); *The Individual and the Organization (MORS-424-1)*, KELLOGG SCH. OF MGMT. COURSE CATALOG (Dec. 14, 2004), [https://www.kellogg.northwestern.edu/stu\\_aff/images/KSM\\_Course\\_Catalog.pdf](https://www.kellogg.northwestern.edu/stu_aff/images/KSM_Course_Catalog.pdf) (last visited Sept. 8, 2017) (describing Northwestern University’s Kellogg School of Management’s course, *The Individual and the Organization*, in this way: “This course focuses on individual behavior in organizational settings. Topics for analysis include social cognition, decision making, negotiation groups, social influence, norms, fairness and equity theory. Recent empirical research will be evaluated in each of these areas, and implications will be studied in terms of theoretical advancement, empirical study and practical applications.”).

116. Pierson *EQ*, *supra* note 105, at 884-886 (describing courses in U.S. law schools that cover emotional intelligence); *Id.* at 875-876 (describing *The Business of Being a Lawyer (BBL)*, taught at the University of Alabama School of Law).

117. See, e.g., *THE BUSINESS OF BEING A LAWYER: ECONOMIC TRENDS IN THE LEGAL PROFESSION—FREE AGENCY, DEMOGRAPHICS, AND BUSINESS MODELS OF SUCCESSFUL LAW OFFICES* (CLE Alabama 2016).

118. Lisa Firestone, *Are You Hardy Enough? How Being Your Real Self Helps You Deal with Stress*, *PSYCHOL. TODAY* (Aug. 27, 2012) <https://www.psychologytoday.com/blog/compassion-matters/201208/are-you-hardy-enough>.

119. Salvatore R. Maddi, *Resilience Under Stress*, 11 *PSYCHOL. PSYCHOLOGY REV.* 20 (2005).

120. Salvatore R. Maddi, *On Hardiness and Other Pathways to Resilience*, 60 *AMER. PSYCHOL.* 261 (2005).

121. *Hardiness and Mental Health* *supra* note 7.

122. Salvatore R. Maddi, *Hardiness: An Operationalization of Existential Courage*, 44 *J. OF HUMANISTIC PSYCHOL.* 291 (2004).

123. Maddi, *supra* note 122.

124. *Id.*

although experiencing the same stress as everyone else, manage stress better, demonstrating “positivity and resiliency in meeting life’s changes.”<sup>125</sup> Stress hardy individuals do not experience physical and psychological manifestations of stress<sup>126</sup>; in fact, they perform better under stress.<sup>127</sup> These individuals tend “to view life events as less stressful, cope effectively with these events, avoid excessive physiological arousal, and pursue positive while avoiding negative health practices.”<sup>128</sup>

The science of stress hardiness began with Professor Salvatore R. Maddi’s study of Illinois Bell Telephone employees.<sup>129</sup> As Maddi and other researchers have found, stress hardy individuals have a “combination of attitudes that enhance performance, health, and mood despite stressful circumstances.”<sup>130</sup> Maddi identified these “attitudes” as “commitment, control, and challenge.”<sup>131</sup> Individuals strong in commitment are those who “find it interesting and meaningful to stay involved with the people and events around them.”<sup>132</sup> Individuals strong in control are those who believe that “they may be able to influence . . . outcomes taking place” and that “powerlessness and passivity” are “wasteful.”<sup>133</sup> Individuals strong in challenge “see change as natural and an opportunity to continue to grow by what is learned through negative as well as positive experiences.”<sup>134</sup> Studies of resilient individuals corroborate the stress hardiness research. Resilient individuals demonstrate a sense of purpose, a sense of control, and cognitive flexibility.<sup>135</sup> Sheldon and Krieger’s study of happy lawyers similarly finds that engaging in purposeful activities is important to lawyer wellbeing: “[D]ata consistently indicate that a happy life as a lawyer is much less about grades, affluence, and prestige than about finding work that is interesting, engaging, personally meaningful, and focused on providing needed help to others.”<sup>136</sup>

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125. Maddi et al., *Personality Construct of Hardiness*, *supra* note 7, at 74.

126. *Id.*

127. *Hardiness and Mental Health*, *supra* note 7, at 265.

128. *Effectiveness of Hardiness Training*, *supra* note 7.

129. *See supra* text accompanying notes 2-8.

130. Maddi et al., *The Personality of Construct of Hardiness, III: Relationships with Repression, Innovativeness, Authoritarianism and Performance*, 74 J. OF PERSONALITY at 576 (2006).

131. *Id.* at 576.

132. *Id.*

133. *Id.*

134. *Id.*

135. SOUTHWICK & CHARNEY, RESILIENCE, *supra* note 25, at 597.

136. Krieger & Sheldon, *supra* note 8, at 554.

## V. THE DATA SETS

This section discusses our two data sets, both gathered from 2013-2016. The first data set consists of 530 anonymous and confidential survey responses from law students and lawyers. The second data set consists of 106 in-depth interviews with practicing attorneys and judges. We describe below our methodology and the demographics of both data sets.

### A. Survey Data<sup>137</sup>

#### 1. Survey Instrument and Data Collection Protocol

Between 2013 and 2016, we surveyed 530 respondents: 249 law students and 281 attorneys, on the topic of stress hardiness.<sup>138</sup> Our survey was made available to respondents through online links. All responses are anonymous and confidential. Our survey consisted of demographic questions,<sup>139</sup> open ended questions that focus on specific stress strategies,<sup>140</sup> and questions adapted from the “Big Five Inventory,” a measure of personality traits;<sup>141</sup> the “Dispositional Resilience Scale,” a measure of resilience in the face of stress;<sup>142</sup> and the “Perceived Stress Scale,” which measures perceived stress within the past month.<sup>143</sup>

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137. Pamela Pierson, *Stress Hardiness in Students and Lawyers*, UNIV. OF ALA. SCH. OF L., [https://universityofalabama.edu/qualtrics.com/jfe/form/SV\\_egq6rcfcsjoxR9r](https://universityofalabama.edu/qualtrics.com/jfe/form/SV_egq6rcfcsjoxR9r) (last visited Oct. 7, 2017).

138. Pierson, *Stress Hardiness* *supra* note 137.

139. Our surveys included 9-10 demographic questions. These questions varied slightly depending upon the group surveyed. For example, 1L students were not asked for their law school rank since they had not been ranked at the time they took the survey. Lawyers were asked how long they have been in practice and to describe their practice area.

140. In 2013, the first time we surveyed respondents, we did not include open-ended questions. Beginning the next year, 2014, and continuing to the present, we added the following six questions, which focus on specific stress adaptation behaviors.

- How often do you engage in aerobic exercise?
- With how many friends do you feel close?
- What personal strengths do you believe make you well suited to a career in law?
- What strategies do you use most often to cope with stress?
- What do you feel are the most meaningful aspects of your job?
- Please give an example of a moment in which you felt your job was especially meaningful.

141. Beatrice Rammstedt & Oliver P. John, *Measuring Personality in One Minute or Less: A 10-item Short Version of the Big Five Inventory*, 41 J. OF RES. IN PERSONALITY 203-212 (2007) This inventory measures five facets of personality: neuroticism, conscientiousness, agreeableness, extraversion and openness. Our survey included 10 questions from this scale, *id.*

142. Paul T. Bartone, James J. Valdes & Asle Sandvik, *Psychological Hardiness Cardiovascular Health*, 21 PSYCHOL. HEALTH & MED. 749, 749 (2015).

143. Sheldon Cohen, Tom Kamarck & Robin Mermelstein, *A Global Measure of Perceived Stress*, 24 J. HEALTH & SOC. BEHAV. 385-396 (1983).



At the time they took the survey, all law student respondents were attending the University of Alabama School of Law. Students were invited to participate in the online survey during class sessions or by email. No course credit was given for participating in the survey. Of the 249 law student respondents, 107 were first year law students (1L) and 142 were upper level law students (2L and 3L).

We recruited attorneys in several ways and from different lawyer groups. Alabama attorneys were recruited by invitation during CLEs presented in cities throughout Alabama with follow-up emails to the CLE attendees providing the link to the survey. Additionally, the Alabama State Bar posted a link to the survey on its website and encouraged state bar members to take the survey. Although we have no way of confirming respondents' state of licensure or jurisdiction of practice, given our method of invitation we assume that lawyers completing the Alabama survey link (232 of the 281 lawyers in our survey) hold Alabama law licenses. We have designated this group, "Alabama lawyers."

The second group of attorneys we recruited were attorneys with the Young Lawyers Section of the national civil defense organization, Defense Research Institute (DRI). These attorneys were invited to take the survey during a CLE to the group in June, 2015. DRI members reside and practice nationwide. While we have no way of confirming the state of licensure or jurisdiction of practice of the attorneys completing the DRI survey link, given our method of invitation we assume lawyers completing the DRI survey link reflect DRI demographics and are licensed in a variety of states throughout the United States. We have designated this group, "DRI lawyers."

As will be seen, separating the lawyer respondents into "Alabama attorneys" and "DRI attorneys" proved interesting because of the somewhat different demographics of the two groups (the DRI attorneys tend to be younger, not yet married, and have fewer children) and different practice areas (the DRI attorneys focus in one practice area: civil defense, while the Alabama lawyers report multiple practice areas).

We did not attempt to gather data longitudinally from any respondents. Doing so would have made anonymity and confidentiality impossible.<sup>144</sup> Nor did we strive to assess times of stress or low stress for the groups we surveyed. Both law student and lawyer respondents took the survey at times of their choice. Peak response times by law students tended to be after the survey was mentioned in a class session or after an email to

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144. Cf. Organ, Jaffe, Bender, *Survey of Law Student Wellbeing*, *supra* note 8, at 123 (noting concerns of protecting anonymity when surveying law students about "controversial and at times illegal behaviors" and obtaining IRB approval when deciding not to conduct a longitudinal survey of law students).

students containing the link and soliciting their input. Peak response times by lawyers tended to be after the survey was mentioned in a CLE presentation.

## 2. *Demographics of Survey Respondents*

As can be seen in Chart 1 below, the 530 survey respondents fall into three general age groups: mid-20s (law students), mid-30s (DRI lawyers) and mid-40s (Alabama lawyers). Most respondents are Caucasian. About half of the younger respondents (*i.e.*, those with an average age of mid-20s) are female but only a small percentage (4%) of the older respondents (*i.e.*, those with an average age of mid-40s) are female. Most of the younger respondents are single. The percentages of married or divorced individuals, and parents, increase as respondents aged.

As noted *supra*, many of the lawyers in our data sets carry educational debt well into their careers. Lawyers in their mid-30s reported the greatest amount of debt: 75% of this group reported educational debt (average debt: \$49,169) compared to 42% of lawyers in their mid-40's (average debt: \$33,215).<sup>145</sup>

We examined 88 demographic factors to see if any correlated to stress or stress hardiness. We looked to see if, for example, those with greater educational debt, or greater family obligations, are more stressed. However, there were no statistically significant relationships in our data between demographic data and stress. Because we found no correlations between demographics and stress, the variables for which we did find strong correlations might be even more influential on a lawyer's stress and stress hardiness.<sup>146</sup>

We found interesting, and sad, that the percent of lawyers who said they attended law school because they "wanted to practice law" decreased as lawyers became older (from 84% of 1L students, to 66% of lawyers in their mid-40s). We wondered if this may be because lawyers in their mid-40s have become disenchanted with their practice. As discussed below, the responses to some of the survey questions indicate this may be the case.

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145. The percentage of law students reporting debt in our survey is consistent with national trends but the amount of debt held is less. Figures from 2012 report that law students who graduate from private law schools have an average law school debt of \$122,150 and law students who graduate from public law schools have an average debt of \$84,000. *See supra* text and accompanying notes 103-116.

146. Our data does not rule out some of these demographics as important. For instance, engaging in more aerobic exercise and spending more time with friends and family were some of the most commonly mentioned coping mechanisms by our lawyer interviewees and they are some of the most commonly recommended strategies. Instead, this particular study simply does not provide any survey data to support some common-sense hypotheses about demographics and stress.

CHART 1

| <b>Demographics of IRB Respondents</b>               |           |           |           |                 |
|--|-----------|-----------|-----------|-----------------|
|  | 1L        | 2L/3L     | DRI       | Alabama Lawyers |
| Number of Respondents                                | 107       | 142       | 49        | 232             |
| Average Age  | 23.5      | 25        | 34        | 44              |
| <u>Ethnicity</u>                                     |           |           |           |                 |
| % Caucasian  | 85%       | 88%       | 95%       | 92%             |
| % African American                                   | 6%        | 5%        | 2%        | 4%              |
| <u>Gender</u>  |           |           |           |                 |
| Male:  | 48%       | 50%       | 70%       | 92%             |
| Female:  | 52%       | 50%       | 30%       | 4%              |
| <u>Marital Status</u>                                |           |           |           |                 |
| Single, Never  | 68%       | 50%       | 11%       | 13%             |
| Married:   | 9%        | 15%       | 75%       | 72%             |
| Married:   | 22%       | 32%       | 11%       | 6%              |
| Significant Other:                                   | 0         | 0         | 0         | 10%             |
| Divorced:  |           |           |           |                 |
| Have children  | 6%        | 6%        | 52%       | 72%             |
| <u>Educational Debt</u>                              |           |           |           |                 |
| Average Debt   | \$21,235  | \$51,164  | \$49,169  | \$33,215        |
| Highest Debt   | \$120,000 | \$170,000 | \$129,000 | \$270,000       |
| % with Education Debt                                | 0         | 74%       | 75%       | 42%             |
| Debt   | 67%       |           |           |                 |
| “Want to practice law” as reason attended law school | 84%       | 70%       | 77%       | 66%             |

### 3. *Statistical Methodology for Survey Data*

We performed five different analyses of our survey data to look at the four characteristics of sense of control, sense of purpose, cognitive flexibility, and coping strategies.

As noted, to preserve anonymity and confidentiality, we did not measure longitudinal stress for individual respondents as they progressed through law school or in practice. Rather, our goal was to obtain a stress score for each respondent, identify the behavioral patterns of respondents who had lower and higher stress scores, and determine if any behavioral patterns correlated to stress scores.

We first analyzed the relationships between all responses to individual questions to look at the characteristics of a stress hardy lawyer. Some questions elicited responses that were indicative of stress hardiness, while other questions sought information regarding specific character traits, feelings, behaviors, and perceptions of the respondents. For instance, responses to the question, “In the last month, how often have you found that you could not cope with all the things you had to do?” might reveal how stress hardy a person considered themselves, while the level of agreement with the statement, “I see myself as someone who is outgoing, sociable” might reveal a particular behavioral trait. Any statistically significant correlations between such questions would help describe what a stress hardy lawyer really looks like.

Our second analysis was to cross-tabulate each survey response with all the other survey responses. We performed chi-square tests on each to determine the statistical significance of each relationship between every behavioral trait and the four stress hardy characteristics. Although one trait might have been in a statistically significant relationship with one particular stress hardy characteristic, we only considered traits that were in multiple statistically significant relationships with different stress hardy characteristics as the behavioral traits indicative of a stress hardy lawyer.

We evaluated statistical significance by determining whether variables related to stress and stress hardiness are correlated, in other words, whether presence or lack of one variable presented with the presence or lack of another variable.<sup>147</sup> For example, the variables “hours worked” and “income earned” are correlated: as the number of hours you work

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147. AUSTL. BUREAU OF STAT.: STAT. STATISTICS: STATISTICAL LANGUAGE—CORRELATION & CORRELATION CAUSATION (2013). Variables are considered correlated if “their values change so that as the value of one variable increases or decreases so does the value of the other variable (although it may be in the opposite direction)”, <http://www.abs.gov.au/websitedbs/a3121120.nsf/home/statistical+language+-+correlation+and+causation>, *id.*; see also *Correlation*, MERRIAM-WEBSTER DICTIONARY (stating, “a relation existing between phenomena or things or between mathematical or statistical variables which tend to vary, be associated, or occur together in a way not expected on the basis of chance alone.”).

increases, the amount of income you earn increases. This is called a “positive correlation,” where the variables either both increase or both decrease. Additionally, the variables “food consumed” and “hunger” are correlated: as the amount of food you eat increases, your hunger decreases. This is called a “negative correlation,” where if one variable increases, the other decreases, and vice-versa. Whether a correlation is positive or negative has no bearing on the strength of the relationship. The strength of a correlation between two variables can be measured by its linear correlation coefficient, the  $r$ -value, which can be no greater than 1 and no less than -1. Positive correlations have a positive  $r$ ; negative correlations have a negative  $r$ . The further away  $r$  is from zero in either the positive or negative direction, the stronger the correlation. So, for example, a correlation with  $r = .5$  is stronger than a correlation with  $r = .2$ , but weaker than a correlation with  $r = -.9$ .<sup>148</sup>

Evidence of correlation can be very powerful and is often the basis of statistical research conclusions about the relationships between different variables.<sup>149</sup> However, correlation does not necessarily imply causation. Two variables may be strongly correlated, but this does not mean that one event will cause the other event to occur. There may be other logical explanations for the relationship, whether it be that the relationship is just a coincidence, the two events are a result of another common cause, or something else. For example, perhaps smoking cigarettes and alcoholism are correlated. Although many smokers might also be alcoholics and vice-versa, this does not mean that drinking necessarily makes you smoke. Rather, trauma might make a person seek relaxation and relief through substances, making them smoke and drink more. Thus, trauma would be the common cause of both, rather than one causing the other.

In addition to analyzing whether variables related to stress and stress hardiness correlate to stress or stress hardiness, we determined whether any such relationships are “statistically significant” or not. If a relationship is

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148. See, e.g., R.J. RUMMEL, UNDERSTANDING CORRELATION (1976), [http://www.mega.nu/ampp/rummel/uc.html\\_\(last visited September 8, 2017\)](http://www.mega.nu/ampp/rummel/uc.html_(last%20visited%20September%208,%202017)). This is a very simplified explanation of the Pearson product-moment correlation coefficient measure of linear dependence between two variables. Understanding this explanation is sufficient to understand the statistics in this paper. However, we encourage readers to be aware that there is a rigorous mathematical formula for determining this statistical linear relationship between two variables, this coefficient is more than a century old, there are other rigorous methods for measuring correlation, and there are different opinions in different fields of research about which particular values of  $r$  indicate strong, moderate, and weak relationships, *id.*

149. See Michael Nielsen, *If Correlation Doesn't Imply Causation, Then What Does?*, DATA-DRIVEN INTELLIGENCE (Jan. 23, 2012), <http://www.michaelnielsen.org/ddi/if-correlation-doesnt-imply-causation-then-what-does/>; Steven Novella, *Evidence in Medicine: Correlation and Causation*, SCIENCE-BASED MED. (Nov. 18, 2009), <http://sciencebasedmedicine.org/evidence-in-medicine-correlation-and-causation/>.

the result of chance, it is not statistically significant. If the relationship is significant, it is likely not the result of chance.<sup>150</sup> This paper uses  $p$ -values to evaluate the statistical significance of survey results. A  $p$ -value is the probability of obtaining data that is at least as extreme as what is found in the survey, assuming that there is absolutely no relationship between the samples recorded.<sup>151</sup> For example, if data from a survey question about hair color and height has  $p = .01$ , we would expect those particular survey results only 1% of the time if hair color and height were *not* related. Since we obtained such an improbable result, we can presumably reject the idea that hair color and height are not related. Therefore, the relationship between hair color and height is not likely the result of chance and is thus statistically significant. Over time, statisticians have come to accept  $p$ -values less than .05 ( $p < .05$ ) as statistically significant, although some use smaller thresholds like  $p < .01$  or  $p < .001$ , and some challenge the idea of relying on a bright-line threshold number of significance.<sup>152</sup> Our data show highly significant correlations between certain characteristics – sense of control, sense of purpose, cognitive flexibility and stress hardiness, meaning that lawyers who had a greater sense of control, sense of purpose, or cognitive flexibility were less stressed, while those who had less sense of control, sense of purpose, or cognitive flexibility were more stressed. We also found a highly significant correlation between reliance on alcohol and drug use to manage stress and stress: those lawyers who reported relying on substance use to manage their stress were more stressed.

Our third analysis sought to uncover whether any particular demographic was more likely to exhibit any of the four stress hardy characteristics. The possible demographic variables were: age, race, sex, marital status, number of children, educational debt, years practicing law, rank in law school, rank in undergraduate school, number of career changes, reason for attending law school, current career field, amount of exercise, who is included in social support network, number of close friends, time spent with family, and time spent with friends.

A sense of control, a sense of purpose, and cognitive flexibility are all multifaceted characteristics not exhibited by one single behavior. However, we believe that questions in the survey correspond with one of the characteristics. Accordingly, we grouped the following survey questions into their respective category:

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150. Dalson Britto Figueiredo Filho, et al., *When is statistical significance not significant?*, BRAZ. POL. SCI. REV. (2013), <http://www.scielo.br/pdf/bpsr/v7n1/02.pdf>.

151. Filho, *supra* note 150.

152. Ronald L. Wasserstein & Nicole A. Lazar, *The ASA's Statement on p-Values: Context, Process, and Purpose*, 70 THE AM. STATISTICIAN 2, 129-133 (Mar. 7, 2016).

“Sense of Purpose”

- Most of my life gets spent doing things that are meaningful.
- I feel that my life is somewhat empty of meaning.

“Sense of Control”

- By working hard, you can nearly always achieve your goals.
- How things go in my life depends on my own actions.
- I don't think there is much I can do to influence my own future.
- It is up to me to decide how the rest of my life will be.
- My choices have a real difference in how things turn out in the end.
- In the last month, how often have you felt that you were unable to control the important things in your life?
- In the last month, how often have you felt confident about your ability to handle your personal problems?
- In the last month, how often have you felt that you were on top of things?
- In the last month, how often have you been angered because of things that were outside of your control?
- In the last month, how often have you felt difficulties were piling up so high you could not overcome them?

“Cognitive Flexibility”

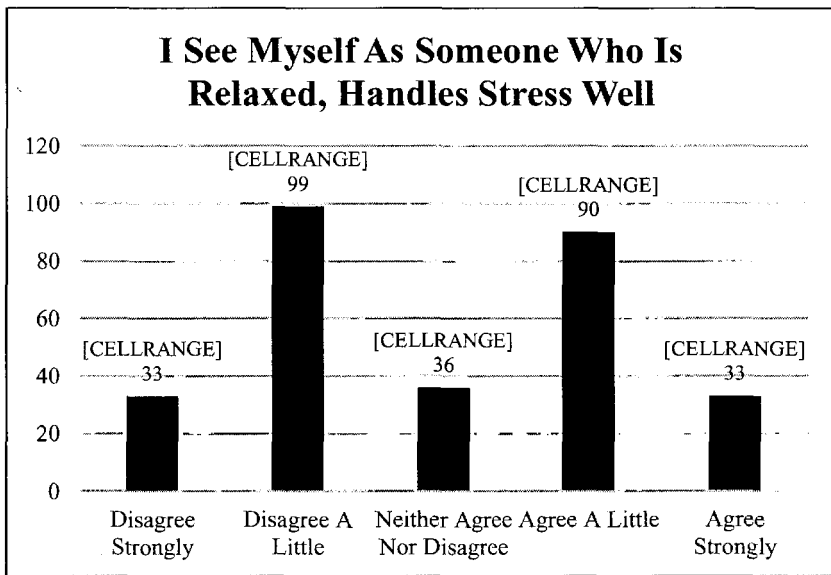
- I don't like to make changes in my regular activities.
- It bothers me when my daily routine gets interrupted.
- I like having a daily schedule that doesn't change very much.
- In the last month, how often have you been upset because of something that happened unexpectedly?

We combined responses to the following two questions in the survey to give a general “stress” score. These questions relate to how stressed the respondents consider themselves.

- I see myself as someone who is relaxed, handles stress well.
- In the last month, how often have you felt nervous and stressed?

Our data show that there are just as many relaxed lawyers as those who are not, and in any given month, lawyers feel stressed between sometimes and fairly often. We asked lawyers to report their level of agreement with the statement, “I see myself as someone who is relaxed, handles stress well.” As Chart 2 below shows, of the 291 lawyers who responded to this question, 33 (11%) lawyers disagreed strongly, 99 (34%) lawyers disagreed a little, 36 (12%) neither agreed nor disagreed, 90 (31%) agreed a little, and 33 (11%) agreed strongly. Interestingly, the distributions of responses on both sides are nearly identical. Just as many lawyers agreed strongly that they handle stress well as those who disagreed strongly, and almost the same number of lawyers disagreed a little as those who agreed a little. This suggests that there are just as many lawyers who handle stress well as those who do not.

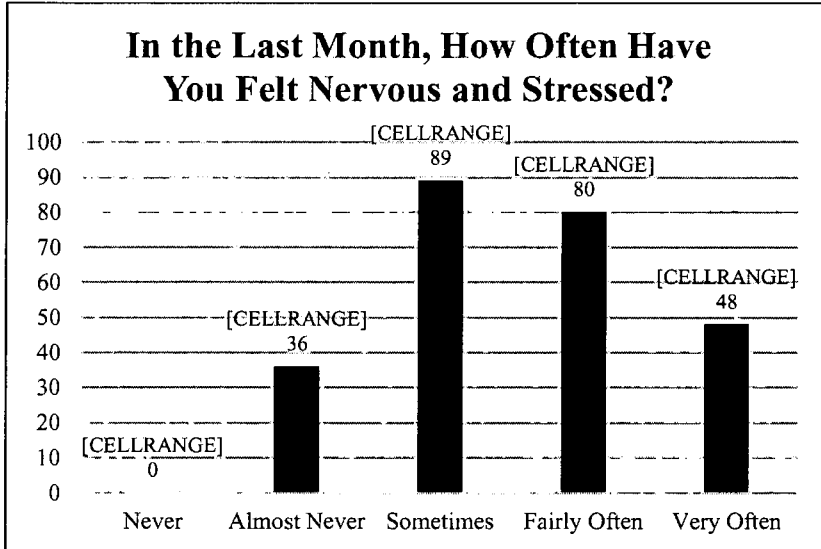
CHART 2



We also asked respondents, “In the last month, how often have you felt nervous and stressed?” Of the 253 responses to this question, 0 were never stressed, 36 (14%) were almost never stressed, 89 (35%) were sometimes stressed, 80 (32%) were fairly often stressed, and 48 (19%) were very often stressed. Therefore, as Chart 3 below reflects, on average, lawyers feel nervous and stressed about halfway between sometimes and fairly often.



CHART 3



Each respondent was then assigned a score for each category based on a sum of scores assigned to each response to the questions within each category. The lower the score for a category, the less of that particular characteristic the respondent possessed—a lower “stress” score meant the person was less stressed, a lower “sense of purpose” score meant the person felt a lesser sense of purpose, and so on. For instance, in the “sense of purpose” group, a response of “strongly disagree” to the statement “I feel that my life is somewhat empty of meaning” scored a five, while “strongly agree” scored a one. In the “sense of control” group, a response of “never” to the question “in the last month, how often have you felt that you were unable to control the important things in your life?” scored a five, while “very often” scored a one. The scores for each question within each group were added up, such that each respondent had a total “stress,” “sense of control,” “sense of purpose,” and “cognitive flexibility” score.<sup>153</sup>

Each of these group scores was compared with all the demographic data, and the statistical significance of the relationships was determined in the same manner as the previous analysis.

We next compared each respondent’s group scores to each other to determine if there were any relationships between the group scores themselves. For instance, if a person exhibited a higher sense of control,

153. The scores for the “sense of control” group were scaled to have a similar range of possible values as the other groups without affecting the relative distribution of individual question scores or relationships with other variables.

were they more likely to possess a greater sense of purpose? Was a more cognitively flexible person less stressed?

“Coping skills” was the remaining characteristic of stress hardiness. Behaviors in this category were accounted for in the data as an open-ended free response question, “What are the strategies you use most often to cope with stress?” We compared the type of coping skills reported by each respondent with the four corresponding group scores to determine if the type of coping skills utilized had any relationship with stress hardy characteristics. For instance, was a person who turned to exercise to cope with stress more likely to have a greater sense of control than somebody who relies on drugs and alcohol?

The survey included four questions that called for narrative responses that proved particularly revealing. These questions were: “What personal strengths do you believe make you well-suited to a career in law?” “What are the strategies you use most often to cope with stress?” “What do you feel are the most meaningful aspects of your job?” and “Please give an example of a moment in which you felt your job was especially meaningful.”

Some responses were positively inspiring; others were quite depressing. We analyzed these responses, whether positive or negative, to determine if there were any particularly noteworthy relationships. For instance, what kinds of coping skills did the person who said they enjoyed helping clients succeed utilize? How little sense of control did the person who hates his job have? These individuals’ responses are presented throughout this paper.

### *B. Interview Data Demographics and Methodology*

Between 2013 and 2016, we conducted 105 interviews with practicing attorneys as part of the program, The Business of Being a Lawyer (BBL), at the University of Alabama School of Law.<sup>154</sup> As can be seen in Chart 4 below, 26% of interviewees were female and 9.4% were African American. The interviewees ranged in experience from 1 to over 40 years of law practice, resided and practiced in seven states, and represented a wide variety of practice areas, including civil defense, plaintiff, general practice, prosecutors, public defenders, JAG, in-house, consulting and business, and service on the bench. Lawyers in private practices included solo practitioners and lawyers in law firms of all sizes.

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154. *What is BBL?*, UNIV. OF ALA. SCH. OF L., <https://www.law.ua.edu/programs/the-business-of-being-a-lawyer/what-is-bbl/> (last visited Oct. 15, 2017).

CHART 4

| <b>Demographics of Lawyers Interviewed</b> |                   |                              |
|--|-------------------|------------------------------|
| <b>Demographic</b>                         | <b>Percentage</b> | <b>Number of respondents</b> |
| <i>Gender</i>                              |                   |                              |
| Male                                       | 74%               | 78                           |
| Female                                     | 26%               | 28                           |
| <i>Types of Practice</i>                   |                   |                              |
| Civil defense                              | 33%               | 35                           |
| Plaintiff                                  | 19%               | 20                           |
| General practice                           | 11%               | 12                           |
| Prosecutors                                | 7%                | 4                            |
| Public defenders                           | 4%                | 4                            |
| JAG  | 2%                | 2                            |
| In house                                   | 11%               | 12                           |
| Consulting, business, education            | 3%                | 3                            |
| On the bench                               | 3%                | 3                            |
| Large law firms                            | 31%               | 33                           |
| Solo practice                              | 20%               | 2                            |

The lawyers invited to give interviews were selected because of their ability, reputation and demonstrated leadership in the legal profession. They included one former President of the American Bar Association, six former Presidents of the Alabama Bar Association, a former President of the Defense Research Institute (DRI), a former President of the International Association of Defense Counsel (IADC), numerous presidents of local bar associations, specialty bars, Alabama State Bar Commissioners and other leadership positions.

All questions were provided to and discussed with interviewees prior to their interviews. Often there was dialog about the questions and new questions were added at the suggestion of interviewees. The question that turned out to be one of the most revealing, for example, "What is the one thing you know now that you wish you had known in law school?", was suggested by an early interviewee. University of Alabama (UA) law students who conducted the interviews received training in audio visual skills from the UA film department and worked with IT staff at UA law school to record, download, edit, index, and store online all interviews.

About one-third of the interviews were conducted at lawyers' offices mostly in Alabama but also in Tennessee. The remaining interviews were conducted at UA law school when interviewees were present at the law school, generally in their role as BBL Faculty for the BBL law school course. All 106 interviews are included in the BBL Video Library available on the UA law school website.<sup>155</sup> Each interview is indexed in the BBL Video Library in four ways: (1) name and position of interviewer, (2) topics discussed, (3) practice areas, and (4) thirty-four personal strengths (from the Gallup Strength Finders strength assessment).<sup>156</sup>

Interviewees were asked the following questions:

- What is your general practice area?
- Would you please describe your "typical day"?
- What steps should a law student take if he/she wanted to have a career such as yours?
- What is the worst part of your practice?
- What is the best part of your practice?
- What are the things that cause you the most stress in your practice?
- What strategies have you found that help you manage stress?
- What is the one thing you know now that you wish you had known in law school?

Lawyers with unique experiences, such as extensive pro bono leadership, or service as President of the American Bar Association, the Alabama Bar Association, the Defense Research Institute (DRI), or the International Associate of Defense Counsel were asked questions targeted to those experiences.

We found interviewees' responses to the questions: "Please describe the main causes of stress in your practice," and "What strategies have you found effective in managing the stress of your practice?" uniformly relevant to our study. We also found answers to other questions such as, "What is the best part of your job?" "What is the worst part of your job?"

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155. *The Business of Being a Lawyer*, UNIV. OF ALA. SCH. OF L., <http://www.law.ua.edu/programs/the-business-of-being-a-lawyer/> (last visited Oct. 15, 2017).

156. At our request, most of the 106 interviewees took the Gallup Strength finders 2.0 strength assessment prior to their interview. In these interviews, we also asked the interviewees to name their top five strengths and the ways they use each strength in their practice of law. Law students at UA law school, as part of the BBL program, also take this strength assessment. One of the four indices for the video library is a list of the 34 strengths of the Gallup assessment. Students can click on any of their top five strengths as determined in this assessment and view interviews with lawyers who share this strength.

and “What is the one thing you know now that you wish you had known in law school?” extremely enlightening on stress and stress hardiness issues.

The lawyer interviews provided a rich supplement to our survey data, because we could explore topics in greater depth than we could in anonymous surveys. The interviews also provided helpful context for specific data collected in our survey, such as how changes in the legal marketplace are impacting lawyers’ stress and stress management strategies.

## VI. DATA FINDINGS

As this section discusses, our data showed that the type of stress lawyers experience varies by area of practice. This is good news because it allows self-aware law students and lawyers to choose a career path that presents the type of stress they are more effective at handling. Consistent with the existing science of stress hardy individuals, our data showed that lawyers who have greater sense of control, sense of purpose, and cognitive flexibility, are more stress hardy. Our data showed that the most frequently reported daily habits lawyers use to cope with stress are exercise, social connectedness, habits of thought, faith, and alcohol or drugs. Reliance on exercise and social connectedness to help manage stress fell as our survey respondents aged, while reported reliance on alcohol or drugs increased as our survey respondents aged. As discussed herein, our data showed that those lawyers who reported relying on alcohol or drugs to manage stress were in fact more stressed than those lawyers who did not report such reliance. This section concludes with findings from our data as to how stress hardy lawyers implement the behavioral characteristics that help them manage stress.

### *A. The Type of Stress Lawyers Experience Varies by Practice Area*

Our data showed that the types of stress lawyers encounter tend to vary depending on areas of practice. Civil defense lawyers, for example, often listed “selling time for a living” as one of their greatest sources of stress. As one lawyer explained:

So, I’m required and most lawyers in most defense firms are required to keep up with each 1/10th of each hour. Every 6 minutes of every 1 hour of every day I work I have to report it and describe what I do for that 1/10th hour. It is the worst part of my job.

As lawyers explained, billing by the hour is a way of life: "I don't mind keeping up with the hours but I don't like the lifestyle of living by the hour." Keeping up with hours billed impacts every aspect of life: "If I take off, that's 40 hours I can't bill." One attorney who left civil defense practice to open his own firm explained that he made the change because: "I don't want regret being at my retirement party, looking back and measuring my life in time sheets."

Civil defense attorneys also spoke of the pressure they feel to market themselves and bring in clients. As one lawyer explained:

There comes a point in your career when you are responsible for having the work that is on your desk. There is nobody who is going to plop it down and tell you to do it. You have to go get it, you have got to sell people on your ability to do it, you've got to be in the right room to be able to sell people, and then after all that you've got to come back and create the product they have just bought from you.

Lawyers in all types of private practice spoke of the "24/7" nature of their work as a source of stress. Comments like "Email never shuts down," and "You can never get away," were typical. The more global one's practice, the more invasive work becomes: "As soon as I wake up, I turn on my phone. Today, I had emails from lawyers in Australia, Malaysia, Germany, France, England, Canada on a variety of different matters."

Attorneys in specialties that focused on representation of individuals, such as family law and criminal law, regularly noted "the human factor" as a source of stress in their practice: "The worst part of my job is summoning the courage to give a client bad news." As one lawyer who specializes in white collar practice explained, "The worst part of my job is having to tell somebody they have to go to jail." An attorney whose practice is devoted to criminal and family law described the hardest part of his job as "seeing the very difficult personal situations our clients often have" and "trying to deal with those situations."

Prosecutors spoke of the difficulty of dealing with victims. For example, one prosecutor who specializes in child abuse cases spoke about how hard it is to maintain her own emotions when talking with a child victim:

The hardest part of my job is sitting across the room from a child victim, asking them to tell me the story of what happened to them, and keeping my own emotions hidden so the child can talk while also keeping my emotions open so the child will open up.

Lawyers with litigation practices often identified “dealing with difficult people” as the most stressful part of their job: “The worst part of my job? That’s easy. Dealing with arrogant, angry people,” especially “lawyers on the other side of the case who have become so entrenched and burdened by the whole system they send angry emails, talk angrily as if this is the last case they’re ever going to have.”

Lawyers in management roles identified the most stressful part of their job as dealing with personnel issues. The managing partner of a large law firm described the worst part of his job, for example, as “having to discipline or dismiss someone or explain to a partner why the firm has to reduce his compensation or tell a new lawyer, a nice, nice person, that it is not working out and they will need to leave the firm.”

Government lawyers in leadership and management positions spoke of the lack of resources as one of their stressors: “The worst part of my job is worrying about whether I have the resources to do what needs to be done . . . my job is very stressful. I am always under resourced.” These lawyers also spoke of the stress created by the high visibility of their job: “Everything I do and say can be reported in the media.”

In-house lawyers described the stress they feel because they have only one client: “An in-house counsel has one client. That client could be purchased, downsized, or go out of business, and you could lose your job.” In-house attorneys also spoke about how difficult it is to have many people to answer to when there is only one client: “The company is my client but I have shareholders, boards of directors, a CEO, and sometimes those guys are in conflict. Trying to reconcile those conflicts with who is my client can be stressful.” Another in-house attorney spoke of the pressure of wanting, and needing, to be correct in the advice provided:

You are giving your advice and your judgement and you’ve got to believe in that advice. You want to be right all of the time but no matter how much you read or study, you can be wrong in the advice you give and your judgment can be called into question.

New lawyers described the stress of being new, and young. One new lawyer described the awkwardness of advising someone much older “who has worked their entire life for something and now it has completely fallen into shambles.” It is hard for these clients “to listen to someone who is the age of their grandkids tell them they have to file bankruptcy or they are going to lose this, or they have to pay somebody this amount of money.” As this lawyer explained, it is challenging to be “young and fresh out of law school and trying to convey guidance to someone who for all intents and purposes is my senior but is coming to me for advice.”

CHART 5

| <b>Types of Stress in Law Practice</b>  |   |
|---|---|
| <b>Type of Practice</b>   | <b>Type of Stress</b>   |
| All lawyers   | <ul style="list-style-type: none"> <li>• Wanting and needing to be right</li> <li>• 24/7 nature of practice</li> </ul>  |
| Civil Defense Practice  | <ul style="list-style-type: none"> <li>• Billing</li> <li>• Pressure to develop clients</li> </ul>  |
| Family and Criminal Law (or any practice with predominately individuals as clients) | <ul style="list-style-type: none"> <li>• “The human factor”</li> <li>• Clients with difficult personal situations</li> <li>• Having to give bad news</li> </ul> |
| Prosecutors   | <ul style="list-style-type: none"> <li>• Dealing with victims</li> </ul>  |
| Litigation Practices  | <ul style="list-style-type: none"> <li>• Difficult people</li> </ul>  |
| Lawyers in management roles   | <ul style="list-style-type: none"> <li>• Disciplining people</li> </ul>   |
| Government lawyers in leadership positions  | <ul style="list-style-type: none"> <li>• Lack of resources</li> <li>• Visibility of the job</li> <li>• Media coverage</li> </ul>                                |
| In-house counsel  | <ul style="list-style-type: none"> <li>• Job insecurity with only one client</li> </ul>   |



|             |   |
|-------------|---|
|             | <ul style="list-style-type: none"> <li>• Many people to satisfy</li> </ul>  |
| New Lawyers | <ul style="list-style-type: none"> <li>• Being so much younger than your clients</li> <li>• Awkwardness of conveying guidance to clients much older than you</li> </ul> |

### *B. How to Become a Stress Hardy Lawyer*

As noted *supra*,<sup>157</sup> psychologists have found that four characteristics distinguish stress hardy individuals from the rest of us: a sense of control, a sense of purpose, cognitive flexibility and positive coping skills.<sup>158</sup> This section applies the science of stress hardiness to lawyers, discussing the strong correlation we found between these characteristics and stress hardy lawyers.

#### *1. Sense of Control*

*I try to never get upset about anything over which I have no control. I never want to be the person at the airport who gets mad at the person behind the counter because the plane is not on time.*

As noted *supra*,<sup>159</sup> stress hardy individuals have a sense of control over what occurs in their lives, including “decisional” control (“choosing among various courses of action”) and “cognitive” control (how one responds to situations).<sup>160</sup> Our survey focused on sense of control by asking respondents to rank their level of agreement to the statements: “By working hard you can nearly always achieve your goals,” “How things go in my life depends on my own actions,” “It is up to me to decide how the rest of my

157. See *supra* text and accompanying notes 118-134.

158. *Id.*

159. See *supra* note 7.

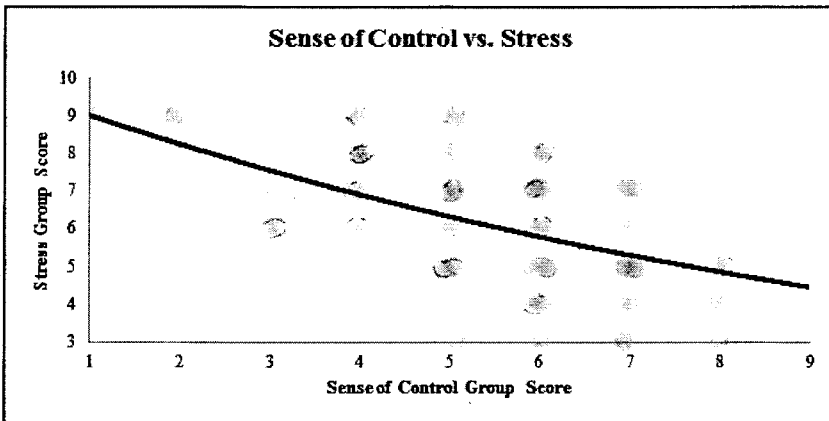
160. Kobassa, *Stressful Life Events*, *supra* note 7, at 4.

life will be,” and “My choices make a real difference in how things turn out in the end.”

Overall, lawyers who responded with “quite true” or “completely true” to any of these statements, indicating they believed that their fate was in their own hands, were 17% more likely to feel like their life is spent doing meaningful things, 23% more likely to look forward to work activities, 29% more likely to find life more exciting and interesting, and 30% more likely to feel like things are going their way. Also, they were less likely to be angered by things outside of their control and feel like difficulties were piling up too high to overcome them. Of the 27% of lawyers who were “never” or “almost never” angered by things outside of their control, 83% believed it was at least “quite true” that their fate was in their own hands. Of the 51% of lawyers who sometimes, or more, felt that difficulties were piling up too high that they could not overcome them, only 31% believed it was at least “quite true.”

Our data revealed a very significant inverse correlation between stress and sense of control. Clearly, lawyers who experienced more stress had a lesser sense of control, and those with the least stress had the highest sense of control. Chart 6 below demonstrates this strong association between less stress and higher sense of control.

CHART 6



161

161. The correlation of stress score with sense of control score of those lawyers who responded to each question within each group (N=238) was  $r=-.552$  ( $p<.01$ ). Scatter plot of each IRB response’s “Sense of Control” and “Stress” group scores with trend line. Opacity and slight visual variation from whole numbers added to show relative frequency of each data point.

Many of our interviewees spoke of the unpredictability of their work days and the difficulty of dealing with disrupted plans. As one lawyer described: “The unpredictability of the practice of law will throw you a curve ball.” As this lawyer and many others we interviewed noted, the practice of law is unpredictable because lawyers often deal with people’s crises and crises are rarely predictable:

Every day I tell people I’m really a fireman, that’s what I do. I put my fire hat on and put out the closest fire – the one that is the hottest. That’s what you do in the practice of law. You never know what is going to come at you from day to day.

Almost uniformly, when we asked lawyers to describe their “typical day,” they said that they rarely had a “typical day.” For example:

I’ll go into the office thinking, I’ll just work on this brief or I’ll do this, and before I know it, I’ll be in front of a judge. There may be an emergency hearing or a major crisis a client is having so that I have to rearrange everything I had planned for that day.

Lawyers we interviewed talked about how they cope with the unpredictability in their daily professional lives. A consistent theme was adaptability. As one lawyer described: “I have to adjust. That ability to adapt in a tense situation requires you to stop what you’re doing and effectively prepare yourself to handle that situation.” Another lawyer noted the importance of doing what you enjoy in maintaining a sense of control: “You can adapt to become good at things you enjoy.” This attorney explained how the practice of law provides attorneys with the ability to control their destiny:

To me the best part of the practice is that you are in control of your own destiny. Sure, there are market forces and client forces that are beyond your control but you get to decide what you want to do. If there is a particular type of case you want to do, learn about it, go market yourself, go find the clients where that work is generated.

Seven themes emerged in our data as to how lawyers adapt and maintain a sense of control over their professional lives: preparation, time management, build a team and ask others for help, learn how to “turn it off,” take charge of your career, recognize that law is a business, and set boundaries with clients.

### 1. Preparation:

As one lawyer said, "Preparation is a great tool to minimize stress. I have no control over the outcome in a case. The only control I have is over my preparation." Numerous lawyers echoed the importance of preparation in managing stress: "The worst stress is to deal with something feeling like you haven't done your work"; "If you're not prepared, that's going to add to the stress level." As one litigator explained: "If I'm going into a courthouse where I've never been before, I get there early. I want to know where the courtroom is, what it looks like, where I'm making my argument from. All those things are going to help me feel more comfortable when I get there." Another litigator described the importance of preparation for him as follows:

It will create stress if you haven't read the file thoroughly enough, you haven't asked the questions, you haven't talked to all the witnesses. Walking into any situation, whether a deposition, court appearance, whatever and feeling like you're afraid some loose end is going to come back to bite you, that to me is stressful.

One lawyer described how he prepares before making a pitch to a new client: "If I'm going in for a pitch to a new client, I'm going to learn everything I can about that client so there aren't any surprises. My level of preparation will help me be less stressed."

### 2. Time Management:

The lawyers we interviewed described various organizational habits that help them maintain control: for example, "planning the next day the night before," and "creating a plan for completing important tasks, then completing them." Lawyers described "time outs" that gave them control over their time, such as, "allowing incoming calls to go to voicemail," "closing my office door," "using blocking on incoming email." A lot of the lawyers we interviewed rely on to-do lists: I "compartmentalize/handle one thing at a time. After I complete something, I can check it off my list and move on to the next thing."

### 3. Build a team, ask for help:

Building a team was another theme for managing stress: "Realize that on larger projects, you can't do it all by yourself. Ask for help. Build a team." Lawyers emphasized the importance of understanding one's strengths and weaknesses and those of others when building a team: "Know

who has what strengths and how to take advantage of everyone's strengths. We don't all have the same strength." Lawyers consistently noted the importance of asking for help: "Know your own limitations and seek out those who can help." Experienced lawyers advised new lawyers to seek help: "Most of what it takes to practice law is not in law books. Go to people with experience."

4. Learn how to "turn it off":

One lawyer described a lesson he learned about "turning it off": "With e-filing, I can get responses in major cases any time, day or night. I never read them after 7 P.M. If I do, I think about how I'm going to respond. I can't focus on my family, or get to sleep." Another interviewee talked about the importance of pacing oneself: "Practicing law is not a sprint. It's not who gets there the fastest. I had law school classmates who burned themselves out working 24/7. They worked too hard, too fast at beginning." Whereas the transactional and litigation lawyers we interviewed had quite different responses to some of the questions we asked, such as the type of stress they experience, all agreed that "when you have a slow day, enjoy it because you will have 12-14 hour days. It's a balance."

5. Take charge of your career:

Given recent changes in the legal market where lawyers change jobs more often than in the past, a number of our interviewees spoke of the importance of "being in control of your career." As one lawyer said, "It took me longer than it should to begin that process. I was just a boat floating on the water. Then I took the oars and rowed where I wanted. I figured out what kind of law I liked, I learned about it and I actively pursued clients in that area." Another lawyer described how he thinks of himself as "an independent business, how can I provide value and what can I do to make sure I'm marketable at all times." He explained that while you "always work aggressively for your client you also have to make sure you are developing your own business - yourself."

6. Recognize that law is a business:

Lawyers in private practice repeatedly emphasized that a law firm is a business and as such, "there are two big challenges" in addition to practicing law. The first challenge is "developing business" and "making sure the business is growing all the time." As one lawyer said, "you have to

deal with that front end” getting “business in the door.” The second challenge is dealing with employees and the internal matters.

7. Set boundaries with clients; adhere to those boundaries:

As one lawyer explained, although “you are an advocate for your client and a resource,” you are not a “healer.” A lawyer cannot “take on whatever problem your client has and restore the client back to health.” One of the toughest parts of being a lawyer is “making clients realize that their expectations are unreasonable.” Our interviewees emphasized that having set boundaries with clients, lawyers must exercise self-discipline and honor the boundaries they have set: “Recognize what you can do for clients, and what you can’t.” This is hard because “every lawyer is taking on another person’s problem. That’s why they hire you.” It is “difficult to keep a client’s problems from absorbing you.” As one lawyer explained: “You still care about your clients. You care about their plights. You want good results for them and that makes you become invested,” but you have to “realize that you are not going to win every case. You are not going to satisfy every client.” If you don’t draw boundaries, it will “wear you down.” One lawyer, who is also a licensed clinical therapist, told us, “You have to learn to separate owning a client’s problem from owning the emotions attached to that problem. You help yourself and your client by keeping that boundary.”

*CHART 7*

| <b>Lawyers’ Strategies for<br/>Maintaining a Sense of Control</b> |
|---|
| Preparation   |
| Time management   |
| Build a team and ask for help                                     |
| Learn to “turn it off”  |
| Take charge of your career  |
| Recognize that the law is a business                              |
| Set boundaries with clients and adhere to those boundaries        |

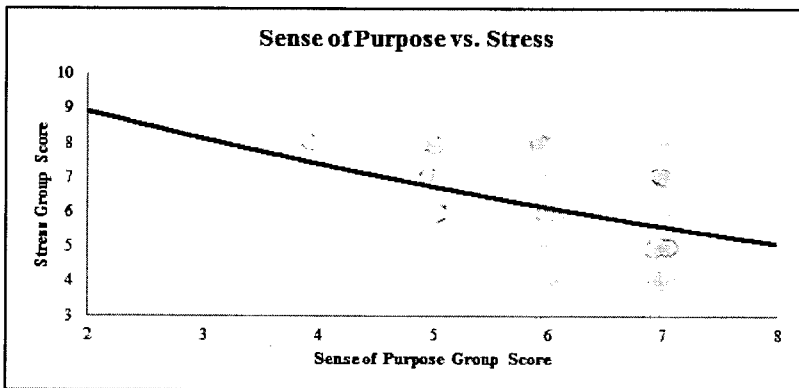
## 2. *Sense of Purpose*

*When people come to me they have a problem. It's bigger than they can fix. It's probably bigger than anything they've dealt with. Sometimes they're simple problems but the idea that I can take that problem and resolve it is what makes me feel good about what I do.*

Our data showed that lawyers who felt a strong sense of purpose also reported less stress. The inverse was also true: every lawyer who indicated experiencing no meaning in their practice of law reported high levels of stress and low stress hardiness. Our survey focused on sense of purpose by asking respondents to rank their level of agreement to the following statements: "I feel that my life is somewhat empty of meaning," and "I feel that my life is somewhat empty of meaning." We also asked two open ended questions about sense of purpose: "What do you feel are the most meaningful aspects of your job?" and "Please give an example of a moment in which you felt your job was especially meaningful."

Our data revealed a very significant inverse correlation between stress and sense of purpose. Lawyers who experienced more stress had a lesser sense of purpose. The converse was also true. Every lawyer who reported experiencing no meaning in their practice of law reported high levels of stress and low stress hardiness. Chart 8 below demonstrates this strong association between less stress and higher sense of purpose.

CHART 8



162

162. The correlation of stress score with sense of purpose score of those lawyers who responded to each question within each group (N=238) was  $r = -.596$  ( $p < .01$ ). Scatter plot of each IRB response's "Sense of Purpose" and "Stress" group scores with trend line. Opacity and slight visual variation from whole numbers added to show relative frequency of each data point.

Most of the data we gathered regarding sense of purpose is inspiring. One of our favorite responses was:

I was leaving lunch at Wendy's when a young man with a Wendy's uniform started lugging a large trash can to the dumpster behind the store. He stopped what he was doing and came up to me. I did not recognize him. He called me by name, shook my hand, and told me that I had made a huge difference in his life when he needed it most. He told me that he had been on the wrong track and that he had used his (bad) circumstances to make excuses. He told me that I had helped remedy those bad circumstances and helped set him on the right path. He told me that it had been a number of years earlier, and that he had stayed out of trouble, finished school, and that he had been working for a living since school. He thanked me.

The satisfaction of helping clients permeated lawyers' sense of purpose, whether they represented individuals or companies. A number of lawyers described the impact they had on an individual as giving them a sense of purpose: "I have always found meaning in the fact that most people come to my office on their darkest day, and I am usually in a position to make things better for them"; "I saved a young man from a felony conviction. He turned his life around. He graduated from college, became a small business owner, and has become a close friend." More than any other cohort, the DRI lawyers, most or all of whom are civil defense lawyers, reported finding a sense of purpose in undertaking pro bono cases. Common responses by the DRI lawyers to the question, "Please give an example of a moment in which you felt your job was especially meaningful," included: "Doing pro bono work always ends up being meaningful to me," "Of all the work I do, some of the most meaningful is my work with the Volunteer Lawyers Program," and "I handled a pro bono matter for a friend who really needed an assist—he said it was the first time he had smiled in months."

Our data showed that representing individuals and making a difference in their lives was only one way lawyers found purpose and meaning in their professional lives. Many survey respondents derived a sense of meaning in representing corporate and business clients: "I educate employees. I protect the company"; "I saved the company \$1 million annually by exempting us from a tax in one state"; "I am a compliance officer and in-house counsel. I help unravel problems. I help people avoid making the same or new mistakes"; and "I expose and eradicate specious claims. Not settle them for nuisance value mind you, but win summary judgment or a verdict."



Whether they represent individuals or companies, many lawyers described the importance of the gratitude of their clients: “I feel my job is meaningful when my clients express gratitude for my efforts on their behalf, or when they are happy and excited about outcomes.” This was true for attorneys who represented individuals:

One Christmas Eve afternoon, a long-standing client came to the office not just to pay his outstanding balance but to give me the most satisfying compliment I have ever received as a lawyer, namely, ‘You have always listened to me and given good, sound advice.’ To me, it just doesn’t get any better than that.

It was also true for lawyers who represented companies:

When we finished our most recent trial, after getting a rather large verdict in our favor, my clients said they were grateful for the money, but what they were the most excited about was that people believed them--our litigation team, our experts, the judge, the jury. They were relieved that they were able to tell their story and feel validated.

A number of lawyers found purpose in more abstract ways. For example, government lawyers spoke of “helping the legal system render justice.” As one government attorney said, “I serve the taxpayers and work to uphold the law. If I and my supervisors agree that something works an unjust result, we work to change it.” Another government attorney spoke of the satisfaction of simply using his/her “skills to do something that helps others.” An attorney who argued a capital case on behalf of the state described how, after the oral arguments in that case, he/she “realized that over ten of the victim’s family members were there.” The attorney met with the victim’s family and answered their questions: “I was thankful to be able to do my job excellently, not just because that is important for my job evaluation or even for the justice system, but for those the system is intended to protect.”

Some lawyers described the feeling of accomplishment they felt when “completing a project to the best of my ability.” Again, we found this to be true whether attorneys represented individuals, companies, or the government. One regulatory attorney, for example, described a situation in which he “felt valued [by] his company”: “I found a problem dealing with federal compliance. No one else had seen it or if they had, ignored it. I identified the issue, crafted a solution, ensured it was implemented and instituted protocol to ensure the same issue didn’t arise again.” As the attorney explained, “Had this issue been left unresolved, later to be

discovered by our federal regulator, the fallout would have been disastrous.” The attorney found satisfaction from the fact that his “decision to dive into one tiny piece of information that didn’t seem right resulted in a major overhaul which was sorely needed.”

Other lawyers described “winning” as giving them a sense of purpose: “I like to win, I enjoy winning and being right”; “I like the adrenaline from the fight.” Others found the intellectual challenge of law to be a meaningful aspect of their practice: “I enjoy creating new, good law and making interesting legal arguments”; “I like the challenge of making a living by my wits.” Some lawyers found the “clients and co-workers that I trust and enjoy” as the most meaningful part of their practice. Others found a sense of purpose in helping the legal system work better: “I enjoy upholding the constitution,” “assuring that people are treated fairly,” and “making sure people’s rights are not taken away.”

Chart 9 below summarizes the various ways lawyers in our study reported finding a sense of purpose in their practices of law. We found it heartening that lawyers find purpose in such different ways.

*CHART 9*

| <b>How Lawyers Find a Sense of Purpose in the Practice of Law</b> |
|---|
| Making a difference in someone’s life                             |
| Expose and eradicate specious claims                              |
| Unravel problems  |
| Educate employees   |
| Protect the company, save the company money                       |
| Support my family   |
| Gratitude of clients  |
| Help the legal system render justice                              |
| Complete a project to the best of my ability                      |
| Winning   |
| Relationships with clients and co-workers                         |
| Helping the legal system work better                              |

Compared to the above responses where lawyers found meaning in their professional lives, some of our respondents found no meaning or purpose in their practice of law. As one lawyer said: “There aren’t any meaningful aspects of practicing law to me. I picture myself as being able to have a ‘Shawshank Redemption’ moment one day where I can shed this uniform of monotony and do something worthwhile.” Other responses,

while not as dire, were bleak: “I do not believe I have yet had a deeply meaningful moment at work”; “Tough question”; “I don’t have one yet”; “I can’t think of anything.” Some attorneys’ lack of meaning appeared to be the result of unwanted market changes: “I was in a corporate in-house job for 12 years and was very happy. Now I’m a solo by necessity and not happy at all. Right now I don’t have any meaningful aspects in my job.” Other responses appeared to be due to burn out, or an indication that it was time to make a career change:

If you deal with the general public, you deal with ignorant people on a daily basis. Most of my clients don’t care as much about their cases as I have at one point in time. There is nothing meaningful about coaching adults to do what they were supposed to do in the first place.

Our data showed not only that some lawyers experienced little or no meaning in their practice of law, but that these lawyers were the most stressed. In fact, it was one of our strongest findings. Every lawyer who indicated that he/she experienced no meaningful aspects of practicing law, also reported high levels of stress. For instance, the lawyer waiting for his “Shawshank Redemption” moment had the highest possible stress score, such that he strongly disagreed with the statement, “I see myself as someone who is relaxed, handles stress well,” and felt nervous and stressed very often in the last month. Overall, the lawyers who indicated no sense of purpose had an average stress group score 32% higher than the average stress score of lawyers who had at least some meaningful aspects of practicing law. Additionally, on average, the lawyers with a low sense of purpose had a lower sense of control. Their sense of control scores were 23% lower than their counterparts who reported at least some meaningful aspects of practicing law.

### 3. *Cognitive Flexibility*

*Absolutely nothing may turn out like you want  
or expect it to and that is okay.*

As Suzanne Kobasa, a research psychologist who spent a career studying stress hardiness, notes, stress hardy individuals are “cognitively flexible”<sup>163</sup> which “allows them to integrate and effectively appraise the threat of new situations.”<sup>164</sup> Cognitive flexibility as a way to manage

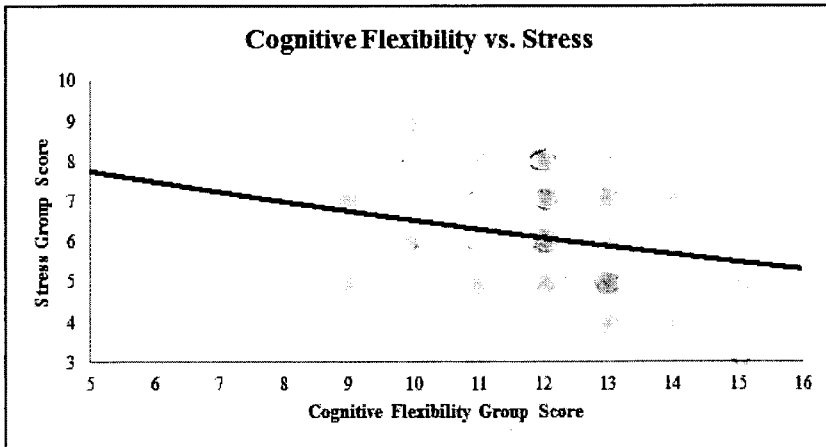
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163. Kobasa, *Stressful Life Events*, *supra* note 7, at 3.

164. *Id.*

stressful situations makes sense. Anyone will be less stressed when encountering the inevitable setbacks in life if they are able to pivot, take a different route, or revise goals.<sup>165</sup> Lessons from the field of positive psychology confirm the importance of cognitive flexibility for facing the times when life blows-up: “People who are resilient tend to be flexible – flexible in the way they think about challenges and flexible in the way they react emotionally to stress.”<sup>166</sup> In other words, the ability to revise one’s plans and to figure out another way to achieve one’s goals is an important trait in managing stress and maintaining resilience in life. Resilient individuals “are not wedded to a specific style of coping.”<sup>167</sup> Rather, “they shift from one coping strategy to another depending on the circumstances.”<sup>168</sup> These individuals “are able to accept what they cannot change; to learn from failure; to use emotions like grief and anger to fuel compassion and courage; and to search for opportunity and meaning in adversity.”<sup>169</sup> Our data confirmed these findings. It showed that a high score on cognitive flexibility correlates to stress hardiness. Those who had the highest stress were the least cognitively flexible, and those with the least stress were the most flexible. Chart 10 below demonstrates this strong inverse relationship between stress and cognitive flexibility.

CHART 10



170

165. SOUTHWICK & CHARNEY, RESILIENCE, *supra* note 25, at 165-183.

166. *Id.*

167. *Id.* at 165.

168. *Id.*

169. *Id.*

170. The correlation of stress score with cognitive flexibility score of those lawyers who responded to each question within each group (N=238) was  $r=-.227$  ( $p<.01$ ). Scatter plot of each IRB response’s

The lawyers in our survey who indicated that they were “not bothered by interruptions to their daily routine,” were more confident about their ability to handle personal problems and better able to control irritations in life. Of the lawyers who were “never” bothered by interruptions to their daily routines, or were only bothered “a little” (180 of 245 total responses), 123 (68%) felt confident about their ability to handle personal problems, and 92 (51%) felt that they were able to control the irritations in their life at least fairly often. On the other hand, of the lawyers who were more bothered by interruptions to their daily routines (the other 65 out of 245 total responses), only 28 (43%) felt as confident in handling personal problems, and only 23 (35%) felt equally able to control irritations.

Accordingly, juggling multiple tasks at work and practicing law are often seen as going hand-in-hand, so it should not be surprising that our data showed that lawyers who enjoy the challenge of doing more than one thing at a time were more likely to feel on top of things, be optimistic, and look forward to their work activities. Of the 135 lawyers (from the 245 lawyers who responded to both relevant questions) who did not, or rarely, enjoyed the challenge of doing more than one thing at a time, only 48 (35.6%) felt on top of things at least fairly often, and only 55 (40.7%) felt that things were going their way at least fairly often. On the other hand, of the other 110 lawyers who did enjoy the challenge of doing more than one thing at a time, 64 (58.2%) felt on top of things at least fairly often, and 61 (55.5%) felt that things were going their way at least fairly often. Additionally, 146 lawyers (of the 262 lawyers who responded to both relevant questions) did not, or rarely, enjoyed the challenge of doing more than one thing at a time, and only 48 (32.9%) often looked forward to their work activities. In contrast, of the other 116 lawyers who did enjoy the challenge of doing more than one thing at a time, 67 (57.8%) often looked forward to their work activities.

Lawyers we interviewed repeatedly noted that flexibility and adaptability are crucial in dealing with the dramatic changes underway in the legal profession.<sup>171</sup> As the managing partner of a large law firm noted:

The profession is going to continue to change with more lawyers going in-house, more legal services being outsourced, technology continues to become more sophisticated. The profession is

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“Cognitive Flexibility” and “Stress” group scores with trend line. Opacity and slight visual variation from whole numbers added to show relative frequency of each data point.

171. Pierson *EQ*, *supra* note 105, at 864 (and sources cited). These include technology, outsourcing, commoditization, virtual lawyering, the advent of non-lawyers who provide services previously provided exclusively by lawyers, evolving law firm business models, project management, cost consciousness by clients, and competition among law firms for business *id.*

changing very fast and it is going to continue to change faster and faster which is why I tell my partners we have to stay abreast all of the time of trends. If we don't stay ahead of the trends, then we're actually falling behind and we will fail ourselves. It is the speed of the change coming that is staggering.

The attorneys we interviewed spoke about the ongoing, and likely future, changes in the legal profession and discussed ways they are adapting to these changes. Their strategies fell into eight general categories: be prepared to make changes, learn the market, develop a niche, recognize opportunities, create opportunities, be "nimble" financially, master technology, and community and professional involvement.

- Be prepared to make career changes:

"Learn to remake yourself to fill the needs in the market. My firm used to do 100% oil and gas law. You know how much oil and gas law we do now? Zero. We used to do condo development, then the recession hit, the bottom of that dropped out of that and we had to remake ourselves again. In the past few years our part of the state is booming and we work with developers."

- Learn the market:

"Learn the market. Learn what you can offer to the market. Read the legal journals, the National Law Journal, the ABA Journal. You can see in the headlines what is going on in the legal market. Do your own market research."

- Develop a niche:

"Generalists are going to have a harder time because clients using the internet are going to exhaustively research a lawyer's past experience and will know when a lawyer has a lot of experience and when he does not. Develop a niche practice. Constantly read trade journals, bar journals to get a sense of the trends and which niches are developing and growing."

- Recognize opportunities:

"Your day, your year, your life as a lawyer can change with one phone call so be adaptive and flexible enough to recognize

that and jump on those opportunities when they present themselves.”

- Create opportunities:

“Pay attention to what other lawyers are doing. Save the documents of lawyers that are good. Keep those in a history of resources. Piggy back on those. You don’t want to re-invent the wheel. Make relationships with everyone you meet. Treat everyone with respect. You never know who will become a client later. Make things easy on other to do their jobs. That makes people want to work with you.”

- Be nimble financially:

“Today in the legal profession, everything is much more temporary. Nothing you are positive of today is going to be true in five years. Clients change firms more than they used to. Lawyers change firms more than they used to. Lawyers change careers more than they used to. Being prepared for change is important and that includes being conservative in your expenditures and how stretched out you get.”<sup>172</sup>

- Master Technology:

A number of lawyers we interviewed stressed the importance of making technology work for them rather than working for technology. Lawyers, especially younger lawyers, spoke of using technology to reduce, or eliminate, support staff, and going paperless. As these tech-savvy lawyers told us, technology makes practicing law “easier than ever.”

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172. A lawyer who started practice in 2008 as a civil defense litigator, and “witnessed the bottom falling out” spoke of her experience: “I was very grateful my husband and I received good advice not to live at the very top of our means which is tempting to do.” Because they left themselves “some wiggle room in terms of the debt we took on and the house we procured,” this attorney “was able to step back from being a litigator to work for the federal government which has in turn been very useful in my practice now.” Her husband was able to leave his big defense firm job to start his own practice. They went from a time when “no one was making money and everyone was fearful” to different career paths they both enjoy because of their financial decisions early in their career. As this attorney says, “The best advice I can give is to keep yourself nimble financially. Our effort to be disciplined and nimble financially came with some sacrifices but it was good advice.”

- Serve your community and the profession:

We found the following comment particularly compelling because it offers specific advice on how to maintain cognitive flexibility by practicing gratitude, one of the most important skills of “emotional intelligence”:

I wish I had known early in my career how important it is to get involved in service to the community and the profession. It is a wise investment for the heart, for the profession. Recognize that you are blessed to be in law school, blessed to be a lawyer and you need to share and give back as early and often as you can.

*CHART 11:*

| <b>How to Succeed in the Legal Profession of the Future</b> |
|---|
| Learn to remake yourself to fill the needs of the market    |
| Read legal journals, trade journals. Spot the trends        |
| Recognize: one phone call can change your life as a lawyer  |
| Maintain a history of resources                             |
| Treat everyone with respect                                 |
| Don't get stretched out financially                         |
| Live beneath your means                                     |
| Master technology   |
| Get involved in community, profession                       |

*4. Coping Habits*

Our data yielded interesting findings about the commonality of stress management strategies described by lawyers and the changing reliance upon habits as lawyers age. To elicit information about habits for managing stress, we asked lawyers and law students an open-ended question, “What strategies do you use to manage stress?” Responses fell into five categories: exercise, social connectedness, habits of thought, faith, and alcohol or drugs.



**(a) Exercise.** Consistent with numerous studies of effective strategies for managing stress,<sup>173</sup> exercise was the most commonly reported habit for dealing with stress among our interviewees and survey respondents. Forty-three percent (46 out of 106) of the lawyers interviewed reported exercise as a way they managed stress, as did 38% of 1Ls, 43% of 2Ls/3Ls, 32% of DRI attorneys, and 30% of Alabama attorneys in our survey. Not surprisingly, many types of exercise were reported, including: dance, yoga, kickboxing, playing with pets, weightlifting, cycling, sailing, swimming, and walking. As reflected in Chart 12 *infra*, among our survey respondents, it appeared that reliance on exercise to manage stress decreases with age. As one practicing lawyer described: “At one time I went to the gym. I hope to get back to that point soon.” Another practicing lawyer talked about his/her renewed commitment to exercise:

I try to exercise daily early in the morning for at least an hour every weekday starting between 4 and 5 A.M. I used to not do this. I started it about five years ago. The difference is tremendous. If I skip the workout I can really tell. My mood is sour, and I feel terrible all day. Not to mention it helps curb the weight gain that comes with jockeying a desk 8-10 hours a day.

**(b) Habits of Thought.** The second most commonly reported stress management strategy by survey respondents was reliance on various habits of thought: 37% of 1Ls, 34% of 2Ls/3Ls, 32% of DRI attorneys, and 30% of Alabama attorneys listed at least one cognitive habit as a way they dealt with stress. The habits of thought listed generally fell into three categories: planning and organization, maintaining perspective, and gratitude.

#### Planning and Organization:

A number of respondents identified “plan and action” as the way they deal with stress. As one law student said: “I prioritize, plan, attack, overcome.” One lawyer explained: “I look at the bigger picture. I visualize a path through the situational cause and then follow that path.” Another lawyer stated: “I break down an issue and visualize it as a forest with trees to cut down and start the process of felling them, one by one, reminding myself that ‘well begun is half done.’” Interestingly, one lawyer included cheerfulness in his/her “plan and action”: “I try to smile as much as possible. Sometimes we can’t be happy until those around us are happy, and a smile goes a long way.”

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173. SAPOLSKY, ZEBRAS, *supra* note 15, at 122-123, 395; SOUTHWICK AND CHARNEY, RESILIENCE, *supra* note 25 at 14; JOHN J. RATEY, SPARK: THE REVOLUTIONARY NEW SCIENCE OF EXERCISE AND THE BRAIN 245-251, 260-267 (Little Brown & Co. 2008).

### Maintain Perspective:

Maintaining perspective is widely recognized by psychologists as a highly effective approach for managing stress.<sup>174</sup> A number of law students and lawyers in our study described various ways they seek to maintain perspective. As one student said: “I take time to reflect and place things into perspective. I try to view adversity as surmountable and, even if you fail, so what? You are still you and you are doing the best you can. Wherever the hurdle is, there is more to life than that.” An attorney reported: “I realize the world will keep going on regardless of what happens. I try to do the best I can and not worry about things that are out of my control.”

### Gratitude:

Gratitude is regularly noted by psychologists as one of the healthiest emotional intelligence skills one can develop for managing stress in life.<sup>175</sup> Our respondents reported a number of habits of gratitude they use to help manage stress. For example, one law student explained: “I think about how many great opportunities I have been given, that I don’t need to worry about having everything going perfectly—I just need to work hard, do my best, and let things go as they will.” A lawyer told us: “I focus on time with my kids. I remind myself how lucky I am to have a really great family.”

**(c) Social Connectedness.** The third most common stress management habit reported by law students and lawyers in our survey data was interaction with family and friends. Thirty-two percent (32%) (34 out of 106) of our interviewees and 28% (80 out of 281) of our survey respondents reported being with friends and family as a way they manage stress. As one law student said: “I feel like there is a great need to develop friendships within your law school class. Sometimes, your other friends and even significant others can’t understand exactly how stressful law school can be. Your classmates do.”

Our survey data showed a statistically significant relationship between handling stress well and social connectedness. We asked law students and lawyers to indicate their level of agreement with the statements, “I see

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174. See, e.g., MARTIN SELIGMAN, *AUTHENTIC HAPPINESS: USING THE NEW POSITIVE PSYCHOLOGY TO REALIZE YOUR POTENTIAL FOR LASTING FULFILLMENT* (Simon & Schuster 2002); DANIEL GOLEMAN, *EMOTIONAL INTELLIGENCE* (Bantam Books 1995); JON KABAT-ZINN, *FULL CATASTROPHE LIVING: USING THE WISDOM OF YOUR BODY AND MIND TO FACE STRESS, PAIN, AND ILLNESS* (Dell Publishing 1990).

175. See text *supra* note 172.

myself as someone who is outgoing, sociable,” “I feel that my life is somewhat empty of meaning,” and “Life in general is boring for me,” and asked how often they “felt that things were going your way.” Lawyers who considered themselves at least “a little” outgoing and sociable demonstrated well-being on a number of measures. They were 20% less likely to consider their lives even somewhat empty of meaning. By comparison, lawyers who disagreed to any extent that they were outgoing, were 20% more likely to experience at least some emptiness. Of the lawyers who found life most interesting (*i.e.*, the ones who considered life just a little boring or not boring at all), 78% considered themselves outgoing and sociable. The most optimistic lawyers were also the most outgoing. Eighty-three percent (83%) of lawyers who felt things were going their way at least fairly often, also considered themselves at least a little outgoing.

**(d) Faith.** The fourth most frequent reported stress management habit by most of our survey respondents was reliance on faith. This is consistent with studies on wellbeing. Practicing religion is associated with well-being and resilience:

Recent meta-analyses (summaries of all available well-designed and well-conducted research studies that have been published in the scientific literature on a particular topic) have concluded that practicing religion is associated with physical and emotional well-being among healthy individuals and with better coping among people who are suffering with medical illnesses.<sup>176</sup>

Twelve percent (12%) of 1Ls, 12% of 2Ls/3Ls, and 11% of Alabama attorneys listed spiritual faith as one of their ways to deal with stress; by comparison, none of the DRI cohort reported faith as a stress management strategy. The following responses were typical: “I take a whole day on Sundays to relax and have fun, where I don’t do any law school work. I go to church and spend time in prayer”; “My religion shapes the way I see the world, gives me hope, motivation and comfort”; and “My day starts in prayer, in thanksgiving. I have exercises in prayer time every morning. It is a stress relief, extremely important to me. I do it every day. I think that helps me a lot in managing stress.”

**(e) Alcohol and Drug Use.** Our survey data showed several interesting findings about use of alcohol and drugs to manage stress. The first is the

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176. SOUTHWICK & CHARNEY, RESILIENCE, *supra* note 25, at 92.

stark difference in reported reliance on alcohol or drugs to manage stress by law students compared to lawyers. Specifically, only 1% of 1L students (1 out of 107) and only 3% 2L/3L students (3 out of 142) reported using alcohol or drugs as a way of coping with stress, compared to 23% of the DRI lawyer group (8 out of 34) and 13% (12 out of 89) of the Alabama lawyer group.

We were puzzled that so few law students reported reliance on alcohol as a way to cope with stress since our experience and numerous studies show regular alcohol and drug use among law students.<sup>177</sup> For example, a 2014 study of 3,000 law students from 15 law schools, reported that “[m]ore than half of the surveyed law students reported getting drunk at least once in the past 30 days, with 22 percent saying they binge drank . . . two or more times in the previous two weeks.”<sup>178</sup>

We offer several thoughts on this finding. We do not believe the reported low reliance on substance use to manage stress by law students is because students sought to conceal or minimize their use of alcohol or drugs. Our survey is anonymous and confidential and it appears that law students believed this to be the case since their responses to number of survey questions were quite candid and revealed very intimate details. Rather, we believe the low reported reliance by law students on substance use to manage stress is because of the questions we asked. We did not ask respondents if they used alcohol or drugs, or how much. Instead, we asked an open-ended question: “What strategies do you use to manage stress?” That so few law students listed alcohol or drugs as a strategy they use to manage stress may mean that they do not rely on alcohol or drugs to manage stress (regardless of how much they may be consuming) or that they are not aware they rely on alcohol or drugs to manage stress.<sup>179</sup> The lawyers in our survey, by contrast, may be more aware that they rely on substance use to manage stress.

The second interesting finding in our data is the relationship between reported reliance on alcohol or drugs to manage stress and the level of stress. The responses from lawyers who reported relying on alcohol or drugs to manage stress ranged from enjoying a glass of wine after a long day to being alcoholics or regular drug users. Yet, regardless of the substance’s role in each lawyer’s life, the lawyers who reported such reliance were more stressed and less in control. These lawyers’ stress group scores averaged 13% higher, and sense of control group scores 16% lower, than lawyers who did not indicate that they turned to alcohol or drugs to

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177. Sloan, *Schools Tackle* *supra* note 93, at 2.

178. *Id.*

179. Law students’ alcohol and drug use is a common social behavior in their peer group. *Cf.* “Common” social behavior is not necessarily healthy behavior. *See, e.g.,* Organ, Jaffe, Bender, *Survey of Law Student Wellbeing*, *supra* note 8; *Prevalence of Substance Abuse*, *supra* note 66, at 51.

manage stress. While these disparities might not seem great, no other coping strategy came close to a double-digit effect on stress, sense of purpose, sense of control, or cognitive flexibility. Thus, while there is no explicit selection of coping strategies to fortify stress hardy skills, drugs and alcohol are the least beneficial options. Our findings that lawyers, compared to law students, report greater reliance on alcohol and drugs to manage stress, coupled with our finding that the DRI lawyers (average age 34) had a higher reported reliance on alcohol and drugs to manage stress than did the Alabama lawyers (average age 44) is consistent with other studies showing that young lawyers are at the highest risk for substance abuse. As a recent survey of 12,825 attorneys, for example noted that attorneys thirty years or younger showed greater problematic alcohol use than any other age group of lawyers.<sup>180</sup>

The third interesting finding in our data may point to a reason that lawyers report relying more on alcohol and drugs to manage stress than do law students. The lawyers in our study, compared to the law students, report less reliance on positive strategies for managing stress. Our data showed that the longer one practices law, the less one relies on coping habits such as exercise or social connectedness to manage stress. As reflected in Chart 12, *infra*, reported reliance on exercise fell from 38% of 1Ls (average age 23) and 43% of 2Ls/3Ls (average age 25) to 32% of DRI lawyers (average age 34) and 30% of Alabama lawyers (average age 44). Reported reliance on social connectedness to manage stress decreased from 41% of 1Ls (average age 23), to 21% of 2L/3L's (average age 25), 24% of DRI lawyers (average age of 34), and 25% of Alabama lawyers (average age of 44).<sup>181</sup> It may be that the less one relies on positive coping habits to manage stress, the more one relies on alcohol or drugs.

**(f) Concluding Observations on Coping Habits.** We offer three observations from our data on lawyers' coping habits for dealing with stress:

First, reliance on positive coping habits for managing stress appears to fall as one ages, while reliance on alcohol and drugs increases. As our survey respondents became older, they reported less exercise and fewer social connections. The more fractured nature of lawyers' families became apparent in lawyers' answers to our questions on social connectedness ("I

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180. *Prevalence of Substance Abuse*, *supra* note 66, at 51 ("Taken together, it is reasonable to surmise from these findings that being in the early stages of one's legal career is strongly correlated with a high risk of developing an alcohol use disorder.")

181. Reported reliance on cognitive habits to manage stress stayed fairly constant among all ages (varying from 30% to 39%), as did reported reliance on faith (varying from 11% to 12%) among the three groups reporting such reliance; the DRI lawyers (average age: 34 years old) did not report reliance upon faith to manage stress). See *infra* Chart 12, at 61.

used to hang out with my spouse but we don't like each other anymore.”), compared to the responses from law students (“I talk to my mom on the phone A LOT.”).

Second, our data showed no significant relationship between one positive coping habit and stress. For example, although one might expect a lawyer who regularly exercises to be less stressed than the average lawyer, lawyers in this survey who exercised were no more, or less, stressed than the average lawyer. Similarly, those who committed themselves to staying organized, keeping their struggles in perspective, or turning to a higher power, did not possess a greater sense of purpose or cognitive flexibility in any statistically significant way. This suggests that while a greater sense of purpose, sense of control, and cognitive flexibility all contribute to a being more stress hardy lawyer, there is no magic activity to bolster any of those skills. Rather, what is important is self-awareness in recognizing the cause of one's stress and which habits work well for each of us in managing stress. One lawyer we interviewed conveyed this sentiment well:

What is really helpful to me and I think most people when they're dealing with stress is figure out what is causing the stress and then address the root cause. If you can identify the cause of the stress, you can come up with a plan to work through it as opposed to just floundering.

Third, our data showed that relying on alcohol or drugs correlates to greater stress. The lawyers in our study who reported such reliance had higher stress scores. We do not know the causal effect, that is, whether the lawyers who have higher levels of stress turn to alcohol or drugs to manage their stress, or their substance use causes stress. Nor do we know the level of their substance use. It may be that these lawyers are not the heaviest users of alcohol or drugs. Regardless of these unknown questions, relying on alcohol or drugs to manage stress does not work. Because our data showed that as lawyers age, they rely more on substance use to cope with stress and less on positive coping skills, we hope our study, like others, will help persuade law schools and bar associations to do more to educate students and lawyers on the realities they are likely to face as practicing lawyers.

CHART 12

| Strategies for Managing Stress |            |   |                             |                    |                   |
|--------------------------------|------------|---|-----------------------------|--------------------|-------------------|
|                                | Exercise   | Social Connections<br>(family, friends) | Habits of Cognitive Therapy | Faith              | Alcohol or Drugs  |
| 1L<br>(average age: 23)        | 38%<br>182 | 41% <sup>183</sup>                      | 37% <sup>184</sup>          | 12% <sup>185</sup> | 1% <sup>186</sup> |
| 2L/3L<br>(average age 25)      | 43%<br>187 | 21% <sup>188</sup>                      | 34% <sup>189</sup>          | 11% <sup>190</sup> | 3% <sup>191</sup> |
| DRI<br>(average age: 34)       | 32%<br>192 | 24%<br>193                              | 32%<br>194                  | 0% <sup>195</sup>  | 24%<br>196        |

182. 28 out of 73.

183. 30 out of 73.

184. 27 out of 73.

185. 9 out of 73.

186. 1 out of 73.

187. 41 out of 96.

188. 20 out of 96.

189. 33 out of 96.

190. 11 out of 96.

191. 3 out of 96.

192. 11 out of 34.

193. 8 out of 34.

194. 11 out of 34.

195. 0 out of 34.

196. 8 out of 34.

|                                       |            |                    |                    |                    |                    |
|---------------------------------------|------------|--------------------|--------------------|--------------------|--------------------|
| DRI<br>(average<br>age: 34)           | 32%<br>197 | 24% <sup>198</sup> | 32% <sup>199</sup> | 0% <sup>200</sup>  | 24% <sup>201</sup> |
| AL<br>Lawyers<br>(average<br>age: 44) | 30%<br>202 | 25% <sup>203</sup> | 30% <sup>204</sup> | 11% <sup>205</sup> | 13% <sup>206</sup> |
| Interview<br>ees                      | 43%<br>207 | 32% <sup>208</sup> | 30% <sup>209</sup> | 12% <sup>210</sup> | 0 <sup>211</sup>   |

### C. Stress Hardiness Skills Build On Each Other

Our data showed that stress hardy skills build on each other. Strength in each skill is strongly correlated with strength in the other skills. Lawyers who reported more purpose in their lives also reported a greater sense of control and cognitive flexibility. Lawyers who had a greater sense of control had greater purpose and cognitive flexibility. Lawyers who were more cognitively flexible also had a greater sense of purpose and control. All these direct correlations were significant.<sup>212</sup> These interrelations suggest that lawyers will benefit immensely from practicing traditional stress hardy strategies, as actively improving upon one might naturally improve others. Charts 13, 14, and 15 *infra* demonstrate these significant interrelations.

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197. 11 out of 34.

198. 8 out of 34.

199. 11 out of 34.

200. 0 out of 34.

201. 8 out of 34.

202. 27 out of 89.

203. 22 out of 89.

204. 27 out of 89.

205. 10 out of 89.

206. 12 out of 89.

207. 46 out of 106.

208. 34 out of 106.

209. 32 out of 106.

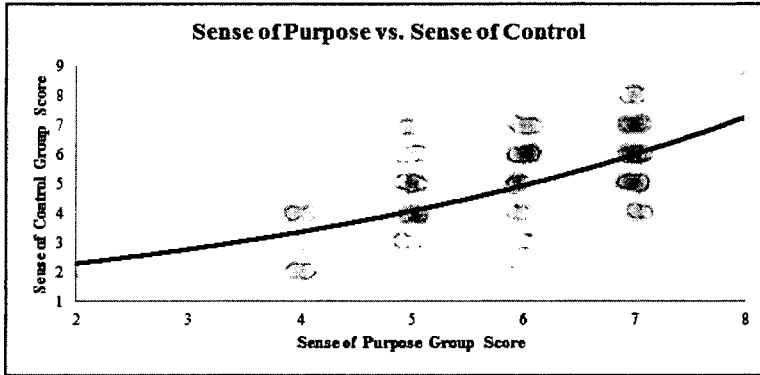
210. 13 out of 106.

211. 0 out of 106.

212. For the N=238 scored lawyers, the correlation between sense of purpose score and sense of control score was  $r=.861$  ( $p<.01$ ), the correlation between sense of purpose score and cognitive flexibility score was  $r=.335$  ( $p<.01$ ), and the correlation between sense of control score and cognitive flexibility score was  $r=.346$  ( $p<.01$ ).

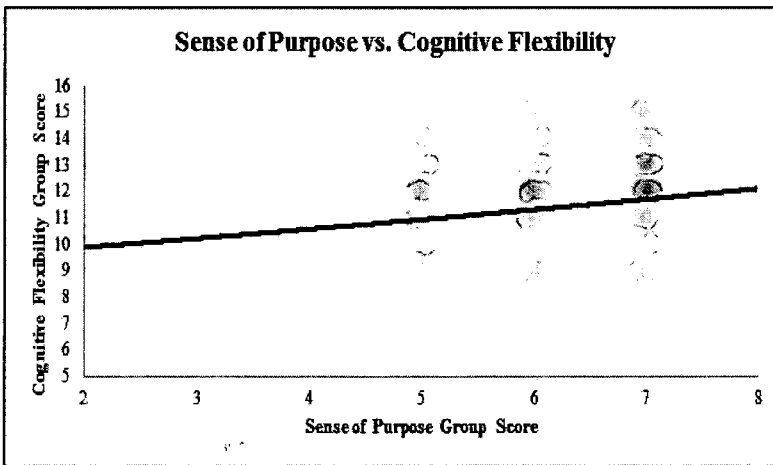


CHART 13



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CHART 14

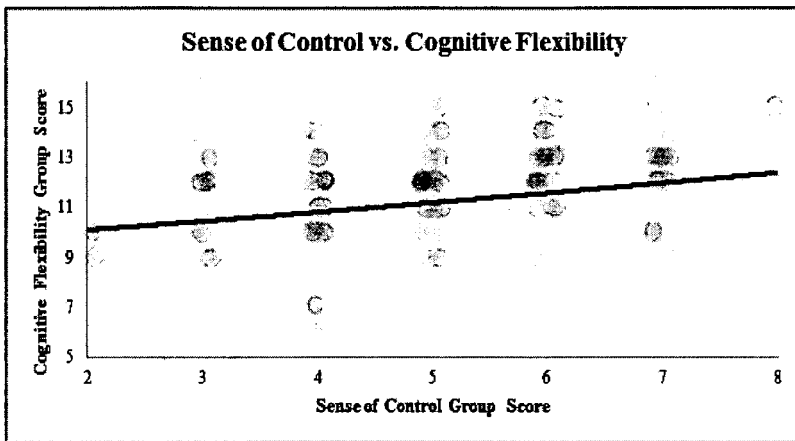


214

213. Scatter plot of each IRB response's "Sense of Purpose" and "Sense of Control" group scores with trend line. Opacity and slight visual variation from whole numbers added to show relative frequency of each data point.

214. Scatter plot of each IRB response's "Sense of Purpose" and "Cognitive Flexibility" group scores with trend line. Opacity and slight visual variation from whole numbers added to show relative frequency of each data point.

CHART 15



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## VII. CONCLUSION

This article is the first to apply the science of stress hardiness to lawyers. Our study consists of original data, quantitative and qualitative, gathered over four years, using an anonymous survey of 530 law students and lawyers, and in-depth interviews with 106 lawyers. We offer the following observations:

- Practicing law is stressful. This is for multiple reasons. What lawyers do matters, to clients, to one's colleagues and often, to the public. There is pressure and a desire to do a good job on tasks that often are challenging and difficult. Lawyers also tend to be "Type A" personalities who push themselves to excel and who are reluctant to seek help for stress related issues. The legal profession is in a tremendous state of flux and adapting to constant change is stressful. One lawyer summed it up well: "Being a lawyer is very stressful. That is true for any profession where you care about what you are doing, when other people rely on you being right and excellent in everything you do. It is a lot of pressure to want to perform well."
- The stress inherent in challenging work and the desire to perform well also provides a sense of purpose and achievement. For this reason, stress is not necessarily bad;

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215. Scatter plot of each IRB response's "Sense of Control" and "Cognitive Flexibility" group scores with trend line. Opacity and slight visual variation from whole numbers added to show relative frequency of each data point.

thus, the goal is not to eliminate stress, but to manage it. Practicing the strategies and behaviors of stress hardiness is the way for lawyers to manage the stress inherent in the practice of law.

- The types of stress in law practice are predictable by areas of practice. This means that self-aware lawyers can choose an area of practice that presents the type of stress they are best at handling.
- Some individuals are “stress hardy.” These individuals do not experience the same physical, psychological, or emotional manifestations of stress as the rest of us, even though they experience the same stressful circumstances.
- There are four characteristics that distinguish stress hardy individuals from everyone else: a sense of control, a sense of purpose, cognitive flexibility, and positive coping habits. Our data showed that lawyers who maintained a sense of control, a sense of purpose, and cognitive flexibility were less stressed, while lawyers who did not maintain these behaviors were more stressed. Lawyers in our study also reported relying on the following coping habits to manage stress: exercise, social connectedness, certain habits of thought, faith, and alcohol and substance use. As the lawyers in our survey aged, they relied less on exercise and social connectedness and more on alcohol and drugs to manage stress.
- Lawyers who reported relying on alcohol and drugs to manage stress were more stressed, and less in control. These lawyers’ stress group scores were, on average, 13% higher, and sense of control group scores 16% lower, than lawyers who did not indicate that they turned to alcohol or drugs to manage stress. No other coping strategy had anywhere close to this double-digit effect on stress.
- The characteristics of stress hardy individuals—sense of control, sense of purpose and cognitive flexibility—can be learned and improved upon. Our data “operationalizes” these characteristics, showing specific, concrete ways lawyers can become more stress hardy.

We, the authors, range in age from mid-20s to mid-60s. We have all been law students. We are all lawyers. We love being lawyers. That is why we have conducted our study and have written this article. We find practicing law to be intellectually challenging, collegial, and meaningful. We think lawyers serve an important role in society, and in the lives of

everyone who seeks help from a lawyer. One of our favorite quotes from our study captures this well: “When people come to me they have a problem. It’s bigger than they can fix. It’s probably bigger than anything they’ve dealt with. Sometimes they’re simple problems but the idea that I can take that problem and resolve it is what makes me feel good about what I do.”

Being a lawyer can be stressful, however. The fact is, no one can be a successful lawyer without learning to manage the stress of practicing law. We hope our article helps law students and lawyers become, and remain, stress hardy. We also hope law schools, bar associations, and other professional organizations devoted to the practice of law will regularly training in stress hardiness.

