

*Selected Topics in Professional Responsibility: Lawyering as a Happy, Healthy & Healing Profession*

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*Spring 2005*

*Syllabus*

**Introduction to Lawyer Distress & Preventive Strategies**

1. LAWRENCE S. KRIEGER, *THE HIDDEN SOURCES OF LAW SCHOOL STRESS: AVOIDING THE TRAPS THAT CREATE UNHAPPY AND UNPROFESSIONAL LAWYERS* (2005).
2. Lawrence S. Krieger, *New Science, Lawyers, and Happiness*, 3 LAT NEWS 7-9 (Summer 2004).
3. Sara Rimer, *Revealing the Soul of a Soulless Lawyer*, NEW YORK TIMES, Dec. 26, 2004.
4. Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999).
5. Michael Traynor, *The Pursuit of Happiness*, 52 VAND. L. REV. 1025 (1999).
6. Geoffrey C. Hazard, Jr., *Commentary: Policy Implications*, 10 J.L. & HEALTH 79(1996).
7. Marjorie A. Silver, *The Professional Responsibility of Clinics: Emotional Competence, Multiculturalism & Ethics* (unpublished manuscript)

**Comprehensive Law Movement Reading Assignments:**

1. Foreword: Edward A. Dauer, PTJ pp. xiii-xiv
2. Introduction, Dennis P. Stolle, PTJ pp. xv-xvii
3. Afterword: Susan Daicoff, *The Role of Therapeutic Jurisprudence within the Comprehensive Law Movement*, PTJ pp. 465-92
4. Chapter 1: Dennis P. Stolle, et al, *Integrating Preventive Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, pp. 5-44.
5. Chapter 2: David B. Wexler, *Practicing Therapeutic Jurisprudence: Psycholegal Soft Spots and Strategies*, pp. 45-67.
6. Chapter 3: Marc W. Patry, et al., *Better Legal Counseling Through Empirical Research: Identifying Psycholegal Soft Spots and Strategies*, pp. 69-79 (optional?)

**Attorney/Client Communications & Psychological-Mindedness:**

1. Bruce J. Winick, *Client Denial and Resistance in the Advance Directive Context: Reflections on How Attorneys Can Identify and Deal With a Psycholegal Soft Spot*, pp. 327-55.

2. Marjorie A. Silver, *Love, Hate and Other Emotional Interference in the Lawyer/Client Relationship*, pp. 357-417.
3. Marjorie A. Silver, *Emotional Intelligence and Legal Education*, 5 J. PSYCHOL. PUB. POL'Y & L. 1173 (1999).
4. Linda G. Mills, *Affective Lawyering: The Emotional Dimensions of the Lawyer-Client Relationship*, pp. 419-64 (optional?)
5. Joshua D. Rosenberg, *Interpersonal Dynamics: Helping lawyers learn the skills, and the importance of human relationships in the practice of law*, 58 UNIV. MIAMI L. REV. 1225-1262 (2004).
6. Chris Guthrie, *Insights from Cognitive Psychology*, 54 J. LEGAL EDUC. 42 (2004).

### **Attorney/Client Communication and Cross-Culturalism**

1. Paul R. Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 CLIN. L. REV. 373 (2002).
2. Sue Bryant & Jean Koh Peters, *Five Habits for Cross-Cultural Lawyering* (2004).

### **Alternatives to Adversarial Dispute Resolution: civil**

1. Chapter 6: Kathryn E. Maxwell, *Preventive Lawyering Strategies to Mitigate the Detrimental Effects of Clients' Divorces on their Children*, pp. 161-85
2. Chapter 7: Pauline H. Tesler, *Collaborative Law: What It is and Why Lawyers Need to Know About It*, pp. 187-05.
3. Mark Perlmutter, *Rewriting the Unwritten Rules: Why It's Better for Lawyers to Cooperate Rather than Compete*, 24 SEP MONT. LAW. 9 (1999).

### **Alternatives to Adversarial Dispute Resolution: criminal**

1. Chapter 9: David B. Wexler, *Relapse Prevention Planning Principles for Criminal Law Practice*, pp. 237-43.
2. Chapter 10: Bruce J. Winick, *Redefining the Role of the Criminal Defense Lawyer at Plea Bargaining and Sentencing: A Therapeutic Jurisprudence/Preventive Law Model*, pp. 245-305
3. Greg Berman and John Feinblatt, *Problem-Solving Courts: A Brief Primer*, 23 LAW AND POLICY, NO. 2 (2001). (Reprinted in WEXLER & WINICK, *JUDGING IN A THERAPEUTIC KEY : THERAPEUTIC JURISPRUDENCE AND THE COURTS* (2003) pp. 73-86).
4. *Therapeutic Jurisprudence in Courts of General Jurisdiction*, WEXLER & WINICK, *JUDGING IN A THERAPEUTIC KEY : THERAPEUTIC JURISPRUDENCE AND THE COURTS* (2003) pp. 87-92. (includes excerpts from William G. Schma, *Judging for the New Millennium*, 37 CT. REV. 4 (2000)).

5. Ellen Waldman, *Healing Hearts or Righting Wrongs?: A Meditation on the Goals of "Restorative Justice,"* 25 *HAMLIN JOURNAL OF PUBLIC LAW & POLICY* 355 (2004).

### **Apology & Forgiveness**

1. Jonathan R. Cohen, *Apology and Organizations: Exploring an Example from Medical Practice,* 27 *FORDHAM URB. L. J.* 1447 (2000).
2. Jennifer Gonnerman, *Where Justice and Mercy Meet,* [www.villagevoice.com/issues/0430/gonnerman.php](http://www.villagevoice.com/issues/0430/gonnerman.php) (July 27, 2004).
3. Barbara Norovitch, *Free After 17 Years for a Rape That He Did Not Commit,* *THE NEW YORK TIMES*, A22 (12/22/04).
4. Erin A. O'Hara, *Apology and Thick Trust: What Spouse Abusers and Negligent Doctors Might Have in Common,* 79 *CHI. KENT L. REV.* 1055 (2004)
5. Jennifer K. Robbennolt, *Apologies and Legal Settlement: An Empirical Examination,* 102 *MICH. L. REV.* 460 (2003).
6. *Five for 2005: Five Reasons to Forgive,* 12 *Harvard Women's Health Watch*, #5, January 2005, pp. 1-3 (published by Harvard Health Publications, a division of Harvard Medical School).

### **Stress, Burnout, Vicarious Trauma & Self-Care**

1. Marjorie A. Silver, *September 11<sup>th</sup>, Pro Bono, and Trauma,* 7 *CONTEMPORARY ISSUES IN LAW* 64 (2003/2004).
2. Marjorie A. Silver et al., *Stress, Burnout, Vicarious Trauma and Other Emotional Realities in the Lawyer/Client Relationship,* *Symposium: Lawyering and Its Discontents: Reclaiming Meaning in the Practice of Law,* 19 *TOURO L. REV.* 847 (2004).

### **Work/Life Balance**

1. Steven T. Taylor, *Parents at Law: Is Balance a Mere Myth? How they make the Dual Role Doable.,* 27 *NO. 7 LAW PRAC. MGMT.* 28 (2001).
2. Judith L. Maute, *Balanced Lives in a Stressful Profession: An Impossible Dream?,* 21 *CAPITAL UNIV. L. REV.* 797 (1992).