



Asking Leopards to Change Their Spots: Can Lawyers Change? Should They?

Lawyers are psychologically different from other people, so they regard conventional strategies for reducing stress and distress as irrelevant to them and their needs. Better strategies for lawyer wellness require mental health workers to understand lawyers' psychology and design services that address their goals, desires, experiences, and personalities.

BY AMBER AULT

In a brilliant, carefully documented article published nearly three decades ago in the *Georgetown Journal of Legal Ethics*, Susan Daicoff describes the fundamental challenge to addressing lawyer stress, anxiety, depression, and maladaptive coping strategies: she argues that the very characteristics, attitudes, and values that attract people to the practice of law also set them up to experience aversive emotional and psychological states, to use dysfunctional coping strategies in their efforts to create relief, and to resist the mainstream approaches to achieving balance.

Lawyers are Psychologically Different

In "Asking Leopards to Change Their Spots: Can Lawyers Change? A Critique of Solutions to Professionalism by Reference to Empirically-Derived Attributes,"¹ Daicoff argues that lawyers, as a class, are psychologically different from people who are not lawyers, so they regard conventional strategies for reducing stress and distress as irrelevant to them and their needs, preferring instead to believe that the strengths that serve them well in the practice of law ultimately are also the answer to their exhaustion, disillusionment, stress, anger, and fear. In short: work more and harder; compete more aggressively for clients, cases, and wins; and treat the need for sleep, family, community, recreation, and healthy daily habits as guilty secrets, shameful vulnerabilities, and professional liabilities.

No wonder lawyers and judges are skeptical about initiatives designed to promote

health and wellness in their profession. As Daicoff notes, "slowing down" risks reducing productivity, which risks income, status, and self-esteem; connecting and collaborating risks interfering with compulsory competitiveness; and acknowledging that one is struggling with depression, anxiety, secondary traumatic stress, grief, or overwhelm can lead a lawyer to feel like a surfer losing blood in shark-infested waters. Daicoff notes that reduced civility in the profession and reduced positive regard for lawyers among the public frame and contribute to



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lawyer distress, and that these three issues constitute a “tripartite problem” in the legal profession, one in which each element exacerbates the others. Lawyer distress both reflects and contributes to incivility, which recursively contributes to lawyer distress, and lawyer’s incivility and maladaptive coping strategies reduce their public status and reputation, which also proves collectively demoralizing, in this theoretical model.

Reading this article in 2024, nearly three decades after its publication, I am struck by how its claims resonate with the contemporary understanding of challenges facing lawyers and solutions that lawyer wellness advocates continue to pose. Daicoff identifies eight traits common to members of the legal profession: materialism, ambitiousness, competitiveness, dominance, “a tendency to respond to stress by becoming more aggressive and ambitious,” “insensitivity to emotional concerns,” a “rights” orientation as an alternative to an “ethic of care” orientation in moral decision-making, and a common preference for “Thinking” on Myers-Briggs analyses (rather than “feeling”) when navigating problems in general. As she addresses the question “should lawyers

change?” Daicoff appears to lean into the quintessential legal response: “it depends.” She opines that both lawyers and their clients would experience negative consequences if the most ambitious, aggressive, competitive, and rational lawyers modulated these characteristics in their work lives, so, on the one hand, argues that lawyers should not change these values, traits, and orientations. On the other hand, she asks whether the lawyers who suffer the most actually do not fit the stereotype, are more humanistic and motivated by a moralistic impetus, and should change – to align more closely with those lawyers who fit it.

It’s an interesting and heterodox approach to the issue of lawyer distress, anxiety, depression, and maladaptive coping, one that suggests that at least for much of the last century, both these qualities and attributes, and the tripartite problem of lawyers’ public status, professional incivility, and personal emotional suffering, have functioned as a “feature” of the program more than a “bug.” Certainly, Daicoff’s assessment shines light on the resistance of legal professionals to “wellness campaigns” that don’t acknowledge the

circumstances of lawyers and judges, the terms of engagement central to these professions, the culture of lawyering transmitted across professional generations, or the fear that “down regulating” one’s stress or calming one’s distress puts the whole enterprise at risk. It’s not surprising when lawyers ask whether relaxation and self-care stand in contradiction to duty to clients and the profession.

Lawyer Distress is Real and Consequential

Nonetheless, the distress of lawyers is real and consequential. Rates of anxiety, depression, and substance abuse are higher among lawyers than among the general population. So, how can lawyers benefit from the mental health and substance abuse treatment that is known to benefit people without compromising their professional identities, successes, and competitive edges?

Here are some possibilities:

1) Lawyers who are resistant to mental health support, wellness training, or various pathways to sobriety or abstinence may suffer from a cognitive bias that leads them to focus less on the cost of living with untreated trauma, depression, and substance abuse than on the opportunities created by living without these. Helping lawyers recognize that living with treatable challenges poses immense risks to them, their practice, their clients, and their reputations can help lawyers and judges see accessing treatment resources as a rational career investment.

2) Elite athletes don’t “go it alone.” They study the competition just as attorneys study opposing counsel, and they use mental health professionals, coaches, consultants, and trainers to help them prepare to meet their competitive goals. Helping lawyers and judges recognize that mental health professionals can

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serve them similarly, to elevate their performance, in contexts that do not risk exposing their vulnerabilities or game plans to others, reduces the sense that such members of the team only reflect disability or deficit, rather than ambition and competitiveness.

3) Similarly, top-tier athletes, elite military services such as Navy Seals, and world-class musicians and performers (think Celine Dion performing in the midst of her battle with stiff person disease), all adopt physical and mental regimens built on the fundamental practices that therapists and well-being coaches teach: structured breathing, physical stretching, healthy eating, and rational optimism. Integrating approaches to these wellness activities that frame them in the language of competition and achievement common among lawyers may bring these practices into alignment with the

practice of lawyering and the personality traits common among lawyers, for their benefit.

In “Asking Leopards to Change Their Spots: Can Lawyers Change?,” Susan Daicoff effectively argues against laser-ing the spots off of leopards and also against dressing them in golden retriever costumes. She elucidates a complex set of reasons why lawyers often resist pressure to change their ambitiousness, competitive drive, success orientation, and other common traits, and the explanations she offers make sense. So rather than ineffectively urging lawyers to change, mental health workers and treatment providers need to understand the psychology of lawyers, meet them where they are, and design services that address lawyers’ goals, desires, experiences, and personalities.

The truth is: mental health workers want to succeed, too. **WL**

ENDNOTES

¹Susan Daicoff, *Asking Leopards to Change Their Spots: Can Lawyers Change? A Critique of Solutions to Professionalism by Reference to Empirically-Derived Attributes*, 11 *Geo. J. Legal Ethics* 547 (1998), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2442341. **WL**

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To contact WisLAP staff: Call (800) 543-2625 or email callwislap@wisbar.org.

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