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# What Do We Know About the Satisfaction/ Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being

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## ARTICLE

# WHAT DO WE KNOW ABOUT THE SATISFACTION/DISSATISFACTION OF LAWYERS? A META-ANALYSIS OF RESEARCH ON LAWYER SATISFACTION AND WELL-BEING

JEROME M. ORGAN\*

“Sweeping changes in the way law is practiced, along with substantial changes in the environment in which lawyers operate, have given rise to well documented increases in job dissatisfaction among attorneys.”<sup>1</sup>

“[W]e examined every major study of lawyers’ job satisfaction appearing in social science journals, law reviews, and bar journals. What emerged was not a pretty picture—what we termed ‘high paid misery.’”<sup>2</sup>

In the last two to three decades, there has been a great deal of scholarly and media attention placed on lawyer dissatisfaction,<sup>3</sup> generating a certain

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1. Lawrence R. Richard, *Psychological Type and Job Satisfaction Among Practicing Lawyers in the United States*, 29 CAP. U. L. REV. 979, 979 (2002).

2. Richard Delgado & Jean Stefancic, *Can Lawyers Find Happiness?*, 58 SYRACUSE L. REV. 241, 247 (2007).

3. See, e.g., YOUNG LAWYERS DIV., AM. BAR ASS’N, THE STATE OF THE LEGAL PROFESSION 1990 (1991) [hereinafter 1990 ABA YLD SURVEY]; David Margolick, *More Lawyers Are Less Happy at Their Work, Survey Finds*, N.Y. TIMES, Aug. 17, 1990, at B5; Maura Dolan, *Miserable with the Legal Life*, L.A. TIMES, June 27, 1995, at A1; Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337 (1997) [hereinafter *Know Thyself*] (summarizing an exhaustive survey of literature on lawyer traits, distress, and dissatisfaction as of the mid-1990s); Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 881 (1999) (discussing three surveys on career satisfaction among lawyers); Kathleen E. Hull, *Cross-Examining the Myth of Lawyers’ Misery*, 52 VAND. L. REV. 971 (1999) [hereinafter Hull, *Myth*]; RONIT DINOVITZER ET AL., NALP FOUNDATION FOR LAW CAREER RESEARCH AND EDUCATION & AMERICAN BAR FOUNDATION, AFTER THE JD: FIRST RESULTS OF A

“conventional wisdom,” as reflected in the quotations above, about the endemic dissatisfaction of lawyers. During this period, however, the empirical literature has fairly consistently suggested that lawyers generally experience a great deal of job and career satisfaction.<sup>4</sup> Recent scholarship has recognized this dichotomy in the lawyer satisfaction/dissatisfaction literature.<sup>5</sup> This article summarizes all of the empirical work on lawyer satisfaction/dissatisfaction and attempts to reconcile this seemingly conflicting data. The article begins with a chronological overview of the published research and of samples of the media descriptions of lawyers’ mental health, well-being, and satisfaction/dissatisfaction. It then analyzes this collective data set in an effort to reconcile and understand somewhat conflicting data, focusing on specific subsets of the legal profession: experience levels (senior lawyers versus junior lawyers), practice settings (large firm, small firm, government, and public interest), and demographic profiles (women and racial minorities). The article concludes with suggestions for further research and thoughts on what legal education can be doing to better frame students’ expectations for the practice of law.

## I. CHRONOLOGICAL OVERVIEW OF LAWYER WELL-BEING AND SATISFACTION RESEARCH

### A. *The First Fifteen Years: 1984–1999*

Some of the first research on lawyer well-being and satisfaction was generated in the 1980s. The American Bar Association’s (ABA) Young Lawyers Division (YLD) published the first article, based on a survey of lawyers, which found that 81% of respondents were either “somewhat satisfied” or “very satisfied” with their current job, whereas only 12% were “somewhat dissatisfied” and 3% were “very dissatisfied.”<sup>6</sup>

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NATIONAL STUDY OF LEGAL CAREERS (2004) [hereinafter AFTER THE JD; Susan Daicoff, *Lawyer, Be Thyself: An Empirical Investigation of the Relationship Between the Ethic of Care, the Feeling Decisionmaking Preference, and Lawyer Wellbeing*, 16 VA. J. SOC. POL’Y & L. 87 (2008) [hereinafter *Be Thyself*].

4. See *infra* notes 62–78, 199–204, 205–29, and accompanying tables.

5. See, e.g., Ronit Dinovitzer & Bryant G. Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 LAW & SOC’Y REV. 1, 1 (2007) (noting that published literature takes one of two forms, one highlighting dissatisfaction and suggesting a need for reform and one downplaying the level of dissatisfaction); John Monahan & Jeffrey Swanson, *Lawyers at Mid-Career: A 20-Year Longitudinal Study of Job and Life Satisfaction*, 6 J. EMPIRICAL LEGAL STUD. 451, 452 (2009) (“There are two literatures on lawyer satisfaction and their findings differ so starkly that one might wonder whether they are studying the same phenomenon.”) [hereinafter *Virginia*].

6. 1990 ABA YLD SURVEY, *supra* note 3, at 52 tbl.66 (discussing YOUNG LAWYERS DIV., AM. BAR ASS’N, THE STATE OF THE LEGAL PROFESSION: 1984 (1984) [hereinafter 1984 ABA YLD SURVEY] (indicating that 41% of respondents were very satisfied while only 3% were very dissatisfied in 1984). Notably, the survey was sent to “a random probability sample of 3000 lawyers of all ages drawn from both ABA member and nonmember lists totaling 569,706 lawyers.” *Id.* at 1–2. The number that appears to have responded to the written survey was 76.9% or 2282

Later in the 1980s, five studies of lawyers were conducted. A survey of Stanford University law graduates was published in 1988,<sup>7</sup> a Maryland Bar Association survey was published in 1988,<sup>8</sup> a survey of University of Michigan law graduates was published in 1989,<sup>9</sup> a survey of the class of 1983 from twenty different law schools was published in 1989,<sup>10</sup> and a survey of graduates from the three law schools then in existence in Minneapolis and St. Paul, Minnesota, was published in 1990.<sup>11</sup> The Stanford study was conducted in 1986 and found that, regardless of gender, graduates were “very satisfied” with their present jobs.<sup>12</sup> Their mean responses were 5.31 for women and 5.12 for men on a seven-point scale, with one representing “very dissatisfied” and seven being “very satisfied.”<sup>13</sup> The Maryland survey focused on a randomly selected pool of lawyers working in law firms in the

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(of whom 1268 were ABA Young Lawyers, 646 were other ABA members, and 368 were non-members). *Id.*

7. Janet Taber et al., *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209 (1988) [hereinafter *Stanford*]. The Stanford sample included all 764 living female graduates as of 1986 along with a random sample of 764 male graduates (distributed across time frames in percentages equal to the female graduates in those time frames). *Id.* at 1232. Of the 1528 graduates surveyed, “eight hundred and ninety-two (892) graduates, that is, 58 percent of the graduates surveyed, responded to the questionnaire. Of these respondents, 48.5 percent was female and 51.5 percent was male.” *Id.* at 1232–33.

8. Gilbert L. Hoffer & Jennifer S. McLeod, *How Attorneys in Law Firms in Maryland’s Major Urban Areas View the Quality of Their Professional Lives*, in MD. STATE BAR ASS’N, REPORT OF THE SPECIAL COMMITTEE ON LAW PRACTICE QUALITY (1988) [hereinafter *Maryland*].

9. David L. Chambers, *Accommodation and Satisfaction: Women and Men Lawyers and the Balance of Work and Family*, 14 LAW & SOC. INQUIRY 251 (1989) [hereinafter *Chambers, Michigan*]. Of 1502 graduates from the classes of 1976–1979, 1070 responded to the surveys sent out five years after graduation, 68% of the women and 72% of the men. *Id.* at 260. In 1984 and in 1986, follow-up surveys were sent to those who had responded to the initial survey. *Id.* The 1984 survey featured open-ended questions focused on gender differences in the profession, while the 1986 survey focused on changes in number of children, in work settings, in job status, and in career satisfaction. *Id.* Both had response rates of roughly 80%. *Id.* at 260 n.45.

10. Marilyn Tucker et al., *Whatever Happened to the Class of 1983*, 78 GEO. L.J. 153 (1989) [hereinafter *Class of 1983*]. This survey was sent in 1985 to 535 graduates from the class of 1983 from 20 law schools across the country and generated responses from 207 graduates (a response rate of 39%), of whom 55% were male and 45% were female. *Id.* at 156–57. Although all of the respondents had been in practice for only two years, the respondents were somewhat diverse in age, with 65% between 25–29 years of age, 20% between 30–34, and 15% over 35. *Id.* at 157.

11. Paul W. Mattessich & Cheryl W. Heilman, *The Career Paths of Minnesota Law School Graduates: Does Gender Make a Difference?*, 9 LAW & INEQ. J. 59 (1990) [hereinafter *Minnesota*]. The Minnesota sample set included 578 graduates for whom addresses could be found from the three Twin Cities law schools from the years 1975, 1978, 1982, and 1985. *Id.* at 61. Researchers received responses from 503 graduates who participated in phone interviews: 220 from the William Mitchell College of Law, 176 from the University of Minnesota Law School, and 107 from the Hamline University School of Law. *Id.* at 62–63. Women represented 254 of the respondents while men represented 249 of the respondents. *Id.* at 63.

12. *Stanford*, *supra* note 7, at 1245.

13. *Id.* While female graduates were at least as satisfied with their present jobs as male graduates, female graduates did report that they overate, cried, had nightmares, and experienced loneliness and depression at rates greater than male graduates, while male graduates drank alcohol at rates in excess of female graduates. *Id.* at 1251–52.

major urban areas of Maryland and found that 89% of the respondents were “completely satisfied,” “quite satisfied,” or “somewhat satisfied” with the quality of their professional lives.<sup>14</sup> The Chambers Michigan study, conducted from 1981 to 1984, reported that 82% of women and 83% of men were overall “very satisfied,” “quite satisfied” or “somewhat satisfied” with their careers five years after graduation.<sup>15</sup> The Class of 1983 study was conducted in 1985, and found that 70% of respondents “enjoyed their work” and 67% were “generally satisfied” with their current position.<sup>16</sup> The Minnesota study, commissioned in 1987, found that 93% of respondents were either “satisfied” or “very satisfied” with their current jobs.<sup>17</sup>

The National Law Journal, along with West Publishing Company, conducted a survey in 1990 that showed 79% of a national sample of more than 1000 attorneys were “satisfied” with their careers.<sup>18</sup> Also in 1990, the ABA

14. *Maryland*, *supra* note 8, at 27 tbl.6. Structured interviews were conducted with 207 (from a population of 1027) randomly identified partners, senior associates, and junior associates in large firms, medium firms, and small firms. *Id.* at 4. Notably, senior associates were less satisfied than either partners or junior associates across all firm sizes. *Id.* at app. A tbl.6.

15. Chambers, *Michigan*, *supra* note 9, at 275 tbl.5. The percentages reflect those who answered one (very satisfied), two (quite satisfied), or three (somewhat satisfied), on a seven-point scale, with one being very satisfied and seven being very dissatisfied. *Id.* The authors noted that when retested in 1986, “most graduates’ reported level of satisfaction had changed very little, with mean scores improving slightly.” *Id.* at 275–76 tbl.6, 277 n.91. The Michigan study also showed that women with children have higher career satisfaction than women without children or men with or without children, lending some support to the theory that women’s domestic roles actually increase their work satisfaction. *Id.* at 275–76 tbl.6.

16. *Class of 1983*, *supra* note 10, at 164. The survey featured a five-point scale with one being “enjoy” or “satisfied” and five being “not enjoy” or “not satisfied.” *Id.* at 191. Notably, younger respondents were disproportionately among those who did not enjoy their work. *Id.* at 164. Comparable percentages of women and men were satisfied with their current positions (65% for women and 67% for men), but more women than men were dissatisfied (26% for women, 15% for men). *Id.* Given that the sample excluded all attorneys with more than two years experience, when other surveys show that more experienced attorneys consistently show higher levels of satisfaction, *see infra* notes 25, 41, 58, and accompanying text, it should not be surprising that the results reflect a relatively low level of satisfaction.

17. *Minnesota*, *supra* note 11, at 95. The survey featured a four-point scale—very satisfied, satisfied, dissatisfied, very dissatisfied. *Id.* at 95 fig.22. Comparable percentages of women (91%) and men (95%) were “satisfied” or “very satisfied” with their jobs. *Id.* However, in regard to satisfaction with specific aspects of their jobs, results of men and women differed on some aspects. *Id.* at 96. The authors noted that their data was consistent with the Stanford data, but showed a somewhat higher level of satisfaction than the data in the 1984 ABA YLD SURVEY. *Id.* at 96 n.51. Given that none of these attorneys had been in practice for more than 12 years, this level of satisfaction is unusually high compared with other, comparable populations. *Compare e.g.*, *supra* note 15 and accompanying text (Chambers, *Michigan*—82%), *supra* note 16 and accompanying text (*Class of 1983*—67%), and *infra* note 34 and accompanying text (*New Mexico*—73%).

18. Margaret Cronin Fisk, *Lawyers Give Thumbs Up*, NAT’L L.J., May 28, 1990, at S2. In the article, the National Law Journal noted that the survey uncovered some surprising findings:

- An overwhelming majority, or 79%, of American lawyers say they are satisfied with their careers. Likewise, three-quarters of them are pleased with their choice of work environment and practice area.
- Furthermore, no mass exodus seems imminent: only 9% of the attorneys surveyed said they intend to leave the profession.

YLD published results from another survey comparable to the 1984 ABA YLD Survey.<sup>19</sup> These results showed lawyers' job satisfaction declined from 81% in the 1984 ABA YLD Survey to 76% in the 1990 ABA YLD Survey for those either "somewhat satisfied" or "very satisfied."<sup>20</sup> Additionally, the 12% of lawyers "somewhat dissatisfied" and 3% "very dissatisfied" in 1984<sup>21</sup> increased to 14% and 5%, respectively.<sup>22</sup> Notably, government attorneys were more satisfied in 1990 than in 1984, while corporate and private practice attorneys were less satisfied.<sup>23</sup> The 1990 ABA YLD Survey further noted that women were less satisfied than men.<sup>24</sup> The 1990 ABA YLD Survey also noted a generational difference—that younger attorneys were more dissatisfied than older attorneys.<sup>25</sup> In response to the

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*Id.* In separate coverage of the survey, the Boston Globe noted that "[t]he questionnaires were mailed out to 7,800 [sic] lawyers chosen as geographically and professionally representative," with responses received from 1018 lawyers. Ethan Bronner, *Survey Finds Lawyers are Generally Happy with Their Careers*, BOSTON GLOBE, May 21, 1990, at 3. "The editors of the National Law Journal expressed surprise at the results of the study. They said they had commissioned it in response to a growing sense of disenchantment within the legal profession." *Id.*

19. 1990 ABA YLD SURVEY, *supra* note 3.

20. *Id.* at 52 tbl.66.

21. *See supra* note 6 and accompanying text.

22. 1990 ABA YLD SURVEY, *supra* note 3, at 52 tbl.66. The 1990 ABA YLD Survey was sent to the 2282 attorneys surveyed in 1984 along with an additional cohort of 1002 attorneys who became members of the bar after 1983. *Id.* at 2, 4. Thus, 3284 were invited to participate in the survey, 1177 completed and submitted the survey by mail, while 1012 completed a shortened version of the questionnaire that was administered over the phone. *Id.* at 3–4. This meant there was a 36.2% response rate on the mailed survey and a 31.2% response rate on the phone survey for a total response rate of 67.4%. *Id.*

23. *Id.* at 52 tbl.67. Notably, the respondents disproportionately were engaged in private practice, with 78% of respondents indicating they were in private practice. *Id.* at 7. By comparison, NALP statistics fairly consistently show that only 58%–60% of graduates are employed in private practice. *See Recent Graduates*, NAT'L ASS'N FOR LEGAL PROFESSIONALS, <http://www.nalp.org/recentgraduates> (last visited May 16, 2011) (containing links to summary employment statistics for classes 1999–2009); *see also* DINOVIETZ, *supra* note 3, at 27 tbl.3.1 (indicating that only 69% of graduates were employed in private practice three years out); RONIT DINOVIETZ ET AL., NALP FOUNDATION FOR LAW CAREER RESEARCH AND EDUCATION & AMERICAN BAR FOUNDATION, *AFTER THE JD II: SECOND RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS* 27 tbl.3.1 (2009) [hereinafter *AFTER THE JD II*] (indicating less than 55% were employed in private practice seven years out). This disproportionate weighting of private practice respondents might have skewed results in the direction of slightly more dissatisfaction given that the 1990 ABA YLD Survey demonstrated that private practice attorneys generally are less satisfied than those working for the government or in public interest. 1990 ABA YLD SURVEY, *supra* note 3, at 52 tbl.67.

24. 1990 ABA YLD SURVEY, *supra* note 3, at 53–54 tbls.70, 71. This result was in contrast with the results in *Stanford, Minnesota*, and *Chambers, Michigan*, but consistent with the results in *Class of 1983*. *See* discussion *supra* notes 13, 17, 15, 16, and accompanying text, respectively.

25. *See* 1990 ABA YLD SURVEY, *supra* note 3, at 55 (noting that 19% of all lawyers in private practice are dissatisfied, but 31% of lawyers who graduated after 1967 were dissatisfied). The overall population of those surveyed was disproportionately younger attorneys, as 859 of the 2189 respondents were members of the ABA YLD (under the age of 36 or admitted for less than five years) and 734 of the 2189 respondents were admitted to the bar after 1983. Thus, nearly 73% of the respondents were recently admitted to practice or were under the age of 36. *Id.* at 4. Given that the 1990 ABA YLD Survey itself notes that newer attorneys generally are less satisfied than more experienced attorneys, the 1990 ABA YLD Survey results may have been subject to a slight downward bias in reported levels of satisfaction given the disproportionate number of less exper-

ABA YLD survey results of 1984 and 1990, the ABA convened a task force to focus on issues of professional malaise.<sup>26</sup>

As of 1990, then, there was already a somewhat disparate set of empirical data regarding lawyer satisfaction/dissatisfaction, with some media sources emphasizing data on dissatisfaction and disregarding data showing relatively high levels of satisfaction. For example, the *New York Times* article *More Lawyers Are Less Happy at Their Work, A Survey Finds*, published in August 1990, discussed only the results from the 1990 ABA YLD Survey.<sup>27</sup> The article disregarded the National Law Journal survey data, as well as the Class of 1983, Stanford, Chambers Michigan, and Minnesota survey data.<sup>28</sup> It led with the following quote: "An [ABA] survey has corroborated what has become increasingly apparent to lawyers, legal recruiters and psychiatrists: job dissatisfaction among lawyers is widespread, profound and growing worse."<sup>29</sup> The article then compared the results of the 1990 ABA YLD Survey with those of the 1984 ABA YLD Survey and noted that lawyers who said they were "very satisfied" with their work decreased by 20%.<sup>30</sup>

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enced attorneys in the sample. See also *infra* notes 41, 58, and accompanying text. The 1990 ABA YLD Survey also noted, however, that among those originally surveyed in 1984 and then resurveyed in 1990, satisfaction dropped from 79% who were "very satisfied" or "somewhat satisfied" to 71%, and an increase from 18% who were "somewhat dissatisfied" or "very dissatisfied" to 23%. *Id.* at 53 tbl.68.

26. AM. BAR ASS'N, THE REPORT OF AT THE BREAKING POINT: A NATIONAL CONFERENCE ON THE EMERGING CRISIS IN THE QUALITY OF LAWYERS' HEALTH AND LIVES—ITS IMPACT ON LAW FIRMS AND CLIENT SERVICE (1991) [hereinafter ABA REPORT].

27. Margolick, *supra* note 3, at B5.

28. *Id.*

29. *Id.*

30. *Id.* The article also noted that drinking had increased among lawyers between 1984 and 1990: "[T]here has been 'an astonishing rise' in drinking among lawyers, particularly women. In 1984 less than half of 1 percent of those surveyed reported consuming six or more drinks a day. That figure has now risen to 13 percent, including one in every five female lawyers." *Id.* This reported data, however, was erroneous. The 1990 Report stated:

The statistics on drinking contained in the initial report of the data from Wave II published in August as Report #1 have received much attention by the profession and the media. That report showed much higher levels of drinking than that reported in the 1984 survey. Unfortunately, it has recently been discovered that those figures were the result of a computer programmer error.

1990 ABA YLD SURVEY, *supra* note 3, at 50 (emphasis in original). In reality, consumption of alcohol had declined between 1984 and 1990. While the 1990 ABA YLD Survey describes the data as "virtually the same for the two surveys, with the 1990 survey showing a slight decrease[.]" the reality is that the percentage of respondents consuming 3–5 drinks per day fell by 25% from 8% to 6% and the percentage of respondents consuming 1–2 drinks per day fell nearly 16% from 19% to 16%. *Id.* at 50 tbl.64.

The article also noted that very few lawyers were considering leaving their current position, often viewed as an indication of dissatisfaction: "Only 3 to 4 percent of the 2,289 [sic] lawyers participating in the survey . . . said they planned to leave the profession in the next two years." Margolick, *supra* note 3, at B5. Even this sign of relative satisfaction, however, was discounted in the article. "But even if an exodus is not imminent, the survey says, the prevailing levels of unhappiness bode ill for the law profession and the people it employs and serves." *Id.*

In 1990, G. Andrew H. Benjamin and his coauthors published a study of lawyers in the state of Washington reporting that lawyers manifest psychological distress—depression, anxiety, feelings of worthlessness or excessive guilt, and/or suicidal ideation—at rates well in excess of the general population.<sup>31</sup> This study also showed higher levels of problem drinking among lawyers when compared with the general population.<sup>32</sup> That same year, a separate report included lawyers among the top three occupations with the highest frequency of depression.<sup>33</sup>

The following year, studies were published in New Mexico and North Carolina. The study of New Mexico alumni found that 73% of both men and women attorneys placed themselves within the top two levels of job satisfaction on a five-point scale, with an almost identical distribution between those levels.<sup>34</sup> The North Carolina survey, conducted in 1990–91,

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31. G. Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INT'L J.L. & PSYCHIATRY 233, 233–34 (1990) [hereinafter Benjamin I]. Specifically, the results indicated that approximately 20% of lawyers in practice for just two years in Washington and Arizona had heightened levels of depression while only 3–9% of the general population had heightened levels of depression. *Id.* at 240. Moreover, 19% of all Washington lawyers responding to the survey “suffered from statistically significant elevated levels of depression,” with most of these experiencing suicidal ideation. *Id.* at 240–41. The Washington survey was sent to a random sample of 1184 attorneys stratified by years of practice. *Id.* at 236. It generated 801 returned questionnaires, a response rate of 68%. *Id.* at 238. The survey included both the Brief Symptom Inventory as well as the Michigan Alcoholism Screening Test-Revised (MAST). *Id.* at 237. The Arizona data was based on a survey of 96 graduates of an Arizona law school. *Id.*; G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. B. FOUND. RES. J. 225, 228 (1986).

32. Benjamin I, *supra* note 31, at 241. The survey reflected that 18% of Washington attorneys reported behaviors consistent with problem drinking, nearly twice the national average of 10% for alcohol abuse and/or dependency among adults. *Id.* The article noted, however, that more male attorneys in Washington reported alcohol problems than female attorneys. *Id.* at 243.

33. William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079, 1085–86 (1990). This article drew on data “collected for the Epidemiologic Catchment Area (ECA) Program during the early 1980s,” a five-site collaborative survey which estimated the prevalence of major depressive disorder, along with other specific categories of psychopathology. *Id.* at 1079. Highly trained lay interviewers administered the Mental Health Diagnostic Interview Schedule (DIS) to a probability sample of roughly 3000 persons at each of five sites. *Id.* The sample for which the article reported data across occupations included 11,789 respondents who reported ever holding a full-time job. *Id.* at 1080. The results indicated that lawyers were among the top five occupations (among 104 for which data was gathered) in terms of prevalence of depression, with an estimated prevalence of 10%, two to three times higher than the 3% to 5% found by the ECA among the general population. *Id.* at 1079.

34. Lee E. Teitelbaum et al., *Gender, Legal Education, and Legal Careers*, 41 J. LEGAL EDUC. 443, 473 (1991) [hereinafter *New Mexico*]. The New Mexico survey was conducted in the late 1980s and included a sample set of every one of its 1048 graduates between the years of 1975 and 1986; 602 graduates responded, 57% of whom were men and 43% of whom were women. *Id.* at 452–53. The authors noted that the similar response among men and women was consistent with the results reported in *Stanford* and in Chambers, *Michigan*, discussed *supra* notes 13, 15, and accompanying text. See *New Mexico*, *supra* at 477. Interestingly, however, the authors did not compare the overall satisfaction statistics in *New Mexico* with those in the *Stanford*, *Minnesota*, or *Michigan* surveys, which would have shown *New Mexico* to be on the low end of the scale in terms of satisfaction. Given the data suggesting that satisfaction increases with experience, see



showed that 81% of lawyers were at least “mostly satisfied” with the quality of their lives.<sup>35</sup> The survey further indicated that 24% reported that they had experienced symptoms of depression at least three times each month during the past year, and that 16.6% consumed at least three to five alcoholic beverages per day.<sup>36</sup> The analysis of the survey indicated that

[t]he existence of a discrepancy between one’s expectation and achievements correlates more strongly with subjective well-being than any other variable in the causal model. Attorneys who can control their aspirations and expectations so that the gap between aspirations and achievements is large enough to be motivating but not large enough to be discouraging, attain higher levels of work and life satisfaction.<sup>37</sup>

In 1992, Benjamin and two coauthors published another article regarding the psychological distress that lawyers experience.<sup>38</sup> It reiterated the earlier survey data from Washington and Arizona, noting that it was consistent with data from Wisconsin and Florida showing higher levels of depression in attorneys compared with the population generally in Western industrialized countries.<sup>39</sup> The article also reiterated the data showing an elevated tendency toward problem drinking among lawyers in Washington and Arizona.<sup>40</sup>

A study published in 1994, reporting survey information gathered in 1989, showed that lawyers who were children of lawyers had disproportion-

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*supra* note 25 and accompanying text, *infra* notes 41, 58, and accompanying text, one might surmise that the relatively low level of satisfaction results from the exclusion of anyone with more than twelve years of experience. See discussion *supra* note 16 (*Class of 1983*) and accompanying text. But the New Mexico sample represents the same level of experience as was represented in the sample of Minnesota attorneys (with a 93% satisfaction level). See *supra* note 17 (suggesting a possibility of regional differences in satisfaction among lawyers).

35. N.C. BAR ASS’N, REPORT OF THE QUALITY OF LIFE TASK FORCE AND RECOMMENDATIONS 4 (1991) [hereinafter NORTH CAROLINA 1991]. The survey was mailed to each of the 11,810 North Carolina licensed attorneys, with 2570 completed questionnaires returned, for a response rate of 21.8%. *Id.* The survey noted that unmarried individuals and junior and senior associates in private practice were among the least satisfied, while older attorneys were more satisfied. *Id.*

36. *Id.* Depression symptoms included “appetite loss, trouble sleeping, suicide thoughts, [and] extreme lethargy.” Notably, the percentage of attorneys consuming three to five alcoholic drinks per day in North Carolina was double that reported in the 1990 ABA YLD Survey. See *supra* note 30 and accompanying text.

37. NORTH CAROLINA 1991, *supra* note 35, at 5. NORTH CAROLINA 1991 further noted that “[a]ttorneys who experience psychological problems, . . . generally had a poor sense of well-being. Although the cause and effect relationship is not clear, these problems are most often symptoms rather than causes of dissatisfaction.” *Id.* (emphasis in original). It also noted that “[u]nhealthy lifestyles also correlate with attorney dissatisfaction.” *Id.*

38. G. Andrew H. Benjamin, Bruce D. Sales & Elaine Darling, *Comprehensive Lawyer Assistance Programs: Justification and Model*, 16 LAW & PSYCHOL. REV. 113 (1992) [hereinafter Benjamin II]; see also *id.* at 114 n.3 (citing other studies that show high levels of depression among lawyers in Washington, Arizona, Wisconsin, and Florida, including two unpublished dissertations).

39. *Id.* at 114. See *supra* note 31 and accompanying text.

40. Benjamin II, *supra* note 38, at 115. See *supra* note 31 and accompanying text.

ately high rates of satisfaction, with 91.1% indicating they were “quite satisfied” or “somewhat satisfied.”<sup>41</sup> A New York Law Journal poll from 1994 showed that 82% of respondents were “very” or “somewhat” satisfied with their professional lives.<sup>42</sup> In 1995, the ABA YLD released another survey that indicated some improvement from its 1990 data—77.2% of respondents reported that they were “very satisfied” or “somewhat satisfied” in their current position (up from 76%).<sup>43</sup> An article published in 1995 also discussed the relationship in the earlier ABA YLD surveys between work satisfaction and mental and physical distress, showing a correlation (although not necessarily a causal relationship) between distress and dissatisfaction.<sup>44</sup>

In 1995, John Hagan and Fiona Kay published their book, *Gender in Practice*.<sup>45</sup> The book compiled statistical data gathered from a study of Toronto lawyers that proceeded in two waves—one in 1985 and one in 1991.<sup>46</sup> In 1985, 78.2% of women and 81.3% of men indicated they were “satis-

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41. Stephen L. Wasby & Susan S. Daly, *In My Father's Footsteps: Career Patterns of Lawyers*, 27 AKRON L. REV. 355, 392 (1994). The survey was sent to 770 identified lawyers within multigenerational families, with 396 returning completed surveys. *Id.* at 358. An additional fifty-two lawyers in New York and Boston were contacted for interviews, with twenty-two interviews conducted. *Id.* Thus, of 822 potential participants, there were 418 respondents for a 50.9% response rate. *Id.* Notably, 95% of the respondents were practicing law, with 88% in private practice. *Id.* at 359. The question regarding satisfaction had a five-point scale: quite satisfied, somewhat satisfied, neutral, somewhat dissatisfied, and quite dissatisfied. *Id.* at 392. The survey also demonstrated that more experienced attorneys are more satisfied than less experienced attorneys, as the percentage who answered “quite satisfied” dropped from 96% among those who graduated from law school prior to 1953, to 83.6% among those graduating between 1953 and 1963, to 74.2% for those graduating between 1964 and 1973, to less than 70% among the most recent graduates. *Id.* at 391.

42. Edward A. Adams, *Legal Career Exact's Steep Personal Price*, N.Y. L.J., Feb. 7, 1994, at 1.

A total of 401 lawyers were interviewed by telephone at their offices between Jan. 10 and 18. The sample was drawn from a list of all practicing lawyers statewide. Men made up 76 percent of the sample and women, 24 percent. The poll has a margin of error of plus or minus 5 percent.

*Id.* Notably, 89% of the respondents were very satisfied or somewhat satisfied with their personal life. *Id.*

43. 1990 ABA YLD SURVEY, *supra* note 3, at 52 tbl.66 (indicating 1990 satisfaction rate); YOUNG LAWYERS DIV., AM. BAR ASS'N, ABA YOUNG LAWYERS DIVISION SURVEY: CAREER SATISFACTION (1995) [hereinafter 1995 ABA YLD SURVEY], *discussed in* YOUNG LAWYERS DIV., AM. BAR ASS'N, ABA YOUNG LAWYERS DIVISION SURVEY CAREER SATISFACTION 18 (2000) [hereinafter 2000 ABA YLD SURVEY]. The 1995 satisfaction results were based on responses from 696 lawyers. *Id.* The 1995 ABA YLD Survey also found that 72.4% were “very satisfied” or “somewhat satisfied” with the practice of law generally. *Id.*

44. Linda M. Rio, *Time for an Ideality Check: If You Had Your Ideal Work, Would You Be Satisfied?*, BARRISTER MAGAZINE, Spring 1995, at 14, *cited in* *Be Thyself*, *supra* note 3, at 109 n.153 (discussing the 1984 ABA YLD Survey and the 1990 ABA YLD Survey and showing an inverse relationship between satisfaction and distress—the higher the distress the lower the satisfaction).

45. JOHN HAGAN & FIONA KAY, *GENDER IN PRACTICE* (1995) [hereinafter HAGAN & KAY I].

46. *Id.* at 18–20. The initial survey was mailed in 1985 to 1609 attorneys, with 1051 responses received for a response rate of slightly over 65%. The follow up survey in 1991 resulted in responses from 815 of the original 1051 respondents for a response rate of 79.3%. *Id.*

fied” or “very satisfied” with their jobs, compared to 78.3% of women and 79.4% of men in 1991.<sup>47</sup> A more contextual analysis of the data revealed that more women than men had considered looking for a new job that allowed a better balance of personal life and work.<sup>48</sup>

In 1995, Connie Beck and her coauthors (including G. Andrew H. Benjamin) published an article revisiting Benjamin’s survey data from Washington and Arizona.<sup>49</sup> The more detailed analysis of the data showed a couple of interesting data points. First, the authors noted that when the data was gender-adjusted to reflect normal differences in sub-populations of women and men, male lawyers showed higher levels of psychological distress than women lawyers.<sup>50</sup> Second, male lawyers manifested some “career span” differences as those with more experience in practice showed lower levels of psychological distress in some categories than those with less experience, but this “career span” difference was not manifested in the data for women lawyers.<sup>51</sup>

Charles Mueller and Jean Wallace published an article in 1996 directed to addressing the perceived paradox of women lawyers who consistently seem as satisfied as men lawyers even though they face great disparities in pay, opportunities, and workplace support.<sup>52</sup> The study used four questions to assess job satisfaction on a five-point scale, with women and men reflecting similar levels of overall job satisfaction with scores of

47. *Id.* at 169 tbl.7.1.

48. *Id.* Hagan and Kay used regression analysis to analyze attorneys in private practice who had considered looking for a new job, and concluded as follows: “Overall, women lawyers seem less satisfied with their jobs than men because they are younger, more burdened with child care, and earning less.” *Id.* at 172.

49. Connie J.A. Beck et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & HEALTH 1 (1995). See *supra* note 31 and accompanying text.

50. Beck et al., *supra* note 49, at 49.

51. *Id.* at 46–47. The article concluded as follows:

From the findings detailed above, one can conclude that psychological distress, in its many forms, is likely to affect newly practicing lawyers in a similar manner regardless of the state in which they practice. In addition, throughout their career span, a large percentage of practicing lawyers are experiencing a variety of significant psychological distress symptoms well beyond that expected in a normal population. Interestingly, the basic pattern of distress may represent the traits necessary to be a successful lawyer (obsessive-compulsiveness, interpersonal sensitivity, and anxiety) and the costs associated with this success (depression and social alienation and isolation).

*Id.* at 57.

52. Charles W. Mueller & Jean E. Wallace, *Justice and the Paradox of the Contented Female Worker*, 59 SOC. PSYCH. QRTLY. 338, 343 (1996). The survey was conducted in 1991, was sent to “all 2,251 [sic] lawyers in a large city in western Canada,” and generated 1155 responses for “a response rate of 51 percent.” *Id.* at 340–41. The authors noted that “[t]he analysis is limited to 618 law firm lawyers, 35 government lawyers, and 111 corporation lawyers, yielding 180 women and 584 men for a total of 764 cases,” because the authors excluded those in solo practice for whom workplace setting variables would be irrelevant. *Id.* at 341. The authors noted that the percentages of male lawyers, law firm lawyers, government lawyers, and corporate lawyers in the sample were consistent with the overall percentages in the city’s population of all lawyers suggesting the sample was fairly representative. *Id.*

3.569 for women and 3.652 for men.<sup>53</sup> Mueller and Wallace concluded that the data supported the claimed paradox: “This coexistence of similar satisfaction levels by gender with dissimilar work conditions and rewards (worse for women) is consistent with the claim of a paradox. Women should be less satisfied than men, given these work conditions, but they are not.”<sup>54</sup>

This first period of literature concluded in 1999, a year which saw a flurry of articles regarding lawyer satisfaction. The first published article was a 1994–1995 study of 675 practicing attorneys in Chicago—185 women and 490 men—where 84% reported they were either “satisfied” or “very satisfied” with their jobs.<sup>55</sup> Next, a survey reported data from Michigan’s then ongoing research of its graduates five and fifteen years after graduation.<sup>56</sup> This survey showed that graduates from the classes of 1987–1991 (who were surveyed five years after graduation in 1992–1996) had a mean job satisfaction score of 4.98 on a seven-point scale, while graduates from the classes of 1977–1981 (who were surveyed fifteen years after graduation in 1992–1996) had a mean job satisfaction score of 5.35.<sup>57</sup> Across the entire population of five-year graduates and fifteen-year gradu-

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53. *Id.* at 342 tbl.2. The study measured job satisfaction using “four [five-point] Likert items adapted from Brayfield and Rothe (1951), which tap the degree to which respondents enjoy, like, feel enthusiastic about, and are satisfied with their job (alpha = .96),” with responses ranging from one for strongly disagree to five for strongly agree. *Id.* at 341. Were these scores proportionally translated from the five-point scale to the seven-point scale used in the Stanford survey, the women would have scored 5.00 and the men 5.12. *See supra* note 13 and accompanying text. The lack of statistically meaningful differences in the data between men and women is compounded by the fact that a significantly lower percentage of women respondents were partners, and a significantly higher percentage of women respondents were associates. Mueller & Wallace, *supra* note 52, at 342 tbl.2. This predictably skewed responses in favor of greater dissatisfaction among women respondents, since studies show satisfaction increases with greater experience in the practice of law. *See supra* notes 25, 41; *infra* note 58 and accompanying text.

54. Mueller & Wallace, *supra* note 52, at 343. Mueller and Wallace also stated that their data refuted several claimed theories to explain the paradox. *Id.* at 347–48.

55. John P. Heinz et al., *Lawyers and Their Discontents: Findings from a Survey of the Chicago Bar*, 74 *IND. L.J.* 735, 736, 742, 749 (1999) [hereinafter Heinz, *Chicago*]. The survey was based on interviews with 788 lawyers, who constituted 82% of the target sample (after screening out those who had died, were over the age of 80, or had moved out of Chicago). *Id.* at 742. The 675 for whom data was reported were those engaged in the practice of law, excluding judges, judicial clerks, professors, or those who were retired, unemployed, or not in legal jobs. *Id.* Only 6.6% of respondents indicated they were dissatisfied or very dissatisfied with their jobs. *Id.* at 736.

56. Kenneth G. Dau-Schmidt & Kaushik Mukhopadhyaya, *The Fruits of Our Labors: An Empirical Study of the Distribution of Income and Job Satisfaction Across the Legal Profession*, 49 *J. LEGAL EDUC.* 342, 343 (1999) [hereinafter *Michigan 1999*].

57. *Id.* at 345 tbs.1, 2. The survey was structured on a seven-point scale, from -3 for “very dissatisfied” to +3 for “very satisfied.” *Id.* at 345. For purposes of presenting the data here in a manner consistent with how it was presented previously, I have rescaled the scores on a seven-point scale.

ates covered in this survey, 75.7% indicated they were satisfied with their jobs by marking a five, six, or seven on the survey.<sup>58</sup>

In addition, Kathleen Hull published a separate article on the Chicago data set that specifically looked at whether there were meaningful differences in job satisfaction between men and women.<sup>59</sup> Her results were consistent with the results of most earlier studies, indicating no statistically meaningful difference in results for men and women, with women averaging 4.13 and men 4.24 on a five-point scale, with one being “very dissatisfied” and five being “very satisfied.”<sup>60</sup> That said, in looking at satisfaction with specific aspects of work environments, Hull did note statistically significant differences in the mean scores of men and women on eight of twelve measures with women being less satisfied than men on seven of the eight measures.<sup>61</sup>

By 1999, data derived from empirical surveys with random samples and good response rates showed varied satisfaction levels within a relative range, as reflected in the following table:

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58. Kenneth G. Dau-Schmidt & Kaushik Mukhopadhyaya, Chart Showing Michigan Dataset Regarding Satisfaction from 1982–2000 (2000) (on file with author). I am deeply indebted to Kenneth Dau-Schmidt and Kaushik Mukhopadhyaya, who shared with me the underlying data set on which their reported scores were based. By evaluating the underlying data set, I have been able to translate the seven-point numerical score into percentages that are roughly consistent with how other surveys reported percentages satisfied with their job or career. Notably, as indicated in the text above, the more recent graduates were less satisfied than those who graduated fifteen years prior to the survey. Only 69.6% of the 1235 five-year graduates from 1987–1991 were satisfied as compared with 82.3% of the 1127 fifteen-year graduates from 1977–1981. *Id.*

59. Kathleen E. Hull, *The Paradox of the Contented Female Lawyer*, 33 LAW & SOC’Y REV. 687, 688 (1999) [hereinafter Hull, *Chicago*]. Her analysis focused on the same sample as the Heinz, *Chicago* study. *Id.* at 689–90. See *supra* note 55 and accompanying text.

60. Hull, *Chicago*, *supra* note 59, at 690–91. When proportionally translated from the five-point scale to the seven-point scale used in *Stanford* and *Michigan 1999*, the scores become 5.78 for women and 5.94 for men. See *supra* notes 13, 57, and accompanying text.

While Hull acknowledged some reported differences in responses of men and women regarding job satisfaction in the 1984 ABA YLD Survey and the 1990 ABA YLD Survey, see *supra* note 24 and accompanying text, she explained that the “gender difference disappear[ed] after controlling for characteristics of respondents’ jobs and work environments[.]” Hull, *Chicago*, *supra* note 59, at 689. In noting that most studies showed no differences in job satisfaction among men and women, Hull specifically referenced *Michigan*, *New Mexico*, and HAGAN & KAY I. *Id.* See discussion *supra* notes 15–16, 34, 45–48, and accompanying text.

61. Hull, *Chicago*, *supra* note 59, at 691 (“Women are less satisfied than men with their level of responsibility, recognition for their work, chances for advancement, policies of their organization, salary, and control over amount and manner of work. Women are more satisfied than men with their relationships with work colleagues.”). With respect to the other four specific measures of satisfaction, the differences in mean scores between men and women were not statistically significant. *Id.* at tbl.1.

TABLE 1 – SUMMARY OF SURVEY DATA REGARDING LAWYER SATISFACTION 1984–1995 (PUBLISHED THROUGH 1999)

Percent “Satisfied” to “Very Satisfied” (# of respondents)	Year, Location (Range)	Source (Year Published)
82% (1056)	1981–1984, Michigan (five years)	Chambers Michigan (1989)
81% (2282)	1984, National (two decades)	1984 ABA YLD Survey (1984)
80% (1051)	1985, Toronto (three decades)	Hagan and Kay I (1995)
67% (207)	1985, National (two years)	Class of 1983 (1989)
93% (503)	1987, Minnesota Schools (two years to twelve years)	Minnesota (1990)
89% (500 (est.))	1988, Maryland (three decades)	Maryland (1988)
73% (602)	1988–1989, New Mexico (three years to thirteen years)	New Mexico (1991)
91% (418)	1989, National (three decades, multigenerational lawyers)	Wasby and Daly (1994)
79% (1018)	1990, National (three decades)	Nat’l L. J. (1990)
76% (2189)	1990, National (two decades)	1990 ABA YLD Survey (1990)
79% (815)	1991, Toronto (three decades)	Hagan and Kay I (1995)
81% (2570)	1991, North Carolina (three decades)	North Carolina 1991 (1991)
82% (402)	1994, New York (three decades)	New York Law Journal (1994)
84% (675)	1995, Chicago (three decades)	Heinz Chicago (1999)
77% (696)	1995, National (two decades)	1990 ABA YLD Survey (1995)
76% (2352)	1992–1996, Michigan (five-years and fifteen-years)	Michigan 1999 (1999)
Average – 80.5% (17333 Total)		

Thus, the average score of the sixteen surveys that reported data using percentages of respondents who were “satisfied to very satisfied” shows that 80.5% of attorneys were either “satisfied,” “somewhat satisfied,” “quite

satisfied,” or “very satisfied” with their jobs.<sup>62</sup> Notably, seven of the sixteen surveys reported results within two percentage points of the average.<sup>63</sup> These results suggest that lawyers, by and large, are satisfied with their jobs and careers in the law.<sup>64</sup>

Nonetheless, the anecdotal evidence during this period—along with other survey data that lacked random samples and high response rates—suggested that lawyers were a fairly dissatisfied lot. For example, in her 1995 article in the *Los Angeles Times* entitled *Miserable with the Legal Life*, Maureen Dolan did not refer to any of the studies referenced in Table 1.<sup>65</sup> Instead, she relied on personal stories of dissatisfaction with careers in the law and punctuated the article with references to four studies, two of which were from California, and suggested lawyers are both pessimistic about the law and dissatisfied with their careers.<sup>66</sup>

62. If one takes a weighted average based on the number of respondents participating in each survey, then 79.85% of respondents (13841/17333) were satisfied.

63. Only the *Maryland, Minnesota*, Wasby & Daly, and Heinz, *Chicago* results (89, 93, 91, and 84%, respectively) were more than two points above the average. Only the *Class of 1983*, *New Mexico*, 1990 ABA YLD SURVEY, 1995 ABA YLD SURVEY, and *Michigan 1999* results (67, 73, 76, 77, and 76%, respectively) were more than two points below the average. Three of the five surveys more than two points below the average consisted exclusively of lawyers with 15 years of experience or less (*Class of 1983*, *New Mexico*, and *Michigan 1999*). If one were to segregate the eight surveys covering attorneys with up to or more than three decades of experience from the eight surveys covering attorneys with two decades or less of experience, the average degree of satisfaction would be 83% for the three decade group and 78% for the group covering two decades or less (again demonstrating the greater degree of satisfaction among those lawyers with greater experience).

64. The caveat to this conclusion is that job satisfaction data across multiple occupations suggests that on average, six out of seven employees are satisfied, or roughly 84%. See Glenn Firebaugh & Brian Harley, *Trends in Job Satisfaction in the United States by Race, Gender, and Type of Occupation*, 5 RES. SOC. WORK 87, 87 (1995), cited in Heinz, *supra* note 55, at 736 n.11. So comparing lawyers relatively to other occupations, it would appear that lawyers are slightly less satisfied than those engaged in many other occupations given that the reported level of satisfaction among lawyers is a few percentage points below the average for all occupations.

65. Dolan, *supra* note 3.

66. *Id.* The other two studies Dolan referenced were the Eaton study on depression across occupations and NORTH CAROLINA 1991, discussed *supra* notes 33, 35–36, and accompanying text. The two California studies were a 1994 RAND survey of California lawyers, discussed in Nancy McCarthy, *Pessimism for the Future: Given a Second Chance, Half of the State's Attorneys Would Not Become Lawyers*, CAL. ST. B.J., Nov. 1994, at 1, and a 1992 California Lawyer survey reported in *It's Become a Miserable Profession*, CAL. LAW., Mar. 1992, at 96. With respect to the 1992 California Lawyer survey, Professor Patrick Schiltz described it as follows:

In an unscientific survey of the California bar (the survey reflected the views of only those who chose to fax in a response to questions published in California Lawyer magazine), only 40% of attorneys reported being even “(r)easonably” satisfied with their careers; 36% reported being “(s)o unhappy I’d change careers,” 16% “(u)nhappy but inert,” and 8% “(i)ndifferent.” . . . The respondents were almost certainly not representative of the entire California bar.

Schiltz, *supra* note 3, at 882 n.70. Kathleen Hull noted:

Because this [California Lawyer] survey does not use a random sample of lawyers, but instead relies on the voluntary participation of the magazine’s readership, it is highly unlikely to provide a representative picture of the target population. Selection bias occurs in at least two ways: first, the readers of this magazine may not be representative of all California lawyers, and second (and more important), lawyers with an ax to grind

B. *Weighing the Evidence and Making a Case—The Schiltz and Hull Presentations on Lawyer Satisfaction/Dissatisfaction in the Vanderbilt Law Review Symposium*

Later in 1999, the Vanderbilt Law Review held a symposium entitled *Attorney Well-Being in Large Firms: Choices Facing Young Lawyers*. This symposium featured opposing presentations by Professor Patrick Schiltz and social scientist Kathleen Hull regarding the existing literature on lawyer satisfaction/dissatisfaction. Professor Schiltz wrote *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*,<sup>67</sup> whereas Kathleen Hull wrote *Cross-Examining the Myth of Lawyers' Misery*.<sup>68</sup>

In his article, Schiltz focused on both the mental health of lawyers and their job satisfaction. He spent several pages citing much of the literature referenced above that addressed issues of depression and alcoholism among attorneys.<sup>69</sup> Schiltz then outlined the literature on unhappiness among law-

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may be much more likely to participate in a poll about job satisfaction. The magazine does not even report the total number of respondents to the poll, further diminishing its value as a measure of the attitudes of its target population.

Hull, *Myth*, *supra* note 3, at 972.

Books such as Mary Ann Glendon's *A Nation Under Lawyers* also presented lawyers in the 1980s and 1990s as increasingly dissatisfied with the practice of law without considering the full array of empirical data. Mary Ann Glendon, *A NATION UNDER LAWYERS* (1994). Glendon leads one chapter with the California survey data discussed here. *Id.* at 85. Glendon also cites the 1984 ABA YLD Survey and the 1990 ABA YLD Survey to highlight the decrease in the number of attorneys who are "very satisfied." *Id.* at 87. However, she does not reference any of the other survey data showing a more positive picture, such as *Stanford*, *Chambers*, *Michigan*, or *Minnesota*. See *supra* notes 12, 13, 15, and 17. Moreover, while she references the *Maryland* and *NORTH CAROLINA* surveys, she does not mention that they found 89% and 81% satisfaction among respondents, respectively, but mentions that nearly a third of the *Maryland* respondents were not sure they wanted to continue practicing law and nearly a quarter of the *NORTH CAROLINA* respondents would not become attorneys again. Glendon, *supra*, at 85.

67. Schiltz, *supra* note 3.

68. Hull, *Myth*, *supra* note 3. Hull's article was one of several responses to Schiltz's presentation and article. The others were Marc S. Galanter & Thomas M. Palay, *It's the Tournament, Not the Money*, 52 VAND. L. REV. 953 (1999); Michael Kelly, *Thinking About the Business of Practicing Law*, 52 VAND. L. REV. 985 (1999); Howard Lesnick, *Speaking Truth to Powerlessness*, 52 VAND. L. REV. 995 (1999); Mary S. McLaughlin, *Beyond the Caricature: The Benefits and Challenges of Large-Firm Practice*, 52 VAND. L. REV. 1003 (1999); Stephen L. Pepper, *Resisting the Current*, 52 VAND. L. REV. 1015 (1999); Michael Traynor, *The Pursuit of Happiness*, 52 VAND. L. REV. 1025 (1999). Among these, only two touched on the evidence regarding lawyer satisfaction/dissatisfaction. Galanter and Palay noted "mild skepticism about the underlying premise" of lawyer unhappiness and noted that "the evidence on career satisfaction is mixed" and "far from conclusive." Galanter & Palay, *supra*, at 954–55. Kelly wanted to see evaluative comparisons of relative satisfaction between lawyers and those in other professions. Kelly, *supra*.

69. Schiltz, *supra* note 3, at 874–81. Schiltz cites to Benjamin I. Eaton, *NORTH CAROLINA* 1991, and Beck for information regarding elevated levels of depression, anxiety, suicidal ideation, and other mental illness among attorneys. See *supra* notes 31, 33, 35, 49, and accompanying text, respectively. He then cites Benjamin I. *NORTH CAROLINA* 1991, and Beck for information regarding elevated levels of alcoholism among attorneys, and how divorce and lack of exercise as factors impact attorneys. See *supra* notes 31, 35, 49, and accompanying text, respectively.



yers, again citing some of the above research.<sup>70</sup> In addition, Schiltz focused on data from the University of Michigan surveys of its law graduates that showed declines in levels of satisfaction among attorneys in private practice.<sup>71</sup> Much of his emphasis, however, was on the 1984 ABA YLD Survey and the 1990 ABA YLD Survey. He noted:

Taken together, the surveys show a substantial decline in the job satisfaction of attorneys. In 1984, 41% of lawyers said that they were “very satisfied” with their jobs; in 1990, only 33% of all lawyers surveyed were “very satisfied,” a decline of one-fifth in just six years. At the same time, the number of lawyers who were “very dissatisfied” with their jobs rose from 3% in 1984 to 5% in 1990.<sup>72</sup>

Schiltz did recognize some conflicting data, noting that the Minnesota, Hagan and Kay I, and New York Law Journal studies generally found that lawyers had high levels of career satisfaction.<sup>73</sup> Schiltz also discussed the Heinz Chicago survey data that likewise showed lawyers to be relatively

70. Schiltz, *supra* note 3, at 881–82 (citing Margolick, NORTH CAROLINA 1991, and the RAND Survey and California survey referenced in Dolan). See *supra* notes 3, 35, 66, and accompanying text.

71. Schiltz, *supra* note 3, at 882.

For example, the percentage of graduates working as solo practitioners or in firms of fifty or fewer lawyers who were “quite satisfied” with their careers five years after graduation fell from 45% for members of the classes of 1976 and 1977 (and from a high of 52% for members of the classes of 1980 and 1981) to 37% for members of the classes of 1990 and 1991. The percentage of graduates working in firms of fifty-one or more lawyers who were “quite satisfied” with their careers fell from 53% for members of the classes of 1976 and 1977 (and from a high of 54% for the classes of 1978 and 1979) to 30% for members of the classes of 1990 and 1991. In the rather understated words of the Michigan Law School survey, “this picture is gloomy.”

*Id.* This passage cites unpublished reports that David L. Chambers generously made available to Professor Schiltz. The University of Michigan Law School, The University of Michigan Law School: A Report on the Class of 1991 Five Years After Graduation 1 (1996) (unpublished report, on file with [Professor Schiltz]) [hereinafter Unpublished Michigan].

72. Schiltz, *supra* note 3, at 883 (citing 1990 ABA YLD SURVEY, *supra* note 3, at 52 tbl.66). Schiltz further noted:

The decrease in job satisfaction was even more dramatic among those lawyers who were surveyed in both 1984 and 1990. As noted, 40% of them had been “very satisfied” and 3% “very dissatisfied” in 1984. Just six years later, only 29% of these same lawyers (that is, the lawyers who were questioned in both 1984 and 1990) were “very satisfied,” and the number who were “very dissatisfied” had risen to 8%. As the study recognized, the sharp rise in job dissatisfaction among the lawyers who were surveyed in both 1984 and 1990 was particularly disturbing, given that these lawyers were “further along in their careers(.) . . better placed, and earning more money in 1990 than they were in 1984.”

Schiltz, *supra* note 3, at 884 (citing 1990 ABA YLD SURVEY, *supra* note 3, at 53 tbl.68). Schiltz also discussed the 1995 ABA YLD Survey, which focused on career satisfaction of young lawyers, noting that 27% were “somewhat” or “very” dissatisfied. *Id.* (citing 1995 ABA YLD SURVEY, *supra* note 43, at 13 tbl.13).

73. Schiltz, *supra* note 3, at 884–85 (citing *Minnesota*, HAGAN & KAY I, and Heinz, *Chicago*). See *supra* notes 11, 45, 55, and accompanying text. Notably, Schiltz did not cite *Stanford*, Chambers, *Michigan, Class of 1983*, or Fisk. See *supra* notes 7, 9, 10, 18, and accompanying text.

satisfied with their careers.<sup>74</sup> More significantly, Schiltz recognized that general data about lawyer satisfaction or dissatisfaction is somewhat hard to evaluate because it fails to acknowledge different levels of satisfaction within different populations of lawyers.<sup>75</sup> Schiltz specifically noted what was being consistently acknowledged across surveys: lawyers in large law firms, attorneys, and partners alike, tend to be less satisfied than other lawyers.<sup>76</sup>

In her symposium presentation and article, Kathleen Hull took issue with this conventional wisdom about dissatisfied lawyers and critiqued Schiltz's conclusions regarding levels of lawyer dissatisfaction.<sup>77</sup> First, Hull noted that Schiltz cited trade journal surveys to highlight lawyer dissatisfaction.<sup>78</sup> Hull critiqued the quality of the data generated in trade journal surveys because they rely on voluntary participation, making it unlikely that respondents were a representative sample.<sup>79</sup> While Hull acknowledged that Schiltz also referenced surveys that were sent to random samples of lawyers in an effort to be representative, she noted that some of those surveys suf-

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74. Schiltz, *supra* note 3, at 885. Schiltz cited the statistical results from the Heinz, *Chicago* survey and noted that “[t]he authors of the Chicago study acknowledged that their findings were ‘at variance with much of the common prattle and with some of the academic speculation (insofar as one can distinguish those),’” but further noted that the authors did not make a concerted effort to explain the variance. *Id.* (quoting Heinz, *Chicago, supra* note 55, at 757). Schiltz spent some time in a footnote trying to explain some of the potential reasons for variances in the different survey results. Schiltz noted that

[a]ll surveys run a strong risk of response bias, although, with respect to career satisfaction surveys, it is difficult to know how that bias would cut. Perhaps those who are least satisfied with their careers would be more likely to respond to a survey, as they would feel the need to let off steam. Or perhaps those least likely to respond to such a survey would be “those who feel so beleaguered by their work and other responsibilities that they do not have time to respond.”

*Id.* at 885 n.98 (quoting Chambers, *Michigan, supra* note 9, at 261 n.47). In this regard, those surveys with random samples and larger response rates might be understood to present more reliable data. Schiltz also noted that survey responses might be “biased toward the positive side of the scale by the respondents’ desire to present themselves as successful persons,” and speculated that this might be exacerbated in the context of the face-to-face interviews used in the Chicago study. *Id.* (quoting Heinz, *Chicago, supra* note 55, at 750). Schiltz further noted that the surveys presented questions in inconsistent ways, with some focused on job satisfaction and others on career satisfaction; with some using a four-point scale, others a five-point scale, and still others a seven-point scale. *Id.* In addition, Schiltz noted that “the surveys focus on different populations. Some study the lawyers of a single city or state, some study the graduates of a single law school, and some study lawyers at a single point in their careers.” *Id.*

75. *Id.* at 886.

76. *Id.* (citing Heinz, *Chicago, supra* note 55, at 745; Unpublished Michigan, *supra* note 71; TASK FORCE ON PROF. FULFILLMENT, BOSTON B. ASS’N, EXPECTATIONS, REALITY AND RECOMMENDATIONS FOR CHANGE 2 (1997)). One irony of Schiltz’s article is that although he takes time to disaggregate results for different populations of lawyers in his narrative, his title suggests that the entire profession is equally unhappy and unhealthy.

77. Hull, *Myth, supra* note 3, at 971–77.

78. *Id.* at 971–72 (citing *It’s Become a Miserable Profession*, CAL. LAW., Mar. 1992, at 96, cited in Schiltz, *supra* note 3, at 881–82).

79. *Id.*

ferred from very low response rates.<sup>80</sup> Hull also pointed out that Schiltz relegated to a footnote those surveys with more reliable data (such as the Minnesota and Toronto surveys featuring random, representative samples and high response rates) that illustrated higher levels of satisfaction among lawyers.<sup>81</sup> Hull then discussed extensively the 1995 Chicago survey, which consisted of a large, randomly drawn sample of a representative set of lawyers with a high response rate.<sup>82</sup> The Heinz Chicago survey data indicated that 84% of lawyers were “satisfied” or “very satisfied” with their current jobs.<sup>83</sup> Hull further criticized Schiltz for blending together conceptually distinct findings, some of which are, at best, uncertain and indirect indicators of satisfaction.<sup>84</sup>

Second, Hull noted that the data is subject to different interpretations—while Schiltz looked at the 1984 ABA YLD Survey and the 1990 ABA YLD Survey and concluded that satisfaction was declining,<sup>85</sup> Hull noted that “[t]hese figures hardly suggest job dissatisfaction of crisis proportions in the law.”<sup>86</sup> Hull specifically questioned Schiltz’s conclusion that the data showed meaningful declines in satisfaction for lawyers, asserting that the changes between the 1984 ABA YLD Survey and the 1990 ABA YLD Survey were not as dramatic as Schiltz suggested, noting that not all of the people shifting out of the “very satisfied” category fell into one of the dissatisfied categories.<sup>87</sup> Moreover, Hull suggested that the short-term

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80. *Id.* at 972 (citing Fisk, *supra* note 18, at S2 (11% response rate), and Chris Klein, *Big-Firm Partners: Profession Sinking*, NAT’L L.J., May 26, 1997, at A1 (13% response rate)).

81. *Id.* at 973 (citing *Minnesota*, *supra* note 11, HAGAN & KAY I, *supra* note 45, and noting that they are relegated to a footnote in Schiltz’s article, *supra* note 3, at 884 n.92).

82. *Id.* at 974 (citing Heinz, *Chicago*, *supra* note 55).

83. *Id.*

84. *Id.* at 974–75 (noting that whether lawyers “hope to be in the same job at some future point in time, or asking them whether they would choose the same occupation if they had it to do over again, produces only indirect evidence at best regarding satisfaction with their current situation”). While a number of surveys look at data regarding anticipated change in jobs as a possible proxy for dissatisfaction, see, e.g., AFTER THE JD, *supra* note 3, I have chosen to largely disregard this data set for several reasons. First, given that recent graduates generally enter the legal market on the “ground floor,” it should not be surprising that a significant percentage of them might be considering a different or “better” job opportunity in the next couple of years. This appears to be reflected in *Minnesota*, *supra* note 11, at 74 (noting a significant increase between 1975 and 1985 in percentage of law graduates not expecting to stay in first job) and in AFTER THE JD II, *supra* note 23, at 54–60, which shows significant job mobility while continuing to manifest relatively high levels of satisfaction. This is particularly true for those whose positions might be understood to be “short term,” such as associates in large law firms with a significant leverage structure in which few can expect to win “the tournament” and make partner. Many associates may change jobs because of the uncertainty of their long-term tenure at the law firm without inherent dissatisfaction in the position. See MARC GALANTER & THOMAS PALAY, TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM 99–102 (1991); Marc Galanter & William D. Henderson, *The Elastic Tournament: The Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867, 1893–98 (2008).

85. Hull, *Myth*, *supra* note 3, at 972 (citing 1990 ABA YLD SURVEY, *supra* note 3).

86. *Id.* at 973.

87. *Id.* at 975.

downward trend in satisfaction levels might simply reflect changing economic circumstances between 1984 and 1990.<sup>88</sup> Hull also contrasted the 1984 ABA YLD Survey data and the 1990 ABA YLD Survey data with the Hagan and Kay I data, which showed little change in satisfaction between 1985 and 1991.<sup>89</sup>

Third, Hull critiqued Schiltz's assertion that the subpopulation of big firm lawyers was particularly prone to dissatisfaction. While Schiltz focused on the fact that lawyers in big firms had the lowest percentage of attorneys who were "very satisfied" in the Chicago study, Hull took a different view of the Chicago study and emphasized that big firm lawyers had the highest percentage of attorneys who were "satisfied" and the lowest percentage of attorneys who were "very dissatisfied."<sup>90</sup>

For reasons that will be discussed in greater detail later in this article, I think a fair assessment of the Schiltz-Hull presentations is that, given that

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88. *Id.* at 975–76. Hull contrasted the growth in total receipts for legal services between 1982 and 1987 (growth of 13.2% annually) and between 1987 and 1992 (growth of 4.5% annually) to suggest that the satisfaction data may simply reflect the ebbs and flows of the legal services economy. *Id.* at 976 nn.27–28 (comparing BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, PUB. NO. SC82-I-5, 1982 CENSUS OF SERVICE INDUSTRIES: MISCELLANEOUS SUBJECTS 5–108 (1985), with BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, PUB. NO. SC87-S-4, 1987 CENSUS OF SERVICE INDUSTRIES: MISCELLANEOUS SUBJECTS 4–225 (1991), with BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, PUB. NO. SC92-S-4, 1992 CENSUS OF SERVICE INDUSTRIES: SOURCES OF RECEIPTS OR REVENUE 4–443 tbl.49 (1996)). She further suggested that this economic reality also could explain the shifts in the University of Michigan data. *Id.* at 976.

89. *Id.* at 977 (citing HAGAN & KAY I, *supra* note 45, at 169).

90. *Id.* at 978–79. Hull specifically noted that there "is no significant correlation in the Chicago data between organization size (number of lawyers) and job satisfaction, either for all practicing lawyers ( $r=.004$ ,  $p=.93$ ) or for lawyers in law firms ( $r=.029$ ,  $p=.56$ )." *Id.*

In his Reply to the various commenters referenced *supra* note 68, Schiltz took issue with Hull on a few points. Patrick J. Schiltz, *Reply*, 52 VAND. L. REV. 1033 (1999). First, in acknowledging Hull's disagreement, Schiltz started by simply noting the paucity of evidence regarding lawyer satisfaction/dissatisfaction generally, the lack of data separately assessing satisfaction among big firm attorneys, *id.* at 1046 (citing Galanter & Palay, *supra* note 68, at 954), and the lack of comparative data regarding attorneys and other professionals. *Id.* (citing Kelly, *supra* note 68, at 986). Schiltz then noted that he agreed with Hull regarding the unreliability of some data sets, discussed *supra* note 66, but believed the 1984 ABA YLD SURVEY, the 1990 ABA YLD SURVEY and the Michigan data set to which he had access did represent robust empirical surveys that showed lawyers were becoming more dissatisfied with their professional lives. *Id.* at 1047. He found that part of their difference in assessment of the data came from differing points of emphasis. *Id.* Schiltz also acknowledged that some of his argument was grounded on indirect evidence of dissatisfaction, *id.* at 1048, and that he had acknowledged in a long footnote some of the possible issues with the surveys on which he relied. *Id.* (discussed *supra* note 74). In his concluding comments regarding Hull, if simply noted: "[I]f Hull is right—if lawyers are not particularly dissatisfied, and if lawyers have not grown less satisfied over time—then an astonishing number of thoughtful observers of the legal profession are wrong." *Id.* at 1049 (citing, for example, Glendon, *supra* note 66; ANTHONY T. KRONMAN, THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION (1993); and others). In making this assertion, however, Schiltz did not consider whether Glendon, Kronman, and others were perhaps also relying on a data set that Schiltz himself summed up as representing a "paucity" of evidence. *See, e.g., supra* note 66 (discussing critically the evidentiary foundation underlying Glendon's discussion of lawyer dissatisfaction, which is less robust than what Schiltz discussed in his article).

they were working with a less robust set of survey data than has been gathered for this article, both spoke the truth as they saw it and described accurately the data on which they were basing their perceptions of lawyer satisfaction-dissatisfaction. Judging by citation count, however, the Schiltz article came to represent more of the “conventional wisdom” or the “accepted truth” about the dissatisfaction of lawyers—particularly big-firm lawyers—that was already manifest in the media in the 1990s and has held sway for the last decade.<sup>91</sup>

C. *Chronological Overview of Lawyer Satisfaction Research: The Last Decade, 2000–2010*

In the decade following the publication of the Schiltz and Hull articles, the “lawyer dissatisfaction” theme reflected in the title of the Schiltz article has become the “conventional wisdom,” while an array of empirical studies have continued to, largely, contradict this conventional wisdom.

In a survey of members of the Minnesota bar conducted in 1997–98, 74.7% of the 1038 respondents “generally agree[d] with the statement ‘I am satisfied with the practice of law as a meaningful part of my life.’”<sup>92</sup> The responses showed no “statistically significant gender difference in overall satisfaction” with 72.3% of women and 75.3% of men agreeing with the statement.<sup>93</sup> The responses did show a significant difference across years in practice with 86.1 percent of those in practice for 31+ years agreeing with the statement while only 67.7 percent of those in practice 0–10 years agreed with the statement.<sup>94</sup>

In 2000, Professor Susan Fortney published results from a 1999 survey of 883 randomly selected associates in Texas who had practiced law for ten years or less in private law firms with at least ten attorneys.<sup>95</sup> The survey

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91. As of early December 2010, the Schiltz article had been cited 259 times in articles available in the Westlaw database, while the Hull article had been cited only 26 times. Email from Kevin Schaeckel, Research Assistant, Univ. of St. Thomas School of Law, December 12, 2010 (on file with author).

92. John Sonsteng and David Camarotto, *Minnesota Lawyers Evaluate Law Schools, Training and Job Satisfaction*, 26 WM. MITCH. L. REV. 327, 418 (2000). The survey was mailed to a stratified random sample of 1397 attorneys in a database maintained by the Minnesota State Bar Association along with 380 graduates from the William Mitchell College of Law who had taken Professor John Sonsteng’s Legal Practicum course. There were 1038 responses, reflecting an overall response rate of 58.3 percent. *Id.* at 450–51. The survey featured a seven-point scale with 1 being strongly disagree and seven being strongly agree. Those agreeing with the statement reflect those who scored a five or higher on the seven-point scale. *Id.* at 428–29.

93. *Id.* at 418.

94. *Id.* at 428–29. In comparison with the earlier Minnesota data from the late 1980s, *supra* note 11, this shows a marked decline in satisfaction. To the extent that Schiltz was writing from his practice experience at a large law firm in the Twin Cities, he may have sensed anecdotally what is reflected in this statistical comparison—a decreasing level of satisfaction among Minnesota lawyers between 1987 and 1997.

95. Susan Saab Fortney, *Soul for Sale: An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements*, 69 UMKC L. REV. 239, 243–46

indicated that 79% of associates were “very satisfied” or “somewhat satisfied” with their jobs.<sup>96</sup> Professor Fortney noted that the survey results appeared to conflict with popular reports and anecdotal information of widespread associate dissatisfaction and low morale, although she acknowledged that “individual respondents may be engaging in a form of denial if they are indeed dissatisfied with their work but refuse to admit it to themselves or others.”<sup>97</sup>

Professor Fortney’s survey also asked about stress associated with billable hour demands. She found that 66% of respondents believed billable hour pressure had taken a toll on their personal lives.<sup>98</sup> In what might be considered a related point, she noted that 51% of respondents either “strongly agreed” or “somewhat agreed” with the statement, “I feel stressed and fatigued most of the time.”<sup>99</sup> These data points focusing on stress associated with billable hour requirements might support Fortney’s suggestion that the associate satisfaction data might be misleading because respondents are engaging in a form of denial.<sup>100</sup> If a majority of associates feel “stressed and fatigued most of the time,” perhaps some of the 79% who indicated that they are “very satisfied” or “somewhat satisfied” with their jobs are not being completely honest with themselves.

The ABA YLD published another survey in 2000.<sup>101</sup> This data showed that the respondents were more satisfied with both their current positions

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(2000). The overall response rate was 55.2%, with 487 recipients returning the completed questionnaire. *Id.* at 244.

96. *Id.* at 267.

97. *Id.* at 268. In acknowledging that “the survey responses may not accurately reflect . . . satisfaction levels,” Professor Fortney referenced the challenges of self-reporting errors and impression management. “The term ‘impression management’ describes ‘the behavior of attempting to manipulate others’ impressions’ through ‘the selective exposure of some information (it may be false information) . . . coupled with suppression of other information.’” *Id.* at 259 n.122 (quoting RONALD JAY COHEN & MARK E. SWERDLIK, *PSYCHOLOGICAL TESTING AND ASSESSMENT: AN INTRODUCTION TO TESTS AND ASSESSMENT* 389 (4th ed. 1999)). Professor Fortney also noted the possibility, however, “that reports of associate dissatisfaction are exaggerated.” *Id.* at 268. Finally, Professor Fortney acknowledged that “the most obvious explanation for the reported high levels of satisfaction relates to the high salaries that large firm associates are currently receiving. . . . In the 1999–2000 Associate Survey, no respondent making \$125,000 or more checked that he or she was ‘very dissatisfied.’” *Id.*

98. *Id.* at 271.

99. *Id.* at 273.

100. *See supra* note 97 and accompanying text.

101. *See* 2000 ABA YLD SURVEY, *supra* note 43. This survey was sent to a randomly selected set of 2136 members of the Young Lawyers Division of the American Bar Association and 842 responses were received for a response rate of 40.9%. *Id.* at 2. For purposes of the assessment of lawyer satisfaction, there were 809 usable responses. Of these, 72% were in private practice and over half of the respondents had been in practice for fewer than five years. *Id.* at 3, 5. Those in private practice were relatively evenly distributed across firm size, with categories represented by 1–4, 5–15, 16–50, 51–200, and 200 or more attorneys. In comparison with respondents in 1995, however, there were a larger percentage of respondents in larger firms. *Id.* at 9.

and the practice of law than the 1995 study respondents.<sup>102</sup> Specifically, attorneys who were “very satisfied” or “somewhat satisfied” with their jobs increased from 77.2% to 80.3%, and attorneys who were “very satisfied” or “somewhat satisfied” with the practice of law generally increased from 72.4% to 75.1%.<sup>103</sup>

In 2000, Michigan published survey results that focused on the professional experiences of its racial minority graduates.<sup>104</sup> The survey inquired into graduates’ overall satisfaction and found that graduates were generally satisfied with their careers.<sup>105</sup> Graduates from the 1970s were the most satisfied (79.2% of minority alumni and 81.8% of white alumni), while graduates from the 1990s were the least satisfied (71.2% of minority alumni and 76.4% of white alumni).<sup>106</sup> Respondents’ overall level of satisfaction was

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102. *Id.* at 17–18 tbl.14. In both cases, the responses were on a four-point scale with responses ranging from “very satisfied” to “somewhat satisfied” to “somewhat dissatisfied” to “very dissatisfied.”

103. *Id.*

104. See Richard O. Lempert et al., *Michigan’s Minority Graduates in Practice: The River Runs Through Law School*, 25 LAW & SOC. INQUIRY 395 (2000) [hereinafter *Michigan Minority*]. The Professional Development Survey was conducted in late 1997 and early 1998 and involved mailing a seven-page questionnaire to 2144 individuals who graduated from Michigan Law School during 1970–1996. All minority graduates and a sample of white graduates received the questionnaire. The response rate for minority graduates was 51.4%, compared with 61.9% for white graduates. *Id.* at 402–03. Minority graduates included Native Americans, Latinos, and Blacks. Asian graduates had a response rate of 59.1%. In all, there were 1212 respondents. The response rates were most disparate among oldest graduates and least disparate among more recent graduates. *Id.* at 404 tbl.2. The authors went through an extensive analysis of possible non-response bias and concluded that their data provided “little reason to believe that this response rate difference greatly affects comparisons between the two groups.” *Id.* at 407.

105. *Id.* at 445 tbl.21.

106. *Id.* The percentages reflected those respondents answering “5, 6, or 7 on a scale, where 1 is ‘very dissatisfied’ and 7 is ‘very satisfied,’ when asked how satisfied they were with their careers overall.” *Id.* With respect to graduates from the 1980s, 75.5% of minority alumni were satisfied while 79.4% of white alumni were satisfied. *Id.* Generally speaking, attorneys in government or business were more satisfied than attorneys in private practice, except that minority graduates from the 1970s who were in business were not as satisfied as their peers in private practice. *Id.* When the authors conducted regression analyses, the only factors of significance were time since graduation and job sector. Those who were out longer were more satisfied and those in government, legal services/public interest and education were “significantly more satisfied than those working in the private practice of law even though . . . they have significantly lower incomes,” while those in business/finance did not differ significantly in satisfaction from those in private practice. *Id.* at 485. But the authors further noted that time since graduation was mostly a proxy for income, suggesting that

[h]igh earnings figure importantly in career satisfaction, but that those in the highest earning career sectors are less satisfied than those in careers that are on the average much less remunerative than the private practice of law. Thus, it appears that within job sectors, income is important to satisfaction, but across sectors job characteristics other than income, like sense of balance between family and professional life, are more important than earnings to career satisfaction.

*Id.* at 486 n.60.

77.5%.<sup>107</sup>

In 2001, Martin Seligman and his coauthors published their article *Why Lawyers are Unhappy*.<sup>108</sup> The article did not present any new empirical data on lawyer satisfaction, but was written in response to a report of the New York City Bar Association describing the low quality of life and “unhappiness” of young associates in New York law firms.<sup>109</sup> The article gave voice to the “conventional wisdom”—“The unhappiness and discontent of lawyers is well documented”—and offered suggestions for how to improve quality of life for young associates.<sup>110</sup>

In 2001, the nonprofit organization, Catalyst,<sup>111</sup> published a report of its April 2000 survey of 6300 law school graduates.<sup>112</sup> The report noted that “[t]hree out of four men and women law graduates, regardless of race, report being satisfied with the value of their law degree over the course of their careers.”<sup>113</sup>

In 2002, Lawrence Richard published an article that described the relationship between lawyer personality type (using the Myers-Briggs Type In-

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107. *Id.* at 445 tbl.21. The overall level of satisfaction was calculated by taking the percentage of respondents in each category divided by the total number of respondents. The resulting percentage was then multiplied by the percentage listed as being satisfied. The results were then summed.

108. Martin E.P. Seligman et al., *Why Lawyers are Unhappy*, 23 CARDOZO L. REV. 33 (2001).

109. *Id.* at 33 (citing the Task Force on Lawyers' Quality of Life, *Report of the Task Force on Lawyers' Quality of Life*, 55 REC. ASS'N B.N.Y.C. 755, 756 (2000)).

110. *Id.* at 34. Notably, while one of the two primary sources cited to “document” the unhappiness and discontent of lawyers was the Schiltz article, the other was the Heinz, *Chicago* article. Recall that the Heinz, *Chicago* article showed relatively high levels of attorney satisfaction—with 84% of the Chicago lawyers surveyed indicating that they are “satisfied” or “very satisfied.” See *supra* note 55 and accompanying text. The Seligman article thus presents a “perspective” problem in that it looks at Heinz, *Chicago*'s 84% satisfaction as being relatively low (while it is actually well above the overall average reflected in Table 1). Like the title of the Schiltz article, the title of the Seligman article overstates things a little bit. While focused on the experience of young associates in large firms in New York, the title describes all lawyers generally as being unhappy.

111. Catalyst is a nonprofit research and advisory group that works to advance women in business and the professions. CATALYST, <http://www.catalyst.org/> (last visited May 16, 2011).

112. CATALYST, WOMEN IN LAW: MAKING THE CASE 10 (2001). The five law schools whose graduates participated in the survey included Columbia Law School, Harvard Law School, University of California Berkeley Law School, University of Michigan Law School, and Yale Law School. Graduates were divided into three, ten-year cohorts covering 1970 through 1999, and participants were randomly selected within each cohort and across the five schools, with 1260 graduates of each school (an equal number of men and women) being invited to participate in the survey. *Id.* There were 1439 respondents, for a response rate of 24%. *Id.* Notably, 64% of the respondents were women and 36% were men, with 27% from the 1970s cohort, 36% from the 1980s cohort, and 37% from the 1990s cohort. *Id.* at 11–12.

113. *Id.* at 14. The report also noted that 68% of white men and 62% of white women were “extremely satisfied” or “very satisfied” with their current employer, although only 46% of women of color were extremely or very satisfied with their current employer. *Id.* at 14–15. Because the report only referenced these statistics without describing in more detail the breakdown of respondents, it is hard to get a more accurate basis for comparing these results with the results from other surveys. Among those in private practice, the survey showed that 51% of women associates were satisfied with their jobs compared with 68% of men associates and 64% and 68% of women and men partners, respectively. *Id.* at 29.



dicator (MBTI)) and career satisfaction.<sup>114</sup> As noted at the beginning of this article, Richard is one of the authors who embraced the “conventional wisdom” regarding lawyer dissatisfaction.<sup>115</sup> Using the Hoppock Job Satisfaction Blank,<sup>116</sup> 72.6% were satisfied with their jobs (i.e., they reported job satisfaction scores above the midpoint of the scale).<sup>117</sup> Notably, “[m]ale responders in the sample had nearly identical mean job satisfaction scores as female responders.”<sup>118</sup> In addition, attorneys in private practice were less satisfied than attorneys in government, corporate counsel/legal department, and legal aid/public defender positions.<sup>119</sup>

Following up on North Carolina 1991, the North Carolina Chief Justice’s Commission on Professionalism conducted a State of the Profession Survey in 2002–2003.<sup>120</sup> This survey found that 76% of respondents were

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114. Richard, *supra* note 1. Richard used a modified version of the Form G Myers-Briggs Type Indicator as part of his survey instrument. *Id.* at 993 n.57. The version included the 94 questions that are generally used in scoring a person’s personality type and excluded an additional 32 questions used for research purposes. *Id.* at 997 n.59. For each subject, an “MBTI Type Score” was reported, representing the subject’s combined preferences on the four scales—extraversion/introversion, intuitive/sensing, thinking/feeling, and judging/perceiving. The score was reported based on categorical type preferences for each scale, so someone preferring extraversion, sensing, feeling, and perceiving would be an ESFP. Richard noted that among the sixteen possible type combinations, the three most common types among lawyers responding to his survey were “ISTJ (17.8%), followed by INTJ (13.1%) and ESTJ (10.3%).” *Id.* at 1018.

115. See *supra* note 1 and accompanying text. In making the statement quoted at the beginning of this article, Richard cited none of the articles reporting empirical results with favorable satisfaction data, such as *Stanford, Minnesota*, HAGAN & KAY I, or Heinz, *Chicago*. See *supra* notes 7, 11, 45, 55, and accompanying text. He cited only *Maryland*, ABA REPORT, NORTH CAROLINA 1991, and several newspaper or magazine stories. See *supra* notes 8, 26, 35, and accompanying text.

116. See Richard, *supra* note 1, at 994 n.57. Richard used a modified version of the Hoppock Job Satisfaction Blank, consisting of a four-question battery with each question having a seven-point Likert scale.

117. *Id.* at 1012. The survey, conducted in 1992, was mailed to 3014 practicing attorneys throughout the United States. *Id.* at 1007. Of those attorneys, 1220 responded, for a response rate of 40.5%. *Id.* at 1008. Scores on the Hoppock Job Satisfaction Blank are accumulated and “reported in the form of an integer between four and twenty-eight inclusive, with twenty-eight representing the highest level of job satisfaction and four representing the lowest level.” *Id.* at 1012.

118. *Id.* at 1013.

119. *Id.* at 1058 tbl.15. With respect to the focus of the survey, which was to assess relationships between personality type and job satisfaction, the data showed that those identified as extraverts, thinkers, and judges generally had higher levels of satisfaction than those identified as introverts, feelers, and perceivers. *Id.* at 1040.

120. See Leary Davis & Melvin F. Wright, Jr., *The State of the Legal Profession in North Carolina 1 (2005)* (unpublished manuscript) (on file with author) [hereinafter *North Carolina 2002–03*]. The survey was mailed to “a computer generated sample of 1,000 [sic.] lawyers out of around 16,000 NC State Bar members.” See Email from Leary Davis, Professor of Law, Wiggins School of Law, to Jerome Organ, Professor of Law, Univ. St. Thomas School of Law (Jan. 7, 2011) (on file with author). The survey generated 597 complete responses for a response rate of nearly 60%. *Id.* The “[d]istributions of responders conformed to our census of NC lawyers by occupational and practice settings . . . and made sense demographically in all other ways.” *Id.*

“satisfied” or “very satisfied” with their current job.<sup>121</sup> Moreover, the authors of a written report summarizing the survey results noted that while 18% of respondents were dissatisfied or very dissatisfied in 1991, that number had dropped to 13% as of 2003.<sup>122</sup>

The After the JD project issued its first report in 2004.<sup>123</sup> After the JD reported that 80% of respondents were “moderately satisfied” or “extremely satisfied” with their decision to become a lawyer and reported relatively high levels of satisfaction with their legal practices.<sup>124</sup> The report stated that “there is no evidence in the [After the JD] data of any pervasive unhappiness in the profession.”<sup>125</sup>

After the JD also included a factor analysis of four categories of job satisfaction—Job Setting Satisfaction, Work Substance Satisfaction, Social Value Satisfaction, and Power Track Satisfaction.<sup>126</sup> This factor analysis

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121. See NORTH CAROLINA CHIEF JUSTICE’S COMM’N ON PROFESSIONALISM, STATE OF THE PROFESSION AND QUALITY OF LIFE SURVEY: RANDOM SAMPLE REPORT 6 (2005) [hereinafter NORTH CAROLINA 2005] (on file with author).

122. Davis & Wright, *supra* note 120, at 1. Davis and Wright further noted that there was a decline in the number of lawyers experiencing suicidal ideation at least once a month, from about 11% to less than 5% (although nearly 15% experienced suicidal ideation less often than once a month, a frequency for which no comparison was available from the 1991 survey). *Id.* at 3.

123. DINOVIETZ, *supra* note 3. After the JD is a joint project of the NALP Foundation for Law Career Research and Education and the American Bar Foundation to “track the professional lives of more than 5,000 [sic] lawyers during their first ten years after law school.” *Id.* at 13. To accomplish a representative sample across the country, the researchers divided the nation into eighteen strata by region and size of the new lawyer population and then chose one primary sampling unit for each stratum. In all, the sampling units included the four largest markets for new lawyers, five of the nine large markets and nine smaller markets. The researchers then sampled individuals from each sampling unit at rates designed to generalize to the national population across the complete sample. *Id.* at 89. The project sample totaled 9192 lawyers from across the country who took a bar exam in 2000, including a minority oversample of 1465. *Id.* Given that some lawyers could not be located or did not meet the survey criteria of being a newly admitted lawyer, the actual response rate of lawyers who could be located was 71%, with a total of 4538 usable responses (3905 lawyers in the national sample and 633 lawyers in the minority oversample). *Id.* at 89–90. Notably, the sample of respondents to the survey “closely approximates the distribution of lawyers across firms, government and business employers,” and also produces a close match along gender and racial composition. *Id.* at 90. While the vast majority of respondents were graduates from the class of 2000, a small percentage of the respondents graduated in 1999, and a very small percentage graduated in 1998. *Id.* at 89.

124. *Id.* at 47.

125. *Id.* The report noted that these results were consistent with those reported in a recent study of Chicago lawyers (citing the then forthcoming book authored by Heinz et al., reporting in greater detail the results of the 1994–95 survey of lawyers discussed in Heinz, *Chicago*, *supra* note 55). That said, the report did acknowledge one area in which the After the JD data differed from that in Heinz, *Chicago*. While the Heinz, *Chicago* lawyers study showed that satisfaction was correlated with income, the After the JD study showed that “[t]hose with the highest incomes report relatively less satisfaction with the work they do and the practice settings in which they work than those earning far less from the practice of law.” *Id.*

126. *Id.* The “Job Setting Satisfaction” consists of a composite of ratings “of recognition received at work, relationships with colleagues, control over the work, and job security”; “Work Substance Satisfaction” “reflects the intrinsic interest of the work”; “Social Value Satisfaction” reports the “relationship between work and broader social issues (workplace diversity, opportunities for pro bono work, and the social value of the work);” and “Power Track Satisfaction” con-

concluded that attorneys in large firms report the highest levels of satisfaction on the power track measure, but tend to report lower levels of satisfaction on the other three measures as compared to attorneys in smaller firms, government, and public interest work.<sup>127</sup> The report noted that “[w]hile both [men and women] are generally satisfied with their decision to become lawyers, important differences are found in the four dimensions of satisfaction.”<sup>128</sup> It also found that satisfaction with the decision to become lawyers was highest among Black respondents and almost as high among Hispanic respondents.<sup>129</sup>

In 2004, Nancy Reichman and Joyce Sterling published an article discussing the career experiences of 100 Colorado lawyers.<sup>130</sup> Although the article did not discuss the exact percentages of satisfied lawyers, it did state that men and women reported the same “high level of overall job satisfaction.”<sup>131</sup>

In a 2005 survey conducted by the Alabama State Bar Quality of Life Committee, 73% of attorneys in Alabama report being satisfied working in their profession, which reflected an 18 percent drop since 1992 when the Alabama State Bar conducted a survey in which nearly 91 percent of the attorneys in Alabama indicated that they were satisfied working in their profession.<sup>132</sup> An article published in 2006 reported the results of a series of annual surveys of Indiana University School of Law graduates.<sup>133</sup> These surveys, patterned after the Michigan Law School surveys, focused on graduates five and fifteen years after graduation.<sup>134</sup> Among those surveyed five years after graduation (those graduating between 1995 and 1999), the mean

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sists of responses to “satisfaction with compensation levels and satisfaction with opportunities for advancement.” *See id.*

127. *Id.* at 48.

128. *Id.* at 58. The report found that women were more satisfied than men with the substance of their work, but less satisfied than men with respect to job setting, social index of work, and power track. *Id.*

129. *Id.* at 64. This may be attributable to the fact that minority attorneys are more likely to be working in government or in not-for-profit organizations where satisfaction levels are higher even though incomes are lower. *Id.*

130. Nancy J. Reichman & Joyce S. Sterling, *Sticky Floors, Broken Steps, and Concrete Ceilings in Legal Careers*, 14 TEX. J. WOMEN & L. 27, 30 (2004).

131. *Id.* at 46. The article did note that with respect to some job characteristics, women were less satisfied than men. *Id.* at 46–47.

132. Mary Ellen W. Harrison, *Report of the Alabama State Bar Quality of Life Survey*, 67 ALA. LAW. 369–70 (2006). The Quality of Life Committee mailed 4500 surveys to a random sample of members of the Alabama State Bar, of which 1019 were returned, for an overall response rate of 22 percent. (There is no published record of the 1992 Alabama State Bar survey reflecting that 91 percent of Alabama attorneys were satisfied.)

133. Kenneth G. Dau-Schmidt et al., “*The Pride of Indiana*”: *An Empirical Study of the Law School Experience and Careers of Indiana University School of Law-Bloomington Alumni*, 81 IND. L.J. 1427 (2006) [hereinafter *Indiana*].

134. *Id.* at 1428. In the five years beginning in 2000, Indiana received survey responses from 593 graduates for a response rate of 33%. *Id.*

degree of satisfaction was 5.32 on a seven-point scale.<sup>135</sup> Of those surveyed fifteen years after graduation (those graduating between 1985 and 1989), the mean degree of satisfaction was 5.66 on a seven-point scale.<sup>136</sup> The authors noted that “alumni across all types of practice report much satisfaction with their work and families. This finding *is at odds with some studies of other groups of lawyers which report much dissatisfaction with the profession.*”<sup>137</sup> Notably, there were neither any marked differences in satisfaction between men and women, nor between white graduates and graduates of color, except that the Black and Hispanic fifteen-year graduates were more satisfied than their non-Black, non-Hispanic counterparts.<sup>138</sup>

Yale’s Career Development Office issued a report in 2006 addressing the results of a series of surveys it conducted between 2000 and 2005 of graduates five years after graduation (those graduating between 1995–2000).<sup>139</sup> It is difficult to compare this survey with prior surveys because the question related to job satisfaction used an unbalanced four-point scale (“very satisfied,” “satisfied,” “somewhat satisfied,” and “not satisfied”) that was different than the balanced four-point scales frequently used by other survey instruments (“very satisfied,” “somewhat satisfied,” “somewhat dissatisfied,” and “very dissatisfied”).<sup>140</sup> If one looks at the Yale survey data in a conservative fashion—as if it were a balanced scale in which “somewhat satisfied” was viewed as “dissatisfied,” then 78% of respon-

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135. *Id.* at 1457–58 tbl.16. The survey scale was -3 to +3, but I have reported the scores on the seven-point scale with one being “very unsatisfied” and seven being “very satisfied” for purposes of being able to make meaningful comparisons to the *Michigan 1999* data reported previously. *See supra* note 57 and accompanying text. Among the five-year graduates, those at the largest firms (over 150 attorneys), those in corporate counsel positions, and those in public interest were most satisfied (5.57, 5.64, and 5.54, respectively), while those in medium (fifteen to fifty attorneys) and small firms (less than fifteen attorneys) were least satisfied (4.97 and 5.13, respectively). *Indiana, supra* note 133, at 1457–58 tbl.16.

136. *Id.* at 1458 tbl.17. Again, I have reported the scores on a seven-point scale with one being “very unsatisfied” and seven being “very satisfied.” Among the fifteen-year graduates, those at the largest firms (over 150 attorneys) and those at medium firms (fifteen to fifty) were least satisfied (5.38 and 5.30, respectively), while those in government and large firms (fifty to 150 attorneys) were most satisfied (5.83 and 5.64, respectively). *Id.*

137. *Id.* at 1459 (emphasis added).

138. *Id.* at 1462–66. Among the population of five-year graduates, male graduates had a job satisfaction score of 5.36 compared to 5.27 for female graduates, while non-Hispanic and non-Black graduates had scores of 5.33 and 5.32, respectively, while Black graduates had a score of 5.23, and Hispanic graduates had a score of 5.36. *Id.* at 1463 tbl.18. Among the population of fifteen-year graduates, male graduates had a job satisfaction score of 5.59 compared to 5.74 for female graduates, while non-Hispanic, non-Black graduates had a score of 5.61, while Black/Hispanic graduates had a score of 6.00, the only statistically significant difference in scores. *Id.* at 1463 tbl.19.

139. YALE CAREER DEV. OFFICE, WHAT YALE LAW SCHOOL GRADUATES DO: A SUMMARY OF CDO’S 5TH YEAR CAREER DEVELOPMENT SURVEY CLASSES 1996–2000 (2006) [hereinafter YALE CDO]. The survey had an overall response rate of 59% with 520 respondents answering the job satisfaction question. *Id.* at 1, 4.

140. *Id.* at 4. *Minnesota* and 2000 ABA YLD SURVEY are examples of the balanced four-point scale. *See supra* notes 17, 116, and accompanying text.

dents answered on the positive side of the scale—“very satisfied” or “satisfied.”<sup>141</sup> Across job categories, those working in law firms were least satisfied.<sup>142</sup>

The ABA Journal published in 2007 the results of a non-randomized, online survey that generated responses from 800 attorneys.<sup>143</sup> While 80% of respondents indicated that they were proud to be an attorney, only 55% were satisfied with their careers, with more experienced attorneys, those in practice ten years or more, demonstrating the greatest career satisfaction.<sup>144</sup>

Hagan and Kay, in 2007, published a supplemental article on their study of Toronto attorneys focused on better understanding possible gender differences associated with job satisfaction, particularly with respect to the relationship between depression or despondency and job satisfaction.<sup>145</sup> Using a five-point scale for assessing job satisfaction, men averaged 3.93 while women averaged 3.89, “indicating the familiar high level of general satisfaction, with no significant difference by gender.”<sup>146</sup> With respect to their specific inquiry regarding the potential gender differences with respect to despondency or depression and job satisfaction, the authors concluded:

The findings of this study indicate that despite the fact that women and men lawyers report reasonably similar levels of satisfaction with their work, women lawyers are substantially more likely to report feelings of depression or despondency about their lives. . . . We infer from this initial finding that women are more

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141. YALE CDO, *supra* note 139, at 4–5. At face value, with “three” possible categories suggesting a positive degree of satisfaction—“very satisfied,” “satisfied,” “somewhat satisfied”—the percentage of Yale graduates indicating positive job satisfaction goes from 78% to 95%. *Id.*

142. *Id.* at 5. While 63% of graduates in law firms were “very satisfied” or “satisfied” with their jobs, 92% of graduates in public interest, 95% of graduates in academia, and 87% of graduates in business indicated that they were very satisfied or satisfied with their jobs. *Id.* The report noted only one gender difference: women graduates in business were more satisfied than men graduates in business. *Id.*

143. Stephanie Francis Ward, *Pulse of the Legal Profession: 800 Lawyers Reveal What They Think About Their Lives, Their Careers, and the State of the Profession*, A.B.A. J., Oct. 2007, at 30, available at [http://www.abajournal.com/magazine/article/pulse\\_of\\_the\\_legal\\_profession/](http://www.abajournal.com/magazine/article/pulse_of_the_legal_profession/).

144. *Id.* Because this was not a random sample of attorneys, these results are not included in Table 3. *See infra* Table 3. Interestingly, even though these levels of career satisfaction were well below the results in the earlier ABA YLD surveys, the article did not discuss the satisfaction data as if it reflected a crisis in the profession.

145. John Hagan & Fiona Kay, *Even Lawyers Get the Blues: Gender, Depression, and Job Satisfaction in Legal Practice*, 41 LAW & SOC’Y REV. 51 (2007) [hereinafter Hagan & Kay II]. Hagan and Kay conducted a survey in three waves, covering 1985, 1991, and 1997. *See supra* note 45 and accompanying text. “The analyses presented in this article are based on 436 men and women lawyers in legal practice in Toronto at the time of the 1997 survey.” Hagan & Kay, *supra*, at 58.

146. Hagan & Kay II, *supra* note 145, at 60 tbl.1, 63. Job satisfaction was calculated as a composite of three questions: overall job satisfaction (one is “very dissatisfied” while five is “very satisfied”), would you recommend the job to a friend (one is “discourage it greatly” while five is “recommend it highly”), and would you take the same job again (one is “definitely not” while five is “definitely”). *Id.* at 60 tbl.1. Translating these scores from a five-point scale to a seven-point scale would result in scores of 5.5 for men and 5.45 for women.

likely to internalize feelings of despondency deriving from their work than they are to externalize these feelings through expressions of job dissatisfaction.<sup>147</sup>

Ronit Dinovitzer and Bryant Garth published an article in 2007 that parsed the After the JD data to better understand some of the job satisfaction statistics.<sup>148</sup> After noting the significant dichotomy in the existing literature regarding lawyer satisfaction/dissatisfaction, they looked at relative levels of career satisfaction based on social stratification, focusing on the relative prestige of the particular law school the lawyer attended when defining social stratification.<sup>149</sup> Their multi-variate analysis led them to the following conclusions:

We find that respondents with the most elite credentials—graduates of top law schools working in the most prestigious settings . . . are the least satisfied with their decision to become a lawyer. However, those graduating from the less selective law schools and working in the less prestigious (and remunerative) settings are the most likely to express extreme satisfaction with their decision to become a lawyer. There is no doubt that for many of the graduates of lower-tier law schools, gaining entry to the legal profession is part of the project of upward mobility. Yet the patterns of satisfaction seen in this analysis legitimate and reinforce a system of stratification that places particular law graduates into particular practice settings, with law schools playing a pivotal role in the reproduction of this hierarchy.<sup>150</sup>

The authors conducted in-depth interviews of participants in After the JD, then constructed models that described the type of student (including career expectations and relative satisfaction) associated with a law school

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147. *Id.* at 68–69. Factors contributing to increased despondency among women include lack of occupational power, perceived powerlessness, and greater concerns about the effect of having children on their careers. *Id.* at 69–70.

148. Dinovitzer & Garth, *supra* note 5.

149. *Id.* at 10–11. The authors built on the work of Pierre Bourdieu, as reflected in *The State Nobility: Elite Schools in the Field of Power* (1996) and other of his works. *Id.* at 2. In framing the social stratification of law school graduates, the authors broke law schools into six categories using the U.S. News and World Report rankings: top 10, 11–20, 21–40, 41–100, third tier, and fourth tier. *Id.* at 7. Their analysis of job data indicated a linear relationship with the size of firm in which the largest percentage of graduates worked. That is, among top ten schools, over half of the graduates were in firms of 251 or more attorneys and fewer than 3% were in firms of 2–20 attorneys. *Id.* at 9 tbl.3. By contrast, among fourth tier schools, nearly 40% of graduates were in firms of 2–20 attorneys, and fewer than 4% were in firms of 251 or more attorneys. *Id.*

150. Dinovitzer & Garth, *supra* note 5, at 24. Again, this analysis may square well with Schiltz's lived experience in practice in an elite law firm in the Twin Cities, bumping elbows with a number of graduates from elite law schools. To the extent that Schiltz drew on his experience in describing a sense of dissatisfaction among big firm attorneys, many of whom were graduates of elite law schools, the Dinovitzer and Garth data set would suggest that his experience might accurately reflect the lived reality for other elite law school graduates in big firms.

based on the school's ranking as a top 10, 11–20, 21–40, 41–100, third tier, or fourth tier law school.<sup>151</sup>

In 2008, building on Richard's earlier work, Susan Daicoff published an article describing a study of attorneys she conducted in 2000 focusing on the extent to which attorneys manifesting an ethic of care and a "feeling" decision making preference on the MBTI might be disproportionately dissatisfied.<sup>152</sup> The survey included Derogatis' Brief Symptom Inventory, or BSI, which Beck and her colleagues used in their 1995 study of attorneys to identify psychological distress, Weinberg's Moral Orientation Scale, which was used to assess whether respondents manifested an ethic of care or a rights orientation, Keirsey's Temperament Sorter II, which was used to measure only the Thinking/Feeling dimension, and a work satisfaction questionnaire which measured three types of satisfaction: satisfaction with one's current position, with the practice of law generally, and with the choice of law as a lifetime career.<sup>153</sup> The survey results confirmed a correlation between psychological distress and work dissatisfaction among lawyers, but showed no correlation between a "feeling" decision making preference or an ethic of care among lawyers and either psychological distress or work dissatisfaction.<sup>154</sup> The article did not provide any statistics regarding percentages of respondents who were satisfied or dissatisfied.

An article published in 2008 described the results of a 2002 survey of Yale Law School graduates from 1970–1999.<sup>155</sup> The survey used a seven-

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151. *Id.* at 30–39. In developing these models, the authors drew on "two concepts central to Bourdieu's understanding of how social class is reproduced. One is the notion of the ability to 'play the game.'" *Id.* at 33. The other is making a virtue out of necessity. *Id.* "Playing the game" involves not only being able to understand the rules, but to anticipate developments that will provide opportunities.

As Bourdieu explains, individuals who are well-socialized in a particular field are able to master it because they have a "feel for the game"—they know what they should be investing in and how to position themselves and, like a good tennis player, they position themselves not where the ball is but where it will be.

*Id.* (citing PIERRE BOURDIEU, *PRACTICAL REASON: ON THE THEORY OF ACTION* (1998)). Making a virtue out of necessity builds off individuals' preferences and dispositions. "Bourdieu argues that individuals adjust their dispositions to the set of possibilities that are available to them, valuing those within reach and excluding those that are not." *Id.* In other words, the conditions within which people live shape their aspirations so that they do not consider as a possibility things that are unreachable and grow to love that which is inevitable. *Id.* at 33.

152. *Be Thyself, supra* note 3, at 87. Her study included an unidentified number of attorneys from a randomly selected pool of attorneys in Columbus, Ohio, who were invited to participate by mail (from whom there was a 30% response rate), and a number of attorneys invited to participate while attending a conference in Washburn, Kansas. *Id.* at 123.

153. *Id.* at 124–25. Daicoff noted that she purchased the BSI and the Kiersey Temperament Sorter II, while she had permission to use the Weinberg Moral Orientation Scale. *Id.* The satisfaction responses were scored on a four-point scale, "very satisfied," "somewhat satisfied," "somewhat dissatisfied," and "very dissatisfied," and averaged across the three responses. *Id.* at 127.

154. *Id.* at 129–31. Daicoff noted that it still is not clear whether work dissatisfaction causes distress or whether distress causes work dissatisfaction. *Id.* at 131.

155. Deborah J. Cantrell et al., *Walking the Path of the Law: How Law Graduates Navigate Career Choices and Tolerate Jobs that Fail to Meet Expectations*, 14 *CARDOZO J.L. & GENDER*

point scale much like that used in the Michigan and Indiana surveys.<sup>156</sup> The article reported relatively high levels of satisfaction among respondents, including a mean of 5.65 on “satisfaction with their decision to pursue law,” and 5.38 on both “satisfaction with their career now” and “satisfaction with their career overall.”<sup>157</sup> Notably, there were no gender differences on any of the questions.<sup>158</sup>

The article also included interesting data on relative satisfaction across a series of jobs for those who held more than one position after graduation.<sup>159</sup> Respondents with multiple jobs experienced a higher level of job satisfaction with each successive job, from 4.89 for the first job, 5.22 for the second job, 5.33 for the third job, 5.5 for the fourth job, to 5.81 for the fifth job.<sup>160</sup> In addition, the article identified differences in satisfaction across job categories, with the most satisfaction for those in the judiciary, academia, government, public interest, and “other” (all with mean scores at or above 5.79), and the least satisfaction for those in small/medium firms or large firms (both with mean scores at or below 4.47).<sup>161</sup>

The University of Virginia School of Law surveyed its graduates from 1990 in 2007 and reported the results in an article published in 2009.<sup>162</sup> The survey results indicated that 81.2% of respondents were “extremely” or “moderately” satisfied with their decision to become a lawyer,<sup>163</sup> while over 81% indicated that they were satisfied with their job setting.<sup>164</sup> The report found no significant gender difference in satisfaction with the decision to become a lawyer.<sup>165</sup>

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267, 268 (2008) [hereinafter Cantrell, *Yale*]. Surveys sent to a random sample of 2808 graduates, equally distributed across three ten-year age cohorts: the 1970s, 1980s, and 1990s. *Id.* at 282. The survey generated 665 responses for a response rate of 24%. *Id.* Notably, to get a sufficient sample size for analytical purposes, the survey sampled 100% of women graduates from the 1970s and 100% of graduates of color. *Id.* There were 357 responses from women and 307 responses from men. *Id.*

156. *Id.* at 296. The categories ranged from one “dislike” to seven “like very much.” *Id.*

157. *Id.* at 300.

158. *Id.*

159. *Id.* at 296. The survey asked respondents the extent to which they liked each job they had had, with a number of respondents indicating up to five jobs. *Id.* at 297 tbl.8.

160. *Id.* There were almost no gender differences in this data set except that for the satisfaction levels with the third job, for which the data showed that with statistical significance women were less satisfied than men; 5.13 and 5.58, respectively. *Id.*

161. *Id.* at 298 tbl.10. Prosecutors, solo practitioners, and in-house counsel were in the middle, with mean scores of 5.13, 5.17, and 5.32, respectively. *Id.* Notably, there were no statistically significant differences in the extent to which women graduates liked one job category more than men, except for public interest/public defense, where women found greater satisfaction than men. *Id.* at 300 tbl.11.

162. *Virginia, supra* note 5, at 458. The survey generated 260 responses from the 360 graduates contacted, for a response rate of 72.2%. *Id.* at 462.

163. *Id.* at 469–70.

164. *Id.* at 472.

165. *Id.* at 470. When the authors ran bivariate correlations, “[t]he only predictor that correlate[d] significantly with job setting satisfaction [was] being currently employed in a large private law firm, which correlate[d] negatively.” *Id.* at 475. When the authors ran multiple regressions,



After the JD II was published in 2009, with results from the second round of survey data gathered in 2007 and 2008.<sup>166</sup> The report noted that 76.2% of respondents indicated they were “extremely” or “moderately” satisfied with their decision to become lawyers.<sup>167</sup> While this percentage is slightly below the 80% who indicated they were “extremely” or “moderately” satisfied in the first study, on the more detailed measures of job satisfaction, the After the JD II respondents indicated higher levels of satisfaction on sixteen of the seventeen original satisfaction measures.<sup>168</sup> Although the report stated that career satisfaction is fairly stable across practice settings,<sup>169</sup> those in private practice generally were slightly less satisfied than those in government, legal services, and public defender and public interest positions.<sup>170</sup>

Women were slightly less satisfied than men, with 74.1% of women indicating they were “extremely” or “moderately” satisfied compared to 78.4% of men.<sup>171</sup> There was a slightly greater discrepancy between satisfaction levels of men and women in private practice than in government, legal services, and public defender and public interest positions, with 78.2% of men in private practice indicating they were “extremely” or “moderately” satisfied, compared to 72.2% for women. Similarly, 81.1% of men in government, legal services, and public defender and public interest positions indicated they were “extremely” or “moderately” satisfied compared to 77.1% of their female counterparts.<sup>172</sup> Finally, After the JD II indicated that Black and Hispanic lawyers were more satisfied than any other group, with 80% “extremely” or “moderately” satisfied with their decision to become a lawyer, followed by 75% of Asians.<sup>173</sup>

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they identified two significant multivariate predictors of current job setting satisfaction, “working in a large private law firm, which bore a negative relationship to job setting satisfaction, and salary, which bore a positive relationship.” *Id.* at 477.

166. AFTER THE JD II, *supra* note 23, at 13. Of the 8225 eligible lawyers from the original sample for whom addresses could be found, 4160 submitted completed surveys, including 70.4% of the original respondents and 26.9% of those who did not participate in the first survey, for an overall response rate of 50.6% of eligible sample members. *Id.* at 12–13.

167. *Id.* at 70 tbl.8.5. While Table 8.5 indicated 76.2% of respondents as “extremely” or “moderately” satisfied with their decision to become lawyers, the text referenced only 76%. *Id.* at 14.

168. *Id.* at 46–47.

169. *Id.* at 48.

170. By taking the percentages of respondents in each job category based on Table 3.1 and weighting the percentage satisfied reflected in Table 8.5 one can calculate overall satisfaction for the private practice category and government/public interest category, with the former averaging 75.3% “extremely” or “moderately” satisfied and the latter averaging 79.4%. *Id.* at 27 tbl.3.1, 70 tbl.8.5.

171. *Id.* at 70 tbl.8.5.

172. By taking the percentages of men and women respondents in each job category based on Table 8.1 and weighting the percentage satisfied reflected in Table 8.5 one can calculate overall satisfaction for the men and women in the private practice category and government/public interest category. *Id.* at 62 tbl.8.1, 70 tbl.8.5.

173. *Id.* at 76.

In 2009, Kenneth Dau-Schmidt and three of his colleagues published an article summarizing data regarding the impact of gender on the legal careers of Michigan Law School graduates.<sup>174</sup> Of those surveyed five years after graduation, the overall level of satisfaction in the group surveyed between 1981–1991, using a seven-point scale with seven being “very satisfied” and one being “very dissatisfied,” was 5.34, while the group surveyed between 1996–2000 had an overall satisfaction level of 5.19.<sup>175</sup> For those fifteen years out from graduation, the overall level of satisfaction in the group surveyed between 1981–1991 was 5.63, while the group surveyed between 1996–2000 had an overall satisfaction level of 5.5.<sup>176</sup> The overall average level of satisfaction for the five-year graduates and fifteen year graduates combined in the two time periods was 5.48 for the 1981–1991 time period and 5.35 for the 1996–2000 time period.<sup>177</sup> As noted previously, Kenneth Dau-Schmidt and his research team provided me with the underlying data set for the period from 1982–2000 that included the number of respondents at each of the seven points along the satisfaction scale.<sup>178</sup> Using this data set, I calculated annual percentages for the five-year and fifteen-year graduates that responded to the survey in any given year. I then calculated blended averages over time. The overall percentage covering all five-year graduates and fifteen-year graduates who indicated they were satisfied with their jobs (marking five, six, or seven on the seven-point scale) was 80.4%.<sup>179</sup> But there was a slight downward trend over time. The overall percentage was 84.5% for all five-year and fifteen-year graduates surveyed through 1990,<sup>180</sup> but only 76.1% for all five-year and fifteen-year graduates surveyed from 1991–2000.<sup>181</sup> If the data is broken down further

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174. Kenneth G. Dau-Schmidt et al., *Men and Women of the Bar: The Impact of Gender on Legal Careers*, 16 MICH. J. GENDER & L. 49, 50 (2009) [hereinafter *Michigan 2009*]. The results reported here are from 1981–1991 and 1996–2000, for a total of 11,976 surveys. *Id.* at 51–52. The overall survey response rate was 66.27%, with 9480 men responding (66.96% response rate) and 2496 women (63.89% response rate). *Id.*

175. *Id.* at 119–21, 120 tbl.D15(5), 121 tbl.D15(15). As discussed previously, *Michigan 1999* was structured on a seven-point scale, from -3 for “very dissatisfied” to +3 for “very satisfied.” See *supra* note 57 and accompanying text. For purposes of presenting the data here in a manner consistent with how it was presented previously, I have rescaled the scores on a seven-point scale. Notably, for women five years after graduation the respective scores for the two time periods were 5.29 and 5.23, while for men the scores were 5.36 and 5.17, although these differences were not statistically significant. *Michigan 2009, supra* note 174, at 120 tbl.D15(5), 121 tbl.D15(15).

176. *Michigan 2009, supra* note 174, at 120 tbl.D15(5), 121 tbl.D15(15), 122. Again, for purposes of presenting the data here in a manner consistent with how it was presented previously, I have rescaled the scores on a seven-point scale. Notably, for women fifteen years after graduation the scores for the two time periods were 5.68 and 5.50, respectively, while for men the scores were 5.62 and 5.50, respectively, although these differences were not statistically significant. *Id.*

177. *Id.* at 119–121.

178. See *supra* note 58 and accompanying text.

179. A total of 7700 of the 9480 respondents over two decades marked five, six, or seven on their survey responses. Chart with calculations on file with the author.

180. *Id.*

181. *Id.*

into five-year segments, the period up to 1985 showed the highest level of satisfaction at 85.2%, with a decline in the 1986–1990 period to 83.8%, a further significant decline in the 1991–1995 period to 72.6%, and then an upward rebound in the 1996–2000 period to 80%, almost exactly the overall average 80.4%.<sup>182</sup>

In 2007, the University of Maryland School of Law surveyed a sample of its alumni from 1978 through 2007, generating responses from 530 alumni.<sup>183</sup> “Close to 90 percent of both women and men who answered the survey were satisfied with their decisions to become lawyers and with their current employers—with no statistical difference between women’s and men’s responses.”<sup>184</sup>

Professors Nancy Levit and Douglas Linder published their book, *The Happy Lawyer: Making a Good Life in the Law*, in 2010.<sup>185</sup> In the first chapter of the book, entitled “Are Lawyers Unhappy,” the authors summarize many of the media accounts and empirical research regarding lawyer satisfaction and dissatisfaction, noting that there are differing strands presented in the literature, and stating “we are inclined to conclude that most lawyers fall somewhere near the middle of the happiness continuum,” but believe “[f]or most lawyers, things could be better.”<sup>186</sup> They also recognize that whether lawyers are unhappy defies a simple “yes” or “no” answer because subpopulations of lawyers manifest different levels of satisfaction and dissatisfaction, noting that more experienced lawyers are happier, and that public sector lawyers are happier.<sup>187</sup>

The only survey that took place since the beginning of the economic recession in 2008 involved a survey of South Carolina attorneys licensed

182. *Id.* Interestingly, the five-year period from 1991–1995 had four of the five lowest averages among those graduates five years out of law school, and three of the five lowest averages among those graduates fifteen years out. For this “common pool” of respondents—graduates from Michigan Law School over a twenty-year period—the early 1990s was a period of relative dissatisfaction. In three of the five years, the percentage of those five years out who indicated that they were satisfied (scoring a five, six, or seven on the seven-point scale) was below 70%, and in one of those years the percentage of those fifteen years out who indicated that they were satisfied was below 80%. *Id.* The Michigan data on which Schiltz relied significantly, see *supra* note 74 and accompanying text, was the data covering this period from 1990–1995, so it would have reflected a decline in satisfaction from the 1980s, but by the time Schiltz’s article was published in 1999, the level of satisfaction among Michigan graduates five years and fifteen years after graduation already had returned to the twenty-year average covering 1982–1990. Chart with calculations on file with the author.

183. Teresa LaMaster, *The Search for Satisfaction: Report from the UMDLaw Alumni Career Path Survey*, 1 JD ALUMNI MAG. 20 (2010) [hereinafter *University Maryland*]. The sample included 285 women (54 percent) and 245 men (46 percent) and had a 32 percent response rate among the roughly 1600 alumni who graduated after 1978 to whom the survey was sent. *Id.* at 21.

184. *Id.*

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

186. *Id.* at 3–8. Their book is essentially their prescription for how lawyers can attain greater happiness in their professional and personal lives.

187. *Id.* at 8–12.

between 1993–2008 and was completed in October 2008.<sup>188</sup> The survey included one question on general satisfaction, “I am satisfied with my professional life at this point,” with answers on a five-point scale ranging from “strongly disagree” to “strongly agree.”<sup>189</sup> Of the respondents, 13.5% strongly agreed, and 45.6% agreed with this statement; so, overall, only 59.1% of respondents were satisfied with their professional life as of October 2008.<sup>190</sup>

#### D. *Compiling the Data over the Last Twenty-Five Years*

The following table summarizes all of the data sets regarding lawyer satisfaction that were gathered over the last twenty-five years using a seven-point scale. These data sets are limited in that they address only graduates from four elite law schools over a period of two decades. Nonetheless, the average level of satisfaction on a seven-point scale is 5.34. While there is a decline in levels of satisfaction among Michigan graduates in the first half of the 1990s (as noted above as well), all six average scores spanning two decades are within two-tenths of the overall average of 5.34. This suggests both that there is a relatively constant level of professional satisfaction with careers among lawyers and that lawyers generally are fairly satisfied with their careers.

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188. DR. BENTLEY COFFEY, PROFESSIONAL POTENTIAL TASK FORCE OF THE SOUTH CAROLINA BAR, *SOUTH CAROLINA LAWYERS: THE STATE OF THE PROFESSION* (2009) [hereinafter *SOUTH CAROLINA*]. The survey was sent to 4773 attorneys licensed in South Carolina between 1993 and 2008 who resided in Georgia, North Carolina, or South Carolina. *Id.* at 1. The invitation included a letter from the President of the South Carolina Bar asking recipients to participate in an online survey and assuring the strictest confidentiality. *Id.* at 3. There were 1169 attorneys who completed at least one question on the survey in the two-week window when the survey was open between October 15, 2008, and October 31, 2008. *Id.* at 4. The respondents were described as follows: “As far as can be ascertained, the respondents populating the data set appear to be a random sample of the population from which they are drawn.” *Id.* at 3.

189. *Id.* at 69.

190. *Id.* The survey also asked whether respondents would go to law school again (28.6% disagreed or strongly disagreed) and whether they would recommend law school to others (40% disagreed or strongly disagreed). *Id.* The data might be slightly skewed toward dissatisfaction by the fact that the respondents were only those in practice fifteen years or less, that nearly 40% of respondents had just been admitted to practice in South Carolina within the previous five years, *id.* at 70 (see *supra* note 25, 41, and 58 and accompanying text for discussion of less experienced attorneys being more dissatisfied), and that one quarter of respondents were in solo practice or were the only lawyer in the organization. *Id.* at 5; see *supra* notes 23, 101, and accompanying text. More significantly, however, the *SOUTH CAROLINA* survey was conducted in the height of the mortgage crisis in October 2008 when there was significant uncertainty in the financial markets and the economy. This may foreshadow an “ebb” in attorney satisfaction at the present time not unlike that witnessed during the economic recession in the early 1990s. See *supra* notes 88, 182, and accompanying text.

TABLE 2 – SUMMARY OF SURVEY DATA REGARDING LAWYER SATISFACTION 1984–2007 (BASED ON MEAN SCORES OF ALL RESPONDENTS ON A SEVEN-POINT SCALE)

Scores Based on Seven-Point Scale M – Male, F – Female, (5) 5-year graduates, (15) 15-year graduates	Year, Location	Source (Year Published)
5.31M 5.12F (avg. 5.21)	1986, Stanford	Stanford (1988)
5.34 (5) 5.63 (15) (avg. 5.48)	1987–1991, Michigan	Michigan 2009 (2009)
4.98 (5) 5.35 (15) (avg. 5.16)	1992–1996, Michigan	Michigan 1999 (1999)
5.19 (5) 5.50 (15) (avg. 5.35)	1996–2000, Michigan	Michigan 2009 (2009)
5.32 (5) 5.65 (15) (avg. 5.48)	2000–2005, Indiana	Indiana (2006)
5.38 (avg. 5.38)	2002, Yale	Yale Cantrell (2008)
Average – 5.34		

The following chart comprises all data sets since the mid-1980s that could be reported on the basis of the percentage of respondents that were positively satisfied, i.e., “extremely satisfied,” “very satisfied,” “moderately satisfied,” “quite satisfied,” “somewhat satisfied,” or “satisfied.” These data sets are based on the percentage of respondents in the top two categories of a four-point or five-point scale, or in the top three categories of a seven-point scale, representing those who are “positively” satisfied (i.e., excluding those who are neutral or dissatisfied).

TABLE 3 – SUMMARY OF SURVEY DATA REGARDING LAWYER SATISFACTION 1984–2007 (BASED ON PERCENTAGES INDICATING THAT THEY ARE “POSITIVELY” SATISFIED)

Percent “Positively” Satisfied (# of respondents)	Year, Location (Range) # of Satisfied Respondents	Source (Year Published)
81% (2282)	1984, National (two decades) 1848	1984 ABA YLD Survey (1984)
80% (1051)	1985, Toronto (three decades) 841	Hagan & Kay I (1995)
67% (207)	1985, National (two years) 139	Class of 1983 (1989)
93% (503)	1987, Minnesota Schools (two years to twelve years) 468	Minnesota (1990)
89% (500 (est.))	1988, Maryland (three decades) 445	Maryland (1988)
73% (602)	1988–1989, New Mexico (three years to thirteen years) 439	New Mexico (1991)

91% (418)	1989, National (three decades – multigenerational lawyers) 380	Wasby & Daly (1994)
79% (1018)	1990, National (three decades) 804	Nat'l L.J. (1990)
76% (2189)	1990, National (two decades) 1664	1990 ABA YLD Survey (1990)
79% (815)	1991, Toronto (three decades) 644	Hagan & Kay I (1995)
81% (2570)	1991, North Carolina (three decades) 2082	North Carolina 1991 (1991)
73% (1220)	1992, National (two decades) 891	Richard (2002)
82% (402)	1994, New York (three decades) 330	New York Law Journal (1994)
84% (675)	1995, Chicago (three decades) 567	Heinz, Chicago (1999)
77% (696)	1995, National (two decades) 536	1995 ABA YLD Survey (1995)
75% (1038)	1997-1998, Minnesota (three decades) 779	Sonsteng and Camaratto (2000)
77% (1212)	1997-1998, Michigan (three decades) 933	Michigan Minority (2000)
79% (487)	1999, Texas (ten years or fewer) 385	Fortney (2000)
81% (9480)	1982-2000, Michigan (five and fifteen years) 7679	Michigan 2009 (2009)
80% (809)	2000, National (two decades) 647	2000 ABA YLD Survey (2000)
76% (597)	2002-2003 North Carolina (three decades) 454	North Carolina 2005 (2005)
80% (4538)	2003, National (three years) 3630	ABA/NALP (2004)
78% (520)	2001-2006, Yale (five years) 406	Yale CDO (2006)
73% (1019)	2005 Alabama (three decades) 744	Alabama (2006)
81% (260)	2007, Virginia (1990 graduates) 211	Virginia (2009)
76% (4160)	2007, National (seven years) 3162	ABA/NALP (2009)
90% (530)	2007, Maryland (three decades) 477	Maryland (2010)
59% (1169)	2008, South Carolina (fifteen years) 690	South Carolina (2009)
Average – 78.8% (40,967)	32,275	

This chart encompasses twenty-eight different surveys, including surveys that are national in scope as well as others that are regionally targeted, and those that are focused on graduates from a few schools or one school. The chart includes surveys spanning multiple generations of lawyers, along with surveys that focus on lawyers who have been in practice for less than ten years, sometimes specifying seven, five, three, or two years. The average level of satisfaction is 78.9% over this twenty-five year span, which is not significantly lower than the 80.5% level of satisfaction of the 1984–1995 time period shown in Table 1.<sup>191</sup> Moreover, the data points are fairly consistent, with over 60% of the data points—seventeen of twenty-eight—between 76% and 82%. This data confirms what has been stated in several articles: the “conventional wisdom” regarding the level of dissatisfaction in the legal profession would appear to be somewhat misleading. As a general matter, lawyers are relatively satisfied with their jobs/careers.<sup>192</sup>

## II. MAKING SENSE OF THREE DECADES OF EMPIRICAL SURVEYS OF LAWYER SATISFACTION/DISSATISFACTION

### A. *Understanding the Persistence of the “Conventional Wisdom”*

There are a couple of reasons why the “conventional wisdom” of lawyer dissatisfaction has had continued vitality within the legal academy despite a stunningly consistent empirical record suggesting reasonably high levels of satisfaction among lawyers.

First, if one looks at citation history, the record shows that the Schiltz article has had much greater traction than the Hull article—as of December 2010, the Schiltz article had been cited nearly ten times more frequently than the Hull article, with 259 citations versus twenty-six citations.<sup>193</sup> Thus, the “glass half empty” view of lawyer dissatisfaction has gotten much greater emphasis and much more visibility than the “glass half full” view of lawyer satisfaction.

Second, this citation history, and the vitality of the “conventional wisdom,” also may be related to the demographic profile of professors in the legal academy. The “pedigree” of many law professors involves attending an elite law school and, if they engaged in private practice at all, generally working at a large law firm.<sup>194</sup> This means many law professors come to the

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191. The weighted average is a comparable 78.6, based on 32,260 satisfied respondents out of a total pool of 41,067.

192. Examples include Hull, *AFTER THE JD*, Dinovitzer & Garth, *Virginia*, *AFTER THE JD II*, and Heinz, and *Chicago*. See *supra* notes 3, 5, 23, 55, and accompanying text, respectively.

193. Schaeckel, *supra* note 91 (containing results of Westlaw citation search).

194. See Brent E. Newton, *Preaching What They Don't Practice: Why Law Faculties' Preoccupation with Impractical Scholarship and Devaluation of Practical Competencies Obstruct Reform in the Legal Academy*, 62 S.C. L. REV. 105, 130 (2010); Dinovitzer & Garth, *supra* note 5, at 33–35 (discussing percentage of graduates of elite schools employed at large law firms); Richard

legal academy with some disdain for the legal profession, having not had meaningful practice experience or having been relatively “dissatisfied” with their experiences of law practice.<sup>195</sup> Thus, they may be naturally predisposed to accept and cite interpretations of data that are consistent with their lived experiences—that emphasize relative dissatisfaction—without necessarily fully exploring all of the available empirical data.

Third, as reflected in the Schiltz article and the Seligman article, many times the “profession” is looked at through the lens of the “big firm” experience.<sup>196</sup> Thus, the “big firm” experience—with a greater degree of dissatisfaction—becomes the visible impression of the profession generally, even though the empirical data suggests that the “big firm” experience is not representative of the profession as a whole.<sup>197</sup>

### B. *Lessons Learned*

What lessons can be learned from this meta-analysis of empirical surveys addressing lawyer satisfaction? The first lesson is that the widespread conventional wisdom about lawyer dissatisfaction needs to be taken with a significant grain of salt. Over nearly three decades, the data consistently shows that 79–80% of lawyers, on average, indicate they are “very satisfied,” “somewhat satisfied,” or “satisfied” with their jobs.<sup>198</sup>

The second lesson is that one needs to be careful not to attribute to the entire legal profession data that speaks only to a categorical subset—one should not describe all lawyers as being highly satisfied based solely on statistics from government attorneys and public interest attorneys, nor should one describe all lawyers as relatively dissatisfied based on statistics from recent graduates or from big firm associates. Careful review of some of the data contained in the meta-analysis manifests several truths worth understanding about different levels of satisfaction within different subsets of lawyers in the legal profession.

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E. Redding, “Where Did You Go To Law School?” *Gatekeeping for the Professoriate and Its Implications for Legal Education*, 53 J. LEGAL EDUC. 594, 599–601 (2003) (data from law school faculty hired between 1996–2000 showed that 66% were from top-twelve law schools and that 45% had a limited duration of private practice experience).

195. See Newton, *supra* note 194, at 126–31 (discussing that more law professors have less practice experience, that many law professors have a disdain for the legal profession, and the recent increase in law professors with PhDs).

196. See Schiltz, *supra* note 3; Seligman, *supra* note 108.

197. See, e.g., discussion *supra* notes 142 (YALE CDO), 150 (Dinovitzer & Garth), 161 (Cantrell, *Yale*), 165 (*Virginia*) and accompanying text (discussing data showing greater dissatisfaction among large firm private practice attorneys as compared with government attorneys, public interest attorneys, or those in smaller firms). *But see* discussion *supra* notes 90 (Hull, *Myth*), 170 (AFTER THE JD II), and accompanying text (each suggesting little difference in satisfaction levels of lawyers in large firms).

198. See Table 1, *supra* notes 62–66, and Table 3, *supra* notes 191–92.



1. *More Experienced Attorneys are more Satisfied than Newer Attorneys*

First, surveys consistently indicate that, across time, newer attorneys are less satisfied than more experienced attorneys.<sup>199</sup> This intuitively makes sense. A newer attorney's first job is unlikely to be a perfect fit. For example, it may be in a non-preferred practice area or practice setting, or may not be aligned with the recent graduate's values or passions. It is therefore understandable that recent graduates may not be very satisfied with the first job they select after law school. Over time, as newer attorneys begin to better understand their skill sets and work context preferences, they will be more likely to choose job contexts that result in greater satisfaction, which is clearly reflected in the data set involving Yale graduates.<sup>200</sup> In addition, attorneys may become more accepting of some of the more frustrating aspects of their work, shifting from relative dissatisfaction to relative satisfaction.<sup>201</sup> Moreover, those in practice for more than a decade or two earn higher incomes which is frequently correlated with higher levels of satisfaction.<sup>202</sup> Finally, the more experienced attorneys who are available to participate in surveys are the survivors. Those truly dissatisfied with their experience as lawyers probably leave the legal profession, which further reduces the percentage of dissatisfied lawyers among those in practice fifteen years or longer.<sup>203</sup>

Indeed, if one separately calculates the average level of satisfaction across the 13 surveys covering lawyers across three decades of practice experience from the 15 surveys covering lawyers with two decades or less of experience, the average level of satisfaction drops from 81.2% to 76.9%.

Given this discrepancy in satisfaction levels between newer attorneys and more experienced attorneys, one should be conscious of the composition of a survey sample when measuring satisfaction/dissatisfaction. One should be careful not to take data from a survey of newer attorneys and ascribe their relative levels of satisfaction/dissatisfaction to the profession as a whole, or take a survey of more experienced attorneys and ascribe their relative levels of satisfaction/dissatisfaction to the profession as a whole. Similarly, one needs to be careful about comparing results of a survey representing a disproportionate number of less experienced attorneys to a survey of attorneys including a representative sample of more experienced attorneys, as the former is likely to reflect less satisfaction than the latter.

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199. See discussion *supra* notes 25 (1990 ABA YLD SURVEY), 41 (Wasby & Daly), 56 (*Michigan 1999*), 106 (*Michigan Minority*), 135–36 (*Indiana*), 155 (Cantrell, *Yale*), and accompanying text.

200. See Cantrell, *Yale*, *supra* note 155, at 296.

201. Heinz, *Chicago*, *supra* note 55, at 737.

202. See *supra* notes 55, 106, 125, and accompanying text.

203. Heinz, *Chicago*, *supra* note 55, at 755–57.

## 2. *Attorneys in Private Practice are less Satisfied than Attorneys Working in Public Interest or for the Government*

Surveys consistently show that lawyers engaged in government work or in public interest work demonstrate greater levels of satisfaction than attorneys working in private practice, even though the attorneys working for the government or in the public interest context function with much lower financial remuneration.<sup>204</sup> Putting aside the question of compensation, it should not be entirely surprising that attorneys in private practice are less satisfied than those in public interest work or working for the government. Private practice tends to present significantly greater stress, particularly for attorneys in solo practice or in small firms, who are not only practicing law, but are also dealing with the stresses of running a small business. While lawyers in large firms receive significantly greater compensation, many feel like they have less control over their practice, and frequently feel that the nature of their work makes it harder to see how they are contributing to the common good.<sup>205</sup>

Given this discrepancy in satisfaction levels between attorneys in private practice and those in public interest or working for the government, one should be conscious of the composition of a survey sample when measuring satisfaction/dissatisfaction. One should be careful not to take data from a survey of attorneys disproportionately representing those in private practice and ascribe their relative levels of satisfaction/dissatisfaction to the profession as a whole. One also needs to be careful about comparing results of a survey of attorneys disproportionately representing those in private practice with a survey that encompasses a more representative sample of attorneys in a variety of job settings, as the results of the former are likely to show less satisfaction than the latter.

## 3. *Women, Generally, Are Not Less Satisfied than Men*

Data related to gender issues in the legal profession has failed to identify any significant differences in levels of satisfaction between men and women.<sup>206</sup> This has been somewhat mystifying, given the significant ways

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204. See, e.g., discussion *supra* notes 106 (*Michigan Minority*), 119 (Richard), 161 (Cantrell, *Yale*), and accompanying text (showing greater satisfaction among lawyers in government or public interest compared to private practice). *But see* discussion *supra* notes 135 (*Indiana*), 170 (AFTER THE JD II), and accompanying text (showing less discrepancy in satisfaction between attorneys in private practice and those in government or public interest).

205. See, e.g., discussion *supra* notes 125–26 (AFTER THE JD) and accompanying text; *see also* discussion *supra* notes 60 (Hull, *Chicago*), 170 (AFTER THE JD II), and accompanying text (discussing a variety of satisfaction factors relating to job context that highlight aspects of big firm practice that diminish satisfaction).

206. The results of empirical efforts in the 1980s were mixed. *Compare* discussion of surveys *supra* notes 3 (1990 ABA YLD SURVEY), 6 (1984 ABA YLD SURVEY), and accompanying text, *with* discussion *supra* notes 12 (*Stanford*), 15 (Chambers, *Michigan*), 17 (*Minnesota*), and accompanying text. More recent results, however, have fairly consistently shown no statistically mean-

in which the practice of law presents greater stress for women, since women carry a larger role in providing childcare than men, and deal with more discrimination, fewer mentors, less compensation, and more challenging work/life balance issues than their male counterparts.<sup>207</sup> A number of articles explore these issues in greater depth,<sup>208</sup> but for the purposes of this meta-analysis, the key point is simple: women lawyers generally are as satisfied as their male counterparts although their satisfaction with specific aspects of the job context and setting may differ from that of their male colleagues.<sup>209</sup>

#### 4. *Racial Minority Attorneys Are Not Significantly Less Satisfied than Racial Majority Attorneys*

The most statistically reliable analyses show that, with a few exceptions, minority attorneys are not disproportionately dissatisfied with their careers in the law.<sup>210</sup> That said, the subset of minorities who are least satisfied with their experience in the practice of law is women of color.<sup>211</sup>

#### 5. *Possible Regional Differences*

It is possible, although hardly conclusive, that there are some regional differences in levels of satisfaction among attorneys, or even possibly state-specific differences in levels of satisfaction among attorneys. In the late 1980s there was a pretty significant difference between levels of satisfaction among attorneys in Minnesota and Maryland, both at or near 90%, and those in New Mexico, at 73%.<sup>212</sup> Since 2000, the level of satisfaction among attorneys in North Carolina was at 76%, while it was 73% in Alabama, nearly 90% in Maryland and, most recently, 59% in South Carolina.<sup>213</sup> This may reflect survey populations that are disproportionately more experienced or less experienced, or disproportionately in private practice rather than in public interest or government positions, but the possibility of regional and state differences cannot be completely discounted. Moving forward, this would be a worthwhile point of emphasis in further

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ingful difference in satisfaction between women lawyers and men lawyers. See discussion *supra* notes 54 (Mueller & Wallace), 60 (Hull, *Chicago*), 118 (Richard), 128 (AFTER THE JD), 146 (Hagan & Kay II), 158 (Cantrell, *Yale*), and accompanying text. *But see* discussion *supra* notes 112–13 (CATALYST), 171 (AFTER THE JD II) (showing modest difference in satisfaction).

207. See, e.g., Mueller & Wallace, *supra* note 52, at 338; see generally Hull, *Myth*, *supra* note 3; see also HAGAN & KAY I, *supra* note 45.

208. *Id.*

209. See discussion *supra* notes 52 (Mueller & Wallace), 60 (Hull, *Chicago*), 128 (AFTER THE JD), 146 (Hagan & Kay II), 158 (Cantrell, *Yale*), and accompanying text.

210. See, e.g., *Michigan Minority*, *supra* note 106; DINOVITZER ET AL., *supra* note 3, at 64; DINOVITZER ET AL., *supra* note 23, at 76.

211. See, e.g., CATALYST, *supra* note 113, at 15; ABA COMM'N ON WOMEN IN THE PROFESSION, VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS, EXECUTIVE SUMMARY (2006).

212. See *supra* notes 14, 17, 34, and accompanying text.

213. See *supra* notes 121, 132, 184, 190, and accompanying text.

research. If there are regional differences or state-specific differences, then one needs to be careful about extrapolating local results to the profession as a whole.

### 6. Temporal Differences

Over the last three decades, there have been some slightly “better times” in terms of attorney satisfaction (for the most part, the 1980s), and some slightly worse times (the 1990s generally and the early 1990s specifically), and some “average” times (the 2000s).<sup>214</sup> The Michigan data clearly shows a lull in satisfaction in the early 1990s that corresponds roughly with the economic downturn in that time period.<sup>215</sup> The current state of the economy generally, and the legal market specifically, may raise questions about whether three decades of data on lawyer satisfaction remain an accurate indicator of whether lawyers in 2011 and 2012 are still as satisfied with their jobs and careers. With one exception, the last data sets reported in this article were from 2007, just before the economic decline of 2008 and 2009, which triggered the deepest recession in decades.<sup>216</sup> The After the JD II report specifically acknowledges that the onset of the recession may alter the data set significantly with respect to the third round of survey data, which was to be gathered in 2010 and should be reported out in 2012.<sup>217</sup> If the South Carolina data, which is the only survey reporting data from 2008 or later, is an accurate foreshadowing, the After the JD III could be expected to show a significant decline in the level of attorney job satisfaction, perhaps particularly for those in private practice, much like the Michigan data during the early 1990s, the last significant economic recession.<sup>218</sup> Similarly, the Krieger survey of lawyer wellbeing currently underway will be instructive in identifying the extent to which the economic crisis has impacted the wellbeing of attorneys across the spectrum of job categories for lawyers.<sup>219</sup>

Assuming these forthcoming data sets paint a gloomier picture, they should be viewed with caution. They may be an indicator of a changing legal profession, with more commodified work and with outsourcing that makes what many lawyers do truly less satisfying. But they may be simply

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214. During the 1980s, the average was roughly 82.25%; in the 1990s, the average was roughly 78.5% and in the 2000s (not counting South Carolina in 2008), the average was 79.25%. See *supra* Table 3.

215. See Hull, *Myth*, *supra* note 88.

216. *Virginia*, *supra* note 5, at 2, *AFTER THE JD II*, *supra* note 23, at 13, and *University Maryland* survey, *supra* note 183, were completed in 2007.

217. *AFTER THE JD II*, *supra* note 23, at 14.

218. See *SOUTH CAROLINA*, *supra* note 188; *Michigan 1999*, *supra* note 56, at 365; Hull, *supra* note 3, at 973; *supra* note 3 and accompanying text. In what may seem ironic, a recent issue of the ABA Journal had as its headline story—*Why I Love Being a Lawyer (Seriously)*, ABA JOURNAL Feb. 1, 2011, available at [http://www.abajournal.com/magazine/article/why\\_i\\_love\\_being\\_a\\_lawyer](http://www.abajournal.com/magazine/article/why_i_love_being_a_lawyer).

219. See Krieger, *infra* note 226.

a reflection of the economic reality in which attorneys currently function. Indeed, attorneys with jobs may be inclined to manifest higher levels of satisfaction than may otherwise be anticipated because they may recognize that they are fortunate to have a job at all. Regardless, there will be useful information forthcoming in the next year or two that will deepen our understanding of lawyer satisfaction/dissatisfaction and wellbeing in a difficult economic climate.

C. *Continuing Mysteries with Empirical Data—Some Items for a Research Agenda*

1. *Can Alcoholic and/or Depressed Lawyers be Satisfied?*

As a general matter, while the data on lawyer satisfaction/dissatisfaction is not nearly as discouraging as many people suggest, it is not entirely rosy either. One could look at this data in a relative sense and say that, although lawyers are consistently manifesting levels of satisfaction around 80%, this nonetheless reflects disproportionate levels of dissatisfaction when compared to other occupations where the percentage of “very satisfied” or “somewhat satisfied” is in the 84–86% range.<sup>220</sup> Comparatively speaking, then, lawyers may be slightly less satisfied than those engaged in other occupations.

More significantly, the fact that roughly 80% of lawyers consistently describe themselves as being “satisfied” still has to be reconciled with the separate empirical data that indicates lawyers disproportionately experience alcoholism, depression, and other mental health issues.<sup>221</sup> How can one explain why a population that is disproportionately inclined toward alcoholism, depression, and other mental health issues nonetheless consistently manifests significant levels of job and career satisfaction?

One possibility is simply denial, or lack of self-awareness.<sup>222</sup> Lawyers have always been successful people—they did well in college and were among the privileged few accepted into law school. They survived law school and may have a normative understanding that they have a position of privilege and, therefore, “should be satisfied.” Thus, they may indicate that they are satisfied even though they truly are not.<sup>223</sup> Specifically, they may rationalize their reliance on alcohol as a stress reliever or their depression as simply an inherent part of being a lawyer. They may not see the inconsistency of living with alcoholism or depression and simultaneously responding to a survey by saying they are “satisfied.”

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220. See Glenn Firebaugh & Brian Harley, *Trends in Job Satisfaction in the United States by Race, Gender, and Type of Occupation*, 5 RES. SOC. WORK 87, 87 (1995), cited in Heinz, *Chicago*, *supra* note 55, at 736 n.11.

221. See, e.g., discussion *supra* notes 32 (Benjamin I), 33 (Eaton), 36 (NORTH CAROLINA 1991), 39–40 (Benjamin II), and accompanying text.

222. See Fortney, *supra* note 97, at 268; discussion *supra* note 97.

223. *Id.*

The challenge here is that few surveys that ask about job or career satisfaction or dissatisfaction also ask information from which one could assess whether respondents are alcoholics or are depressed.<sup>224</sup> Indeed, there is not much recent empirical data on rates of alcoholism or depression among lawyers.<sup>225</sup> The current survey project of Professors Larry Krieger

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224. The best examples of studies that discussed both data regarding job or career satisfaction and the extent to which respondents were dealing with alcoholism or mental health issues were the 1984 ABA YLD SURVEY and 1990 ABA YLD SURVEY, the *Stanford* survey, NORTH CAROLINA 1991, *Be Thyself*, and Hagan & Kay II, discussed *supra* notes 6, 12–13, 35, 3, 145, and accompanying text, respectively. Among these, only the ABA YLD surveys and *Be Thyself* provided a statistical basis on which to relate mental or physical distress with satisfaction, showing an inverse correlation (but without being able to show causation). See Rio, *supra* note 43 (discussing inverse correlation between distress and satisfaction—as distress increases satisfaction decreases in 1984 ABA YLD SURVEY data and 1990 ABA YLD SURVEY data); discussion *supra* note 153 (*Be Thyself*) and accompanying text (showing similar inverse correlation between distress and satisfaction without showing a causative relationship).

225. The most consistently cited empirical data regarding rates of alcoholism and psychological distress among lawyers are Benjamin I, Benjamin II, Beck, and NORTH CAROLINA 1991, discussed *supra* notes 31, 38, 49, 35, and accompanying text, respectively. While *Be Thyself* included the BSI, it did not address alcohol and the article did not report the frequency with which respondents manifested psychological distress; it only reported an inverse correlation between psychological distress and satisfaction. See *Be Thyself*, *supra* note 153.

There also is only modest empirical data regarding alcohol and drug use and mental health among law students. Benjamin and his coauthors were among the first to document alcohol use and mental health issues among law students. See discussion *supra* notes 31 (Benjamin I), 38 (Benjamin II), and accompanying text. In the early 1990s, the Association of American Law Schools (AALS) Special Committee on Problems of Substance Abuse in the Law Schools published a written report summarizing a study of several thousand law students, which showed that law students use alcohol and certain drugs at higher rates than other college graduates. AALS Committee, *Report of the AALS Special Committee on Problems of Substance Abuse in the Law Schools*, 44 J. LEG. EDUC. 35, 41–43 (1994) (“[T]he respondents to the Law Student Survey showed significantly higher usage rates for alcohol and for psychedelic drugs other than LSD for each of three periods (lifetime, past year, and past month) than did either the high school graduates or the college graduates” and also showed increases in use over the three years of law school).

More recently, Kenneth Sheldon and Lawrence Krieger compared the emotional wellbeing of law students at Florida State University and one other unnamed law school with advanced undergraduate students at the University of Missouri. Kenneth M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well Being*, 22 BEHAV. SCI. LAW. 261 (2004) [hereinafter *Undermining Effects*]. The study at Florida State began in August 2000 on the first day of law school, when 235 of the 245 first-year law students took a survey on “attitudes and values.” The comparison pool consisted of 236 undergraduates in a psychology class at the University of Missouri. *Id.* at 267. The survey included the Positive Affect Negative Affect Schedule, the Satisfaction with Life Scale, and the Beck Depression Inventory. The law students were resurveyed in March 2001, with 191 participating in the second survey. *Id.* Analysis showed that the entering law students were happier and more intrinsically oriented than the comparative sample of college students. *Id.* at 271. Comparison of the law students’ second survey results with their first indicated a statistically significant decline in subjective wellbeing across all categories. Positive affect and satisfaction with life declined significantly, while negative affect, depression, and physical symptoms increased significantly. These results are consistent with those of Benjamin in the 1980s. *Id.* at 272 tbl.3. See *supra* note 31 (Benjamin I) and accompanying text. This decline in subjective wellbeing also coincided with a decline in intrinsic motivation, an increase in extrinsic motivation, and a decline in intrinsic value orientation among the law student population. *Undermining Effects*, *supra*, at 273. Moreover, subsequent assessments in November 2001 and November 2002 showed

and Ken Sheldon will be helpful in better understanding whether lawyers experience impaired wellbeing in a manner consistent with or different from that reflected in the law student populations that Professors Krieger and Sheldon surveyed previously.<sup>226</sup> As research continues, researchers should consider including questions about alcoholism, mental health, and wellbeing in any satisfaction/dissatisfaction surveys to better understand how these issues relate. This will allow researchers to assess the “denial” question—whether lawyers who are dealing with mental health issues or alcoholism also are indicating that they are relatively satisfied in their jobs.

## 2. *Exploring Other Factors that Might Influence Satisfaction*

In addition, researchers might consider asking another set of questions that would address a survey participant’s orientation toward life. For example, the research of Susan Daicoff and Lawrence Richard addressed the relationship between satisfaction and personality profiles.<sup>227</sup>

Moreover, the work of Ronit Dinovitzer and Bryant Garth indicates that a law school graduate’s socio-economic background may cause him or her to expect a certain career or anticipate a certain career trajectory.<sup>228</sup> This expectation may frame her perception of whether she is satisfied or dissatisfied.<sup>229</sup>

David Myers states that “[h]appiness seems less a matter of getting what we want than of wanting what we have.”<sup>230</sup> This sounds much like the Bourdieu idea that some people make a virtue of necessity and are satisfied

that the initial decline in subjective wellbeing had not moderated. *Id.* at 281. A similar study was then conducted at a different, unnamed law school, which surveyed students when they entered in September 2002 and again in April 2003. *Id.* at 277. The results of this study were consistent with those of the Florida State study—across all demographics, the students at the second law school experienced a statistically significant decline in subjective wellbeing between September and April. Again, positive affect and satisfaction with life declined significantly, while negative affect increased significantly. *Id.* at 278 tbl.5, 280. In a subsequent article discussing this research, Sheldon and Krieger found a correlation between lack of autonomy support and declines in wellbeing. Kenneth M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test and Extension of Self-Determination Theory*, 33 *PERSON. & SOC. PSYCH. BULL.* 883 (2007) [hereinafter *Understanding the Negative Effects*].

226. See Lawrence S. Krieger, *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, 8 *U. ST. THOMAS L.J.* 168 (2011); see also *Undermining Effects*, *supra* note 225. This article contains the detailed analysis of survey results that Lawrence Krieger and Kenneth Sheldon briefly described in an earlier article. Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 *J. LEGAL EDUC.* 112 (2002).

227. See Richard, *supra* note 1, at 979; *Be Thyself*, *supra* note 3; discussion *supra* notes 1, 3, and accompanying text.

228. See discussion *supra* notes 149–51 (Dinovitzer & Garth) and accompanying text (citing Bourdieu).

229. *Id.*

230. David G. Myers, *Wealth, Well-being, and the New American Dream*, DAVID G. MYERS (2000), <http://www.davidmyers.org/Brix?pageID=49>.

because they accept that other opportunities simply may not be available to them.<sup>231</sup> Similarly, authors such as Martin Seligman, Nancy Levit, Gordon Linder, and Lawrence Krieger draw on positive psychology literature and note that “[d]ownward comparisons support happiness much more than upward comparisons.”<sup>232</sup>

With these ideas in mind, there may be value in assessing the relationship between an orientation toward gratitude and satisfaction/dissatisfaction, or the extent to which “optimists” are more satisfied than “pessimists.”<sup>233</sup> Alternatively, the survey data that has been gathered may simply reflect the extent to which people are extrinsically or intrinsically motivated.<sup>234</sup> Perhaps those who are extrinsically motivated are inclined towards dissatisfaction because they define happiness in relation to things they don’t have, whereas those who are intrinsically motivated are inclined towards satisfaction because they tend to reflect gratitude for what they have. It might be a fruitful endeavor to identify or develop a set of questions to refine these understandings.

#### D. *Lessons for Law Schools*

##### 1. *Help Law Students Develop More Realistic Expectations About Law Practice*

Accepting that newer attorneys experience higher levels of dissatisfaction,<sup>235</sup> and that this level of dissatisfaction may be attributed to newer attorneys’ unmet expectations about the practice of law,<sup>236</sup> there are some things law schools could do to accelerate the process by which newer attorneys find themselves more satisfied with their legal careers.

First, law schools could design programs that expose all law students to legal practice in a variety of settings so they have more realistic expectations about what it means to be a lawyer. For example, the University of St. Thomas School of Law Mentor Externship Program matches each student with a practicing attorney or judge and requires each student to conduct twelve to fifteen experiences during their three years of law school to learn what lawyers actually do.<sup>237</sup> The Mentor Externship Program nurtures stu-

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231. See Dinovitzer & Garth, *supra* note 5, at 32–33 (citing Bourdieu).

232. See Lawrence Krieger, Comments as Panelist at AALS Conference, San Francisco, CA, Jan. 5, 2011 (citing LEVIT & LINDER, *supra* note 185).

233. See discussion *supra* note 230 (Myers) and accompanying text; LEVIT & LINDER, *supra* note 185, at 8–12.

234. See *Undermining Effects*, *supra* note 225.

235. See *Michigan 1999*, *supra* note 56; discussion *supra* note 84 (Hull, *Myth*) and accompanying text.

236. See, e.g., *supra* note 35 (NORTH CAROLINA 1991) and accompanying text (noting that dissatisfaction among less experienced attorneys frequently arises because of unrealistic expectations).

237. See UNIVERSITY OF ST. THOMAS SCHOOL OF LAW MENTOR EXTERNSHIP PROGRAM, <http://www.stthomas.edu/law/programs/mentor/about/default.html> (last visited July 17, 2011).



dent understanding by fostering exchanges between students and their mentors regarding the students' experiences with legal practice, and by encouraging student reflection through the journaling requirement that occurs in conjunction with the classroom component of the Mentor Externship Program in the second and third years of law school.<sup>238</sup> By exposing students to actual legal practice, and by encouraging student self-awareness through reflection, students are more likely to make better decisions about their preferred practice area and work context, and/or recognize that the challenges they experience in their jobs may just be par for the course for young lawyers.<sup>239</sup>

Second, law schools could hire more faculty with practice experience who are in a position to give students a more realistic understanding of what it means to be a lawyer in any number of courses throughout the curriculum. Notably, this would run counter to the trends in hiring over the last few decades.<sup>240</sup>

## 2. *Help Students Develop Better Self-Understanding in Forming Professional Identity*

There has been fairly abundant literature over the last few decades highlighting the stress and negative experience of many law students,<sup>241</sup> including a real sense that law school disconnects students from their own

238. *Id.*

239. Many schools offer clinical experiences for a significant number of students and may offer externships for some students, but few schools require all graduates to have clinical or externship experiences that give them exposure to the practice of law in a way that helps them develop realistic expectations regarding the practice of law.

240. See Newton, *supra* note 195, at 129–30; Redding, *supra* note 194, at 595; discussion *supra* notes 194–95 (describing hiring patterns which show less and less practice experience among new faculty hires, particularly at elite schools, and more hiring of PhDs).

241. See, e.g., Todd David Peterson & Elizabeth Waters Peterson, *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology*, 9 YALE J. HEALTH POL'Y L. & ETHICS 357 (2009); ELIZABETH MERTZ, *THE LANGUAGE OF LAW SCHOOL: LEARNING TO "THINK LIKE A LAWYER"* (2007); *Undermining Effects*, *supra* note 225; Robert P. Schuwerk, *The Law Professor as Fiduciary: What Duties Do We Owe to Our Students*, 45 S. TEX. L. REV. 753 (2004); Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?*, J. LEGAL WR. INST. 1 (2003); *Understanding the Negative Effects*, *supra* note 212; Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75 (2002); Lawrence S. Krieger, *What We're Not Telling Law Students—and Lawyers—That They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession from its Roots*, 13 J. L. & HEALTH 1 (1998–99); Ann L. Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524 (1998); Note, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 HARV. L. REV. 2027 (1998); B.A. Glesner, *Fear and Loathing in the Law Schools*, 23 CONN. L. REV. 627 (1990–91); Benjamin et al., *supra* note 31; Stephen B. Shanfield & G. Andrew H. Benjamin, *Psychiatric Distress in Law Students*, 35 J. LEGAL EDUC. 65 (1985); Thomas L. Shaffer & Robert S. Redmount, *Legal Education: The Classroom Experience*, 52 NOTRE DAME L. REV. 190 (1976); James B. Taylor, *Law School Stress and the "Deformation Professionelle"*, 27 J. LEGAL EDUC. 251 (1975).

values.<sup>242</sup> Currently, law school culture also does little to help students form professional identity.<sup>243</sup> In order to place graduates in situations in which they can be expected to make more satisfying decisions about job contexts, law schools should create opportunities that encourage students to reflect on their values as they begin to form a deeper understanding of their professional identity. While career and professional development offices may work with students to develop an understanding of their strengths and skills, the academic culture of law school tends to be so predisposed to analytical skills that students frequently discount other valuable strengths and relationship skills such as listening, empathy, and compassion.<sup>244</sup> Absent better self-understanding, students and graduates are likely to fail to think about how they might be more satisfied in a practice setting in which they can use their natural gifts and strengths.

### III. CONCLUSION

The “conventional wisdom” regarding lawyer dissatisfaction would appear to be negated by nearly three decades of empirical research showing that on a fairly consistent basis—roughly 79–80% of attorneys—indicate that they are positively satisfied with their jobs and/or careers.<sup>245</sup> Nonetheless, one should be careful about discussing satisfaction in the legal profession generally when there are sub-populations of lawyers that do appear to have different levels of satisfaction, with more experienced lawyers generally showing greater satisfaction than less experienced lawyers and with those in the public sector and in public interest work generally showing greater satisfaction than those in private practice, particularly those in larger firms.<sup>246</sup>

In recent decades analysis of lawyer satisfaction has gotten more refined as researchers try to explain the paradox of women lawyers being equally satisfied as men lawyers (in spite of a much more challenging experience with the profession and work life balance),<sup>247</sup> look at other sub-popu-

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242. See, e.g., *Undermining Effects*, *supra* note 225 (documenting a shift from intrinsic to extrinsic values); Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247, 256 (1978) (discussing the neglect of values in the law school classroom).

243. See WILLIAM M. SULLIVAN ET AL., *Educating Lawyers: Preparation for the Profession of Law* 27–33 (2007); Howard J. Vogel, *The Problem of Hope, the Question of Identity, and the Recovery of Meaning in the Practice of Law*, 32 SETON HALL L. REV. 152 (2001).

244. SULLIVAN ET AL., *supra* note 243; Cramton, *supra* note 242, at 250–51.

245. See *supra* Tables 1, 3.

246. See *supra* notes 199–203 and accompanying text.

247. See discussion *supra* notes 52–54 (Mueller & Wallace), 59–60 (Hull, *Chicago*), 145–47 (Hagan & Kay II), and accompanying text.

lations,<sup>248</sup> and look at satisfaction with different components of work setting and context.<sup>249</sup>

For future lawyers, those presently in law school or considering law school, the good news is that the statistical data summarized in this article demonstrates that there is no need to despair completely that a life in the law will lead inevitably to dissatisfaction.<sup>250</sup> That said, given the present economic climate, the transition into the practice of law likely will be challenging. One should consider carefully whether the investment in a legal education is worthwhile.<sup>251</sup> Moreover, the early years of practice may be filled with some dissatisfaction because one's first job may not be as satisfying or fulfilling as one might desire.<sup>252</sup>

To enhance the likelihood of finding greater satisfaction in the practice of law as early as possible, those in law school or considering law school should learn as much as they can about what it means to practice law in the twenty-first century so that their expectations of law practice can be as grounded in reality as possible. Moreover, they should focus not only on learning the law, but developing better self-understanding so that they can direct their efforts in practicing law into practice areas and job contexts that are more likely to be fulfilling given their values, skills, and preferences.

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248. See, e.g., discussion *supra* notes 114–19 (Richard), 152–54 (*Be Thyself*) (both discussing personality preferences); discussion *supra* notes 148–51 (Dinovitzer & Garth) and accompanying text (citing Bourdieu and discussing social stratification and satisfaction).

249. See, e.g., discussion *supra* notes 123–29 (AFTER THE JD), 166–73 (AFTER THE JD II), and accompanying text (discussing a variety of factors that inform job satisfaction).

250. See *supra* Tables 1, 3.

251. See David Segal, *Is Law School a Losing Game*, N.Y. TIMES (Jan. 8, 2011), <http://www.nytimes.com/2011/01/09/business/09law.html>.

252. See *supra* notes 199–205 and accompanying text.