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LAWYER DISTRESS: A COMMENT

SUSAN S. LOCKE¹

When I read the Beck, Sales and Benjamin article on lawyer distress as it relates to alcoholism, substance abuse and emotional problems, I was shocked to see data which translates into high numbers of impaired attorneys. I felt in part vindicated that my personal supposition on the numbers of alcoholic attorneys was supported by these studies. Prior to this article, the numbers on lawyers were somewhat hazy and subject to conjecture. And lastly, I was moved to emotion when I read this article. What a tragic waste of lives and talent. It does not have to be this way. I especially commend the team for focusing on women in the survey.

When Professor Stephen J. Werber of Cleveland-Marshall College of Law asked me to comment for the *Journal of Law and Health*, I noted the very distinguished company I was joining. After reading the article, I called him and asked what it was I could possibly have to offer. Most of my legal career has been spent in trust banking law with early phases in government and private sector work. I felt out of place in the company of ethicists and law school deans. I told Professor Werber I could only offer my personal observations as a woman who is a lawyer and as a recovering alcoholic who has worked in the field of lawyer assistance to impaired attorneys on the local, state and national bar levels. My comments then are very personal and unique to my experiences. They are not developed in any way that can be quantified with psychological studies or statistics or any other type of empirical data. They are from the head and from the heart. They are based on twenty-two years of being a woman in the practice of law and over fifteen years of being an alcoholic who is working a daily program of recovery.

I will not debate whether or not the practice of law creates dysfunction, requires dysfunction or perpetuates dysfunction. I am reminded of a colleague who, when looking at his law firm partners who practice in my field of estate planning asked, "Do you have to be eccentric to go into estate planning, or does it just make you that way after a while?" Probably the answer is a little of both, and it is as true for the practice of law in general as it is for estate planning. When the dust settles at some time in the future, we may discover that the very traits that in excess are dysfunction, such as rigid control, perfectionism, aggression, excessive compulsive behavior, outspokenness and a tendency to go against the grain, also make for effective lawyers who are exacting, vigorous advocates, tenacious, assertive and willing to take on any and all challenges.

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These seem to be valued attributes in the lawyer and second nature to the alcoholic. I leave to others to argue and debate whether or not that is the way law, in the end, a learned profession, even ought to be practiced.

The data assembled by the Beck, Sales and Benjamin team surprised me. It stands for the proposition that the legal profession is in a lot of trouble. The assembled data demonstrates that there is an even greater percentage of lawyers troubled by alcoholism and other emotional problems than there is in the general population.

Beck, Sales and Benjamin break down these studies by sex where possible. A very troubling theme emerges. It is what I like to call "the disappearing woman". In looking back over my personal history of alcoholism and recovery and in anecdotal histories based on the sharing of common experiences which form a basis of attaining and sustaining alcohol recovery, I believe that it is difficult to clearly identify the woman who is an active alcoholic and therefore hard to profile her.

In my opinion professional women are torn by their conflicting desires and self-imposed needs to be accepted in a "man's profession." Rightly or wrongly, this is externalized by acting as tough, working as hard, thinking and drinking like men. This conflicts with a belief that these behaviors just are not appropriate for nurturers, mothers and educated women of my generation who were bred to be "ladies and scholars." Frequently when a woman does come to terms with her alcoholism, recovery is very hard to achieve because a woman is hardest on herself first. Much has been written in alcohol recovery literature about "guilt and shame" as twin themes that serve as barriers to recovery. I concur that feelings of self-loathing help to perpetuate women's alcoholism. These feelings can continue on although the woman is abstinent from mood altering chemicals. They serve as roadblocks to our efforts to be caregivers to ourselves and to be role models to other women seeking recovery. No matter how successful a woman might be, the concept of being a recovering alcoholic and publicly coming forward with a message of hope presents problems. Women then no longer are anonymous. Although anonymity is a foundation for twelve step recovery, risk of loss of anonymity is, in my belief, sometimes not based so much on respect for recovery traditions as it is on fear of reprisal. To come forward, one risks detection and judgment from peers and partners. Alcoholism is not a "ladylike" behavior.

This continuing stigma of shame also keeps women from getting help until it is very often too late and their jobs are lost. Because of their physical differences from men, women tend to have shorter drinking careers than men. They get into trouble and have adverse consequences from their behavior sooner in their lives than do men. My observation has been that the drinking woman who is in the problem stage of drinking or actively alcoholic does not survive the rigors of a legal career as a "functioning alcoholic." Functioning alcoholics are people who, though clinically impaired, hold down jobs. Women fall off the career track sooner because of their drinking. Women leave law firms before detection by the other lawyers in the firm. Perhaps they are more "expendable" as associates and because of it, they are not confronted and forced to change their behavior. No time, then, is invested in intervention and recovery. They simply disappear, perhaps for performance reasons. They lose years sorely needed to acquire "lawyering" skills and to build client contacts

and careers. Often when I work with a woman, I am struck by how impaired she is at functioning in the business world. She retreats to little girl ways, seeking permission to practice and reassurance from her superiors, rather than approaching her assignments in a mature fashion and seeking clarification and guidance only when necessary. I believe this is partly because alcoholism, substance abuse and other disorders retard social development. It makes it very hard to get back on track. It makes it easier just to disappear from the downtown job scene and to dally at lawyering on a solo or part-time basis—away from prying eyes, away from questions, away from deadlines imposed by others. For some married women, there is an easy retreat, as I found, in being a non-working spouse. When I did not work for a period before I began my recovery, I did not have to explain to anybody why. I was my husband's wife. It was an easy identity to assume, and it helped me hide the terrible pain and low self esteem I felt over job losses, career stumbles, and the inability to financially contribute to my household, problems that my drinking and attendant depressions caused. It's just more socially acceptable for a woman to be unemployed. There is less external pressure to be a wage earner. The converse I think is true for men. They are visibly wrapped up in their careers, and there is societal pressure to be a worker and the primary wage earner for the household. Loss of a job will not necessarily curtail a woman's drinking, but job loss for a man will certainly get his attention.

There's so much loneliness in alcoholism. *Lawyer Distress* points out how women attorneys, with lower marriage rates, higher divorce rates and lower re-marriage rates, lack powerful social supports needed to enhance personal fulfillment: marriage, family, interaction with others, high self esteem. *Lawyer Distress* also points out how very lacking women are in these areas which enhance the quality of life. These things contribute to making women difficult to find and to help.

I was forced to reflect on my own personal and professional career. Like many women, I did not begin my drinking until my early twenties. I was a social and party drinker during the freewheeling 60's when regular social use of drugs and alcohol was acceptable. Alcohol and drugs helped me emerge from a shy and backward teenager to an outgoing, fun-loving college student.

From a nurturing small liberal arts college, I entered a large urban university complex, a tough school in a tough part of town. I found myself unprepared for the experience of law school. My liberal arts, free association type of thinking was crushed and remolded under a rigorous tutelage. While I found the logic of the discipline fascinating, I found the brutalization and the tyranny of law professors and law school rivals uncomfortable, competitive, cutthroat.

I experienced frequent panic attacks. I became apprehensive, terrified, brittle, obsessive. I relied on rote memorization to supplant thought and invested many long hours briefing, reading, analyzing and memorizing. I dreaded every day that I would be "called upon" and grilled for an hour before my classmates. Heaped atop all of this insanity was the salient fact that from a women's college, I had entered into a class where fewer than 10% of my classmates were women. We lucky few women who had been admitted to the inner circle of the boys club compared notes. Most of us had gone to upscale liberal arts colleges. Many had advanced degrees in other areas before coming to law school, and most had academic distinctions. Almost all of us felt out of

place in law school. These messages of our not fitting in were not even subtle. We were told we did not belong in a man's profession. We were told that the sight of our legs was distracting to the male students while in class. We were accused of taking up valuable seating space from men who would have families to support and mouths to feed. (Who would feed the single women until they were lucky enough to marry a breadwinner?) There were some distinct slants on estate planning and in our courses of study that were, frankly, sexist and antiquarian. Women were questioned if it was legal that they did not use their husbands surnames upon marriage. If a woman married a male law student who had an out of state domicile, she automatically lost her in-state tuition credit because it was assumed that her domicile would follow that of her husband (though she had never set foot in that state). I was told to my face that it was a waste for me to even be in law school. I can remember as a law clerk being given an assignment to research the Pennsylvania *femme sole trader* laws as an exercise in humiliation.

The tension, the drive to perform, was palpable. For me, the need to escape into the oblivion of alcohol was a necessity. It helped me socialize, it helped me relax, and it helped me reward myself. But unlike most other students, when I graduated from law school I did not settle into responsible behavior. I cannot really say that I ever drank like anybody else I ever knew. I know I did it a lot and prided myself on being able to hold my own with the boys on a Friday night. In my life, however, there was a compulsion slowly taking over. The mere need to socialize and relax and reward myself had become a necessity and moved quickly into addiction.

By the time I took my first job at age twenty-six, I was drinking to quiet my nerves at the end of the day. I drank to escape the pressures of work and the terrible feeling of being inadequate for the job. Contributing to my slide into addiction was a willing physician who prescribed large doses of valium. Tranquilizers and other prescription drugs were now a necessity. I was hired at my first job because I was a woman, not because of my qualifications. They needed "one" to meet somebody's quota. I remember how empty it felt to get jobs, knowing that no one had really looked at my qualifications. I was an acceptable woman, and they needed one.

Although my sex was an advantage in getting jobs, it certainly was no advantage in working through them. That I survived my early career at all is a marvel. I faced open hostility from my co-workers, from my employers and from the bench. When I was sworn in to my first local bar, a quaint Pennsylvania practice no longer observed, I was told by the President Judge that there were ten women admitted to the local bar and that, as the tenth, that was quite enough. Somehow women's admission should all stop with me. I recall talking with other well qualified women, who had put their careers on hold and did not think they'd ever return to the practice of law in such a hostile environment. These women had little choice but to be wives and mothers. Their college and law school degrees hung on walls, gathering dust. Would they ever be able to return? Is it any wonder we were all depressed and discouraged back then?

People were perplexed that I still used my maiden name (in which my law school degree was conferred) rather than my husband's name. I was asked to hold a female defendant's baby because I was the only woman in the court

room. Never mind that I was there with a paying male client to do other business. On job interviews I was asked about my child care plans. I had no children. There were series of "what if" questions: What if you get pregnant? What if your husband moves? What if your child is sick, and you have a trial on the same day? Most of these questions culminated in an outright statement that women were not really suitable for the position because there was traveling, or tough and exacting clients, or the woman hired previously had been a failure. I found these situations to be the fuel for resentment. Coupled with a disposition to drink, I was in trouble very early on in my career.

Overwhelming anxiety and fear followed me through these early years. The fear of being found out. I was not as smart as I portrayed myself to the world, not as quick, not as strong, not as mentally agile or capable. Every night, I would creep home to the bottle to quell the willies, to anchor the "free floating" anxiety, to drown my self-loathing.

To the outside world, I was brittle. I drank like one of the boys. I drank to excess on occasion. And though I always tried to refrain from certain activities I personally considered in bad taste, such as drinking and driving, there came a time when I joined a law firm and was chastised for not drinking with the clients. I perceived this as an open invitation to drink. I had found a home at last, I thought. The change that alcohol wrought in my personality was, however, becoming complete. I was still professionally unsure and terrified. I was not well accepted by the other partners and could not enlist their help or support. I frequently showed up hung over. I sobered up in the middle of the day, played catch up with my work from the prior day and started the cycle all over again at night, drinking until I passed out, calling it sleep.

An important thing to remember about drugs and alcohol is that they act like the final ingredient, the key in the lock, the missing item, the Click. Instant Person, just add alcohol. They complete the alcoholic. In the beginning, drugs and alcohol made me feel whole and complete as a person. There are many physiological reasons for this feeling. For the alcoholic, that first fix is the feeling you keep searching for the rest of your drinking career. First you feel complete and then later, as you continue to drink looking for that first high, your personality and your life deteriorate.

A woman who is an alcoholic is not a pretty sight. Bloated, circles under my eyes, bruised from falling down and bumping into things, I ended my drinking career after being fired from the law firm. My drinking had arced from being so vitally important to relax and socialize, to one of needing my drug to function. Nearly losing my marriage, almost losing my home, hallucinating with the D.T.'s, I surrendered to my addiction and sought assistance.

How hard that help is to accept! I was doubly impaired. I was well educated, and this sort of thing is not supposed to happen to the terminally bright. I was also a woman who did not quite drink in the closet but with the boys. Although the men drank with me, secretly I scandalized them. I was a lush. In recovery, even among recovering men, there is something not quite right about a woman who belongs in AA.

After some years of alcohol recovery, I was introduced to a group of recovering attorneys who welcomed me into the Lawyer's Assistance Program, a program of the Ohio State Bar Association. It was still in its infancy in the State of Ohio. The organization was started in 1977 by the Honorable Craig

Wright, Justice of the Ohio Supreme Court, himself a recovering alcoholic who makes no attempt at anonymity. The goal of the Lawyers Assistance Program was to reach out and to help the suffering alcoholic legal practitioner, male or female. The most difficult task was to convince others of the numbers of active alcoholics we believed were represented in the Ohio Bar. We could only guess at 10% to 15%. We believed it to be higher for the attorney population than for the general population. We requested funding for our efforts and eventually hired a permanent director who works with a strong volunteer core to educate and to monitor attorney addicts in the State of Ohio. Prior to the founding of the Lawyers Assistance Committee, the Ohio Supreme Court, as evidenced in its disciplinary statements, was very prominent in subscribing to the belief that an admitted alcoholic was unfit to practice law in the State of Ohio. Alcoholism was not viewed along the disease concept model but rather as a moral failing, making one unworthy to practice law. And so the guilt and personal shame associated with alcoholism became institutionalized in the recovery community. You just did not talk about it. You could not help others. You risked too much by being known as a recovering alcoholic among a professional community of non-alcoholic attorneys. Against this kind of back drop, I began my service. I was just lucky to be too dumb to know what professional danger I could be in.

We made an aggressive move in the 80's by helping to have mandated alcohol and substance abuse education as a part of CLE for lawyers and law students. Among some lawyers, it is controversial. They believe either that one has a constitutional right to abuse drugs in the privacy of his or her home or that alcohol and substance abuse education has no place in professional education. I disagree. I believe that *Lawyer Distress* is a powerful weapon in demonstrating the prevalence of alcoholism in the attorney population and the desperate need for this type of exposure and education, if not for the practitioner, than for those around him or her.

It is commented upon in the recovery community that alcoholism is one disease that does not have a yearly telethon or some pretty ribbons to wear on your lapel to make you think of alcoholism, of a national recovery week or a poster child. Its victims simply do not cry out for a cure. Perhaps they are having too good a time in their addiction. Perhaps the shame associated with the disease is still too great.

It remains a mystery to me that no matter how well people know me today, they have difficulty believing that I am a recovering alcoholic. I just do not fit the picture. Today. I once did.

When I read of the isolation and the withdrawal of the woman alcoholic, I am touched. I know these women. I have worked with these women. I was one of these women. I've seen alcoholism rob them of their dreams, their careers and their families. And I see how hard it is for them to get back on track professionally. The professional world tolerates few mistakes from a professional women. A few reckless DUI's and some youthful high jinks are tolerated in a male career but represent the death knell for a woman's. A woman's legal career is too demanding, too relentless, conducted on too uneven a playing field, though less today than when I first started in my practice.

Those of us who are recovering and have connected still marvel at how difficult it is for others of us to identify and to help female professionals. Many no longer want to be associated with the recovery community. They have a "been there, done that" mentality. For them it is time to move on to other things. They have put pasts behind them, and now jobs, husbands, children, need them. They do not want to be reminded of the untidiness of alcoholism and drug abuse. Perhaps their slide was not as deep as that of other women, and they do not fully appreciate the suffering of other women. It is a cardinal tenant of recovery that helping others helps ourselves. And helping another to recovery, sharing experience, strength and hope is very satisfying. It is rewarding to help another reclaim her life.

The guilt and shame factors make it hard for other women to be associated with the recovery community. Many women fear retaliation within their law firms. Perceived as weaker vessels, weaker links, perhaps not as "powerful" new business developers, or always trying to prove themselves in the workplace, this is one stigma with which they do not want to be saddled. They will not speak out. They will not assist other women in a public way.

I have shared these observations with other women in other areas of the country who cannot energize women to help each other. This is a saddening statement to make. As a group, I do not feel women attorneys are as successful in putting together support systems for other recovering women as are their male counterparts. Perhaps an overlooked response is that women's recovery mirrors women's experiences, which can be intense and less subject to institutionalization than men's experiences. In other words, women do well with one on one communication, where they find the help they need. Generally speaking, then, they are not outspoken joiners of recovery movements. Perhaps this is the answer. I hope so! I do not know that women do recover. They just do not talk about it that much.

Lawyer Distress is a piece that law students should read and think about. After the initial snickering over "paranoid ideation" and law school dies down, a student should ask if he or she will become another statistic of psychological disorders, alcoholism or substance abuse, because that seems to come with the professional territory. And that is worthy of thoughtful consideration. For the female law student, the retreat into isolation, the failure to reach out, is frightening.

Not so many years ago, I taught a class on substance abuse in a Cleveland law school. I was struck by two things. The first was that the professor, although very accommodating, clearly did not believe that alcoholism or substance abuse was something that could be going on in his classroom. It was almost as though he could not believe that people could be impaired and still functioning at a high level. It was all very nice and well meaning for me to show up and give my speech on substance abuse, but I smelled a faint whiff of patronizing behavior. Alcoholism was for street people and bag ladies. It does not happen to law students. *Lawyer Distress* will certainly go far to dispel that type of thinking.

What was even more frightening was that some students actually believed that alcohol had a significant place in the practice of law. You were supposed to settle cases at lunch over drinks or in smoky bars late at night, a la Paul Newman in "The Verdict." Good lawyering demanded alcoholic fellowship in

their minds. I reminded them that even as a practicing alcoholic, I never did business over booze. This type of thinking and belief system was absolutely horrifying to me. I believe it is still out there. I believe that few people really believe it is a problem.

Not long ago in my capacity as head of the Lawyer's Assistance Committee, I surveyed all outstanding cases before the Ohio Supreme Court Disciplinary Commission. I tried to divine how many were related to alcoholism. By the time the record gets to the Supreme Court, it is pretty altered. But it was clear enough that alcohol was a part of the problem. Disciplinary counsel, off the record, will say that about 50% of complaints stem from alcoholism. Today in Ohio, certified grievance and ethics committees must refer a case involving drugs and alcohol to the Lawyer's Assistance Committee for evaluation and assistance.

I believe that *Lawyer Distress* will add significantly to the study of professional impairment. I agree with the authors that there are areas that need further study. I concur that women's impairment is not well understood. Nonetheless, *Lawyer Distress* is an important empirical study whose usefulness will be in seeking assistance in funding programs for impaired attorneys, heightening awareness of the problem and helping people to understand just how great a problem the practice of law by impaired attorneys can be.