



LAWYER TO LAWYER MENTORING PROGRAM

WORKSHEET D

LAW'S FIVE CHALLENGES TO THRIVING

Worksheet D is intended to facilitate a discussion about the unique challenges to thriving (a/k/a well-being) that law presents, the effects of these challenges starting in law school, and strategies for thriving through the challenges. Think of this as a joint exploration of your experiences. You might find a great insight or two that will be helpful to you.

WHAT WENT WELL?

Start by sharing with each other a brief story of something that went well in your practice this week:

Share your reflection by on one of these questions: What caused the good event? What does it mean? How did you contribute? Others? How can you have more such events in the future?

ACTIVITIES FOR TODAY

- Read and discuss the attached document, "Law's Five Challenges to Thriving" (used by permission). The following points could help deepen your discussion:
- Lawyer Thriving
 - a. What was your experience of law school – very challenging on a personal level, somewhat challenging, or not so much? Did you find your motivation to practice law dropped over the course of law school, but you kept on anyway, or did you come out fired up about being a lawyer? There is some evidence that law students who have and keep a very clear purpose about why they are going to law school, or who entered law school after some time in another career, or who had a family member who was a lawyer suffer fewer negative effects. Could any of these factors have had an effect on your experience?
 - b. For the beginning lawyer, in what ways do you feel law is a great fit for you and what about law makes you wonder if you have chosen the right career?
 - c. Look at p. 9 of "Law's Five Challenges to Thriving" – how does the "languishing" scenario describe you? The thriving scenario?
 - d. Describe what a 5% increase in thriving in one area of your practice or life might look like.



- Lawyer Distress: If you have not already planned to address distress issues in your mentoring sessions, consider whether to add Worksheet L to your schedule. It provides for information on lawyer responsibilities, resources, self-tests and more on depression, alcoholism, and suicide.
- Values Conflicts: Review slide 4 in the attached. Note that a major research study has revealed that one consistent action of law professors in schools across the country is an unintentional but pervasive and effective approach to causing law students to disconnect from their values.
 - a. For the nine universal categories of values shown in the graphic on p. 4 of the attached, which values are most supported by law? Which least? (Note that as you move around the circle from any value, the values come more into opposition. Thus, Power and Achievement would be in more tension with Benevolence or Universalism than with either Security or Pleasure.)
 - b. What types of values conflicts are most prevalent in your practice, those over a single value (e.g., both sides pursuing achievement in contracts cases) or where two values conflicts (e.g., self-direction and security in criminal matters)?
- Zero-Sum Conflicts (p. 5, attached)
 - a. Discuss the nature of zero-sum conflicts as “cut the pie” vs. “bake more pies”, or, win/lose vs. win/win.
 - b. To what extent do zero-sum conflicts permeate your areas of practice?
 - c. While “negative” emotions are often useful and help us survive in the world, they can easily get out of balance with the positive emotions in our lives. To what extent does your area of practice create a large or frequent dose of negative emotions? What steps do you take to manage that experience? To increase positive emotions. (For more, see Worksheet SS: Introduction to the Undoing Effects of Positive Emotions.)
- Adversarial Skills (p. 6, attached)
 - a. How extensive is the demand for adversarial skills in your area of practice?
 - b. In what ways have you seen lawyers come to view adversarial skills as a key indicator of how “smart” someone is?
 - c. In your practice area, have you seen lawyers have trouble turning off their adversarial skills in areas where they may not be appropriate, such as partners meetings of the firm, collaborative endeavors, or at home with the family? What techniques do you use to remind yourself to pull from other methods of discussion, collaboration, and relating?
- Necessary Evils (p. 7, attached)
 - a. What examples of Necessary Evils are involved in your area of practice?



- b. How do you handle the effects, both emotional and moral, of engaging in necessary evils? What are some effective and ineffective ways you have seen other lawyers respond to the demand to perform Necessary Evils.
- Culture (p. 8, attached)
 - a. How do you see the challenges discussed so far affecting the culture in your practice setting?
 - b. What stories, goals, measurements, or mechanisms exist in your practice setting to support a thriving culture?
 - c. What stories, goals, measurements, or mechanisms would you like to see become part of your practice setting to support a thriving culture?

ACTION STEPS

End the session by discussing what action steps you can take to either improve or set yourself up for future success based on today's discussion. Discuss how one or more of your Signature Strengths can help you achieve success in these steps.

RESOURCES

Benjamin, G.A. (1986). The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers. *Am. B. Found. Res. J.* 225.

Maister, D. (2008). *Strategy and the fat smoker*. Boston, MA: Spangle Press.

Mertz, E. (2007). *The language of law school: Learning to "think like a lawyer"*. New York, NY: Oxford University Press.

Molinsky, A., & Margolis, J. (2005). Necessary evils and interpersonal sensitivity in organizations. *Academy of Management Review*, 30(2), 245-268.

Peterson, T. D., & Peterson, E. W. (2009). Stemming the tide of law student depression: What law schools need to learn from the science of positive psychology. *Yale Journal of Health Policy, Law & Ethics*, IX(2).



Seligman, M. E. P., Verkuil, P. R., & Kang, T. H. (2001). Why lawyers are unhappy. *Cardozo Law Review*, 23, 33.

Sheldon, K. M., & Krieger, L. S. (2004). Does legal education have undermining effects on law students? evaluating changes in motivation, values, and well-being. *Behavioral Sciences & the Law*, 22(2), 261-286.

Sheldon, K. M., & Krieger, L. S. (2007). Understanding the negative effects of legal education on law students: A longitudinal test of self-determination theory. *Personality and Social Psychology Bulletin*, 33(6), 883-897.



Law's Five Challenges To Thriving

Law's Five Challenges to Thriving



Thriving: Living a full, balanced, and meaningful life in a challenging environment. (The opposite of thriving is “languishing.”)

Law is a challenging.

Lawyers are not thriving!

Law school is tough, and not just because of the work load and the competition. A few months into law school, as many as 30% of 1Ls are showing indications of clinical levels of depression. By the end of law school, it hits 40-50%.



The rate of depression for practicing lawyers is 18 – 28%, which is 2-4 times the national average. Hostility, anxiety, and cynicism are very high; sociability is low.

None of this seems to be because of self-selection. Students entering law school are virtually indistinguishable from students entering other post-graduate programs.

Why? Why should law school hit law students so hard? And why should lawyers show significantly lower levels of well-being and higher levels of psychological dysfunction than their peers in other professions? It's not us; it's because of what we do.



Law accomplishes hard, important tasks for society, and it is hard on practitioners.

Law resolves the toughest disputes society creates, attempts to avoid those disputes, and manages policy resolutions to difficult decisions as set forth in laws and regulations.



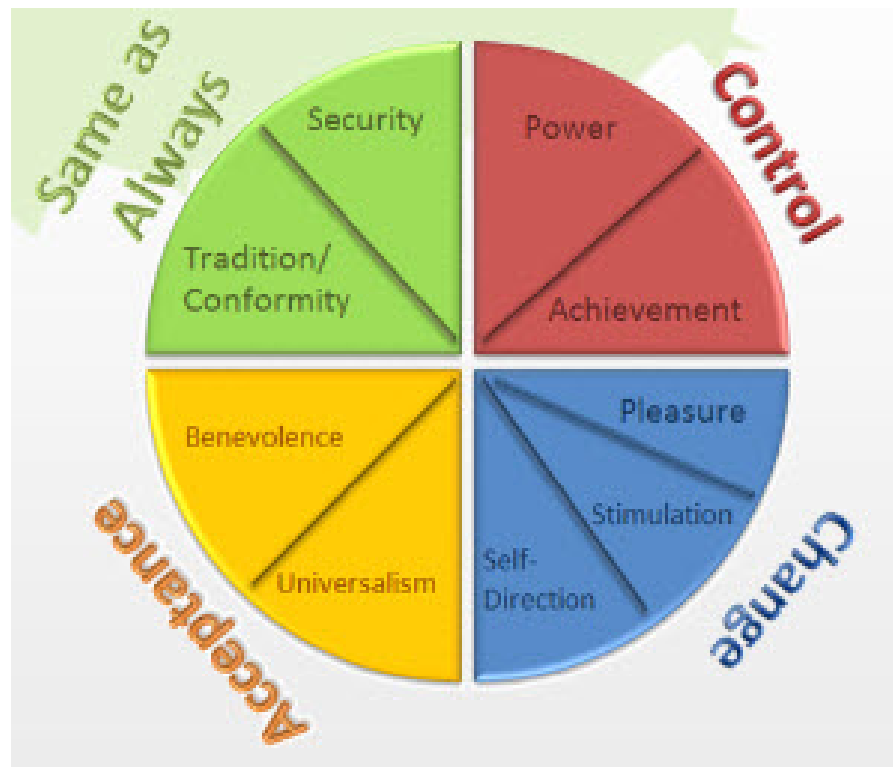
Steady engagement in this highly challenging arena of human affairs is extraordinarily demanding.

As a result, lawyers are uniquely exposed to ***five challenges to thriving.***

The First Challenge: Values Conflicts - Many legal matters involve situations where common values endorsed by societies around the world are in conflict. These disputes generally cannot be resolved without undercutting one or more of these values. Legal disputes can rarely be resolved by “do the right thing.”



Lawyers often end up supporting positions that others see as contrary to values they hold dear.



Law school did not prepare us to handle the personal challenge of values conflicts, and many lawyers lose some of their sense of purpose as a result.

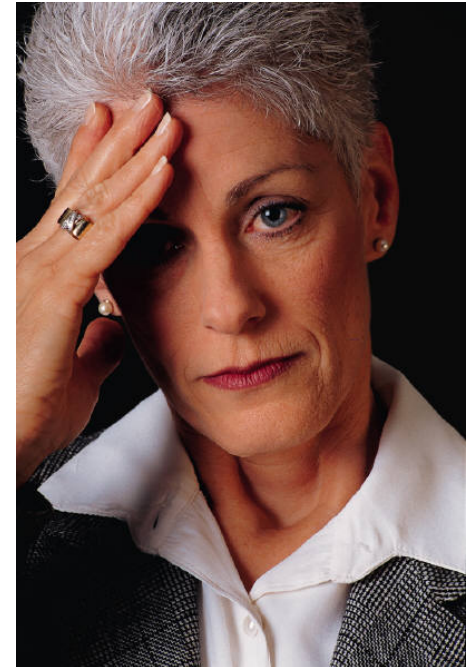
Thriving lawyers notice and accept values conflicts. They use this awareness to guide a search for better ways forward. However, when tough cases create hard resolutions, thriving lawyers can still honor and acknowledge the values on both sides. They maintain purpose and meaning in their work.

The Second Challenge: Zero-Sum Conflicts – Many legal matters involve zero-sum or win-lose conflicts . Any gain by one party is at the expense of another. These conflicts are often drenched in risk of loss and recriminations over past decisions.



Anxiety, guilt, sadness, and other negative emotions are frequent and strong for clients, and often cross boundaries to impact their attorneys as well.

Research shows that, for thriving, brief positive emotions must outnumber negatives by at least three to one. Thriving lawyers minimize unnecessary negative emotions through mindfulness.



Thriving lawyers also enhance positive emotions through hope and optimism. They notice how often the most likely causes of adversities – personal and professional – are specific, temporary factors. They find what they can control and work on it, but they don't blame themselves for everything that goes wrong.

The Third Challenge: Adversarial Skills – Attorneys have highly developed adversarial skills. Adversarial skills are a necessity for advocates in an adversarial legal system. But we often employ them in situations where other skills would work better.



Overusing adversarial techniques, and failing to use appreciative approaches, weakens relationships both at home and at the office.

Thriving lawyers are able to frequently create brief but high-quality connections with others - both at the office and at home. Using appreciative approaches, they build relationship maps, provide praise that sets others up for success, and handle difficult conversations confidently, clearly, and with control.

These relationship skills make thriving lawyers better colleagues, better leaders, and better rainmakers – in addition to better spouses, parents, friends, and community members!



The Fourth Challenge: Necessary Evils – – Lawyers are frequently required, in the service of a higher good, to employ their professional training and position in ways that cause physical or psychological pain to others.

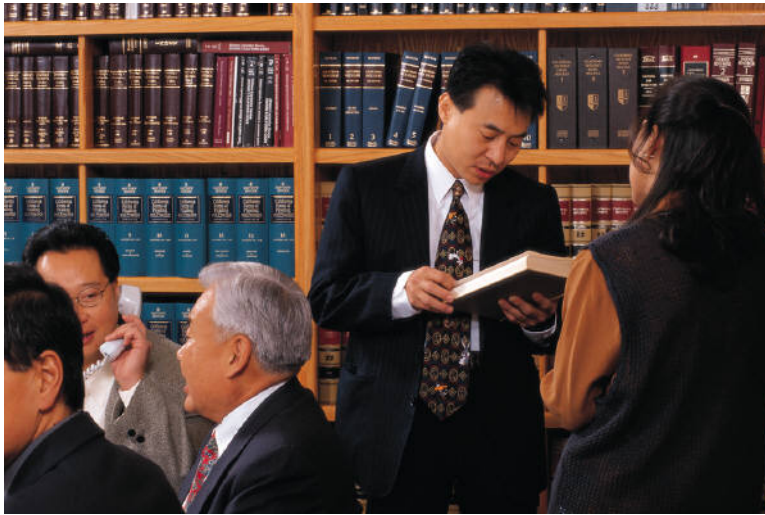


Repeatedly causing pain, even though necessary, creates a challenge to thriving for many professionals, but it is made worse for lawyers by the presence of a skilled advocate on the other side.

Thriving lawyers use mindfulness and their sense of purpose to enable them to demonstrate compassion, courtesy, and connection even when their actions cause pain for another.

This high degree of professionalism often wins respect and enables better outcomes for their clients.

The Fifth Challenge: Culture – Law firms, the courts, and other legal organizations have strong cultures that have been shaped by the ad-hoc, often narrow adaptations that lawyers have made to these challenges over 800 years of development of western law.



Culture includes:

- The way we do things around here
- What counts as success and failure
- Stories
- Goals
- Measurements
- Mechanisms

Toxic legal cultures focus on extrinsic motivators (money) and are characterized by negative emotions (anxiety, hostility, guilt). Stories, goals, measurements, and mechanisms are all focused on narrow views of success, typically based on money.

Thriving legal cultures focus on intrinsic motivation and are characterized by a strong positive emotional balance. Financial results are only one measure of success, and perhaps not the most important. Leaders listen and create choices.

What happens when the challenges of law get the best of an attorney?



In the worst cases, you get alcoholism, depression, malpractice, broken marriages, and ignored or abused children. At best, you get languishing.

Languishing sounds like this: “I wouldn’t say my days are black, but they are certainly gray. I don’t look forward to my work and I do not like the people I work with. My marriage is a disappointment and a source of stress. Mostly I just try to ignore stuff and get through the day. Alcohol helps

some, but I know I can’t let it take over. I don’t sleep. In the morning it all starts again.”

Thriving sounds like this: “My life is full of good stuff. I enjoy my work and can easily lose track of time when I am there. I have co-workers who are among my best friends and the energy and camaraderie is great. My spouse and I really know and care about each other and we enjoy working toward common goals. I feel really connected to my community, and I think I’m making a difference. I’m very grateful for all the good things in my life.”



Are you languishing?

Do you care about an attorney who is languishing?

Are you concerned for a law student or beginning lawyer?



Do you try to lead attorneys who just don't seem engaged, or who make any attempt at "better" into a frustrating and often disappointing exercise in negativity?

You can improve your level of thriving, or learn how to help or lead attorneys who are languishing by focusing on skills that develop:

Optimism	Close, satisfying relationships
Energy	Purpose & Meaning
Engagement	Mindfulness
Resilience	Hope

Many of the worksheets in Tennessee's Model Mentoring Program have activities that can help develop these critical skills. Some worksheets are heavily focused on these skills. Consult the worksheets and the resources listed in them for more.