

Does “Thinking Like a Lawyer” Play a Role in the Legal Profession’s Mental Health Crisis?

By Richard J. Landau

In recent years, there has been a steady drumbeat of reports of an epidemic of depression and substance abuse in the legal profession.¹ For example, the Dave Nee Foundation stated in a 2014 study that while students entering law school reported rates of depression of 8 to 9 percent—similar to that in the general population—upon graduation, approximately 40 percent of law students reported symptoms of depression.² And a recent highly cited article in *The New York Times*, “The Lawyer, The Addict,” observed that the seeds of this epidemic of depression and addiction in lawyers aren’t inherent in the personalities of individuals who become lawyers or even in why they chose the law as a profession.³ What, then, is it about the law that makes it toxic to the mental and physical health of so many of its practitioners?

Although the competitive nature of the law, the focus on material success, and the pressures of law firm

life cannot be minimized, there may be other, more subtle, cognitive factors at work as well. In particular, a style of thinking that is second nature to most successful lawyers can lead to negative emotional consequences. This cognitive style includes the tendency toward pessimism, to magnify negative outcomes (catastrophize), and to think in absolutes (black and white reasoning).

I have been a practicing trial attorney for 33 years, but I was originally trained as a clinical psychologist specializing in cognitive behavioral therapy, a treatment for depression that research has proven particularly effective in controlled studies.⁴ Consistent with these recent reports, it is my observation and experience, based on years of work in both small and large law firm environments, that the analytical tools lawyers rely on and which are so essential to an attorney’s professional success also render attorneys uniquely susceptible to depression and substance abuse in their daily lives. Indeed, the seeds of this problem may begin when law school



professors teach their students to “think like a lawyer.” The better a lawyer is at using these tools, the more effortless or automatic this reasoning is to the practicing lawyer, the more susceptible to depression and substance abuse that lawyer may be. To practicing attorneys, the cognitive distortions that psychologists have found associated with depression and substance abuse become essential everyday tools of the trade.⁵ Indeed, the profession rewards and advances those attorneys who are most successful at employing the very tools that make them susceptible to depression and addiction.

Consider a straightforward illustration of this phenomenon. Someone notices a lump near a lymph node. Worry is natural, but if that person is not prone to depression, he or she will manage the worry and wait watchfully until the next step in the diagnostic process. Ideally, fear will be tempered with optimism and perhaps even faith. This person will rest easy when the diagnosis proves benign. But these attitudes and strategies afford little comfort to someone prone to depression. Instead, his or her thinking will be dominated by pessimism and related cognitive distortions, such as the tendency to catastrophize and to think in absolutes. Such a person will be certain, against all odds, that the lump is malignant. And even if a biopsy conclusively proves otherwise, he or she will remain obsessively vigilant that the symptom will recur with disastrous consequences. Considerable psychological research has shown that the analytical predisposition to reach such conclusions is strongly associated with the risk of depression and other psychological disorders.⁶

Now consider a typical day in the life of an attorney in a large law firm. The manufacturer of a new product approaches the firm for legal advice regarding the product. The manufacturer extols the virtues of this new product and believes that it can be the next “big thing” in the field. Attorneys at the firm are tasked with advising the manufacturer. They prepare to put into place the necessary regulatory, financial, and contractual arrangements that will allow the product to be brought to market. Will any of these attorneys focus on the amazing capabilities of the product? Not likely. The manufacturer has a marketing firm for that end of the business. Rather, the firm’s attorneys will focus on the various worst-case scenarios that may be encountered on the path to the marketplace and seek ways to protect the manufacturer from civil, administrative, and criminal liability. The better the firm’s attorneys are at identifying roadblocks on this path and the liability issues that might arise once the product is being sold, the more likely the firm will be able to retain the client if and when the business becomes successful.

This example can be easily replicated in other practice areas such as criminal law, divorce law, and civil litigation.

at a glance

Why do lawyers experience depression and substance abuse at a rate substantially higher than the general population? Research suggests it’s not because they started out that way. Rather, it may be because the tendency toward pessimism, to catastrophize, and to think in absolutes—all recognized by psychologists as toxic cognitive distortions associated with depression—are essential tools that successful lawyers are trained to use from their earliest years in law school. The profession rewards and advances those lawyers who are most successful at employing the very tools that make them susceptible to these conditions. Through cognitive behavioral therapy lawyers can learn to compartmentalize these tendencies and to mitigate their increased risk of depression and addiction.

Successful attorneys in these areas can recognize and predict potential liabilities to which the client is potentially exposed. Their highest duty is to devise strategies to protect the client from all conceivable negative outcomes. Clients do not like surprises. A tendency toward pessimism, to catastrophize, and to think in absolutes—all recognized by psychologists as toxic cognitive distortions associated with depression—are thus essential tools for the successful lawyer.

These characteristics are groomed and trained in lawyers from their earliest days in law school. Law students who excel at “issue spotting” on exams rank higher in their classes and secure the most lucrative positions at large firms.⁷ Yet issue spotting is nothing more than being acutely sensitive to facts that might lead to a negative outcome and to recognize the full panoply of potential risks associated with these facts. It is a highly intellectualized form of pessimism, magnification, and generalization. As their careers progress, attorneys who are more skillful at recognizing potential areas of client liability and putting in place safeguards to prevent or minimize the likelihood of incurring these liabilities will be rewarded with continued business from their clients and financial rewards from their firms (and conversely punished with malpractice lawsuits if they fail to do so).

These cognitive characteristics are thus highly adaptive and massively reinforced in the unusual rule-based environment in which attorneys operate. The law is often a zero-sum game of winners and losers. Lawyers must think in absolutes. Attorneys need to accurately predict outcomes and envision worst-case scenarios. Catastrophizing is their stock in trade.

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In this unforgiving environment, optimism can be a liability. But what is functional in a professional setting can be punishing in our interpersonal lives. For example, if you are choosing a romantic partner and deploy your best legal reasoning to probe for each potential partner’s weaknesses and vulnerabilities, you may well end up disappointed (not to mention disappointing) in relationships, or remain alone and lonely.

The fact that a cognitive style which can lead to depression and substance abuse can be adaptive in certain environments may at first seem puzzling. How can a mode of thinking that fosters life-threatening psychological disorders be functional? Yet there is substantial evidence that it can be. The phenomenon of “depressive realism” has been observed repeatedly in research settings. This research demonstrates that people who are prone to depression are objectively better at predicting certain outcomes than nondepressed people.⁸ The most common explanation for this phenomenon is that nondepressed people view the world through “rose-colored glasses” that make them more optimistic about favorable outcomes than people with a tendency toward depressed mood. Research has demonstrated that while optimism may be a more emotionally satisfying way to view the world, pessimism does in some sense more accurately reflect the range of real world outcomes and thus lead to success in the law.⁹ It therefore shouldn’t be surprising that individuals who choose to excel in a field that rewards accurately anticipating possible negative outcomes may grow to be more generally pessimistic and thus susceptible to depression and substance abuse. This can become a particular concern if they import this way of thinking into their personal lives.

Since lawyers are trained to deploy this tool kit of toxic analytical reasoning, and indeed rely on it for their professional success, the promise of cognitive behavioral therapy is to bring this process under conscious control. Through therapy, lawyers can be counseled to recognize these tools for what they are: a means to an end with limited applicability to healthy functioning in day-to-day life. Indeed, certain other cognitive characteristics of lawyers—for example, the ability to problem solve and follow rules—may render them particularly capable of benefiting from highly structured treatments like cognitive behavioral therapy. Much like law enforcement professionals who must learn that firearms and handcuffs can’t solve problems in their off-duty lives, cognitive behavioral therapy can provide a process for teaching lawyers

how to leave these analytical tools at the office. The world becomes a much more welcoming place if, when you close the office door to head home, you replace blinders with rose-colored glasses. ■



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ENDNOTES

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