

**Economics, EQ and Finance:
What Every Lawyer Needs to Know©**

By Pamela Bucy Pierson¹

Historically, a lawyer graduated from law school, joined a law firm as a new associate and remained with that firm for an entire career. Today, this would be rare. The average lawyer currently changes jobs seven times in a career, an average that is likely to increase in the future as the legal profession becomes more fluid. To be successful, lawyers need to be entrepreneurial, business-savvy, self-aware, resilient, stress hardy, and financially adept. Free agency dominates the legal profession as lawyers change jobs, practice areas evolve, and lawyers constantly demonstrate their professional value. To be effective free agents throughout their careers, lawyers need to understand the economic forces shaping the legal marketplace and the challenges the market poses, professionally and personally.

In short, all lawyers of the future need to treat themselves as a business, their own business. All lawyers need to understand their own assets, liabilities, strengths and weaknesses. All lawyers need short-term and long-term plans for themselves and need to assess what investments they have made in themselves, and what investments they need to make in themselves. To survive in the legal profession today, lawyers need three tools in addition to the ability to practice law: an understanding of the economic trends in the legal profession, competency in emotional intelligence, and fluency in managing personal finances.

I. Economic Trends in the Legal Profession

In recent years, there have been seismic changes in every aspect of the legal profession: how legal disputes are resolved; how legal services are delivered; what outcomes are expected; how outcomes are measured; who hires lawyers and why; what is expected of lawyers; how lawyers are evaluated. As Richard Suskind states:

“The old system, one that has allowed lawyers to under-perform and overcharge, [is] displaced by a new model, under which all law firms are subject to far greater

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scrutiny and competition – on availability, price, performance, and client satisfaction. The free market has come to the world of law.”

Consider the following:

- Traditionally, lawyers made most of the decisions about how their services were organized, scheduled, and staffed; what legal strategies were pursued; and which outcomes were sought. Today, clients make most of these decisions.
- Traditionally, lawyers communicated with each other, clients, and courts through interpersonal exchanges. Today, technology dominates. Lawyers communicate remotely by email, text, twitter, and Facebook; meet by teleconference; file documents electronically; brainstorm with each other through attachments and editing functions; research online. Lawyers interact with clients electronically, service clients and colleagues in multiple time zones, and are expected to be available 24/7.
- Traditionally, most legal problems were resolved through litigation. Today, most disputes are resolved through settlement, mediation, arbitration, or negotiation, changes that draw on new skills and training.
- Traditionally, lawyers were in demand. Today, there are too many. Within another decade, this supply and demand pendulum is projected to swing again, and there likely will be a shortage of skilled lawyers. Demographics favor those entering the legal profession today. The current bar is dominated by baby boomers likely to retire over the next decade or two. These retirees will need to be replaced. In 2010, the 45-64 age group constituted 26.4% of the United States population and the 65-older age group constituted 13.0% for a combined total of 39.4%. This means that over the next ten to twenty years, 40% of Americans will be retiring. In the legal profession, the 45-65 and older age group dominate the top of the profession, making up 70% of law firm partners. There are 76 million Baby Boomers (those born between 1946 and 1964) compared to 46 million Gen-Y-ers (those born between 1985 and 2000). As lawyers retire, there will be more positions to fill than lawyers to fill them.
- Traditionally, legal services were provided by lawyers. Today, businesses such as LegalZoom, Avvo, and Neota Logic provide legal operations, tools and other products that can deliver many legal services better, cheaper and faster than lawyers. These businesses are encroaching on services lawyers used to exclusively provide. Consider these data points:
 - LegalZoom, which has serviced two million people, operates in 41 states and the District of Columbia. In 2014, LegalZoom sold equity worth \$200 million. LegalZoom has prevailed on claims it engages in the unauthorized practice of law (most recently, in the South Carolina Supreme Court in a suit brought by

the South Carolina State Bar), and gone on the offensive (filing in 2015 a \$10.5 million-dollar antitrust suit against the North Carolina Bar).

- Shake, a contract app, has helped execute more than \$1 million in small business contracts.
- Sixty to eighty percent of family law litigants today proceed pro se using online services, many provided by courts or bar associations. By 2045, estimates the ABA, most legal services will be provided on a limited scope basis. Clients will handle some or most of their cases themselves using online public services.
- Between 1980 and 2008, the legal profession experienced robust growth (expanding at a rate of 4% per year). Law firm revenues and lawyers' salaries soared. Since 2009, growth in legal services and lawyer salaries has been flat.
- Traditionally, stability prevailed in private practice. A new law graduate joined a law firm as an associate and remained with the same firm throughout a career. Associates were mentored by the partners in the firm and groomed to take over the firm's work. Clients were loyal to law firms and remained with the same firm for years. Partners shared equally in a firm's profits. Today, instability marks the private practice of law. Mergers, acquisitions and dissolutions of law firms have been increasing every year since 2008. Law firms hire fewer new law graduates in favor of lateral hires who bring lucrative practices, compatible compensation scales, and often, a different firm culture.
- The dynamics of law firm culture have changed. Partners shoulder increasing pressure to bill hours, retain clients, and keep their firm intact. They have less time to mentor new lawyers. There are fewer opportunities for new lawyers to learn their craft because many clients will not pay for time billed by new associates. Pressured to cut legal costs, clients jump from firm to firm, shopping for the best value based on metrics of fees, expenses, and success rates. The flow of partners, practice areas, clients, and associates in and out of law firms makes it difficult to preserve a "firm culture," which further erodes lawyers' and clients' incentives to stay with a firm.

II. Emotional Intelligence: Managing Stress

Emotional intelligence (EQ) is the development of "internal skills" such as managing one's emotions, developing the ability to motivate oneself and persist in the face of frustrations, controlling one's impulses, delaying gratification, regulating one's moods, learning how to keep distress from swamping the ability to think, emphasizing, and hoping." EQ also includes "external skills" such as collegiality, teamwork, leadership and followership. Consider these facts:

- In a profession as complex and nuanced as the law, EQ matters as much to one's success as does mastery of the law. Law firms increasingly stress the importance of one's EQ skills as do clients when deciding which attorneys to hire or retain.
- Studies of successful "brain-powered" workers confirm that EQ that separates star performers from average performers, not IQ. EQ will be increasingly important as new lawyers enter a profession characterized by change, disruption and stress. As Professor Joseph Bankman noted when discussing the emotional intelligence course he and colleagues created for law students:

"I have all these brilliant students whom I can help by giving them some useful knowledge and improving their analytical skills. But, as I came to realize over the years, if they crash and burn it will not be because they lack these necessary skills. It will be because they lack emotional resilience to cope with the stresses and challenges of a demanding professional career."

- Our profession needs to tend to its EQ. A greater percentage of lawyers experience psychological distress than the general population. Lawyers are in remarkably poor mental health with a higher incidence of depression, alcoholism, illegal drug use, and divorce than almost any other profession. Law students who enter law school psychologically healthy show elevated psychological distress within months of starting law school, showing symptoms of depression, anxiety, and other psychological dysfunctions. A 2016 study of 12,825 licensed, employed attorneys showed "substantial rates of behavioral health problems ... with 20.6% screening positive for hazardous, harmful, and potentially alcohol-dependent drinking ... and "significant ... levels of depression, anxiety, and stress ... with 28%, 19% and 23% experiencing, respectively, symptoms of depression, anxiety, and stress."
- Psychological distress is harmful not only to individual lawyers but to the clients they represent.
- Lawyers who develop EQ skills are happier. As Professor Lawrence Krieger has noted: "Psychological studies strongly suggest that emotional maturity, personal satisfaction, and the expression of the qualities of professionalism tend to accompany and encourage one another. Satisfied lawyers tend to be more professional and ... professional lawyers tend to be more satisfied."
- One of the most important EQ skills lawyers can develop is how to manage stress yet the "lawyer personality" appears to exacerbate lawyer distress by making it less likely that attorneys will seek help when they need it. Most attorneys are self-reliant, ambitious, perfectionistic and highly motivated to provide good service to their clients. As a group, however, attorneys are among the last to seek assistance, or even to acknowledge a problem." A 2016 study of almost 12,000 U.S. attorneys with mental health or substance abuse problems reported that "the two most common barriers" in seeking help were "not wanting others to find out they needed

help” and “concerns regarding privacy or confidentiality.” In a 2012 English study of 1,000 lawyers, 70% of whom said they experienced their workplace as stressful, two-thirds said they would “be concerned about reporting feelings of stress to an employer.”

- Dynamics within the legal profession compound lawyer reluctance to seek help. Lawyers understandably worry about their professional reputation in a tough market. If clients know their lawyer is in psychological distress or suffering from substance abuse, will they leave? What will one’s partners say if their colleague checks into a substance abuse facility for 30 days? Will a lawyer’s depression or substance abuse lead to disciplinary proceedings with the bar? As Robert Thornhill, Director of Alabama’s Lawyer Assistance Program, notes: “The fear of damaging their reputation is pervasive and keeps many attorneys from receiving the assistance and treatment that they need.”
- The lifestyle lawyers experience also leads to stress. Practicing law often entails long hours. The average associate in private practice bills just over 2000 hours per year; this requires about 3000 hours of work per year. To work 3000 hours in a year requires working 58 hours per week, 52 weeks a year. In the past few years, billing pressure on lawyers has intensified as more firms allow lawyers to count only fees that have been collected from clients, not just billed. A 2012 study of 2,862 U.S. lawyers in 2012 showed that lawyers report a median work week of 47 hours, with 15.3% reporting working more than 60 hours per week. A 2012 study of 1,000 English lawyers found that more than two-thirds “worked late every day or at least several times a week.” As noted in a 2001 report by the American Bar Association’s Commission on Women in the Profession: “Excessive workloads are a leading cause of lawyers’ disproportionately high rates of reproductive dysfunction, stress, substance abuse and mental health difficulties.”

Stress Hardiness

Is there a way to learn to manage stress? It appears so. Studies of various groups under stress, ranging from deployed U.S. Military personnel, West Point Military Academy cadets, recent immigrants, undergraduate college students, self-employed management consultants, high school basketball players, and nurses in hospital operating theatres and hospices, consistently show that some percentage of every group are “stress hardy.” These individuals, although experiencing the same stress as everyone else, do not experience the same psychological and physical manifestations of stress as do the rest of us.

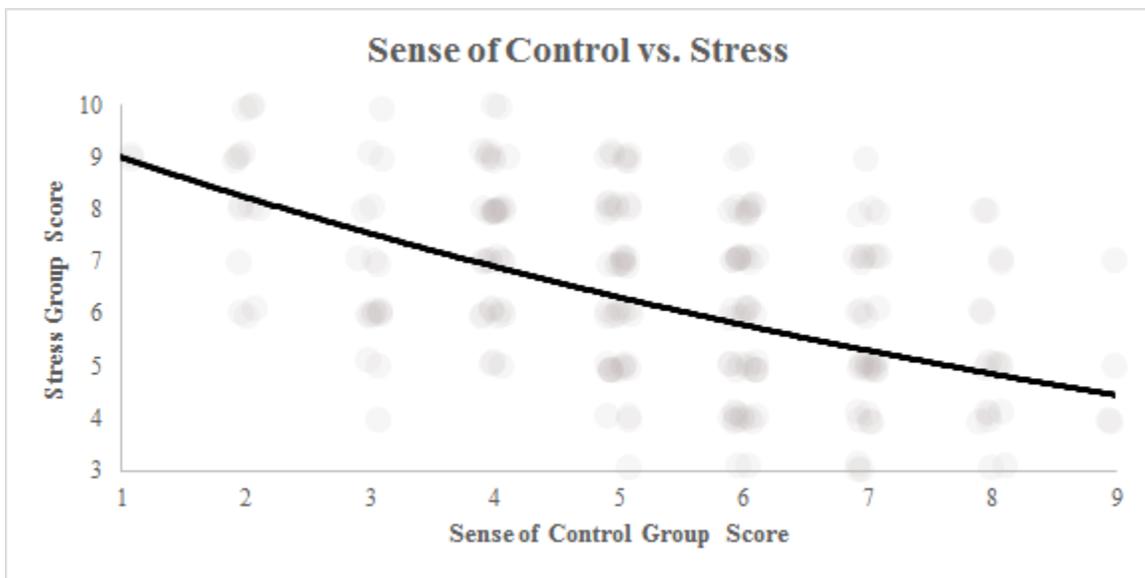
From 2013-2016, I and my colleagues collected survey data from 529 law students and lawyers and qualitative data from 106 in-depth interviews with lawyers to look at the issue of stress hardiness in the legal profession. Most of the attorneys participating are Alabama attorneys. In our study, we focused on the following questions: Are some lawyers more stress hardy than others? If so, what makes them stress hardy? Are stress hardy strategies teachable and learnable?

Our data show that some lawyers are more stress hardy than others, and that while no demographic factors correlate to stress hardiness, specific, identifiable behaviors do. The behaviors of stress hardy individuals are: (1) sense of control, (2) sense of purpose, (3) cognitive flexibility, and (4) coping skills (where the major reported positive coping strategies are exercise, social connectedness, habits of thought, and faith, and the most frequent reported maladaptive coping skill is reliance on alcohol or drugs). Our data further show that lawyers report less reliance on exercise and social connectedness as they age and greater reliance on substance use. Our data confirms numerous studies that reliance on substance use to manage stress does not work; instead, such use correlates to greater stress.

1. Habit of the Stress Hardy: Sense of Control

Stress hardy individuals have a sense of control over what occurs in their lives, including “decisional” control (“choosing among various courses of action”) and “cognitive” control (how one responds to situations). Our survey data reveal a significant inverse correlation between stress and sense of control. Lawyers who experience more stress have a lesser sense of control and lawyers who experience less stress have a higher sense of control. Chart 1 below demonstrates this association between stress and sense of control.

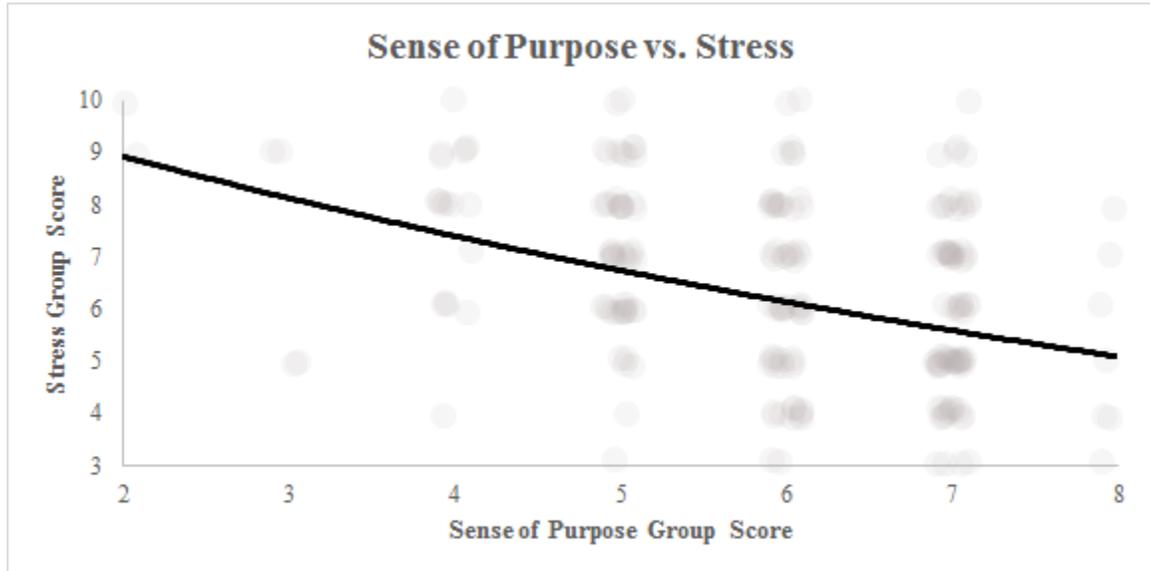
CHART 1: Relationship Between Sense of Control and Stress



2. Habit of the Stress Hardy: Sense of Purpose

As Chart 2 below demonstrates, our data show that lawyers who indicate a strong sense of purpose report less stress. The converse is also true: every lawyer in our survey who indicated little or no meaning in their practice of law reported high level of stress.

CHART 2: Relationship Between Sense of Purpose and Stress



Most of the data we gathered regarding sense of purpose was inspiring. For example:

“I was leaving lunch at Wendy’s when a young man with a Wendy’s uniform started lugging a large trash can to the dumpster behind the store. He stopped what he was doing and came up to me. I did not recognize him. He called me by name, shook my hand, and told me that I had made a huge difference in his life when he needed it most. He told me that he had been on the wrong track and that he had used his (bad) circumstances to make excuses. He told me that I had helped remedy those bad circumstances and helped set him on the right path. He told me that it had been a number of years earlier, and that he had stayed out of trouble, finished school, and that he had been working for a living since school. He thanked me.”

Many lawyers in our survey described the impact they had had on an individual as giving them a sense of purpose:

“I have always found meaning in the fact that most people come to my office on their darkest day, and I am usually able to make things better for them.”

“I saved a young man from a felony conviction. He turned his life around. He graduated from college, became a small business owner, and has become a close friend.”

Pro bono work was a repeated source of meaning for attorneys in our survey, especially those whose practices focus primarily on civil defense. Common responses to the question, “Please give an example of a moment in which you felt your job was especially meaningful” included:

“Doing pro bono work always ends up being meaningful to me.”

“Of all the work I do, some of the most meaningful is my work with the Volunteer Lawyers Program.”

“I handled a pro bono matter for a friend who really needed an assist – he said it was the first time he had smiled in months.”

Some lawyers described the “feeling of accomplishment” they derived from “completing a project to the best of my ability.” This was true whether attorneys represented individuals, companies, or the government. For example, one regulatory attorney described a situation in which he “felt valued to his company” as one of his most meaningful experiences in practicing law. As he/she described:

“I found a problem dealing with federal compliance. No one else had seen it or if they had, ignored it. I identified the issue, crafted a solution, ensured it was implemented and instituted protocol to ensure the same issue didn’t arise again.” As the attorney explained, “had this issue been left unresolved, later to be discovered by our federal regulator, the fallout would have been disastrous.” The attorney found satisfaction that his “decision to dive into one tiny piece of information that didn’t seem right resulted in a major overhaul which was sorely needed.”

Other lawyers found meaning in winning:

“I like to win.”

I enjoy “winning and being right.”

“I like the adrenaline from the fight.”

Other attorneys found meaning in the intellectual challenge of law:

“I enjoy creating new good law and making interesting legal arguments.”

“I like the challenge of making a living by my wits.”

Some lawyers found relationships with their colleagues and clients to be the most meaningful part of their practice while others found a sense of purpose in helping the legal system to work better: “upholding the constitution,” “assuring that people are treated fairly,” “making sure people’s rights are not taken away.”

Compared to the above responses where lawyers found meaning in their professional lives, some of our respondents found no meaning in their practice of law. As one lawyer said:

“There aren’t any meaningful aspects of practicing law to me. I picture myself as being able to have a “Shawshank Redemption” moment one day where I can shed this uniform of monotony and do something worthwhile.”

Other responses, while not as dire, were bleak:

“I do not believe I have yet had a deeply meaningful moment at work.”

“Tough question.”

“I don't have one yet.”

“I can’t think of anything.”

“If you deal with the general public, you deal with ignorant people on a daily basis. Most of my clients don’t care as much about their cases as I have at one point in time. There is nothing meaningful about coaching adults to do what they were supposed to do in the first place.”

Unwanted market changes appeared to be the reason some attorneys no longer gained a sense of meaning from their practice of law:

“I was in a corporate in-house job for 12 years and was very happy. Now I'm a solo by necessity and not happy at all. Right now I don't have any meaningful aspects in my job.”

Our data show that the lawyers who experienced little or no meaning in their practice of law were the most stressed. In fact, this was one of our strongest findings: every lawyer who indicated that he/she experienced no meaningful aspects of practicing law also reported high levels of stress. For instance, the lawyer waiting for his/her “Shawshank Redemption” moment had the highest possible stress score, such that he/she strongly disagreed with the statement, “I see myself as someone who is relaxed, handles stress well” and felt nervous and stressed very often in the last month. Overall, the lawyers who indicated no sense of purpose had an average stress group score 32% higher than the average stress score of lawyers who had least some meaningful aspects of practicing law. Additionally, on average the lawyers with a low sense of purpose had a lower sense of control. Their sense of control scores were 23% lower than their counterparts who reported at least some meaningful aspects of practicing law.

3. Habit of the Stress Hardy: Cognitive Flexibility

Stress-hardy individuals are cognitively flexible which allows them to integrate and effectively appraise the threat of new situations. Cognitive flexibility as a way to manage stress makes sense. Anyone will be less stressed when encountering the inevitable setbacks in life if they can pivot, take a different route, or revise goals. Lawyers we interviewed

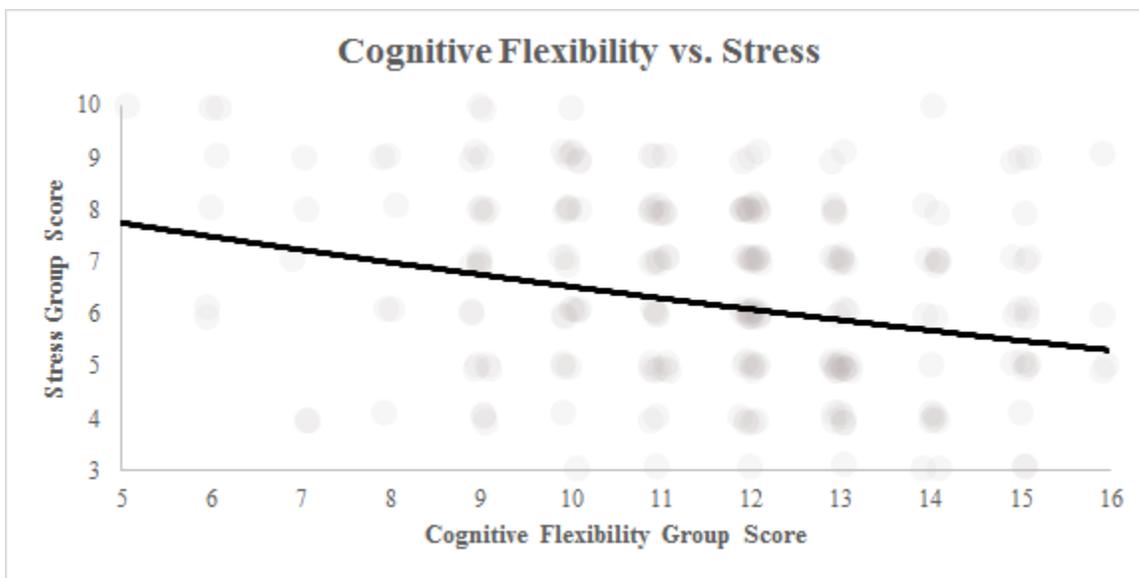
noted that flexibility and adaptability are crucial in dealing with the dramatic changes underway in the legal profession. As the managing partner of a large law firm noted:

“The profession is going to continue to change with more lawyers going in-house, more legal services being outsourced, technology continues to become more sophisticated. The profession is changing very fast and it is going to continue to change faster and faster which is why I tell my partners we have to stay abreast all of the time of trends. If we don’t stay ahead of the trends, then we’re actually falling behind and we will fail ourselves. It is the speed of the change coming that is staggering.”

Many attorneys spoke about ongoing and likely future changes in the legal profession, discussing ways they are adapting to these changes. Their strategies fall into eight general categories: (1) be prepared to make changes, (2) learn the market, (3) develop a niche, (4) recognize opportunities, (5) create opportunities, (6) be nimble financially, (7) master technology, (8) get involved in the community and the profession. The sources noted at footnote 2 *supra* discuss these strategies in more detail.

As Chart 3 below shows, our data show a strong correlation between cognitive flexibility and reporting less stress.

CHART 3: Relationship Between Cognitive Flexibility and Stress



4. Habit of the Stress Hardy: Positive Coping Habits

In our survey, we asked: “What strategies do you use to manage stress?” Responses fell into five categories: exercise, habits of thought, social connectedness, faith, and alcohol and drugs.

Consistent with numerous studies,, exercise was the most commonly reported strategy for dealing with stress by our respondents.

The second most commonly reported stress management strategy reported in our study was reliance on various habits of thought. Three themes emerged: planning and organization, maintaining perspective, and gratitude. How lawyers implement these themes in their day to day professional lives is discussed in the sources noted at footnote 2 *supra*.

The third most common stress management strategy reported by our survey respondents was social connectedness. Lawyers who considered themselves at least “a little” outgoing and sociable demonstrated wellbeing on several measures. The most optimistic lawyers were also the most outgoing: 83% of lawyers who at least fairly often felt things were going their way at least also considered themselves at least a little outgoing.

The fourth most frequent reported stress management strategy in our study was reliance on faith. This finding is consistent with numerous studies on wellbeing and resilience: “Recent meta-analyses (summaries of all available well-designed and well-conducted research studies that have been published in the scientific literature on a particular topic) have concluded that practicing religion is associated with physical and emotional well-being among health individuals and with better coping among people who are suffering with medical illnesses.”

The fifth stress management strategy reported by lawyers in our survey was reliance on alcohol or drugs. This proved to be an ineffective stress management strategy. The lawyers reporting such reliance were more stressed than their peers. Their stress group scores were on average 13% higher, and sense of control group scores 16% lower, than lawyers who did not indicate that they turned to alcohol or drugs in any way. While these disparities might not seem great, no other coping strategy had anywhere close to a double-digit effect on stress, sense of purpose, sense of control, or cognitive flexibility. So, while there is no explicit selection of coping strategies to fortify stress hardy skills, drugs and alcohol are the least beneficial option.

III. Finances

Every lawyer needs to know how to manage his or her personal finances. This is especially true because of three financial facts that will dominate the financial lives of lawyers:

Debt:

- 86% of current law graduates nationwide graduated with an average of \$140,616 of combined debt from undergraduate and law school. Current law students carry an average law school debt of \$122,158 for 2012 law

graduates from private schools, and an average of \$84,000 for 2012 law graduates from public schools. These figures for law school debt understate the debt among because it does not include undergraduate debt, interest accruing before graduation, and debt from loans to study for the bar exam. This debt affects every decision of these future lawyers' lives: which job to take, where to live, and whether and when to marry, have children, retire.

- Jobs paying \$40,000-65,000 account for about half of reported salaries of new law graduates. Servicing the debt carried by most law students will be difficult with salaries in this range.

Retirement:

- Regardless whether they carry debt, all adults of the future will bear a greater personal responsibility for their own financial security in retirement. Because of the aging American population and the financial pressure this will place on the United States Social Security System, Social Security will pay less of future generations' retirement than it does today.
- In 2014, 12% of the total US population is aged 65 or older; by 2080 it will be 23%. In 2014, the working age population is 60%; by 2080 it is projected to be 54%. The worker-to-beneficiary ratio in 2005 was 3.3. This ratio is projected to fall to 2.1 in 2040 (the year in which the Social Security trust fund is projected to be exhausted). The Social Security System needs a worker-to-beneficiary ration of 2.8 for tax revenue to equal benefit payments.
- More employers, including law firms, are eliminating or significantly reducing retirement benefit contributions traditionally made. This trend places greater risk on employees who may fail to save enough, live longer (and sicker) than they planned for, or are subject to cut-backs in their expected pension payments.

The Legal Marketplace:

- Dealing with the legal marketplace of the future will be financially stressful for many lawyers. The legal profession is undergoing dramatic changes with more ahead. All lawyers of the future will face careers dominated by volatility and fluid employment patterns unknown in the past.
- Managing one's finances in a rapidly changing profession and through multiple job changes is complicated, and requires training in personal financial planning.

Conclusion: The Good News

While the sea is rough for lawyers who are not prepared for the new legal marketplace, the legal profession of the future presents exciting opportunities for those who are prepared. These opportunities arise from technology, new ways of delivering legal services such as limited scope representation, dual and hybrid careers that build on training in multiple professions, and entrepreneurial opportunities in contract lawyering, affiliated law practices, and practice in the cloud.

While there is stress in the legal profession, this is true in any walk of life where people care about what they do and how they do it. The good news is that there are specific, learnable habits that anyone can master to better manage stress and finances. As lawyers, we should be encouraged about our ability to see the changes ahead and develop the skills we need. We are trained to be rational when our client is emotional and to think logically about issues rather than letting our opinions, emotions and preferences guide us. As Duncan Blair, a lawyer and musician, says, "A lawyer must be able to see when the client is acting emotionally and against her own best interests. A lawyer must be the rational thinker in the room -- always asking what is in the client's best interest. This technique can be used by the lawyer on himself or herself."