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The Zombie Lawyer Apocalypse

Peter H. Huang* and Corie Rosen Felder**

Abstract

This Article uses a popular cultural framework to address the near-epidemic levels of depression, decision-making errors, and professional dissatisfaction that studies have documented are prevalent among law students and lawyers today.

Zombies present an apt metaphor for understanding and contextualizing the ills now common in the American legal and legal education systems. To explore that metaphor and its import, this Article will first establish the contours of the zombie literature and will apply that literature to the existing state of legal education and legal practice, ultimately describing a state that we believe can only be termed "the Zombie Lawyer Apocalypse." This Article will draw parallels between the zombie state of being—that of being mindless, thoughtless, and devoid of hope—and the state of legal culture and legal education today.

This Article will then offer solutions to the problem of legal zombies. These solutions draw on the “positive psychology” literature and include: (1) mindfulness, (2) a shift in attribution style (the way people think about their experiences), (3) reliance on core strengths, and (4) an effort to develop meaning in work and life. Through the application of these and other interventions, we believe that it may be possible to stem the tide of lawyer and law student dissatisfaction and protect future students and lawyers from falling prey to the Zombie Lawyer Apocalypse.

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I. INTRODUCTION

As we write this, the light is failing and the zombies, those strange monsters recently released into our midst, are roaming the fair streets of our city. They appear each morning and again at each day’s end, carrying briefcases and book bags, riding bicycles, walking, or, most ominously, taking the local trains. It is up to us to discover their origins and the best means for dispatching them.

This Zombie Apocalypse, as those who read the papers already know, has now reached dangerous proportions.1 Some have referred to its creeping nature as “insidious” or “spooky.”2 No matter what they call it, all who speak of it do so with a note of terror. In the kind of twist so typical of horror tales, the apocalypse has targeted only a single segment of the population. Researchers are hard at work trying to discover how and why this apocalypse has zombified only those among us possessed of a special set of skills and educational experiences. Yes, Dear Reader. You already know which members of our society we speak of, and the knowledge may send a ripple of fear shivering down your spine. The Zombie Lawyer Apocalypse has targeted those who most want to engage our business, political, and public sectors. We are talking, of course, about law students and lawyers.

And what, you ask, could be at the root of such horror? This Article will provide some theories to explain the phenomenon of lawyer

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zombification. In seeking an answer to the question of where this apocalypse came from, we have consulted the Centers for Disease Control and Prevention’s (“CDC”) website. The CDC were the first to ask the all-important question, namely, “Where do zombies come from and why do they love eating brains so much?” In this Article, we refine that question and instead ask: where do zombie lawyers come from, and what can we do to stop them from eating your brain and the brains of others?

Our empirical information suggests that, as of the present moment, not all law students and lawyers are zombified. Nonetheless, a huge number of our ranks have been turned. The Apocalypse and its fallout present very real threats to the health and safety of us all. Many of our officials have already gone underground and currently live in fear for their own survival. We neither criticize nor judge those who have fled. Instead, we have taken it upon ourselves, intrepid researchers that we are, to attempt to discover the cause of and possible solutions to this terror. It is our hope, Dear Reader, that you will read our work and find in it the encouragement you need to join us and face the zombies bravely.

In his recent article, Death and Taxes and Zombies, Adam Chodorow wrote, “In 2011, the Centers for Disease Control and Prevention issued a guide to surviving a zombie apocalypse. While it is reassuring that the government has finally awakened to this risk, the guide falls far short of what is needed.” There is little doubt that Chodorow’s fears were not unfounded.


4. Id.

5. For a similar attempt, see Maggie Silver, Teachable Moments—Courtesy of The Walking Dead on AMC, CENTERS FOR DISEASE CONTROL & PREVENTION PUBLIC HEALTH MATTERS BLOG (Feb. 7, 2012), http://blogs.cdc.gov/publichealthmatters/2012/02/thewalkingdead, which provides a couple of pointers on preparedness.


8. Chodorow, supra note 7, at 1209 (footnotes omitted).

9. See, e.g., Michael L. Smith, Comment, Prosecuting the Undead: Federal Criminal Law in a
Though who or what, exactly, counts as a zombie may be an open question, we are certain that at least some of those whom we have encountered walking among us are in fact the living dead. They exhibit the classic affectless, brain-devouring, mindless movement characteristic of all zombie types.

Legal zombies present challenges in a number of ways, including exhibiting these symptoms: being dispirited, being disengaged, being mindless, engaging in herd mentality, lacking meaning, committing unethical behavior, and of course, the classic giveaway—eating the flesh of the living.

The research is unsettled on most points, but experts seem to agree that there are two primary means by which one may become a zombie. First, one may contract a dreaded zombie infection and be transformed by an irreversible virus. Second, one may be turned into a zombie by other zombies through the process commonly known as a zombie attack. We believe that many of the current zombies were infected by a virus that they contracted either in the course of their legal education or when they entered the workforce as members of large law firms. But whether by infection or by attack, we know that large numbers of our kind are being turned into zombies and that they are all of one distinct and disturbing type: the Legal Zombie, who roams the Earth undead, unable to find satisfaction or solace.

It is a long established fact that law schools are producers of depression, and that many incoming law students who were otherwise
psychologically healthy people begin to exhibit signs of psychological distress shortly after entering the legal academy. We believe that this, Dear Reader, is the beginning of the zombification process. The decline in psychological well-being experienced by new law students is both disconcerting and destructive because depression can lead to suicide, drug abuse, and other quality-of-life problems, in addition to cloudy thinking, lower grades, and reduced professional opportunities. But research suggests that as law students finish law school, graduate, and move into practice, their levels of well-being do not improve. Instead, lawyers as a group exhibit alarming rates of depression, alcoholism, drug dependence, and suicidality.

We believe these psychological ills are really the beginning of the zombification process, and a cause of the current apocalypse. As leading lawyer and well-being researcher Larry Krieger described them, law students “arrive bright and enthusiastic, and then . . . many become ‘the walking wounded’: demoralized, dispirited, and profoundly disengaged.” Though the Zombie Lawyer Apocalypse may have some of its roots and effects in law school, some of its roots and effects are also present in professional life.


21. Many lawyers are dissatisfied with the work that they do and find themselves working on cases and in contexts that are out of step with their personal goals and values. Rates of unhappiness and a lack of a sense of doing meaningful work are especially prevalent in large firm practices. Patrick J. Schiltz, On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 VAND. L. REV. 871, 872–88 (1999). Colleagues at such firms are also isolated from and in competition with one another to such a degree that they are unwilling to join
This Article will posit several theories to explain the current Zombie Lawyer Apocalypse. In Part I, this Article will explore the contours and consequences of the current apocalypse. Part II will explore the underlying causes of the apocalypse, including those arising in law school and in law practice. Part III is not for the faint of heart. In this part, we will discuss the existing literature on how to kill a zombie or reverse a zombification. Finally, in Part IV, we will explore positive psychology interventions that may prevent the academy and the profession from creating future zombies. It is our hope that this Article will provide solace and strength as we go forth together to fight the zombies who roam among us and to protect future generations from the terrors of zombification.

II. CONTOURS AND CONSEQUENCES

When we talk about legal zombies, we mean the individuals who were healthy before joining the academy or the profession but who, over time, began to exhibit signs of emotional and psychological malaise until they were completely transformed into the mindless, frightening creatures who roam from place to place with little more than their own basic survival in mind. These are people who have, metaphorically and in some ways literally, been eaten by the psychological distress and depression that is prevalent—some say epidemic—in American law schools and in the American legal profession today. Just as culture and society has many together to fight off the forces that threaten to turn their co-workers into the living dead. Id. at 876, 932. We believe that, for those who are susceptible to the zombification effect that meaningless work, long hours, excessive stress, and competitive environments may engender, radical intervention may be necessary. See Jerome M. Organ, What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being, 8 U. ST. THOMAS L.J. 225, 265 (2011) (discussing survey evidence that consistently finds lawyers in private practice reporting more dissatisfaction than lawyers in public interest or government practice).

kinds of zombies and zombie lore, so too, the legal zombie has different faces and incarnations. In this Article, we will group these different kinds of legal zombies together. They include law students who become emotionally disengaged over the course of their legal education, those whose values shift in a negative way, and those who experience the depression and psychological withdrawal that we know are characteristic of a significant portion of our students. We also include those who may become infected during law school but who, for one reason or another, do not manifest symptoms until they begin their working lives. Finally, we include those who are immune to the zombie epidemic during law school but become zombified after leaving the academy. Regardless of the point of zombification, those who become zombies of any type are left with little semblance of their former, healthy selves. Their transformations may occur at different times and in response to different stimuli, but the effect of their zombification is the same: detachment from relationships, unhealthy behaviors, and psychological ills.

Because we are law professors, we tend to witness the zombification process in its earliest stages. To that end, much of this Article will focus on law students and the Zombie Lawyer Apocalypse as it plays out in the law school context. This approach allows us to draw on our firsthand knowledge of the apocalypse and also helps us to identify early interventions. These early interventions are important because, as all zombie hunters know, it is much easier to prevent a zombification than to reverse one later on. Before we explain how to stop or prevent a zombification, however, we will first explain the causes of law school zombies in further detail.

Lawrence Krieger and Kennon Sheldon, two of the leading researchers in the area of law student well-being, give us guidance into understanding the phenomenon of law student zombification. In the article, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, Krieger writes from the perspective of a law teacher, saying, "Simply stated, it appears that many [law students] are rapidly and broadly dehumanized by the nature of our training in legal analysis." This dehumanization is at the

23. See Chodorow, * supra* note 7, at 1210 & n.5.
very heart of the legal zombie’s transformation from living, breathing human to terrifying specter of the undead. Krieger and Sheldon identify the phenomenon that we now know and understand as zombification, and they are not alone in suggesting possible causes of the epidemic.

Legal academics often suggest that law student distress, and the uptick in psychological problems among students after they enter the legal academy, can be understood as the unfortunate byproduct of the competitive law school environment. Krieger and Sheldon’s research, however, suggests that the problem runs deeper. Even top law students at top institutions, who attended law school during a time when jobs were plentiful and a position in the class at an elite law school meant (or at least seemed to mean) an entree into society’s most elite circles, experienced post-matriculation depression and related ills. Moreover, those students experience such problems at the same rate as less successful law students at less elite schools. Krieger’s empirical study, Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence, reveals that depression in American law schools is widespread—and that not even the most elite law students are immune. In articulating the scope of the problem, Krieger points to the example of one Harvard student who said,

Harvard Law School continues to represent, for many people both inside and outside the legal community, the pinnacle of legal education, the breeding ground for the nation’s leaders. Given this status, one would expect to find HLS full of confident, enthusiastic, optimistic students who are thoroughly comfortable with themselves and fully prepared upon graduation to take on the world.

In fact, one finds quite the opposite. ... By third year, a disturbingly high number of students come to convey a strong sense of impotence and little inclination or enthusiasm for meeting the world’s challenges head on.

29. See id. at 118–19.
30. Id. at 113–14 & n.5; Sheldon & Krieger, supra note 16, at 280–83.
...[O]ne must look to the institution itself for an explanation.\textsuperscript{32}

It is widely understood that lawyers and law students rank among the most depressed professionals and professional students in the United States.\textsuperscript{33} One lawyer who wrote about depression called it "the lawyers' epidemic."\textsuperscript{34}

Scholars focused on the study of law student well-being have demonstrated that law school has a significantly negative impact on law students' sense of balance and autonomy support,\textsuperscript{35} pointing out that, for students entering and remaining enrolled in law school, these indicators decline over the three years it takes to complete the course of legal education.\textsuperscript{36} These studies have also demonstrated that law students' values shift over the course of their three or so years of study,\textsuperscript{37} and that this shift is accompanied by a sharp decline in students' subjective well-being index scores.\textsuperscript{38} Some have suggested possible explanations for the phenomenon of law student distress: a lack of autonomy support,\textsuperscript{39} the employment of an academic language that challenges students' most closely held values of justice and equality,\textsuperscript{40} and environmental factors that push students to value...
extrinsic motivators, such as grades, money, and status, in lieu of intrinsic values, such as justice, fairness, equality, and balance.\textsuperscript{41} Whatever the root cause, these studies have demonstrated that law student depression is a real and significant problem—one that may require deep inquiry in order to understand and address.\textsuperscript{42}

For many, depression begins in law school. Lawrence Krieger and Kennon Sheldon established that law schools are producers of psychological distress,\textsuperscript{43} and that, for many, the problems of depression and related psychological ills begin in law school, peak during the educational experience, and persist into practice.\textsuperscript{44} In Krieger and Sheldon’s empirical study, students entering the legal academy showed psychological profiles that were better than those of the general population.\textsuperscript{45} Compared with a control group and observed over time, law students’ psychological health declined rapidly during the course of the first year.\textsuperscript{46} The change is not a minimal one; after less than one year in the academy, law students’ indicators for clinical hostility, depression, and distress mirrored that of psychiatric hospital inpatient populations.\textsuperscript{47}

Krieger and Sheldon’s study relied on a self-reporting measure, the Subjective Well-Being Index (SWBI), a vetted psychological instrument relied on internationally.\textsuperscript{48} In their experiment, Krieger and his research team administered the SWBI to incoming law students, controlling for

\textsuperscript{41} Sheldon & Krieger, supra note 16, at 263 ("Although performance pressures, extrinsic rewards and enticements, and desires to impress others may produce positive performance to some extent, these factors tend to work against persistence, enjoyment, creativity, and integration in the long run . . . .").

\textsuperscript{42} See generally MERTZ, supra note 40; Krieger, supra note 20; Sheldon & Krieger, supra note 16.

\textsuperscript{43} Sheldon & Krieger, supra note 22, at 893–95; see Benjamin et al., supra note 22, at 225–26; Dammeyer & Nunez, supra note 15, at 55.

\textsuperscript{44} Sheldon & Krieger, supra note 16, at 262; Sheldon & Krieger, supra note 22, at 893–95; see Benjamin et al., supra note 22, at 246; Hess, supra note 22, at 77.


\textsuperscript{46} See id. at 280–81.

\textsuperscript{47} Sheldon & Krieger, supra note 22, at 883; see also Krieger, supra note 20, at 261–62 (writing that "law students['] . . . personalities are narrowed rather than broadened by law training and . . . the most basic needs are frustrated in law school").

physical health and other factors that might influence students’ answers. They found that, when subjects matriculated into law school, their subjective well-being exceeded that of the control population, and in the aggregate, their profile looked better than the profile of a large undergraduate sample. Over the course of the law school experience, however, student measures of subjective well-being plummeted.

Krieger’s work suggests that law schools are negatively affecting significant numbers of students, that the change in well-being experienced by those students occurs soon after students enter the law school environment, and that those changes have measurable, negative psychological outcomes that persist over all three years of students’ legal education. Describing the phenomenon in terms of the Zombie Lawyer Apocalypse, we would say that these students become zombies shortly after entering the academy and that they then pass the zombie virus on to others in their social and academic circles. Krieger and Sheldon note, in particular, that these problems were associated with students’ shift from intrinsically held values to extrinsically held values, especially their focus on the

50. Id. at 270–71 (“Compared with the Missouri undergraduates, the entering law students evidenced higher positive affect and higher life satisfaction, as well as higher aggregate SWB .... There was no significant difference in negative affect. On the values measures, the law students also evidenced more intrinsic values overall than the undergraduates .... The most important thing to take from these analyses is that the law students appeared quite happy and healthy at the beginning of their career, with relatively intrinsic and prosocial values. This suggests, consistent with earlier research (Benjamin et al., 1986), that any later distress among the law students is not an effect of pre-existing distress or problematic personality traits.”).
51. Id. at 122.
52. Krieger, supra note 16, at 122 (“The longitudinal study .... that Ken Sheldon and I have completed confirms these conclusions in all respects. We measured values, motivation, and well-being in students just after they entered law school, again toward the end of the first year, and during the following fall semester. The arriving students showed healthy well-being, values, and motives—stronger, in fact, than a large undergraduate sample. Within six months, however, the law students experienced marked decreases in well-being and life satisfaction and marked increases in depression, negative affect, and physical symptoms.”).
53. Id. at 122–23.
54. Id. at 122–24; see also Dammeyer & Nunez, supra note 15, at 56 (“[T]he psychological distress experienced in law school simply foreshadows what many lawyers will experience after law school .... [F]inishing law school is no guarantee that symptoms of psychological distress will abate.”); Martin E.P. Seligman et al., Why Lawyers Are Unhappy, 23 CARDOZO L. REV. 33, 51 (2001) (“Law schools are both a source of the problem [of lawyer unhappiness] and a necessary part of the solution.”).
perceptions and judgments of others. This means that students who enter law school with deep, personal connections to the study of law or to academic achievement shift from wanting to learn because they inherently value the knowledge they are acquiring to wanting to learn only because they wish to outcompete, outshine, and eventually outearn their classmates. We take this extrinsic value system as one of the essential and most recognizable symptoms indicating the presence of the legal zombie. Krieger and Sheldon suggest that this shift to extrinsic values, a change that causes students to place high premiums on what others think about their appearance and perceived status, is close to the core of the problem of what is happening in law schools.

At the conclusion of their study, Krieger and Sheldon admonish:

Past scholarly commentaries and previous studies paint a bleak picture of the effects of legal education on the well-being of law students. Our data from two very diverse law schools confirms these negative reports . . . . If these experiences are common in American law schools, as anecdotal reports and other studies indicate, it would suggest that various problems reported in the legal profession, such as depression, excessive commercialism and image-consciousness, and lack of ethical and moral behavior, may have significant roots in the law-school experience.

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56. Id. ("In the language of [self-determination theory], this suggests a classic 'undermining' effect, in which initial positive motivations are eroded or usurped . . . . [S]tudents of all demographic types came to feel that pursuit of their law-school goals was less interesting or enjoyable, and was more controlled by others' desires and dictates.").

57. Id.

58. Though pale or gray skin and a propensity to eat human brains are also common zombie traits.


60. Id. at 283. In their work, Krieger and Sheldon argue that one of the major forces driving law student depression, lowered SWB scores, and other problematic indicators is a lack of autonomy support created by an environment that seeks to control participants. See Lawrence S. Krieger, Psychological Insights: Why Our Students and Graduates Suffer, and What We Might Do About It, 1 J. ASS’N LEGAL WRITING DIRECTORS 258, 260 (2002) (writing that research on human needs supports the notion that “universal psychological needs . . . [are]: self-esteem, relatedness to others, autonomy (which includes the quality of genuineness or authenticity), and competence”).

61. Sheldon & Krieger, supra note 16, at 283. Though the causes of the law student depression epidemic are not entirely clear, some excellent hypotheses have been developed, proposed, and empirically studied by Mertz, Krieger, and others. See MERTZ, supra note 40, at 5–6; Benjamin et
For affected law students, the decline in well-being and sense of self is marked first by a change in attitudes toward the world and toward the self, and then by zombification. For affected students, the approval and admiration of others, along with external validation in the form of money, grades, and job prospects, became increasingly important as their sense of well-being and personal accomplishment decreased. In other words, students' measures of extrinsic and intrinsic motivation changed: they began to value external markers of success and validation and to simultaneously feel worse about themselves and their achievements—classic attributes of zombification.

III. ROOTS OF THE APOCALYPSE

We believe that the current Zombie Lawyer Apocalypse has its roots in the nature of the professional education of many lawyers and in the professional practice environments of many lawyers.

A. Law School Roots

Krieger and Sheldon established that many students lose their sense of intrinsic motivation and instead become more extrinsically motivated during the course of law school. Further, they point out that such a shift, from intrinsic values to extrinsic values, is one of the hallmarks of depressed thinking. Though the students studied had access to support and other help, few seemed to take advantage of these resources and their depressed well-being levels remained low, even into practice. Regardless of class rank or school caliber, law students seem to be experiencing a crisis of self-

al., supra note 22, at 246-48; Krieger, supra note 20, at 262-84; Shanfield & Benjamin, supra note 22, at 69-73. This Article does not seek to duplicate that research and will not focus on those works' conclusions about the causes of law student depression, nor will it focus on solutions to the depression problem that might require restructuring the curriculum or other aspects of the law school environment. Instead, this Article proposes non-structural legal education interventions, including alleviating depression by breaking students' cycles of pessimistic attribution, particularly with respect to attitudes toward learning and performance.
63. See id.
64. See id.
65. See id. at 280-83.
66. See id. at 280-81.
loathing, helplessness, and pessimism—the hallmarks of the depressed mind and of zombification. The degree to which zombification influences law school performance is not yet well understood, largely because most law schools still grade using a forced curve, so the statistical data is opaque with respect to the academic performance of law school zombies. What we do know is that zombies who are also depressed people are likely to experience helplessness, which in turn is likely to result in feeling bad and performing badly, because zombification is not an especially motivating state.

What is it about law schools and legal education that produces pessimism, learned helplessness, and depression in students? One possibility is that, in a very real sense, law school teaches learned pessimism by teaching law students to think about what can go wrong for their clients, such as being subjected to contract breaches, crimes, deceit, fraud, malice, misrepresentation, oppression, and torts. Additionally, the issue spotting format of many (first-year) law school final examination questions rewards developing the skill of spotting as many possible legal problems as quickly as possible. Such a learned skill is problematic if carried over into students’ personal relationships and lives. Finally, legal education places a

68. See Sheldon & Krieger, supra note 16, at 280–83. In Benjamin et al., supra note 22, at 235, a study of students and alumni of the University of Arizona Law School produced similar results, but used a different instrument, finding no correlation between symptom levels and a number of factors that one might expect to influence student distress, such as “age, undergraduate grade-point average, law school grade-point average, hours devoted to studies as an undergraduate, or hours devoted to studies as [a] law student.” Id. at 235. Krieger and Benjamin’s work, taken together, suggest that law students’ well-being is jeopardized by the law school experience and that the disruptive factor, though perhaps difficult to ascertain, is nonetheless unrelated to age, GPA, or hours spent studying. See id. at 246; Sheldon & Krieger, supra note 16, at 280–83.


70. Sources suggest that the opposite is true; with respect to most activities, being a zombie is in fact a significant demotivator.

71. 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, 400 n.238 (2009) (discussing how legal education may teach law students to learn pessimism).

72. See id. at 400.

73. Id. (stating that the instinct to identify problems and think critically, “if applied to one’s personal life, may have significant negative consequences”). However, research indicates that
premium on being able to find flaws in and be critical of others’ arguments, which, although useful in legal practice, can be harmful and counterproductive in personal relationships and lives.\textsuperscript{74} In fact, a series of seminal psychological studies have demonstrated that learning to adopt a pessimistic explanatory style, where negative events are seen as permanent and pervasive, causes depression, learned helplessness, and stress.\textsuperscript{75}

More generally, a number of studies have found that law students experience alienation, anxiety, and psychological distress.\textsuperscript{76} One study found that one in seven law students surveyed were alienated in the sense of being cynical to, disengaged from, disinterested in, indifferent to, suspicious of, “turned off” by, and uncaring about the law, school, faculty, peers, and alumni.\textsuperscript{77} That study also found that almost one in six students reported anger at and dissatisfaction with law school.\textsuperscript{78} A second study found that law students were more anxious than college students.\textsuperscript{79} A third study found that law students became more anxious and internally conflicted during law school.\textsuperscript{80} Another study found that a sample of ninety-four first-year law students scored significantly lower than average on a Sense of Well-Being Scale.\textsuperscript{81} Scores on a cluster of scales tracking responsibility, socialization,
self-control, tolerance, good impression, and communality indicated that these law students were "seen as awkward, moody, dogmatic, . . . impulsive, defensive, self-centered, . . . [and] nervous." A fifth study found that students in all three years of law school scored significantly higher than average on a comprehensive, standard psychiatric test measuring anxiety, depression, hostility, obsessive-compulsivity, paranoid thoughts, overall distress, and psychopathy. A longitudinal study found that the psychiatric distress of law students during the summer before law school was similar to the normal population, significantly above average during the first year of law school, skyrocketed to their highest levels in the third year of law school, and never fell back to pre-law school levels even two years after graduation. As with the fifth study, a number of law students reported levels of anxiety, depression, hostility, interpersonal discomfort, isolation, obsessive-compulsiveness, paranoid thoughts, and social alienation that were two standard deviations above the mean. Two other studies found a similar pattern of students entering law school with normal or above average levels of mental health and well-being that declined significantly during the first year of law school.

So why do law schools produce the zombie characteristics of alienation, demoralization, disengagement, and mindlessness in many of their students? The above studies found a number of correlations and suggested possible causes for why law students develop zombie attributes. Two researchers concluded that some law students became psychologically distressed because they wanted more emotionally satisfying relationships with faculty, peers, and lawyers, and they perceived law school as being lonely, too doctrinal, and insufficiently public policy oriented.

Elizabeth Mertz, a senior research fellow for the American Bar Foundation and law professor, found through an anthropological and
linguistic study of first-year contracts classes at eight law schools\textsuperscript{89} that law students lose their sense of self,\textsuperscript{90} while developing analytical and emotional detachment, by discounting morality\textsuperscript{91} and marginalizing emotional and social context.\textsuperscript{92} Lost in the law school classroom’s translation of human conflict into legal language are the cultural, emotional, moral, and social details and contexts that provide the bases for ethical judgments.\textsuperscript{93} Law students learn to form arguments that support either side of an issue, which fosters an amoral and instrumental mindset.\textsuperscript{94} In the language of law school, “combat dialogue” replaces moral reasoning.\textsuperscript{95} The criterion for being a successful law student is making the best legal argument.\textsuperscript{96} Law school teaches law students to think like lawyers by transforming how students read, talk, and write about law in subtle yet profound ways that engender a shift away from considerations of morality, fairness, and sensitivity to human suffering\textsuperscript{97} to a focus on parsing legal arguments and making strategic arguments.\textsuperscript{98}

Another researcher concluded that law students who desired to help the underdog or who were interested in abstract, jurisprudential issues suffered the most alienation, feelings of isolation, and psychological conflict.\textsuperscript{99} Several researchers place the blame on an overemphasis in legal education on analytical and cognitive skills as compared to interpersonal and social skills.\textsuperscript{100} Law professor Susan Daicoff hypothesized that “individuals with altruistic, humanistically oriented traits experience pressure in law school to change their values and adopt a more rational, pragmatic, or materialistic style. This pressure leads them to either change their values or retain their atypical views; but either response may cause distress.”\textsuperscript{101} A change of
one’s values may lead to internal conflict, while the maintenance of one’s values may create peer ridicule and social alienation.102

Sheldon and Krieger found that, within the first few months of law school, law students experienced dramatic increases in negative subjective well-being (SWB) and plummeting of positive SWB.103 These researchers applied Self Determination Theory (SDT)104 to hypothesize that law school fosters changes in the motivations and values of law students that is correlated with declines in SWB.105 These researchers also found that within the first years of law school, students replaced intrinsic motivations, such as interest and inherent satisfaction, and intrinsic values, such as community service, emotional connection, personal growth, and societal contribution, with extrinsic motivations, such as pleasing others, and extrinsic values, such as appearance, attractiveness, money, popularity, and status.106 SDT posits, and a large body of empirical research confirms, that external motivations and extrinsic values are usually associated with negative SWB, while internal motivations and intrinsic values are usually associated with positive SWB.107

Providing additional support for the applicability of SDT to legal education, Sheldon and Krieger conducted a three-year study of students enrolled in two law schools.108 SDT predicts, and empirical research supports, the importance of people regularly experiencing autonomy (doing what they choose, enjoy, want, or believe in), competence (feeling that they are good at what they do or can become good at it), and relatedness (feeling

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102. Id.
104. See generally EDWARD L. DECE & RICHARD M. RYAN, INTRINSIC MOTIVATION AND SELF-DETERMINATION IN HUMAN BEHAVIOR (1985); Edward L. Deci & Richard M. Ryan, The “What” and “Why” of Goal Pursuits: Human Needs and the Self-Determination of Behavior, 11 PSYCHOL. INQUIRY 227, 262 (2000) (“The natural human propensities toward self-organization and an organized relation to a larger social structure are understood to require satisfaction of the three innate or fundamental psychological needs for competence, autonomy, and relatedness. Thwarted satisfaction of these needs results invariably in negative functional consequences for mental health and often for ongoing persistence and performance. Accordingly, needs are the linking pin between the affordances and demands of the social world on one hand and either people’s natural tendencies toward growth and well-being or their accommodative tendencies toward self-protection with the accompanying psychological costs on the other hand.”).
106. Id. at 272 tbl.3, 278 tbl.5.
107. Id. at 264.

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that what they do is meaningfully related and connected with others) in order for people to thrive and maximize their positive motivation. The data from this study demonstrated that students suffered highly significant losses of their psychological needs for autonomy, competence, and relatedness during the three years of law school.

These researchers additionally found that law students who had greater autonomy support by faculty, meaning these students felt that they were respected and understood instead of being controlled by faculty, had more satisfaction of their needs for autonomy, competence, relatedness, and self-esteem, which in turn predicted higher SWB in their third year of law school and "a higher grade point average, better bar exam results, and more self-determined motivation for the first job after graduation." One of the researchers observed that legal education's depersonalizing focus on argument and strategy and its emphasis of grades and ranking stress extrinsic goals and undermine students' psychological needs for autonomy, competence, esteem, and security. Adopting an adversarial and analytical paradigm and winner-loser mentality fosters angst, depression, and stress.

B. Legal Practice Roots

A recent summary of twenty-five years of research about lawyer satisfaction and dissatisfaction provides a chronological overview of the literature. A meta-analysis of the somewhat conflicting data decomposes the collective data set to reveal how the professional satisfaction of lawyers differs across particular categories of lawyers. Less experienced lawyers are less satisfied than more experienced lawyers. Minority women lawyers are the least satisfied with the practice of law. There are possible regional or state differences among lawyer satisfaction.

109. Id. at 885.
110. Id. at 889.
111. Id. at 883.
113. Id. at 281.
115. Id. at 260 tbls.2 & 3, 262.
116. Id. at 264.
117. Id. at 266 & n.211.
118. Id. at 266–67.
fluctuations of attorney satisfaction over time that may be related to economic conditions overall and to the legal services market in particular.\footnote{119}{Id. at 267–68.}

In particular, lawyers in private practice are less satisfied than lawyers in government practice and public interest.\footnote{120}{Id. at 265.} This finding implies that private practice is more likely to be associated with zombification than government practice and public interest. A major study of several thousand lawyers and judges in four states includes SDT measures of psychological needs, values, motivations, autonomy support, and SWB previously applied to law students.\footnote{121}{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, 187–88 (2011).} This study found that the strongest predictors of lawyer happiness and satisfaction are psychological need satisfaction, internal motivation, and intrinsic values, all of which previous research has found to decline in law students.\footnote{122}{Lawrence S. Krieger & Kennon M. Sheldon, What Makes Lawyers Happy? Transcending the Anecdotes with Data from 6200 Lawyers, 83 Geo. Wash. L. Rev. (forthcoming 2015).} On the other hand, this study also found that each of the following variables related to prestige and finances had little or no correlation with lawyer well-being: law school class rank, law review, law school debt, income, and U.S. News & World Report law school ranking.\footnote{123}{Id.} This study analyzed lawyer data by practice type and setting and found that public service lawyers, despite lower current income and law school grades, had healthier levels of autonomy, purpose, and values, and reported greater happiness than lawyers who had the highest incomes, prestige, and law school grades.\footnote{124}{Id.} To feel fulfilled, lawyers thus require a practice that supports humanistic values and self-determination.\footnote{125}{Id.}

Studies provide empirical and experimental evidence that being unhappy or unsatisfied with one’s professional life is correlated with risky or unethical and unprofessional behavior.\footnote{126}{See, e.g., Robert J.B. Goudie et al., Happiness as a Driver of Risk-Avoiding Behaviour: Theory and an Empirical Study of Seatbelt Wearing and Automobile Accidents, 81 Economica 674, 680–87 (2014) (finding that unhappy people are attracted to risk-taking); Lawrence S. Krieger, The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness, 11 Clinical L. Rev. 425 (2005) (arguing that life satisfaction is related to the motivations and values that promote professional attorney behavior).} Unethical behavior is one
characteristic or manifestation of becoming a zombie. Law professors Jennifer Robbennolt and Jean Sternlight explain in detail how many aspects of some types of legal practice compound the general psychological tendencies that may lead people to act unethically. These factors include: the inevitable ambiguity, conflicts, and gaps in the rules and standards that govern attorney conduct; the nature of the lawyer-client agency relationship, in particular the ability to act unethically indirectly on behalf of and through others; various natural conflicts of interests; playing the role of a zealous advocate in an adversarial system; the numerous tolls of law practice including difficult decisions, frequent travel, many interruptions, time pressure, lack of enough sleep, long hours, struggles to balance work and family life, and workplace politics; the high power and status that many lawyers have; the social environment of law firms; and having to respond to the unethicality of others. In particular, many lawyers suffer from fatigue in general from lack of sufficient sleep and from decision fatigue from making too many decisions. Psychological research demonstrates that people are more likely to behave unethically when they suffer from lack of enough sleep or are cognitively overloaded.

For some lawyers, the pressures and stresses of legal practice may be the trigger for zombification as they burn out or reach a breaking point from

129. Id. at 1128-29.
130. Id. at 1134-36.
131. Id. at 1129-34.
132. Id. at 1137-40.
133. Id. at 1140-43.
134. Id. at 1143-45.
135. Id. at 1145-49.
136. Id. at 1149-52.
137. Id. at 1140-42.
138. See, e.g., Christopher M. Barnes et al., Lack of Sleep and Unethical Conduct, 115 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 169, 171-78 (2011).
chronic fatigue and decision fatigue. For others, legal practice may be the point of manifestation of the bad habits and learned depression that they acquired in law school.

A natural question is why lawyers do not resist becoming zombified, especially because zombification leads to unethical behavior? One answer is that people are prone to seeing ethical mirages, meaning that people predict and remember themselves as behaving more ethically than they actually behave. Such ethical mirages result from people predicting and remembering that they will behave as they should behave, while actually behaving as they want to behave. These behavioral forecasting errors are due to people changing their interpretations of events over time; people focusing on more salient situational factors and ignoring less salient situational factors when they make predictions; and people’s predictions and memories being motivated by what they desire to think of themselves while their behavior is motivated by what is feasible. People fail to remember their unethical behavior due to a type of psychological cleansing that results from people adjusting their ethical standards, construing events differently over time, egocentrically revising their memories, and seeking attributions that are self-confirmatory. People can maintain a clear conscience by motivated forgetting and moral disengagement, which entails persuading themselves that questionable behavior is actually morally acceptable. People also fade away the ethical aspects of their behavior, and in so doing, fail to even trigger their ethical awareness and allow visceral factors to dominate their behavior. Lawyers often see an ethical mirage when they

140. Ann E. Tenbrunsel et al., The Ethical Mirage: A Temporal Explanation as to Why We Are Not as Ethical as We Think We Are, 30 RES. ORGANIZATIONAL BEHAV. 153, 158–65 (2010).
141. MAX H. BAZERMAN & ANN E. TENBRUNSEL, BLIND SPOTS: WHY WE FAIL TO DO WHAT’S RIGHT AND WHAT TO DO ABOUT IT 67 fig.5 (2011) (presenting temporal perspective between should and want selves).
142. Id. at 66–72; Tenbrunsel et al., supra note 140, at 159–60.
143. Tenbrunsel et al., supra note 140, at 162–65.
145. Ann E. Tenbrunsel & David M. Messick, Ethical Fading: The Role of Self-Deception in Unethical Behavior, 17 SOC. JUST. RES. 223, 224 (2004) (proposing the phrase “ethical fading”); see also BAZERMAN & TENBRUNSEL, supra note 141, at 72–76 (discussing process of ethical fading in...
exploit legal loopholes.\textsuperscript{146} Such ethical mirages result from temporal illusions that also exist in people’s fantasies about their financial behavior and illusions people have about how much care and control they have in tortious situations.\textsuperscript{147} Social psychology research implies that ambiguity and situational factors, including attorneys being in partisan roles, can adversely affect lawyers’ professional objectivity.\textsuperscript{148}

\textbf{IV. HOW TO DEAL WITH LEGAL ZOMBIES}

Existing responses to a zombie apocalypse include applying differential calculus\textsuperscript{149} to model the population growth of zombies versus humans\textsuperscript{150} and how to escape from zombies,\textsuperscript{151} building a zombie survival machine,\textsuperscript{152} buying a bunker,\textsuperscript{153} comforting or quarantining those who are infected with a zombie virus during their transformation,\textsuperscript{154} escaping to sea,\textsuperscript{155} fleeing to an island,\textsuperscript{156} or killing zombies.\textsuperscript{157} Most experts agree that there is basically just one known way to kill a zombie, namely, by stabbing it in its brain.\textsuperscript{158} This contrasts with the more varied known ways to kill a vampire, including by


\textsuperscript{149} COLIN ADAMS, \textit{ZOMBIES AND CALCULUS} (2014).

\textsuperscript{150} Zombies and Calculus, \textit{PBS} (Sept. 25, 2014), \textit{http://www.pbs.org/wgbh/nova/physics/zombies-calculus-1.html} (providing video explaining how derivatives help model the fluctuations in the numbers of zombies versus humans and why humans can’t finish off zombies).

\textsuperscript{151} ZOMBIES AND CALCULUS, PART 2, \textit{PBS} (Sept. 25, 2014), \textit{http://www.pbs.org/wgbh/nova/physics/zombies-calculus-2.html} (providing video explaining how tangent vectors help model how one can escape from zombies in hot pursuit).


\textsuperscript{154} MAGGIE (Grindstone Entertainment Group 2015).

\textsuperscript{155} WORLD WAR Z (Plan B Entertainment 2013).

\textsuperscript{156} DAWN OF THE DEAD (Strike Entertainment 2004).

\textsuperscript{157} \textit{The Walking Dead} (American Movie Classic 2010–present).

burning it with direct sunlight, burning it with silver, burning it with fire, stabbing it through the heart with a wooden stake, and tearing off its head.\textsuperscript{159} Some evidence suggests that zombies created by viruses can be dezombified through the use of an antidote.\textsuperscript{160} However, viruses are often difficult to isolate and treat, and the use of an intravenous antidote for legal zombies seems difficult at best, and at worst impossible, because the causes of legal zombies are so varied and complex.

Killing zombies is not only dangerous, but also Pareto inferior\textsuperscript{161} to a more radical alternative that we propose, namely, that of reversing the legal zombification process and preventing future legal zombies. The inspiration for our proposal to engage in reverse zombification is a book\textsuperscript{162} and documentary\textsuperscript{163} in which some zombies come back to life by developing meaning from and passion in their existence. A proposal that is related to ours is a call to reject the dichotomy between law as business and law as profession by drawing upon the analogy to rock and roll musicians who can both create meaning and earn a living from their music.\textsuperscript{164}

Zombies are well-known for their mindless wandering.\textsuperscript{165} In one real sense, the essence of being a zombie is mindless behavior. One way to reverse zombification therefore is to practice mindfulness.\textsuperscript{166} Mindfulness entails being able to regulate one’s attention, being aware of one’s bodily sensations, regulating one’s emotions, and changing one’s self-perspective.\textsuperscript{167} Two distinct, yet related, notions of mindfulness are\textsuperscript{168}

\begin{footnotes}
\item[160] See, e.g., RESIDENT EVIL (Constantin Film Produktion 2002) (depicting a scenario in which an antidote to the “T-virus” was administered intravenously).
\item[161] Our normative analysis makes the assumption that zombies do not have well-formed preferences as compared with the former people who became zombies.
\item[162] ISAAC MARION, WARM BODIES (2011).
\item[163] WARM BODIES (Summit Entertainment 2013) (being in addition a romantic comedy).
\item[165] Chodorow, supra note 7, at 1210.
\item[167] KaWai Leong et al., Changes in Mindfulness Following Repetitive Transcranial Magnetic Stimulation for Mood Disorders, 58 CANADIAN J. PSYCHIATRY 687, 688 (2013) (listing these aspects of mindfulness).
\end{footnotes}
Eastern-derived mindfulness and a concept of mindfulness proposed by psychologist Ellen Langer. Eastern-derived mindfulness involves moment-to-moment, non-judgmental, non-reactive, and open-hearted awareness that one engages in by paying attention in a specific way. According to psychiatrist Daniel Siegel, mindfulness involves “an awareness of awareness” coupled with an attitude toward moment-to-moment experience that is based on “curiosity, openness, acceptance, and love.” Ellen Langer describes mindfulness: “When we are mindful, we implicitly or explicitly (1) view a situation from several perspectives, (2) see information presented in the situation as novel, (3) attend to the context in which we are perceiving the information, and eventually (4) create new categories through which this information may be understood.”

Instruction about mindfulness is becoming increasingly popular and more widespread in American society. Neuroscience and psychological research studies have found that being more mindful in the Eastern-derived sense is associated with numerous benefits, including being happier and healthier, developing emotional intelligence, improving focus and productivity, and reducing anxiety and stress. In particular, there is evidence that practicing mindfulness increases rational decision-making
and reduces the impact bias in affective forecasting, implicit age bias and implicit race bias, and the sunk-cost bias.

Within the practice of law, Professor Leonard Riskin explains how Eastern-derived mindfulness and Langer's mindfulness assist both lawyers and law students in being more effective at conflict resolution and negotiation by decreasing the strength of negative emotions; developing awareness of, and freedom from, emotions, thoughts, habitual perceptions, and behaviors; enhancing social skills; fostering sensitivity towards other people's emotions; increasing concentration; and reducing attention to self-centered concerns. Kate Mayer Mangan, a former law firm partner, formed a consulting and education company, Donocle, that teaches attorneys about mindfulness, positive psychology, and other practices that may help them be healthier, be more effective attorneys, and thrive. Jeena Cho, a current bankruptcy law firm partner, advocates that every lawyer should practice mindfulness and provides a 21-day series of 6 minute guided

177. Amber S. Emanuel et al., The Role of Mindfulness Facets in Affective Forecasting, 49 PERSONALITY & INDIVIDUAL DIFFERENCES 815, 816–18 (2010).
meditations for attorneys.\textsuperscript{183} Riskin and attorney-mediator Rachel Wohl co-developed a practical technique to help lawyers, judges, mediators, and managers engage in mindfulness that can be remembered by the mnemonic “Taking STOCK”: Stop; Take a breath; Observe and be open to your experience in terms of your feelings, mindsets, and thoughts; Consider your intention and whether you want to keep it or change it; and Keep going after making any possible adjustments.\textsuperscript{184} Taking STOCK facilitates the practice of pausing and thereby mindfully assessing any situation before acting.\textsuperscript{185} The act of pausing creates a space in which to reflect upon what one is doing.\textsuperscript{186} Such mindful reflection is an example of the benefits of waiting before acting instead of mindlessly rushing to act.\textsuperscript{187} Riskin and Wohl co-teach their Taking STOCK technique in a two and a half day course titled \textit{Using Practical Tools of Mindful Awareness to Improve the Work and Lives of Lawyers, Mediators, Negotiators, Judges, Arbitrators, and Managers}.\textsuperscript{188}

Recall that life satisfaction is connected to ethical and professional attorney behavior. Psychological research has found that people are less happy when their minds wander.\textsuperscript{189} Other experimental research has found that people who were high in mindfulness cheated less, reported greater likelihood to act ethically, were more likely to use a principled approach to ethical decision-making, and were more likely to value upholding ethical standards than people who were low in mindfulness.\textsuperscript{190} Upon attending a

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\textsuperscript{184} Katherine Larkin-Wong, \textit{A Newbie’s Impression: One Student’s Mindfulness Lessons}, 61 J. LEGAL EDUC. 665, 667 (2012) (describing this exercise).

\textsuperscript{185} \textit{Id.; see also Elisha Goldstein, The Now Effect: How a Mindful Moment Can Change the Rest of Your Life} 43–45 (2012) (discussing importance of pausing before acting).

\textsuperscript{186} \textit{Thomas Roberts, The Mindfulness Workbook} 50 (2009).


\textsuperscript{189} Matthew A. Killingsworth \& Daniel T. Gilbert, \textit{A Wandering Mind Is an Unhappy Mind}, 330 SCI. 932, 932 (2010).

\textsuperscript{190} Nicole E. Ruedy \& Maurice E. Schweitzer, \textit{In the Moment: The Effect of Mindfulness on
presentation about mindfulness and ethics, a number of law students and legal practitioners provided feedback that "they found this the first time anyone talked about HOW to actually become more ethical, as opposed to WHAT ethics 'is' or what the rules are." The practice of mindfulness creates what are known in modern finance as real options, in particular these two complementary real options: the real option to engage in ethical behavior and the real option to engage in unethical behavior. In addition to teaching lawyers and law students about mindfulness, teaching lawyers and law students to improve their decision-making is likely to reverse or prevent zombification.

Professor Scott Rogers has written about introducing mindfulness to lawyers and law students. Rogers and Professor Jan Jacobowitz co-teach a class titled Mindful Ethics: Professional Responsibility for Lawyers in the Digital Age. They advocate developing mindful ethics as a life skill and tool for legal practice to avoid ethical pitfalls, cultivate professional identity, and maintain civility. 2001 economics Nobel laureate, George Akerlof, and economist Rachel Kranton, analyze how people's identities,
or their senses of themselves, influence their economic decisions and outcomes. A psychological experiment found that priming the American identities of Chinese-Americans resulted in greater individualistic responses, in the sense of non-cooperative and unique choices. A similar economics experiment found that Asian-Americans whose Asian ethnicities became salient by priming made choices that exhibited more patient intertemporal preferences. This economic-psychological research about how identities can alter behavior suggests a rationale for introducing to lawyers and law students professional identities that differ from such stereotypical, traditional identities as the "Rambo" litigator. Such novel lawyer identities as conflict manager, healer, and peace-maker would help lawyers, law students, and the public to realize that peace is not so much the absence of conflict as it is the ability to deal with conflict effectively, efficiently, and respectfully.

V. LEGAL ZOMBIES IN THEIR YOUTH

Much like the werewolves of Werewolves in Their Youth fame, many of those who become legal zombies experienced extreme states before becoming zombies. They have suffered. They have known the ups and downs, the extreme pleasure and pain of pre-zombie life. They have been, in a word, human, and it is our hope that many would-be zombies might remain human, rather than fall prey to the zombifying effects of the legal academy or law practice.

For those who may be prone to zombification, we suggest a range of interventions rooted in the positive psychology literature as a possible way
to prevent zombification. Like the interventions above, these interventions can help fight the Zombie Lawyer Apocalypse, but unlike the more radical zombie fighting techniques we have mentioned above, these interventions can be used before the process of zombification begins, as a kind of inoculation against future zombification.

Positive psychology is a relatively young branch of psychology. The field, which some have argued is a revival and deepening of the humanist ideas put forth by Maslow and others, grew out of Martin Seligman’s early theories of “learned helplessness” and “learned optimism,” the idea that people could learn both pessimistic and optimistic states of mind, and that this ability to learn—or to relearn—one’s worldview could help unlock a new understanding of what made some people resilient in the face of extraordinarily difficult circumstances. From 1999 to 2009, the field experienced tremendous growth, with the result that many doctoral programs now teach positive psychology and many practicing psychologists consider themselves positive psychologists—psychologists whose primary focus is the science of human thriving. Mihaly Csikszentmihalyi, one of the fathers of the field, writes that “one reason for the rapid growth of positive psychology has been the tremendous interest in ‘positive interventions.’” Indeed, in order to prevent and treat legal zombies, we suggest exactly the kinds of positive interventions that have become popular in clinical and coaching realms.

The key aim of positive psychology is not only to minimize suffering and give people better tools with which to engage the inevitable difficulties

204. Jeffrey J. Froh, The History of Positive Psychology: Truth Be Told, NYS PSYCHOLOGIST, May/June 2004, at 18, 18–19. Maslow’s hierarchy of human need proposed a five layered pyramid of needs, the top of which represented self-actualization, or the deepest human needs for morality, authenticity, and deep meaning. See generally ABRAHAM H. MASLOW, A THEORY OF HUMAN MOTIVATION (Martino Publishing 2013) (1943).
205. Froh, supra note 204, at 19.
208. Id. at 4.
209. Id. at 6.
210. Id. at 7.
211. See id.
of life, but also to give people an understanding of how to cultivate the positive—to enable people to become more resilient, more capable of learning from negative experiences, and ultimately, more capable of thriving even in the face of difficulty. In developing an understanding of positive psychology, it is important to distinguish the discipline from the study of happiness.

Aristotle famously suggested that all human action was to achieve happiness. Seligman points out that this theory—and others that seek to establish happiness as the single thing motivating human behavior—makes the mistake of monism, or simplifying the truth merely for simplicity’s sake. The true sources of human motivation, and therefore human thriving, are somewhat more complex and varied; some people in fact do seek happiness as we commonly think of it, meaning positive emotional experiences that require little input or effort. The effects of such happiness, as all hedonic pleasure-seekers know, is short-lived at best and forces one onto a hedonic treadmill—as one becomes acclimated to a certain pleasurable thing or state, one experiences a dialing up of needs and desires in order to realize an even larger hedonic charge. Over time, one is no longer satisfied by these hedonic inputs; one merely craves more, better, bigger things in order to fulfill, temporarily, the hedonic urge.

Many other people, however, seek something deeper, more profound, and more affirming than mere hedonic or acquisitive pleasures. These people pursue achievement, fulfillment, meaning, and strong relationships. These are people who, according to positive psychology, are engaged in cultivating well-being—the people who research tells us will succeed and thrive. Positive psychology is the study of all of the elements that produce well-being, the study of the various good things that motivate humans to act

213. Id. at 9–11.
214. Id. at 9.
215. Id. at 9.
216. Id. at 11–12.
218. Seligman, supra note 212, at 30–32.
219. Id. at 9–12.
220. Id. at 16–20.
and of the ways in which people, in the face of negativity and severe stressors, can continue to pursue these profound goals.\textsuperscript{221}

In explaining the key difference between positive psychology and the study of happiness, Seligman writes, "[T]he dominant popular connotation of 'happiness' is inextricably bound up with being in a cheerful mood. Positive emotion is the rock-bottom meaning of happiness."\textsuperscript{222} Seligman goes on to suggest that, because of the bias inherent in self-reporting and the inherent nature of reports of positive emotion to advantage extroverts over introverts, reports of positive emotion are flawed to the point of providing little useful information for those who wish to study human flourishing in all its many aspects.\textsuperscript{223} Seligman points out that, in addition to positive emotion, engagement and meaning are also relevant and significant, though they may not be captured by measures of self-reported positive emotion.\textsuperscript{224} He suggests that well-being is itself a construct and that positive emotion—what many call happiness—is only one piece in the construct.\textsuperscript{225} In addition to positive emotion, engagement and meaning are essential ingredients for a balanced, fulfilling life.\textsuperscript{226} Rather than focusing on happiness as an intervention and possible access point for getting at the root causes of zombification, Seligman’s work suggests that we should instead look to the core tenets of well-being, and that we think of positive psychology as the study of well-being, rather than merely the study of positive emotion.\textsuperscript{227}

Well-being is “essentially a theory of uncoerced choice, and its five elements comprise what free people will choose for their own sake."\textsuperscript{228} Seligman describes his current theory of well-being as PERMA, a system of five key elements: (1) positive emotion, (2) engagement, (3) meaning, (4) positive relationships, and (5) accomplishment.\textsuperscript{229} We believe that by embracing each of these five elements of well-being and developing them in law school, we can prevent or eliminate much of the zombification currently being produced by law schools and legal institutions.

\textsuperscript{221} Id.
\textsuperscript{222} Id. at 13.
\textsuperscript{223} Id. at 14.
\textsuperscript{224} Id.
\textsuperscript{225} Id. at 14–15.
\textsuperscript{226} Id. at 15.
\textsuperscript{227} Id. at 13–15.
\textsuperscript{228} Id. 16.
\textsuperscript{229} Id. at 16–20.
We will explore each of the five elements of well-being and discuss how to cultivate each in law schools and in law students. In understanding these elements, it is crucial to remember that “[n]o one element defines well-being, but each contributes to it.”

The first element, positive emotion, means “[h]appiness and life satisfaction.” This element is the traditional measure of well-being as thought of by many researchers who work on happiness. Seligman is clear that positive emotion, while important, is merely one aspect of well-being theory.

Engagement is about task involvement and it is the measure of flow, or the degree to which a person, while engaged in a particular task, experienced a sense of selflessness or a loss of self-consciousness. Classic indications of flow include the sense that “time stop[ped]” because one was so “completely absorbed by the task.”

Meaning is the thing that illuminates positive emotion, engagement, and all that we do with a deeper dimension. Meaning exists where we believe that what we do serves a higher purpose, helps others, or is otherwise useful beyond the pleasure or engagement produced by the task itself. As zombie researchers, we believe, for example, that the work we are doing may help to create law school learning environments that are more humanistic, that facilitate deeper learning, and that safeguard our students and the practitioners in our profession against the detrimental ills we know are associated with zombification.

Accomplishment, in Seligman’s theory, is that which “is often pursued for its own sake, even when it brings no positive emotion, no meaning, and nothing in the way of positive relationships.” Accomplishment looks a bit like competence—it is a sense that one is pursuing and achieving one’s
goals, that one is good at the thing one has chosen to do, and that one can expect good outcomes as one continues to do it.\textsuperscript{239} Animal and human studies suggest that both rats and humans sometimes engage in behavior simply because it produces the effect of having mastery over the environment and that people will pursue this goal—mastery—for its own sake.\textsuperscript{240}

Finally, Seligman’s well-being theory identifies positive relationships as a central element. “When asked what, in two words or fewer, positive psychology [was] about, Christopher Peterson, one of its founders, replied, ‘Other People.’”\textsuperscript{241} Positive relationships include both the capacity to love and be loved, to form meaningful, supportive connections with others in one’s environment, and to develop and draw on the complex social skills that are so essential to our species’ survival.\textsuperscript{242} Seligman writes, “Being social is the most successful form of higher adaptation known. I would guess that it is even more adaptive than having eyes... We are, emotionally, creatures of the hive, creatures who ineluctably seek out positive relationships with other members of our hive.”\textsuperscript{243} In short, social intelligence—relationships—are not only essential to our individual thriving, they are, in a sense, the key to what makes us human.\textsuperscript{244}

Law school, with its sometimes competitive, isolating, and alienating environment, directly undermines PERMA. Firstly, law school and the law

\textsuperscript{239} Id. at 18–20. Self-determination theory is similar, though not identical, to Seligman’s PERMA theory. See supra text accompanying notes 54–59. Notably, self-determination theory relies on three dimensions and suggests that, in order to thrive, humans need all three. Deci & Ryan, supra note 104, at vii. Those dimensions are: (1) autonomy, or the power to make one’s own decisions, (2) relatedness, or the sense that one is a member of a group or community, and (3) competence, or the sense that one is capable and can succeed at one’s tasks. Id.

\textsuperscript{240} Seligman, supra note 212, at 19–20. However, wanting money only for money’s own sake does not alone appear to support well-being. Tim Kasser & Richard M. Ryan, A Dark Side of the American Dream: Correlates of Financial Success as a Central Life Aspiration, 65 J. Personality & Soc. Psychol. 410, 410 (1993) (presenting studies finding that “values and expectancies for wealth and money are negatively associated with adjustment and well-being”). See generally Tim Kasser, The High Price of Materialism (2002) (analyzing how consumeristic and materialistic desires correlate with anxiety, depression, low self-esteem, and unhappiness). Those who highly value materialism have been found in a number of studies to have lower SWB. Ed Diener, Frequently Asked Questions: A Primer for Reporters and Newcomers, http://internal.psychology.illinois.edu/~ediener/faq.html (last visited Feb. 11, 2015).

\textsuperscript{241} Seligman, supra note 212, at 20.

\textsuperscript{242} Id. at 23.

\textsuperscript{243} Id.

\textsuperscript{244} Id.
school classroom do, in many instances, directly undermine positive emotion through the use of grueling reading loads that leave little time for pleasurable experiences and through the use of negative feedback that leaves little room for positive reinforcement. Law school may provide some opportunities for engagement with legal materials, but only where students are put into positions of academic stretch, as opposed to stress, meaning that students need to be instructed in such a way that they are able to actually access and learn deeply, rather than engaging in surface learning motivated out of fear and a desire to perform satisfactorily on a test.

Law school is also notorious for inspiring negative relationships. Many faculty members express contempt for their students, and many students find themselves feeling competitive, rather than cooperative, and pitted against one another. Instead of allowing students to bond over common goals, law school compartmentalizes students to the detriment of their relationships.

Related to the issue of common goals is the idea of meaning. Rather than helping students develop personal and professional identities rooted in notions of justice, fairness, membership in the profession or discourse with the community, law school seems to sap all meaning from the study of law, such that even the most idealistic undergraduates becomes somewhat jaded lawyers. In spite of the admonitions of the Carnegie Foundation and the Clinical Legal Education Association’s Best Practices Project, many law schools still do a poor job recruiting and developing students who find meaning in their work and who experience legal study as a deepening of

245. See Austin, supra note 76, at 794; Sheldon & Krieger, supra note 16, at 262 (outlining the negative aspects of legal education that lead to elevated emotional stress and poor mental health).
246. See Austin, supra note 76, at 796.
247. See, e.g., Sheldon & Krieger, supra note 16, at 262 ("Potential negative aspects of legal education include . . . institutional emphasis on comparative grading, status-seeking placement practices, . . . lack of clear and timely feedback . . . [and] teaching practices that are isolating or intimidating . . . .").
248. Cf. supra text accompanying notes 241–44 (discussing importance of personal relationships).
249. See Austin, supra note 76, at 794; Sheldon & Krieger, supra note 16, at 262.
their identities.\textsuperscript{252}

Finally, the mandatory curve that many law schools use, a relic of the time when top law students were all but guaranteed jobs at the nation's most illustrious law firms, means that only a small number of people in each law school class can be "the best."\textsuperscript{253} In other words, only the top 10% or so of law students are allowed a strong sense of achievement.\textsuperscript{254} For students who are working hard to master difficult concepts and who do master them, but who are not quite as adept as a handful of their peers, this creates an environment of learned helplessness—or learned failure—in which the students learn that, no matter what they do, their work will always be insufficient.

To support PERMA in our students, and thereby to combat zombification, we suggest a battery of interventions and a move toward positive education in law schools around the country. Positive education is education that incorporates the tenets—and interventions—of positive psychology.\textsuperscript{255} The discipline arose out of a desire to stem the tide of depression in young people in the developed world and to create deeper, more lasting educational experiences that refine not only the intellect, but also the emotional and psychological aspects of each student.\textsuperscript{256} Positive education is rooted in the belief that "greater well-being enhances learning, the traditional goal of education."\textsuperscript{257}

Positive education has been road-tested at one of the world's most elite secondary institutions, the Geelong Grammar School (of which such notable individuals as HRH Prince Charles of Wales, Rupert Murdoch, and John Gorton are alums).\textsuperscript{258} The experiment in implementing positive education across this elite institution's curriculum yielded a number of interventions.

\textsuperscript{254} Id.
\textsuperscript{256} Id. at 293–95.
\textsuperscript{257} SELIGMAN, supra note 212, at 80.
that could be instituted in law schools.  

When we talk about "positive education," what we mean is, primarily, the idea that well-being can and should be taught alongside other rigorous subjects, the mastery of which can be aided by increasing students' well-being. Evidence suggests that well-being is not only helpful in combating depression, but can also help students see the big picture more easily and assist with creativity. Some critics of positive psychology have pointed out that depressed people are somewhat more objective about facts—such as the number of jelly beans in a glass jar. On the other hand, happier people tend to excel at creative problem solving and learning new things. For the purposes of learning to solve legal problems, both kinds of thinking, the analytical and the creative, are important to realizing good outcomes. Yet law schools tend to produce depression, and therefore depressed thinkers who are less able to think in big-picture terms.  

To affect an improvement in well-being, educators working in positive education use a number of distinct interventions. Of these, we believe that two can be easily taught and incorporated into the law school environment, if not into the curriculum itself. First, we point to values-driven education, where values are defined along the twenty-four strength spectrum outlined in the Values in Action (VIA) inventory created by Martin Seligman and Christopher Peterson. The VIA survey identifies a person's top strengths

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260. SELIGMAN, supra note 212, at 80.
261. Id.
263. SELIGMAN, supra note 212, at 80 (“Positive mood produces broader attention, more creative thinking, and more holistic thinking . . . . When you’re in a bad mood, you’re better at ‘what’s wrong here?’ When you’re in a good mood, you’re better at ‘what’s right here?’”).
and values. The twenty-four core values that the survey identifies are universal; the researchers who created the instrument have observed the importance of these twenty-four values in nearly every culture they've studied.

The purpose of the VIA is to help identify students' signature strengths and values. The VIA actually categorizes values as strengths and helps those who take the instrument to see themselves in a positive light. By helping students identify their signature strengths, the VIA can help to put in perspective weaknesses and give students a tool they can use to help shape their future academic decisions.

In a recent study, published in the Yale Journal of Health Policy, Law, and Ethics, Todd and Elizabeth Peterson administered the VIA to George Washington University Law School students. The Petersons hypothesized that "the students who [were] able to use their top strengths often in their daily lives [would] report higher levels of happiness and lower levels of stress and depression than those students who used their top strengths less often." Students received an invitation to participate in an online questionnaire, which included seventy-eight questions assessing the students' well-being, measuring life satisfaction, stress, and depression. The questions also assessed "the different character strengths displayed by the students and how often they used them." The experiment was successful. The study showed that the extent of students' exercise of their top strengths was strongly correlated with their individual levels of well-being.

This practice—administering the VIA and assessing students' personal profiles—is neither expensive nor difficult to implement. In fact, Martin Seligman's University of Pennsylvania site, authentichappiness.com, allows users an opportunity to take (and retake) not only the VIA, but a whole

268. Id. at 627–38.
269. Id. at 8.
270. Id. at 627.
271. Id. at 639–44.
272. Peterson & Peterson, supra note 71.
273. Id. at 409.
274. Id.
275. Id.
276. Id. at 411.
277. Id. at 416.

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battery of other tests. Access to the site is free and ongoing; anyone may join at any time and may take as many, or as few, tests as she wants to take. Thus, the VIA presents a free, easy, and immediately accessible intervention that law schools around the country could take advantage of. Schools could also choose to incorporate counseling based on students' VIA results in any number of ways. Schools that have existing academic advising programs could incorporate VIA-related counseling, including advisement on course selection, into their existing advisement programs. Schools that do not have such programs could incorporate the VIA into orientation, into the first-year legal research and writing course, or into the ethics courses that students take in their second or third years.

This simple, free, and relatively brief intervention would likely result in students who are stronger across all of the PERMA dimensions. Students who identify their core strengths are likely to see those strengths as a springboard for a number of choices. Students who take the VIA are likely to see ways to use their strengths to increase positive emotion. For example, a student whose top strength is creativity and problem solving might seek out more novel problems because she knows that she is likely to enjoy solving them. Similarly, those things that students enjoy, in which students are able to lose themselves, are more likely to produce the positive state of engagement, or flow, and thereby to contribute to their well-being. Further, it is likely that a student with a better sense of her strengths will be better able to choose activities or courses that develop her sense of meaning, as she learns to identify what she—not the dominant culture or her immediate academic environment—thinks of as important. In addition, a student who is making values-driven choices is more likely to cultivate relationships with like-minded others, building positive relationships. Finally, a student who is able to use her best strengths in an academic

279. Id. at 139.
280. Id. at 84.
281. Id.
283. See Sheldon & Krieger, supra note 16, at 264 (noting that internal motivations and intrinsic values are usually associated with positive subjective well-being).
284. Id. at 20.
environment is likely to succeed on her chosen tasks and, as a result, to experience a sense of accomplishment. The VIA then, is a free, cheap, and easy intervention that can support law students across all five PERMA dimensions.

Another promising intervention focuses on training the brain to recognize good things and thereby to learn to seek out the positive, big-picture, aspects of the environment. Like the VIA, the three good things about this intervention are that it is cheap, easy, and relatively fast. This intervention requires that students (and perhaps faculty too) keep a journal. Every night before bed, the student records three good things that happened during the day. These can be small things (today the cafe had that tomato soup I like), or big things (I earned an interview with my first choice employer). The only defining criteria are that they must be positive, and the student must keep the journal on a regular basis. Once the student has identified three good things, the student should answer one of the following questions for each of the three things: “Why did this good thing happen?” “What does this mean to you?” “How can you have more of this good thing in the future?”

Those who participate in this intervention for six weeks begin to experience a shift away from depressive or zombie-like thinking. Students (and faculty members) who engage in this intervention should begin to experience a broader, more expansive view, as they train their brains to notice good things.

Yet another important point of intervention, one that works on the relationship between experience and emotion, is that of reframing negative events through the lens of optimism.

In 2001, researchers Charles S. Carver and Michael F. Scheier summed up their findings in a study titled *Positive Psychology Progress: Empirical Validation of Interventions*, where they explored the effectiveness of various interventions designed to enhance well-being and happiness. These approaches included both individual and collective efforts, with the goal of promoting subjective well-being and reducing negative emotions. Their research was published in the journal *American Psychologist*, with the full citation being: 295. Martin E.P. Seligman et al., *Positive Psychology Progress: Empirical Validation of Interventions*, 60 AM. PSYCHOLOGIST 410, 418–20 (2005).
up optimism and pessimism. They wrote that “[o]ptimists are people who expect good experiences in the future. Pessimists are people who expect bad experiences.” Seligman’s early research took that folk wisdom into the scientific realm. Among other things, his research showed that pessimists, as a group, are almost universally people who give up easily and are more likely to experience helplessness and, therefore, depression. Pessimistic minds also work along a defined spectrum, and these minds attribute events in the world in three ways: permanence, pervasiveness, and personalization. Permanence means that pessimists see bad events as the result of some permanent failing, some quality inherent in themselves that can never be fixed. Pervasiveness means that pessimists see negative events as attributable to some pervasive problem, one that colors not only the single, negative situation the pessimist seeks to understand, but also everything else. This kind of attribution allows negativity to permeate out from the single occurrence and into every related experience, encouraging the pessimist to give up and to see all as lost, simply because she has extrapolated an individual, bad event, or a group of bad events, out to the broader world in which she lives. Third, pessimists attribute negative events in a way that is highly personal. Personalness means that the pessimist believes that bad things have happened to her because she, personally, is in some way fundamentally and irrevocably flawed. When

298. Id. at 44. In his earlier work, Seligman uses the labels “internal, stable, and global,” see, e.g., Natalie Boyd, How Seligman's Learned Helplessness Theory Applies to Human Depression and Stress, EDUC. PORTAL, http://education-portal.com/academy/lesson/how-seligmans-learned-helplessness-theory-applies-to-human-depression-and-stress.html (last visited Feb. 27, 2015), but later adapts these to the easier to remember “permanent, pervasive, and personal.” SELIGMAN, supra note 297, at 58. We will use this second phrasing.
299. SELIGMAN, supra note 297, at 44-46.
300. Id. at 46-47.
301. Id. at 131–35 (describing how, in a study of women who were girls during the Great Depression, those who continued to live in poverty emerged as pessimists, while those whose families were able to recover financially emerged as optimists at an increased rate of statistical significance).
302. Id. at 49–50.
303. Id.
good things happen to the pessimist, she sees them as the result of some unusual, perhaps random confluence of events. An optimist, by way of contrast, thinks about things in the opposite way. He has a positive attribution style and sees the good things that happen to him as the result of permanent, pervasive, and personal qualities. When the optimist experiences something positive, he doesn’t think of the event as isolated, he thinks of it as the result of a set of permanent, pervasive, and personal positive qualities in himself.

In terms of negative events, the optimist also has an explanatory style. But the attributes of that explanatory style could not depart more from those of the pessimist’s. When the optimist encounters a setback or a negative event, he views the event in terms that are temporary, specific, and hopeful. In other words, the optimist sees bad events as the result of changeable, often external characteristics, whereas the pessimist sees bad events as having their root in the worst parts of herself. Because the optimist believes, in his heart, that he can walk on water, he will bend his world as much as he can to reflect the truth of that internal reality—and will therefore turn setbacks into success, trauma into growth.

Seligman has shown that, at least in the context of behavioral therapy, people who naturally gravitate toward a pessimistic explanatory style can learn how to be more optimistic and thereby obtain all of the benefits that accompany their optimism: better health, better grades in school, and greater life satisfaction. In short, optimism, the belief that one’s bad experiences need not shape one’s emotions, may help to safeguard against zombification.

To give students the tools of optimism, professors can embed optimist

304. Id. at 46.
305. Id. at 49–50.
306. Id. 47–48.
307. Id.
308. Id. at 48–49.
309. Id.
310. Id.
311. Id.
312. Id. at 95–96 (explaining the power of the belief in one’s unstoppable abilities as predictive of great success and original thinking in creative teams charged with difficult tasks.).
313. See id. at 4–5.
314. See id.
language into their courses, and law schools can also teach resilience directly. Stanford law professors Barbara Fried and Joseph Bankman and Yale law professor Ian Ayres have designed and taught a two-hour course that teaches first-year law students about anxiety, depression, and cognitive behavioral therapy techniques to reduce anxiety. Bankman’s “fantasy is that the fairly simple and straightforward methodology of this course will resonate broadly with law faculty and that law schools throughout the country will be inspired to adopt it.”

Seligman calls optimism that can be called upon when needed and tempered when not, “flexible optimism.” Flexible optimism can be taught to both children and adults to enable them to determine how and in what situations one should use optimism . . . . We have a choice about how we think about what happens to us. We may choose to take a flexible approach to optimism. Indeed, cultivating such optimism is most likely necessary. “Without [optimism] we would never accomplish anything difficult and intimidating, we would never even attempt the just barely possible. Mount Everest would remain unscaled, the four-minute mile unrun; the jet plane and the computer would be blueprints sitting in some financial vice-president’s wastebasket.”

Teaching optimism is then a path toward helping students build resilience. It is also a way to liberate students from the negative beliefs that inhibit their performance, reinforce their worst impulses, and prevent them from realizing their potential. To encourage more optimistic

317. SELIGMAN, supra note 297, at 112.
318. Seligman et al., supra note 54, at 43.
320. SELIGMAN, supra note 297, at 112.
321. Id. at 114.
322. See Seligman et al., supra note 54, at 43; see also Nathalie Martin, Think Like a (Mindful) Lawyer: Incorporating Mindfulness, Professional Identity, and Emotional Intelligence Into the First Year Law Curriculum, 36 U. ARK. LITTLE ROCK L. REV. 413, 414 (2014) (arguing that law schools should teach mindfulness and emotional intelligence to improve their performance).
students is not only to intervene in the thought processes that are correlated with depression, but also to develop more capable, more thoughtful students—the kind of people whose thoughts and actions have the potential to positively change our world.  

Some may doubt the real possibility that, empowered with both knowledge and well-being, those trained in the legal academy may go on to have a significant, positive impact on the world around them. But those who doubt need only look to our current environment, one that promotes achievement in isolation to the exclusion of well-being. This achievement-driven view of the world is not only the dominant cultural view of law schools, it is in many ways the dominant cultural view of contemporary American society. Gross domestic product has increased in recent decades, but as we have become wealthier in terms of dollars, our well-being has become poorer. In the United States, “measures of ill-being have not declined as gross domestic product has increased; they have gotten much worse. Depression rates have increased tenfold over the last fifty years in the United States.”

VI. CONCLUSION

Zombies, driven by achievement, depressed by environment, lost, alone, and angry, are rampant in the legal profession and in law schools. They roam the halls of their employers and their law schools, wreaking havoc on all of those who meet them, threatening to spread their virus and to eat the brains of the living. The legal profession, with its rich history of both civic and business engagement, its public service mission, and its focus on human interactions and human institutions, is uniquely situated to embrace the lessons of the Zombie Lawyer Apocalypse and to intervene in the spread of the disease and other factors that cause legal zombies. As an institution, we are in a position to produce, not zombies, but fully realized

326. SELIGMAN, supra note 212, at 80, 223.
327. Id. at 223.
328. See supra Part III A–B; Seligman et al., supra note 54.
human beings who care about accomplishment and relationships, about meaning and not only money, and about themselves, their peers, and the broader world around them.\textsuperscript{331}

Martin Seligman writes, "If you want well-being, you will not get it if you care only about accomplishment. If we want our students to flourish, we must teach that the positive corporation and the individuals therein must cultivate meaning, engagement, positive emotion, and positive relations as well as tending to profit."\textsuperscript{332}

If we are to stem the tide of law student and lawyer depression and emerge as victors in the battle of the Zombie Lawyer Apocalypse, we must take these words to heart and begin to change the way we engage with one another and with our institutions. We must move away from a culture of dehumanizing competition and away from the notion that the legal discipline is a purely instrumental one, devoid of human emotion, engagement, and ideas. Instead, we must embrace the tenets of mindfulness, ethical decision-making, and positive psychology in order to build a profession and professional education system that encourages individuals and organizations to flourish. For, as Seligman tells us, "when individuals flourish, health, productivity, and peace follow."\textsuperscript{333} If we can shift the culture of the legal profession and the legal academy and begin to work toward flourishing, then we can end the Zombie Lawyer Apocalypse and breathe life back into those who have been harmed by the profession.

\textsuperscript{331} Id.
\textsuperscript{332} SELIGMAN, supra note 212, at 231.
\textsuperscript{333} Id. at 240.