

No Woe to You Lawyers: A Virtue-Based Approach to Happiness Within the Legal Profession

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And [Jesus] said, “Woe also to you lawyers! For you load people with burdens hard to bear, and you yourselves do not lift a finger to ease them. Woe to you! For you build the tombs of the prophets whom your ancestors killed. So you are witnesses and approve of the deeds of your ancestors... Woe to you lawyers! For you have taken away the key of knowledge; you did not enter yourselves, and you hindered those who were entering.” Luke 11:46-48, 52 (NRSV)

AS THE PASSAGE ABOVE ILLUSTRATES, lawyers have had a public relations problem for at least a couple of thousand years. Jesus himself—likely the most quoted person in history—stigmatized them as hypocrites and obfuscators of truth. Perhaps less obviously, he also suggested that their prospects of achieving ultimate happiness were rather dim. This becomes clearer when comparing the biblical excerpt above to a very similar one from the Gospel of Matthew: “Woe to you, scribes and Pharisees, hypocrites! For you build the tombs of the prophets.... Fill up, then, the measure of your ancestors. You snakes, you brood of vipers! How can you avoid being sentenced to hell?” (Matt 23:29, 32-33).

Certainly, there have been countless lawyers over the years who do not at all fit Jesus’s stinging portrayal. Christians themselves will easily concede this fact, cognizant as they are of Saint Thomas More (the patron saint of lawyers), Saint Alphonsus Liguori (the patron saint of moral theologians), John Calvin, and many others. But during the last few decades, public polls (not to mention the proliferation of lawyer jokes) have demonstrated that the reputation of lawyers is at a new low. The words of the Gospels are not too far from the ridicule the profession receives today: “What’s the difference between a jellyfish and a lawyer? One’s a spineless, poisonous blob. The other is a form of sea life.”

My thesis is that while the legal profession often has been stigmatized as unethical and unsatisfying, many lawyers can and do find fulfillment by exercising the cardinal and theological virtues. Part One provides some context by demonstrating that there is at least a partial

lack of both ethics and happiness in the legal profession today. In Parts Two and Three, I address each of the cardinal and theological virtues in turn; more specifically, I explain what each virtue is, what it looks like in the practice of law, how lawyers might achieve greater happiness through the exercise of that virtue, and finally how they might grow in it. Lastly, Part Four summarizes some things that Thomistic moral theology and the contemporary practice of law can teach and learn.

The originality of my contribution to the literature primarily lies in examining not simply lawyers and ethics, or lawyers and happiness, but in bringing all three of these topics together into a sustained discussion, using the rubric of the cardinal and theological virtues.¹ My own field has recently seen a burgeoning of such books as William Mattison's *Introducing Moral Theology: True Happiness and the Virtues*, Paul Wadell's *Happiness and the Christian Moral Life: An Introduction to Christian Ethics*, and Nicanor Austriaco's *Biomedicine and Beatitude: An Introduction to Catholic Bioethics*. We need more works with titles like not only Nancy Levit and Douglas Linder's separate texts *The Happy Lawyer* and *The Good Lawyer*, but also (hypothetically) *The Happy Lawyer: An Introduction to Legal Ethics*. Such an approach would not merely inform lawyers about what it means to act ethically, but also give them more of an incentive to do so.

Before we begin, I should say a few words on my understanding of happiness. In the present article, I will use terms like happiness, well-being, and fulfillment interchangeably and focus chiefly on their subjective aspects, such as positive mood, life satisfaction, and a sense of meaning. In doing so, I do not deny that more objective facets of happiness, such as "good fortune" (the literal meaning of the word) and the Aristotelian notion of a life of virtuous activity, are also important. That said, I find it particularly productive to focus on the question of whether acting well leads one to the more subjective kinds of happiness, given the weight we naturally attach to them in contemporary society, and the fact that acting virtuously would already by definition be equivalent to the Aristotelian kind of happiness mentioned above.²

¹ A new article by Lawrence Krieger and Kennon Sheldon states that Susan Daicoff and Patrick Schiltz are two of the rare authors who examine "in a coherent way these two seemingly distinct areas of concern about lawyers—emotional distress and lack of ethical or professional behavior." Lawrence S. Krieger and Kennon M. Sheldon, "What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success," *The George Washington Law Review* 83, no. 2 (2015): 561 n. 20. I do find certain insights of Daicoff and Schiltz valuable and discuss them in this article. However, even these two authors do not discuss the relationship between lawyer morality and happiness in an especially systematic manner, nor do they address virtue.

² For thoughtful considerations on the meanings of happiness and well-being, see Thomas Aquinas, *Summa Theologiae*, trans. Fathers of the English Dominican Province (New York: Benziger, 1947 [c. 1274]), I-II qq. 2-3; Roger Crisp, "Well-Being,"

Finally, I assume for the purposes of this article that happiness is generally a good thing to seek. As Saint Thomas Aquinas and many contemporary authors have pointed out, sadness should not be shunned under all circumstances, as it may improve our thinking abilities, make us more creative, motivate us to do something good, help us persevere, and protect us against threats.³ On the other hand, there is research that suggests that being happy can also lead to these benefits, as well as others such as improved health, increased productivity and chances of employment, and an enhanced social life.⁴

A (PARTIALLY) UNETHICAL AND UNHAPPY PROFESSION

A number of studies over the last couple of decades confirm that contemporary public perception of attorneys is not too far from that of the jellyfish joke above. For example, according to a 1993 American Bar Association survey, attorneys had a 40% approval rating, as compared to 84% for teachers and 71% for doctors.⁵ More recently, only 19% of those polled by Gallup in 2011 rated the “honesty and ethical standards” of lawyers as “very high” or “high.” This was far below the

Stanford Encyclopedia of Philosophy, last modified May 8, 2013, <http://plato.stanford.edu/entries/well-being>; Dan Haybron, “Happiness,” *Stanford Encyclopedia of Philosophy*, last modified July 6, 2011, <http://plato.stanford.edu/entries/happiness>; Martin E.P. Seligman, *Flourish: A Visionary New Understanding of Happiness and Well-Being* (New York: Atria, 2011), 5-29. Note that my own understanding of happiness is substantially similar to that of other authors who address the legal profession. See, e.g., Krieger and Sheldon, “What Makes Lawyers Happy?,” 562-4; Nancy Levit and Douglas O. Linder, *The Happy Lawyer: Making a Good Life in the Law* (New York: Oxford University Press, 2010), 19, 108-9.

³ *ST I-II* q. 59, a. 3, ad 2 & 3; Levit and Linder, *The Happy Lawyer*, 233-6; Sonja Lyubomirsky, *The How of Happiness: A New Approach to Getting the Life You Want* (New York: Penguin, 2007), 277, 288.

⁴ Krieger and Sheldon, “What Makes Lawyers Happy?,” 622-3; Lyubomirsky, *The How of Happiness*, 24-6; Martin E.P. Seligman, *Authentic Happiness: Using the New Positive Psychology to Realize Your Potential for Lasting Fulfillment* (New York: Free Press, 2002), 37-44; Seligman, *Flourish*, 200-8. At this point, one might wonder whether consciously striving for happiness through ethical conduct would still be a problem, in that it would actually vitiate the goodness of otherwise ethical behavior. While I do not have space to address such an objection (which is reminiscent of Kant) in depth, I would begin by pointing out that the Hebrew Bible promises rewards for following the commandments (see Deuteronomy 5-6), that the Old and New Testaments say we should love our neighbor *as ourselves* (Lev 19:18; Matt 22:39), and that Jesus appealed to the promise of heaven and the threat of hell to motivate us to serve God and neighbor (see, for example, Matthew 19 and 25). From a more secular perspective, see Peter Singer, *Practical Ethics*, 3rd ed. (New York: Cambridge University Press, 2011), 283-7 (arguing, contra Kant, that self-interest is a legitimate reason for acting morally).

⁵ Douglas Litowitz, *The Destruction of Young Lawyers: Beyond One L* (Akron: University of Akron Press, 2006), 11.

rating for nurses (84%), and above only a few other professions, including advertisers, car salespersons, lobbyists, and Congressional office-holders.⁶

Different explanations for the low public opinion of lawyers have been proposed, including negative portrayals in the media and popular culture, the fact that people often come to (and leave) a lawyer at a low point in their lives, and the perception that the fees attorneys charge are inordinate.⁷ But is their reputation justified? Many within the profession assert that to some extent it is. According to law professor Douglas Litowitz, "As things stand, most lawyers at large firms will not *break* an ethical rule outright, but when the money is flowing they have proven quite willing to *bend* the rules." For Litowitz, this bending includes "outspending... opponents, stonewalling justified claims, setting up byzantine Ponzi schemes, and drafting business contracts that unfairly crush weaker parties," and is rationalized in the name of making money or a commitment to "the adversary system." Moreover, he claims that the need to bill a certain number of hours causes lawyers to become curt and unfriendly.⁸ Along these lines, others maintain that such pressure encourages time sheet padding and inefficiency during the hours that actually are spent on a case.⁹ Such contentions come down hard (some have said too hard¹⁰) on large firm conduct, but they ought not to be completely dismissed as the views of a disgruntled minority or as a reflection only on a certain type of practice. Consider that a recent survey of thousands of lawyers found that they have "only a very slight positive sense of their peers and the legal system that provides their livelihood."¹¹ A particularly common complaint among lawyers is the lack of civility shown by their peers; one poll found that 69% thought it had diminished in recent years.¹²

⁶ Douglas O. Linder and Nancy Levit, *The Good Lawyer: Seeking Quality in the Practice of Law* (New York: Oxford University Press, 2014), 234-5.

⁷ Levit and Linder, *The Happy Lawyer*, 64-6; Litowitz, *The Destruction of Young Lawyers*, 12-14.

⁸ Litowitz, *The Destruction of Young Lawyers*, 15, 75, 86, 91-111. Ironically, as Litowitz explains here, large firms have better ethical ratings from the public than smaller ones. All of this suggests that while public perception of lawyers may be correct at least to some degree, perhaps it is somewhat misplaced.

⁹ Linder and Levit, *The Good Lawyer*, 281-2; Patrick J. Schiltz, "On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession," *Vanderbilt Law Review* 52, no. 4 (May 1999): 915-20.

¹⁰ See Mary A. McLaughlin, "Beyond the Caricature: The Benefits and Challenges of Large-Firm Practice," *Vanderbilt Law Review* 52, no. 4 (May 1999): 1003-14, which is a response to Schiltz's article. Schiltz replies to McLaughlin in his "Provoking Introspection: A Reply to Galanter & Palay, Hull, Kelly, Lesnick, McLaughlin, Pepper, and Traynor," *Vanderbilt Law Review* 52, no. 4 (May 1999): 1037-44.

¹¹ Krieger and Sheldon, "What Makes Lawyers Happy?," 611-21.

¹² Linder and Levit, *The Good Lawyer*, 58-62.

As some sources have pointed out, negative public opinion of lawyers is a contributing factor to their psychological problems, in turn.¹³ In a survey conducted by the American Bar Association in 2007, only 55% of lawyers reported being satisfied with their occupation.¹⁴ That same year, the National Opinion Research Center at the University of Chicago found that 52% of lawyers were “very satisfied” with their job; here they ranked below teachers (69%) and doctors (58%), as well as scientists, engineers, physicians, financial planners, repairpersons, housekeepers, and butlers.¹⁵ Also, according to research by psychologist G. Andrew H. Benjamin and various colleagues between 1985 and 1997, almost 20% of lawyers reported depression, alcoholism, and “general psychological distress,” at least twice the rates of the general population.¹⁶ The picture seems especially bleak at large firms. According to the 2007 ABA study, only 44% of those working in firms with more than 100 lawyers described themselves as satisfied, as compared with 57-58% of respondents in small and mid-size firms, and 68% of those in the public sector.¹⁷

Why are so many lawyers relatively unhappy? Relying on personal experience, remarks by other individual attorneys, and/or more extensive survey data, various authors attribute the phenomenon to a number of causes, including the tendency of lawyers to be pessimistic, a lack of collegiality and civility among them, the competitive nature of legal practice which rarely results in a win-win outcome, and (as mentioned above) the poor reputation of the profession. Additional stresses are especially although not exclusively characteristic of large firms: limited autonomy and opportunities for creativity, a lack of a sense of overall purpose due to specialized and solitary work, and excessively long hours (exacerbated by technology and the drive to make

¹³ Levit and Linder, *The Happy Lawyer*, 67; Jean Stefancic and Richard Delgado, *How Lawyers Lose Their Way: A Profession Fails Its Creative Minds* (Durham, NC: Duke University Press, 2005), 60.

¹⁴ Levit and Linder, *The Happy Lawyer*, 3.

¹⁵ Steven J. Harper, *The Lawyer Bubble: A Profession in Crisis* (New York: Basic Books, 2013), 63-4; Levit and Linder, *The Happy Lawyer*, 2-3, 51, 246 n. 5.

¹⁶ Susan Swaim Daicoff, *Comprehensive Law Practice: Law as a Healing Profession* (Durham, NC: Carolina Academic Press, 2011), 6. See also Douglas Quenqua, “Lawyers With Lowest Pay Report More Happiness,” *New York Times* (May 12, 2015), <http://well.blogs.nytimes.com/2015/05/12/lawyers-with-lowest-pay-report-more-happiness> (on the relatively high incidence of suicide among lawyers).

¹⁷ Harper, *The Lawyer Bubble*, 58.

lots of money).¹⁸ At the same time, it is important not to paint a lopsided portrait of the profession here, as some authors seem to do.¹⁹ The 2009 report of the *After the JD* study, co-sponsored by the American Bar Foundation and the NALP Foundation, states that 76% of respondents described themselves as “extremely” or “moderately” satisfied with their choice to become attorneys, and that there was not much of a discrepancy among different types of practice. The study explains this by claiming that “the long hours and lack of control [of large firm lawyers] is offset by their generous pay and opportunities for advancement.”²⁰

Still, it is important not to get overly excited by these relatively positive observations. For one thing, increases in income do not make a substantial difference in one’s happiness, as I explain in Part Two below. In general, as law professor Steven Harper points out,

The problem is that in a country with more than 1 million lawyers, 750,000 of whom are practicing, even the lowest dissatisfaction estimates still produce 150,000 to 200,000 unhappy attorneys. Even more disturbing would be the responses from those who never participate in such surveys because they can’t get jobs that require a law degree or their feelings about their legal careers drove them out of the profession.²¹

Law professors Levit and Linder add that when various recent national and local studies are considered as a whole, they suggest that even

¹⁸ For various examinations of the reasons behind lawyer unhappiness, see Harper, *The Lawyer Bubble*, 59, 65-6; Krieger and Sheldon, “What Makes Lawyers Happy?,” 559 n. 8, 620; Levit and Linder, *The Happy Lawyer*, 53-67; Litowitz, *The Destruction of Young Lawyers*, 19-24, 71-132; Schiltz, “On Being a Happy, Healthy, and Ethical Member,” 888-906; Seligman, *Authentic Happiness*, 24, 177-81; Stefancic and Delgado, *How Lawyers Lose Their Way*, 47-71.

¹⁹ Litowitz, Stefancic, and Delgado, for example, hardly acknowledge the existence of many happy lawyers.

²⁰ Ronit Dinovitzer et al., *After the JD II: Second Results from a National Study of Legal Careers* (Chicago: The American Bar Foundation and the NALP Foundation for Law Career Research and Education, 2009), 14, 50, 70. Shortly before the present article was finished, *After the JD III* was released and also arrived at a 76% figure. However, this study added:

Whereas in earlier waves, career satisfaction was fairly stable across settings, the Wave 3 data indicate somewhat more variance. Those most satisfied were working in the public sector: legal services/public defender and public interest. Among those working in private law firms, lawyers working in the largest private firms (> 250 lawyers) expressed relatively high levels of satisfaction while those in private firms of 101-250 lawyers expressed the lowest levels of career satisfaction.

Bryant Garth and Ronit Dinovitzer, “Satisfaction,” in Gabriele Plickert, ed., *After the JD III: Third Results from a National Study of Legal Careers* (Chicago: The American Bar Foundation and the NALP Foundation for Law Career Research and Education, 2014), 50-4.

²¹ Harper, *The Lawyer Bubble*, 63.

those lawyers who are relatively satisfied are not entirely content with particular features of their job.²²

Ultimately, there is clear cause for at least some concern about unethical behavior and unhappiness in the profession. My goal is to show that lawyers can (and that many certainly do) go a long way toward killing these two birds with seven stones: the four cardinal and three theological virtues. In particular, these virtues respond to the various proposed causes for lawyer unhappiness listed above; as we will see, temperance mitigates excessive attachment to technology, justice can impart a sense of meaning and counter greed, prudence includes creativity, hope involves optimism, charity promotes civility and less competitive forms of dispute resolution, and fortitude and faith can reinforce one's ethical commitments in general. And if more lawyers display these virtues, they may improve public opinion about the profession as well. Moreover, the exercise of these virtues can increase lawyer happiness in other ways above and beyond counteracting the aforementioned causes. In claiming all of this, I do not deny that law schools and law firms also have an important role to play in ameliorating (rather than reinforcing) these causes and promoting lawyer well-being. However, in the present paper I limit myself to exploring what individual lawyers themselves can do to improve their lot.²³

THE CARDINAL VIRTUES IN LEGAL PRACTICE

In general, as the *Catechism of the Catholic Church* states, "a virtue is an habitual and firm disposition to do the good."²⁴ Two groups of virtues are of special importance in the Catholic tradition. The first are the cardinal virtues, which include temperance, fortitude, justice, and prudence. The Latin root of "cardinal" means "hinge," which indicates that the moral life relies upon these four virtues just as a door requires the support of its hinges.²⁵ As William Mattison puts it in his exposition of Thomistic and Catholic teaching on virtue, the cardinal virtues "concern innerworldly activities" and can be obtained in two

²² Levit and Linder, *The Happy Lawyer*, 7-8, 17.

²³ And in general, people can do a lot to boost their happiness; positive psychologists estimate that while genes and life circumstances are responsible for 50% and 10%, respectively, of differences in happiness among people, the remaining 40% is under our control. See Lyubomirsky, *The How of Happiness*, 20-2, 41-68.

²⁴ *Catechism of the Catholic Church*, rev. ed. (Vatican City: Libreria Editrice Vaticana, 1997), no. 1803.

²⁵ *ST I-II* q. 61, aa. 1-3; *Catechism of the Catholic Church*, no. 1805; William C. Mattison III, *Introducing Moral Theology: True Happiness and the Virtues* (Grand Rapids: Brazos Press, 2008), 68. Aquinas also holds that each of these virtues itself relies on the support of the others. *ST I-II* q. 65, a. 1; see also Mattison, *Introducing Moral Theology*, 184-6, 191-2; Andrew Kim, "Progress in the Good: A Defense of the Thomistic Unity Thesis," *Journal of Moral Theology* 3, no. 1 (2014): 147-74. If this unity thesis is true, then it would seem to be particularly important for lawyers to act in accord with each of the virtues in order to kill the aforementioned two birds.

ways: through repeated acts and through God's grace. Therefore, both Christians and non-Christians can have them.²⁶ While each of these virtues is praised in the Bible,²⁷ the fact that many non-Christian philosophers throughout history (including Plato and Cicero) have championed them demonstrates that they can be appreciated on the grounds of reason alone.²⁸

A few more points bear mentioning here that contemporary moral theology and ethics often seem to neglect. First, it is a bit misleading to speak of the "virtuous person" or "vicious person" as if these were exclusive black-and-white categories rather than qualities that admit of degrees. Even the saints have their failings, and in history's worst tyrants the faintest shreds of decency can usually be found if one looks hard enough.²⁹ Second, a person may manifest a given virtue more in one sense than another. Here the reader should be able to think of at least a few high-profile politicians who acted very prudently in winning elections and justly in carrying out particular public duties once in office, but much less so with regard to their marriages. Accordingly, rather than speaking generically about "the just lawyer," for example, I will focus below on how attorneys are substantially just (and virtuous in other senses) *as lawyers*, and how they might become more so.

Temperance

According to the *Catechism*, temperance is "the moral virtue that moderates the attraction of pleasures and provides balance in the use of created goods."³⁰ In other words, we might say that the temperate person has good emotions, and good actions that flow from them. As Mattison (following Aquinas) puts it, this virtue "most properly concerns immediate sensual pleasures such as food, drink, or sex, but in a broader sense concerns other desires we have in our lives that entail immediate, bodily longing. Temperance is the virtue of desiring these

²⁶ Mattison, *Introducing Moral Theology*, 66, 323-5; see also *ST* I-II q. 63, aa. 2-4. While the majority view holds that Christians and non-believers can have acquired cardinal virtues, Mattison has recently argued that according to Aquinas, those in the state of grace can only have infused cardinal virtues. That said, Mattison's interpretation of Aquinas allows for growth in said virtues. See William C. Mattison III, "Can Christians Possess the Acquired Cardinal Virtues?," *Theological Studies* 72, no. 3 (2011): 558-85, especially 576-80.

²⁷ *Catechism of the Catholic Church*, no. 1805 (citing Wis 8:7, which alludes to all four of them).

²⁸ *ST* I-II q. 61, a. 3 (citing Cicero); Mattison, *Introducing Moral Theology*, 68-9.

²⁹ Hitler, for instance, apparently treated dogs—and in particular his own German shepherd Blondi—very warmly, although the latter eventually met the same end as his owner's millions of human victims when he decided to test cyanide on her shortly before he committed suicide. See, e.g., Thomas Fuchs, *A Concise Biography of Adolf Hitler* (New York: Berkley, 2000), 6-9.

³⁰ *Catechism of the Catholic Church*, no. 1809.

things in a reasonable or moderate manner.”³¹ Aquinas holds that meekness is “annexed to temperance” by virtue of the fact that both involve restraint, and that anger is contrary to meekness.³² Finally, he indicates that temperance ranks fourth among the cardinal virtues, because unlike justice and prudence it deals more with the passions than with reason, and unlike fortitude it does not directly pertain to “matters of life and death.”³³

What might temperance look like in the context of the practice of law? We can begin by turning to another immensely influential Christian theologian, one who also happened to be a lawyer: John Calvin. Reflecting on Paul’s criticism of lawsuits in 1 Corinthians 6, Calvin reasons that the apostle could not have meant to forbid Christians from all forms of legal recourse, for he himself maintained that the authorities are ministers of God and asserted his own legal rights as a Roman citizen. Rather, Calvin concludes, what Paul is condemning is the “mad lust to go to law,” litigating while overcome with anger, hatred, and the desire for revenge. But if one simply “seeks what is fair and good,” is solicitous of the public welfare, and strives to “treat his adversary with the same love and good will as if the business under controversy were already amicably settled and composed,” then bringing a lawsuit is acceptable.³⁴ While Calvin does not specifically refer to lawyers, his counsel can easily be applied to them; an attorney would do well to avoid excessive anger against opposing attorneys and parties, even in the face of their discourteous behavior, and to focus on achieving a result that will benefit his or her client, society as a whole, and even adversaries. Along these lines, but from a more secular perspective, Linder and Levit claim that lawyers should empathize with their clients’ troubles but also avoid any excessive emotional entanglement that might lead to ethical violations or ineffective representation.³⁵

Another way lawyers can exercise temperance is through a balanced attitude toward technology. In *The Virtues in Medical Practice*, the Catholic bioethicists Edmund Pellegrino and David Thomasma caution doctors to avoid deficiency and excess in this regard, which

³¹ Mattison, *Introducing Moral Theology*, 76.

³² *ST* II-II q. 157, a. 3; q. 158.

³³ *ST* I-II q. 66, a. 4.

³⁴ John Calvin, *Institutes of the Christian Religion*, ed. John T. McNeill, trans. Ford Lewis Battles (Louisville: Westminster John Knox Press, 1960 [1559]), Ch. 20, nos. 17-21. Calvin in turn cites Matt 5:39-40, Rom 13:4, and Acts 25, among other passages, on these points.

³⁵ Linder and Levit, *The Good Lawyer*, 26-7.

would constitute neglect of patients and a prideful attempt to manipulate life, respectively.³⁶ While lawyers may not have the power to prolong or genetically change life through technology, they too cannot competently function in today's world without it, but must be wary of its potential to dehumanize (perhaps the lawyers themselves more than their clients). Along these lines, Litowitz acknowledges that technology facilitates legal research and allows greater "mobility," but also decries the fact that the variety and speed of modern means of communication have created more work than they save.³⁷

Through their temperate behavior, attorneys and others can achieve greater happiness, while a deficiency in this virtue can cause them problems. The idea that anger can be self-destructive goes back at least as far as Buddha, who commented that "holding on to [it] is like grasping a hot coal with the intent of throwing it at someone else; you are the one getting burned."³⁸ More recently, Levit and Linder have suggested that "mature adaptations" (such as joking about a perceived offense rather than ruminating on it) contribute to the higher levels of happiness among older people.³⁹ On the other hand, as the law professor-psychologist team of Lawrence Krieger and Kennon Sheldon have found, the amount of alcohol consumption by lawyers per occasion is inversely related to various well-being indicators, including feelings of connectedness to others, enjoyment, and meaningfulness.⁴⁰ While these two authors do not definitively establish causation,⁴¹ it seems reasonable to believe that excessive use of alcohol is not merely a result of unhappy experiences but can also produce them. Finally, Litowitz eloquently reflects on how overuse of technology can overwhelm and confuse lawyers, and leave them feeling chained to the office no matter where they are.⁴²

Certain lawyers might reap especially strong benefits from the exercise of temperance. As positive psychologist Martin Seligman explains, once people identify their "signature strengths," they can experience "excitement," "invigoration rather than exhaustion," "joy, zest,

³⁶ Edmund D. Pellegrino and David C. Thomasma, *The Virtues in Medical Practice* (New York: Oxford University Press, 1993), 120-4.

³⁷ Litowitz, *The Destruction of Young Lawyers*, 113-21.

³⁸ Lyubomirsky, *The How of Happiness*, 172.

³⁹ Levit and Linder, *The Happy Lawyer*, 70-1.

⁴⁰ Krieger and Sheldon, "What Makes Lawyers Happy?," 586-7.

⁴¹ In general, Krieger and Sheldon explain that while their study is a correlational one, "the consistency of the many findings and the patterns they present provide substantial confidence in apparent causal relationships suggested by the data. This is particularly true because of the large sample sizes and the consistency of our findings with... previous related studies... that reached more firm causal conclusions." Krieger and Sheldon, "What Makes Lawyers Happy?," 559 n. 8.

⁴² Litowitz, *The Destruction of Young Lawyers*, 113-21, 125-30. For similar sentiments on the benefits and drawbacks of technology in the workplace, see John Paul II, *Laborem exercens* (Vatican City: Libreria Editrice Vaticana, 1981), no. 5.

enthusiasm, [and] even ecstasy” in using them more often. Within his list of twenty-four signature strengths are “self-control” and “zest/passion/enthusiasm.” Applying this framework to the practice of law, he suggests that lawyers with the latter strength might benefit from becoming more involved in firm advertising.⁴³

Given that temperance is a fruitful path to greater happiness, what are some ways attorneys might acquire more of this virtue? Here we can draw from the insights of authors from different disciplines: try to avoid situations that trigger bad passions (perhaps a co-worker or even an entire job), distract oneself with more pleasing activities if one is already experiencing harmful thoughts, confront one’s feelings directly via “cognitive manipulation” (for example, by seeing matters from the point of view of another person or even of oneself a year from now), act as if one felt the emotion one wants to have, turn to others for support, and/or meditate or pray.⁴⁴ As for technology, Litowitz manages only a weak constructive proposal: lawyers “must set limits.”⁴⁵ But here is where law firms and their clients must help: can they accept and encourage a culture where attorneys can generally leave their work-related communications aside during off hours, without fear of reprisal?

Fortitude

Next in the ascending order of cardinal virtues is one that pertains to the passions as well, but more often “with matters of life and death”—fortitude, also known as courage. The *Catechism* defines it as “the moral virtue that ensures firmness in difficulties and constancy in pursuit of the good.”⁴⁶ According to Aquinas, two aspects of fortitude include attack (where one acts directly to eradicate the difficulty) and endurance (where one “stand[s] immovable in the midst of dangers”).⁴⁷ Finally, he maintains that the courageous person *does* experience some fear.⁴⁸ In order to grasp this point, recall that desires are good when they are reasonable and moderate. The same principle applies to the emotion of fear; to experience none at all in the face of hardship (running into the middle of a battlefield pounding one’s exposed chest, for example) would be foolhardy, but to experience too much (deserting one’s fellow soldiers) would be cowardice.

⁴³ Seligman, *Authentic Happiness*, 182; Seligman, *Flourish*, 24, 38-40, 256-7, 263-4.

⁴⁴ Jonathan Haidt, *The Happiness Hypothesis: Finding Modern Truth in Ancient Wisdom* (New York: Basic Books, 2006), 35-7; Linder and Levit, *The Good Lawyer*, 89, 95-6; Lyubomirsky, *The How of Happiness*, 119-23, 166-8; Mattison, *Introducing Moral Theology*, 87-90, 298.

⁴⁵ Litowitz, *The Destruction of Young Lawyers*, 132.

⁴⁶ *Catechism of the Catholic Church*, no. 1808.

⁴⁷ *ST II-II* q. 123, a. 6.

⁴⁸ *ST II-II* q. 126, a. 2. On Aquinas’s view of fortitude, see also Mattison, *Introducing Moral Theology*, 186-7.

A comment to one of the American Bar Association's Model Rules of Professional Conduct indicates how lawyers generally exercise fortitude: "A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer."⁴⁹ But what exactly might fortitude in legal practice look like? Unlike, say, health care professionals who deal with infectious diseases, lawyers may not have many opportunities for courage in the face of physical threats during their careers. But Linder and Levit do provide more common examples of fortitude in legal practice, including handling a challenging case, representing an unpopular person, and delivering difficult news to a client.⁵⁰ Note that each of these can involve attack and endurance (although these authors do not distinguish between these terms). And in a seminal law review article on lawyers and happiness, Patrick Schiltz (now a federal court judge) exhorts young attorneys to resist certain widely accepted practices, such as exaggerating on time sheets in order to stay in the good graces of one's supervising partners and accepting offers at prestigious big firms that pay well but demand unhealthy time commitments.⁵¹ Acting virtuously in such situations in the face of pressure to do otherwise would clearly manifest endurance.

Of all of the virtues I discuss, fortitude might appear to have the most tenuous link to happiness because it involves adversity and fear, both of which may persist over time. However, lawyers and others can still flourish through the exercise of this virtue. Positive psychologist Sonja Lyubomirsky, for example, speaks of problem-focused coping and emotion-based coping, which involve finding solutions and not being debilitated by one's emotions, respectively, and thereby sound strikingly similar to attack and endurance. More specifically, she contends that addressing one's struggles through problem-focused coping (which can include changing one's work-related responsibilities, schedule, or even job) and emotion-based coping (which can involve taking a "breather" by engaging in an enjoyable pastime or trying to

⁴⁹ American Bar Association, *Model Rules of Professional Conduct* (Chicago, IL: American Bar Association, 2013), Rule 1.3, Comment [1]. The basic format of these rules is accepted in forty-nine states (the lone exception being California). This article also addresses the Preamble and Scope as well as the comments to the Rules, although note that only the text of the Rules themselves is authoritative. See Preamble and Scope [14], [21]. As I will suggest throughout, the virtuous practice of law includes abiding by the Model Rules and their comments, with only a couple of possible exceptions. At the same time, such practice clearly goes beyond that. The American Bar Association's publication itself acknowledges the limited function of the rules. See the "Ethics 2000 Chair's Introduction," Preamble and Scope [16].

⁵⁰ Linder and Levit, *The Good Lawyer*, 37-8, 49-50, 67-71, 204, 268-9.

⁵¹ Schiltz, "On Being a Happy, Healthy, and Ethical Member," 910-20, 924-6, 949-50.

find a silver lining in one's suffering) can alleviate distress.⁵² In addition, Seligman maintains that those whose signature strengths include "valor and bravery" and "perseverance/industry/diligence" can use them to achieve a sense of fulfillment. For example, someone with the former strength might be profitably transferred from working on briefs to "planning the crucial attack with the star litigator of the firm for the upcoming trial against a well-known adversary."⁵³

Here I want to add a specifically Christian perspective on how a lawyer might achieve happiness through fortitude infused by God, by introducing the biblical concept of redemptive suffering. This is essentially the idea that when we consciously unite our own suffering with Christ's, then just as his suffering led to the forgiveness of sins and saved us, our own suffering can help ourselves and others (see Col 1:24). For example, suppose that Finch⁵⁴ is a lawyer struggling with a difficult case or client, perhaps in the course of protracted litigation. In private prayer, Finch can affirm his intention to unite his suffering with Christ's on behalf of his dearly departed spouse. His hope is that God, in return, might liberate her from purgatory (if indeed she is still there) and welcome her into heaven, and even bless Finch as well. And while not belittling any anguish Finch feels, we can say it is likely that he will find a measure of happiness in the knowledge that he is helping both his spouse and himself. As St. John Paul II's apostolic letter *Salvifici doloris* puts it: "Gradually, as the individual takes up his cross, spiritually uniting himself to the cross of Christ, the salvific meaning of suffering is revealed before him.... It is then that man finds in his suffering interior peace and even spiritual joy."⁵⁵ Note that Christians believe that even in those cases where fortitude is seemingly incompatible with earthly well-being—such as martyrdom—it is still a significant witness that leads to the ultimate beatitude of heaven.⁵⁶ At least one lawyer comes to mind here: Thomas More.

Simply by engaging in deeds of fortitude, one can begin to cultivate it, just as one can develop each of the other cardinal virtues through

⁵² Lyubomirsky, *The How of Happiness*, 152-60, 162-3.

⁵³ Seligman, *Authentic Happiness*, 182-3; Seligman, *Flourish*, 38-40, 249-50.

⁵⁴ Any resemblance of this hypothetical character's name to that of the famous lawyer protagonist of *To Kill a Mockingbird* is purely intentional.

⁵⁵ John Paul II, *Salvifici doloris* (Vatican City: Libreria Editrice Vaticana, 1984), nos. 26-7 (quoting Col 1:24). Of course, as I have recognized elsewhere, the idea that some good can come out of suffering might lead someone to think that it should not be resisted, or even that it ought to be inflicted. However, such a stance is contradicted by the example of Jesus, who exhorted his followers to alleviate the distress of others and frequently did so himself. See my "Can Philosophy of Religion Be Pastoral? The Problem of Evil and the Ethics of Caring for the Sick," *Journal of Spirituality in Mental Health* 16, no. 4 (2014): 249-53.

⁵⁶ On these aspects of martyrdom, see John Paul II, *Veritatis splendor* (Vatican City: Libreria Editrice Vaticana, 1993), nos. 90-4.

characteristic acts. In addition, Linder and Levit remark that some attorneys have found strength by perusing stories of heroic lawyers or the Book of Job. Finally, to reduce debilitating fear, these two authors mention that one might visit the courtroom before trying an important case, visualize one's performances there, and even just assume he or she is lucky.⁵⁷

Justice

While the previous two cardinal virtues primarily concern ourselves and our passions, justice pertains to our relationships with other people and of these three virtues is (in Aquinas's words) "most akin to reason."⁵⁸ More specifically, the *Catechism* defines justice as "the moral virtue that consists in the constant and firm will to give [one's] due to God and neighbor." In order to be just, we must respect the dignity of other persons, and the rights that this dignity gives rise to.⁵⁹

Certain dispositions that Aquinas says fall under justice are particularly important for our purposes. As the *Catechism* explains, the virtue of truth or truthfulness "gives another his just due [and] keeps to the just mean between what ought to be expressed and what ought to be kept secret,"⁶⁰ and is opposed to both lying ("speaking a falsehood with the intention of deceiving") and hypocrisy.⁶¹ And while many might think prayer should be addressed under the topic of spirituality instead of ethics, Aquinas perceptively considers it to be an act of the virtue of religion, which he understands as part of justice in that it involves giving God what we owe him.⁶² Finally, Aquinas maintains that one of the seven deadly sins, covetousness or greed, is contrary to the virtue of justice, since we must not take what belongs to another and (more indirectly) since one's love of riches is opposed to the virtue of liberality (which in turn is part of justice since it pertains to other people and external objects).⁶³

If there is one virtue that lawyers are especially associated with, it is justice. The very first sentence that introduces the Model Rules of Professional Conduct explains that an attorney is "a public citizen having special responsibility for the quality of justice."⁶⁴ Linder and

⁵⁷ Linder and Levit, *The Good Lawyer*, 54-5, 63-4.

⁵⁸ *ST I-II* q. 66, a. 4. See also *ST II-II* q. 58, a. 12.

⁵⁹ *Catechism of the Catholic Church*, nos. 1807, 1929-30.

⁶⁰ *Catechism of the Catholic Church*, no. 2469. See also *ST II-II* q. 109, aa. 1, 3.

⁶¹ For denunciations of lying, see *ST II-II* q. 110, a. 1; *Catechism of the Catholic Church*, nos. 2482-6; for condemnations of hypocrisy, see *ST II-II* q. 111, a. 3; *Catechism of the Catholic Church*, no. 2468. The definition of lying in the *Catechism* is drawn directly from Augustine.

⁶² *ST II-II* qq. 80, 83 a. 3.

⁶³ *ST II-II* q. 117, a. 5; q. 118, a. 3.

⁶⁴ American Bar Association, *Model Rules*, Preamble and Scope [1].

Levit's suggestions for developing trust with clients are a good blueprint for how attorneys can act justly toward them: "You build trust in a client by getting back to her when you say you will, treating her with respect, preserving her privacy, sending her copies of all pleadings and correspondence, charging a fair price for your services, and producing results that fall within your range of predicted outcomes."⁶⁵ In addition, the Model Rules stipulate that lawyers must respect opposing parties and counsel, judges, and the rights of third parties.⁶⁶ Some of the "vectors" of the "comprehensive law movement" championed by law professor Susan Daicoff are also relevant here; "procedural justice" provides parties with a chance to speak their minds and actively collaborate in settlements, "collaborative law" does the same in divorce cases, and "restorative justice" deals with juvenile offenders and encourages the involvement of victims and transgressors in the process (and the making of symbolic and material reparations by the latter).⁶⁷

In addition to exercising and facilitating justice toward individuals, lawyers can give their due to the wider society by engaging in *pro bono* work on behalf of those unable to afford representation. The Model Rules state that attorneys have a "professional responsibility" to provide such service and should strive to devote fifty hours to it per year;⁶⁸ New York State recently went even further, introducing a fifty-hour requirement for those applying to the bar.⁶⁹ Those who work in large firms can also contribute to the common good by encouraging their clients to consider the needs of the poor, employees, and customers.⁷⁰

As for the virtue of truthfulness, lawyers manifest it when they speak the truth, even in circumstances where that may be difficult. For example, the Model Rules and their comments stipulate that an attor-

⁶⁵ Linder and Levit, *The Good Lawyer*, 203. On these points, see also American Bar Association, *Model Rules*, Rules 1.4(a); 1.5(a); 1.14, Comment [2]; and the Rules below dealing with confidentiality. Also, Aquinas's *Summa* explicitly states in a question dealing directly with lawyers that if they "wickedly extort an immoderate fee, they sin against justice." *ST II-II* q. 71, a. 4.

⁶⁶ American Bar Association, *Model Rules*, Preamble and Scope [5]; Rule 1.3, Comment [1] (on how the zealous defense of clients should not "preclude the treating of all persons involved in the legal process with courtesy and respect"); Rule 3.4; Rule 3.5, Comment [4]; Rule 4.4(a).

⁶⁷ Daicoff, *Comprehensive Law Practice*, 50-1, 113-22, 165-88, 223-32.

⁶⁸ American Bar Association, *Model Rules*, Rule 6.1.

⁶⁹ New York State Unified Court System, "Pro Bono Bar Admission Requirements," last modified February 11, 2014, www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml.

⁷⁰ Linder and Levit, *The Good Lawyer*, 220; Schiltz, "Provoking Introspection," 1035; Thomas L. Shaffer and Robert F. Cochran, Jr., *Lawyers, Clients, and Moral Responsibility*, 2nd ed. (St. Paul, MN: West Publishing Co., 2009), 101.

ney should not shy away from unpleasant but important advice to clients, must inform the court when he or she knows that a client or witness has falsely testified, and must reveal “directly adverse authority” to the tribunal.⁷¹ More broadly, the Preamble and Scope of the Rules state that “a lawyer should further the public’s understanding of and confidence in the rule of law and the justice system” in order to strengthen this system;⁷² we might add that attorneys who do so would stand in stark contrast to those who are condemned by Jesus for “tak[ing] away the key of knowledge.” That said, the Rules and their corresponding comments clarify that lawyers are generally required to respect the confidential nature of their relationship with their clients (which in turn promotes trust), and are not expected to present an unbiased account of the law on a particular case.⁷³

Otherwise, with regard to the virtue of religion, we can turn to Pellegrino and Thomasma, who suggest that it can be good for physicians to pray with patients (as long as they do not do so as a pretext for proselytization), for this can be an “act[] of healing and charity with great meaning for the patient.”⁷⁴ But if this is true of physicians, then there is no reason why a lawyer might not profitably pray with a client for God’s will to be done in a particular legal matter (or give thanks afterwards), at least if they share the same faith.

Turning to sins and vices opposed to the virtue of justice, lawyers ought to refrain from lying; as the Model Rules put it, they “shall not knowingly make a false statement of material fact or law” to the court or to a third person, or present “evidence that the lawyer knows to be false.”⁷⁵ A key word here is “knows;” if an attorney merely has a “reasonable belief” that evidence or testimony is false, he or she may introduce it because one “should resolve doubts about the veracity of testimony or other evidence in favor of the client.” A comment to one of the two rules here explains that these considerations are grounded

⁷¹ American Bar Association, *Model Rules*, Rule 2.1, Comment [1]; Rule 3.3 and Comments [4], [11].

⁷² American Bar Association, *Model Rules*, Preamble and Scope [6].

⁷³ American Bar Association, *Model Rules*, Rule 1.6 and Comment [2]; Rule 3.3, Comments [2], [4]. See also *ST II-II* q. 71, a. 3, ad 3 (“[I]t is lawful for an advocate, in defending his case, prudently to conceal whatever might hinder its happy issue, but it is unlawful for him to employ any kind of falsehood.”); Michael P. Schutt, *Redeeming Law: Christian Calling and the Legal Profession* (Downers Grove, IL: IVP Academic, 2007), 254 (contending that “selective trial testimony,” as well as “puffery” in negotiations, are morally permissible since they are “universally understood”).

⁷⁴ Edmund D. Pellegrino and David C. Thomasma, *The Christian Virtues in Medical Practice* (Washington, DC: Georgetown University Press, 1996), 45, 103-4.

⁷⁵ American Bar Association, *Model Rules*, Rules 3.3(a), 4.1(a). On these duties, see also Joseph G. Allegritti, *The Lawyer’s Calling: Christian Faith and Legal Practice* (New York: Paulist Press, 1996), 78-80; Schutt, *Redeeming Law*, 254.

in “the special protections historically provided criminal defendants.”⁷⁶ And a comment to the other rule clarifies that “under generally accepted conventions in negotiation,” settlement offers and certain value estimates are not considered “statements of material fact.”⁷⁷ Perhaps another way to put all of this is that such acts that skirt (but do not necessarily fall under) the aforementioned definition of a lie are consistent with the virtues of truthfulness and justice in general for they protect the dignity of clients and advance their legitimate interests.⁷⁸

As for hypocrisy in the legal profession, contemporary Christian lawyers are as concerned with it as Jesus was. Both Joseph Allegritti (a present-day lawyer and religious studies professor) and Michael Schutt (director of the Institute for Christian Legal Studies) condemn the “compartmentalization” of Christian lawyers who believe they are “hired guns” whose faith commitments have nothing to do with how they act in the workplace.⁷⁹ Finally, Schiltz vividly describes a “culture of greed” prevalent at big firms, where many lawyers seek an astronomical salary as a means for “keeping score.”⁸⁰

Much research supports the idea that those who advance the cause of justice find fulfillment in doing so. In Krieger and Sheldon’s comprehensive study, “service lawyers” (a category which includes prosecutors, public defenders, legal aid attorneys, and lawyers for non-profit companies, among others) reported higher levels of well-being than “prestige lawyers” who earn much more income.⁸¹ But one need not make a living as a service lawyer in order to derive happiness from being just. Levit and Linder comment that “trust is the most important building block in a good relationship or satisfying job,” and they accumulate a mass of statistical and anecdotal evidence to show that lawyers who generally believe they are furthering justice for their clients and contributing positively to society feel consistently good about their work.⁸² Daicoff emphasizes that family lawyers practicing col-

⁷⁶ American Bar Association, *Model Rules*, Rule 3.3, Comments [8], [9].

⁷⁷ American Bar Association, *Model Rules*, Rule 4.1, Comment [2].

⁷⁸ That said, it does strike me as morally problematic that certain jurisdictions require lawyers to put an accused client on the stand even if they *know* that what he or she will say is false. See American Bar Association, *Model Rules*, Rule 3.3, Comment [7]. This would seem to amount to formal or immediate material cooperation with evil (for in this case we would have the speaking of a falsehood with the intention of deceiving), and both of these forms of cooperation are prohibited according to the Catholic moral tradition.

⁷⁹ Allegritti, *The Lawyer’s Calling*, 17-22; Schutt, *Redeeming Law*, 91-3, 102-4.

⁸⁰ Schiltz, “On Being a Happy, Healthy, and Ethical Member,” 895-906; Schiltz, “Provoking Introspection,” 1044-5.

⁸¹ Krieger and Sheldon, “What Makes Lawyers Happy?,” 587-93.

⁸² Linder and Levit, *The Good Lawyer*, 184; Levit and Linder, *The Happy Lawyer*, 40, 50, 68-9, 109, 220-6.

laborative law report greater well-being, perhaps as a result of understanding their efforts as benefiting divorcing couples and their children, and suggests that lawyers involved in restorative justice will be pleased to see victims experience “closure” and perpetrators feel “therapeutic shame.”⁸³

In addition, it is well known that lawyers who engage in *pro bono* work achieve higher self-esteem and satisfaction.⁸⁴ Even a comment to the Model Rules, in what appears to be the only explicit acknowledgment in this entire code of the relationship between morality and happiness, acknowledges that helping the disadvantaged with their legal problems “can be one of the most rewarding experiences in the life of a lawyer.”⁸⁵ Law professors Thomas Shaffer and Robert Cochran put forth a plausible rationale for this: seeing “that look of surprise and gratitude in the eyes of clients—someone is finally listening to them, paying attention to their problems, trying to get them some relief.”⁸⁶

Moving on to the more specific virtues and vices related to justice, truthfulness (and respecting one’s adversaries more generally) can have the benefit of making a lawyer more of a congenial figure in the eyes of those who will be rendering a verdict, as Linder and Levit note.⁸⁷ Those attorneys who pray reported greater well-being in Krieger and Sheldon’s study, as long as they were connected to a religious organization; the authors venture that social connections may be a contributing cause.⁸⁸ On the other hand, moral philosopher Thomas Carson points out that lying can weaken trust and also cause psychological stress to the liar as he or she strives to ensure that the deception is not discovered.⁸⁹ And a number of authors note how a life of compartmentalization can be discomfiting and even feel like “professional prostitution.”⁹⁰ Furthermore, many studies have demonstrated that while those who are wealthy do tend to be happier, once basic needs are met the effects of increasing income are small at best (in part due to the extra hours of work that are required to earn it).⁹¹ In any case,

⁸³ Daicoff, *Comprehensive Law Practice*, 24, 183.

⁸⁴ Krieger and Sheldon, “What Makes Lawyers Happy?,” 599-600; Levit and Linder, *The Happy Lawyer*, 107.

⁸⁵ American Bar Association, *Model Rules*, Rule 6.1, Comment [1].

⁸⁶ Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 101.

⁸⁷ Linder and Levit, *The Good Lawyer*, 248-9, 267-8.

⁸⁸ Krieger and Sheldon, “What Makes Lawyers Happy?,” 609-11. On the benefits of meditative and thankful prayer (which exceed those of petitionary prayer), see Lyubomirsky, *The How of Happiness*, 233, 237-9.

⁸⁹ Thomas L. Carson, *Lying and Deception: Theory and Practice* (New York: Oxford University Press, 2010), 97-8.

⁹⁰ Allegretti, *The Lawyer’s Calling*, 18-19; Daicoff, *Comprehensive Law Practice*, 17-18; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 29.

⁹¹ Haidt, *The Happiness Hypothesis*, 88-9; Krieger and Sheldon, “What Makes Lawyers Happy?,” 19-20; Levit and Linder, *The Happy Lawyer*, 10-11, 39; Lyubomirsky, *The How of Happiness*, 21, 44-5, 318 n. 23; Schiltz, “On Being a Happy, Healthy, and

research shows that a materialistic mindset negates any such benefits and actually makes a person unhappier, more susceptible to health problems, and less likely to partake of meaningful activities that connect him or her with others.⁹² Finally, some of Seligman's signature strengths that lead to happiness are relevant to our discussion here, namely "integrity/genuineness/honesty" and "fairness and equity."⁹³

As for developing justice, Linder and Levit state that we can cultivate the virtue of truthfulness by gravitating toward a firm (and even an area of law) with an ethical reputation, and by setting boundaries in advance and making the conscious effort to not transgress them.⁹⁴ And positive psychology shows that people can diminish greed through expressing gratitude or meditating.⁹⁵ I will leave matters at that for now, since some of what I say below on becoming more charitable and compassionate should also apply to justice (for as we shall see, charity presumes justice).

Prudence

The final cardinal virtue is prudence, which is defined by the *Catechism* as that which "disposes practical reason to discern our true good in every circumstance and to choose the right means of achieving it."⁹⁶ More simply, prudence is the virtue that helps you figure out the right thing to do, and then to actually do it. As Pellegrino and Thomasma clarify, the right action in a professional context is "scientifically and technically appropriate... [and] morally good."⁹⁷ Prudence is superior to the other cardinal virtues; Aquinas holds that it is "essentially rational" rather than "rational by participation,"⁹⁸ and the *Catechism* refers to it as a "charioteer" that directs the other virtues (in other words, one cannot be truly temperate, courageous, or just without the ability to discern and do the good).⁹⁹

Ethical Member," 922; Seligman, *Authentic Happiness*, 49, 53; Seligman, *Flourish*, 223-8.

⁹² Haidt, *The Happiness Hypothesis*, 94-5; Krieger and Sheldon, "What Makes Lawyers Happy?," 578-9; Levit and Linder, *The Happy Lawyer*, 137; Lyubomirsky, *The How of Happiness*, 43-4, 350 n. 19; Seligman, *Authentic Happiness*, 55. On greed's being insatiable and "at the root of virtually everything that lawyers don't like about their profession," see Schiltz, "On Being a Happy, Healthy, and Ethical Member," 903, 921.

⁹³ Seligman, *Flourish*, 250-1, 255.

⁹⁴ Linder and Levit, *The Good Lawyer*, 238-40.

⁹⁵ Haidt, *The Happiness Hypothesis*, 35-7; Lyubomirsky, *The How of Happiness*, 95.

⁹⁶ *Catechism of the Catholic Church*, no. 1806.

⁹⁷ Pellegrino and Thomasma, *The Virtues in Medical Practice*, 86.

⁹⁸ *ST I-II* q. 66, a. 3. See also *ST I-II* q. 58, a. 4; *II-II* q. 47, aa. 5, 7.

⁹⁹ *Catechism of the Catholic Church*, no. 1806. See also Mattison, *Introducing Moral Theology*, 99-101.

Mattison points out that conscience, which helps one discern how to act, is a necessary but not sufficient part of prudence.¹⁰⁰ According to both Aquinas and present-day Catholic teaching, one is entitled and indeed obligated to always follow a certain conscience.¹⁰¹ However, as the *Catechism* explains, we also have a responsibility to form our conscience, to take steps to make sure it is working properly. Ways that Catholics (and others) can form their conscience include reflecting on their own life experiences, relying on others (family, friends, and spiritual advisors), turning to God directly (through prayer or reading the Bible), and studying the teaching of the Magisterium.¹⁰²

To see what prudence might look like in the context of law, we can begin by noting that even before law school, one should devote serious thought as to whether the legal career is right for him or her.¹⁰³ After entering the profession, as Levit and Linder stress, one should try (insofar as is feasible) to spend time with tasks, clients, and co-workers that enable one to utilize his or her signature strengths, and if necessary find another job that is a better fit with one's heart.¹⁰⁴ Once one is settled on a particular legal position and client, competent representation includes keeping one's legal knowledge up-to-date and preparing properly, as the Model Rules stipulate.¹⁰⁵ In addition, Linder and Levit observe that an attorney can act well by utilizing checklists, starting with one's strongest points when addressing a judge or jury, making one's case via a story, and varying the volume of one's voice.¹⁰⁶ Two of Daicoff's vectors offer less traditional but still shrewd possibilities: "preventive law" (in which a lawyer meets with a client for periodic "check-ups" in order to ward off future potential lawsuits), and "creative problem solving" (which seeks to avoid litigation with solutions inspired by "business, psychology, economics, neuroscience, and sociology").¹⁰⁷

With regard to conscience, the Model Rules do permit attorneys to refuse or withdraw from representation if they find it to be "repugnant," as long as they mitigate the burden of termination (for instance,

¹⁰⁰ Mattison, *Introducing Moral Theology*, 106.

¹⁰¹ *ST I-II* q. 19, a. 5; *Catechism of the Catholic Church*, nos. 1782, 1790.

¹⁰² *Catechism of the Catholic Church*, nos. 1783, 1785; James F. Keenan, S.J., *Moral Wisdom: Lessons and Texts from the Catholic Tradition*, 2nd ed. (Lanham, MD: Rowman & Littlefield, 2010), 35.

¹⁰³ Harper, *The Lawyer Bubble*, 155, 197, 201; Levit and Linder, *The Happy Lawyer*, 113-14.

¹⁰⁴ Levit and Linder, *The Happy Lawyer*, 86, 96-100, 105, 217-20, 230, 237-8; Linder and Levit, *The Good Lawyer*, 288-9.

¹⁰⁵ American Bar Association, *Model Rules*, Rule 1.1 and Comments [2], [5], [8].

¹⁰⁶ Linder and Levit, *The Good Lawyer*, 151, 156, 263-7.

¹⁰⁷ Daicoff, *Comprehensive Law Practice*, 49-50, 87-91, 125-32.

by providing sufficient notice and returning any documents and monies that the client is owed).¹⁰⁸ While this is a good start, traditional Catholic teaching holds that people have not just a right but also a duty to follow their conscience. Speaking of lawyers, Aquinas asserts that “if knowingly [one] defends an unjust cause, without doubt he sins grievously,” and that he must withdraw or otherwise attempt to bring the proceeding to a close without causing undue harm to either side.¹⁰⁹ More recently, Shaffer and Cochran have argued that because lawyers generally serve the cause of justice by giving voice to a particular client, they should not disengage if reasonable people would disagree about the relevant moral issues.¹¹⁰ Finally, to figure out how to “integrat[e] our faith and practice” and how to approach specific legal matters, Schutt recommends consulting the Bible, early ecumenical councils, certain key legal scholars throughout history (including More, Augustine, Aquinas, and William Blackstone), the governing professional ethics code, fellow contemporary Christians from a wide variety of backgrounds, and even trends in wider society.¹¹¹

Turning to the connection between the virtue at hand and happiness, we can begin with Harper, who suggests that those who wisely judge in advance whether a legal career is fitting will better safeguard their well-being (and perhaps even avoid being another high-profile suicide statistic down the line).¹¹² And discerning and choosing the best course of action on behalf of a worthy client clearly can be rewarding. Levit and Linder compile a number of quotations from attorneys who suggest that they enjoy resolving issues for people,¹¹³ Daicoff speaks of the gratification “preventive lawyers” can find in knowing that their endeavors precluded unpleasant litigation,¹¹⁴ and law professors Jean Stefancic and Richard Delgado suggest that when law-

¹⁰⁸ American Bar Association, *Model Rules*, Rule 1.2(c) and Comment [6]; Rule 1.16 and Comments [7], [9]; Rule 6.2(c). Potentially troublesome is Rule 1.16(c)’s declaration that “[w]hen ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation,” which raises the possibility of an attorney’s being asked to disobey his or her conscience. However, the comments to this Rule do not elaborate further, and it is possible this clause is not meant to apply to any situations where the lawyer finds the representation to be morally objectionable.

¹⁰⁹ *ST II-II* q. 71, a. 3 and ad 2.

¹¹⁰ Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 27, 61-2.

¹¹¹ Schutt, *Redeeming Law*, 125, 128-9, 154-60, 200, 220, 239-40, 259-62. In affirming that lawyers have some choices over how their conscience will be formed, I do not deny that they can also be shaped by their legal education and working environment. On the former influence, see Litowitz, *The Destruction of Young Lawyers*, 47-51; Schutt, *Redeeming Law*, 22-67. On the latter, see American Bar Association, *Model Rules*, Rule 5.1, Comment [3].

¹¹² Harper, *The Lawyer Bubble*, 199-200, 208.

¹¹³ Levit and Linder, *The Happy Lawyer*, 68-9.

¹¹⁴ Daicoff, *Comprehensive Law Practice*, 24.

yers have room for “imagination, discovery, original thought, and dissent,” they will find greater fulfillment in their work.¹¹⁵ Also, it is no secret that failing to follow one’s conscience can lead to painful guilt (recall the sense of “professional prostitution” mentioned above), and that when we learn from our past and are open to the advice of others, we can flourish more easily.

In addition, many of the strengths that Seligman articulates (“judgment/critical thinking/open-mindedness,” “ingenuity/originality/practical intelligence/street smarts,” “social intelligence/personal intelligence/emotional intelligence,” “perspective,” and of course “prudence”) would directly involve the use of prudence. For example, he indicates that a lawyer known for originality would enjoy finding a creative argument for a case, while an attorney with social intelligence could flourish in dealing with and winning over difficult clients.¹¹⁶ At the same time, he acknowledges that the prudent lawyer must be pessimistic to some extent in order to safeguard against possible pitfalls, and that pessimism in turn is linked with unhappiness. In order to “remain prudent and yet contain this [pessimistic] tendency outside the practice of law,” Seligman recommends “treating the catastrophic thoughts (‘I’ll never make partner,’ ‘My husband is probably unfaithful’) as if they were uttered by an external person whose mission is to make your life miserable, and then marshaling evidence against the thoughts.”¹¹⁷

Finally, the question of how a lawyer might achieve more prudence has already been addressed above. Forming one’s conscience is both part of being prudent and a path to becoming more so. Note that for Christians, prayer in particular is a good way to grow in any cardinal virtue, even if it is infused.

THE THEOLOGICAL VIRTUES IN LEGAL PRACTICE

In contrast to the cardinal virtues, the theological virtues of faith, hope, and love pertain to God directly, and can only be given to us by God.¹¹⁸ Aquinas suggests that explicit Christian belief is necessary for the virtue of faith,¹¹⁹ and therefore for the other two theological virtues that presume it.¹²⁰ These three virtues are also clearly praised in the Bible, with 1 Cor 13:13 being a well-known example.

¹¹⁵ Stefancic and Delgado, *How Lawyers Lose Their Way*, 78, 84-5.

¹¹⁶ Seligman, *Authentic Happiness*, 183; Seligman, *Flourish*, 245-8, 257.

¹¹⁷ Seligman, *Authentic Happiness*, 178-9, 181.

¹¹⁸ ST I-II q. 62, a. 1; *Catechism of the Catholic Church*, nos. 1812-13; Mattison, *Introducing Moral Theology*, 65-6, 324.

¹¹⁹ ST II-II q. 2, aa. 7-8. See also Mattison, *Introducing Moral Theology*, 227.

¹²⁰ On why faith precedes hope and love for Aquinas, see the discussion of hope below.

However, at this point some nuance is necessary. First, even if the theological virtues can only be provided by God, assuming that humans have free will it seems clear that we too have a say as to whether or not we will cooperate with God in developing said virtues. Aquinas himself hints at this in his treatments of faith and charity.¹²¹ Second, given that the *Catechism* states that faith is necessary for salvation but also acknowledges that non-Christians can go to heaven, it seems reasonable to believe that non-Christians can also be granted the virtue of faith by God, even if their faith remains implicit.¹²² Moreover, it makes sense that non-Christians might progress far in the virtues of hope and charity, given that the former involves the desire for heaven (which Muslims, for example, clearly possess) and the latter love of God and neighbor. Therefore, below I will portray how lawyers of Christian and other backgrounds might display the theological virtues, and consider how each of these individuals might make themselves more disposed to realizing them.

Faith

Faith, according to the *Catechism*, is “the theological virtue by which we believe in God and believe all that he has said and revealed to us, and that Holy Church proposes for our belief, because he is truth itself.”¹²³ This, of course, is a specifically Catholic understanding of faith; other Christians and non-Christians will no doubt prefer to leave out the magisterial reference. At any rate, as the *Catechism* and others have explained, some qualities of faith include the following: it is personal and communal,¹²⁴ it is lifeless without good deeds,¹²⁵ and it works together with reason in helping us attain to the truth.¹²⁶

In their chapter on faith in *The Christian Virtues in Medical Practice*, Pellegrino and Thomasma state that Christian doctors believe “that God works within us... and that we do not heal by our own power

¹²¹ *ST II-II* q. 6, a. 1, ad 3; *II-II* q. 24, a. 2, ad 3. See also Michael G. Lawler and Todd Salzman, “Virtue Ethics: Natural and Christian,” *Theological Studies* 74, no. 2 (2013): 467 (“Even the theological virtues, infused by God though they are, need to be exercised over and over by the agent, to habituate the character to Christian excellence and ultimate happiness.”); William C. Mattison III, “Thomas’s Categorizations of Virtue: Historical Background and Contemporary Significance,” *The Thomist* 74, no. 2 (2010): 223.

¹²² *Catechism of the Catholic Church*, nos. 183, 846-7. Aquinas acknowledges the “implicit faith” of godly people before Christ, although he also indicates that after “grace had been revealed” explicit Christian faith is necessary for salvation. *ST II-II* q. 2, aa. 7-8.

¹²³ *Catechism of the Catholic Church*, no. 1814.

¹²⁴ *Catechism of the Catholic Church*, nos. 166-7; Mattison, *Introducing Moral Theology*, 225.

¹²⁵ *ST II-II* q. 4, a. 4 (quoting Jas 2:20); *Catechism of the Catholic Church*, no. 1815 (quoting Jas 2:26).

¹²⁶ *ST II-II* q. 2, a. 10 (quoting 1 Pet 3:15); *Catechism of the Catholic Church*, nos. 156-9; John Paul II, *Fides et ratio* (Vatican City: Libreria Editrice Vaticana, 1998).

alone.”¹²⁷ While the practice of law may not physically heal others, this is a good place to begin to show what the faithful lawyer looks like; no matter how decisively and frequently she may win a trial or good settlement, she understands that she is ultimately an instrument in God’s hands to serve the cause of justice. Otherwise, Schutt provides several excellent examples of faith in legal practice. For instance, he suggests that the lawyer who is confident in God’s ultimate justice understands that it is wrong to cut ethical corners such as deliberately allowing perjury against a clearly guilty party. In addition, he recommends that Christian lawyers endeavor to share their faith with other believers in planned and spontaneous settings. He also indicates that “right belief” will manifest itself in action, and in particular the integration of one’s faith and work. Finally, he supports “an approach to lawyering that is at once pious, intellectually rigorous, theologically sound, historically informed, and charitable.”¹²⁸

Studies definitively show that those who are religious tend to be happier and healthier than those who are not. Many possible causes of this phenomenon have been proposed: religious people often are affiliated with a like-minded community and reap the benefits of the social connections it affords; religion encourages certain virtuous activity (such as forgiveness, compassion, and gratitude) that in turn leads its practitioner to happiness; and religious belief itself provides a sense of companionship with God, purpose in bad times as well as good, and hope.¹²⁹ In addition, Seligman indicates that those who have a special capacity for “spirituality/sense of purpose/faith/religiousness” can use it to find greater fulfillment, as with other signature strengths.¹³⁰ While he does not provide a specific example, perhaps a lawyer might exercise this capacity by initiating a Bible study or prayer group with her colleagues. Interestingly, while Lyubomirsky comments that belief in a loving God and public religious involvement are associated with greater well-being, she adds that belief in original sin is negatively correlated with happiness.¹³¹ However, one suspects this connection only holds for those with an unreasonably excessive focus on their inherent sinfulness. Indeed, someone with a faith that is solidly rooted

¹²⁷ Pellegrino and Thomasma, *The Christian Virtues in Medical Practice*, 44.

¹²⁸ Schutt, *Redeeming Law*, 88, 160, 162-5, 253.

¹²⁹ Haidt, *The Happiness Hypothesis*, 88; Levit and Linder, *The Happy Lawyer*, 37, 252 n. 37; Lyubomirsky, *The How of Happiness*, 228-34; Seligman, *Authentic Happiness*, 60.

¹³⁰ Seligman, *Flourish*, 261-2.

¹³¹ Lyubomirsky, *The How of Happiness*, 232, 235.

in reason can experience the additional benefits of making friendships and common causes with people of other worldviews.¹³²

What, if anything, might be done to better dispose lawyers and others to receive the virtue of faith? Lyubomirsky briefly suggests that talking to others about their faith could cause one to consider adopting a new religious commitment.¹³³ As for the still undecided, Blaise Pascal's age-old advice might possibly spur on a change of heart: "You want to find faith and you do not know the road.... [L]earn from those who were once bound like you.... They behaved just as if they did believe, taking holy water, having masses said, and so on. That will make you believe quite naturally, and will make you more docile.... [T]his diminishes the passions which are your great obstacles."¹³⁴ Otherwise, if one is already somewhat inclined to faith, he or she could always pray for more, using words similar to those of the father of the possessed boy in Mark 9:24: "I believe; help my unbelief!"

Hope

Hope is understood in official Catholic teaching as "the theological virtue by which we desire the kingdom of heaven and eternal life as our happiness, placing our trust in Christ's promises and relying not on our own strength, but on the help of the Holy Spirit."¹³⁵ According to Aquinas, it is opposed to the vices of presumption (trusting that one will go to heaven no matter how one acts) and despair (thinking that one will never go to heaven).¹³⁶ He adds that faith precedes hope, because we cannot desire heaven if we do not even believe in it in the first place. And hope comes before love, since the person who hopes is led to love God and follow his commandments in order to be rewarded with a blissful afterlife.¹³⁷

How might a lawyer manifest the virtue of hope? The secular and (surprisingly) the Christian literature addressed in this paper are silent on this point. Even Aquinas does not provide much guidance; he spends just six questions on hope in the *Summa Theologiae*, fewer than on any of the other theological or cardinal virtues. Pellegrino and Thomasma's work does provide us with a starting point: "Hope will

¹³² On such a faith leading to friendships, see C. Stephen Evans and R. Zachary Manis, *Philosophy of Religion: Thinking About Faith*, 2nd ed. (Downers Grove, IL: IVP Academic, 2009), 34. And on such a faith leading to meaningful efforts to address "the most pressing issues facing humanity," see John Paul II, *Fides et ratio*, no. 104.

¹³³ Lyubomirsky, *The How of Happiness*, 236.

¹³⁴ Blaise Pascal, *Pensées*, trans. A.J. Krailsheimer (New York: Penguin Books, 1995), no. 418.

¹³⁵ *Catechism of the Catholic Church*, no. 1817.

¹³⁶ *ST* II-II qq. 20-1.

¹³⁷ *ST* I-II q. 62, a. 4; II-II q. 4, a. 7; II-II q. 17, aa. 7-8. On the nature of hope, see also Mattison, *Introducing Moral Theology*, 257-58.

enable [the doctor] to endure amid the daily round of suffering, depressed, and even despairing humans it is [his or her] privilege to treat."¹³⁸ Certainly we could say something similar of lawyers, who deal on a day-to-day basis with those struggling with legal problems, and often with stressful litigation on behalf of them. The lawyer with true hope will not pad time sheets, neglect clients, or cut other ethical corners without fear of the consequences (which would be presumption), nor will he spend his off hours seeking solace in excessive alcohol consumption or drug use (which would be a sign of despair).

The fact that hope makes one happy should be fairly intuitive. As Lyubomirsky puts it when speaking of optimism in general, "It feels good to believe that your prospects are bright. If you have something to look forward to, you will feel energized, motivated, and enthusiastic." And this boost in motivation, in turn, makes it more likely that you will actually achieve your cherished goal.¹³⁹ Also, as already suggested, when those who are hopeful hit a rough patch, they are more likely to cope well and avoid depression.¹⁴⁰ While it is true that presumption may also lead to these benefits, at least according to Catholic teaching it could well hinder one's ultimate beatitude by leading him or her to be less heedful of serious sin. Note also that Seligman lists "hope/optimism" as another signature strength that one can use to achieve greater well-being.¹⁴¹ Although he is not speaking of the theological virtue here, perhaps it too could be understood as a signature strength, and lawyers in whom it is especially developed might be well suited to working with (and perhaps inspiring) clients in difficult straits near the end of their lives, whether in the context of estate planning or even death row appeals.

Fortunately, there is a good deal of research on how we might sustain hope and optimism. One strategy that Lyubomirsky and Seligman suggest is to challenge any negative beliefs through evidence (showing that there are no grounds for the belief or even that it is factually wrong), alternative explanations, context, and the mutability of the situation.¹⁴² If we apply this framework to the virtue of hope, we might say that lawyers could dispute a despairing attitude by considering that they have perceived God's love many times, that he may be encouraging them to grow from a difficult experience, that a bad case or month need not derail them from their calling and pales in comparison to eternal happiness, and that they can attack whatever is causing the

¹³⁸ Pellegrino and Thomasma, *The Christian Virtues in Medical Practice*, 67.

¹³⁹ Lyubomirsky, *The How of Happiness*, 106-7.

¹⁴⁰ On this point, see also Lyubomirsky, *The How of Happiness*, 107; Seligman, *Authentic Happiness*, 82.

¹⁴¹ Seligman, *Flourish*, 260.

¹⁴² Lyubomirsky, *The How of Happiness*, 109-10, 166-8; Seligman, *Authentic Happiness*, 88-100.

despair one step at a time. Lyubomirsky adds that to cultivate optimism, one can commit to a writing schedule where one describes his or her ultimate goals and the more specific subgoals that are necessary to reach them.¹⁴³ This activity might also facilitate the theological virtue of hope; one could write about how one envisions heaven, and then about how one ought to live his or her life to be better disposed for that gift (through fulfilling one's duties as a lawyer, spouse, and parent, for example). Finally, the *Catechism* affirms that "[h]ope is expressed and nourished in prayer, especially in the Our Father, the summary of everything that hope leads us to desire."¹⁴⁴

Charity

The final theological virtue is charity, or love. Charity, according to the *Catechism*, "is the theological virtue by which we love God above all things for his sake, and our neighbors as ourselves for the love of God."¹⁴⁵ As Pope Benedict XVI explains in his encyclical *Caritas in Veritate*, charity requires justice, but also goes beyond it; in order to love others, we must give them what we owe them by respecting their rights, but also offer them something extra: "gratuitousness, mercy, and communion."¹⁴⁶ Aquinas understands charity specifically as friendship with God, relying on Jesus's own description of his relationship with his disciples. And when we are friends with others, "for their sake we love all who belong to them, even if they hurt or hate us; so that, in this way, the friendship of charity extends even to our enemies."¹⁴⁷ According to the Christian tradition, charity is the greatest of the virtues; it "forms" them and (in the words of Mattison) "complet[es] their orientation toward God with a sense of enjoyment and friendship."¹⁴⁸

In the Catholic tradition, a more specific virtue that falls under charity is mercy, which is the compassionate tendency to assist one who is unhappy.¹⁴⁹ In addition to various corporal works of mercy, there are seven spiritual ones. The latter include instructing the ignorant, counseling the doubtful, correcting the sinner, forgiving wrongs, bearing them patiently, consoling the afflicted, and praying for others.¹⁵⁰

¹⁴³ Lyubomirsky, *The How of Happiness*, 104-6, 108-9.

¹⁴⁴ *Catechism of the Catholic Church*, no. 1820.

¹⁴⁵ *Catechism of the Catholic Church*, no. 1822.

¹⁴⁶ Benedict XVI, *Caritas in Veritate* (Vatican City: Libreria Editrice Vaticana, 2009), no. 6.

¹⁴⁷ *ST II-II* q. 23, a. 1 (quoting John 15:15) and ad 2.

¹⁴⁸ *ST II-II* q. 23, aa. 6, 8; *Catechism of the Catholic Church*, nos. 1827-8; Mattison, *Introducing Moral Theology*, 303.

¹⁴⁹ *ST II-II* q. 30, aa. 1, 3; *Catechism of the Catholic Church*, no. 1829.

¹⁵⁰ *ST II-II* q. 32, a. 2; *Catechism of the Catholic Church*, no. 2447; Mattison, *Introducing Moral Theology*, 285.

From a Christian perspective, the lawyer's ultimate calling is to love and serve others, whether they be clients, colleagues, opposing counsel, or the wider community.¹⁵¹ More specifically, a number of Pellegrino and Thomasma's reflections on how doctors can be charitable would equally apply to lawyers: serving another even at some cost to oneself, being patient and polite, making oneself available, and not overeagerly soliciting fees.¹⁵² We might add that while *pro bono* work on behalf of the poor and disadvantaged is a demand of justice, lawyers could transform this work into charitable doing by exceeding the minimum requirement or making a special effort to suffuse their work with care. Finally, some of Daicoff's vectors can serve as good examples of lawyers exercising or facilitating charity: "transformative mediation" (which seeks to lead parties to understand and sympathize with each other), "therapeutic jurisprudence" (which recommends litigation or alternative avenues depending on which one would most conduce to the mental well-being of others), and "problem solving courts" (wherein a judge takes on the role of a "cheerleader" and "stern parent" in order to assist the rehabilitation process).¹⁵³

Moreover, several authors recommend that the lawyer adopt a relationship with his or her client similar to that of friendship. Here the lawyer courteously treats the client as an equal, raises moral issues with the client (including the effects of the representation on others), and ultimately helps the client progress on the path of virtue.¹⁵⁴ Along these lines, the Model Rules state that "[i]n rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation."¹⁵⁵ When representing the guilty in particular, Allegritti suggests, lawyers have the opportunity to be a much needed friend in refraining from harsh judgment, helping their client address deeper personal issues and accept responsibility when appropriate,

¹⁵¹ Allegritti, *The Lawyer's Calling*, 23, 29-36; Schutt, *Redeeming Law*, 12, 47, 52-54, 110, 166.

¹⁵² Pellegrino and Thomasma, *The Christian Virtues in Medical Practice*, 75, 77, 89, 146, 153. One role model here could be a dentist who once informed Allegritti he was willing to "eat" fees when he had reason to believe the patient had a mitigating financial hardship. Allegritti, *The Lawyer's Calling*, 60.

¹⁵³ Daicoff, *Comprehensive Law Practice*, 49, 51, 81-5, 203-8, 241-9. Various other authors also support mediation as a means to reconciliation. See Allegritti, *The Lawyer's Calling*, 71, 85, 93-4; Schutt, *Redeeming Law*, 246; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 112. See also American Bar Association, *Model Rules*, Rule 2.1, Comment [5] (which recommends notifying clients of modes of dispute resolution other than litigation).

¹⁵⁴ Allegritti, *The Lawyer's Calling*, 45; Linder and Levit, *The Good Lawyer*, 193-4, 201-3, 206-8, 285; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 3-4, 42-86.

¹⁵⁵ American Bar Association, *Model Rules*, Rule 2.1 and Comment [2]. On this point, see also Rule 1.4, Comment [5]; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 51 n. 16.

and/or obtaining a sentence that is conducive to rehabilitation.¹⁵⁶ Lawyers can even apply a friendship model to their interactions with co-workers, adversaries, and others in the legal profession more generally.¹⁵⁷

As for mercy, Shaffer and Cochran identify fraternal correction as something the lawyer should engage in if the client proposes immoral action, and Allegretti indicates that an attorney might question an individual client's decision to disinherit children or a corporate client's harmful actions.¹⁵⁸ I would add that the lawyer could find opportunities to engage in other spiritual works of mercy; he or she can introduce legal and moral principles and then assist clients in applying them to the case at hand, forgive an unkind word by an opposing attorney, bear with a disagreeable client, comfort a client distressed during protracted litigation (and afterwards, if the case is lost), and pray that God's will be done in the client's life.

In the end, Allegretti and Schutt emphasize, fulfilling one's vocation to love and serve God and neighbor will bring lawyers "true satisfaction" and a sense of meaning in life.¹⁵⁹ And Lyubomirsky and fellow positive psychologist Jonathan Haidt show that kindness, compassion, and generosity—including performing volunteer work—boost happiness and reduce depressive symptoms.¹⁶⁰ In addition, Daicoff maintains that the therapeutic jurisprudence practitioner can feel good knowing that he or she is directly promoting the well-being of others, and that problem-solving-court lawyers and judges derive very high rates of satisfaction from the fact that their work prevents recidivism so successfully.¹⁶¹

Friendship in particular also benefits lawyers who cultivate it. Several authors point out that sustaining closer relationships with clients, colleagues, and/or supervisors helps one enjoy one's work and life, and that conversing with clients about moral matters can convey (in Linder and Levit's words) "a sense that you are doing your bit to make the world a better place."¹⁶² As for the spiritual works of mercy, psychologists have pointed out that forgiveness benefits one's health and

¹⁵⁶ Allegretti, *The Lawyer's Calling*, 74-7.

¹⁵⁷ Linder and Levit, *The Good Lawyer*, 110, 112-14, 285; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 59-60.

¹⁵⁸ Allegretti, *The Lawyer's Calling*, 51-7; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 26, 50.

¹⁵⁹ Allegretti, *The Lawyer's Calling*, 34-6; Schutt, *Redeeming Law*, 21, 52, 65, 265-6.

¹⁶⁰ Haidt, *The Happiness Hypothesis*, 98, 133, 174-5; Lyubomirsky, *The How of Happiness*, 126-32.

¹⁶¹ Daicoff, *Comprehensive Law Practice*, 24, 244-5.

¹⁶² Allegretti, *The Lawyer's Calling*, 50; Levit and Linder, *The Happy Lawyer*, 90-5, 110, 213-16; Linder and Levit, *The Good Lawyer*, 113-14, 199; Shaffer and Cochran, *Lawyers, Clients, and Moral Responsibility*, 132.

peace of mind.¹⁶³ Finally, note that Seligman's list of signature strengths which lead to happiness include the following: "loving and allowing oneself to be loved," "kindness and generosity" (which involves friendship), and "forgiveness and mercy."¹⁶⁴ Lawyers with these signature strengths might derive special satisfaction from using them in ways such as those mentioned above.

What might lawyers do if they wish to grow in charity? Lyubomirsky's "strategies for making friends" might help here: engaging in truthful self-disclosure, being attentive to others' problems while sustaining eye contact, showing affection, praising accomplishments, and maintaining secrets.¹⁶⁵ Regarding building compassion and forgiveness, she proposes envisioning oneself in the other's position and writing (and perhaps even sending) a letter of forgiveness.¹⁶⁶ Speaking to lawyers in particular, Linder and Levit counsel communicating frequently with clients, concentrating on their words and actions, acknowledging their emotions, focusing on each of them "as a person, not just a source of income," posing open-ended questions, and using plain language in order to "make the most of your empathy," the first step to compassion.¹⁶⁷ Finally, from a Christian perspective, prayer is a key to fostering charity, as with each of the other virtues we have analyzed.

CONCLUSION

In the end, what do our investigations reveal about Thomistic moral theology and the contemporary practice of law, respectively? Aquinas himself repeatedly pointed to the link between morality and pleasure,¹⁶⁸ and from the analysis above, we can see that this general insight has been substantially confirmed by contemporary empirical and anecdotal evidence. Here I would add that the reasons he gives for this connection can inform—and be informed by—current scientific research on happiness. More specifically, Aquinas explains that helping others is "most pleasant" because we consider the well-being of those we love and of ourselves to be bound together, because we anticipate a reward from others or from God, because assisting another "arouses in man an imagination of abundant good existing in him, whereof he is able to give others a share," and because serving others simply feels natural to us once we make it a habit.¹⁶⁹ Writing on this topic over seven hundred years later, Lyubomirsky echoes the third reason:

¹⁶³ Lyubomirsky, *The How of Happiness*, 171-3; Seligman, *Authentic Happiness*, 75-7.

¹⁶⁴ Seligman, *Flourish*, 251-3, 262.

¹⁶⁵ Lyubomirsky, *The How of Happiness*, 148.

¹⁶⁶ Lyubomirsky, *The How of Happiness*, 134, 173-9.

¹⁶⁷ Linder and Levit, *The Good Lawyer*, 1-2, 17.

¹⁶⁸ *ST I-II* q. 32, a. 6; q. 107, a. 4 (quoting Matt 11:28); *II-II* q. 123, a. 8.

¹⁶⁹ *ST I-II* q. 32, a. 6.

“When you commit acts of kindness, you may begin to view yourself as an altruistic and compassionate person. This new identity can promote a sense of confidence, optimism, and usefulness. Helping others or volunteering for a worthy cause highlights your abilities, resources, and expertise and gives you a feeling of control over your life.”¹⁷⁰ But she also provides a number of other explanations for why kindness feels good for the doer, including the following: it alleviates guilt, diverts one from self-pitying thoughts, and leads to others’ offering help in return and even befriending the doer.¹⁷¹

As for the contemporary practice of law, it too can inform Thomistic ethics, by showing how each of the cardinal and theological virtues is lived out by a significant swath of people today. While Catholic moral theologians continue to devote extensive attention to medical ethics—Benedict Ashley, Nicanor Austriaco, Anthony Fisher, and Kevin O’Rourke are some Thomists who have written recent texts in this area—at the time of this writing a thorough search of the last twenty years on the Library of Congress’s website reveals only a handful of English-language books from major publishing houses on Christian lawyering (most notably Allegretti’s and Schutt’s), none of which are authored from an explicitly Catholic perspective. This is quite surprising in light of the dozens of Christian (including at least twenty-five specifically Catholic) law schools in this country, and the more than one million lawyers in the United States alone.

At the same time, we have seen that attorneys can learn much from Thomistic moral theology; namely, that if they live out the traditional virtues they can find and sustain happiness, and also that they can make choices that cultivate these virtues. But lawyers might also go back much further for guidance to the Bible itself. The Jewish psychologist Kalman Kaplan, for example, contends in a new text that in relating to others (including authority figures and family members) and to misfortune, we can flourish by “living biblically.”¹⁷² And Ellen Charry, an Episcopalian theologian, has shown in her recent book that the Decalogue, the Psalms, Proverbs, and the Gospel of John can advise and inspire us on the quest for a joyful life.¹⁷³ Ultimately, there is much encouragement to be found beyond the famously ominous words of Luke 11. In fact, one need not look very far:

Just then a lawyer stood up to test Jesus. “Teacher,” he said, “what must I do to inherit eternal life?” He said to him, “What is written in the law? What do you read there?” He answered, “You shall love the Lord your God with all your heart, and with all your soul, and with all

¹⁷⁰ Lyubomirsky, *The How of Happiness*, 130.

¹⁷¹ Lyubomirsky, *The How of Happiness*, 129-30.

¹⁷² Kalman J. Kaplan, *Living Biblically: Ten Guides for Fulfillment and Happiness* (Eugene, OR: Wipf & Stock, 2012).

¹⁷³ Ellen T. Charry, *God and the Art of Happiness* (Grand Rapids: Eerdmans, 2010).

your strength, and with all your mind; and your neighbor as yourself.”
And he said to him, “You have given the right answer; do this, and
you will live.” Luke 10:25-28 (NRSV)

Hold the jokes. There is hope for lawyers yet.¹⁷⁴ 

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