

LAWYERS, TRAUMA, AND PROFESSIONAL WELL-BEING: HOW THE LEGAL COMMUNITY TAKES BACK ITS MENTAL HEALTH

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INTRODUCTION

Accompanying a notable shift in the legal academy to being more attentive to our students' mental health,¹ there must be an equal (or even greater) shift to focusing on trauma, mental health, and well-being in the broader profession. "Trauma is an inevitable part of life,"² and members of the legal profession are not exempt from it. In fact, data show that trauma is prevalent in the profession—in both the client and the legal professional.³ It is, therefore, critical to gain an understanding of trauma and its inextricable ties to the legal profession. To do otherwise would be irresponsible to ourselves, our students, our clients, and the broader constituencies that we interact with and serve.⁴ Legal professionals cannot be effective advocates if they are not well, and trauma can make us all unwell, whether we experience it first-hand or vicariously or whether its genesis is systemic or individual sources.⁵ The impact of trauma on the legal system in total cannot be overstated; as noted in the ABA publication *Trauma-Informed Law*, "political unrest, crimes against humanity, war, and trauma are inseparable."⁶

* Author's note.

¹ See Brenda Karyee Yuren, *Trauma-Informed Lawyering: Practicing Emotional Acknowledgment* 118 (Jan. 23, 2023) (LL.M., thesis, College of Law University of Saskatchewan Saskatoon).

² *Why Nurse Practitioners (NP) are a great choice for psychiatric medications*, Associated Mental Health Consultants, <https://www.amhcon.com/medication-management#:~:text=Trauma%20can%20come%20in%20many,or%20experienced%20a%20traumatic%20event> (last visited Sept. 3, 2024).

³ Brandon Vogel, *Vicarious Trauma is Real...and Really, Really Common with Lawyers*, N.Y. State Bar Ass'n (July 22, 2020), <https://nysba.org/vicarious-trauma-is-realand-really-really-common-with-lawyers/>; *Trauma-Informed Lawyering: What It Is and Why It Matters* (Apr. 1, 2024), <https://blog.texasbarpractice.com/trauma-informed-lawyering#:~:text=Trauma%20can%20manifest%20as%20a,recognize%20the%20prevalence%20of%20trauma>.

⁴ Int'l Bar Assoc., *Mental Wellbeing in the Legal Profession: A Global Study*, at 22 <https://www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study> (Oct. 2021) ("Lawyers play a vital role within society in upholding the rule of law. If they are unable to perform that role effectively, or are perceived as being unable to do so, this can undermine public confidence and have wider repercussions for the justice system and its role within society.") [hereinafter *Global Study*].

⁵ See *id.*

⁶ *TRAUMA-INFORMED LAW: A PRIMER FROM LAWYER RESILIENCE AND HEALING* 153 (Helgi Maki, Marjorie Florestal, Myrna McCallum, and J. Kim Wright, eds., 2023).

As an African American legal professional, I have experienced trauma, and I have witnessed the effects of trauma on my students, colleagues, and practicing attorneys. Unfortunately, legal professionals have a propensity to push past and ignore trauma, whether it is encountered at work or in their personal lives.⁷ The result is a high incidence of burnout, mental illness, and substance abuse in the legal profession, which is at odds with the ABA's recent emphasis on developing a strong professional identity in students (to prevent these maladaptive behaviors in the practice of law).⁸ Significantly, trauma and its effects are compounded when combined with the challenges faced by underrepresented populations within the profession.⁹ To date, these challenges have been greeted by an ad hoc, piecemeal reaction to stress and trauma,¹⁰ which only inhibits wellness in the profession.

With this information as a backdrop, Section I explores the current literature in both the humanities and the legal profession, beginning with a discussion about trauma to briefly explain what it is and its impacts on the legal profession. Section II then takes a didactic look at the legal profession and what makes it so vulnerable to trauma, discussing some of the societal and economic drivers that make trauma so prevalent in the profession,

⁷ See Brenda D. Gibson, *Teaching in the Midst of Trauma*, 27 J. LEGAL WRITING INST. 251 (2023) (querying why lawyers had a propensity to ignore trauma, focusing on what the traumatic events of the preceding three years had meant (and should mean going forward) to students, staff, and faculty, as well as exploring the importance of creating community to address the effects of trauma in law students); see also Thomas Reuters, *Overcoming Lawyers' Resistance to Change*, <https://legal.thomsonreuters.com/en/insights/articles/overcoming-lawyers-resistance-to-change#mainContent> (last visited Jan. 10, 2024) (noting the lawyer's resistance to change and this resistance's grounding in the tenets of legal precedent and a fixed versus a growth mindset).

⁸ See ABA Standard 303(b) (revising existing standard to add that "a law school shall provide substantial opportunities to students for ... (3) the development of a professional identity"). Standard 303(c) additionally requires accredited law school to teach cultural competency. A.B.A. Standard 303(c).

⁹ Erika L. Cossitt Volpiano Attorney at Law, *Vicarious Trauma – Its Affects on the Legal Profession*, <https://elcvlaw.com/vicarious-trauma-its-affects-on-the-legal-profession/#:~:text=This%20effect%20is%20known%20as,protect%20themselves%20from%20vicarious%20Trauma> (last visited Sept. 3, 2024); ORANGE COUNTY BAR ASSOCIATION, <https://www.ocbar.org/All-News/News-View/ArticleId/6295/June-2022-Cover-Story-Overcoming-Obstacles-to-DEI-in-the-Legal-Profession> (last visited Sept. 3, 2024).

¹⁰ Note that I use the terms "stress" and "trauma" in this article, and at points, I use them interchangeably. However, stress, in the true sense of the word, is not always negative, while trauma most often is. In this article, when I use the term stress, it is meant in its negative iteration, only slightly less extreme than trauma. See Nat'l Network for Youth, *What is Trauma? Stress vs. Trauma*, <https://nn4youth.org/learn/trauma-informed-care-toolkit/stress-vs-trauma/> (last visited July 30, 2024).

especially amongst minoritized populations. Next, in Section III, the article discusses the legal profession's current siloed efforts to understand trauma in the profession and to improve well-being, and its need to better strategize a solution that ensures better results.

Finally, in Section IV, lies the bedrock of my thesis—that though trauma cannot be avoided in this profession (or anywhere), the best course of conduct is to embrace the new conversations about human behavior (including biases) and emotions and how they affect the law.¹¹ Central to the ability to address the impacts of trauma in the profession, at a time during which the population is collectively less resilient, is our human connectedness.¹² The legal profession must leverage its humanity to embrace a diverse profession that models inclusive excellence, in order to build community and ultimately foster well-being in the legal profession. In the end, this approach not only increases the possibility of producing a healthier legal professional, but it will also provide greater service to clients and the broader populus.

I. UNDERSTANDING TRAUMA AND ITS IMPACTS GENERALLY

Trauma has been shown to affect how we all (including legal professionals) think, work, and play.¹³ As such, an understanding of trauma and its effects are crucial to judges, lawyers, and their clients appreciating and navigating the intricacies of our legal system.¹⁴

A. Defining Trauma

Trauma has many definitions depending on the context in which it is being discussed. Most people are better able to describe its effect(s) than give a concrete definition.¹⁵ Author and legal scholar Marjorie Silver aptly states,

¹¹ Yuen, *supra* note 1, at 76 (noting that despite the evolution in the conversations around many of the psychological aspects of the cause(s) and effect(s) of trauma—human behavior, brain development, childhood impacts, life challenges, substance usage, mental health, and physical illness and mortality to name a few—the legal profession has been noted to have sustained “an anachronistic view” of such things).

¹² BRUCE D. PERRY AND OPRAH WINFREY, *WHAT HAPPENED TO YOU?: CONVERSATIONS ON TRAUMA, RESILIENCE, AND HEALING*, 255 (Flatiron Books 2021) (noting the lack of resiliency in society as a whole and our inability to tolerate stressors is a function of diminishing connectedness).

¹³ See GABOR MATÉ & DANIEL MATÉ', *THE MYTH OF NORMAL: TRAUMA, ILLNESS & HEALING IN A TOXIC CULTURE* 9,10 (Avery 2022) (discussing the interrelatedness of health and illness and our lived experiences, with trauma prominently featured as “a foundational layer of experience in modern life”).

¹⁴ Yuen, *supra* note 1, at 76.

¹⁵ Indeed, the Greek origins of the word “trauma” means “wound.” And as the Matés

“Trauma disrupts and attacks the self. It disintegrates your sense of who you are, what you hold dear, and what you believe.”¹⁶ Similarly, author and trauma expert Thomas Hubl describes trauma as something that “fragments and fractures,” “disowns and silences,” and “creates denial and forgetting.”¹⁷ Trauma has also been described as “a holistic experience,” meaning that it happens directly to people as well as indirectly in and amongst people, in our “bodies, minds, emotions, spirits, relationships,” within other people we encounter and in our communities where we live and work.¹⁸

For purposes of this article, trauma is defined as “a reaction that ‘results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life-threatening and that has lasting adverse effects on the individual’s functioning and mental, physical, social, emotional, or spiritual well[]being.’”¹⁹ This adverse event could have happened in the distant past, but the trauma that it causes my persist decades later.²⁰ One common misconception is that “the experience of the event itself is the trauma.”²¹ While, indeed, the traumatic event is “ground zero,” trauma is an ongoing lifelong body-mind response because of the way the brain and body process information.²²

note in their book, *The Myth of Normal*, it is that “woundedness, or how we cope with it, that dictates much of our behavior, shapes our social habits, and informs our ways of thinking about the world.” Maté & Maté, *supra* note 13 at 16. Unsurprisingly, it is this “woundedness” or “trauma” that determines our ability to engage in rational thought or decision-making, affecting our most intimate relationships and oftentimes determining our level of success in life. *See id.*

¹⁶ Majorie Silver, *Stress, Burnout, Vicarious Trauma and Other Emotions*, 19 *TOURO L. REV.* _____, 854 (2015).

¹⁷ TRAUMA-INFORMED LAW, *supra* note 6, at 17. Further, leading trauma psychologist Peter Levine has noted the ability of trauma to “‘alter a person’s biological, psychological, and social equilibrium to such a degree that the memory of one particular event comes to taint, and dominate, all other experiences, spoiling an appreciation of the present moment.’” Maté & Maté, *supra* note 13, at 16 (quoting MORRIS BERMAN, *THE TWILIGHT OF AMERICAN CULTURE* 64-65 (New York: W.W. Norton 2001)).

¹⁸ TRAUMA-INFORMED LAW, *supra* note 6, at 15 (stating also that trauma is a “‘biopsychosocial’ experience”—one which “cannot be fully understood or met without a biophysical response,” and not the intellectual or cognitive response that lawyers are trained to focus on).

¹⁹ SAMHSA’s Trauma and Justice Strategic Initiative, “SAMHSA’s Concept of Trauma and Guidance for a Trauma-informed Approach” (July 2014) U.S. Department of Health and Human Services at 7, https://ncsacw.acf.hhs.gov/userfiles/files/SAMHSA_Trauma.pdf, *quoted in* Yuen, *supra* note 1, at 3. SAMHSA stands for the Substance Abuse and Mental Health Services Administration, a department of the U.S. Department of Health and Human Services.

²⁰ TRAUMA-INFORMED LAW, *supra* note 6, at 21.

²¹ *Id.* at 43.

²² *Id.*

To be clear, not all trauma is created equally.²³ Trauma may be direct (directly experienced by a person) or secondary or vicarious (indirectly experienced or merely witnessed by a person in their personal or professional lives).²⁴ Trauma may have systemic or individual causes.²⁵ Further, there are gradations of trauma. First is the trauma denominated “capital-T trauma” by the Matés in their book, which is especially distressing and hurtful, noted to be those “identifiable hurtful and overwhelming events” that “involve[] automatic responses and mind-body adaptations.”²⁶ The Matés also discuss “small-T trauma,” which they describe as “nearly universal in our culture,” as well as “less memorable” and less overtly distressing, but nonetheless hurtful and most often prevalent during childhood.²⁷ This type of trauma is often hard to recognize as it happens slowly, over time, as the affected person loses connection to themselves, their families, and to the world around them.²⁸ Many of us who consider ourselves to be well-adjusted, “normal” people are, in truth, on the “trauma spectrum,” even if we are on the very low end toward small-T trauma.²⁹ Whether direct or indirect, capital-T or small-T, and whatever its cause, trauma is pernicious.

²³ Notably, “not all traumatic events are stressful” and “not all stressful events are traumatic.” Maté & Maté, *supra* note 13, at 24 (*The Size and Burden of Mental Disorders in Europe*, SCIENCE DAILY, September 6, 2011, <https://www.sciencedaily.com/releases/2011/09/110905074609.htm>. Source: European College of Neuropsychopharmacology. The Matés give a checklist to help in determining those events that are NOT trauma. The event(s) are not trauma (1) if there is not a limiting or constriction or diminution of a person’s ability to think, feel, or trust themselves, that leads to despair or inability experience appropriate compassion; (2) if it leads to an inability to feeling pain or sorrow without being overwhelmed and turning to some mode of escape; (3) if it leads a person to engage in aggrandizing or self-effacing conduct to gain acceptance or justify your existence by; and (4) if the event does not “impair” the person’s ability to fully appreciate “the beauty and wonder of life.” *Id.* at 25.

²⁴ TRAUMA-INFORMED LAW, *supra* note 6, at 18.

²⁵ See Stella Miranda, *Understanding Trauma: Types, Treatment, Outlook, and More*, HEALTHGRADES (updated July 4, 2022), <https://www.healthgrades.com/right-care/symptoms-and-conditions/trauma>.

²⁶ Maté & Maté, *supra* note 13, at 21-23.

²⁷ *Id.* at 22-23 (giving the following examples of small-T trauma: bullying by peers, repeated harsh comments of well-meaning parents, or the lack of sufficient emotional connection with nurturing adults). Small-t trauma appears equal to “toxic stress,” which many legal professionals encounter in the work. See Nat’l Network for Youth, *supra* note 10, <https://nn4youth.org/learn/trauma-informed-care-toolkit/stress-vs-trauma/> (defining toxic stress as “the most dangerous type of stress response,” which if not addressed can have a cumulative effect on a person mental and physical health.).

²⁸ Maté and Maté, *supra* note 13, at 23-24 (quoting “Mental Health by the Numbers,” National Alliance on Mental Illness, <https://www.nami.org/mhstats>).

²⁹ *Id.* at 24.

Far from a new phenomenon,³⁰ trauma has more recently been identified as a “public health epidemic.”³¹ Trauma may be direct or indirect, or big or small, and of course caused by systemic or individual impacts; it is most often multi- or intergenerational;³² and it may also be collective.³³ Trauma takes many forms and because of the way the brain processes information, trauma may be experienced as many things by different people.³⁴ But universally, trauma causes a disconnection in the person who suffers the trauma, a “break” between the body and the mind, as well as the people and circumstances around that person.³⁵ This break is why it so important to address trauma in our society and, particularly, in the legal profession since it is well-known that working in the profession exposes a person to the impacts of both direct and indirect (also known as secondary) trauma.³⁶

B. The Basics: The Brain, the Body, and Society

One does not need to discuss all of the myriad types of trauma—direct trauma, secondary (or indirect or vicarious) trauma, complex trauma, historical trauma, intergenerational trauma, posttraumatic stress disorder (PTSD), developmental trauma, stress load, toxic stress, adverse childhood experiences (ACEs), positive childhood experiences (PACEs), burnout, or compassion fatigue—to understand that trauma by any name is a multifarious phenomenon. But we do need to understand some of the things about today’s society that seem to make trauma so insidious.

Current American society is marked by self-interest over community; financial success to the dearth of all else; consumption with little thought for

³⁰ PERRY & WINFREY, *supra* note 12, at 242 (“[H]uman beings have always lived with a lot of trauma”)

³¹ TRAUMA-INFORMED LAW, *supra* note 6, at 17 (citing S.I. Rosenbaum, *The Age of Trauma*, HARV. PUB. HEALTH MAG. (Oct. 10, 2021), https://www.hsph.harvard.edu/magazine/magazine_article/the-age-of-trauma/) (noting that “almost two-thirds of the general population of the United States [has experienced] at least one indicia of trauma in the course of childhood (such as domestic violence or abuse”). In just the past few years, there has been a global pandemic, as well as unprecedented political and social unrest.

³² Maté & Maté, *supra* note 13, at 34. (“Trauma may even affect gene activity across generations.”).

³³ TRAUMA-INFORMED LAW, *supra* note 6, at 9 (defining collective trauma as “a shared injury”).

³⁴ Doron Gold, A Lawyer Therapist’s Reflections on Trauma, in *Trauma-Informed Law: A Primer from Lawyer Resilience and Healing* 40 (date) (“Different people experiencing the same traumatic event may be affected by it differently.”).

³⁵ See Maté & Maté, *supra* note 13, at 25-33.

³⁶ Yuen, *supra* note 1, at 6.

finite resources; and competition above cooperation.³⁷ As a function of its emphasis on profitability to the exclusion of most, if not everything else, the focus on individual and even communal well-being is lost.³⁸ This is the hallmark of a neoliberal society, which does little to provide support for the victims of trauma.³⁹ To add, systemic racism has played a pivotal role in intergenerational trauma.⁴⁰ Finally, the data show that the current generation is experiencing stress and trauma at a much higher rate than previous generations.⁴¹ Both these societal influences and the complex way the brain processes information complicates the way we all encounter, process, and respond to trauma,⁴² which thwarts the legal profession's efforts to effectively address it.

1. The Relationship Between the Human Brain and Humanity

Historically speaking, humans have been social creatures in small groups.⁴³ Because 99.9 percent of our time on earth has been spent in small multifamily groups as hunter-gatherers, our social networks have always

³⁷ Maté & Maté, *supra* note 13, at 296 (noting that the four central principles of American corporate capitalism (ACC) “fosters and encourages a set of values based on *self-interest*, a strong desire for *financial success*, high levels of *consumption*, and interpersonal styles based on *competition*”) (quoting Tim Kasser et al., “Some Costs of American Corporate Capitalism: A Psychological Exploration of Value and Goal Conflicts,” 1 *Psychological Inquiry* 18 (March: 2007): 1-22).

³⁸ Richard Weissbourd & Chris Murphy, *We Have Put Individualism Ahead of the Common Good for Too Long*, TIME (Apr. 11, 2024) <https://time.com/6269091/individualism-ahead-of-the-common-good-for-too-long/>.

³⁹ Laurence J. Kirmayer, Robert Lemelson, and Mark Barad, *Understanding Trauma: Integrating Biological, Clinical, and Cultural Perspectives*, (Section III: Cultural Perspectives on Trauma) (2007)

⁴⁰ Sidney H. Hankerson, et al., *The Intergenerational Impact of Structural Racism and Cumulative Trauma on Depression*, AM. J. OF PSYCH. (2022) (noting that Black people (or underrepresented populations) in America experience trauma at a disproportionately high rate).

⁴¹ Anna Medaris, *Gen Z Adults and Younger Millennials are “Completely Overwhelmed” by Stress*, AM. PSYCH. ASS’N (Nov. 1, 2023), <https://www.apa.org/topics/stress/generation-z-millennials-young-adults-worries#:~:text=Young%20adults%20in%20America%20like,Stress%20in%20America%20survey%20found.>

⁴² Anthony Charuvastra & Marylene Cloitre, *Social Bonds and Posttraumatic Stress Disorder*, 59 ANN. REV. PSYCH. 301-28 (2008), <https://doi.org/10.1146/annurev.psych.58.110405.085650>.

⁴³ PERRY & WINFREY, *supra* note 12, at 257 (noting that human beings have existed for 250,000 years with “99.9 percent of that time” being spent in “small mubeen hunter-gatherers consisting of “small multifamily groups”). Because of this predisposition, the article takes the position that community is the solution to many of the ills of society and path to wellness in the profession.

been limited in number⁴⁴ and cultural differences.⁴⁵ As a result, human beings in the past had “more physical proximity, more touch, more connectedness than we have today.” Consequently, our brains are more “suited” for the social attributes and complexities of these smaller, more homogenous groups.⁴⁶

In contrast, the modern world in which we currently live is notably different than that of thousands of years ago. Our lack of physical proximity to those with whom we share affinity (be it familial or personal) and the volume of solely virtual contacts cannot be overlooked. Indeed, we have “stretched” beyond our “genetic capabilities and preferences,” causing a number of problems.⁴⁷ In truth, humans are advancing faster than our brains can keep up!⁴⁸ Because of the brain’s structure and functioning, the constant influx of new and different stimuli overwhelms the neural system.⁴⁹ In a society (and profession) that values and depends on the constant influx and processing of information, we exist in a permanent state of high alert⁵⁰ that is simply not sustainable and, in fact, may be harmful.⁵¹ And without the necessary human connectedness, or community, the brain cannot heal when confronted with stress and trauma.

2. The Brain’s Complexity, the Dysregulated Brain, and Community

Because of the brain’s complexity,⁵² each person’s response to trauma is

⁴⁴ *Id.* (noting that we only knew 60-100 people at that time).

⁴⁵ *Id.* (noting that our connections were usually limited to others who had “similar kinship ties and some common cultural elements”).

⁴⁶ *Id.* Perhaps this historic affinity for smaller, more homogeneous groups is part of the reason for the bias humans have against those who are not like them. [insert see cite noting the name of that intragroup bias]

⁴⁷ *Id.*

⁴⁸ *Id.* (quoting writer and biochemist Isaac Asimov, “The saddest aspect of life right now is that science gathers knowledge faster than society gathers wisdom.”).

⁴⁹ *Id.* at 257-58 (“Our stress-response systems are drained by constantly monitoring the sensory cacophony of the modern world” and having to assess the danger of each new thing encountered).

⁵⁰ *Always on Alert: Causes and Examples of Hypervigilance*, Cleveland Clinic (Nov. 16, 2023), <https://health.clevelandclinic.org/hypervigilance>.

⁵¹ Lindsay Curtis, *What Is Hypervigilance – and What Does It Feel Like?*, health (Aug. 15, 2024), <https://www.health.com/hypervigilance-7095960#:~:text=Excessive%20hypervigilance%20can%20have%20a,day%2Dto%2Dday%20tasks>.

⁵² Under most models, the brain is described as consisting of three parts: (1) Reptilian (brain stem): responsible for survival instincts and autonomic body processes;⁵² (2) Mammalian (limbic, midbrain): processes emotions and conveys sensory relays;⁵² and (3) Neo-mammalian (cortex, forebrain): controls cognitive processing, decision-making,

different.⁵³ In fact, evidence tends to show that “humans rarely have control over what will cause a traumatic reaction, given the degree to which our bodies and brains respond to stimuli on an instinctive level.”⁵⁴ With its “top-down” processing,⁵⁵ the brain is able to process information quickly (though sometimes inaccurately).⁵⁶ For example, during trauma, stress hormones activated in the brain may cause it to miscalculate as it remains stuck in survival mode.⁵⁷

Indeed, trauma can leave the brain dysregulated and unable to properly process incoming information.⁵⁸ Even in the absence of major traumatic

learning, memory, and inhibitory functions. Beth Shaw, *When Trauma Gets Stuck in the Body: How do we heal?*, PSYCHOLOGY TODAY, Oct. 23, 2019, <https://www.psychologytoday.com/us/blog/in-the-body/201910/when-trauma-gets-stuck-in-the-body> (using the Triune Brain Model to describe the brain’s reaction to stress and danger). The Neo-mammalian (aka Cortex) part of the brain controls the “most uniquely human” functions of the brain “such as speech and language, abstract cognition, and the capacity to reflect on the past and envision the future.” PERRY & WINFREY, *supra* note 12, at 26, 27 (utilizing a 4-part model of the brain that includes an additional part of the brain—the diencephalon, which is positioned between the brainstem and limbic areas and controls arousal, sleep, appetite, and movement). The Neo-mammalian part of the brain stores our memories and importantly, “tells time,” i.e., can discern the past from the present. *Id.* at 26.

⁵³ Yuen, *supra* note 1, at 5.

⁵⁴ *Id.* at 13.

⁵⁵ Shaw, *supra* note 51, <https://www.psychologytoday.com/us/blog/in-the-body/201910/when-trauma-gets-stuck-in-the-body> (“Top-down processing is a cognitive process that initiates with our thoughts, which then flow down to lower-level functions, such as the senses.”) “Input from all of our senses—vision, hearing, touch, smell”—enter our brain in the lower areas. PERRY & WINFREY, *supra* note 12, at 26. The brain categorizes all the sensory input (internal and external) and sends it up (from the reptilian to the cortex) for processing. *Id.* at 30-31. As the brain sorts these inputs, they become linked and sorted based on our lived experiences. *Id.* at 26, 30-31.

⁵⁶ Yuen, *supra* note 1, at 13 (noting that this efficiency can also lead to erroneous conclusions); *See also* Brenda D. Gibson, *We Speak the Queen’s English: Linguistic Profiling in the Legal Profession*, 88 BROOKLYN L. REV. 601, ____ (2023) (using systems theory to describe the manner in which the first of the brain’s systems (System 1) processes information quickly based on past experiences and memories (schemas), whereas the slower more reliable system, System 2, is often under-utilized or overridden) [hereinafter *Queen’s English*]; PERRY & WINFREY, *supra* note 12, at 41 (explaining that these erroneous associations made by the brain as a result of childhood trauma may lead to implicit and maybe even overt biases, as these associations are stored in the brain and forms a person’s worldview).

⁵⁷ Shaw, *supra* note 51, <https://www.psychologytoday.com/us/blog/in-the-body/201910/when-trauma-gets-stuck-in-the-body>.

⁵⁸ *See* PERRY & WINFREY, *supra* note 12, at 36-37. Dysregulation occurs when a stressful or dangerous event is encountered and stored in the brain. *See id.* The perceived lack of control during such an event moves a regulated brain from regulated to one that is dysregulated. TRAUMA INFORMED LAWYERING, *supra* note 6, at 25.

events, unpredictable and uncontrolled stress is sufficient to sensitize our stress-response systems and lead to dysregulation.⁵⁹ The dysregulated person is unable to access the higher functioning part of the brain, the cortex, and to engage in rational communication, which is the foundation of healthy relationships.⁶⁰ For this reason, trauma may disrupt a person's ability to form and maintain relationships.⁶¹ Fortunately, despite this disruption, the cortex is the most "malleable" part of the brain, which enables people to change their beliefs and values,⁶² so that even traumatic experiences can be healed. With the assistance of positive experiences and relationships, the cortex can regain optimal functioning and the dysregulated brain can become regulated again.⁶³

Positive relationships and human connectedness are undeniably important to our wellness. As a part of its functioning, the brain not only scans for threat and danger;⁶⁴ it also seeks reward and pleasure.⁶⁵ Each person has a daily threshold for pleasure or reward (to "feel fulfilled and regulated"), and each person has a different way of reaching that threshold.⁶⁶ For the dysregulated brain, however, that pleasure or reward can lead to self-medication with alcohol or drugs, toxic relationships, or other negative behaviors.⁶⁷ To no surprise, the healthiest way to meet the daily threshold for pleasure and reward is through human interaction and relationships.⁶⁸ Indeed, strong connections and relationships, which are the foundation of true "community," oftentimes help dysregulated people move away from unhealthy pleasure and reward mechanisms and towards a more "regulated"

⁵⁹ PERRY & WINFREY, *supra* note 12, at 36-37.

⁶⁰ *Id.* at 143.

⁶¹ *Id.* at 141-42 (explaining why the ability to regulate in connecting and reasoning with other people is critical but is often absent in the dysregulated (or traumatized) person).

⁶² *Id.* at 240 (explaining, however, that implicit bias is more difficult to change because of the way the brain functions). See also *Queen's English*, *supra* note 55, at 606-07.

⁶³ B.L. Fredrickson, *The Role of Positive Emotions in Positive Psychology: The Broaden-and-Build Theory of Positive Emotions*, 56 AM. PSYCHOLOGIST 218 (2001); Ira Hillman, *The Path to Regulation and Calming Runs Through Relationships*, EINHORN COLLABORATIVE (July 28, 2022), <https://einhorncollaborative.org/the-path-to-regulation-and-calming-runs-through-relationships/>.

⁶⁴ *Amygdala*, Cleveland Clinic <https://my.clevelandclinic.org/health/body/24894-amygdala> (last visited Sept. 3, 2024).

⁶⁵ See PERRY & WINFREY, *supra* note 12, at 61-64 (noting that relief from distress gives pleasure).

⁶⁶ *Id.* at 63.

⁶⁷ *Id.* (explaining that the brain's neural networks produce the sense of pleasure and that they can be activated in a number of ways: "relief of distress . . .; positive human interactions . . .; direct activation of the reward systems using various drugs or abuse such as cocaine or heroin . . .; eating Sweet-Salty-Fatty Foods . . .; and behaviors consistent with your values or beliefs").

⁶⁸ *Id.* at 63-64.

or normal life.⁶⁹ For these reasons, strong connections and relationships are no less important in addressing trauma in the legal profession.

II. TRAUMA IN THE LEGAL PROFESSION (A MICROCOSM, OF SORTS)⁷⁰

The legal profession is a microcosm (of sorts) of American society—a society that is marked by neoliberalism and a history of racism. Moreover, as a part of that society, lawyers are not exempt from trauma found in, and caused by, the society in which they live.⁷¹ Indeed, data show that the prevalence of trauma is particularly high amongst legal professionals,⁷² and the poor quality of life in the legal profession has been researched and discussed since the 1990s.⁷³ According to an American Bar Association study, “[l]evels of depression, anxiety, and stress among attorneys were significant, with 28%, 19%, and 23% experiencing symptoms of depression, anxiety, and stress, respectively.”⁷⁴ According to that same study, “20.6% of lawyers screened positive for hazardous, harmful, and potentially alcohol-dependent drinking.”⁷⁵

The International Bar Association’s 2020 survey of individual attorneys shows like results: Using the World Health Organization scale, which allows comparisons across groups and regions, as well as with other studies, the average overall score of attorney respondents to the IBA Survey of Individuals (screening for mental well-being) was 51 per cent.⁷⁶ Significantly, a score below 52 per cent is an indicator for a health professional to screen for depression and suggests that a more formal

⁶⁹ See *id.* (explaining how “disconnection, marginalization, demonizing, and punishing” make problems of substance abuse worse, but drug use in persons who have healthy relationships and support often avoid becoming addicts).

⁷⁰ I qualify this reference to the legal profession being a microcosm because, as discussed *infra*, the legal profession has some characteristics that exacerbates the way an attorney experiences trauma, beyond that of some other members of society. For that reason, while the profession resembles the larger American society, it is distinct (and not necessarily in a good way).

⁷¹ TRAUMA-INFORMED LAW, *supra* note 6, at 18. See also, Yuen, *supra* note 1 at 23.

⁷² See Silver, *supra* note 16, at 855 (noting the qualitative difference in the depression and stress seen in practicing attorneys versus others and the role that ineffective treatment of secondary trauma plays in trauma in the legal profession). See also Andrew P. Levin, *Vicarious Trauma in Attorneys*, 24 PACE L. REV. 245 (2003); Stine Iversen and Noelle Robertson, *Prevalence and Predictors of Secondary Trauma in the Legal Profession: a Systematic Review*, 28 PSYCHIATRY, PSYCH. AND L. 802 (2021).

⁷³ Yuen, *supra* note 1, at 67.

⁷⁴ Jeena Cho, *10 Things They Don’t Teach You in Law School (But Should)*, CLIO (2021), <https://www.clio.com/blog/10-things-dont-teach-law-school/> (last visited Dec. 1, 2023).

⁷⁵ *Id.*

⁷⁶ *Global Study*, *supra* note 4, at 30.

assessment of mental well-being problems is warranted.⁷⁷ While legal professionals report some positives—sense of purpose, the challenging or engaging work, communicating with others, being chief among them⁷⁸--there seems to be far more complaints about the stressful nature of their jobs, poor work/life balance, and unhealthy work environments.⁷⁹ And people ask why.

By its very nature, the legal profession is a high-pressure, demanding vocation. Further, the profession is filled with extraordinarily intelligent, driven individuals. These individuals are no less impacted by common vicissitudes of life than any others in society. Many have experienced their own trauma; they too may have dysregulated brains. But more importantly, the profession in which they practice virtually guarantees that they will suffer some form of trauma (direct or secondary) as they go about their professional lives,⁸⁰ and this guarantee is particularly high when looking at the impact on underrepresented populations and the current generation. For these reasons, while the legal profession is a microcosm of society (of sorts), it has some characteristics that make it more prone to trauma.

A. The Legal Professional's Predisposition to Trauma

While legal professionals are thought leaders of society and champions of the rights and freedoms of others, a closer look reveals that they pay a price in terms of their mental and physical health.⁸¹ Lawyers have been known for their “saturnine personalities” since the Middle Ages.⁸² And science suggests that the legal profession attracts those who have a tendency to be linear thinkers, or those who like to find the “right solution” to a problem.⁸³ Many scholars have observed that most legal professionals possess the following

⁷⁷ *Global Study*, *supra* note 4, at ____.

⁷⁸ *Global Study*, *supra* note 4, at ____.

⁷⁹ *Global Study*, *supra* note 4, at 33 (explaining the gender and age difference when looking at the positives and negatives of lawyering with men and people over forty-five more likely than not to report higher job satisfaction (fewer negative --)).

⁸⁰ See Jay Reeves, *Vicarious Trauma in the Legal Profession*, LAW. MUT. (Nov. 2, 2022), <https://www.lawyersmutualnc.com/blog/vicarious-trauma-in-the-legal-profession#:~:text=And%20yet%2C%20lawyers%20and%20legal,unintended%20consequence%20is%20vicarious%20trauma>.

⁸¹ See Neil W. Hamilton and Louis D. Bilonis, *Revised ABA Standards 303(b) and (c) and the Formation of a Lawyer's Professional Identity, Part 2: Action Steps to Benefit Students, Law Schools, and the Legal Profession*, NALP BULLETIN+ (June 2022) (“Bar organizations and legal educators have recognized an elevated risk in the legal community for mental health and substance abuse disorders.”)

⁸² Martin E. P. Seligman, Paul R. Verkuil & Terry H. Kang, *Why Lawyers are Unhappy*, 10 DEAKIN L. REV. 51 (2005).

⁸³ Thomas Reuters, *supra* note 7.

unique characteristics: “intelligence, persistence, autonomy, perfectionism, and pessimism.”⁸⁴ While these may be generalizations, some of these characteristics, especially pessimism, which have negative connotations, have been found to be beneficial in the legal profession.⁸⁵ In fact, pessimism encompasses the more positive quality “prudence,” which is an asset in the legal profession—a profession that oftentimes requires skepticism and caution.⁸⁶ And sometimes, there is a “right” answer to a legal problem.

While the characteristics listed above may make a person a great lawyer,⁸⁷ data show that many lawyers are miserable.⁸⁸ Lawyers are “notorious” for comparing themselves to other colleagues and oftentimes find themselves “falling short of the proverbial bar” set by their colleagues.⁸⁹ This is particularly true when an attorney feels like they are physically or mentally unwell; they assume that “they are uniquely weak and failing” and may not seek the assistance they so terribly need.⁹⁰

Further, the logical thinker, who remains detached as a part of their professional life as a lawyer, may find themselves unable to connect with others on a more emotional or personal level, which may lead to both mental and physical health problems.⁹¹ Also, perfectionism and linear thought, often seen in those with a fixed mindset,⁹² may impede the willingness to

⁸⁴ Jack McCall, *Being Mindful of and Fighting the Hazards of “The Tree Ps,”* LEADING AS LAW. (Jan. 2, 2023), <https://leadingaslawyers.blog/2023/01/02/being-mindful-of-and-fighting-the-hazards-of-the-three-ps/>.

⁸⁵ Seligman, Verkuil & Kang, *supra* note 80, at 55.

⁸⁶ *Id.* at 56.

⁸⁷ See *id.* at ____.

⁸⁸ See generally *id.* at 50.

⁸⁹ Doron Gold, *A Lawyer Therapist’s Reflections on Trauma*, 40-41, in TRAUMA-INFORMED LAW, *supra* note 6.

⁹⁰ *Id.* at 41.

⁹¹ Yuen, *supra* note 1, at 74-75 (summarizing the following consequences of such behavior: “the suppression of and disengagement from enjoyable emotions, oversensitivity to negatively associated experiences, contribution to systemic injustice, status quo, and implicit bias, a disconnection from one’s own self, a perception of disempowerment, risk averse, behaviour or preference for short-term outcomes while losing sight of long-term goals or intentions, poorer physical health, unhealthy coping methods to manage emotions, inability to self-examine or self-reflect, internalized feelings of isolation, adverse mental health impacts, and impairment of one’s own ethics).

⁹² A fixed mindset is characterized by a feeling that “one’s success is based more on inherent intelligence than on effort.” Accordingly, people with a fixed mindset only pursue activities that they can successfully complete and avoid those in which they cannot, thereby avoiding those challenging experiences necessary for growth. Thomas Reuters, *supra* note 7, <https://legal.thomsonreuters.com/en/insights/articles/overcoming-lawyers-resistance-to-change>.

experience growth through failure, thereby leading to more frustration in the end.⁹³ Moreover, risk adverse behavior, often associated with perfectionism, may lead to ignoring long-term concerns in favor of short-term solutions.⁹⁴

A telling example given in Yuen's dissertation illustrates this point: An overwhelmed attorney knows that one of their cases has a statute of limitations that is about to expire. Instead of attending to that matter (pulling the file and reviewing it, and contacting the client), they ignore it and, instead, work on another case that has no immediacy.⁹⁵ In electing to focus on the short-term feeling of less stress, they ignored the long-term consequences—client's case being dismissed and the client complaining to the state bar.⁹⁶ This action is injurious to him, his firm, his client, and, ultimately, the profession.⁹⁷

As illustrated by the example above, not only is stress, distress, and trauma problematic for the lawyer personally, but it is also dangerous in terms of the efficacy of the profession and its societal impact.⁹⁸ Small stressors when not addressed, may lead to trauma, big and little "T."⁹⁹ Moreover, as officers of the court and public servants, the individual dysfunction of members of the profession often impacts the judicial system and those it serves.¹⁰⁰ Clients and colleagues all depend on lawyers to be healthy and to work effectively toward a good end. When this does not occur, there is often some harm visited upon others who may already themselves be stressed or already traumatized.¹⁰¹ Because of the profession's ties to the judicial system and the public that it serves, it is incumbent upon the members of the profession to better understand trauma and its causes and effects in order to better guard against these negative impacts and more effectively work towards wellness, especially considering the heightened implications for the underrepresented and the current generations.

⁹³ *See id.*

⁹⁴ Yuen, *supra* note 1, at 59.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ Selingman, Verkuil & Kang, *supra* note 80, at 52-53.

⁹⁹ Cara Gardenswartz, *Recognizing the Impact of Big T and Little T Trauma*, PSYCH. TODAY (July 26, 2024), <https://www.psychologytoday.com/us/blog/the-discomfort-zone/202407/recognizing-the-impact-of-big-t-and-little-t-trauma#:~:text=Big%20T%20Traumas%20are%20major,depression%2C%20and%20self%2Ddoubt.>

¹⁰⁰ Selingman, Verkuil & Kang, *supra* note 80, at 53-54. (Unhappy Lawyer)

¹⁰¹ *See id.* at p.54 n. 24 (noting the more extreme example of errors made in capital cases by incompetent lawyers suffering from various maladies).

1. Impacts on Underrepresented Populations

Despite attempts to diversify its ranks, the legal profession still tends to be white male dominated,¹⁰² with the path to the profession continuing to be narrow (despite recent attempts to widen it).¹⁰³ Significantly, the paths to the legal academy and the bench are even narrower for underrepresented populations, and the data show it.¹⁰⁴ The data also show that the lack of diversity in the legal profession (and, by way of analogy, the pathways to the profession) informs how trauma is viewed, encountered, and addressed in the profession.¹⁰⁵

According to the 2023 American Bar Association (ABA) Profile of the Legal Profession, African American, Latinx, and Indigenous populations are disproportionately underrepresented in the legal profession, while to no surprise, White people are disproportionately overrepresented.¹⁰⁶ Although non-Hispanic White people comprise about 58.9% of the U.S. population, 2022 ABA data show that 81% of all lawyers are White.¹⁰⁷ Notably, Asian-American people are now proportionately represented in the U.S. population and the profession, being 6.3% of the country's population and 6% of the profession.¹⁰⁸ All other minority populations are disproportionately underrepresented.¹⁰⁹ As to gender comparisons, while the gender gap is steadily closing as increasingly more women than men are enrolling in law

¹⁰² Helia Garrido Hull, *Diversity in the Legal Profession: Moving from Rhetoric to Reality*, 4 COLUMBIA J. RACE & LAW 2-3 (2013) (noting that the legal profession is the least diverse white collar profession).

¹⁰³ The LSAC PLUS program, which is a pipeline program is one such attempt to broaden the path. *LSAC Prelaw Undergraduate Scholars (PLUS) Program*, Heritage Univ., <https://heritage.edu/academic-paths/special-programs/lsc-prelaw/> (last visited Sept. 3, 2024).

¹⁰⁴ Brenda D. Gibson, *Affirmative Reaction: the Blueprint for Diversity and Inclusion in the Legal Profession after SFFA*, 104 B.U. L. Rev. 123 (2024) [hereinafter *Affirmative Reaction*].

¹⁰⁵ *New Data Reveals the Startling Mental Health Struggles of Attorneys of Color*, 2CIVILITY (June 10, 2021) <https://www.2civility.org/new-data-reveals-the-startling-mental-health-struggles-of-attorneys-of-color/>.

¹⁰⁶ A.B.A., ABA Profile of the Legal Profession 2023, <https://www.abalegalprofile.com/demographics.html> [hereinafter ABA Profile 2023].

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* Latinx people make up 19% of the U.S. population, but they only make up 6% of the legal profession; and Black and African-American people make up 13.6% of this country's population, but they only comprise 5% of the legal profession. *Id.* Indigenous people, who make up the smallest racial ethnic group in the United States, make up 2.7% of the population, but currently make up only .7% of the legal profession. *Id.*

school, men still comprise 61% of the profession.¹¹⁰ More particularly, men still comprise a majority of the equity earning partners, who set the standard for behavior in law firms.¹¹¹

In the legal academy, where impressionable future lawyers are trained, the numbers are equally stark. As noted in my article, *Affirmative Reaction: The Blueprint for Diversity and Inclusion in the Legal Profession After SFFA*, “more than half of all law professors (66.4%) are White, with 11.3% of law professors being Asian, 10.1% being Latinx, 7.1% being Black, and just 0.2% being from Indigenous populations.”¹¹² And tellingly “most of the female and minority faculty law teachers were in legal writing, clinical, or other non-tenure track roles at their respective institutions.” Similarly, the numbers for the judiciary are also alarming.¹¹³ According to the ABA Profile 2023, “[t]here were 1,423 sitting federal judges in the United States on Oct. 1, 2023, and they were overwhelmingly male (68%) and white (76%).”¹¹⁴ Through the efforts of President Joe Biden, this dynamic may change a bit. At the time of the ABA’s report, the President had nominated some 126 minoritized persons for federal judgeships, 90% of his 141 nominees.¹¹⁵

Because of its continued lack of diversity, the legal profession visits trauma upon many who are exposed to it, particularly the underrepresented populus.¹¹⁶ For the underrepresented members of the profession, who see few people who look like them in their day-to-day practice, but correspondingly more persons in the criminal justice system (on the other side of the law) who do, it calls up transgenerational and systemic trauma.¹¹⁷

¹¹⁰ *Id.* (noting that the percentage of female attorneys in the legal profession has increased drastically since the ’70s when female attorneys comprised just 3% of the professional population).

¹¹¹ Andrea Sue Kramer & Alton B. Harris, *Getting Beyond Bias in the Legal Profession*, AM. BAR ASS’N (Nov. 15, 2024), https://www.americanbar.org/groups/law_practice/resources/law-practice-today/2023-november/getting-beyond-bias-in-the-legal-profession/.

¹¹² *Affirmative Reaction*, *supra* note 101, at ____.

¹¹³ *Id.*

¹¹⁴ ABA Profile 2023., *supra* note 104, <https://www.abalegalprofile.com/demographics.html>.

¹¹⁵ *Id.* This report covered the period January 1, 2021 to October 1, 2023, and the numbers include women, African-American’s, Latinx, Asians, Native Americans, and lawyers of mixed race or ethnicity. *Id.*

¹¹⁶ Sha-Shana Crichton, *Teaching in the Time of Disruption: A Case for Empathy and Honoring Diversity*, 25 J. LEGAL WRITING INSTI. 4, 11 (2021) (noting that “[s]cientific research confirms that racial discrimination causes chronic stress”).

¹¹⁷ See Kevin Coakley, et al., *Lawyering While Black: Perceived Stress as a Mediator of Impostor Feelings, Race-Related Stress and Mental Health Among Black Attorneys*, 48 J. OF BLACK PSYCH. 206 (2022).

In the legal academy, where there are few minoritized professors (much less students), there is the same reaction.¹¹⁸ Finally, the clients and, ultimately, the larger public are affected: the clients need some remedy from the justice system, only to find that the system is not so just and certainly not diverse. In addition to direct trauma, there is also secondary trauma, which is indirectly suffered by members of the legal profession, and like direct trauma, is suffered by underrepresented populations at a higher rate.¹¹⁹ Whether it is because of the lack of persons who look like them, or the fact that too many of the clients on the other side of the law do, the lack of diversity in the profession visits disproportionate levels of direct and secondary trauma on the minoritized members of the profession.¹²⁰

For attorneys from underrepresented populations, the trauma begins with this country's well-documented history of slavery and colonization, and the current systems that were premised upon it. While current trends in American politics and society seek to deny our country's shameful history and its lasting impacts, many Black and other underrepresented populations live daily with the vestiges of this trauma.¹²¹ For the indigenous populations, the theft of their lands and subsequent herding onto reservations have shepherded a culture of alcoholism, shame, and underachievement.¹²² Similarly, for the descendants of slaves, who were stolen from their homeland and brought over in shackles in the disease-ridden bellies of ships, only to be forced into unpaid labor, families broken, women raped, and children scattered, their once proud

¹¹⁸ See, e.g., Njeri Mathis Rutledge, *Walking the Tightrope: Reflections of a Black Female Law Professor*, 43 CAMPBELL L. REV. 233 (2021).

¹¹⁹ See, e.g., Lindsay Muir Harris and Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733 (2021).

¹²⁰ See e.g., PERRY & WINFREY, *supra* note 12, at 220 (explaining that marginalization is a “fundamental trauma,” and therefore, underrepresented populations suffer trauma at a greater rate).

¹²¹ See Yuen, *supra* note 1, at 29-30 (noting that “intergenerational trauma is passed down generations in many ways through genetics, disrupted family systems, and loss (of people, culture, language, teachings, governance, identity, etc.” and discussing how this also includes attorneys); See also Pyscom, <https://psycom.net/trauma/epigenetics-trauma> (noting the effects of trauma or extreme stress on populations who have survived great tragedies like the Holocaust, wars, famine, etc., specifically noting that Covid-19 may be found to have the same effect on the population). To that end, I posit that slavery has had a similar effect on the progeny of enslaved Black people. See also PERRY & WINFREY, *supra* note 12, at 231 (discussing the splintering of families by way of American systems—the juvenile system, the child welfare system, and our country's education systems, among others).

¹²² Kimbirlee E. Sommer Miller, Comment, *Truth and Reconciliation: Restorative Justice, Accountability, and Cultural Violence*, 24 OR. REV. INT'L L. 195, 197-210, 216-20 (2023) (explaining the impact of forced assimilation and abuse on Indigenous cultures and discussing efforts towards restitution and reconciliation); see e.g., Yuen, *supra* note 1, at 27-29.

stature has been stooped by the burdens of the past, the theft of their personhood, and continued denial of any recompense.¹²³ Renowned author James Baldwin once noted that being a “relatively conscious” Black person in this country imbues a rage most of the time.¹²⁴ Science shows that such rage is traumatic in and of itself.¹²⁵ This rage is traumatic to the person who directly struggles with it (legal professional or client), as well as to those who may encounter this person (secondary trauma).

However, not only does the transgenerational trauma from history linger to affect the underrepresented populous, which includes legal professionals and their clients, but the systems, which were born of that history to splinter and destroy minoritized families and communities, also visit continued turmoil upon those populations.¹²⁶ The justice system that is nominally premised upon “justice for all” has been shown time and again to be skewed for the majority population,¹²⁷ which weighs heavily on the minoritized members of the bench and bar who struggle to balance the tilted scales of justice.

The legal profession—encompassing law practices, law school classrooms, and courtrooms—should reflect diversity to support a belief that ours is truly a fair and impartial justice system. The façade of race neutrality is not fooling anyone. The numbers don’t lie. This double standard compromises the legitimacy of the justice system, imposing greater costs on society by intensifying racial divisions in this country.¹²⁸

Particularly, in the judiciary, a diverse range of experiences and perspectives are critical in ensuring that judges make informed decisions and

¹²³ See Patricia M. Muhammad, *The Trans-Atlantic Slave Trade's Vestiges: Exploring Proposed Forms of Restitution* 2016, 92 Int’l Soc. Sci. Rev. 1, 2 (2017); see e.g., *The Impact of Structural Racism on Black Americans (Report)*, CATALYST (Sept. 30, 2020), <https://www.catalyst.org/research/structural-racism-black-americans/>.

¹²⁴ Maté and Maté, *supra* note 13, at 318.

¹²⁵ See Angela P. Harris and Monika B. Kashyap, *From Trauma to Transformation: Trauma-Informed Pedagogy in Law School*, 27 U. PA. J.L. & SOC. CHANGE 1, 13 (2023) (explaining that racial trauma can lead to “anxiety, anger, rage, depression, compromised self-esteem, shame, guilt, irritability, hostility, lack of trust in people, and self-blame”); see generally Michelle Irvine, *The Biocultural Trauma Feedback Loop*, 4 IDEAFEST J. 4, 9-11 (2020) (supporting a connection between initial trauma and PTSD or revictimization).

¹²⁶ PERRY & WINFREY, *supra* note 12, at 230-31.

¹²⁷ See DAVID COLE, *NO EQUAL JUSTICE: RACE AND CLASS IN THE AMERICAN CRIMINAL JUSTICE SYSTEM* ____ (1999).

¹²⁸ *Id.* at ____.

that the public has confidence in those decisions.¹²⁹ However, neither the federal nor state judiciary reflects the communities they serve.¹³⁰ This lack of diversity has been noted by the Brennan Center for Justice, which collects data and studies our nation's courts, to be a result of myriad complex reasons, "including a long history of racial and gender discrimination and inequities in access to law schools and the legal bar."¹³¹ To ensure the efficacy of the justice system, legal professionals must address the effect of racism and lack of diversity and their impacts on trauma among legal professionals, in the justice systems, and throughout society as a whole.

2. Generational Considerations

In any discussion of the future of the legal profession, the current generation of law students is most important because these students will determine the trajectory of the profession. The demographics of Gen Z, the issues they have had to confront as a generational cohort, along with the anxiety, insecurity, and loneliness they feel are key producers of trauma.

Currently, Gen Z makes up the majority population of our nation's law schools.¹³² This generation, like the preceding Millennial generation,¹³³ is more diverse in terms of race, gender, ethnicity, and sexual orientation than previous generations were.¹³⁴ But Gen Z is even more diverse in terms of race and sexual orientation.¹³⁵ In fact, approximately "48% of Gen Zers are non-white," and more likely than not, they know someone who identifies as gender-neutral or gender-fluid.¹³⁶ Significantly, more so than the preceding Millennial generation, Gen Z is known to be concerned about racial inequality and social justice issues, and to have an even greater emotional

¹²⁹ Brennan Center for Justice and New York University School of Law, *Diversity on the Bench*, <https://www.brennancenter.org/issues/strengthen-our-courts/promote-fair-courts/diversity-bench> (last visited May 29, 2024) [hereinafter *Diversity on the Bench*]; Brennan Center for Justice, *State Supreme Court Diversity—May 2024 Update*, <https://brennancenter.org/our-work/research-reports/state-supreme-court-diversity-may-2024-update> (noting that studies show how judges' life experiences impact the way they understand the law and apply the law to the facts in the cases before them) (last visited June 25, 2024).

¹³⁰ *Diversity on the Bench*, *supra* note 127.

¹³¹ *Id.*

¹³² Crichton, *supra* note 114, at 5, n.3.

¹³³ WILLIAM H. FREY, METRO. POL'Y PROGRAM AT BROOKINGS, *THE MILLENNIAL GENERATION: A DEMOGRAPHIC BRIDGE TO AMERICA'S DIVERSE FUTURE* 6 (2018) (stating that "millennials are 55.8 percent white and nearly 30 percent 'new minorities'—Hispanic, Asian, and those identifying as two or more races").

¹³⁴ Crichton, *supra* note 114, at 6.

¹³⁵ *Id.*

¹³⁶ *Id.*

attachment to these issues than Millennials.¹³⁷ Hence, the lack of diversity in the profession is particularly disconcerting for the Gen Z future lawyer.¹³⁸

Though described as “visibly bold,” this generation is also surprisingly anxious and a bit insecure.¹³⁹ The Gen Z generation reports being more stressed than the preceding Millennial generation, which is significant given the issues surrounding Millennials.¹⁴⁰ Many researchers posit that the stress of Gen Z is due to the coddling of their parents, and the trophy mentality of the Gen Z generation, in which everyone got a trophy, even if it was just for showing up.¹⁴¹ Without the ability to face failure, a lack of resilience and an inability to move through life’s challenges have become hallmarks of Gen Zers.¹⁴²

However, based on knowledge of the brain’s functioning and the use of technology, the better analysis is from those psychologists who believe that the increased anxiety and stress is because of the increased disassociation from human relationships seen in the Gen Z population.¹⁴³ Not only have smartphones radically changed the manner in which people interact with information, they have also altered the way people engage with each other.¹⁴⁴ Noted psychologist and author Jean Twenge noted that Gen Z is on the brink of a mental health crisis that is traceable to their phones.¹⁴⁵ Though well

¹³⁷ *Id.* (quoting Laura P. Graham, *Generation Z Goes to Law School: Teaching and Reaching Law Students in the Post-Millennial Generation*, 41 U. ARK. LITTLE ROCK L. REV. 29, 39 (2018)).

¹³⁸ *Id.* (stating that “48% of Gen Zers are non-white, and they are the most likely generational group to know someone who uses gender-neutral pronouns to identify themselves”; “[t]hey are passionate about ‘greater racial justice and inclusion, better treatment of immigrants, stronger environmental protections, and effective gun control’; and the ‘appear to have ‘a much higher emotional connection’” to these causes when compared to Millennials “and consequently ‘are ready to bring about change in our world’”) (internal citations omitted).

¹³⁹ *Id.* at 7.

¹⁴⁰ Geoff McMaster, *Millennials and Gen Z are More Anxious than Previous Generations: Here’s Why*, UNIVERSITY OF ALBERTA FOLIO, <https://www.ualberta.ca/folio/2020/01/millennials-and-gen-z-are-more-anxious-than-previous-generations-heres-why.html> (Jan. 28, 2020) (noting that half of Millennials in a survey reported leaving a job for mental health reasons, while 75% of Gen Zers reported doing so)

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* (citing Jean Twenge, *Have Smart phones Destroyed a Generation?*, THE ATLANTIC (Sept. 2017), <https://www.theatlantic.com/magazine/archive/2017/09/has-the->

connected virtually to social media, Gen Zers tend to be quite disconnected from their immediate community.¹⁴⁶

This disconnection from community, seen in both the Millennial and Gen Z generations as a result of their connectivity to their phones is key to their increase in social anxiety.¹⁴⁷ It is well established that reliance on technology is not sufficient for human connection, as human touch is needed.¹⁴⁸ As noted in Section I.A., humans are social beings, and the loss of that contact has dire consequences in terms of mental health and resilience, as well as physical health.¹⁴⁹

One such consequence is illustrated in the phenomenon of loneliness that has been rising in today's society, leading to higher suicide rates and greater mental health concerns.¹⁵⁰ Indeed, "loneliness" in Western culture is "a public health crisis."¹⁵¹ Resulting from greater "loneliness" is a decrease in feelings of belonging in Gen Z.¹⁵² Unsurprisingly, without adequate in-person social connections, Gen Zers lack the social skills of previous (less virtually) connected generations.¹⁵³

[smartphone-destroyed-a-generation/534198](https://www.forbes.com/sites/kianbakhtiari/2023/07/28/gen-z-the-loneliness-epidemic-and-the-unifying-power-of-brands/) (last visited June 11, 2024)). See also Kiani Bakhtiari, *Gen-Z, The Loneliness Epidemic and the Unifying Power of Brands*, FORBES, <https://www.forbes.com/sites/kianbakhtiari/2023/07/28/gen-z-the-loneliness-epidemic-and-the-unifying-power-of-brands/> (including discussion of the internet, mobile phones, and video games in the discussion about Gen Z and loneliness).

¹⁴⁶ McMaster, *supra* note 138.

¹⁴⁷ *Id.*; Crichton, *supra* note 114, at 7 (noting that "[i]nsecurity fuels anxiety[,] and 'anxiety causes stress'")

¹⁴⁸ PERRY & WINFREY, *supra* note 12, at 262, 265.

¹⁴⁹ Maté & Maté, *supra* note 13, at 294. (citing Nichole K. Valtora et al., *Loneliness and Social Isolation as Risk Factors for Coronary Heart Disease and Stroke: Systematic Review and Meta-analysis of Longitudinal Observational Studies*, 13 HEART 102 (2016), <https://heart.bmj.com/content/102/13/1009>). "Social isolation inhibits the immune system, promotes inflammation, agitates the stress apparatus, and increases the risk of death from heart disease and strokes." *Id.*

¹⁵⁰ Eugénie Khatcherian et. al, *Feelings of Loneliness: Understanding the Risk of Suicidal Ideation in Adolescents with Internet Addiction. A Theoretical Model to Answer to a Systematic Literature Review, without Results*, 19 INT'L J. ENV'T RSCH. & PUB. HEALTH 1, 8-10 (2022) (suggesting a connection between excessive internet use, feelings of loneliness, and suicide); see generally *Provisional Suicide Deaths in the United States, 2022*, Media Statement, CDC (Aug. 10, 2023) <https://www.cdc.gov/media/releases/2023/s0810-US-Suicide-Deaths-2022.html>.

¹⁵¹ Maté & Maté, *supra* note 13, at 293. Because of the alarming effects of loneliness, Great Britain has appointed a minister of loneliness. *Id.* at 295.

¹⁵² Ryan Genkins, *3 Things Making Gen Z the Loneliest Generation*, PSYCHOLOGY TODAY (Aug. 16, 2022) <https://www.psychologytoday.com/us/blog/the-case-connection/202208/3-things-making-gen-z-the-loneliest-generation>.

¹⁵³ Bakhtiari, *supra* note 143.

There are a host of signs that our human connections are waning and with it, our well-being. For smaller scale examples, institutions that have traditionally fostered interpersonal relationships are now on the decline: church attendance is down, and some congregants are attending church exclusively virtually. The family has long been a societal institution for connectivity, but most of the Gen Z generation find themselves unable to afford to purchase a home or start a family.¹⁵⁴ Gen Zers also face concerns about largescale issues like climate change and social justice.¹⁵⁵ Society has traded human socialization for convenience. Many Americans no longer go to the grocery store or malls where interaction is common; instead, convenient online order and delivery services exist for virtually everything. The result is little external need to connect to or interact with people, other than the delivery driver.

This waning interconnectivity has all led to an unhealthy dearth in human relationships, which has fueled greater anxiety and feeling that society, as we once knew it, is unraveling.¹⁵⁶ This anxiety and stress, which may reach proportions as to be trauma, are being seen in this generation of young lawyers.¹⁵⁷ Further, their anxiety and stress predisposes this generation of legal professionals to a level of trauma, direct and secondary,¹⁵⁸ that has previously not been seen—yet another reason why legal professionals must become more knowledgeable about the importance of community in addressing trauma to improve well-being in the profession.

B. The Profession as a Lightning Rod for Trauma

The prior discussion examined the characteristics of individuals choosing to join the legal profession, how those characteristics can create trauma, and how two particular groups of legal professional—underrepresented minorities and members of Generation Z—typically experience even greater trauma than their peers. In addition to the nature of the individuals who

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*; Kevin Cokley, Nolan Krueger, Suzanne R. Cunningham, Kathleen Burlew, Shaina Hall, Keoshia Harris, Stephanie Castelin, and Carly Coleman, *The COVID-19/Racial Injustice Syndemic and Mental Health among Black Americans: The Roles of General and Race-related COVID Worry, Cultural Mistrust, and Perceived Discrimination*, 50 J. COMMUNITY PSYCH. 2542-61, ____ (August 2022), doi:10.1002/jcop.22747.

¹⁵⁶ Bakhtiari, *supra* note 143.

¹⁵⁷ Jessica R. Blaemire, *ANALYSIS: Well-Being in Law School—Law Students Aren't OK*, *Bloomberg Law*, <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-well-being-in-law-school-law-students-arent-ok> (Feb. 3, 2023).

¹⁵⁸ *Id.*

choose to be members of the legal profession, the nature of the law and the profession as it is most often practiced greatly informs the trauma so widely experienced in the legal profession. Today's global society is characterized by capitalistic competition, and again, this profession is a microcosm (of sorts) of that larger society.¹⁵⁹ The inalienable characteristics of the profession and the dictates of our capitalist economy has created a "hamster wheel" environment, leading to trauma for many lawyers.¹⁶⁰

The legal profession is well known for its resistance to change.¹⁶¹ Importantly, this resistance to change increases the probability that trauma will be caused or, at the very least, go unaddressed by parties involved in the legal system. From the pathway to practice and the bench to the manner in which the bar and bench both function, there are long-held systems that must be examined to better address trauma in the profession.

Some have pointed to the profession's reliance on precedent as the cause of its resistance to change,¹⁶² but I posit that, ultimately, it's more a personal, or rather a "personnel," problem. To be clear, the legal profession's resistance to change is rooted in the members of the profession; specifically, as discussed in Section I.B., how their brains operate. Despite some significant advances in the last fifteen to twenty years in use of technology,¹⁶³ understanding of adult learning (andragogy),¹⁶⁴ and diversity in the junior ranks of attorneys,¹⁶⁵ the legal profession continues to lag behind other professions. Even when the world saw the economic downturn of 2008 and the influx of millennials into the workplace, as well as tremendous global technological growth and advancements, the legal profession held firm.¹⁶⁶ More recently, during a worldwide pandemic, the profession showed signs of embracing technology in legal education and practice when Covid-19

¹⁵⁹ Nicolás M. Perrone, *Governing Global Capitalism: A Lawyer's Perspective*, 97 BUSINESS HISTORY REV. 614-20, ____ (2023), doi:10.1017/S0007680523000417; Maryam Omari & Megan Paull, 'Shut up and Bill': Workplace Bullying Challenges for the Legal Profession, 20 INT'L J. OF THE LEGAL PRO. 141, ____ (2014).

¹⁶⁰ See Omari & Paull, *supra* note 157, at ____.

¹⁶¹ Thomas Reuters, *supra* note 7.

¹⁶² *Id.* Note that the U.S. Supreme Court's decisions in recent decisions overturning established precedent undercuts this argument. See [insert cites to *Dobb*, *SFFA*, and *Chevron*]

¹⁶³ Thomas Reuters, *supra* note 7.

¹⁶⁴ *Affirmative Reaction*, *supra* note 101, at ____.

¹⁶⁵ *Id.* at ____.

¹⁶⁶ Thomas Reuters, *supra* note 7. [insert text explanation of tech growth, influx of millennials, despite economic downturn.]

demanded rethinking the manner in which the profession operated.¹⁶⁷ And while AI has some promising uses, many in the profession are necessarily proceeding cautiously as some wrinkles in its use begin to emerge.¹⁶⁸ For this reason, the lack of diversity in composition and thought continues to be a major pain point in the legal profession, and the profession continues to be a lightning rod for trauma.¹⁶⁹

1. The Stress and Trauma of Law Practice: From the Bar Exam to Billable Hours

The bar examination is one of many features that limits entrance and adds to the trauma of the legal profession. Most attorneys are not aware that the bar exam has not always existed as a multi-day, written test. Initially, the bar exam was an oral exam. Later attorneys were granted diploma privilege, where graduating from law school was sufficient credential. This system existed prior to the period between the 1890s and 1920s, when attorneys began to practice in jurisdictions outside that where they attended law school.¹⁷⁰ It was not until 1921 that the ABA formally announced a preference for licensure by a written bar examination, and that has been the gold standard since then, with some movement during (and since) the Covid-19 pandemic to allow other licensure mechanisms.¹⁷¹

¹⁶⁷ Jeffrey Allen, *Increasing Dependence on Technology in the Law Practice in the Time of COVID*, 34 AM. J. FAMILY LAW, 160, ____ (2021).

¹⁶⁸ See [Danielle Braff](#), *While some firms embrace generative AI tools, others approach with caution*, ABA JOURNAL, BUSINESS OF LAW (June 1, 2024, 2:30 AM CDT) <https://www.abajournal.com/magazine/article/while-some-law-firms-have-embraced-generative-ai-tools-others-approach-with-caution>.

¹⁶⁹ Emillio Ferrara, *Fairness and Bias in Artificial Intelligence: A Brief Survey of Sources, Impacts, and Mitigation Strategies*, 6 SCI 1, 2-5 (2024) (discussing biases with generative artificial intelligence tools and possible discrimination in criminal justice issues). Although the more correct term would be “andragogical,” as we are discussing adult education, the more general term, “pedagogical,” will be used to be consistent with the sources. See Cindy Nebel, *Pedagogy vs. Andragogy: What's the Difference?*, THE LEARNING SCIENTISTS (Mar. 17, 2024), <https://www.learningscientists.org/blog/2022/3/17-1>.

¹⁷⁰ See *Affirmative Reaction*, *supra* note 101, at 141. See Nicci Arete, *The Bar Exam's Contribution to Systemic Inequalities in Access to Justice Around the World*, 30 WASHINGTON INT'L L.J. 324 (Mar 2021) (“Legal profession regulation began in earnest in the late nineteenth and early twentieth centuries, when some countries created professional legal associations with power, in conjunction with government offices and the courts.”). As of 2022, only Wisconsin, Virginia, and California allowed licensure for ABA-approved law school graduates without passing a written bar exam. *Affirmative Reaction*, *supra* note 101, at 141.

¹⁷¹ *Affirmative Reaction*, *supra* note 101, at 144-45.

Such comprehensive written testing is almost necessarily stressful, but the bar examination seems to be unnecessarily so, to the point of producing trauma. Relatedly, the bar exam has always had its detractors, who cite its racial and cultural bias and its lack of relationship to its stated purpose(s), be it to ensure minimal competence or to prevent lawyer malfeasance.¹⁷² As to the racial and cultural bias arguments, scholars point to the bar examination's ties to the "formalization and elitism" in legal education, which has done little but exclude those outside of the majority population.¹⁷³ Particularly, some scholars have pointed to the "dubious" timing of heightened bar exam cut scores.¹⁷⁴ Indeed, data show that underrepresented and economically disadvantaged people (of which minoritized populations form a majority) disproportionately fail the bar exam.¹⁷⁵ Though the NCBE and state bar examiners have revised the exam numerous times, the data continue to show disproportionate impact on minoritized and disadvantaged people taking the bar.¹⁷⁶

To add, after gaining licensure, most attorneys are confronted by the billable hour structure,¹⁷⁷ the standard in the legal profession since the U.S. Supreme Court held one hundred years ago that the then-existing bar

¹⁷² Nicci Arete, *The Bar Exam's Contribution to Systemic Inequalities in Access to Justice Around the World*, 30 *Washington Int'l L.J.* 324 (Mar 2021); See *Affirmative Reaction*, *supra* note 101, at 143; Michael B. Frisby, Sam C. Erman, and Victor D. Quintanilla, *Safeguard or Barrier: An Empirical Examination of Bar Exam Cut Score*, 70 *J. LEGAL EDUC.* 125 (2020).

¹⁷³ Arete, *supra* note 170, at 332-37 (recounting the history of the bar exam in the United States); see Section II.A.

¹⁷⁴ Frisby, Erman, & Quintanilla, *supra* note 170, at 129 (showing the increase of cut scores to be tied to an increase in the minority demographic in a jurisdiction; with cut score increase there was a corresponding decrease in minority demographic passing the bar exam in that jurisdiction). The authors note, "Just as large numbers of talented nonwhite aspiring lawyers sought to enter the profession, legal regulators began erecting barriers that kept many out." *Id.* at 130.

¹⁷⁵ Arete, *supra* note 170, at 348 (citing Jane E. Cross, *The Bar Examination in Black and White: The Black-White Bar Passage Gap and the Implications for Minority Admissions to the Legal Profession*, 18 *NAT'L BLACK L.J.* 63, 63-64 (2004-2005)).

¹⁷⁶ *Id.* (citing Cross, *supra* note 173, at 63-64). For a more detailed discussion about the Next Gen Bar, see *NextGen: Bar Exam of the Future*, NAT'L CONF. OF BAR EXAM'RS, <https://nextgenbarexam.ncbex.org/> (last visited Oct. 20, 2024).

¹⁷⁷ See Yale Law School Career Development Office, *The Truth About the Billable Hour*, https://law.yale.edu/sites/default/files/area/departments/cdo/document/billable_hour.pdf. (stating that "[n]ot all law firms have the same emphasis on billable hours") [hereinafter *Yale Guide*]. For example, government and public interest may not have billable hour requirements as they do not typically bill their clients. *Id.* Also, public interest law firms, smaller law firms, and many law firms outside of larger metropolitan areas often require fewer billable hours, emphasizing more so "training, client development, community-related activities and the like." *Id.*

association minimum-fee schedules violated federal antitrust law.¹⁷⁸ As with many of its cultural accoutrements and despite the protests of corporate clients and the recession of 2008-2009,¹⁷⁹ as well as data that show it to be a major source of stress for practicing attorneys,¹⁸⁰ the billable hour remains firmly entrenched in the legal profession. It has been said that the billable hour maintains its hold on the profession “for two main reasons: It gives clients some basis for auditing how they’re being billed, and it rewards richly those attorneys who find ways to keep the meter running.”¹⁸¹

Yale Law publishes a billable hour guide for its students, which states up front, “In order to be profitable to your firm, you must make enough money from your billable hours not only to cover your salary and overhead, but also to generate revenue for the firm. It’s not a complicated equation – the more hours you bill, the more revenue for the firm.”¹⁸² The National Center of Law Practice reports that first-year associates should anticipate 1,900 billable hours on average.¹⁸³ That number increases to 1,930 for associates working at firms with more than 700 attorneys.¹⁸⁴ Notably, those numbers are minimal and to succeed and move up in the firm, the junior associate will need to bill even more.¹⁸⁵

According to Yale’s guide, an associate will need to work approximately 10.5 hours to bill approximately 7.5 hours per day.¹⁸⁶ Assuming that the associate took three weeks of vacation, two weeks of holiday, and no sick or personal days, and worked from home to eliminate commute time, they

¹⁷⁸ See Paul M. Barrett, *How Billable Hours Changed the Legal Profession*, BUSINESSWEEK 60 (Dec. 4, 21014) (explaining the history of legal fees and citing Goldfarb v. Virginia State Bar, [insert cite], which ultimately led to the proliferation of the billable hours structure of billing in the legal profession).

¹⁷⁹ *Id.*

¹⁸⁰ See ALM Staff, *Mental Health by the Numbers: The 2024 Survey Infographic*, *American Lawyer* (May 17, 2024, 6:00 AM), <https://www.law.com/americanlawyer/2024/05/17/mental-health-by-the-numbers-the-2024-survey-infographic/> (showing that the billable hour has a moderate or major effect on the stress level of most lawyers).

¹⁸¹ Barrett, *supra* note 176, at 60.

¹⁸² *Yale Guide*, *supra* note 175, at ____.

¹⁸³ *The First-Year Associate's Guide to Managing Billable Time*, PRACTICEPANTHER IN LAW PRACTICE, <https://www.practicepanther.com/blog/first-year-associates-billable-hours/?print=pdf> (Aug. 27, 2018 and updated Apr. 28, 2023).

¹⁸⁴ *Id.* at 1.

¹⁸⁵ See Barrett, *supra* note 176, at 60 (noting that at that time an ambitious associate would probably bill 2,500 hours, which is pretty unsustainable, to be considered partner material). Today, that number is probably greater, making the billable hour structure even more untenable.

¹⁸⁶ *Yale Guide*, *supra* note 175, at 1.

would only reach 1832 billable hours (working 2340 hours).¹⁸⁷ A 30-minute commute would necessitate that the associate work one Saturday a month to reach that number.¹⁸⁸ Correspondingly, an associate who bills 2201 hours will actually work approximately 3058 hours, which includes working 12+ hours per weekday and working three (3) Saturdays per month.¹⁸⁹ Pointedly, these projections do not account for incidental activities, such as interviewing an applicant, pro bono work (if not treated as billable hours) or serving on a Bar committee, or other Bar-related activities, as well as personal calls or conversations with coworkers, and family funerals.¹⁹⁰ And of course, the number of billables and actual working hours for the ambitious associate are even more alarming.¹⁹¹

There is, hence, no mystery why, despite high salaries and yearly bonuses on top, burnout is prevalent in these practices. In fact, data show that the billable hour structure contributes greatly to the already high-stress environment of law practice.¹⁹² Both clients and law firm partners use billables to “bully” the legal professionals to push themselves beyond their limits, causing them to neglect work-life balance and their own well-being.¹⁹³ In turn, an already competitive environment becomes toxic as members of the firm are pitted against each other to generate more work for the firm so they can become partners or qualify for bonuses, as well as to ensure client satisfaction.¹⁹⁴ Though law firms can be the best breeding grounds for toxicity, little is being done to investigate and address these behaviors. Certainly, as the profession continues to grapple with the effects of the resulting trauma and related issues of wellness, the billable hour system, as well as pathways to licensure will need to be addressed.

2. The Stress and Trauma of the Judiciary: From Selection to the Courtroom

The American court system is the seat of justice, and justice is

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.* at 2.

¹⁹⁰ *Id.*

¹⁹¹ See Barrett, *supra* note 176, at 60 (noting that at that time an ambitious associate would probably bill 2,500 hours, which is pretty unsustainable, to be considered partner material); Iain Campbell & Sara Charlesworth, *Salaried Lawyers and Billable Hours: A New Perspective from Sociology of Work*, 19 INT'L J. OF THE LEGAL PRO. 89, ____ (2012) (noting at that time that 2,300 billable hours per year “are sometimes regarded as outside the boundary of honest billing”).

¹⁹² Omari & Paull, *supra* note 157, at 143 (page 2 of pdf) (2013).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

purportedly blind. However, in reality, judges and others who work in the justice system are human beings imbued with the same biases and frailties as others. Moreover, as a longstanding institution constructed in a time when many of today's rights and equities did not exist, the judiciary is one of the systems that perpetuates inequity and is a source of trauma for many who work within it or find themselves in need of legal remedy from it. Undeniably, to effectively address stress and trauma in the profession and achieve wellness, an understanding of how systemic racism and implicit biases of our most trusted institution, our courts, cannot be overlooked.¹⁹⁵

Many of the judiciary's problems are rooted in the mechanisms employed to select its judges. Whether under the federal nomination system or an alternative selection process generally used by state courts, the pathway to the bench is narrow in terms of who will ultimately be selected to serve. Data tend to show that systemic impediments and implicit biases continue to impede efforts to broaden the pathway to make our judiciary more representative of the population it serves. This is particularly problematic as trauma is disproportionately visited upon underrepresented members of the bench, as well as those underrepresented populations otherwise involved in the justice system.

a. The Federal Nominations and Appointment System

Looking at the federal nomination process for judges provides insight into some of the diversity challenges and the genesis of the stress and trauma that many judges of underrepresented populations experience while on the bench, and which, if unaddressed, may result in trauma. Data support a conclusion that White male nominees consistently receive higher scores from the American Bar Association's (ABA) Standing Committee on the Federal Judiciary, which has evaluated federal judicial nominees at some point during their judicial selection process since the mid-20th century, despite protests that claims that "nominees' personal characteristics such as race, gender, ideology, or political affiliation are not taken into account and do not

¹⁹⁵ See *Affirmative Reaction*, *supra* note 101, at 112-13. While many may attempt to explain judicial decisions by way of internal or constitutional law device, I more agree with political scientists who emphasize external and institutional influences, i.e., "life tenure [(versus election)], the structure of partisan composition, the behavior of those persons responsible for staffing the federal judiciary, and broader cultural forces," to explain those decisions. See Mark A. Graber, *The Coming Constitutional Yo-Yo? Elite Opinion Polarization, and The Direction of Judicial Decision Making*, 56 How. L.J. 661, 661-62 (2013).

influence the evaluation.”¹⁹⁶ Looking at the nominees’ educational and provisional backgrounds and reversal ratings, this skew towards White male nominees does not appear to be an issue of quality.¹⁹⁷

Additionally, the appointment system can be equally vexing, particularly during the Trump administration when he appointed some 230 judges to the federal bench, most of whom were White men. None were Black, and one was Latinx.¹⁹⁸ Of note, many of Trump’s appointees lacked the judicial experience and temperament of past presidential appointees.¹⁹⁹ Many of these appointees seem more interested in their own conservative ideologies, (backed by the Federalist Society) than the rule of law.²⁰⁰ While these appointees may not suffer any trauma, those who appear before them certainly will as partisan politics in the federal judiciary now threatens the sanctity of the rule of law.²⁰¹

b. The State Courts Selection and Elections System

Much like the federal appointments process, the selection process for state judges, built on the foundation of implicit bias and long-standing

¹⁹⁶ Taneisha M. Means, *Her Honor: Black Women Judges’ Experience with Disrespect and Recusal Requests in the American Judiciary*, 43 J. WOMEN, POLITICS & POL’Y 311-12 (2022), <https://doi-org.wake.idm.oclc.org/10.1080/1554477X.2022.2068120> (explaining that the committee “maintains that it evaluates nominees to the federal courts based on their professional qualifications and the following categories of criteria: legal ability, integrity/impartiality, communication skills, professionalism/temperament, and administrative capacity”).

¹⁹⁷ *Id.* at 311.

¹⁹⁸ See The Brennan Center, *Fair Courts E-Lert: New Vacancies Pave the Way for Biden Judicial Appointments* (Newsletter), <https://www.brennancenter.org/our-work/research-reports/fair-courts-e-lert-new-vacancies-pave-way-biden-judicial-appointments> (last visited June 25, 2024); Jennifer Bendery, *Federal Judges Are Retiring Now That Joe Biden Will Pick Their Replacements*, HUFFINGTON POST, https://www.huffpost.com/entry/federal-judges-retire-joe-biden_n_600f3759c5b676ad837652a8 (Jan 27, 2021, 03:48 PM EST; updated Feb 1, 2021) (stating that Trump appointed “more than 230 people” to federal judgeships, which is more than “Obama (175), Bush (206) and Clinton (204) confirmed in their first terms”).

¹⁹⁹ Andrew Cohen, *Trump and McConnell’s Overwhelmingly White Male Judicial Appointments* (Fellows), <https://www.brennancenter.org/our-work/analysis-opinion/trump-and-mcconnells-overwhelmingly-white-male-judicial-appointments> (July 1, 2020).

²⁰⁰ *Id.*

²⁰¹ *Id.* (discussing the far-reaching consequences of the Trump appointees with views so antithetical to so many of America’s diverse population). Cohen’s article notes that many of the White male appointees were so conservative in their legal philosophy that they refused acknowledge that the historic Supreme Court case, *Brown v. Board of Education*, as valid precedent. *Id.*

systems that were created without concern about underrepresented populations, is a source of concern when looking at how best to address trauma in the legal profession.²⁰² The selection process, most often used by state courts, may look very much like the federal nominations process, but involves the governor and the legislative body of a particular state.²⁰³ At the state level, Judicial Performance Evaluations (JPEs), which are completed by practicing attorneys and intended to assist voters to select the best state judges, tend to show the same bias as shown in the federal nomination system.²⁰⁴ White men are still rated higher than their minoritized and female colleagues.²⁰⁵

Further, the elections system exacerbates the inequities of the justice system in that it politicizes a system that should be based on law and not politics.²⁰⁶ It places stress on judges who are elected and must campaign for their seat on the bench, as they may be conflicted as to whether the law or party politics or their own reelection should come first. While a bit more complicated than the federal appointments system, the state elections system has supported a similar rise of partisan politics in the judiciary, which impacts the institution and the populous at large.

Some state court systems allow for an initial appointment by the governor if a seat becomes vacant, while others allow a nominating committee to do the honors; some judicial elections are partisan, while others are not.²⁰⁷ Currently thirty-eight states elect their state supreme court justices.²⁰⁸ The others employ some appointment method that includes the governor,

²⁰² See generally Raquel Muñiz, *A Theory of Racialized Judicial Decision-Making*, 28 MICH. J. RACE AND L. 344 (2023), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1403&context=mjrl>.

²⁰³ *Comparing Federal & State Courts*, U.S. COURTS, <https://www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts> (last visited Sept. 12, 2024).

²⁰⁴ Means, *supra* note 194, at 311.

²⁰⁵ *Id.*

²⁰⁶ Edward B. Foley, *Keeping the Administration of Our Elections from Becoming Politicized*, ABA (May 6, 2024), https://www.americanbar.org/groups/public_interest/election_law/american-democracy/resources/keeping-administration-elections-becoming-politicized/?login.

²⁰⁷ The Brennan Center for Justice, *Judicial Selection: and Interactive Map*, <https://www.brennancenter.org/judicial-selection-map> (last updated Oct. 11, 2022) [hereinafter *Judicial Selection*]; Brennan Center, *Significant Figures in Judicial Selection*, <https://www.brennancenter.org/our-work/research-reports/significant-figures-judicial-selection> (updated April 14, 2023) [hereinafter *Significant Figures*].

²⁰⁸ *Judicial Selection*, *supra* note 205; *Significant Figures*, *supra* note 205.

legislative body, or nominating commission.²⁰⁹

For those states that require elections for a judgeship, whether partisan or non-partisan, the judicial candidate must campaign and raise money, much like any other candidate for political office.²¹⁰ The judicial candidate must also speak out on issues that are at the forefront of the public, and increasingly, those issues are politically polarizing.²¹¹ News programming and social media threads lead off with news stories about unseemingly events involving our judiciary.²¹² Even the appearance of impartiality is thus being eroded by an increasing influence of political wrangling.²¹³ Finally, these

²⁰⁹ *Judicial Selection*, *supra* note 205; *Significant Figures*, *supra* note 205.

²¹⁰ See The Brennan Center for Justice, *Money in Judicial Elections (Project)*, <https://www.brennancenter.org/issues/strengthen-our-courts/promote-fair-courts/money-judicial-elections> (last visited June 25, 2024) (noting “the growing threats” on an impartial judiciary “from secret money, special-interest pressure, and misleading attacks on judges”). Note that this need to fundraise and campaign on “hot button topics” are changing the landscape of the judiciary. See e.g. Joanna Penn, *Politicized courts and the partisan leanings of U.S. judges and attorneys: Data analysis of the 50 states*, JOURNALIST’S RESOURCE (Feb. 12, 2015), <https://journalistsresource.org/politics-and-government/politicized-courts-partisan-judges-attorneys-data-analysis/>.

²¹¹ Douglas Keith, *Post-Dobbs State Judicial Races Broke Spending Records*, STATE COURT REPORT (Jan. 31, 2024), <https://statecourtreport.org/our-work/analysis-opinion/post-dobbs-state-judicial-races-broke-spending-records> (noting the impact of spending on judges’ political opinions on prominent issues such as abortion).

²¹² From the tussle between Supreme Court Justice Anita Earl and the N.C. Judicial Standards Commission over statements that she has made about diversity and inclusion issues in the North Carolina judiciary, see Gary D. Robertson, *North Carolina Justice Ends Suit Against Ethics Panel After It Dismisses Complaint*, ASSOCIATED PRESS (Jan. 17, 2024, 2:32 PM), <https://apnews.com/article/north-carolina-justice-ethics-drops-lawsuit-24763cfa64aca0fc58e559ca4ffe5cf9>, to the questionable (some would say downright inane) rulings of the Trump-appointed federal judge who refused to recuse herself in Trump’s federal records case, see Charlie Savage and Alan Feuer, *Judge in Trump Documents Case Rejected Suggestions to Step Aside*, THE N.Y. TIMES (June 20, 2024), <https://www.nytimes.com/2024/06/20/us/politics/aileen-cannon-trump-classified-documents.html>.

²¹³ The federal system of lifetime appointments has many detractors, but recently several events involving members of the state judiciary highlight the politicization in state court systems that require the election (and not lifetime appointments) of judges. See Gary D. Robertson, *Chief Judge is Replaced in a Shakeup on the North Carolina Court of Appeals*, Chapelboro.com (Jan. 4, 2024), <https://chapelboro.com/news/state-government/chief-judge-is-replaced-in-a-shakeup-on-the-north-carolina-court-of-appeals> (noting that Republican Chief Justice of North Carolina Supreme Court replaced Republican Chief Judge of North Carolina Court of Appeals, a woman who has been criticized for being too liberal, for another Republican, a male judge who is more junior and politically conservative); see also, Ryan Oehrli, *NC’s chief justice won’t say why he removed Charlotte judge from leadership spot*, CHARLOTTE OBSERVER (May 9, 2024),

conflicting demands, along with the uncertainty of continuing on the bench, may also be a source of stress and trauma.

c. Sources of Trauma on the Bench and in the Courtroom

The federal system is significantly simpler as all the seats on the federal bench are filled by lifetime appointment.²¹⁴ But regardless of the way judges are placed on the bench, their experience may not only be rewarding but also a source of trauma. Some scholars have argued that this appointment system helps to alleviate some of the biases that may show up in an election system.²¹⁵ However, as noted by author and political scientist Mark Graber, “the direction of judicial decision making at a given time reflects the views of the most affluent and highly educated members of the dominant national coalition,”²¹⁶ which does little to ease the stress fractures already visible in our structurally biased judicial system.

Significantly, those judges from underrepresented populations oftentimes find themselves at the center of stressful and sometimes trauma-inducing experiences. For example, a rather stark recount of the treatment of Black female judges is presented by scholar and professor Taneisha Means in her article, “Her Honor: Black Women Judges’ Experience with Disrespect and Recusal Requests in the American Judiciary.”²¹⁷ The data tend to show that despite the Model Rules of Professional Conduct that is mandatory in some version in every jurisdiction, Black female judges feel disrespected.²¹⁸ For instance, some have been asked to recuse themselves from a case, meaning their ability to rule effectively and impartially was questioned, at a disproportionate rate by attorneys and litigants because of implicit bias.²¹⁹

In Means’ study, over half of the respondent judges from minoritized

<https://www.charlotteobserver.com/news/local/crime/article288423835.html> (Republican Chief Justice of North Carolina Supreme Court stripped a chief district court judge (a female Democrat) in Charlotte, NC). Though these incidences all occurred in North Carolina, it stands to reason that similar occurrences are occurring nationwide in state courts, where politics seem to supersede the rule of law.

²¹⁴ The mechanism of the federal appointments system is discussed in Section II.B.2.a. above.

²¹⁵ See generally Graber, *supra* note 193, at 661.

²¹⁶ *Id.* at 664.

²¹⁷ Means, *supra* note 194.

²¹⁸ *Id.* at ____.

²¹⁹ *Id.* at 313-15. Data was collected from surveys of all of the Black state court judges (<1,000 at that time).

groups felt disrespected, with the incidences of disrespect fitting into three categories.²²⁰ “First, Black women judges have often been spoken to or treated in aggressive/confrontational, threatening, and inappropriate ways; Second, these judges have had their legitimacy, authority, and competence questioned; Finally, they have not always been referred to or called by their appropriate name or title.”²²¹ In addition, 70% of the Black female judge respondents reported being asked to recuse themselves. Of those, approximately 23% believed that it was because of their race, 10% believed it was because of their political ideology, 6% believed that the recusal request was because of their gender, and 2% believed it was because of their sexual orientation.²²² Also, the judges “made clear that many of the attorneys and litigants who have been most disrespectful to them are men, especially white men.”²²³

What is more troubling than the behavior suffered by the respondents is their coping mechanism. While many of the respondents noted that corrective measures they took made clear that the disrespectful behavior would not be tolerated in the courtroom, too many noted that they had begun to suppress any response to the behavior, an unhealthy response to stress and trauma.²²⁴ Indeed, this action only leads to unhealthy consequences for the judge and those who are indirectly traumatized by observing these behaviors.²²⁵

The “stress fractures” seen in the judiciary are telling. As with most American institutions, the judiciary is also replete with systemic racism and implicit bias, which visits stress and trauma on members of the bench, the bar, and clients who come into contact with them.²²⁶ In addition, and most

²²⁰ *Id.* at 317.

²²¹ *Id.*

²²² *Id.* at 321. Forty-eight percent of the recusal requests were due to “perceived conflict of interest,” which is generally a permissible reason to request a recusal, alone were reported to have influenced the request(s). *Id.*

²²³ *Id.*

²²⁴ *Id.* at 322.

²²⁵ See Yuen, *supra* note 1, at 74-75 (listing a plethora of negative results when stressors and trauma are ignored: “the suppression of and disengagement from enjoyable emotions, oversensitivity to negatively associated experiences, contribution to systemic injustice, status quo, and implicit bias, a disconnection from one’s own self, a perception of disempowerment, risk averse, behaviour or preference for short-term outcomes while losing sight of long-term goals or intentions, poorer physical health, unhealthy coping methods to manage emotions, inability to self-examine or self-reflect, internalized feelings of isolation, adverse mental health impacts, and impairment of one’s own ethics”)

²²⁶ Robyn Sanders and [Michael Milov-Cordoba](#), *Judicial Ethics Doesn’t Bar Judges from Speaking Out About Diversity and Racial Injustice*, BRENNAN CENTER (Sept. 20, 2023),

importantly, the incongruence between the stated goal of the judiciary—“justice for all”—and the reality of disrespect shown to minority judges negatively impacts the institution itself. Members of the public begin to lose faith in our judiciary, which only visits more trauma on those citizens who may have already been victims of trauma.

III. THE LEGAL PROFESSION’S CURRENT REACTION TO TRAUMA

As a microcosm (of sorts) of American society, the legal profession is affected by many of ills of larger society. Accordingly, there is much to be learned by looking at how the profession both encounters and addresses trauma. Though lawyers are in no way exempt from trauma,²²⁷ in terms of reaction it is anecdotally one of the last of the “human services” to embrace the need for self-care protocols.²²⁸ Unlike other professions that receive training on addressing trauma, law schools provide little, if any, instruction on the subject.²²⁹ In fact, one author noted anecdotally that law school’s solution to reducing stress or addressing trauma is happy hour, which undoubtedly contributes to the profession’s high level of alcohol abuse.²³⁰ Others point to law school curricula that teach students to remain objective and to ignore the role that emotion plays in the law, which may cause “fragmentation of self and emotional disengagement.”²³¹ In turn, this “fragmentation of self and emotional disengagement” may lead to disassociation, which is coincidentally the human response to trauma.²³²

<https://www.brennancenter.org/our-work/analysis-opinion/judicial-ethics-doesnt-bar-judges-speaking-out-about-diversity-and-racial>.

²²⁷ Marie-Jeanne Léonard et al., *When the Lawyer Becomes Traumatized: A Scoping Review*, 10 SAGE J. (2020),

<https://journals.sagepub.com/doi/full/10.1177/2158244020957032>; see SHAILINI JANDIAL GEORGE, DOING WELL AND BEING WELL 5-6 (2021) (noting that “challenge, change, and uncertainty” as well as pessimism, imposter syndrome, and the adversarial nature of the justice system are some of the reasons for lawyers’ stress, anxiety, and unhappiness”).

²²⁸ Colin James, *Towards Trauma-Informed Legal Practice: A Review*, 27 PSYCHIATRY, PSYCHOLOGY AND LAW 275–99 (2020), <http://dx.doi.org/10.1080/13218719.2020.1719377> (comparing the legal profession with medical, allied health and counselling fields).

²²⁹ Cho, *supra* note 72. See also Helen Baillot, Sharon Cowan & Vanessa E. Munro, *Second-hand Emotion? Exploring the Contagion and Impact of Trauma and Distress in the Asylum Law Context*, 40 J. OF LAW AND SOCIETY 509–40 (2013), <http://www.jstor.org/stable/43863008> (last visited Dec. 5, 2023) (observing that “while ‘being exposed daily to detailed traumatic narratives is extremely demanding and adds an important emotional dimension’, lawyers are not trained to acknowledge these work-related emotions, let alone to address the traumatic impact they may have upon them”).

²³⁰ Cho, *supra* note 72.

²³¹ Yuen, *supra* note 1, at 49-50.

²³² *Id.* at 45.

Current efforts to address trauma in the profession are led by the American Bar Association, which governs legal education, and local, state, national, and international bar associations and affiliate organizations.²³³ In response to criticisms of the law school curriculum deficiencies, the ABA continues to add standards that require more experiential learning, as well as cultural competency and professional identity instruction.²³⁴ In addition, state and local bar associations and professional affinity groups continue to add programming to encourage these three pillars, particularly improved physical and mental health.²³⁵ Finally, law firms are instituting programs to target improved well-being to improve the health of their associates.²³⁶ However, based on the data, more is needed. While these efforts help to move the needle in preventing and addressing trauma among legal professionals, as Section IV explains, more can be done.

As noted by author, attorney, and professor Susan Daicoff, to be effective advocates, legal professionals must heal our own wounds because “lawyers can’t successfully and permanently operate from a position of woundedness.”²³⁷ If not, lawyers may overdo, “acting compulsively, (behaviors that result from unresolved wounds/trauma),” which only leads to failing their clients.²³⁸ Many trauma experts support trauma literacy for all lawyers as well as mandatory implementation of trauma-informed principles, including in the workplace.”²³⁹

Presently, most state bars and adjacent organizations have some type of services to encourage and support lawyer well-being, which may include task

²³³ Based on the focus of the ABA and the literature disseminated by most local, state, national, and international bar associations, an effective attorney must be skilled in the law, culturally competent, and healthy. *See generally* Alesia S. Sulock and Josh J.T. Byrne, *Your Well-Being Matters: Attorney Mental Health and Professional Competence*, THE LEGAL INTELLIGENCER (May 15, 2024) (using the Pennsylvania Rules of Professional Conduct to emphasize the importance of attorney mental health when representing clients). This article focuses solely on the “healthy” part of this mandate.

²³⁴ *About Standard 303*, UNIVERSITY OF ST. THOMAS <https://law.stthomas.edu/about/centers-institutes/holloran-center/about-standard-303/> (last visited Sept. 12, 2024).

²³⁵ *See Directory of Assistance Programs*, https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/.

²³⁶ *See e.g.*, Danielle Braff, *Law firms are using wellness programs to recruit new lawyers*, ABA (Aug. 1, 2022), <https://www.americanbar.org/groups/journal/articles/2022/law-firms-are-using-wellness-programs-to-recruit-new-lawYERS/>.

²³⁷ Susan Daicoff, *The Wounded Healer*, in *Trauma-Informed Law*, *supra* note 6, at 55. TRAUMA-INFORMED LAW 55 (2023)

²³⁸ *Id.*

²³⁹ Yuen, *supra* note 1, at 114.

forces focused on attorney well-being and mental health, as well as continuing legal education (CLE) programming aimed at reducing the stigma around mental health issues, promoting self-care, and providing lawyers with tools to manage stress and trauma effectively. Many bars offer confidential Lawyer Assistance Programs (LAPs) that offer counseling, peer support, and referrals to mental health professionals.²⁴⁰

Additionally, most legal employers also have wellness initiatives for their employees.²⁴¹ These initiatives may include providing access to mental health professionals, offering wellness programs, and encouraging open discussions around mental health.²⁴² These initiatives often include Employee Assistance Programs (EAPs), which offer confidential counseling services, and workshops on topics such as stress management and mindfulness.²⁴³ In an effort to improve work-life balance and help alleviate stress and burnout, some firms are also adopting more flexible work arrangements, such as remote work options, flexible work hours, and reduced billable hour requirements.²⁴⁴ Some firms are also shifting their workplace culture to prioritize well-being.²⁴⁵ This includes encouraging associates to take time off for mental health and making resources for managing stress and trauma readily available to all who need them.²⁴⁶

However, data show that many of these efforts are not as effective as wished or reported, and there is most often no mechanism in place to measure their effectiveness.²⁴⁷ Many fear that without some real modification of the current law firm business model, which features the often vilified billable

²⁴⁰ See *Directory of Lawyer Assistance Programs*, ABA, https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/ (BarCARES of North Carolina, New York Lawyer Assistance Program, The Florida Bar Mental Health Helpline).

²⁴¹ *What's Working Well in Law Firm Well-Being Programs*, INSTITUTE FOR WELL-BEING IN THE LAW, (May 2021) https://lawyerwellbeing.net/wp-content/uploads/2021/05/Well-Being-Firm-Profiles_4-2021.pdf.

²⁴² *Id.* at 7.

²⁴³ *Id.* at 2.

²⁴⁴ *Contemplating and Evaluating Flexible Work Arrangements*, NORTH CAROLINA BAR ASSOCIATION 1, 10-14 (2020) <https://www.ncbar.org/wp-content/uploads/2020/06/one-size-does-not-fit-all-contemplating-and-evaluating-flexible-work-arrangements-final-1.pdf> (discussing the benefits and implementation of flexible hours and remote work); Debra Cassens Weiss, *Cap billable hours for lawyer well-being, state bar report says; survey found this group is least satisfied*, ABA (Nov. 3, 2021) <https://www.americanbar.org/groups/journal/articles/2021/cap-billable-hours-for-lawyer-well-being-state-bar-report-says/> (discussing the benefits of capping billable hours at 1800).

²⁴⁵ See INSTITUTE FOR WELL-BEING IN THE LAW, *supra* note 235, at 1.

²⁴⁶ *Id.* at 4.

²⁴⁷ *Global Study*, *supra* note 4, at 41.

hour structure discussed in Section II.B., any efforts to reduce lawyer stress, trauma, and burnout are doomed.²⁴⁸ State bar programs and affinity organizations are not mandatory, their efforts tend to be scattershot, and may be stigmatized.²⁴⁹ Because of the stigma around mental health and well-being held by older attorneys, younger attorneys struggling to balance their work and personal obligations or achieve a semblance of well-being are reticent to reach out for assistance.²⁵⁰

Many systems theorists provide hope. The legal system, like all systems, changes in cycles.²⁵¹ And many systems theorists that “we are in the systems dying phase of a lot of our Western cultural and governmental systems.”²⁵² To that end, this may be a good time for our legal system to be reformed (at a minimum).²⁵³ A serious look at the changing values and increased knowledge about the role of stress and trauma in the profession supports such.²⁵⁴ Scientists mention the Collaborative Practice (in divorce and civil matters), the use of Mediation, Restorative Justice, Problem-Solving Courts, Holistic Law, Values-Based Contracts as examples of changes that could lead to broader systems changes in the legal profession.²⁵⁵

I posit that the bedrock of these changes is community—connection of the law to the people who work within the legal system and those it serves. As discussed in Section IV, employers, state bars, and adjacent organizations should operate collaboratively to create a community of wellness, where lawyers feel supported and can support others. As with law schools, this will require deliberate and strategic planning and action involving all stakeholders. What is started in law schools, must be continued in the profession to achieve and maintain wellness in the legal profession. There must be a cultural (or systems) shift to recognize the power of community in

²⁴⁸ Cheryl Ann Krause & Jane Chong, *Lawyer Wellbeing as a Crisis of the Profession*, 71 S.C.L. REV. ____ (2019), <https://sclawreview.org/article/lawyer-wellbeing-as-a-crisis-of-the-profession/>.

²⁴⁹ *Global Study*, *supra* note 4, at 41 (meaning that most people do not avail themselves of their services).

²⁵⁰ Grace Rountree, *Fighting Stigma: A Lawyer’s Mental Health Journey*, LCL (October 18, 2023), <https://www.lclma.org/2023/10/18/fighting-stigma-a-lawyers-mental-health-journey-guest-post-mlw-series/>.

²⁵¹ J. Kim Wright, *Some Trauma-Informed Frameworks for Systems Change: Change Makers, Designing Systems and Cultural Organizing*, in *TRAUMA-INFORMED LAW*, *supra* note 6, at 210.

²⁵² *Id.* at 210.

²⁵³ *See id.* (nothing that “old dominant systems are beginning to be replaced—not reformed, but actually replaced—with new systems based on a different set of values and knowledge”).

²⁵⁴ *Id.*

²⁵⁵ *Id.* at 211.

our efforts to be well. As America hurtles towards a day of new Jim Crow and embraces a U.S. Supreme Court that heralds colorblindness as a tool to combat the new age of white supremacy,²⁵⁶ trauma in the profession is sure to increase exponentially. Recognizing its nefarious nature, it would be wise to recalibrate and revise the profession's somewhat piecemeal approach to trauma and embrace a more holistic approach to build community.²⁵⁷

IV. BUILDING COMMUNITY TO PREVENT AND HEAL TRAUMA

While progress has been made in the legal profession to both acknowledge the great stress and oftentimes trauma that legal professionals encounter as a part of their jobs, more can be done. To more properly address trauma, the legal profession must become aware and change at the cultural, societal, and systems level by appreciating the importance of health and well-being and “identifying and changing destructive policies that embed racism,”²⁵⁸ as well as other discrimination, i.e., age, gender, or sexual orientation and other inequities.²⁵⁹ There must be an awareness of what trauma is and a collective understanding of how it affects people individually and as a society, especially amongst underrepresented populations.

Human “connectedness” or community is critical in the healing of trauma. The fact that some trauma is suffered as a group, i.e., racial minorities, the elderly, women, and LGBTQ+ populations, makes collective healing (in community) even more imperative.²⁶⁰ Dr. Bruce Perry, noted psychologist and neuroscientist, speaks about the need to recognize these core concepts in addressing trauma.²⁶¹ He explains that awareness helps people find purpose for their pain, while connections with others heals that

²⁵⁶ Benjamin G. Davis, *Systemic Racism in the United States*, in TRAUMA-INFORMED LAW, supra note 6, at 191 (describing the Supreme Court's resurrected idea of colorblindness “bizarre” and a mere mask of the remaining hate of old Jim Crow and white supremacy).

²⁵⁷ Yuen, *supra* note 1, at 116. *But see* Helen Baillot, Sharon Cowan & Vanessa E. Munro, *Second-hand Emotion? Exploring the Contagion and Impact of Trauma and Distress in the Asylum Law Context*, 40 J. OF LAW AND SOCIETY 509–40 (2013), <http://www.jstor.org/stable/43863008> (last visited Dec. 5, 2023) (noting that unlike other professionals who deal with trauma in their clients—psychiatrists, social workers, etc.—lawyers are not trained to deal with trauma in their clients).

²⁵⁸ Yuen, *supra* note 1, at 127.

²⁵⁹ Peter Blanck, et al., *Diversity and Inclusion in the American Legal Profession: First Phase Findings From a National Study of Lawyers With Disabilities and Lawyers Who Identify As LGBTQ+*, 23 UDC L. Rev. 23 (2020).

²⁶⁰ See Shaneé A. Washington et al., “It’s a Vibe”: *Belonging, Healing, and Liberation in Community Spaces By Us and For Us*, EQUITY & EXCELLENCE IN EDUC. (Oct. 8, 2023), <https://doi.org/10.1080/10665684.2023.2262477>.

²⁶¹ PERRY & WINFREY, *supra* note 12, at 242. (also read Chapter 9)

pain.²⁶² Indeed, there is healing and power in community,²⁶³ and because of the legal profession's unique predisposition to stress and trauma, community building is a perfect mechanism to the profession's path to healing and wellness.

This article posits that community can provide much of the healing for and prevention of trauma in the legal profession. This section begins by defining community and discussing its absence in today's society, which is linked to why current efforts to address trauma in the legal profession are insufficient. The section continues, proposing concrete ways to implement change and build community, so as to create better synergy between all the stakeholders and more effectively address trauma in the legal profession.

A. Community: Definition and Modern-Day Impacts

The need for, and positive impacts of, human connectedness is well settled. That connectedness is most often referred to and viewed as "community." In her post-pandemic *Forbes* magazine article on the importance of community, author and sociologist Tracy Brower wrote, "Community is critical to our overall wellbeing and the decline of our connectedness is coming at the same time mental health issues are on the rise."²⁶⁴ This cause and effect is not surprising because human beings are naturally social creatures.²⁶⁵ Law professor and author Shailini Jandial George noted in her book that social connection improves both physical health and psychological well-being.²⁶⁶ She confirms that "social connectedness . . . generates a positive feedback loop of social, emotional, and physical wellbeing," whereas lack of such connection "is worse for your physical health than obesity, smoking, and high blood pressure."²⁶⁷ In sum, the healthier person is most often one who exists in community with others.²⁶⁸

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ Tracy Brower, *How To Build Community And Why It Matters So Much*, FORBES, Dec. 10, 2021, <https://www.forbes.com/sites/tracybrower/2020/10/25/how-to-build-community-and-why-it-matters-so-much/>.

²⁶⁵ Loraine Terrell, *The Science of Being Social*, OMNIA (May 22, 2023), <https://omnia.sas.upenn.edu/story/science-being-social>.

²⁶⁶ George, *supra* note 223, at 67.

²⁶⁷ *Id.* (explaining that loneliness is an emotional stressor which taxes the endocrine, cardiovascular, and immune systems).

²⁶⁸ Debra Umberson & Jennifer K. Montez, *Social Relationships and Health: A Flashpoint for Health Policy*, 51 J. HEALTH & SOC. BEHAV. S54, S55 (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3150158/>.

1. Defining and Building “Community”

Much like trauma, “community” may mean different things to different people in different contexts.²⁶⁹ For example, Merriam Webster dictionary includes a rather expansive definition of the term: “a unified body of individuals: such as (a) “the people with common interests living in a particular area”; (b) “a group of people with a common characteristic or interest living together within a larger society”; (c) a body of persons of common and especially professional interests scattered through a larger society”; “a body of persons or nations having a common history or common social, economic, and political interests the international community”; “an interacting population of various kinds of individuals (such as species) in a common location.”²⁷⁰ In the public health field, that rather expansive definition has been distilled to the following: “a group of people with diverse characteristics who are linked by social ties, share common perspectives, and engage in joint action in geographical locations or settings.”²⁷¹ After studying several diverse communities and asking respondents to define “community,” scientists in one public health study noted that there was common focus on the importance of “locus” and “face-to-face interaction” in forming community, where social cohesion and community involvement would act as mechanisms to set or maintain proper boundaries.²⁷²

To build “community” there must be a strong sense of purpose and connection between its members.²⁷³ While there should be leaders, each member of the community has their own purpose and roles to play.²⁷⁴ The leader assists by providing community members with a vision, so the broader purpose of the particular community is clear and individual members are aware of “how their work fits into the whole.”²⁷⁵ Communication amongst

²⁶⁹ See e.g., Kathleen M. MacQueen, Eleanor McLellan, David S. Metzger, Susan Kegeles, Ronald P. Strauss, Roseanne Scotti, Lynn Blanchard, and Robert T. Trotter, II, *What is Community? An Evidence-Based Definition for Participatory Public Health*, 91 AM. J. PUBLIC HEALTH 1929 (date) [pin cite to Discussion section], doi: 10.2105/ajph.91.12.1929 (recounting a litany of definitions of the term).

²⁷⁰ *Community*, MERRIAM WEBSTER, https://www.merriam-webster.com/dictionary/community?utm_campaign=sd&utm_medium=serp&utm_source=sonld (last visited July 12, 2024).

²⁷¹ MacQueen, McLellan, Metzger, Kegeles, Strauss, Scotti, Blanchard, and Trotter, II, *supra* note 265 (defining “community” after asking diverse populations in Durham, NC, Philadelphia, PA, San Francisco, CA, and in other areas across the United States “what does the word community mean to you?”).

²⁷² *Id.* [insert pin cite after .pdf downloaded].

²⁷³ Brower, *supra* note 260.

²⁷⁴ *Id.*

²⁷⁵ *Id.*

members of the community is integral to maintain its sense of purpose and connection. Hence, community members must communicate and take steps to remain in contact with each other.²⁷⁶ Data tends to show that a voice call is more effective than a text message.²⁷⁷

Showing compassion and fostering a sense of belonging amongst members is also critical in building a strong community. Something as small as inviting another person to lunch after the gym or asking a work colleague for advice on a work project can make a lasting impression and “build social capital.” Not only is this interaction “positive for people because it provides the opportunity for growth, learning and advice,” it is also “good for organizations because social capital helps people get work done more effectively and efficiently.”²⁷⁸ Moreover, to strengthen and sustain a community, its members must seek new opportunities for growth and learning.²⁷⁹ Leaders must encourage the community or organization’s members, even when they fail, as such failures lead to growth.²⁸⁰ And members need to support each other in developing novel and innovative ideas, even if they seem unpopular or odd as many innovations come from the fringes.²⁸¹ As Barbara Streisand sang many years ago, “People who need people are the happiest people.”²⁸² Though many years have passed, this statement still rings true.

2. The Lack in Modern-Day Society: Cause and Effect

The focus on community has waned significantly in modern-day society. Instead, the focus for most people has increasingly become more centered on materialistic consumerism, which is a product of the neoliberal capitalism where everyone is focused on the next marketing sensation.²⁸³ Today, our social character is marked by the following three traits: (1) separation from self; (2) consumption hunger; and (3) hypnotic passivity.²⁸⁴ First, by making people feel inadequate and capitalizing on these feelings, today’s society slowly pulls people away from the thing(s) that make them unique as they

²⁷⁶ *Id.* (“[P]eople feel more supported when their networks are more tightly knit.”).

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² BARBARA STREISAND, *People, on PEOPLE* (SONY MUSIC ENTERTAINMENT 1964).

²⁸³ Maté & Maté, *supra* note 13, at 295-96. It would seem that an entire new profession has been created as social media influencers have become so popular that they can earn a living by just shopping and encouraging others to do the same. [insert text information about proliferation of social media influence]

²⁸⁴ *Id.* at 202-07.

yearn for some ideological version of perfection.²⁸⁵ Second, the rabid hunger for things that we do not need is a constant, which divorces us from any feeling of accomplishment or satiety.²⁸⁶ And finally, the desire to fit in and not “rock the boat,” “makes us passive even in the face of threats to our existence as a species.”²⁸⁷ For many, after chasing individual success, without thought for how that impacts others, has led to a loss of meaning, loneliness, and for some deep depression.²⁸⁸

Whether it be termed “dislocation,” as one author and psychologist terms it,²⁸⁹ or “alienation” as used by others like philosopher and economist Karl Marx,²⁹⁰ this lack of connection to ourselves and others and, thus, our meaning and purpose is well documented in a society characterized by a diminution of interest in common goals and the good of others.²⁹¹ As the Matés note, “it is the case that centering on the self’s evanescent desires to the exclusion of communal needs results in a diminished connection to our deepest selves [–]the parts that generate and sustain true well[.]being.”²⁹² This loss of meaning, results in the very loss of self and our physical and physical well[.]being.²⁹³

There are startling statistics about loneliness in this country.²⁹⁴ Indeed, loneliness has been termed “a public health crisis” in Western cultures.²⁹⁵ Data shows that loneliness can go so far as to “impair genetic functioning.”²⁹⁶ In sum, while connectedness improves one’s health, social isolation does

²⁸⁵ *Id.* at 202-03.

²⁸⁶ *Id.* at 203-05.

²⁸⁷ *Id.* at 205-06.

²⁸⁸ *Id.* at 290-91.

²⁸⁹ *Id.* at 288-89 (citing to author and noted psychologist Bruce Alexander use of the term in describing the “physical and psychic dislocation forced upon North America’s Indigenous populations by colonialism” or more recently, the “economic hollowing out of regions in the United States, from the Rust Belt to the mining town of the Appalachians” brought about by globalization and resulting in a greater number of suicides and overdose deaths among the poor and working class).

²⁹⁰ *Id.* at 290 (noting the use of this term by Karl Marx to mean “disconnection from our labor as a meaningful activity over which we have agency and control”).

²⁹¹ *Id.* (“There are no moral fingers to wag here. Objectively, it is the case that centering on the self’s evanescent desires to the exclusion of communal needs results in a diminished connection to our deepest selves, which is to say the parts of us that generate and sustain true well-being.”).

²⁹² *Id.* at 291.

²⁹³ *Id.*

²⁹⁴ Brower, *supra* note 260.

²⁹⁵ See Maté & Maté, *supra* note 13, at 293-94. Notably, because of the alarming effects of loneliness, Great Britain has appointed a minister of loneliness. *Id.* at 295.

²⁹⁶ *Id.* at 294.

quite the opposite--inhibiting the immune system, promoting inflammation, agitating the body's stress apparatus, and increasing the risk of death from heart disease and strokes.²⁹⁷

As a microcosm of the larger society, these ills are on display in the legal profession. It is a stress-filled, trauma-inducing profession, and efforts to understand and address this stress and trauma have fallen woefully short. Though current efforts are a good start, it is necessary to more purposefully employ human connections and the power of community to root out stress and trauma and, thereby, ensure well-being in the legal profession.

B. Effective Implementation of Community in the Legal Profession to Address Trauma

Having explored the definition of community and the effects of its dearth in present day society, the article now turns to how to successfully build and maintain community in the legal profession in order to better address trauma and promote well-being in the legal profession. As discussed in Section III, while there have been efforts to encourage more awareness of stress and trauma in the profession, those efforts could be more effective if greater emphasis were placed more holistic and strategic efforts to tap into the power of community, i.e., building connections between members of the profession and the larger community. The way forward to optimal well-being requires a multi-pronged approach with cooperation and collaboration amongst all relevant stakeholders: regulators, professional associations, institutions, and individuals.²⁹⁸

Recognition of the interconnectedness of our society and its institutions should lead to renewed action of the leaders in the profession to buttress existing efforts and explore new ones, centering all efforts around reimagined ideas of community. Particularly, those reimagined ideas should focus on including historically underrepresented population and breaking apart and rebuilding age-old systems that have hindered such. The profession should resist current attempts to diminish diversity and inclusion efforts set into play by the 2023 Supreme Court decision and other state and corporate

²⁹⁷ *Id.* (citing Nichole K. Valtora et al., *Loneliness and Social Isolation as Risk Factors for Coronary Heart Disease and Stroke: Systematic Review and Meta-analysis of Longitudinal Observational Studies*, 13 HEART 102 (2016)), <https://heart.bmj.com/content/102/13/1009>).

²⁹⁸ Omari and Paull, *supra* note 157, at ____.

rollbacks.²⁹⁹ The 2021 IBA survey report, pointedly stated, “Issues of equality, diversity and inclusion have an effect on, and are arguably at the heart of, the mental wellbeing of the legal profession.”³⁰⁰ Accordingly, be it in the legal academy, the bar, or the bench, human synergies—irrespective of race, gender, ethnicity, socioeconomic status—are the way to well-being in the legal profession.

Practicing attorneys, judges, and the public they serve are vital to the functioning of the justice system. When any of these parties are unwell, it impacts the others, and ultimately, it impacts the system as a whole. Accordingly, effective community building is an essential element in addressing stress and trauma in the legal profession.

As noted in Section III, law practice has many of the pieces in place to address trauma in the profession but lacks widespread adoption or consistency. A recent “Above the Law” article titled, “Bustling Boutique Firm Promises To Keep Associates From Burning Out By Offering Low Hours, Big Bonuses,” touts the “new” business model of Clean Energy Counsel, which reduces billable hours but builds in large bonuses for those who exceed those hours.³⁰¹ However, the article notes that starting salaries are lower with this model,³⁰² which is problematic. Of note, the large bonuses that are the impetus to exceed the reduced billable hours place the firm’s attorneys in the same position as those in other firms who have higher billable hours. If attorneys are given the option of billing more hours to obtain large bonuses (to buttress their lower salaries), this model does not really address the issue of stress and trauma, i.e., lack of wellbeing in the profession.

Clean Energy Counsel’s efforts are much like those discussed in Section III and reported in the 2021 IBA Survey³⁰³ Predictably, when respondents in the 2021 IBA Survey were asked what more firms should be doing, their

²⁹⁹ See Democracy Forward, *One Year After the Supreme Court’s Rollback of Considerations of Race in College Admissions: Safeguarding and Strengthening Diversity, Equity and Inclusion (DEI) Initiatives* (July 2024), https://democracyforward.org/wp-content/uploads/2024/07/DF-DEI-Report_Final-Proof_070224.pdf, at 10 (explaining that despite vocal attempts to diminish DEI, many corporations remain committed to its precepts).

³⁰⁰ *Global Study*, *supra* note 4, at 16.

³⁰¹ Staci Zaretsky, *Bustling Boutique Firm Promises To Keep Associates From Burning Out By Offering Low Hours, Big Bonuses*, ABOVE THE LAW (July 18, 2024), <https://abovethelaw.com/2024/07/bustling-boutique-firm-promises-to-keep-associates-from-burning-out-by-offering-low-hours-big-bonuses/>.

³⁰² *Id.* The appeal of reduced salaries for reduced billable hours is doubtful. (Zaretsky)

³⁰³ See *Global Study*, *supra* note 4.

responses focused on the following four areas: (1) workplace culture, (2) interventions, (3) workload distribution, and (4) support from management.³⁰⁴

Despite the profession's current efforts, particularly as to workplace culture, respondents stated that improved openness around mental health and well-being was needed, as well as the need to create a culture of mutual respect and measures to address bad behavior.³⁰⁵ In terms of interventions, survey respondents detailed the needed for professional services or support, which include counselors, mentoring programs, and coaching.³⁰⁶ Respondents further mentioned better work-life balance, provision and support for remote work, better workload allocation processes.³⁰⁷ Finally, study respondents noted the need for support from management, which included clearer messaging, policies, and procedures.³⁰⁸ In each of these areas, respondents emphasized the need to focus on proper implementation and monitoring of these policies and procedures to ensure that their employers' goals were achieved.³⁰⁹ In addition, some survey respondents suggested that an overhaul of the law firm business model was needed to ensure that the new policies and procedures would be viable.³¹⁰

To truly foster well-being and address the stress and trauma that is experienced in the legal profession, the bar, the bench, and all stakeholders in the justice system must be intentional about building community. As noted by the respondents in the IBA study, more must be done to educate all parties, especially management, about trauma and mental health; there must be processes and procedures in place at the local and state level to hold members of the profession accountable to offer and actually support those who are unwell; and there must be mechanisms to measure the effectiveness of these efforts. It makes no sense to provide lunch, dinner, exercise, etc. in the workplace if the lawyer is not able to attend a family function or take a vacation without being "penalized" by having to work twice as hard to make up the billable hours to do so.

It is incumbent that efforts to address stress and trauma in the legal profession include efforts to support employees' lives outside of work. Those

³⁰⁴ *Id.* at 44.

³⁰⁵ *Id.* at 44-45

³⁰⁶ *Id.* at 44, 45.

³⁰⁷ *Id.* at 44, 45-46. Note that some firms have recently been acknowledged for moving in this direction.

³⁰⁸ *Id.* at 44, 46.

³⁰⁹ *Id.*

³¹⁰ *Id.*

firms that provide such perks cannot miss the fact that legal professionals are more than our work community. The family is everyone's first community; then there is the neighborhood in which they grew up; their friends, etc.³¹¹ Science shows that relationships outside of work are even more important to underrepresented populations.³¹² In addition to mentorship in the firm, pro bono work and other community service should be encouraged, i.e., a part of an employees' billable hours. And as explained in a previous article, discussing the importance of mentorships in the profession, because of the lack of diversity in the profession, cross-cultural mentorships should be supported, encouraged, and rewarded.³¹³ Also, the secured leave structure that many state bars have in place is a wonderful start, but mechanisms should be in place to confirm that an employee is actually using their leave. Finally, as with anything, it is critical that management and those in leadership positions model this behavior and that the culture of the workplace become community focused, working in the community to bring about positive change. To that end, diversity departments in firms and other venues of the profession should not be eliminated or diminished, as diversity and inclusion issues continue to inform how best to solve the stress and trauma of the profession and, indeed, the justice system.

In sum, the legal profession's path to wellness is best focused on building stronger synergies (community) with those inside and outside the profession. For overburdened lawyers tottering on the edge of burnout, the support of colleagues, managers, family, and friends (their community) is undoubtedly beneficial to addressing their stress and moving towards wellness. Further, collaborations between and amongst law firms, affinity bars, and local communities, as well as between and amongst state and local bars, affinity groups, and communities are all avenues to engender greater human connections and wellness. In fact, when legal professionals work to embed themselves in the greater community (and not just in their firms or workplaces), they can effectively expand the definition of community and diminish the social separation that is so prevalent in society today. In a

³¹¹ *Community and Workplace Attachment*, 33 J. OF BUS. AND PSYCH. 89, 102 (2018) (concluding that "[f]riends and family are not only fundamental relationships driven by the basic human need to form and maintain interpersonal bonds, they also are powerful sources of attachment that anchor employees to their communities and workplaces").

³¹² See Herminia Ibarra, *Personal Networks of Women and Minorities in Management: A Conceptual Framework*, 18 Acad. Mgmt. Rev. 56, ____ (1993) (noting that the lack of representation at work presents unique issues for underrepresented persons, microaggressions, discrimination, or a lack of inclusion and that relationships outside of work provides a necessary support system to help them manage stress, process experiences and maintain their mental health).

³¹³ *Affirmative Reaction*, *supra* note 101, at ____ (Section III).

community that works together to understand its strengths and challenges, not only are individual stress and trauma healed, but community and systemic trauma can also be addressed.

CONCLUSION

I have been traumatized while working in this profession. As an African American female teaching legal writing in a hierarchical, predominately white male academy, it would be surprising if this was not my “testimony.” Significantly, however, I have had a community of people around me to support me as I acknowledged, addressed, and healed from this trauma. Whether it was my family, a core group of work colleagues, or friends, it was this community that buoyed me and kept me from falling into despair.

A laundry list of crises persist in America, with several being specifically noted in the legal profession—equal justice, court backlogs, systemic racism, lawyer well-being to begin.³¹⁴ These crises both perpetrate and perpetuate trauma in the legal system and amongst its stakeholders,³¹⁵ even more so for those from underrepresented populations. Women, people of color, LGBTQ+ individuals, and those with disabilities often encounter unique challenges that exacerbate their exposure to trauma, including systemic bias, discrimination, and a lack of support structures tailored to their needs. In a profession that is built on detachment and pessimism, it is in no way anecdotal that community serves as a cornerstone to addressing trauma in its ranks.

In fact, brain theory and evolution show the importance of human connection in healing and supports my theory (and experience) that community can support addressing and healing from stress and trauma in the legal profession. Carefully planned collaborations between stakeholders, inside and outside the profession, will loosen the hold that social disconnection has on today’s society, and lead to a stronger sense of community. Like our youngest generation, GenZ, the legal profession must move past the stigma that has been long attached to maintaining mental wellness (i.e., combatting mental illness) and make it everyone’s priority. In the most broadly defined communities, inclusive environments will be fostered, and diversity will be valued and supported. Moreover, in these communities, access to mental health resources and systemic changes in the legal profession will be priorities. Building “community,” therefore, not only benefits individual lawyers but also enhances the effectiveness and integrity

³¹⁴ TRAUMA -INFORMED LAW, *supra* note 6, at 217.

³¹⁵ *Id.* at 218.

of the profession and the entire justice system.