



Raising the Bar

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Young Lawyers Committee

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In This Issue

Featured Articles

#Trending: Law and Legislation..... 2

Register for the 2018 Annual Meeting!..... 3

Articles of Note

Reflections from the Past: Things I Wish I Would Have
Known in My First Few Years of Practice..... 4

The Impact of Emojis on Employment Litigation..... 7

Leadership Note—The Chair’s Corner

Embrace Millennials 8

DRI Young Lawyers Member Spotlight

Laura Emmett..... 10

Membership Minute

Let’s Gear Up for a New Year! 11

Timeout for Wellness

Advice for Wellness from the ABA National Taskforce on
Lawyer Well-Being..... 12

News & Announcements

And The Defense Wins 13

Share Your News 13

Featured Articles

#Trending: Law and Legislation

By Quinten Whiteside



From marijuana to cryptocurrencies, heated debates are taking place across the country over how legislation, and its corresponding regulations, will impact existing and emerging markets. As attorneys, we must be diligent in following trends—both in and out of our practice areas—to best protect our clients' interests on the local, state, and federal level. So, what are some of this year's top legislative topics?

Sexual harassment: The #MeToo movement has swept the U.S. with citizens and legislators alike demanding action against sexual harassment and assault. In fact, the National Council of State Legislatures recently reported that more than 100 new bills have been introduced to combat this issue. In more than a dozen states, state representatives have introduced legislation banning sexual harassment from nondisclosure agreements. Take Washington as an example, where legislation was recently enacted to prevent employers from firing or retaliating against employees who reveal sexual harassment or sexual assault claims. With the near constant stream of news coverage, sexual harassment will remain a main topic of conversation in your local legislative chamber.

Healthcare: State governments are continuing to struggle with rising health care costs, particularly with Medicaid. States such as Arkansas, Indiana, and Kentucky are hoping to lower enrollment by placing work requirements on recipients with the aim of obtaining healthier recipients. In addition, many state legislatures are trying to stem higher drug costs by placing regulations on or limiting the reach of pharmaceutical benefit managers, commonly known as PBMs. Amidst these issues, both state and federal governments have remained laser focused on curbing opioid use through Good Samaritan overdose immunity laws, as well as pretrial drug prevention programs.

Technology: While not as heavy a focus as healthcare, technology is still a hot button issue for many legislatures. Whether through electronic banking programs or cryptocurrency regulations, state officials are introducing bills to shape the future of emerging technologies. They are defining terms such as “virtual currency,” “blockchain,” and “digital wallet” to encourage economic growth. Blockchain itself is causing many states to establish subcommittees

and task forces laying the groundwork for even more rules and regulations in the future. In addition to these issues, legislatures are continuing to take steps to protect public health and safety through new technological systems. For example, many legislatures have fought to upgrade state-run emergency software, deemed next generation 911, so individuals can text and send photographs to operators.

Autonomous vehicles: Waymo, Uber and others have already doubled down on autonomous vehicles. With private-sector investments only continuing to ramp up, state legislatures are taking the lead on regulation. Officials have sought to enact laws related to pilot projects, manufacturing, testing, and liability. In the last year alone, 33 states introduced bills on this topic—a 65 percent increase from 2016. This action from the states encouraged the National Highway and Transportation Safety Administration to release new federal guidelines with a commitment to invest \$4 billion over the next decade.

Marijuana: Twenty-eight states now have approved medical marijuana programs. With the rapidly changing landscape of legalization, states are re-evaluating their drug-impaired driving standards, regulating cultivation, and finding innovative programs to create new revenue streams. But they're also taking steps to protect citizen safety. Last year, California banned individuals from ingesting marijuana while driving or riding as a passenger in a motor vehicle. Other state legislatures have capped THC levels at five nanograms. As for cultivation programs, states have set the definitions for hemp and seed and laid out legal protections for growers. In the future, many states are expected to monitor and collect tax revenue from these companies.

As attorneys, we have a responsibility to provide our clients with sound and timely legal counsel. Keeping up with legislative trends across the U.S. allows us to do just that. If you are interested in finding out more about what's happening in your state—or other geographic areas where you practice—consider listening to the Our American States Podcast by the National Conference of State Legislatures.

Want to be involved on the ground? DRI is always looking for attorneys who are willing to track and organize legislative data and information. Becoming a legislative reporter isn't a huge time commitment, and it's a simple

way to keep yourself—and your clients—in the know. If you would like more information, contact the Young Lawyer legislative subcommittee.

All information contained in this article was provided by the National Conference of State Legislatures. More information on these topics can be found at:

- <http://www.ncsl.org/research/about-state-legislatures/2018-legislative-sexual-harassment-legislation.aspx>.
- <http://www.ncsl.org/research/health/medicaid-home-page.aspx>.
- <http://www.ncsl.org/bookstore/state-legislatures-magazine/opioid-deep-dive-state-policy-updates.aspx>.

- <http://www.ncsl.org/research/telecommunications-and-information-technology/2017-key-enacted-911-legislation.aspx>.
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- <http://www.ncsl.org/bookstore/state-legislatures-magazine/marijuana-deep-dive.aspx>.

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Register for the 2018 Annual Meeting!

By Patrick Gorman



The [2018 DRI Annual Meeting](#) is a little more than a month away, and, as always, there are numerous networking and educational opportunities for Young Lawyers. Highlights of the program for Young Lawyers include the YL Dinner on October 17 (location TBA), renowned speakers including Dr. Condoleezza Rice and Valerie Jarrett, and Young Lawyers CLE presented by our very own Greg Pottorff and Stephanie Wurdock. There will also be many networking opportunities in some of San Francisco's most interesting venues.

On a personal note, I have found that the Annual Meeting is a must-attend event for any Young Lawyer looking to expand his or her role in DRI. While the meeting itself is attended by over 1,000 lawyers, it feels much smaller when surrounded by the group of energetic young lawyers looking to form new friendships. Moreover, attending the Annual Meetings allows us all to cement relationships

that were formed during the Young Lawyers seminar this past summer.

The Annual Meeting runs from October 17–21. If you have any questions about the seminar, please reach out to the Annual Meeting Chair Margot Wilensky (margot.wilensky@hrglawfirm.com) or myself (pgorman@jshfirm.com). If not, we look forward to seeing you in San Francisco!

Patrick Gorman is an attorney at Jones, Skelton, & Hochuli, PLC, one of the largest and most experienced litigation firms in Arizona. Patrick concentrates his practice on insurance bad faith, insurance coverage, general liability and professional liability. In his practice, Patrick assists insurers and insureds in analyzing risk when developing game plans for handling complex pre-litigation and litigation matters.

Articles of Note

Reflections from the Past: Things I Wish I Would Have Known in My First Few Years of Practice

By Melody C. Kiella



Have you ever looked back at a particular moment in your past and wondered if you would have made the same decision if you knew everything that you know now? While it is impossible to turn back the hands of time, it is possible to use your past and the mistakes that you made to grow and progress as a human being and as a lawyer. When reflecting back on my legal career, I realize that I have learned one lesson over and over again: *Things are not always what they seem.*

If I could go back in time and talk to my younger self, one of the things I would tell her is that *it's not you, it's them.*

Working at any job, including a legal job, is a lot like a relationship. For the relationship to work, it takes trust, time to develop into a cohesive relationship, and, most importantly, compatibility. You may find yourself at a law firm or another legal job early on in your career that does not mesh well with your personality, the way you work, or with whatever is going on in your life at that moment.

I found myself in such a position about five months after having my daughter and while I was struggling to find my

new “normal.” I had been working at a small law firm for a little over three years and had felt for quite some time that something just wasn’t right. No matter how hard I tried, it never felt like I really fit in, and I had virtually no guidance or direction from the other attorneys at that firm. Eventually, I became resentful that no one made any effort to get to know me or help me get better as an attorney. Ultimately, I ended up asking my boss for a review so that I could address the many concerns I had about the firm and the direction of my legal career. I intended to go into that review and talk about why I was unhappy and how I intended to leave unless changes were made, but I never got that chance.

As soon as I sat down in that conference room, I was told that the firm could not see me becoming a partner, and that it was most likely time for me to start looking for another job. Although I had walked into that room unhappy with my job, I found myself unable to speak and crushed by the rejection. While the exact words exchanged during that meeting are a blur to me, I do remember being told that my work was not good enough for them, and I remember feeling terrible about myself when I left. I thought that

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my legal career was doomed and that I would never be good enough.

Since departing from that firm, I have found a place where I am respected, encouraged, challenged, and mentored. Most importantly, I have learned that *I am good enough*. Looking back on my experience at that law firm and in that conference room, I now realize that it wasn't me, it was them.

Although rejection is never easy, I learned through that experience that it is ok to not be a perfect fit for the law firm that hires you straight out of law school. Some people get lucky enough to find their perfect fit right away, but for others, it may take some time. Whatever path you take, one day everything will make perfect sense.

The second piece of advice I would give my younger self is that *you are your own best advocate, and, because of that, you **must** ask for the opportunities and experiences that you want.*

As a young lawyer, I assumed that my boss would give me the opportunities that I needed to continue to grow and develop as a lawyer. Rather than asking for what I wanted, I patiently waited for my boss to read my mind and give me the opportunities that I was looking for. When those opportunities were not coming my way, I began to feel as if my boss was purposefully holding me back. I quickly became frustrated and eventually made the decision to start looking for another job with a law firm that would give me the opportunities that I desired. In the end, I found that my boss had no idea that I was seeking more opportunities and experiences or that I was the least bit unhappy. What I thought was a concerted effort on his part to hold me back was really a failure on my part to effectively communicate what I expected and wanted out of my career.

Once I told my boss everything that I was looking to do and what I expected out of my career, I found myself doing those very things, and I found him trying very hard to give me opportunities that I had not even thought about before. Looking back on that experience allows me to see that I am my own best advocate, and, because of that, I need to effectively use my voice to tell people what I want and expect. Your boss is not a mind reader and cannot know what you really want unless you tell him or her. If you find yourself feeling like you are not getting the opportunities and experiences that you want, then sit down with your boss and clearly communicate your expectations. The worst thing your boss can say is no, at which point you will know where your boss and your career stand.

Another thing that I wish I could tell my younger self is to *stop wishing for the future to come and take time to really enjoy the present.*

Do you remember when your mother used to tell you to stop wishing that you were older and to enjoy your youth and your lack of any real responsibility? Throughout my legal career, I have always wanted to have more, do more, and be more. In my first few years of practice, I wanted to have more responsibility, to be relied upon, to get clients, and to have my own book of business. I spent so much time glamorizing the idea of having more experience and my own clients that I did not enjoy being able to leave the office at the end of the day and not answer to anyone (except, of course, when those pesky emergencies popped up out of nowhere).

Now that I am in my eighth year of practice, I realize that with more responsibility and experience come more pressure and a whole new set of problems. In addition to having to bill hours and do good work, I am spending a lot of time networking (both inside my firm and outside of my firm), writing articles to be published, working on committees in numerous organizations and within my firm, attending various conferences each year, and feeling the pressure of always having to answer an e-mail or a phone call for fear that I will miss an opportunity that could advance my career. While it is impossible to not think about your future, I wish that I could go back in time and tell my younger self to enjoy learning new things; having new legal experiences; and only having to worry about meeting deadlines, billing hours, and doing good work.

If you find that you are always thinking about the future and what you don't have, think back to those times you were a kid wishing you could be an adult and remind yourself that your first years of legal practice are the equivalent of you being a kid. Enjoy the present as much as possible because (hopefully) the future will inevitably come.

If I could go back in time, I would also tell my younger self that *helping others with non-legal tasks or matters will help you in the long run.*

As a young lawyer, I was often asked by more senior attorneys and partners to assist them in writing an article to be published in a legal journal or with personal, non-billable tasks. I often found myself feeling irritated that I was asked to help, wondering why they couldn't ask someone else to help them with non-billable tasks. But as time passed, I realized that my help was greatly appreciated by these attorneys and that they remembered my help months and even years later, oftentimes returning the favor

by introducing me to important people, helping me get involved in organizations, and giving me opportunities that were not given to other people. Over time, I have come to realize that helping those attorneys with non-billable tasks actually helped me in the long run. Next time you feel frustrated because you spent an entire day researching to help another lawyer with a non-billable issue, focus on the positive that the lawyer you are helping will remember your help and sacrifice and repay the favor at some point in the future.

Another piece of advice I would give my younger self is that, *while there are no stupid questions, there are absolutely questions that should not be asked before you've thought them through.*

Even if you are new to practicing law and have a question about an assignment that you've been given or how to respond to a specific situation, it is important to make sure that you have thought about the answer to your question before you ask it. I know this seems counterintuitive, but thinking through the possible scenarios before asking the question will put you in a better position to articulate the issues and discuss the various options with your boss. Young lawyers have so many resources at their fingertips (Westlaw, Google, legal blogs, and other young lawyers) that there really is no excuse for not having thoughts on how to proceed with a particular issue, even if those thoughts end up being wrong in the end.

While law school does not necessarily teach you how to practice law, it should at the very least teach you to be analytical. So, even if you find yourself in a situation where you have no idea what to do next, take the time to sit down and really think about the answer to your own question. If you are unable to determine how you should proceed and end up asking your boss the dreaded "stupid" question, then at least you will be able to articulate your thoughts and, at the same time, show your boss that you are capable of trying to handle these situations on your own.

The last thing I would tell my younger self if I could is that *work-life balance may be hard to find all of the time, but it does exist if you make it a priority.*

As a working mom with high career aspirations, I often feel like I am not giving enough either at home or at work.

I find that I am in a constant battle with myself over how much to give to my daughter, my husband, myself, and my work. Some days, I give all of my energy, time, and focus to work, but other times, I feel pretty equally balanced in my time and efforts.

The legal profession is not one where everything stops at 5:00 p.m. Bosses, colleagues, and clients will e-mail and call you after hours and when you are on vacation. Sometimes, this can be frustrating, and it can feel like your work is always with you. Trust me, the e-mails, phone calls, client functions, and deadlines will always be there and will begin to consume your entire life unless you purposefully draw a line and find a balance.

After allowing work to completely consume my life, I realized that I am my own worst enemy. In the end, I was the one pushing myself too hard, and I was the one working when I should have been taking time for my health or my family. It is important to remember that you know yourself and your limits better than anyone else. If you feel like work is taking over your life, then think of ways to implement boundaries between your work and personal life and stick to those boundaries, even if it means saying no to someone.

Remember, your health and family are more important than billing hours, and you are the only one who can create a work-life balance that works for you.

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The Impact of Emojis on Employment Litigation

By Darin M. Williams



Emojis, or “picture characters,” as the word means in Japanese, have officially entered our lexicon. The Oxford Dictionaries’ Word of the Year in 2015 was the “Face with Tears of Joy” emoji, and the New York Post reported last year that “[o]ver 90 percent of the world’s 3.2 billion Internet users regularly send these “picture characters.” Vyvyan Evans, *Emojis Actually Make Our Language Better*, N.Y. Post (Aug. 12, 2017).

Language professor Vyvyan Evans posits that emojis serve the same function in “textspeak” as body language serves in spoken communication by “fill[ing] in the emotional cues otherwise missing from typed conversations. It allows us to be more effective communicators.” On the other hand, a 2016 research study found that people were unable to agree on the sentiment intended by a particular emoji 25 percent of the time. Eyder Peralta, *Lost In Translation: Study Finds Interpretation Of Emojis Can Vary Widely, The Two-Way* (Apr. 12, 2016).

Given that emojis are used to fill in emotional cues, but the emotional meaning of one out of every four emojis is ambiguous, it is not surprising that emojis have increasingly been the subject of federal discrimination litigation. According to a Bloomberg Law analysis, “since 2010, employees have filed at least 39 federal discrimination, harassment, or retaliation lawsuits that include emojis or emoticons in their allegations.” Bloomberg Law, *A Double-Edged Smiley? Emojis in Employment Suits Cut Both Ways* (Apr. 19, 2018). And while this number is still a small fraction of the total federal discrimination cases, nearly half of those thirty-nine cases were filed in 2017 and 2018, demonstrating the rising impact of emojis on workplace litigation.

The Impact of Emojis on Employment Litigation

Although the sample size of emoji cases is small, several recent federal court opinions demonstrate the outsized role that emojis can play at summary judgment for both employees and employers.

For instance, an employee may use an emoji to demonstrate quid pro quo sexual harassment, as in *Mims v. Chilton Med. Ctr.*, No. 11-cv-41, 2012 U.S. Dist. LEXIS 27755, *6, *16 (M.D. Ala. Mar. 2, 2012), in which the court denied an employer summary judgment on an employee’s sexual

harassment claim due in part to the temporal proximity between the employee’s termination and her supervisor sending her an “I love you” emoticon via text.

An employee may also use an emoji to demonstrate pretext, as in *Apatoff v. Munich Re Am Servs.*, No. 11-cv-7570, 2014 U.S. Dist. LEXIS 106665, *34-35 (D.N.J. Aug. 1, 2014), in which the court denied an employer summary judgment on an employee’s FMLA retaliation claim due, in large part, to smiley face emoticons included in manager emails discussing the employee’s termination. The court found that the emoticons, sent on the day of the employee’s termination, could lead a reasonable jury to conclude that the employee’s managers were “happy to terminate Plaintiff because her FMLA leave was inconvenient for them.”

On the other hand, emojis may be useful evidence for the employer, too, as in *Arnold v. Reliant Bank*, 932 F.Supp.2d 840, 854-55 (M.D. Tenn. 2013), in which the court granted an employer summary judgment on an employee’s hostile work environment claim in part because the employee’s use of a smiley face emoticon in her performance review demonstrated that she did not perceive the work environment to be hostile.

Similarly, in *Stewart v. Durham*, No. 16-cv-744, 2017 U.S. Dist. LEXIS 88656, *2-3 (S.D. Miss. June 9, 2017), the court granted summary judgment on an employee’s claims for intentional and negligent infliction of emotional distress against her supervisor. Although her supervisor sent her a picture of a “tumescent penis,” the employee’s texted responses included, among other things, emojis blowing kisses and winking and, therefore, “[did] not indicate distress.”

Most recently, in *Mooneyhan v. Telecomms. Mgmt., LLC*, 16-cv-118, 2017 U.S. Dist. LEXIS 188743, *32-34 (E.D. Mo. Nov. 15, 2017), the court granted an employer summary judgment on an employee’s hostile work environment claim despite numerous sexual advances by her supervisor. The court determined that by concluding her emails to management with smiley face emoticons around the same time she was allegedly harassed, the employee “undermine[d] her claim that she subjectively believed that her working conditions were abusive,” and no reasonable juror could believe that the supervisor’s conduct rose to the level of a hostile work environment.

Mitigating the Impact of Emojis in the Workplace

The inexorable creep of emojis into workplace litigation and their apparent effect on legal outcomes demonstrates the importance of mitigating emojis in the workplace.

For an employer, the first step should always be prevention. Most standard anti-harassment policies should be broad enough to encompass emojis without having to change the policy's language (if not, it's time for a new policy). However, employers should consider discussing emojis in anti-harassment and communications training to specify that the employer's normal expectations apply to emojis and emphasize the risk of misinterpretation in communicating via emoji. Moreover, as a best practice, managers should avoid using emojis with their subordinates and should never use emojis when discussing employment decisions, as the cases discussed above teach that tacking a smiley face onto an email discussion of an employee's termination or discipline could send a case to trial.

The second step in mitigating emojis in the workplace is to ensure a thorough response when emojis are included as part of a workplace complaint. Perhaps more than any other form of communication, emojis must be placed in context. Seemingly innocuous symbols may become imbued with sexual or other meaning depending on how they are used. For instance, a string of scissor emojis could be a reference to an employee's sexual orientation if sent as part of a discussion of a female employee's relationship with her girlfriend. *Cf. Bellisle v. Landmark Med. Ctr.*, 207 F. Supp. 3d 153, 160 (D.R.I. 2016). Even a corn cob emoji could be a symbol of sexual harassment where it is sent among managers to reference an inside joke objectifying women. *Caras v. Mike Isabella, Inc.*, 18-cv-749 (D.D.C.). And,

of course, it is not hard to imagine how a winking emoji, or a tongue-out emoji, or any number of other emojis could be subverted to a lewd or inappropriate purpose.

Thus, when investigating a workplace complaint, an employer should include all emojis in its analysis and pose questions targeted to ascertain the meaning of the emojis in the context of the communications at issue. What are the "emotional cues" being filled in by emojis and what, if anything, do they say about the states of mind of the sender and receiver? The answers to these questions should influence any response or remediation, and could be used as evidence in any resulting litigation.

As emojis have become a mainstay of our communication, they have increasingly become part of workplace complaints. Yet the case law demonstrates that emojis may be used to defend federal discrimination claims just as they can be used to prosecute the claims. Employers and their counsel should seek fluency in the language of emoji because, in this case, a picture may be worth a thousand words—or a summary judgment win.

Darin M. Williams is an attorney with Laner Muchin, Ltd., in Chicago, Illinois, a firm concentrated exclusively on the representation of employers in labor relations, employment litigation, employee benefits, and business immigration matters nationwide. As a litigator, he provides creative and cost-effective defense of employment litigation for public and private sector clients. Just as importantly, he seeks to reduce the risk of employment litigation by advising clients on non-adversarial solutions that promote positive employee relations and make sound business sense. Darin can be reached at dwilliams@lanermuchin.com

Leadership Note—The Chair's Corner

Embrace Millennials

By Baxter D. Drennon



Recently, the Southwest Region of DRI invited me to speak at its regional meeting on the topic of Millennials. As a Millennial, I was excited for the opportunity to address the myths and stereotypes of our (the vast majority of DRI YLs are Millennials) much maligned generation. I chose the presentation title Don't Hate, Appreciate Millennials, and I set

out to do the research to refute the most common allegations made against our generation.

In doing the research, I was surprised to learn that the criticisms heaped on Millennials do not just come from those of more senior generations. Instead, apparently some Millennials have bought into these criticisms. Those Millennials said the following about our generation:

- “My generation sucks.”
- “Embarrassing to be apart of the ‘handout’ generation offended by everything.”
- “I’m a millennial and I’m NOT proud, my generation is so brainwashed and could easily be conditioned to losing America they way we know it.”
- “We are the laziest piece of crap lol”
- “As a millennial myself, I absolutely hate my generation.”

Apparently, this is what happens when you are repeatedly told how bad you are at life (see Norton, Richie *The 14 Most Destructive Millennial Myths Debunked by Data*).

If you have the same thoughts, or more likely, if you are bombarded with criticisms of Millennials’ work ethic and loyalty, here are some facts that can assist you in having an enlightened discussion on the topic.

As an initial matter, I find it funny that people assume that Millennials are substantially different from earlier generations during the same stages of life. In fact, research shows that Millennials are not fundamentally different from their predecessors when they were at the same stage of life. For example, a study by the Economist found that Millennials want the same things as their parents and grandparents: to be rewarded on the basis of their contributions and to be given the chance to work hard and get ahead (see Economist, Myths About Millennials). Moreover, even the criticisms of Millennials are similar to those of prior generations. You might have heard that Millennials are the “Me” generation. Ironically, the Baby Boomers were first referred to as the “Me” generation because of the self-involved qualities that were attributed to it (see Henderson, Amy, *When it Comes to the Baby Boomers, It is Still All About “Me”*). As you can see, whether in alleged selfishness or personal goals, Millennials have much more in common with other generations than is commonly believed.

In addition, the common criticisms of Millennials in the workplace—poor work ethic and lack of loyalty—are not borne out in statistics.

Work Ethic

The work ethic of Millennials is commonly maligned. Allegedly, we simply lack the motivation to work hard. On this point, the truth is that Millennials are the most entrepreneurial generation. We create 200 percent more businesses than members of Generation X. In addition, statistics show that Millennials are more competitive and performance driven than prior generations.

Loyalty

Another common criticism of Millennials is that they are job hoppers. Again, the facts simply do not back this up. In fact, statistics show that Millennials are more likely to stay in an employment position longer than members of Generation X. Studies from the years 2000 and 2016 of workers ages 18 to 35 showed that Millennials are 4 percent more likely than Generation Xers to be in a job for 13 months or longer and 1 percent more likely to be in a job for 5 years or longer (see *Millennials Aren’t Job Hopping Any Faster Than Generation X Did*).

Ultimately, younger people in general, and Millennials specifically, are not fundamentally different from those of other generations. Instead, they simply are capable of leveraging technology given to them by prior generations to change the way things “have always been done.” This has led to an era in which Millennials have leveraged those technological advances to work and live in ways that are not always expected by those of other generations. This is not something that should be criticized, by Millennials or others. Instead, it should be embraced as an opportunity to enhance our quality of life, better serve our clients, and advance our profession.

Links to articles cited above can be found at:

- Norton, Richie *The 14 Most Destructive Millennial Myths Debunked by Data*, <https://medium.com/the-mission/the-14-most-destructive-millennial-myths-debunked-by-data-aa00838eecd6> (last accessed Aug. 31, 2018).
- *Myths About Millennials*, *Economist*, <https://www.economist.com/business/2015/08/01/myths-about-millennials> (last accessed August 31, 2018).
- Henderson, Amy *When it Comes to the Baby Boomers, It is Still All About “Me,”* *Smithsonian Magazine*. (Oct. 15, 2014). http://www.pewresearch.org/fact-tank/2017/04/19/millennials-arent-job-hopping-any-faster-than-generation-x-did/ft_17-04-17_millennialjobtenure/ (last accessed Aug. 31, 2018).

Baxter D. Drennon is a vice chair of the DRI Young Lawyers Committee and is a member of the DRI Membership Committee. Baxter is a partner at Wright, Lindsey & Jennings LLP in Little Rock, Arkansas, who focuses his practice on both product liability and transportation litigation. Baxter can be reached at BDrennon@wlj.com

DRI Young Lawyers Member Spotlight

Laura Emmett



Laura Emmett is a lawyer at Strigberger Brown Armstrong LLP in Ontario, Canada. She has a diverse practice where she focuses on bodily injury claims, product liability, cyber liability, privacy law and drone liability. She has appeared in all levels of the Court in Ontario as well as before various administrative tribunals.

Laura is the President of the Canadian Defence Lawyers (CDL) and an active member of DRI where she serves on the steering committees of Young Lawyers and International. In addition, Laura is the State representative for Canada. Laura is actively involved in her community where she serves as a board member of the Ronald McDonald House Charities of Southwestern Ontario.

In 2014, Laura was named a recipient of London's Top 20 Under 40 award. In 2015, she received CDL's Richard B. Lindsay Exceptional Q.C. Young Lawyer award. In 2016, she was named as one of Lexpert's Rising Stars for lawyers under 40 across Canada. In 2017, she was invited to join the International Association of Defense Counsel (IADC). Finally, in 2018, she was named a Lexpert Leading Lawyer and Best Lawyer in Canada in the area of personal injury.

How and why did you first get involved with DRI?

As part of my involvement in the Canadian Defence Lawyers, I was asked to attend DRI's Annual Meeting in 2012. It allowed me the opportunity to get to know more about DRI and also bring back ideas to my SLDO.

What DRI committees (other than Young Lawyers) are you most interested in, and why?

I'm the membership co-chair for DRI International. It's an excellent opportunity to network with other lawyers from around the world!

What is your favorite part about being a lawyer?

Having the opportunity to advance unique arguments on behalf of clients. It involves a lot of research, planning and hard work, but it's nice to see arguments come together.

When you are not practicing law, what do you enjoy doing?

Checking items off of my bucket list!

What has been your biggest success in your legal career thus far?

Becoming the youngest President of the Canadian Defence Lawyers!

What is most important piece of advice you have been given related to practicing law?

It's okay to make mistakes – just learn from them and never let it happen again.

What is the greatest sporting event you've ever been to?

The Ole Miss/Alabama game in 2014. It was my first NCAA football game. It was also the first victory over Alabama since 2003. The celebration was unreal!

What was your very first job?

I was a skating instructor for four year olds.

What is a hidden talent you have that no one knows?

I was a Canadian jump rope champion...when I was nine.

Membership Minute

Let's Gear Up for a New Year!

By Gayatri R. Deodhar



Thankfully, the beginning of August does not mean the beginning of a new school year for any of us anymore. But why not take that “new school year” feeling and channel it into more fun ways—like recruiting for DRI? With the

Annual Meeting coming up in October, now is the perfect time to get some new DRI members on board! How, you may ask? See our easy, three-step guide below!

- **REACH OUT:** There are so many ways to get in touch with an attorney who hasn't joined DRI or DRI Young Lawyers, but should. Feel free to reach out to them in whatever way you think best! Facebook, text, e-mail, and LinkedIn are just some of the ways to reach out. Every attorney likes getting a friendly message from another attorney, and this is the perfect opportunity to tell your potential new recruit all about DRI. Which brings us to the next step...
- **TELL THEM ABOUT DRI:** You know the benefits of DRI. Now's your time to pass that information along! Let your potential new recruit know all about what you've gotten out of DRI—social and business contacts, training, CLE credit, etc.
- **INVITE AND ENCOURAGE:** If your potential new recruit still needs some encouragement to join, invite them to the next conference—especially the Young Lawyers

Annual Meeting! Let them know, not only about the trainings, but also about all the fun activities involved: the dine-arounds, networking receptions, and activities. And most importantly, offer to introduce them around to other members!

Now go forth and recruit!

The person who recruits the most new DRI members during our current recruitment challenge, which runs from June 24th through October 12th, will receive a \$100 Lyft gift card + a \$100 CLE credit for each person you recruit + an extra \$100 CLE credit!

To qualify for these fantastic prizes, you *must* ensure that your recruit properly completes the referral section of the DRI application. To receive recruiting credit, your recruit *must* write *your name* above “Referred by” and *must* write “YOUNG LAWYERS” above “Committee” in the box on top right side of the application.

Your recruits do *not* have to be young lawyers themselves; they simply have to indicate on their application that they were recruited by the Young Lawyers Committee.

Gayatri R. Deodhar is an associate attorney at Litchfield Cavo LLP in Lynnfield, Massachusetts. She is the Co-Chair of Membership for the Young Lawyers Committee and can be reached at deodhar@litchfieldcavo.com.

Timeout for Wellness

Advice for Wellness from the ABA National Taskforce on Lawyer Well-Being

By Samantha Woods



In August 2017, the ABA's National Taskforce on Lawyer Well-Being (the "Taskforce") issued the report, *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* (the "Report"). The Report aims to provide practical recommendations to a number of different stakeholders in the legal community for furthering wellness, including lawyers, legal employers, bar associations, judges, regulators, and liability carriers. This article will provide a brief outline of the recommendations made by the Taskforce for lawyers on how to promote well-being in the practice of law.

The Report first sets forth the reasons why the ABA Taskforce believed its work to be necessary. In 2016, the ABA Commission on Lawyer Assistance Programs and Hazelden Betty Ford Foundation found that between twenty-one percent and thirty-six percent of practicing lawyers qualify as "problem drinkers." Twenty-eight percent struggle with depression, nineteen percent struggle with anxiety, and twenty-three percent struggle with stress. Lawyers in the first ten years of practice working at private firms experience the highest rates of problem drinking and depression. Report at 7.

Based upon this data, the Taskforce came to the logical conclusion that the profession cannot continue to ignore lawyer well-being. In exploring the idea of lawyer well-being, the Taskforce defined well-being "as a continuous process in whereby lawyers seek to thrive in the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical health, and social connections with others." Report at 9.

To move toward lawyer well-being, the Taskforce offered several recommendations to legal stakeholders. Those recommendations include the following:

Acknowledge the Problems and Take Responsibility.

- At best, the legal industry has a long history of ignoring colleagues' well-being and believing that a lawyer's health problems are attributable to the individual's failings rather than systemic to the profession. The Taskforce encourages lawyers to take responsibility for all lawyers'

well-being and not to leave the task to lawyer assistance programs. Report at 12.

Leaders Should Demonstrate Personal Well-Being.

- Cultural changes must start with leaders, including courts, regulators, legal employers, and bar associations, who must commit to lawyer well-being and exhibit well-being in their own lives. Then, they must support other lawyers in doing the same. Report at 12-13.

Facilitate, Destigmatize, and Encourage Help-Seeking Behavior.

- The stigma of mental illness and substance abuse prevents lawyers from seeking help. Two of the most common barriers to lawyers seeking assistance are lawyers not wanting others to find out and concerns about privacy and confidentiality. Further, lawyers' full schedules and stressful careers cause the perception that obstacles exist to obtaining treatment. The best way to reduce stigma and promote seeking treatment is for lawyers experiencing problems to have in-person contact with someone who has gone through a similar circumstance. Report at 13.

Foster Collegiality and Respectful Engagement Throughout the Profession.

- Interactions with the bench and other lawyers can either foster a toxic culture that contributes to poor health or can foster a respectful culture that promotes well-being. "Chronic incivility is corrosive." Report at 15. Civility appears to be on a decline, and lawyers generally do not have a positive view of professionalism in the profession. Studies also show that women lawyers are more frequent targets of incivility and harassment. Professionalism and civility can be addressed through the promotion of diversity and inclusivity, as well as through meaningful sponsorship and mentorship programs. Report at 15-16.

Enhance Lawyers' Sense of Control.

- Areas of practice that rob lawyers of control over their schedules and lives are harmful to well-being. Highly demanding jobs that remove self-control cause depression and other physiological disorders. There is also a link to alcoholism. The legal system should consider the effect of unnecessary tight deadlines, refusal to grant continuances that allow for vacations and time away, and senior lawyers who make decisions without consulting the more junior members of the team, all of which affect the general well-being. Report at 16-17.

De-emphasize Alcohol at Social Events.

- The expectation of drinking is often embedded in the legal culture. Opportunities to participate in firm, networking, client, and bar events that do not include alcohol should be considered, and alternative beverages should be provided at all events. Report at 19.

Begin a Dialogue About Suicide Prevention.

- Lawyers have relatively high rates of suicide. To further prevention, stakeholders need to provide suicide

education, and individuals within the profession who have been affected by suicide can help by sharing their personal stories, which reduces the stigma associated with suicide. Specifically, education on the signs of suicide distress and actions to be taken in the event of concern is not currently being offered and would be of great assistance. Report at 21.

The Taskforce's complete Report can be found at: https://www.americanbar.org/groups/professional_responsibility/task_force_lawyer_wellbeing.html

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News & Announcements

And The Defense Wins

DRI Young Lawyers Steering Committee member **Kate Van Namen** of Butler Snow LLP's Memphis, Tennessee, office recently obtained summary judgment in a products liability action brought by a plaintiff alleging personal injury related to machinery installed in a rural Arkansas rice mill. Rejecting the plaintiff's arguments, the Arkansas state court judge determined that the product had been modified by the rice mill without the manufacturer's knowledge or consent and granted defendants' motion for summary judgment.

Share Your News

Have you or one of your fellow young lawyers recently received an honor, a promotion, or a defense win? Contact the editors Candace Deer (CandaceDeer@proassurance.com), Shelley Napolitano (SNapolitano@maronmarvel.com), Taryn Harper (harpert@gtlaw.com), Anna Tombs (Anna.Tombs@mcmillan.ca), and Daniel Furshpan (Daniel.Furshpan@suffolkcountyny.gov) so we can share it in *Raising the Bar!*