

Positive Lawyering

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Fordham Law School
Spring 2021

Wednesdays, 11:00 AM – 12:25 PM – Zoom

COURSE DESCRIPTION

This course is designed to equip you with the skills, tools, and insights you will need to reach your highest potential and build a meaningful, satisfying career in law. There is now considerable evidence of a “well-being problem” in the legal profession: Lawyers and law students report higher rates of depression, anxiety, substance abuse, and stress than the general population, and research shows that these mental health issues, as well as general malaise and discontent, can take a sizable toll on professionalism and performance. But the picture is not entirely bleak. Research also shows that there are many lawyers and law students who are thriving, and that our capacity for satisfaction is largely within our control. Indeed, those lawyers and law students who feel a sense of agency and autonomy, who find ways to regularly tap into their strengths and align their lives with their values, and who cultivate optimism and strong social bonds are not only happier and healthier, but also more engaged, productive, and fulfilled in their academic and professional pursuits.

In this course, we will explore how developments in positive psychology (the science of what makes people and institutions flourish) can be used to produce peak potential lawyering. We will begin by exploring the research surrounding lawyer well-being and performance, and how certain cognitive and behavioral patterns that pervade the legal profession prevent many lawyers from being as happy, healthy, or successful as they could be. The balance of the course will focus on equipping students with a toolkit of science-backed skills and strategies you can use to counteract these maladaptive thought and behavioral patterns in order to achieve greater success and satisfaction in your personal and professional lives.

CLASS MEETINGS & CREDITS

This seminar will be conducted as a synchronous online course. Class will meet on Wednesdays from 11:00 AM – 12:25 PM ET **nine times over the course of the semester**, on the following dates:

- January 20
- February 3
- February 10
- February 17
- March 3
- March 17
- March 24
- April 7
- April 21

[Class Meeting Registration Link](#)

Students can elect to earn either 1 or 2 credits in connection with this course. All students will receive 1 credit for completing the course requirements listed below. Students may earn an additional credit (for a total of 2 credits) by completing an optional research paper that satisfies the Upper-Class Writing Requirement.

PROFESSOR CONTACT INFORMATION & OFFICE HOURS

Jordana A. Confino

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Office Hours: Mondays, 10-11 AM:

<https://fordham.zoom.us/j/82364535117?pwd=czRSc1FOQVVzdEhEcmg0RklDcUISZz09>

We encourage you to take advantage of office hours, which will serve as open forums for discussion about the class material or any other topics of interest. If you cannot make either of our regularly scheduled office hours, or if you would like to meet with either of us individually, we are happy to meet via phone or Zoom at another time. Please just email us to schedule an appointment. We look forward to getting to know you! Indeed, we strongly encourage all students to schedule at least one one-on-one check-in with one or both of us over the course of the semester.

COURSE MATERIALS

The required text for this course is SHAWN ACHOR, *THE HAPPINESS ADVANTAGE: HOW A POSITIVE BRAIN FUELS SUCCESS IN WORK AND LIFE* (2018). It can be purchased on Amazon for \$17 or less. All other readings will be hyperlinked or posted on the course TWEN site under “Course Materials.”

ATTENDANCE & RECORDING POLICIES

Given the experiential and condensed nature of the course, your attendance and participation in all class sessions is essential. Students are expected to attend all classes with video on. If personal circumstances make this infeasible for all or part of a class, please email the instructors before class to let us know. Class sessions will not be recorded in order to ensure that all students feel comfortable expressing themselves in class.

COURSE REQUIREMENTS & GRADING

This course is subject to the Law School’s mandatory curve for seminars. Grades will be based on class participation and the weekly writing assignments.

- ***Class Participation:*** Students are expected to complete all readings and pre-class assignments and actively participate in class discussions.
- ***Positive Intervention Log & Reflection Papers:*** Each week that class meets, you will be asked to submit a positive intervention log and/or reflection paper in connection with the week's topic. You can find details about each week's assignment below. **Your written assignments are due on TWEN at 5:00 PM ET on the Monday preceding our Wednesday class.**
 - o Because we will sometimes assign positive interventions that must be completed over the course of multiple days, we ask that you please review the homework assignment for each class promptly following the class session.
 - o Rest assured that we will treat your positive intervention logs and reflection papers as confidential. We may, however, refer anonymously in class to things mentioned in the submissions, provided the statements are generic enough that they will not identify the author.
 - o Please follow the below instructions for submission:
 - Log into your TWEN account and select the **Positive Lawyering** course.
 - Click **Weekly Assignments** on the left side of the home page.
 - Go to the assignment for each week and click **submit**.
 - Attach the documents you would like to submit.
 - Click **submit** at the end of your entry.

EXPECTATIONS FOR CLASS DISCUSSION

We will be exploring many important personal and emotional topics in this class, and it is essential that you treat one another with kindness, courtesy, and respect in all communications relating to this course. Personal anecdotes shared by students during breakout sessions or class discussion should not leave the class.

OPTIONAL RESEARCH PAPER

Please notify both course instructors ASAP if you would like to use this course to fulfill the Upper-Class Writing Requirement and/or earn an additional Independent Study credit. To satisfy this requirement, you must produce a substantial scholarly research paper under the supervision of one of the course instructors. Specifically, you must:

1. Present a topic proposal for faculty approval no later than **March 10**.
2. Submit an outline for faculty comment no later than **March 24**.
3. Submit a rough draft for faculty comment no later than **April 21**.
4. Submit a final draft no later than **May 5**.

Pursuant to the JD Graduation Requirements Guide, the final paper must (1) demonstrate significant research and original analysis; (2) be well organized, carefully presented, and clearly written; and (3) be at least 25 double-spaced typewritten pages including footnotes.

The deadline to submit the [Independent Study & Writing Requirement Registration](#) form is **Friday, January 29**.

LEARNING OUTCOMES

Upon successful completion of this course, you will be able to:

- Demonstrate understanding of the challenges to lawyer and law student well-being and identify factors that impact satisfaction within the legal profession
- Demonstrate understanding of how well-being is a critical element of lawyers' professional responsibility and how lawyers' omission to tend to their mental health and wellness can impede their ability to fulfill their ethical duties of competence and diligence
- Demonstrate knowledge and understanding of a holistic, multi-dimensional approach to well-being and its relevance and application to law students and lawyers
- Demonstrate an understanding of the aim and scope of positive psychology and implement positive interventions in your personal and professional lives
- Utilize mindfulness practices in order to cultivate greater self-awareness and a greater capacity for self-regulation
- Demonstrate an understanding of the relevance of self-reflective practices to personal, academic, and professional performance, and engage in self-reflection
- Identify and tap into your individual strengths and values in order to achieve peak engagement, meaning, fulfillment, and productivity
- Understand and deploy strategies for increasing social and emotional intelligence and cultivating positive interpersonal relationships
- Deploy cognitive and behavioral tools and strategies for managing stress and cultivating resilience

CLASS SCHEDULE & ASSIGNMENTS

I. **January 20 – *Introduction to Positive Psychology & How it Can Be Used to Address the Lawyer Well-Being Problem***

Pre-Class Assignments

1. *Best Self Essay*: Write a brief essay (1-2 pages double-spaced) describing an instance where you were at your very best. Submit your essay on TWEN in the “Class 1 Pre-Work” folder under the Weekly Assignments tab by **5:00 PM on Tuesday, January 19**. Come to class prepared to share your story with a classmate.
2. Register on <https://www.authentic happiness.sas.upenn.edu/> and complete the Authentic Happiness Inventory, Satisfaction with Life Scale, and Positive and Negative Assessment Scale (PANAS) (available under the Questionnaires tab). These assessments will give you a sense of how the measures in positive psychology work and will inform our discussion on the topic.
3. Read:
 - The Report of the National Task Force on Lawyer Well-Being, pp. 7-11 (Introduction)
 - Martin P. Seligman, AUTHENTIC HAPPINESS, pp. 177-84 (Why Are Lawyers So Unhappy?)
 - Todd D. Peterson & Elizabeth W. Peterson, *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology*, pp. 358-65, 385-95
 - Arthur Brooks, *The Three Equations for a Happy Life, Even During a Pandemic*

Homework (due on TWEN by Feb. 1 @ 5 PM)

1. Positive Intervention Log: *Three Good Things*

- At least three times per week until this assignment is due write down three things that went well for you that day. Take note of precisely what happened, how the event made you feel at the time, and how it made you feel later on (including at this moment). Explain what you think caused each event—why it came to pass. Where applicable, also note anything you did to make that good thing happen.
2. Reflection Paper
- *Best Possible Self One Year From Now*: Submit a 1-2 page reflection paper discussing (1) what you hope to get out of this class – including what you hope to learn and what skills you’d like to acquire; (2) how you think your personal life will improve if you are able to master this material/these techniques; and (3) how you think your future career as a lawyer will be different if you are able to master this material/these techniques.

II. February 3 – *Growth Mindset & Positive Emotions*

Pre-Class Assignments

1. Watch:
 - [TedX Talk: Shawn Achor, The Happy Secret to Better Work](#)
2. Listen:
 - [NPR Podcast: Brené Brown, Can We Gain Strength from Shame?](#)
3. Read:
 - Shawn Achor, *THE HAPPINESS ADVANTAGE*, pp. 25-33, 37-61
 - Barbara L. Fredrickson, *Positive Emotions Broaden and Build*, pp. 1-6
 - Brené Brown, *THE GIFTS OF IMPERFECTION*, pp. 77-85 (Cultivating Gratitude & Joy)

Homework (due on TWEN by Feb. 7 @ 5 PM)

1. Positive Intervention Log & Reflection Paper
 - Feel free to continue or discontinue your *Three Good Things* log and/or experiment with alternatives, e.g., sharing your three good things out loud with a partner/friend instead of writing them down, etc. Note your decision and the results in your positive intervention log.
 - Choose **1 of the 4** following positive interventions:
 - *Gratitude Letter*
 - Complete this [Gratitude Letter Exercise](#) and write a brief reflection paper about your experience. You may, but are not required to, attach your letter to your reflection paper.
 - *Loving Kindness Meditation*
 - Complete this [Loving Kindness Meditation](#) and write a brief reflection paper about your experience.
 - *Mental Subtraction of Positive Events*
 - Complete this [Mental Subtraction Exercise](#) and write a brief reflection paper about your experience.
 - *Pleasure vs. Philanthropy Exercise*
 - Plan and carry out two activities: A pleasurable activity and a philanthropic activity. For the pleasurable activity, plan something fun that you expect will make you feel happy. The

only restriction is that this must be an activity that you intentionally plan (not something that you were going to do anyway, or that simply transpires as the week goes on). For the philanthropic activity, plan something that will improve someone else's well-being. It could be, but need not be, a secret/anonymous good deed. It could involve giving the gift of time (e.g., tutoring, helping a family member or neighbor, etc.) or a gift, or it could involve using your unique talents and strengths to do something special for someone. Again, make sure this is something you plan intentionally (not something you were going to do anyway). Write a brief reflection paper about your experiences, describing what you did and reflecting on the similarities and differences between these two experiences.

- *Savoring*
 - Stop and notice the next time something pleasurable occurs. Savor this event using one or more of the following techniques:
 - Absorption: Let yourself get totally immersed in the pleasure of the moment and try not to think of other matters.
 - Sharpening Perceptions: Focus on certain elements of the experience.
 - Memory Building: Take mental photographs of the event, committing as many details as possible to memory. Reminisce about it later with others.
 - Sharing with Others: If possible, seek out others to share the experience with you in the moment. If that is not possible, tell others how much you valued the experience afterward.
 - Self-Congratulation: If appropriate, allow yourself to lean into pride. Pat yourself on the back and acknowledge how hard you have worked or how long you have waited for this thing to happen.
 - Write a brief reflection paper on your experience, noting which savoring strategies you deployed, as well as your subjective experience and insights gained by undergoing this exercise.

III. February 10 – *Positive Relationships & Social/Emotional Intelligence*

Pre-Class Assignments

1. Read:
 - Cheryl Krause & Jane Chong, *Lawyer Wellbeing as a Crisis of the Profession*, pp. 231-35
 - Shawn Achor, *THE HAPPINESS ADVANTAGE*, pp. 171-96
 - Shelly L. Gable et al., *Will You Be There for Me When Things Go Right? Supportive Responses to Positive Event Disclosures*, pp. 904-06, 913-16
 - Daniel Goleman & Richard E. Boyatzis, *Social Intelligence and the Biology of Leadership*

Homework (due on TWEN by Feb. 15 @ 5 PM)

1. Reflection Paper
 - Write a brief reflection paper about which EQ/SQ competencies you feel are your strengths and in which areas you would like to improve. Identify specific action steps you can take to develop the competencies you feel you are lacking.
2. Positive Intervention Log
 - Choose **1 of the 3** following positive interventions:
 - *Active Constructive Responding*
 - In the next week, find at least 3 opportunities to use active-constructive responding with someone you know (it doesn't have to be the same person each time). You can find more specific instructions for how to do so [here](#). Write a brief reflection paper containing details about the interactions you had, both in terms of what you did and how the other person reacted.
 - *Three Loving Connections*
 - In the next week, seek out at least 3 opportunities to really connect with others. Opportunities may spring up at school, at home, or out in the community. Wherever you are, open yourself toward the other person(s), actively conveying your attention and a sense of warmth, safety, and/or positive regard through eye contact, a smile (assuming it's safe to de-mask), conversation, or, when appropriate, touch. Share your own positive thoughts and/or feelings, and stay present when the other person shares theirs. Afterward, reflect on to what extent you experienced positivity resonance (the combination of shared positive emotions with another and a sense of mutual care and positive regard), and how the interchange, and your resulting feelings/experience, might have differed had you not leaned into that micro-moment of connection.
 - *Gain Perspective on an Argument*
 - Background: Conflict is an important part of any close personal relationship. While interpersonal conflicts have the potential to be damaging (especially if they are approached with the adversarial tactics a lawyer might bring to litigation), they can also be a constructive way to work through issues and better understand another person. That said, when a conflict arises it is very easy to get swept up in the heat of the moment and your desire to win or get your point across. This is especially true when you take a first-person perspective, focusing only on your own thoughts, feelings, and values. But by adopting a neutral third-party perspective, the perspective of an observer who sees both people's points of view and wants to achieve the best resolution for everyone, you can (1) reduce your emotional reactivity, and (2) respond in a way designed to bring about a mutually agreeable solution while preserving your relationship.
 - Exercise:
 - Think back on a recent argument you had with your partner or a friend or family member and try to imagine that fight as if you were a neutral third party—a “fly on the wall”—who could see the whole picture of your relationship and wanted the best for both of you. Now think about how this outside observer might think about the disagreement. How would

- they view the other person's behaviors and perspectives?
How might they find the good that could come from them?
- Reflect on what obstacles you might face in trying to take this third-party perspective when engaging in an argument. What might help you overcome them? (For instance, if you find yourself getting caught up in the heat of the moment, it might help to take a time out or pause and take 5 deep breaths. Or, if you simply can't imagine a positive place the other person might be coming from, consider posing additional questions about their underlying motives/rationale.).
 - Try using this "fly on the wall" tactic next time a disagreement arises between you and someone you are close to (it need not be in the upcoming week – please do not feel the need to CREATE a disagreement!). Whenever this occurs organically, reflect on your experience in your positive intervention log for that week.
3. Continuing Positive Interventions:
- In the event you elected to continue any of the positive interventions assigned in a prior week (which you are not at all required to do), please note as much in your activity log. You may also feel free (though you are not required) to include a brief reflection.

IV. February 17 – *Mindfulness* (Guest Lecture by [Jon Krop](#) of Mindfulness for Lawyers)

Pre-Class Assignments

1. Read:
- Cory Muscara, STOP MISSING YOUR LIFE: HOW TO BE DEEPLY PRESENT IN AN UN-PRESENT WORLD, pp. 41-78
 - Scott L. Rogers et al., *Mindfulness Training for Judges: Mind Wandering and the Development of Cognitive Resilience*

Homework (due on TWEN by March 1 @ 5 PM)

1. Positive Intervention Log
- Practice mindfulness on at least 4 separate occasions before this homework assignment is due. Feel free to experiment with a variety of different types of practices (e.g., sitting meditation, mindful eating, self-guided mindful breathing, guided meditation, etc.), but make sure that at least 1 of your practices consists of a meditation practice lasting at least 10 minutes. Maintain a log noting how and for how long you practiced on each occasion.
 - You can find links to mindfulness resources in the "Additional Resources" folder on TWEN.
2. Reflection Paper
- Write a brief reflection paper discussing the mindfulness strategies you learned and how they played out in your practice sessions. Reflect on your experiences practicing mindfulness and note which practice(s), if any, you intend to use going forward.
3. Continuing Positive Interventions

- In the event you elected to continue any of the positive interventions assigned in a prior week (which you are not at all required to do), please note as much in your activity log. You may also feel free (though you are not required) to include a brief reflection.

V. March 3 – Resilience & Optimism

Pre-Class Assignments

1. Take the Resilience Quotient Test (available on TWEN along with the Week 5 reading assignments) and bring your results to class.
2. Take the Optimism Test (found on pp. 84-88 of the Seligman *Authentic Happiness* reading listed below) and bring your results to class.
3. Listen:
 - Cory Muscara, Practicing Human Podcast, [“A Well Trained Mind”](#) (MP4 available on TWEN along with reading assignments) (4 min)
4. Read:
 - Shawn Achor, *THE HAPPINESS ADVANTAGE*, pp. 105-27
 - Martin Seligman, *AUTHENTIC HAPPINESS*, pp. 83-101
 - Paula Davis-Laack, Larry Richard & David Shearon, *Four Things Resilient Lawyers Do Differently*
 - Dan Lerner & Alan Schlechter, *UTHRIVE*, pp. 91-94
 - Martin Seligman, *LEARNED OPTIMISM: HOW TO CHANGE YOUR MIND AND YOUR LIFE*, pp. 291-92 (Flexible Optimism)

Homework (due on TWEN by March 15 @ 5 PM)

1. Complete and submit the Resilience Handout (available on TWEN along with the Class 5 reading assignments).
2. Continuing Positive Interventions
 - In the event you elected to continue any of the positive interventions assigned in a prior week (which you are not at all required to do), please note as much in your activity log. You may also feel free (though you are not required) to include a brief reflection.

VI. March 17 – Character Strengths, Engagement & Flow

Pre-Class Assignments

1. Complete the VIA Strengths Assessment (available at <http://www.viacharacter.org/survey/account/register>) and bring your results to class.
2. Read:
 - Jennifer Gibbs, *Lawyers in Flow: Get Out of Your Head and Into Your Case*
 - Todd D. Peterson & Elizabeth W. Peterson, *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology*, pp. 387-90, 406-08, 413-18

Homework (due on TWEN by March 22 @ 5 PM)

1. Reflection Paper:

- *Walk Through WOOP*
 - Identify a challenging goal you would like to achieve and submit a reflection paper with your responses to the following questions:
 - Wish: What is the goal you are aiming to achieve (whether today, next week, in a month, or 1-2 years down the line)?
 - Outcome: How would you feel if you were to accomplish this goal?
 - Obstacle: What is standing in your way? What assumptions or habits are holding you back?
 - Plan: What is one thing you can do to overcome those obstacles? Not just generally, but specifically, in this very moment? Complete the following statement: If [insert obstacle] happens, I will do [insert response] to prevent it from holding me back.
2. Positive Intervention Log:
- Choose **1 of the 3** following positive interventions:
 - *Novel Use of Signature Strengths*
 - Use at least one of your signature strengths in a new way at least three times before this homework assignment is due. Write a short reflection paper documenting your experiences.
 - For ideas see: https://www.actionforhappiness.org/media/52486/340_ways_to_use_character_strengths.pdf.
 - *Character Strengths 360*
 - Complete this [Character Strengths 360](#) Exercise and write a brief reflection paper documenting your experience.
 - *Find Your Flow*
 - For some lucky people (e.g. Mozart, Picasso), flow comes naturally. But for most of us, tapping into that flow state requires deliberate practice and reflection.
 - Step 1: Identify activities that offer the potential for flow by responding to the three following questions:
 - Challenge: What are the activities that challenge you? (Remember flow arises when we push our skills/abilities to their limit - not when things are easy.)
 - Enthusiasm: What are the things you love to do? (Passion is another prerequisite - you can't achieve flow when you're bored or disinterested.)
 - Skill: What are your most highly developed or natural skills? (Flow requires a certain level of mastery - though you certainly don't need to be an expert.)
 - Step 2: Review your responses to these questions and identify at least one activity that combines challenge, enthusiasm, and skill.
 - Step 3: Think about an environment that will promote a flow-like experience.
 - Step 4: Practice your activity (ideally though not necessarily in the environment you envisioned) at least once in the upcoming week and allow yourself to become fully absorbed in the task at hand. Write a brief reflection paper about your

experience (including noting what it felt like when you were fully engaged).

3. Continuing Positive Interventions
 - In the event you elected to continue any of the positive interventions assigned in a prior week (which you are not at all required to do), please note as much in your activity log. You may also feel free (though you are not required) to include a brief reflection.

VII. March 24 – Values & Job Crafting

Pre-Class Assignments

1. Read:
 - Brené Brown, DARE TO LEAD, pp. 185-93
 - Anne Brafford, POSITIVE PROFESSIONALS: CREATING HIGH-PERFORMING PROFITABLE FIRMS THROUGH THE SCIENCE OF ENGAGEMENT, pp. 13-28
 - Amy Wrzesniewski et al., *Turn the Job You Have into the Job You Want*
 - Emily Esfahani Smith, *How to Find Meaning in a Job that Isn't Your "True Calling"*
2. Complete Steps #1-5 of the Values Discovery Exercise worksheet (available on TWEN along with the Class 7 readings)

Homework (due on TWEN by April 5 @ 5 PM)

1. Complete and submit the Values Discovery Exercise worksheet
2. Continuing Positive Interventions
 - In the event you elected to continue any of the positive interventions assigned in a prior week (which you are not at all required to do), please note as much in your activity log. You may also feel free (though you are not required) to include a brief reflection.

VIII. April 7 – Optimism, Self-Compassion & Balance

Pre-Class Assignments

1. Read:
 - Tal Ben-Shahar, THE PURSUIT OF PERFECT, pp. 3-34
 - Christy Cassisa & Kristin Neff, *The Promise of Self-Compassion for Solos*
 - Greg McKeown, ESSENTIALISM: THE DISCIPLINED PURSUIT OF LESS, pp. 1-27
 - Scott Barry-Kaufman, *Why Your Passion for Work Could Ruin Your Career*
 - Sandra Dalton-Smith, *The 7 Types of Rest that Every Person Needs*
2. Listen (OPTIONAL):
 - Stephen Dubner & Angela Duckworth, *No Stupid Questions Podcast*, [“Are You a Maximizer or a Satisficer?”](#) (end at 11:38 min)

Homework (due on TWEN by April 19 @ 5 PM)

1. Positive Interventions & Reflection
 - Complete **1 of the 2** following failure-related positive interventions and write a brief reflection about your experience:
 - *Failure Resume*

- Create a “failure resume” (see, e.g., <https://www.nytimes.com/2019/02/03/smarter-living/failure-resume.html>) cataloguing instances in which you’ve failed, “[b]ut instead of focusing on how that failure makes you feel, take the time to step back and analyze the practical, operational reasons that you failed.” Take stock of what meaningful lessons you can derive from each experience -- what nuggets of wisdom can you extract to help you do better next time?
 - *Letter to Fear*
 - Write a letter to your fear following [these instructions](#).
- Complete **1 of the 2** following self-compassion-related positive interventions and write a brief reflection about your experience:
 - [Exploring Self-Compassion Through Writing](#)
 - [Self-Compassion Journal](#)

IX. April 21 – *Positive Lawyering*

Pre-Class Assignments

1. Retake the Authentic Happiness Inventory, Satisfaction with Life Scale, and PANAS at <https://www.authentichappiness.sas.upenn.edu/>. Take note of any changes in your scores since you last took these assessments at the beginning of the semester. Bring your results to class.
2. Come to class prepared to share your reflections on this course, including which practices/interventions you have found most worthwhile and/or most challenging to implement, how the tools and insights you’ve gained through this class have impacted your life thus far, and which practices you expect to continue to implement going forward.