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## Reflections of a 3L - A Thought Piece<sup>1</sup>

There is a myth circulated among those in the legal profession that law school is a miserable experience. As the myth goes, not only *is* law school miserable, it *must* be so. They tell you that it's<sup>2</sup> the most difficult three years of your life and that the only way to survive is to grit your teeth, shun society, and bull through. As it turns out, this myth is a remnant of the days before bar exams were implemented by the organized bar to keep lawyer salaries high by limiting the number of market participants.<sup>3</sup> In days of yore the "Miserable Myth," as it has come to be known, was used to discourage bright youths from entering the profession.<sup>4</sup>

With the development of much more effective ways to limit access to the profession, the time has come to dispel the myth. Unfortunately, as is the case with many such myths, the power of the Miserable Myth lies in its self-fulfilling nature. Because entering law students are conditioned to believe that law school will be miserable, they end up making it so. This paper is a guide to overcoming the Miserable Myth. It examines four critical areas in which law students and potential law students must take action if the Miserable Myth is to be overcome.

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1. For those of you unfamiliar with the *BYU Law Review*, referring to an article as a "thought piece" is the substantive equivalent of saying that there will be little or no support for anything contained in the article. We generally reserve this reference for articles included in our *International Comparative Law Annual* because by doing so we can justify not undertaking grueling quests for Bulgarian sources in Hungarian law libraries. Readers, and especially potential employers, should not mistake the fact that I have chosen to write a "thought piece" in my last semester of law school as an indication that I am incapable of "real" legal writing. See *infra* note 3.

2. The great thing about writing a thought piece is that you get to use contractions.

3. See, this is kind of a law and economics paper.

4. In those days the Miserable Myth was much stronger than it is today. It has been tempered somewhat to allow the current scheme to function properly. The bar has since discovered that it is much more profitable to encourage youth to enroll in law school, pay three years tuition, drop another \$1500 on a bar review course and then scale the bar exams scores so that half of those who take them fail no matter what. Ingenious as this scheme may appear, it seems to be evolving even further. Now, they let us pass, but they don't give us jobs.

## I. PREPARATION FOR LAW SCHOOL

The first step towards extermination of the Miserable Myth is to change the way that potential law students prepare for law school. If I had to summarize the best way to prepare for law school in one word, it would be "Don't!" Potential law students<sup>5</sup> work themselves into an absolute frenzy worrying about getting into law school. They pay hundreds of dollars to professional exam-taking teachers to teach them how to take the LSAT.<sup>6</sup> When you get right down to it, these courses only teach two basic principles: (1) that exam takers should read the questions carefully and (2) they should think through the possible answers.<sup>7</sup> If you can master that, you'll do fine on the LSAT. Of course if you're the type of person who insists on shelling out your hard-earned cash to have someone "authoritatively" tell you the obvious, you'll probably feel more comfortable hearing it from them than from me. Go ahead and spend your money, but don't blame me for saying, "I told you so."

Worse than LSAT prep courses, however, are undergraduate Political Science departments which sponsor "pre-law societies." These groups aim to wheedle<sup>8</sup> their constituents<sup>9</sup> into believing that they will flunk out of law school unless they are willing to take a cutthroat approach.<sup>10</sup> That's ridiculous. While we are graded relative to each other, it's nearly impossible for you to affect someone else's performance. Don't get me wrong; throats are cut in law school, but the wounds are always either professor- or self-inflicted.

A more sensible approach to law school preparation is to plan to do something else. By so planning you not only avoid

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5. Also known as political science majors.

6. Pronounced "ell sat." I include that for the benefit of my family which is not fluent in legal jargon, (when I told my grandma I made the Law Review she said "Laurie who?") but will likely be the only group ever to read this article.

7. I have a theory that LSAT prep courses are really just wannabe bar review courses.

8. Great word huh? I found it in my WordPerfect thesaurus.

9. *Id.*

10. In fact the days when law schools would flunk students out have long since passed. In these days of skyrocketing costs, *see, e.g.*, the cost for publishing last year's record setting *BYU Law Review* (we published more pages than ever), and decreasing revenues (why do you think the dean is letting us publish this issue?), law school deans are doing whatever they can to keep tuition paying students enrolled.

the pitfalls mentioned above, you can discover in advance whether you were really meant to be a lawyer. If you succeed at your "first" career choice, you were obviously not meant for law. If, on the other hand, you fail miserably, or better yet fail to get into the undergraduate program of your choice so that you're forced to study political science, you are obviously attorney material.

## II. THE FIRST YEAR

The first year of law school is largely responsible for the successful propagation of the Miserable Myth. Even people fortunate enough to have succeeded in their first career choice, and thus with no law school experience, "know" that the first year of law school is a harrowing ordeal.<sup>11</sup>

During my first year of law school my acquaintances constantly reminded me that "the first year of law school is the worst." In many ways this was comforting at the time because I was feeling plenty sorry for myself, and it was nice to hear others expressing their pity for my plight. I recognize now, however, that all of these people were innocent instruments, and perhaps some of them victims in their own right, of the Miserable Myth. You see, by constantly telling me how miserable I was supposed to be, they helped to make it true—not just because of the gloating tone I began to detect in many of their voices, but because if you hear something often enough you start to believe it.<sup>12</sup>

A long battle looms ahead for law students hoping to convince the world that law school, and especially the first year, is not just a trial run for a Senate confirmation hearing. Most importantly, first year law students must convince themselves

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11. I think the film "The Paper Chase" has done more to influence the public perception of the first year of law school than any other account. (I refuse to even look up the correct Bluebook form for a cite to "The Paper Chase." If you want to look at it just drop by Blockbuster Video.) Another unfortunate by-product of "The Paper Chase" is the host of law professors who believe they do their students a favor with their inept imitations of Professor Kingsfield. While most who make the attempt manage to imitate his arrogance and his offensive classroom demeanor, very few succeed in what I can only guess is their object, turning law students into a sniveling worshipful mass.

12. Because this is a thought piece I'm not really required to offer any support for a proposition like this. See *supra* note 1. I believe it to be true despite the recent failure of President Bush's "We are not in a recession" campaign. Indeed the success of the media's "Yes, we are in a recession" campaign is a good example of the If-You-Hear-it-Often-Enough principle. See *supra* note 3.

that they are not the most miserable creatures on earth and that their classmates are not a school of cannibalistic piranhas waiting for them to slip so the feeding frenzy can begin. Looking back on my first year, the only incident even approaching a frenzy was when one of my classmates was caught making an "unauthorized copy" of another's outline.<sup>13</sup> The frenzy was from the members of the class who appeared prepared to have the offender drawn and quartered. I don't know all of the facts surrounding the incident, but I am convinced that the crime was not as nefarious<sup>14</sup> as I first believed. I am not condoning my classmate's "thievery," but the fact that he was more comfortable stealing another's work than asking someone for help must say something about the law school process itself—at the very least, it says something unflattering about the way we approach the process.

The first year's grimmest days were those between New Year's Day and the release of grades for the first semester. Most of us put up a good front—insisting that we really didn't care how we did on our exams as long as we passed. I can't speak for everyone but I secretly hoped to score a 90 in at least one class.<sup>15</sup> These days of waiting were made somewhat more bearable by a grade submission "deadline" that the professors were "required" to meet. When the deadline finally came, however, our hopes that the waiting would finally end were dashed upon a previously unknown hard fact—law professors don't have to meet deadlines.<sup>16</sup> Students do, but professors don't. In fact, I believe that the luxury of letting "deadlines" come and go

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13. Outlines prepared by first year law students somehow take on a degree of sanctity otherwise reserved for the most holy of religious symbols. See, e.g., "The Paper Chase," *supra* note 11 at the part where the big guy drops his property outline out the window.

14. See *supra* note 8.

15. BYU Law School uses a crazy grading system it borrowed from the University of Chicago, alma mater of our founding dean, Rex E. Lee. The purpose of this grading system, which is based on a mean (when I say mean I mean average, I don't mean mean like fierce, know what I mean?) of 73, can be nothing other than to humble law students. Even when we do extremely well and get an 82 our undergraduate friends thinks it's equivalent to a C. Perhaps it's another part of the plot to discourage people from going to law school. I didn't get a 90 in my first semester or in any semester since then. I guess it says a lot about my pre-law school ego that I even hoped for one.

16. At least not if they have tenure. I know that if any law professors read this, they will huff and puff and whine about how much pressure they're under to publish. Well, I don't mean to sound hard-hearted but I still believe that a teacher's first priority ought to be students.

without worry is one of the primary reasons law professors teach law instead of earning mega bucks as private attorneys.<sup>17</sup> At any rate the sooner students accept this double standard, the less anguish they'll have to endure at grade time.

Of course, avoiding the agony of waiting does little to relieve the sting of disappointment caused by first semester grades. For many, the anticipation is far sweeter than reality. I think it's safe to say<sup>18</sup> that at most five percent of any first year class is completely satisfied with their first semester performance. Even those whose performance is stellar overall usually wish they had done better in one class or another. In large part it's this disappointment that contributes to the misery of law school. Very few law students get what they expect out of law school. While it might be stretching it to say that the only students not disappointed in some way are those who are first in their class, editors of their law review, and get clerkships to the Supreme Court,<sup>19</sup> I doubt it. Even if you meet with such success you are likely to be disappointed if you expect to do all this and be loved and respected by your classmates as well. Fortunately, the sting of first semester grades dulls over time. Disappointment eventually gives way to acceptance, and in some cases, acceptance eventually becomes euphoria. After all, we all said that "passing" was the goal anyway, and once you're far enough out of the top ten percent that striving for it no longer makes sense, law school becomes a lot more fun. Of course, if the ability to relax a little is not enough to make you feel better, there is always the grade blues Balm of Gilead—remembering that Dan Quayle is Vice-President of the United States.<sup>20</sup>

### III. THE JOB HUNT

Despite all the nightmares, the first year does come to an end, eventually. A few first year law students will have been fortunate enough to have secured "legal employment"<sup>21</sup> for the

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17. For other non-deadline career paths within the legal profession, consider a stint with the judiciary, civil service, or, if you're really bothered by deadlines, Congress.

18. Remember, this is a thought piece.

19. I don't mean to say that every student has these expectations, only that nearly every student falls short of whatever expectations they set for themselves.

20. Indeed, although they usually do so without mentioning specific names, law professors and placement directors frequently employ the "Flop in law school becomes Champion in life" routine for consoling law students.

21. This term refers, quite obviously, to employment of a legal nature. Legal

summer following the first year of law school.<sup>22</sup> For others, that summer represents the last real opportunity to do something sensible with their sanity<sup>23</sup>—something like a trip to Europe, a comprehensive tour of the best beaches on the West Coast, or one last cattle drive across the Montana Plains. My first year class was specifically told that legal employers “understand” a law student’s decision to have that last “big fling.”<sup>24</sup> While it’s difficult to explain the conspicuous void in your resume left by such frivolity, tactically, “choosing” a summer of relaxation may sound better in your second year interviews than an admission that, in spite of your many qualifications, you simply couldn’t get a job. After all, for most law students, the job hunt begins in earnest in the fall of the second year.

At “first rate” law schools<sup>25</sup> would-be employers line up to interview the second year class, hoping to add a brand-name attorney to their *Martindale-Hubbel* listing. At other law schools placement officers have coaxed, cajoled, and otherwise urged as many employers as possible to visit campus and give their students a look. Because legal recruiting occurs in autumn, schools with strong football programs have an advantage over other schools in this recruiter recruiting process.

It’s no secret that most recruiters who come “on campus” are primarily interested in the top ten percent of the class. Why there should be some magical cut-off that discriminates so fiercely between students whose grade averages are within a

employment usually encompasses such activities as clerking for a law firm, judge, or professor. More resourceful students (i.e., those unable to obtain the aforementioned type of legal employment) may “employ” themselves in a pro se suit against a landlord, used car salesman, or other suitably suable scumbag.

22. Regrettably, the summer after the first year of law school is often referred to as the “first summer,” as in “Where did you work your first summer?” This terminology reflects the effectiveness of first year law professors in convincing law students that they had no life before they came to law school. Actually, in most cases the inverse is true.

23. Unfortunately for many, tough economic times are yielding second, third and indefinite “last real opportunities.”

24. I don’t know whether this “advice” was motivated by a concern for our welfare or a lack of a better way to rationalize the small number of recruiters for first year students the placement office was able to bring to campus.

25. This would include some but not all 50 of the top 15 schools in the country. See, James D. Gordon III, *How Not to Succeed in Law School*, 100 YALE L.J. 1679, 1682-83 (suggesting that there are over 30 schools ranked in the top 10). Despite this reference to a non-cinematic source, this is still a thought piece. See *supra* note 1. Since I had Professor Gordon for Contracts I heard this joke without doing any research.

single point escapes me. My theory is that this is a testament to the inadequacy of legal interviewers who are incapable of discerning anything from a resume and an interview besides the class rank of the interviewee. Anyone of average intelligence should be able to figure out that there's more<sup>26</sup> going on in a job interview than a determination of the applicant's competency. I consider myself fortunate to have learned at such a young age the "secret" of interviewing for legal employment.<sup>27</sup>

The secret was shared with me by an interviewer at one of the finest firms in Phoenix.<sup>28</sup> Interviews by law firms are not what you might call "20-minute-show-them-you're-the-next-Cardozo-interviews." Rather they are, "20-minute-don't-be-a-bonehead<sup>29</sup>-interviews." Considering the unfavorable results of some of my interviews, that news was somewhat disconcerting at first. I realized, however, that given two or more applicants who can go twenty minutes without being boneheads, law firms would prefer the non-bonehead with the higher grades. This means I should really be concerned about the interviews with firms that decided to hire somebody with a lower grade point average than mine.<sup>30</sup>

My recommendation for successful interviewing is therefore quite simple—Don't be a bonehead! While this may sound simple at first, the plain and ugly truth is that most boneheads don't know they're boneheads. It would be well if law school placement centers, rather than expend their resources on dainty bulletin boards and tips on sharp dressing, would provide law students with a class on how to avoid being boneheads.<sup>31</sup> Since most law schools do not provide such a class, here are a few tips.

First, don't criticize other members of your class, either

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26. More accurately, "less."

27. Sorry, I haven't yet learned the secret to *getting* interviews.

28. Nice alliteration, huh?

29. "Bonehead" isn't exactly the word used by the interviewer but I think that we've already put enough profanity in this issue of the Law Review without adding more from our own staff. Although the word used by the interviewer encompassed more negative character traits than the substitution I have chosen, I'm going to count on the discernment of the readers to get the drift of the term.

30. Fortunately for my tender ego, *but see, supra* note 15 and accompanying text, I generally had the lowest average of the ten students who interviewed with the same firms I did. Unfortunately for my employment future, odds are against any single firm interviewing ten boneheads.

31. Maybe the reason they don't is that there's nobody on the faculty qualified to teach it.

specifically or in general. Especially don't justify your position in the class by claiming that all those above you are a bunch of brown nosers. It's entirely possible that the interviewer graduated very high in his class.

Second, don't belittle your school. The interviewer obviously thinks enough of the school to be interviewing you.

Third, don't use the interview as an opportunity to make a political speech of any kind, especially if you're not absolutely certain that the interviewer shares your opinion. Having a strong opinion about something doesn't necessarily mean that you are a bonehead. Taking the interviewer's time to expound on it does.

Finally, don't let the interviewer know that you think he is a bonehead. While this doesn't make you a bonehead, if the interviewer realizes that you think he's a bonehead he's likely to be affected by the "I-know-you-are-but-what-am-I" syndrome. If the interviewer is such a bonehead that you wouldn't want to work at the same firm with him, you should feel free to drop subtle hints.<sup>32</sup>

Keep in mind that these tips are the most basic. There's a lot more to being a non-bonehead but you should be certain you grasp the basics before even asking for an interview. If you find that you are persistently unable to get a second interview you should speak candidly with several people with whom you've failed to get second dates. These people are generally able to pinpoint those personal traits that make you a bonehead.<sup>33</sup> Once you cease being a bonehead you should be well on your way to obtaining gainful employment.<sup>34</sup> Then you can sit back and enjoy your last year of law school.

#### IV. THE THIRD YEAR--CALM BEFORE THE STORM

The third year, and especially the last semester, can do more for dispelling the Miserable Myth than any other part of law school. Nevertheless, because of faulty preparation many students tragically find that the final semester is as arduous as those that preceded it. It's a crime that shouldn't be allowed to

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32. Compare the movie "Uncle Buck" at the part where John Candy (Buck) has a conversation with his niece's principal. See *supra* note 11.

33. If you're married you have an advantage because your spouse probably keeps a list.

34. This of course assumes that you're not coming out of law school in the middle of a recession.

persist.

Preparation for a stress reducing final semester must begin during the first year. Although most of the first year curriculum is set by the school, most schools offer some kind of optional seminar that basically deals with what being a lawyer is all about. At BYU that class is called, appropriately, "Professional Seminar." Take that class! It is generally offered on a pass-fail basis and all you have to do is show up and do the reading. Many first year students seem convinced that they're too swamped to take even an extra half credit class during the first year. Believe me, you'll find the reading and discussion in a class of this kind refreshing and you'll certainly be glad when your final semester rolls around and you can take one less class. One caveat—if your school gives one-half credit for each semester of the seminar, take both semesters! A half-credit doesn't do you any good if you can't pick up the other half somewhere else down the line.

This strategy should be continued during the second year. Take a couple extra credit hours each semester. While this may seem to put you at a disadvantage vis-à-vis<sup>35</sup> your classmates, you may well find that you actually do better carrying a heavier load because you're required to manage your time better.

If you follow this advice you should arrive at your last semester needing only enough credits to take two-thirds of a full load. Even this can become burdensome without careful scheduling. Most schools offer several classes for second and third year students on a pass-fail basis.<sup>36</sup> A substantial number of these classes should be reserved for the final semester. With proper management you could find yourself facing a final semester with only one or two graded classes. With above average planning you can even get two semester hours of credit for writing a thought piece.<sup>37</sup>

With the extra time you'll have in your last semester you should reacquaint yourself with your family before you go to work for a firm that will have you spending eighty hours a

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35. Neat phrase, huh?

36. Don't be confused if the course catalog identifies these as credit-no credit classes. They are the same thing.

37. I imagine there are some out there who would consider this strategy a shame. Those who follow it, argue these people, are wasting the only time they have to study the fascinating subjects offered in law school. I am confident that the majority of these people are too uptight to have even picked up an issue of a law review entitled "Humor and the Law."

week at the office. You might also take time to really get to know your classmates.<sup>38</sup> They're likely to be one of the greatest associations of people of which you'll ever be a member.

#### V. CONCLUSION

The point of this comment is simple. There is a lot about the law school that, beyond our power to change, is going to be annoying, frustrating, and at times downright heartbreaking. That's because law school is part of life.<sup>39</sup> Whether law school and the rest of our lives are miserable is entirely up to us. If we plan well, and more importantly, if we take a little time to sit back and consider what really matters, we can dispel the Miserable Myth.

*Grant M. Sumsion*

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38. This will be difficult since you'll be spending a whole lot less time at school than most of them.

39. Ain't I profound?