

SECONDARY TRAUMA IN LAWYERING: AN
INTRODUCTION

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In a 2012 article, I described witnessing my Black client, Darryl Hunt, experience a posttraumatic stress disorder (“PTSD”) episode.¹ In 2004, he was exonerated after twenty years of wrongful incarceration for the rape and murder of a White newspaper editor in downtown Winston-Salem, North Carolina.² In 2006, as Darryl and I sat waiting in a hotel lobby in Washington, D.C., Darryl began sweating and his heart rate began soaring.³ These reactions were due to the trigger of a flashing green light in the lobby.⁴ The light activated the memory of the lime green socks of a newspaper reporter on which Darryl focused to hold back tears as he, then nineteen years old, was paraded before the media when officers served him with a murder warrant in September 1984.⁵ I represented Darryl during his trials and post-conviction motions from 1984 to 2004.

There were many more PTSD triggers and episodes during Darryl’s last ten years of life, as the “moral injury”⁶ and the physical

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1. Mark Rabil, *My Three Decades with Darryl Hunt*, 75 ALB. L. REV. 1535, 1535–36, 1555 (2012).

2. *Id.* at 1535–36.

3. *Id.*

4. *Id.*

5. *Id.* at 1536.

6. The United States Department of Veterans Affairs provides an excellent definition of “moral injury.” See Sonya B. Norman & Shira Maguen, *Moral*

and emotional toll of wrongful incarceration, solitary confinement, four jury trials, and repeated losses in state and federal courts took their toll.⁷ Because the trauma of incarceration was repeated and continuous, Darryl suffered from “Complex PTSD,”⁸ as do many others who have been wrongfully convicted and incarcerated.⁹ Darryl became a national spokesman on issues of innocence and racial justice following the HBO documentary about his case, *The Trials of Darryl Hunt*.¹⁰ We worked as colleagues in the twelve years after his exoneration, speaking all over the country after screenings of the film to promote criminal justice reforms. At times, however, Darryl would disappear for days at a time, secretly using illegal drugs to soothe his depression, despair, and confusion.¹¹

In my 2012 article, I mentioned that “[t]hose of us who fight for the wrongfully charged or convicted suffer from different hazards” than the clients who “suffer tremendously—psychologically, emotionally, and financially.”¹² I did not realize then that this suffering lawyers experience has a name and that there is a risk that

Injury, U.S. DEP’T OF VETERANS AFFS., https://www.ptsd.va.gov/professional/treat/cooccurring/moral_injury.asp (last visited Sept. 30, 2021) (“In traumatic or unusually stressful circumstances, people may perpetrate, fail to prevent, or witness events that contradict deeply held moral beliefs and expectations Individuals may also experience betrayal from leadership, others in positions of power or peers that can result in adverse outcomes Moral injury is the distressing psychological, behavioral, social, and sometimes spiritual aftermath of exposure to such events A moral injury can occur in response to acting or witnessing behaviors that go against an individual’s values and moral beliefs. . . . Although the core features of moral injury overlap with symptoms and common features of PTSD, it is possible to have moral injury and not meet criteria for PTSD” (citations omitted)).

7. See PHOEBE ZERWICK, *BEYOND INNOCENCE: THE LIFE SENTENCE OF DARRYL HUNT* (forthcoming Mar. 2022).

8. “Complex PTSD” has been proposed as a separate diagnosis beyond PTSD. See *Complex PTSD*, U.S. DEP’T OF VETERANS AFFS., https://www.ptsd.va.gov/professional/treat/essentials/complex_ptsd.asp (last visited Sept. 30, 2021) (“Many traumatic events (e.g., car accidents, natural disasters, etc.) are of time-limited duration. However, in some cases people experience chronic trauma that continues or repeats for months or years at a time. Some have suggested that the current PTSD diagnosis does not fully capture the severe psychological harm that occurs with prolonged, repeated trauma.”).

9. In her forthcoming book, Phoebe Zerwick notes a study by Virginia LeFever (an exoneree herself), who found that nearly all of the 249 exonerees she interviewed believed that they suffered from PTSD. ZERWICK, *supra* note 7. Notably, over 2,800 individuals have been declared completely innocent after wrongful convictions and later exonerated. *Our Mission*, NAT’L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/mission.aspx> (last visited Sept. 30, 2021).

10. See *THE TRIALS OF DARRYL HUNT* (Break Thru Films 2007).

11. ZERWICK, *supra* note 7.

12. Rabil, *supra* note 1, at 1539.

I and others working on death penalty and innocence cases can suffer from a type of trauma similar to PTSD.

In March 2016, Darryl died from a gunshot wound to his abdomen. It was ruled a suicide.¹³ Little did I know the extent of my own suffering until a few weeks after Darryl's death. I found myself at the National Innocence Conference, staring at an indoor pool from the balcony on the eleventh floor of a San Antonio hotel, visualizing the fall.¹⁴ I have since learned that this state is called "secondary traumatic stress" ("STS"),¹⁵ which was the focus of the *Wake Forest Law Review's* 2021 Spring Symposium and is a phenomenon that the legal profession has only recently begun to openly discuss.

My friend Larry Hammond (1945–2020) had similar feelings about the stress of our work defending capital cases and trying to free the innocent. In a film interview with me, he discussed his career as a death penalty defense lawyer for four decades, something he always practiced in addition to his busy civil litigation work.¹⁶ Hammond

13. Michael Hewlett, *Autopsy Says Darryl Hunt Died from Gunshot Wound to Torso*, WINSTON-SALEM J. (June 10, 2016), https://journalnow.com/news/local/autopsy-says-darryl-hunt-died-from-gunshot-wound-to-torso/article_d739a7fa-a939-5fe2-8f83-fe9a4fcc5183.html. PTSD researchers Sonya B. Norman and Shira Maguen have found that "[h]aving moral injury in addition to PTSD is associated with greater PTSD and depression symptom severity and greater likelihood of suicidal intent and behaviors." Norman & Maguen, *supra* note 6. Darryl spent many months of his over nineteen years in prison in solitary confinement. One study showed that people who spent any time in "restrictive housing" (solitary confinement) in North Carolina prisons were significantly more likely to die of all causes in the first year after release than those who did not. Lauren Brinkley-Rubenstein et al., *Association of Restrictive Housing During Incarceration with Mortality After Release*, JAMA NETWORK (Oct. 4, 2019), jamanetwork.com/fullarticle/2752350 ("[D]eath by suicide and homicide in the first year and opioid overdose in the first [two] weeks after release were more common among those who had experienced restrictive housing compared with those who were incarcerated but never in restrictive housing.").

14. *Wake Forest Law Review, 2021 Spring Symposium: Secondary Trauma in the Legal Profession*, YOUTUBE, at 00:09 (Feb. 15, 2021), <https://www.youtube.com/watch?v=hDCGwaB71Gg> [hereinafter *2021 Spring Symposium*] (Professor Mark Rabil). Throughout this Article, all *2021 Spring Symposium* video time stamps appear in an "hour:minute" format.

15. For a discussion of secondary trauma in lawyering, see Christina Rainville, *Understanding Secondary Trauma: A Guide for Lawyers Working with Child Victims*, AM. BAR ASS'N (Sept. 1, 2015), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/september-2015/understanding-secondary-trauma--a-guide-for-lawyers-working-with/.

16. *2021 Spring Symposium*, *supra* note 14, at 00:12 (Larry Hammond interview excerpt); *see also* Film Interview with Larry Hammond, in Phoenix, Ariz. (June 18, 2015) (on file with author). The film project was a collaboration between the author and the Wake Forest Documentary Film Program (involving Professors Sandy Dickinson, Peter Gilbert, Cindy Hill, and Cara Pilsen) and was incorporated into a 2016 interdisciplinary course at Wake Forest University

and his Phoenix, Arizona, firm (Osborn Maledon, P.A.) continuously represented five or six capital defendants from the founding of his firm until his death in 2020.¹⁷ Hammond strongly believed that as long as he lived in a state that still permitted the death penalty, he and his firm were obligated to represent the individuals facing the threat of capital punishment. In 1998, Hammond also founded the Arizona Justice Project, which is dedicated to exonerating the innocent.¹⁸ As with most capital defense attorneys, Hammond said that he never gave a lot of thought to or did anything about the side effects of the work:

When you work with someone who has suffered trauma, in order to understand what they have lived through, you need to bring that trauma to life. . . . You may be inviting your client to relive horrible, traumatic events that happened when they were children. Things that they have put in a box and hidden from their own conscious minds for a long, long time. . . . We're out there because we want to understand them and we want juries to be able to understand them. . . . That takes a toll not only on the client but on the people around her or him. . . . We all internalize the horrors that we hear from our clients. We wind up carrying around with us part of the trauma that they've experienced. . . . [W]e're often not in a position to do anything about the trauma they've suffered. . . . So what do we do? We raise to the surface the worst moments in our clients' lives . . . and then we're done. That trauma is carried around inside of the lawyers who care. . . . [I]t is everybody in the offices that do capital work: the secretaries, the paralegals, the investigators. . . . [I]t affects everybody.

. . . .

. . . I am troubled by this. I have had situations in which deep into a case, maybe even in trial, a paralegal or a co-counsel or somebody will come into my office and say, "I can't do this anymore. I can't sleep, I can't eat, I yell at my kids, I don't pay any attention to them." Why don't I . . . recognize the burdens that I'm imposing on the people around me? I think maybe my excuse is that this work is hard. I always tell people, and this may sound like an awful thing, but I use the great line from *A League of Their Own*. When people tell me it's hard . . . I tell them, "Hard? It's supposed to be hard. If it wasn't hard, everybody would be doing it. It's the hard that makes it great."

entitled "The Imagination Project: *Secondary Trauma and the Death Penalty: Narratives of Trauma and the Death Penalty*."

17. 2021 Spring Symposium, *supra* note 14, at 00:11 (Professor Mark Rabil).

18. See *Arizona Justice Project: Larry Hammond*, ARIZ. JUST. PROJECT, <https://www.azjusticeproject.org/larry-hammond> (last visited Sept. 30, 2021).

I love saying that, but that's not a very good answer for those people who say, "This stuff is killing me."¹⁹

Hammond said that the work can affect personal and interoffice relationships and result in the "demonization" of opponents and courts. As Hammond put it: "Everybody is your enemy. That's not what happens to me when I represent Western Union, but it is what happens to me sometimes in these cases, and I'm sure it affects judgment."²⁰

I began focusing on what I termed my own indirect suffering around 2008 and felt its full effects during the 2010 death penalty trial of Andrew Ramseur, a young Black man accused of shooting two White people in a store in Statesville, North Carolina. The case was highly publicized, with in-person and online death threats against Andrew and the lawyers, protesters against us waiting by the courthouse door during hearings, and an all-White jury.²¹ The sheriff put crime scene tape around the four rows behind the defense table, separating Andrew from his family and Blacks from Whites. As I left Winston-Salem one morning to travel to Statesville for the trial, I was so concerned about what might happen when I arrived at the courthouse that I nearly drove in front of a train. With the judge's refusal to change venue, I had little hope of saving Andrew's life.²² During the trial, I had flashbacks to the execution of a client that I had witnessed in 2004. Darryl came to the courtroom several times to support Andrew and me, but I could tell that attending the trial was extremely difficult for him since this case occurred only six years after his own exoneration.

When I handled six to eight death penalty cases at a time as an assistant capital defender between 2003 and 2012, I often spoke of "the dark cloud of the next case" hanging over me. At the 2021 Spring Symposium, I publicly spoke of how my work now with the Innocence & Justice Clinic at Wake Forest University School of Law, advocating

19. Film Interview with Larry Hammond, *supra* note 16 (quoting A LEAGUE OF THEIR OWN (Columbia Pictures 1992)).

20. *Id.*

21. See, e.g., Joseph Neff & Beth Schwartzapfel, *New Hope for People Who Claim Racism Tainted Their Death Sentence*, MARSHALL PROJECT (June 11, 2020), <https://www.themarshallproject.org/2020/06/11/new-hope-for-people-who-claim-racism-tainted-their-death-sentence>; Mark Rabil, *1940s Mississippi? No, This Happened in 21st Century North Carolina*, NC POLICY WATCH (Aug. 26, 2019), <http://www.ncpolicywatch.com/2019/08/26/1940s>; Ctr. for Death Penalty Litig. Staff, *North Carolina's Modern Death Penalty Is the Fruit of a Racist Past*, RACIST ROOTS, <https://racistroots.org/introduction/north-carolinas-modern-death-penalty-is-the-fruit-of-a-racist-past/> (last visited Sept. 30, 2021).

22. Ramseur was convicted and sentenced to death. In 2020, the North Carolina Supreme Court resurrected the repealed Racial Justice Act and ordered an evidentiary hearing in his case. See *North Carolina v. Ramseur*, 843 S.E.2d 106, 107–08 (2020).

with students on behalf of the innocent, “can actually even be more difficult” than capital defense because of the miniscule “chances of extricating somebody who’s been buried by the system . . . despite a very high rate of innocent people being locked up.”²³ What we discovered in preparing for this Symposium, however, is that STS is not limited to death penalty and innocence work, but instead, it infiltrates all practice areas and can affect lawyers’ families and others, like jurors, who are drawn into the system.

In the winter of 2020, when the editors of the *Wake Forest Law Review* decided on the 2021 Spring Symposium topic of “Secondary Trauma in Lawyering,” they had no idea that we were entering into more than a year of isolation due to the COVID-19 pandemic.²⁴ Nor did they know that the George Floyd killing would unleash the anger of Black Americans over centuries of racial terrorization in the United States and result in a new awareness by White Americans of that racial injustice.²⁵ The Symposium topic is ironically more relevant now than ever. The secondary trauma of the work of lawyering and legal systems has changed in some ways. Those practicing in some areas have had it harder, and some in the harder areas have had a break. We will arrive at a post-pandemic “normal,” and our lawyering work will continue, but the risk of trauma will survive.

I believe that the following articles on “Secondary Trauma in Lawyering” may serve as a resource and guide as we adapt the skills for recognizing and avoiding the potentially debilitating effects of the work. Our bodily reactions to overwhelming stress are not only just the fight, flight, or freeze responses but also the “tend and befriend” response.²⁶ As legal professionals, it is our responsibility to take the lead in recognizing the trauma of our clients—and of ourselves—as we go forward to experience “posttraumatic growth.”²⁷ Resilience can trump trauma.

A note about “trauma,” our human reaction to stressors that are considered intolerable or way outside the norm of daily expectation: the fifth edition of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (“DSM-5”) defines these

23. 2021 Spring Symposium, *supra* note 14, at 00:10 (Professor Mark Rabil).

24. See, e.g., Julianne Holt-Lunstad, *The Double Pandemic of Social Isolation and COVID-19: Cross-Sector Policy Must Address Both*, HEALTH AFFS. (June 22, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200609.53823> (discussing the social isolation created by the COVID-19 pandemic).

25. See, e.g., Alex Altman, *Why the Killing of George Floyd Sparked an American Uprising*, TIME (June 4, 2020), <https://time.com/5847967/george-floyd-protests-trump>.

26. Christine Runyan, *What’s Happening in Our Nervous Systems?*, ON BEING (Mar. 18, 2021), <https://onbeing.org/programs/christine-runyan-whats-happening-in-our-nervous-systems/>.

27. See *DSM-5 Criteria for PTSD*, BRAINLINE, <https://www.brainline.org/article/dsm-5-criteria-ptsd> (last visited Sept. 30, 2021).

“stressors” as events such as “death, threatened death, actual or threatened serious injury, or actual or threatened sexual violence.”²⁸ The cause of the traumatic response, however, can be either direct or indirect exposure to the event.²⁹ Indirect exposure can occur from witnessing the event or learning that a relative or close friend was exposed to trauma. The DSM-5 now includes “professional” indirect exposure as a cause of trauma, specifically referencing “[i]ndirect exposure to aversive details of the trauma, usually in the course of professional duties (e.g., first responders, medics).”³⁰ In other words, lawyers are at risk of secondary trauma merely by working with traumatized clients, and we risk retraumatization of clients if we are not careful.

In *The Body Keeps the Score*, Dr. Bessel van der Kolk, one of the leading psychiatrists in the field of understanding and treating trauma, explains that “trauma is not just an event that took place sometime in the past; it is also the imprint left by that experience on the mind, brain, and body.”³¹ Trauma can leave us “stuck” in the past, continually reacting in the present to a trigger of a past memory. The reactions can include hypervigilance, numbness, flashbacks, nightmares, loss of sleep, and memory and cognitive difficulties, and these reactions can lead to substance abuse, alcoholism, functional impairment, and relationship problems.³² For lawyers suffering from secondary trauma, this can mean being “stuck” by continually fighting the last battle, reacting to new cases and clients as if they were the last, or being unable to move forward from the burnout of the past. STS can impair our lawyering abilities because it creates a risk for ineffective assistance, malpractice, and misconduct.³³

The following articles are primarily about the hope and resilience that can arise from awareness of the risk of trauma from our work. This *Law Review* issue, however, is not a medical or psychological treatise upon which readers should rely for the treatment of trauma- and stressor-related disorders. The purpose of these articles, like the purpose of the 2021 Spring Symposium that inspired them,³⁴ is to create awareness that STS is real and that lawyering work and involvement with legal systems can create risk factors for direct or secondary trauma. We also hope to inspire judges and the leaders of law firms, prosecutor offices, defender organizations, state bars, and

28. *Id.*

29. *Id.*

30. *Id.*

31. BESSEL VAN DER KOLK, *THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA* 21 (2014).

32. *Id.*

33. See Andrew P. Levin & Scott Greisberg, *Vicarious Trauma in Attorneys*, 24 PACE L. REV. 245, 248 (2003) (explaining that burnout can “lead[] to poor job performance”).

34. See 2021 Spring Symposium, *supra* note 14.

professional associations to “normalize” awareness of traumatization and the need for regular preventive measures and remedies.

In this *Law Review* issue, the writers tell the stories and present the studies of some of those affected by lawyering and the legal system, in addition to discussing potential remedies. In an article that I cowrote with Dr. Dawn McQuiston and Kimberly Wiseman, *Secondary Trauma in the Legal Profession: Stories, Studies, and Strategies*, we emphasize the need for lawyers, judges, jurors, and others affected by the lawyering and litigation processes to come forward with their stories of how they have been directly or indirectly traumatized by their work or by their duties.³⁵ We summarize the moving—and sometimes emotional—discussions by our 2021 Spring Symposium panelists about their experiences with STS, including testimonials from capital defense attorneys, innocence lawyers, military lawyers, a prosecution social worker, the former wife of a big-firm lawyer who self-medicated to deal with job stress, and a juror traumatized from a horrendous death penalty trial over two decades ago.³⁶ We discuss some of the important studies that have been conducted on the STS experiences of public defenders and others.³⁷ We relay our own survey findings about STS among capital defense attorneys in North Carolina.³⁸ Dr. McQuiston discusses her research and findings about STS among judges and jurors.³⁹ We then discuss the need for further studies to document STS in lawyering in order to educate leaders, lawyers, and students about important structural and individual changes that must take place to minimize STS and promote resilience.⁴⁰

Professors Lindsay M. Harris and Hillary Mellinger, in *Asylum Attorney Burnout and Secondary Trauma*,⁴¹ discuss the work of the subgroup of immigration attorneys who represent individuals seeking asylum in the United States. Their study is “the largest study to date, not only of immigration attorneys but of any attorney population measuring levels of burnout, trauma, or stress.”⁴² They find, based on over seven hundred responses from asylum attorneys, that this group of attorneys suffers from higher degrees of burnout and secondary trauma than other professionals previously surveyed,

35. Mark Rabil, Dawn McQuiston & Kimberly D. Wiseman, *Secondary Trauma in Lawyering: Stories, Studies, and Strategies*, 56 WAKE FOREST L. REV. 825, 826–27 (2021).

36. *Id.* at 827–32.

37. *Id.* at 833–36.

38. *Id.* at 836–37.

39. *Id.* 838–46.

40. *Id.* at 846–56.

41. See Lindsay M. Harris & Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733, 733 (2021).

42. *Id.* at 735.

including hospital nurses, social workers, and prison wardens.⁴³ Professors Harris and Mellinger engage in a very complete and thoughtful regression analysis, taking into account numerous factors that pose risks for burnout and trauma, including work environment, gender, and race—factors that apply to many other areas of legal practice.⁴⁴ They point out the need for further studies of not only asylum and immigration attorneys but also support staff.⁴⁵ Professors Harris and Mellinger also discuss specific reforms that must be made in the profession, including law school training and awareness of secondary trauma and remedies, such as mindfulness practices.⁴⁶

Seema Saifee, an attorney who worked with Guantanamo Bay detainees while at a private law firm and later with numerous innocent clients at the Innocence Project, describes her difficult work and her gradual recognition of her own “trauma exposure responses” in her essay, *Sustaining Lawyers*.⁴⁷ This is a very personal, introspective piece and was obviously difficult to write. The result is an extremely detailed story that is emblematic of all caring attorneys who do the hardest types of legal work. I wish that Saifee’s essay had existed three or four decades ago to help me understand what I, too, experienced along the way. Her point that “self-care” is not enough for public interest lawyers is very important.⁴⁸ Law firms, nongovernmental organizations, public defender offices, and prosecutor offices must “normalize” the risk of secondary trauma, openly discuss it, and provide space and time for recognition, discussion, and healing.⁴⁹ Saifee writes:

[O]rganizations must view well-being not as an individual issue but as an institutional concern. Investment in well-being requires a culture shift that begins with organizational acknowledgement and strategic planning to create “a culture of well-being.” Providing advocates with a phone number to call, instituting a one-off training, or tacking on perks such as spa days once a month is not a culture shift.⁵⁰

In his article, my law faculty cosponsor for this Symposium, Professor Kenneth Townsend, Director of Leadership and Character in the Professional Schools at Wake Forest University, picks up on the significance of legal community leaders taking stock of issues like

43. *Id.* at 735, 767.

44. *Id.* at 737.

45. *Id.* at 817.

46. *Id.* at 801–16.

47. Seema Tahir Saifee, *Sustaining Lawyers*, 56 WAKE FOREST L. REV. 907, 916 (2021).

48. *Id.* at 938 & n.173.

49. *Id.* at 941.

50. *Id.* at 940.

STS and then having the courage to move forward with the necessary remedies.⁵¹ To me, Professor Townsend gets to the heart of the matter. Law schools and law firms should not just be focused on their students and lawyers “thinking like lawyers,” an issue that is compounded by a singular “purpose” of only striving to meet the goals or ends of the clients.⁵² “An all-purpose-all-the-time approach to lawyering can also undermine lawyer well-being if not accompanied by other things, such as a basic sense of agency over one’s work and communities to shape and support the lawyer, including during times of difficulty.”⁵³ Professor Townsend focuses on changes that should be made to promote law student, and thus lawyer well-being, which must include an awareness of the risk of secondary trauma and burnout from our work.⁵⁴ For example, law schools signal to potential students that only grades matter with the focus on standardized test scores, and the *U.S. News & World Report* school rankings exacerbate this focus.⁵⁵ Professor Townsend advocates that potential students should additionally be evaluated based upon their history of and interest in leadership, character, and community.⁵⁶ Another reform he promotes would be to change the state bar admission applications from requiring disclosure of any mental health counseling to only requiring disclosure of actual conduct resulting from mental health issues that could potentially affect a lawyer’s performance.⁵⁷ The current disclosure policies send a message to applicants that state bars are not concerned about lawyer well-being and the traumatic effects of the work.⁵⁸ Professor Townsend also rightly points out that law professors need training and coaching on incorporating leadership, character, and well-being issues into substantive courses.⁵⁹

I highly recommend taking the time to watch the video recording of the 2021 Spring Symposium to see and hear the panelists’ compelling testimonials.⁶⁰ In the morning sessions, we heard from: a juror who suffered traumatization from serving in a death penalty trial; the former wife of a big-firm lawyer whose ex-husband suffered and died as a result of complications from substance abuse; a U.S. Air

51. Kenneth Townsend, *Preconditions of Leadership in Law*, 56 WAKE FOREST L. REV. 859, 862 (2021).

52. *Id.* at 876–78, 888.

53. *Id.* at 874.

54. *Id.* at 874, 896–97.

55. *Id.* at 887.

56. *Id.* at 893–95.

57. *Id.* at 906.

58. *Id.*

59. *See id.* at 899–901 (discussing law professors incorporating leadership and character into their courses and addressing resources available to professors to accomplish this goal).

60. *See 2021 Spring Symposium, supra* note 14.

Force JAG officer who defended numerous child sex offenders; capital defense attorneys; innocence lawyers; psychologists who study or work with traumatized professionals; a social worker who works with the federal prosecutors of child sex abusers and traffickers; an asylum attorney; and a psychologist who works not only with torture victims but also activists and lawyers who protect the abused, the tortured, and the innocent.⁶¹

In the afternoon sessions, the panels focused on the experience of Black attorneys and judges who not only have to deal with the “normal” difficulties of lawyering, prosecuting, and judging but also the seemingly impossible task of confronting ages of institutional racism in the U.S. legal system.⁶² In the last panel, we heard stories of the success and resilience of Black leaders in the legal system, including the former chief justice of the North Carolina Supreme Court, a federal judge from Mississippi, and the director of the NAACP.⁶³

As for me, the path to sustainable lawyering is to see my work as a lawyer and now law professor as a common journey, not the journey of a loner. I accompany my clients and my students as they traverse the quagmires of the law and its systems. I use “accompaniment” in the way Dr. Paul Farmer uses the term in providing medical care for those suffering from catastrophic events, such as an earthquake:

To accompany someone . . . is to go somewhere with him or her, to break bread together, to be present on a journey with a beginning and an end. . . . There’s an element of mystery and openness. . . . I’ll share your fate for awhile, and by “awhile” I don’t mean “a little while.” Accompaniment is much more often about sticking with a task until it’s deemed completed by the person or person being accompanied, rather than by the *accompagnateur*.⁶⁴

Bryan Stevenson, a well-known Black lawyer, moved south after graduating from Harvard Law School to represent inmates languishing on death row and juveniles—convicted as adults—serving life sentences without the possibility of parole.⁶⁵ He founded the Equal Justice Initiative in Alabama and has saved scores of

61. *Id.* at 00:19 (marking the beginning of the morning panels).

62. *Id.* at 04:03 (marking the beginning of the afternoon panels).

63. *Id.* at 05:33 (marking the beginning of the final panel).

64. Paul Farmer, *Paul Farmer: “Accompaniment” as Policy*, HARV. MAG. (May 5, 2011), <https://harvardmagazine.com/2011/05/paul-farmer-accompaniment-as-policy>; see also RONALD EPSTEIN, ATTENDING: MEDICINE, MINDFULNESS, AND HUMANITY 118–19 (2017).

65. See *Bryan Stevenson*, EQUAL JUST. INITIATIVE, <https://eji.org/bryan-stevenson> (last visited Sept. 30, 2021); see also generally BRYAN STEVENSON, JUST MERCY: A STORY OF JUSTICE AND REDEMPTION (2014) (describing, in memoir form, Bryan Stevenson’s work advocating for capital defendants and death row prisoners).

clients, many of them innocent, from death row or from unfair life sentences.⁶⁶ Wake Forest University awarded Bryan an honorary doctorate in May 2017,⁶⁷ and I had the honor of hosting him. Before we marched to the graduation platform, I asked him how he seemed to avoid all the traumatic effects of his decades of work—fighting for the condemned, for the juveniles thrown away for life, for the innocent, all intertwined with racist systems, both against him and his clients. At the time, I had read his book, *Just Mercy*, but I just did not understand how he put his faith and beliefs into practice without burning out.

In his book, Bryan wrote that we share our clients' "brokenness." "We are all broken by something. We have all hurt someone and have been hurt."⁶⁸ And this "shared brokenness" opens our hearts to compassion.⁶⁹ That day at Wake Forest, Bryan told me something else that really stuck with me. He said that he is constantly amazed at the resilience of his clients. They have survived so much more than we do as the lawyers. In other words, Bryan views his work as a give-and-take—a view which helps me better understand Dr. Farmer's philosophy of "accompaniment." Yes, as lawyers, we are professionals, and we have the gifts of specialized knowledge and the power to speak for others directly to those running legal systems. But our clients, tortured as they may be, have somehow survived to the point when we met them. We share our legal skills, and they impart resilience. We share the common bond of humanity with our clients. This makes us good travelling companions. It also explains to us—and we lawyers need constant reminders—that taking care of ourselves is taking care of our clients and, for me now, my students.

This talk of accompaniment, of sharing this journey, reminds me of a lesson I began to learn long ago, just before my wife, Pam, died in 1993. When her breast cancer returned, despite surgery, chemotherapy, and an autologous bone marrow transplant, I finally realized that my role was not to cure her cancer but to lovingly share that gift of "mortal time" with her, to acknowledge the fact that she was nearing the end, and to allow her to openly discuss that with me. Only one of us would be leaving life at that time. My time, my end, would come.

Legal work can be very similar to the work of caregivers, oncologists, and physicians working with those with a terminal diagnosis. My friend of many decades, Dr. Richard McQuellon, a psychologist with the Cancer Patient Support Program of Wake

66. See EQUAL JUST. INITIATIVE, *supra* note 65.

67. Lisa Snedeker, *Just Mercy Author Bryan Stevenson Offers Wake Forest Law Graduates Advice*, WAKE FOREST L. (May 15, 2017), <http://news.law.wfu.edu/2017/05/just-mercy-author-bryan-stevenson-offers-wake-forest-law-graduates-advice/>.

68. STEVENSON, *supra* note 65, at 289.

69. *Id.*

Forest University School of Medicine, wrote about this gift that physicians and counselors have when being with their patients who face a diagnosis of death: “Authentic conversation has the power not only to enhance how people cope practically with dying, but to illuminate and enrich the very meaning of life for patients and caregivers alike, as they enter the sacred moment of mortal time together.”⁷⁰ With our clients, only one of us is facing incarceration, divorce, financial ruin, even death, at that time. Yet we are not really that different because each of us will face the ultimate. We have much to learn from each other. There is a give and take, as Bryan tried to explain to me.

So how do we do this? How do we keep doing the hard work of lawyering for a lifetime? At this point in my career, I believe that we must start creating awareness of the problem of STS and its remedies in law school. “Thinking like a lawyer” must encompass self-care. Yes, we help clients avoid the negatives, and we help them deal with their problems, many of which end up in litigation. But I now see that we can better help our clients by also practicing self-awareness, self-gratitude, and self-compassion.

There are many ways to be self-compassionate lawyers. I believe that mindfulness practices are an important way of helping law students determine the appropriate reaction to traumatic stress. In my Contemplative Practices course, I instruct students in basic breathing and mindfulness techniques in keeping with the vipassana, or insight meditation, tradition.⁷¹ Students begin the semester meditating five minutes per day, increasing by two minutes per day

70. Richard P. McQuellon & Michael A. Cowan, *Turning Toward Death Together: Conversation in Mortal Time*, 17 AM. J. HOSPICE & PALLIATIVE CARE 312, 312 (2000).

71. As of 2018, twenty-four law schools had regular courses on mindfulness. Email from Susan Wawrose, Univ. Dayton School L., Mindfulness Affinity Group, AALS Balance Section (May 14, 2018) (on file with author) (containing list of schools). My law school course, Contemplative Practices and the Law, which began in 2017, is based upon my understanding of insight meditation as I have experienced it at numerous insight meditation retreats since 2008. See the following center websites for many resources on learning about the tradition of insight meditation: BARRE CTR. BUDDHIST STUD., www.buddhistinquiry.org (last visited Sept. 30, 2021); INSIGHT MEDITATION SOC’Y, www.dharma.org (last visited Sept. 30, 2021); S. DHARMA RETREAT CTR., <https://www.southerndharma.org> (last visited Sept. 30, 2021); SPIRIT ROCK, www.spiritrock.org (last visited Sept. 30, 2021). See also the following resources for more on the traditions used in the course: CHRISTINA FELDMAN & WILLEM KUYKEN, *MINDFULNESS: ANCIENT WISDOM MEETS MODERN PSYCHOLOGY* (2019); JOSEPH GOLDSTEIN, *MINDFULNESS: A PRACTICAL GUIDE TO AWAKENING* (2013); THICH NHAT HAHN, *THE MIRACLE OF MINDFULNESS: AN INTRODUCTION TO THE PRACTICE OF MEDITATION* (Mobi Ho trans., 1975); JACK KORNFIELD, *THE WISE HEART: A GUIDE TO THE UNIVERSAL TEACHINGS OF BUDDHIST PSYCHOLOGY* (2009); SHARON SALZBURG, *LOVINGKINDNESS: THE REVOLUTIONARY ART OF HAPPINESS* (2004).

per week until they are meditating for thirty minutes per day. I cover other practices, such as metta, or compassion practices,⁷² as well as open awareness, gratitude practice, walking meditation, and mindfulness-based stress reduction (“MBSR”). I invite other meditation teachers to address the class, including those trained in the insight meditation tradition, based upon the Thai Forest tradition, and the Plum Village tradition, founded by the Vietnamese monk Thich Nhat Hahn. The course introduces students to the basic mindfulness technique of quieting the mind so that they can notice their thoughts, emotions, and feelings before pausing and returning to the anchor of their breath (or of a step, if walking). This trains students to be aware of their mind state before reacting to a stimulus. Students are instructed on how to use these mindfulness techniques when dealing with clients, opponents, and courts to avoid reactions based upon fear, anger, or uncertainty.

Awareness of the risk of secondary trauma and its symptoms are an important part of the Contemplative Practices course. The techniques for dealing with STS are very similar to and, in many respects, the same as the techniques recommended by Dr. Katherine Porterfield, who spoke on the third panel of the 2021 Spring Symposium.⁷³ I have also been incorporating mindfulness techniques into my clinical teaching.

In our Experiential Learning Program at Wake Forest, we will be focusing on trauma awareness and compassion techniques as life skills for good lawyering. We must remain vigilant, however, because some meditation or mindfulness techniques may be a trigger for a traumatic response by some clients, students, or lawyers.⁷⁴

There are a number of ways to take care of ourselves while taking care of our clients. And we all benefit from attention to self-care—our clients, our families, ourselves. Thank you to the *Wake Forest Law Review* for furthering this discussion. There can be no end to the suffering without an awareness that it is happening and an understanding of its causes. The 2021 Spring Symposium and the articles that follow further that end.

72. Neuroscientific studies confirm that compassion practices not only increase concern and foster readiness to help but also help reduce unconscious bias and empathic burnout. See DANIEL GOLEMAN & RICHARD J. DAVIDSON, *ALTERED TRAITS: SCIENCE REVEALS HOW MEDITATION CHANGES YOUR MIND, BRAIN, AND BODY* 121 (2014); Cade McCall et al., *Compassion Meditators Show Less Anger, Less Punishment, and More Compensation of Victims in Response to Fairness Violations*, *FRONTIER BEHAV. NEUROSCIENCE*, Dec. 2014, at 1, 8–9.

73. See *2021 Spring Symposium*, *supra* note 14, at 03:05 (Dr. Katherine Porterfield).

74. See DAVID A. TRELEAVEN, *TRAUMA-SENSITIVE MINDFULNESS: PRACTICES FOR SAFE AND TRANSFORMATIVE HEALING*, at xvi (2018).