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The Collective Enterprise of Law: Three Types of Communities

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Abstract: **The Collective Enterprise of Law: Three Types of Community**

Three types of communities emerge from the GoodWork® study in law: (1) communities that are good for the lawyer, but not necessarily for the broader society; (2) communities that may not be good for the lawyer, but that seek to benefit society; and (3) communities that are good for both the lawyer and the broader society. While considerable variety emerges within cyberlaw, criminal law, mergers and acquisitions, and small town practice, we did find distinct links between areas of law, on the one hand, and types of communities on the other. In this paper we examine what is known about the different types of communities; what impact these communities have on the lawyers within them; and what impact lawyers have on the various communities.

The Collective Enterprise of Law: Three Types of Community

...There can never be good for the bee which is bad for the hive. (Ralph Waldo Emerson)

I. Introduction

The practice of law is a social endeavor, a product of relationships embedded in communities of one sort or another, such as law firms, local rural communities, and the Internet. How practitioners perceive themselves in relationship to other individuals, to their work, and to the communities in which they are rooted can be revealing. It is easy to lose sight of the importance of communities, even to take them for granted. We argue here that the negative effects of a market-driven society are most likely mitigated through cooperation and collective purpose. All kinds of legal communities are at risk in the current milieu.

Law is an eclectic profession with different practice areas, or subdomains, that place different demands on the practitioners. We studied four areas: Cyberlaw, Criminal Law, Mergers and Acquisition (M&A), and Small Town General Practice. We also carried out a case study of the demise of the Boston law firm Hill & Barlow. For our purposes, we consider this approach a reasonable way of sampling the sprawling area of law, though other choices could have been made as well.

In our research, we found that lawyers spoke differently about their various communities. The relationships of the lawyers to their respective communities illuminated their personal goals, as well as their loyalty to other lawyers, to the institutions in which they worked, and to the overall profession. Three prototypes emerged from this study: Some lawyers were happy about their choice of careers, but had lost their connection to the community and to the broader society; some felt connected to the broader society but not fully satisfied with their careers; some felt that their work was meaningful and brought them satisfaction because it was directly linked to the community and benefited the broader society. A determining factor for these prototypes was the way in which each

cohort of lawyers dealt with the social and economic changes within their profession and in society.

While there was considerable variety within each subdomain, we did find distinct links between law subdomains and types of communities. In this paper we examine the different types of communities; what impact these community affiliations have on lawyers; and what impact lawyers have on the various communities.

II. The study of GoodWork in law

Our study of law was carried out as part of the GoodWork® (GW) Project, a study that investigates how professionals are able to carry out good work in rapidly changing contexts. Good work is based on three criteria: 1) it is high in quality, 2) it is socially responsible, and 3) it is meaningful to the professional. When all three elements are present, the individual is able to perform good work—work that will benefit not only the professional but the society as well.

Over a ten year period, we have studied nine professions, ranging from journalism to medicine to philanthropy. (For an overview, see goodworkproject.org.) Through a nomination process, we sought exemplary and reflective workers, representative of the demography of the profession, with individuals ranging in ages from 35–80. For the law study, each subdomain was selected for a particular reason.

Cyberlaw was chosen because of the rapid technological changes and the growth in the Internet; the lawyers interviewed were reexamining the values underlying the law and trying to adapt the laws for this new medium. Criminal Law allowed us to probe possible schisms between personal and professional values—legal training encouraged the distancing of the personal self from the emerging professional self (Nelson, Trubek, and Solomon, 1992), possibly at the expense of one's personal moral compass. The Mergers and Acquisition (M&A) lawyers and Small Town General Practice lawyers were chosen for their possible contrasts. M&A lawyers worked in large urban areas and engaged energetically in a highly specific kind of practice, where the pressures and the financial stakes were great. Small Town lawyers were defined as lawyers who attended major law

schools but elected to practice in communities of under 50,000 inhabitants. These practitioners had a broad, sometimes solitary practice, blended naturally into their geographical community, and were often seen as leaders, even trustees, of their communities. We wondered what influenced lawyers to choose between these two different types of practices. Finally, when the venerable and respected Boston law firm of Hill & Barlow closed precipitously at the end of 2001 after a cohort of real estate lawyers announced their departure, we saw an opportunity to examine the instant dissolution of a long-standing community.

We interviewed 87 lawyers distributed as follows:

1. The 17 Cyberlawyers were employed at universities, law firms, nonprofits, (i.e. ACLU, Electronic Frontier, etc.) in major metropolitan areas.
2. Most of the 25 lawyers in the Criminal Law sample came from the New England area. Our subjects represented a balance between conservative and liberal ideologies. We spoke to state and federal public defenders, state and federal judges, defense attorneys—some of whom were professors, others who were exclusively in private practice. We also identified several subjects who had worked in both defense and prosecutorial roles.
3. The 17 M&A lawyers were nominated from well known corporate firms in the Northeast Corridor. The law firms in New York City ranged in size from 200 to 1300 partners, several with national and international satellite offices.
4. For the 15 Small Town General Practice sample, we focused on lawyers who graduated from one of the top 10 law schools in the country and who decided to live in a small town in New Hampshire, Vermont, or Maine. We presumed their decisions to practice in a rural area were a matter of choice.
5. For the Hill & Barlow case study, we made a concerted effort to get a representative sample of senior partners from both the real estate and non-real estate practices. Ultimately, we spoke to 13 former members of the firm.

As in our other GoodWork studies (see Gardner, Csikszentmihalyi, and Damon, 2001), we asked a series of questions that probed for types of obstacles, strategies, values, goals,

and responsibilities. In addition to this standard semi-structured format, we added a set of questions specific to law or types of law. For example: Why did you choose to go into this area of law? How would you describe the culture of your firm? How do you contribute to good work in law? Each interview was approximately 1.5-2 hours in length.

As researchers we know that often people give socially desirable responses. While we are respectful of our interview subjects, we do not check our skepticism at the door; we are prepared to pose challenging follow-up questions; we benefit from due diligence before and after the interview. Also, because our perspective is comparative, our deepest insights often come from comparisons across professions, or, as in the case of law, comparisons across the various subdomains.

During the process of interviewing our subjects, we did not have strong expectations about the nature of community. In that sense, the research was inductive rather than hypothesis-driven. The concept of partnerships as an especially important kind of community proved unique in our study and was echoed throughout the interviews in one fashion or another.

III. Lawyers and their communities

The word “community” can encompass a great deal of territory, literally and figuratively. Community may denote a local geographical area (where people live); an organization or institution (where people work or pray); a cohesive group that shares similar goals, values, interests, culture, religion or language (e.g. the community of NGOs); or the society, or indeed the planet on which we all live—as in global community. An effective and meaningful community includes individuals with common goals and values who desire to work cooperatively with each other. When division within a community yields conflicting goals and paths, the culture of the community can become dysfunctional; under such circumstances, it is difficult for professionals to feel aligned with each other and with the profession. On the other hand, diversity in which dissension stimulates constructive change can also be an asset.

Our focus here falls on the relationship of the professional to the various communities of which he or she is a part. Lawyers can feel themselves part of, or alienated from, the members of their firm, the individuals in their town or city, the wider practice of law in the broader society, or even virtual communities like the Internet. Law firms can be as small as one or as large as 1300 partners with multiple satellite offices. (Caplan, 2003) Some law firms are nestled in communities where their members live and raise their families; other law firms may be located in downtown metropolitan areas with their members scattered around the suburbs and exurbs.

Regardless of the size or type of community or the choice of law practiced, according to long-accepted norms, all practitioners have a responsibility to “serve the public in aid of the administration of justice, and to provide worthy services to their clients, the latter being subservient to the former” (Doerfler, 1927). In this paper, we endorse the view that responsibility to justice is paramount, and that lawyers are expected to “put public interest first” (Rhode, 2004). As a way of giving life to this view of the law, and the various responsibilities that it entails, we draw on a well known fictional example.

To Kill a Mocking Bird, the novel by Harper Lee, is set in Maycomb, Alabama in the 1930s. Atticus Finch, a widower, lives with his two children and a black housekeeper. Atticus is emblematic of the good lawyer: he is committed to serving his clients, his community, and the ideals of justice. He is a leader of his community, well educated and known for his compassion and wisdom. His personal and professional values are fully integrated and consistent. For example, Atticus’ housekeeper describes him as “the same in his house as he is on the public streets”; he portrays himself as a man who “can’t live one way in town and another way in his home”. Above all else, Atticus values his integrity.

Atticus allows his clients to pay him what they can afford—holly, turnip greens, or a bushel of potatoes. The obligation of the professional to serve all individuals in the community is honored. When Atticus agrees to defend Tom Robinson, a physically impaired black man accused of raping a white woman, he knows the case will be nearly impossible to win. Most in the white community care little about the fate of a black man,

even an innocent one; Atticus expects to be scorned by many for his actions but his responsibility is clear. As an angry group of men talk about lynching Tom while he is in jail, Atticus both figuratively and literally places himself between the men and Tom.

Atticus serves his community in the only way he knows how—by upholding the law, modeling the values he holds dear, and transcending the biases and fears of others. Serving his client and society do not exist in separate spheres; they are inextricably linked. In response to his children’s inquiry about why he defends Tom, he states: “If I didn’t defend Tom, I couldn’t hold up my head in town, I couldn’t represent the county in the legislature, I couldn’t even tell you not to do something again.”

Analogues of Atticus Finch can be found in many communities. One such example was Arthur Hill, a founding partner of Hill & Barlow. Hill was not a man to take the easy route. He felt best when standing up for his beliefs, regardless of their popularity. Rising above his local community’s fears in the 1920s, Hill defended, on appeal, Sacco and Vanzetti, two Italian immigrants accused of murdering a shoe factory paymaster and his guard. Hill took on this unpopular political case pro bono. His personal values and professional responsibility were entwined; his civil duty to society outweighed any ostracism he may have experienced from the local community.

Although Hill’s law firm partners did not always agree with his position, they were committed to supporting the values each considered precious. His partners, thereafter, maintained those values until the mid-1980s. At that time, competitive financial pressures severely challenged the personal and civil responsibility to do what was in the best interest of the partnership and of the broader society (Marshall, 2004).

The conditions in the historical 1920s, and the fictional 1930s, of course, differ from those in the first decade of the twenty-first century. Today, the increased specialization of the law, expanding technology, vigorous competition, business and economic pressures, the demands on a lawyer’s time, and the dramatic increase in potential earnings of the professional have pushed many lawyers to reorganize their lives, and to shift and refocus their commitments. These adjustments have reverberations in the various communities.

In spite of changing conditions and pressures, however, lawyers are still expected to uphold and pursue justice for society writ large; they are expected to use their training, skills, and dispositions to that ethical end. How well individuals serve the complex profession of law, and how well they navigate the challenges and opportunities presented to them reflects the allegiances they feel to their own values, the communities of which they are members, and to the broader society.

In his estimable and provocative volume *The Lost Lawyer*, legal scholar Anthony Kronman (Kronman, 1993) discusses the elasticity of a lawyer's personal moral tether. Kronman claims that the lawyer-statesman, once a "leader in public life that other citizens look[ed] to for guidance and advice...[who was] a paragon of judgment...[offering] a certain calmness in deliberations, [and] a balanced sympathy..." has been reduced to a shadow of his past nobility. Much contemporary reporting and analysis supports Kronman's "lost lawyer" metaphor. The steady increase in the public's disparagement of the profession (Gallup Poll, 2004) offers evidence of the profession's lack of popularity among the public. Equally telling is the research documenting the high degree of dissatisfaction, substance abuse, and depression within the legal profession (Daicoff, 2004).

In what follows, we examine three types of communities, each serving as a mirror for the profession: reflecting who members are, what they value, and whether they are living up to the standards and obligations of the profession.

We now examine how lawyers and communities mediate their connections; examine the practices that have influenced the relationships between the two; and offer a few suggestions on how the profession might be better aligned.

IV. THREE TYPES OF COMMUNITIES

1. Communities that are good for the lawyer, but not necessarily for the broader society

The first type community is often found in major law firms where lawyers earn a significant amount of money. Lawyers associated with this type of community appear to be content. They earn a lavish living, enjoy a fellowship of collegial and supportive colleagues, and gain professional reputations for their skills and expertise. This community is commonly manifested in partnerships—financial and social arrangements involving reputable lawyers who share a mutually valued goal. Obligations among partners to keep the firm solvent and financially successful are the result of business decisions; survival requires that the firm focus on efficiency and effectiveness using a business model as a guide. This community is focused primarily on client satisfaction and depends on that relationship for its professional fulfillment. There may be some expressed concerns about the broader consequences of work, but this concern does not guide decisions as long as the effort on behalf of the client is legal. The connection to the broader society is tangential at best. Collegial relationships are often strained outside the firm/institution due to competition for clients, associates, and earnings. We now turn to the area of law that best illustrates the first community.

Culture of the community

The first community profile was found particularly among the M&A lawyers in Manhattan who were associated with large international firms. The offices were located above the turmoil of the city with views of the skyline or harbor, oriental rugs on the floor and original art work on the walls—the accoutrements of success.

Lawyers in this milieu were very successful according to the standards of their profession: earning a good living, and enjoying excellent reputations for their professional judgment and problem solving skills. The M&A lawyers were highly competitive, smart, amiable, sophisticated in their tastes, and well educated in their chosen careers. They thrived on the adrenalin rush of high stakes transactions, and were proud of their status in the law community. While several noted that “serving others” was the goal of law, most often this meant serving their corporate clients.

Many of the lawyers we interviewed displayed a studied unwillingness to compare institutional/law firm cultures—this reticence may have been more a statement about

competition than a sign of discretion. No such tentativeness marked discussions of camaraderie within the law firm, and especially within the same practice group. According to several lawyers, due to intense competition, a downturn in the economy, and client pressure to reduce costs, achieving partner status was no longer a given. Consequently, retention of associates was becoming a serious concern, associates often leaving for other firms after two to three years of employment.

Each institution was insular, establishing its own culture and priorities. Work quality was still very important since reputation brought in clients; however, a firm's measure of success was typically dominated by the annual earnings of its partners. The social implications of the practice—for example, whether acquisitions were good for the employees of the acquired companies—were rarely discussed unless specifically probed for by researchers on our project.

Professional responsibility: The client

Responsibility to the client was the recurring theme throughout the entire study of law, but for the M&A lawyers the client was the overriding obligation and therefore was of paramount importance to the culture of most firms. An M&A lawyer mused that:

[we] will walk through a brick wall within the bounds of legality and ethics to serve a client. We never say to a client, "It can't be done," unless it absolutely can't be done. And we always find a way to try to do it.

While client-centric issues were typically the focus, the concept of "client" was often narrow and the purpose of corporate law distanced from its broader social implications. According to several lawyers, the CEO involved in a transaction often treated his corporation's lawyers as his/her own property. Several lawyers stated that they sought to correct this flawed viewpoint by reminding the CEO that the shareholders were the firm's clients, not the CEO. One lawyer who was particularly conscious of corporate governance issues stated that while there were many lawyers arguing that "the shareholders should be the supreme interest of the board of directors...[he was] still arguing that the board of directors [had] broader duty to the other constituents." Very

few of the M&A lawyers who brokered these corporate dynasties expressed concern for the employees when companies were downsized, or commented about the health and well-being of the communities when a company relocated. Indeed, the same lawyer who was conscious of the broader duty to other constituents was unperturbed by the harms to individuals that may have been caused mergers. He stated:

I don't think I have ever hurt anybody in the deliberate sense. Obviously, if you help somebody acquire a company that somebody didn't want to have acquired, you may have hurt that person or hurt people involved, but apart from the other side of perfectly legitimate transactions, I can't think that anybody I've ever been involved with was hurt.

Although corporate and legal responsibility in the abstract might have seemed clear to some, one lawyer offered to distinguish between a good and bad acquirer. According to him, the bad acquirers were interested in only the short-term value for shareholders and making hard, bottom-line economic decisions about what will produce the greatest short-term value. When lawyers acted in accordance with the expectations of the acquirer, those actions ultimately damaged the reputation of the company. On the other hand, some companies dealt with their communities in a "fair, compassionate, merit-oriented basis" applying strategic bottom-line long-term activities rather than focusing on next quarter results; this latter approach tended to foster trust, integrity, and benefit the reputation of the company among its constituents. To what degree the lawyer can control the specifics of corporate acquisition is a vexed question, but according to the lawyer with whom we spoke, the short-term value advocates were more the norm. Many of the M&A lawyers preferred to abjure their responsibility as ethical advisor to these corporate giants; legality was the most relevant advice they offered.

The priority: A professional life

Many of the lawyers in the overall study talked of "law as a jealous mistress" and indeed all the lawyers worked very hard and had to give up much of their own time for their work; some tried to carve out time for their families and themselves, but few saw themselves as successfully integrating their personal and professional lives. Working in

the M&A area of law required complete immersion; most lawyers commented that when they were in the midst of a transaction, they worked nonstop until it was completed, even if the process took several weeks. Personal lives were managed, but often not experienced in a cohesive fashion. Male lawyers relied on their spouses to keep the family functioning and many were on second marriages; female lawyers relied on live-in-help, stay-at-home husbands, or putting off having families so that they could maintain their careers. After talking about the fun and excitement of the work, one female lawyer remarked:

when you are in the gears, in the middle of a deal, you have to freeze out everything. You've got to cancel your plans. You've got to ask the nanny to work on the weekends. You've got to cancel whatever it is you were doing. You have to cancel vacations. Everything gets—and you just have to go in and be a command central, and it's very disruptive to people's personal lives... very few women could handle that because if they want to get married and have families, very few men will tolerate it. They just won't—very few, very, very few. That's the reason I am [in my forties] with a [toddler].

The professional community dominated their lives. Time out of the office in the form of extracurricular activities was usually associated with the firm and with impressing clients. For example, one well known and reflective NYC lawyer candidly remarked:

One of the things that I have encouraged [others] to do...is to get the lawyers here to do more — partners particularly — to serve on boards of schools, particularly the private schools in New York. Because there is nothing a client will be more grateful for as a personal favor than getting his child in. We don't live in the city, never have, I don't particularly like to be in the city, but that is just the be all and end all when you are in New York City, is getting into the right private school here because nobody can go to the public schools. But client golf [getting clients membership in exclusive golf clubs] is something which I think very few people here are really comfortable with.

Many lived in a different community from where they worked. Some lawyers made every effort to connect their personal and professional lives, but the majority found that linkage to be very challenging, if not impossible. One M&A lawyer made it a point to be home to help with his son's homework, but doing that meant giving up his own outside interests. As he put it, "something had to give."

All the M&A partners to whom we spoke expressed loyalty to their firms. However, given the large numbers of lateral hires among law firms, our interviewees may have been atypical within the ranks of M&A; or, perhaps, they were fortunate enough to have their financial expectations met.

In summary, M&A law firms and partnerships furnished the principal prototype for the first kind of community. The M&A lawyers were devoted to their work, indeed, most loved what they did and were fully engaged with the institution that supported their work. What got lost in the mix was the larger picture, not just the value of corporate responsibility, but the active role the lawyer played in that equation and the lawyers' responsibility to something greater than the client. This configuration has consequences for the profession and for those interested in practicing law.

2. Communities that work to benefit the broader society, but may not be good for the lawyers

Unlike the first community in which lawyers are enthusiastic about their work but not necessarily concerned about its social implications, the lawyers in this community have deep ideological passions and strong professional beliefs and goals that guide them in their work. They focus on justice and the values it has to society; however, the goal of justice and how it serves society have different meanings depending upon the various roles one serves in this community. For example, for some, serving society means defending the rights of the individual. For others, serving society has a more general application in which the service is intended to protect neighborhoods and groups of individuals. These different points of view can either benefit the community through a harmony of perspectives, or diminish the community's effectiveness because of irreconcilable ideological struggles.

Among lawyers in this community, monetary rewards are not as important as serving the greater good. Consequently, winning becomes emblematic of the practitioners' personal convictions and plays a powerful role in their personal satisfaction.

All communities require cooperation and a commonality of goals. In this community, both exist in a limited fashion but not enough to allay suspicions and distrust among the practitioners, diminishing the effectiveness within the community. It is difficult for lawyers to feel aligned in this community and, as a result, it is difficult for them to achieve their goals.

Culture of community

This second community was most often encountered in the Criminal Justice System (CJS). The state and federal public defenders were located in offices overwhelmed by large caseloads, mountains of paper and manila folders stacked on windowsills, floors and desks; some offices had windows, others did not, and some had just enough room for a desk and an extra couple of chairs. Most of the defense attorneys, located in private firms, had plusher offices, but not extravagantly so. Several defense attorneys, who were also professors at prestigious universities, had spacious offices. The prosecutors' offices were located in state and county office buildings more attentively decorated and with better equipment than the public defenders. The Superior and District Court judges were housed in the courthouses with fairly large offices but without the finer distinctions of the Federal or Supreme Court judges' work spaces. Public defenders and judges considered their salaries to be unreasonably low, and the district attorneys' technological and financial resources surpassed by those of the defense attorneys.

The practitioners in this area were highly competitive, as were most in other areas of the law; however, these professionals often brought a political perspective to their work. For many, winning played a significant part in achieving their goals; "fighting" or "battling" were frequently used metaphors. Their professional identity was as heroic "cowboys" poised to "do good", but doing "good" had different meanings and different applications depending on the role one played in the system.

Professional responsibility

The criminal defense lawyers and prosecutors with whom we spoke were guided by their ethical ideals. An intrinsic motivation to serve society dominated their accounts, but differences emerged across groups. Some lawyers spoke about wanting to work for the greater good, or to make criminals accountable, while others spoke of reforming the penal system and fighting against the death penalty. While inspiration to serve was not primarily religious in context, a few lawyers mentioned a connection with the ministry. (This was also true among the small town lawyers, to whom we refer later.) A prosecutor-turned-defense attorney spoke about how his father connected service in the ministry to service of the law:

My father believed that the law would be, for the next 25 years, sort of the defining vehicle in our society. Much as he felt the ministry had been for him...he thought the law would be that for my time.

Unprompted, many spoke adoringly of the old TV series Perry Mason or The Defenders as their initial inspiration to go into this career and “do battle” with the forces of evil, but most chuckled at their idealism when seen in contrast to the reality of their daily experiences. Rarely did the defense attorney find evidence at the last minute that would vindicate his/her client; preparation for trials and jury decisions lasted considerably longer than did each episode of thirty minutes or an hour; and the accused in real life was usually guilty. When reality set in for these lawyers, not everyone was able to stay in his or her chosen specialty. One former judge and defense attorney found the work demoralizing and decided to focus on civil rights, her first love. This soft-spoken defense attorney could not hide her cynicism:

The [CJS] system is very, very unyielding. And so you're necessarily a part of it if you're a criminal defense lawyer. And you know...I've seen people get convicted who shouldn't be, people be acquitted who perhaps shouldn't have been acquitted....Those experiences, after a while, do register.

While very few to whom we spoke made decisions to leave the CJS, all commented in one manner or another that the system was not working as it should, but that it was still “the best system we have.”

Role distinctions define community: A house divided

Unlike the M&A lawyers, most criminal law professionals apparently chose their roles of defense attorneys or prosecutors based on personality and political perspective. The roles tended to isolate one group from the other. For example, defense attorneys saw themselves fighting for the underdog, rescuing society from the social injustices of a corrupted system, and keeping the power of the government in check. One female defense attorney stated that, “a marvelous thing about criminal law is that you sit down and deal with another human being...and really see their humanity as well as identify with their frailty...I truly enjoy it.”

The prosecutors took a different perspective. While they might have felt their role was also a tool for effecting social change, many felt that their responsibilities were to make the perpetrators accountable for the harms they had caused. One prosecutor who had also worked as a defense attorney stated that he was drawn to the prosecutorial role because:

I thought it was a way to use power in a thoughtful and deliberate fashion. That you could use it to hold people accountable, you could use it to help people. And in my mind that was a worthy thing to pursue.

Judges saw their roles as neutral players who were expected to insure that cases were heard fairly, and that justice would ultimately find its way through the courts. As with others in the CJS, however, judges also had professional and personal ideological preferences before becoming judges. Some had been prosecutors and others had been defense attorneys. One judge stated that in her former role as a defense attorney, it was “the closest a lawyer can come to saving lives...The thing that is most precious is on the line, which is liberty and sometimes life.” Drawing on his experience as a public defender, an African American judge drew a connection between his experience and those of his local community:

My sympathies were always with the people I could identify with. I remember when I graduated from law school, most of my colleagues were going to work at the big law firms, and I remember saying to one of the deans, “All I want to do is go out and just work with poor people. That’s it.”

Another judge whose previous experience had been as a district attorney, perceived the role of prosecutor as “the good guys and the bad guys—[and I] preferred to represent the good guys.”

Each professional struggled to overcome the obstacles he or she perceived as being caused by the other side. A defense attorney who insisted that balance and civility were important to the system stated:

That prosecutors, and some judges, [took] a very black and white view toward the world, as if it’s easy to be completely law abiding or there’s no way to understand why sometimes people do certain things... Young prosecutors bring this ethos to a prosecutor’s office and instead of saying, “What will be justice?” they say, “What do I have to do to win?”

The role distinctions made this professional community discordant, embattled, and, for the most part, devoid of reciprocity; the cooperation and mutual respect necessary for any community to work well were rarely in view. Defense attorneys and public defenders thought prosecutors and the police department lied regularly; and prosecutors believed that defense attorneys manipulated the truth and defended the bad guys; neither side was able to name individuals from the other side they admired. However, one interesting finding emerged from our Criminal Law study. When defense attorneys and prosecutors switched roles, experiencing role frustrations from a different point of view, their new perspectives brought a deeper appreciation, a better understanding, and an increase in trust for the other side. (Reese, Marshall, 2003)

Lawyers in the CJS spoke about their work as battles between good and evil: the zealous defense and the relentless prosecution in a highly charged arena, both sides fighting to win for the good of society. Because role choice in many instances seemed an

ideological persuasion, these “battles” were sometimes taken personally: winning was an imperative. Many defense attorneys felt that the “fundamental tenets [were] about access and justice and fair play, [which] was often distorted by racism and by poverty and by stereotypical thinking...and factors...that twisted the system and manipulated it in ways that were undemocratic and unfair.” For a defense attorney, winning was sometimes “keeping someone from getting 20 years and [instead]getting five—winning was not necessarily walk[ing]out the door; [instead] you mitigate the harsh punishment that [a defendant faces].” In contrast, winning for the prosecution was an attempt “to help reconcile the interest of society by holding the offender accountable....” These two deeply held convictions seemed antithetical in a system that required cooperation. The struggle created a rift that did not serve the lawyers or society well.

In summary, the M&A profile illustrated high lawyer satisfaction, firm loyalty, client responsibility, and strong self-interest, but the relationship to the broader society was missing or, at best, secondary. In this second example of community, the lawyers felt committed to something greater than themselves; however, the adversarial role within the community created tensions and inequities. The CJS emerged as a combative system, rather than a truth-seeking system, thus making it difficult for members to cooperate or to establish mutual respect and trust. With the focus on winning, and difficulties cooperating, a broader view of justice, or working towards systemic change, often took a back seat.

3. Communities that benefit the lawyer, the communities of which they are a part, and the broader society

In this final example, lawyers gain satisfaction from a reciprocal relationship between themselves and the community; they do meaningful work that is appreciated by the recipients and that benefits the broader society. Practitioners serve their clients and their communities, while recognizing the importance of their professional obligation to society. Providing vigorous service for their clients does not preclude bringing balance to a dispute. Their aim is to have their professional and personal ethics serve their local and professional communities, the profession writ large, and themselves. As Atticus Finch

and Arthur Hill illustrate, being true to one's values, bringing a moral obligation to the law, and taking full responsibility for the consequences of one's actions are the signs of a coherent professional identity (Postema, 1984; Vogel, 2001). It is through such an identity that the profession can be honored and the communities to which the professionals belong can achieve their goals. Unlike the second type described above, members of this community do not work at cross-purposes.

Professional community: Cooperation

This third type of community was found most frequently in the small town lawyers, and surprisingly in the cyberlawyers, but was not exclusive to these two areas of the law. This type of thinking also was evident among other lawyers we interviewed including M&A. In particular, one M&A lawyer recognized that a reciprocal commitment, enthusiasm, and cooperation was the mark of a healthy community. Consider this testimony by a lawyer from the Boston firm of Goulston & Storrs:

There is an ethic of being courteous and not just to your clients and your colleagues and your subordinates, but also to your opponents. There is an ethic of making sure that you achieve the right result, not winning to rake your short-term victories, not showboating...It's almost socialist here. It really is a shared—it's a communal feeling, very strong, cultural identity, that the firm has really struggled to preserve despite rapid growth since the 70s when it was just a tiny little firm with twelve lawyers.

Another M&A lawyer referred to the law firm as a community of professionals who cooperate and share the work load:

The sum of the parts is not as important as the whole. The whole has more value that we want a culture where everybody is helping everybody else because that's where you really build the strength. If you just have a lot of individuals going out and doing their own thing, you don't have nearly the values, and the value that you can build up as people work together.

Though these examples thus far have come from M&A lawyers, the small town and cyber lawyers were more consistent in their commitment to goals beyond their own self-interests. They sought to realize these higher values by taking personal responsibility for their actions and trying to establish good working relationships among adversaries and advocates. One small town lawyer exclaimed, “I, myself, as an individual, am responsible for everything that I do and carry that around with me.”

While this faith might be seen as naïve or anachronistic in contemporary urban settings, small town lawyers continued to believe that an individual should be as good as his/her word. Several small town lawyers remembered finalizing a contract or an agreement by “shak[ing] a hand and that was it; over the phone, you said the case was settled and that was it”. One’s word was a promise kept, a trust that bound professionals regardless of their adversarial roles. When the example of an agreement cemented by a handshake was presented to an M&A lawyer, she remained incredulous that anything could ever be settled with a handshake: “I don’t believe that in a small town if you shook hands and if somebody came in and offered you twice the price, all of a sudden it would be, ‘Oh no, we shook hands, I can’t.’ I just don’t think life is like that.”

An integration of personal and professional life

The offices of small town lawyers were usually located in a neighborhood setting, some located in houses, some in offices adjoining their homes. Most, if not all, of the small town lawyers acknowledged that living in their community increased their visibility and cemented their relationships to others outside the profession. A small town lawyer from Vermont described the seamlessness of going from the personal to the professional community:

The client is part of the community and those who the client knows is part of community...There is a whole community surrounding that client, and that community, including yourself.

We interviewed a group of lawyers together. While they expressed commitments to their firm and shared common goals to provide excellent service to clients, they emphasized

the importance of maintaining diverse and satisfying lifestyles. A busy and very successful general practitioner in Vermont prided himself in reinforcing, whenever possible, the value of the lifestyle he and his partners had chosen:

The absolute priority here is lifestyle--that it's important...if I see an associate in here on a weekend, I want to know why he isn't with his family or she isn't with her family. Everybody has to work. Lawyers have to work hard. I probably put in more hours, work harder than anybody else. But the concept that you can't spend time with your family is just not there.

Instead of focusing entirely on their clients' agendas as described in the first type of community, some firms acknowledged the importance of partner satisfaction. They encouraged a culture that inspired the lawyers to expand their own lives by providing the space and time to include other interests. This type of firm was not exclusive to small town lawyers. Hill & Barlow, known for its diverse and extraordinary community of lawyers, underscored its commitment to pro bono and personal interests in precisely that way. One former partner described the firm as it was several decades before its demise, "[it enabled those in the firm] to have family lives and to make contributions in other sectors of society with a particular interest in the political and academic spheres."

Though not considered a small town lawyer, this sentiment was also expressed by an M&A lawyer in Concord, NH:

We try to find people who have, I would say, some passions in life that demonstrate that they like to be involved in things more than just on a casual basis...and you are part of interesting things that were going on within your community or your state.

The benefits of binding relationships between the law firm/lawyer and the external community were far more common among small firms in non-urban areas, although not exclusive to small towns. However, living in a small town was not for everyone. As one person stated, if lawyers were seeking wealth they would never earn the same as "those

lawyers in Concord [NH] and south [who] make a lot more money than do lawyers north of Concord.”

Community brings meaning, whether virtual or real

It was not just the small town lawyers who were satisfied with their professional communities and who felt they were doing work that was meaningful to them and to the community they served. Cyber-lawyers also had convictions about the social value of their cutting-edge and groundbreaking work, which includes various 1st amendment related matters, maintaining an open and transparent Internet, and defending the public’s right to make decisions on how the Internet should be used. In the words of one cyberlawyer, “it’s about giving people a greater sense of interest and outcomes...trying to politicize people...to make people understand what common interests are and what problems of collective action are...and the opportunity to participate....This is very exciting stuff.”

While the meaningfulness for small town lawyers comes from being rooted in their local community, a comparable sentiment on the part of cyberlawyers comes from their involvement in the public arena and in a new form of virtual community. Cyberlaw practitioners expressed a profound sense of purpose and accomplishment. A cyberlawyer described a response from the Internet community as a result of his organization’s leadership:

We wrote a very polite letter to the president, signed by forty-two experts, several of whom were in the White House meeting yesterday discussing computer security. And, then we posted it on the Internet. We even started to get email from people who said in effect, “I agree with what you say, can you add my name to it?” And in the span of about six weeks, we got 50,000 Internet users to sign the petition opposing the White House encryption proposal...and announced the creation of this new organization that would focus on civil liberties and privacy issues.

In summary, the lawyers who are most associated with this third community have an abiding responsibility to their clients. What distinguishes this community from the other two varieties is the common belief that their professional obligation is for the benefit of the larger community; they feel an obligation to satisfy themselves beyond economic gain, and they recognize the importance of respecting and working cooperatively with their colleagues. But even this “ideal” community might be threatened in the present professional environment.

V. Harms to communities

We identify several obstacles to doing good work in legal communities: 1) priority of the business model and the deterioration of loyalty; 2) the reality of billable hours; 3) the decline of civility and respect for one’s colleagues; and 4) the increase in the pursuit of self-interest. These challenges to the profession overlap, influencing each other, and complicating the pursuit of good work.

1. When does loyalty end and business begin?

We suggest that the unmitigated market thrust damages the bonds of professional communities. While law has always been a profession with a business component, the balance among professional standards, client driven agendas, and profit motives has tipped the profession dramatically in the direction of business. The lawyers with whom we spoke were of two minds: 1) law was a business, as it should be, and 2) the profession was struggling to differentiate itself from becoming only a business and seemed to be losing the battle.

As firms merge and create mega-firms, many firms have come to resemble their corporate clients. Sheer size exacerbates the need to pay overhead for large spaces, hefty payrolls, and so on. Size also makes it more difficult for partners to know each other, to communicate, and to feel as if they are part of something greater than their own practice group. Partnerships appear to be particularly vulnerable. Once a precious and traditional collective among lawyers that relied on a sense of shared responsibility, commitment, collegiality, and integrity, this ideal is transmogrifying into a business, imposing bottom

line priorities, greater profit margins, and creating limited liability partnerships to shield members from personal liability should the firm collapse for any reason (Glater, 2003; Cain, 1996). As firms seek to increase earnings, loyalties diminish and many partnerships flounder.

The 107 year old law firm of Hill & Barlow was an example of a strong community of lawyers that intended to benefit both themselves and the community-at-large. All the former partners we interviewed spoke poignantly about the firm's extraordinary past, not only out of pride for its distinguished history, but also in an effort to recreate their lived experience of the firm (Marshall, 2004). One partner commented:

The concept of partnership means loyalty. It means the opportunity to have a collective group. It can really do something constructive for clients, with the good-paying business clients but also the clients that aren't necessarily good [as paying clients].

Another senior partner noted that the partners lead "richer and more diverse lives with an opportunity to have family lives and to make contributions in other sectors of society with a particular interest in the political and academic spheres."

During the struggle to compete for the best and brightest associates, higher paying corporate clients, H&B bartered its uniqueness as a partnership in order to close the economic gap between itself and other top law firms in Boston. Net profit per partner became one of the most important issues for the members of the firm. As economic competition heated up in Boston and around the country, compensation and financial perks became legal trading chips. The new economics that guided decisions at H&B changed the firm's ethos from pride of service and a valued partnership into disparate focuses on greater profits, and individual career trajectories. In December 2001, 23 partners in the real estate group left the firm en masse, and H&B closed its doors forever. H&B was not the first great firm to close and surely will not be the last.

The business model is here to stay, but tempering its excesses requires a conscious decision not to place business above relationships. A successful and renowned M&A

lawyer spoke of his firm as a “true partnership”, which suggested familial relationships rather than unhealthy competitors:

Our firm is a rather special place to us; it’s not a business, it’s an old fashioned professional partnership, and there is no distinction among the partners. When someone becomes a partner, each partner has a vote; we require unanimity to do whatever it is we do. We didn’t want to be a business; we wanted to be a true partnership and to act more like a family than a business corporation.

The partnership emerges as one of the pressure points of legal practice in the United States. Indeed, in no other profession studied in the GoodWork Project was there reference to partnerships. Partners who are committed to each other and to the health of the partnership place the strength of their bonds above personal ambitions and financial rewards. As partnerships wane, a distinctive and impressive feature of this profession may be irrevocably lost.

2. The demon of billable hours

The billable hour is the single most important element in the new configuration of the legal profession. It is reflected in soaring incomes, heightened competition between and among lawyers and firms, and mounting pressure on associates and partners. It determines the total income of the firm and, often, how profits are divided. The harm associated with hourly billing was put into context by one small town general practitioner:

The trouble with billable hours is that they become an end unto themselves. How many billable hours did you get last month? And I think one of these days billable hours are going to get a review because I don’t know why the public stands for it. Can you imagine hiring somebody to build you a house and say, “Well, look, just give me your billable hours when you are done and I’ll pay you”? Can you imagine that?

In this instance, billable hours are seen as unfair to the client. But the absence of billable hours can be seen as a burden to lawyers that might undermine quality. One M&A lawyer stated:

It's an imperfect system for charging for what we do for a living, but so far nobody has come up with anything better. You could take distinct projects and say, "That should cost you...", but when you cap a fee as some firms have, as the hours mount up to that cap, people just aren't going to put in the time. And if a problem develops at the last minute, you are not going to want to have a disincentive to do the best possible job.

Billable hours are one weapon in the arsenal to recruit more clients and build greater profits, but not the only one. The yellow pages are replete with lawyer advertisements, and marketing brochures are visible in corporate waiting rooms. As clients complain about huge bills, and seek the lowest bidder, the fires of competition get stoked. And while this type of competition may bring down costs for the client, it also directs the focus of law communities to accounting rather than quality.

When the lawyer's expectations are high and earnings are the promised reward, billing by the hour may become ripe for abuse. Often disputes in billing are cause for mistrust and a client's sense of vulnerability that he/she is being cheated. In some communities novel solutions have been proposed. One small town lawyer who was managing partner of a successful firm in Vermont responded to a client's billing disagreement this way: "Pay what you think the work was worth and we'll accept whatever amount you send. And that's the end of it." While this strategy might work in some cases, it may not be a solution for larger firms in New York City and Boston.

As we heard frequently among those we interviewed, a lawyer's reputation is everything. Slowing down the accelerating drive for profits and the heightened competition among partners might improve the reputation of the profession and the quality of life for many practitioners.

The strategies a law firm uses to soften the effects of competition for higher wages, and to improve solidarity, can influence how partners relate to each other, how they relate to the client, and on which principles the firm leans in difficult times. Ropes and Gray, another leading Boston law firm, offers a solution to the competitive thrust and mistrust. The firm is governed by co-managing partners in conjunction with a Policy Committee. This governing body makes all the consequential decisions about the direction of the firm. None of the other partners in this firm know what anyone else is earning, thus minimizing the importance attached to salaries and billable hours. This 'veil of ignorance' policy reinforces the collective, encouraging partners to see their work as part of the whole and to focus on quality.

A former partner from H&B became disillusioned because the compensation of individual partners became more important than the partnership they all professed to love. When looking for another firm, this savvy lawyer asked every hiring partner what they did when they had a bad year economically. He listened carefully and chose to go to a firm that responded based on considerations of equity:

Bigger firms told me...“don't worry about that because in bad years you're not going to suffer. Some years we've trimmed associates. Some years we've trimmed partners. But we manage to preserve the income of the people who are really at the core of what we do....”This place [lawyer's new firm] said: “well it hasn't happened for a while, but every time it has happened, the people on top of the pile have made less.” And there was no compunction, and it didn't matter who I asked that question to here [new firm], everybody said that's what we do. And why do they do that? [They do it] because [they] have a generational obligation to the people who are following [them].

The generational obligation to which the H&B partner was referring brings up another serious dilemma. In former times, associates were virtually guaranteed a position as partner as long as they met the standards of and obligations to the firm; now most law firms are hiring more associates than can be retained. Competing for fewer slots, these associates work enormous numbers of hours to demonstrate their devotion and skill.

However, since only a limited number of associates make partner, this situation creates instability and uncertainty within the firm and proves costly in psychological as well as financial terms. Each time an associate or partner leaves a firm, the replacement partner/associate must review the case file and often bills the client for that review, in effect double-billing for the same work. Neither client nor law firm benefits from this situation.

3. Civility is honey to the bee

All lawyers we interviewed stated that their responsibility was predominantly to their clients—whether working for an acquiring company, an accused murderer, or a person making out a will. Indeed clients expect their lawyers to fight for them, frequently referring to their lawyers as “hired guns” or “bull dogs”. While doing right by one’s client is expected, the Code of Ethics (Rule 1 of Third Party Relations) also invokes the importance of acting towards other advocates with courtesy, frankness, and good faith.

Among the small town lawyers we interviewed, complaints of diminished civility were frequently voiced. One lawyer spoke disparagingly about the costs of focusing on the interests of the client:

My observation would be that some of what you hear...of people being personally nasty to each other is absolutely accurate, that that truly is the ethic among litigators in big cities. Not universally, but that that ethic is very strong. I find the toll of personal nastiness between opposing lawyers to be just nearly unbearable.

These same small town practitioners lamented the loss of collegiality among lawyers from out-of-state. In their view, these anonymous professionals felt they were accountable to their clients, to their own self-interests, and to no one else. A small town lawyer in Bennington, Vermont remarked:

I have found that sometimes people in the big city, for whatever reason, seem to take liberties and act with perhaps less civility than is the norm in Vermont...They think they can get away with it. They are never going to see me again. [Vermont

lawyers] are going to be coming around again...I think if you have three thousand people [number of lawyers in Vermont] and you are going to be working with them for 30 years, you are going to do your darnedest to get along with them. [There are] a handful of stinkers...The rest are people of their word, of integrity and competence and good to deal with. They are adversaries; they are not enemies.

In the CJS, not only were the social inequities of society mirrored in the system, but the strained and contentious relationships between advocates was frequently described. A defense attorney spoke eloquently of his commitment to his work but then solemnly added:

I would like to see compassion come back to the criminal justice system. It's a factor that isn't seen as much anymore. It means that you don't have to have a "win at all costs" attitude by both sides. You look at the human condition when determining how to resolve a case. You appreciate the shades of grey that exist out there...[and] realize that most of us are really trying to achieve a just result by honestly and ethically doing our part in the system and just have people treat each other in a more civil, professional, and respectful fashion.

By and large, all lawyers are trained to see various aspects of a particular problem and to navigate the barriers imposed by the law. However, the very nature of the CJS was combative in nature—prosecutors seeking airtight cases and defense lawyers sowing seeds of doubt. The additional tension of incivility made it difficult for lawyers to work together and was exacerbated by the lack of mutual trust and an emphasis on winning, rather than improving the problems within the system.

A lack of civility is a disservice to the profession, to one's colleagues, and to the communities those professionals serve. One M&A lawyer offered an interesting insight into the importance of civility. Rather than deeming civility as an end in itself, this M&A lawyer saw it as directly related to client satisfaction and, ipso facto, to business:

You may get better with more experience, but not everybody can really do a good job in terms of handling the clients, because mostly...if you offend the other side, your clients are not happy either.

Curiously, most M&A lawyers from New York and Boston complained very little about the issues of civility. Perhaps in their fast-paced world, M&A lawyers were less conscious of the “rules” of etiquette; or perhaps in this world of action, civility is seen as a restraint to achieving one’s goals rather than a means of more broadly attaining them.

4. Self-interest at the expense of others

When cooperation is a tradition within a community, it breeds reciprocity, trust, and a shared sense of overall responsibility and accountability to others in the community (Landon, 1990; Putnam, 2000). As communities become larger, specialization of roles increases, and the need for cooperation intensifies, but the need is not always met.

Many lawyers struggle with the uncertain boundaries between their professional identities and their private lives. Durkheim called attention to the difference between personal ethics that apply to the personal realm, and professional ethics that apply to a profession. When distancing occurs between the personal and professional spheres, professionals tend to erect institutions or professional communities that take for granted professional obligations, and focus on self-seeking behavior.

Lawyers are self-regulating and occupy a special role in our society. If that role is chronically abused, the government (and/or the general public) is likely to take punitive actions. The Sarbanes-Oxley Act is the most recent example of a law that imposes an obligation on lawyers to report if the clients are violating a security law. Clearly, such diligence has always been the lawyer’s responsibility but not one that was well regulated. Most lawyers we interviewed talked of their fiduciary responsibility to the client, but the thoughts of one M&A lawyer illuminated the complexity of this quandary:

The legal profession has essentially dragged its heels in being responsive to societal needs, hiding behind the rubric of a fiduciary duty to a client and since the duty is to the client, there is not a duty to society to make sure that what the

client does is not detrimental to society as a whole. As long as lawyers act that way, there will be more and more regulation of the legal profession.

There are abundant examples of partnerships, communities of lawyers who have lost their sense of collective responsibility. For example, a H&B former partner spoke about the loss of continuity, connection, and stability as greed became regnant:

I felt like Hill & Barlow had lost its sense of commitment across the partnership from generation to generation. We were having a bad year, and the people who were paying the price were the more junior partners, those of us with little kids, and people who had the least room in our budgets to figure out how to accommodate failing. And we were getting hit so that the people at the top of totem pole could build third houses. It was just wrong. It came from greed, and it was the opposite of what that firm was supposed to be about.

Boston Law Collaborative, LLC (BLC), a small but unusual firm in Boston has sought to address this type of discord. Instead of focusing on the adversarial role of law, BLC attempts to resolve conflicts by focusing on mediation and foregrounding team work rather than individual aggrandizement. David Hoffman, a former H&B partner, the founding member of BLC, and a co-founder of the Massachusetts Collaborative Law Council, suggested that the workplace should provide more than a paycheck, that those involved be more than task-oriented, and that convergence of one's personal and professional goals should become the ideal for which all lawyers strive. According to Hoffman, professionals should have their humanity validated in the workplace, regardless of the size of a law firm. BLC endeavors to create this type of work environment for its staff, associates, and members, and when internal issues arise, they are viewed as an opportunity for improving communication and working to achieve consensus.

In summary, we have described two communities that benefit either the practitioners or society to varying degrees, and a third community that ideally benefits both the practitioner and society. All three communities are struggling to maintain stability. As wealth increases and the social undergirding of the profession diminishes, many lawyers are pursuing their individual ambitions rather than the cause of justice. Even the coveted client, the primary obligation to which all lawyers paid homage, is in jeopardy. The ill effects of competition among those in the field, the competition for clients, the dominion of business ethics and profits in a profession on which society depends, proves a disservice to the profession and to those it intends to serve.

VI. Conclusion

Although not always attainable, ideals remind us of the obligations we have to ourselves and to others. Anthony Kronman writes of lost ideals in the law not because he believes that all lawyers in the past were ethical, capable, or competent; rather he contends that lawyers were more committed to the mission of the profession and to the communities they were expected to serve. Good work in the law requires that lawyers remain bound by the standards of the profession, not just to serve the client, but to remain conscious of the fates and fortunes of all those affected by the legal system.

Today's lawyers are under siege; some problems are of their own making, others are in response to challenging and rapidly changing conditions that confront them. Rather than focusing on the profession's collective responsibilities to society, most lawyers have elected a more individualistic emphasis (Shaffer, 1985), they valorize economic prosperity, and reposition the meaning of "public good" to imply zealous client services. To be sure, community-spirited, value charged lawyers and law firms do exist; but the trend is decidedly towards the pursuit of financial rewards rather than effective service to the broader society.

In this paper we have described three different communities: communities that benefit the lawyer and not necessarily society; communities that benefit society and not necessarily the lawyers; and communities that benefit both the lawyer and the broader society.

Communities that benefited lawyers –with M & A serving as the prime example—were

content with their work, excited by the energy and possibilities. They enjoyed the intellectual challenges on the problems that needed creative solutions. The benefits outweighed the concessions required of them—long hours, limited family involvement, and no personal time. Their professional identities were associated almost exclusively with their professional lives. The possible harms caused by their efforts to merge corporations—for example when communities were hit by industrial closings and people lost employment and their livelihood—were issues for some, but were not the priority for most. The public good was tangential. In this form of community, the once-valued partnership also seemed to be at risk. Firms were businesses with bottom-line concerns, and as such, the health of the partnership per se, and its embeddedness in a broader community, receded in importance.

In the second form, communities benefit society but not necessarily the lawyers themselves. This situation is particularly evident in the criminal justice system—a house divided among professionals who had little regard for one another and little sense of working towards a common purpose. Although the different members shared a concern for society and worked to make it better, their fundamental distrust of each other left these professionals frustrated and, at times, ineffective as a community.

In the third example—communities that benefit both the lawyer and community—choices are made by the professional to focus on quality of life rather than attainment of wealth. The small-town lawyers, the cyber lawyers, and a few M&A lawyers embodied the qualities of this community. The lawyer's role in her respective community was not just as an advocate but as a counselor, an advisor, a friend, and a participant in the community, whether it was a traditional partnership, an Internet community, or a tightly woven local community. The community itself played an active role in sustaining the value of the practice where both personal and professional identities were confirmed. There was synergy among the different roles, professional trust that all were working toward the same overarching goals. This balance did not preclude the adversarial nature of the profession; but the intensity of opposition and combat was mitigated by the civility among the professionals.

Firm size and community populations may influence the relationships of a lawyer to his/her community—the more rural areas offering greater possibilities for connections among partners, associates, and the public. However, a community can be as large as cyberspace itself and still exhibit connectedness and cohesiveness. Purpose predicated on meaning, respect, and civility are encouraged by the culture of a firm, regardless of size; when these conditions exist, there is a vibrant and beneficial effect on all parts of the community.

Communities need constant ministering or they fray. Participation among stakeholders strengthens the bonds of community. Collective goals and values that valorize professional ideals, integrate personal and professional values, and provide rewards other than monetary ones confirm a professional conscience and confer meaningfulness on the work for all involved. The legal profession has much to gain by a renewed valuing of good individual character, collective expectations and goals, and the wisdom to sustain the noble tradition of the law

References

- Cain, G. H. (1996). *Law Partnership*. Chicago, IL: Senior Lawyers Division, American Bar Association.
- Caplan, L. (1993). *Skadden: Power, Money, and The Rise of a Legal Empire*. New York, NY: The Noonday Press.
- Daicoff, S. (2004). *Lawyer, Know Thyself*. Washington, DC: American Psychological Association.
- Doerfler, C. (1927). "An Ancient and Honorable Profession." *Marquette Law Review*, 11:113.
- Gallup Organization. (2004, November 21). "Please tell me how you would rate the honesty and ethical standards of lawyers--very high, high, average, low, or very low?" Found on Lexis-Nexis, Roper Center at University of Connecticut Public Opinion Online.
- Gardner, H., M. Csikszentmihalyi, and W. Damon. (2001). *Good Work: Where Excellence and Ethics Meet*. New York, NY: Basic Books.
- Gerson, A., (Ed.).(1980). *Lawyers' Ethics*. New Brunswick, New Jersey: Transaction.
- Glater, Jonathan. (2003, January 10). "Fearing Liability, Law Firms Change Partnership Status." *The New York Times*, C2.
- Kritzer, H. M. (1999). "The Professions are Dead, Long Live the Professions: Legal Practice in a Postprofessional World", *Law & Society*, Vol. 33: 713-59.
- Kronman, A. (1993). *The Lost Lawyer*. Cambridge, MA: Harvard University Press.
- Landon, D. (1990). *Country Lawyers*. Westport, CT: Praeger Publishers.
- Lee, H. (1960). *To Kill a Mockingbird*. New York: Warner Books.
- Marshall, P. (2004). "Facing the storm: The closing of a great firm." Retrieved from GoodWork Project Web site: <http://www.GoodWorkProject.org>.
- Nelson, R.L. Trubek, D.M., Solomon, R.L. (Eds.). (1992). *Lawyers' Ideals/Lawyers' Practices*. New York: Cornell University Press.
- Postema, G.J. (1984). "Self-Image, Integrity, and Professional Responsibility." In D. Luban, (Ed.). *The Good Lawyer*. New Jersey: Rowman and Allanheld, 286-310.
- Putnam, R. D. (2000). *Bowling Alone*. New York: Simon and Schuster.
- Reese, J., Marshall, P. (2003). "Role changing in our adversary system: What do lawyers, the system, and society stand to gain?" Retrieved from GoodWork Project Web site: <http://www.GoodWorkProject.org>.
- Rhode, D.L. (2004). *Access to Justice*. New York: Oxford University Press.
- Rhode, D.L. (Winter 2005). *Making Good on the Promise of Justice*. Santa Clara, CA: Markkula Center for Applied Ethics, Santa Clara University, 5.
- Shaffer, T. L. (1985). *American Legal Ethics: Text, Readings, and Discussion Topics*. New York: Mathew Bender & Company, Inc.
- Vogel, H. (2001). "The Terrible Bind of the Lawyer in the Modern World: The Problem of Hope, the Question of Identity, and the Recovery of Meaning in the Practice of Law." *Seton Hall University School of Law, Seton Hall Law Review* 32 *Seton Hall L. Rev.*,152.