

ARTICLES

Respite Finem: Law, Regret, and the Purpose-Driven Life in Leo Tolstoy's *The Death of Ivan Ilych*

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ABSTRACT

*With surprising frequency, lawyers express regret over their decision to pursue a legal career. Given the high incidence of depression, anxiety, poor mental health, and thoughts of self-harm among members of the profession, it is perhaps not surprising that many lawyers see the reality of their lives in practice as very different from the idealistic, aspirational life in the law they entertained and wanted when deciding to pursue a legal career. Both before and after law school, various institutional, economic, and psychological factors risk imperiling or derailing the meaningful and purpose-driven life that many lawyers desire. This interdisciplinary article uses ethics and literature and the humanities—specifically Leo Tolstoy's novella, *The Death of Ivan Ilych*—to examine how lawyers might pursue a meaningful and purpose-driven life within an otherwise challenging profession and in the face of certain mortality.*

Though written nearly 150 years ago, Tolstoy's novella, which addresses themes and questions about suffering and death, as well as spirituality and moral life—and specifically a moral, purpose-driven life relative to one's professional life—finds contemporary resonance with a modern legal profession that is increasingly antithetical to lawyers' happiness, health, and satisfaction with their chosen career. Tolstoy's protagonist, an accomplished judge by any means, would fit well within the sobering statistics about contemporary lawyer depression. As such, the story of his suffering, death, and ultimate redemption offers much to lawyers, specifically in its emphasis on service as a means of fomenting a purpose-driven life. It also offers new ideas for revisiting and amending existing institutional systems and ethical guidelines within the profession—specifically the Model Rules of Professional Conduct and the ABA

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Standards and Rules of Procedure for Approval of Law Schools—to help lawyers find and maintain a meaningful and purpose-driven life in the law.

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INTRODUCTION

With surprising frequency, lawyers express regret over their decision to pursue a legal career.¹ Given the high and prevailing rates of depression, anxiety, poor mental health, and thoughts of self-harm among members of the profession,² it is perhaps not surprising that many lawyers see the reality of their lives in practice as significantly different from the idealistic, aspirational life in the law they entertained and wanted when deciding to pursue law school. Both before and after law school, various institutional, economic, and psychological factors risk imperiling or derailing the meaningful and purpose-driven life that many lawyers desire.³ Sadly, this is not a new phenomenon, and much has been written about the well-being crisis in the profession.⁴ But this interdisciplinary article does not examine the issue through the lens of medicine or psychology. Rather, it uses literature and the humanities—and specifically Leo Tolstoy’s novella, *The Death of Ivan Ilych*—as a vehicle by which to examine how lawyers might pursue a meaningful and purpose-driven life within an otherwise challenging profession and in the face of certain mortality.

Though written nearly 150 years ago, Tolstoy’s novella, which addresses themes and questions about suffering and death, as well as spirituality and moral life—and specifically a moral, purpose-driven life relative to one’s professional life—finds contemporary resonance with a modern legal profession that is increasingly antithetical to lawyers’ happiness, mental and physical health, and satisfaction with their chosen career. Tolstoy’s protagonist, an accomplished judge by any means, would fit well within the sobering statistics about contemporary lawyer depression. Ivan Ilych’s story is our story—or at least that of a good many of us in the profession—and as such, the story of his suffering, death, and ultimate redemption has much to offer lawyers. It also offers new ideas for revisiting and amending existing institutional systems and guidelines within the legal profession to help lawyers find and maintain a meaningful and purpose-driven life in the law.⁵

This article contains six sections. Section I examines the well-being crisis in the legal profession. In assessing current data about lawyer well-being, this Section connects the well-being crisis to legal education and legal practice, ultimately showing how factors within both can contribute to lawyers’ sense of lost purpose and professional regret. Section II explores the law and literature movement and the place of Tolstoy’s novella within it. Section III provides a brief background of Tolstoy’s life. It highlights select biographical, bibliographic,

1. See, e.g., Cheryl Ann Krause & Jane Chong, *Lawyer Wellbeing as a Crisis of the Profession*, 71 S.C. L. REV. 203, 210–11 (2019); see also *infra* notes 71–82.

2. See *id.*

3. See *infra* Section I.

4. See *infra* Section I.A, C.

5. See *infra* Section V.

theological, and philosophical information as a means of providing context and support for an analysis of *The Death of Ivan Ilych*. Section IV offers a close legal and literary analysis of *The Death of Ivan Ilych*. It reads the story as a subtle critique of the legal profession. More specifically, it sees the story as a critique of lawyers who, as an extension of a bourgeoisie society lacking in empathy and devoid of greater purpose, often lead empty professional lives. It also analyzes key characters and their conduct to show how the concept of service to others emerges in the story as a tool for fomenting a meaningful, purpose-driven life. Section V applies lessons derived from *The Death of Ivan Ilych* to the modern lawyer. It offers a lens by which lawyers might read the story as a guide for pursuing and living a purposeful career and one that hopefully does not end in regret. This Section also explores how institutional changes to the legal profession, including to both the Model Rules of Professional Conduct and the ABA Standards and Rules of Procedure for Approval of Law Schools, could do much to improve lawyer well-being, specifically through a renewed emphasis on service at all levels of legal education and practice. Section VI offers a brief conclusion and some words of hope for the modern lawyer.

I. A NEW FIELD OF PAIN AND DEATH

A. LAWYERS AND THE LEGAL PROFESSION IN CRISIS

Robert Cover famously wrote that “[l]egal interpretation takes place in a field of pain and death.”⁶ While it may be slight overreach to suggest that “legal practice” also takes place in a field of pain and death, the reality remains that for many attorneys, the practice of law is exceedingly trying and difficult—and not just technically difficult, but emotionally and psychologically difficult, as well.⁷ For some, though, the practice of law *is* pain and death. While lawyers, overall, may not be the happiest of people,⁸ this article does not contend that every lawyer is miserable, hates their job, or finds no joy or greater purpose in the practice of law. Indeed, statistics argue to the contrary,⁹ and for many, the law can be and is

6. Robert M. Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1601 (1986).

7. See generally Krause & Chong, *supra* note 1, at 206–11.

8. See Katya S. Cronin, *The Intentional Pursuit of Purpose: Nurturing Students' Authentic Motivation for Practicing Law*, 28 LEGAL WRITING 159, 164 (2024) (citing Nancy Levit & Douglas O. Linder, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* 2 (2010)) (discussing a 2010 career satisfaction survey that showed that only half of lawyers were satisfied with their job); see also Kathleen Parker, *Want to Be Happy? Then Don't Be a Lawyer*, WASH. POST (Jan. 20, 2023), <https://www.washingtonpost.com/opinions/2023/01/20/jobs-happiness-lawyers-nature/> [https://perma.cc/CV2Y-QT84]; Jacquelyn Smith, *The Happiest and Unhappiest Jobs*, FORBES (Mar. 22, 2013), <https://www.forbes.com/pictures/efkk45ehffl/no-1-unhappiest-job-associate-attorney/> [https://perma.cc/HZ5E-HQ5W] (noting survey results from jobs website CareerBliss of more than 65,000 employees that showed “associate attorney” was the number one most unhappy job in America).

9. See generally Stephen Embry, *In Defense of Law: The Surprising Career Satisfaction Rates Among Lawyers*, TECHLAW CROSSROADS (July 17, 2024), <https://www.techlawcrossroads.com/2024/07/in-defense-of-law-the-surprising-career-satisfaction-rates-among-lawyers/> [https://perma.cc/ZSB7-7U7B] (discussing survey results that showed 73 percent of lawyers would choose a career in the law if they had to do it all over again); but see *infra* Section I.C.

a most rewarding profession in myriad ways. But in truth, many law students and members of the bar struggle with the trials (literal and figurative) and tribulations of a life in the law. High billable hour requirements,¹⁰ crushing law school debt,¹¹ elusive and declining opportunities for partnership,¹² unrealistic expectations about a life in the law,¹³ the “golden handcuffs” of salary,¹⁴ the prestige

10. See generally Krause & Chong, *supra* note 1, at 212; see also Dan Roe, ‘Old School’ Expectations Plague Young Lawyer Mental Health—But Not All Predecessors Are Sympathetic, ALM|LAW.COM (May 17, 2024), <https://www.law.com/americanlawyer/2024/05/17/old-school-expectations-plague-young-lawyer-mental-health-but-not-all-predecessors-are-sympathetic/> [<https://perma.cc/FP2M-86WW>] (discussing results of The American Lawyer’s 2024 survey of the more than 2,000 law firm attorneys and 400 non-legal staff on the state of mental health in the legal profession and noting that the billable hour was “the boogiemani” at the top of the list of complaints among surveyed legal professionals, “followed closely by always being on call and a prevailing culture that prizes perfectionism and lacks empathy”); Dan Roe, *The 1,800-Hour Year: Pipe Dream or Essential for Lawyers’ Well-Being?*, ALM|LAW.COM (JULY 27, 2023), <https://www.law.com/americanlawyer/2023/07/27/the-1800-hour-year-pipe-dream-or-essential-for-lawyers-well-being/> [<https://perma.cc/W6JC-XWL5>] (discussing the mental health toll that excessive billable hour requirements has on lawyers—and especially associate-level attorneys—and showing how annual billable hour targets of 1,800, 2,000, and 2,200 per year leave little room or time for attorneys to focus on mental health or achieve a balanced life).

11. According to a 2024 study from Georgetown University’s Center on Education and the Workforce, the median law school debt for law graduates was \$118,500. The study also showed that net of debt payments, median earnings were significantly lower for graduates of lower ranked schools than were median earnings for graduates of higher ranked law schools. See Debra Cassens Weiss, *Is Law School Worth It? At 33 Low-Tier Schools, Median Income After Student Debt is 55K or Below*, A.B.A. J. (June 26, 2024), <https://www.abajournal.com/web/article/is-law-school-worth-it-at-33-low-tier-schools-median-income-after-student-debt-is-55k-or-below> [<https://perma.cc/US9F-NXPX>]. As of 2023, and according to the American Bar Association, the average debt for law students who had borrowed money to attend law school was approximately \$111,000. See Ilana Kowarski & Cole Claybourn, *How to Minimize Law School Debt*, U.S. NEWS (July 3, 2023), <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/how-to-minimize-law-school-debt> [<https://perma.cc/7P6C-GGUC>]. As a consequence of high debt loads, many students cannot afford to live on lower salary levels offered by smaller firms that might service rural, middle, or lower-class communities. For the same reason, students with high debt might be forced to forego public service jobs or pro bono work, even if they aspire to such work. See generally *Final Report, Findings & Recommendations on the Impact of Law School Debt on the Delivery of Legal Services*, ILL. STATE BAR ASS’N (June 22, 2013), <https://www.isba.org/sites/default/files/committees/Law%20School%20Debt%20Report%20-%202013-8-13.pdf> [<https://perma.cc/2YBT-74D5>].

12. See generally Krause & Chong, *supra* note 1, at 212; Suzi Ring, *Rejecting the Partner Mould – Associates Give Their Views on Career Progression*, ALM|LAW.COM (Mar. 8, 2017), <https://www.law.com/international-edition/2017/03/08/rejecting-the-partner-mould-associates-give-their-views-on-career-progression/> [<https://perma.cc/237U-BTA9>] (discussing surveyed associates’ responses and impressions of partnership promotion as lacking fairness and clear metrics).

13. See generally Steven J. Harper, *Unhappy Attorneys and the Expectations-Reality Gap*, 41 LITIGATION 27, 30–31 (2015) (discussing how popular narratives, including those depicted through mass-consumed media like television and film, offer would-be attorneys unrealistic expectations of what a life in the law can be or should look like).

14. As of 2024, and for the class of 2023, “Big Law” pay set to the “Cravath Scale”—that being the pay rate for first year associates as set by powerhouse white-shoe law firm, Cravath, Swaine & Moore LLP—started at \$225,000 per year. See Staci Zaretsky, *Top Biglaw Firm Announces Big-Time Raises, Bonuses for Associates*, ABOVE THE LAW (Jan. 24, 2024), <https://abovethelaw.com/2024/01/wilmerhale-compensation-2024/> [<https://perma.cc/3FGX-42L8>]. Not surprisingly, average salaries for lawyers vary based on a number of factors, including geography, firm size, and legal specialization. According to the U.S. Bureau of Labor Statistics, as of May 2023, the annual median wage for lawyers in Mississippi was \$114,400, whereas the annual median wage for lawyers in New York was \$208,480. See *Occupational Employment and Wage Statistics*, May 2023, U.S. BUREAU OF LABOR STAT., <https://www.bls.gov/oes/2023/may/oes231011.htm> (last visited Dec. 15, 2024); see

trap,¹⁵ and the general adversarial nature of legal work,¹⁶ among other things, are tinder ready to ignite the idealistic dreams of so many practicing—and aspiring—attorneys. As a result, anxiety, depression, and thoughts of self-harm and suicide afflict many attorneys.¹⁷ And as a consequence of that, many attorneys can find themselves questioning their choice to become a lawyer, asking—as Ivan Ilych eventually does—“what if my whole life has been wrong?”¹⁸ The dots connect themselves, but it is worth expounding on the issues because they help illustrate a central tenet that *The Death of Ivan Ilych* speaks to for lawyers. And that is that while life and career can be lived wrongly, or even in pain, course correction and finding meaningful purpose in the law remains possible and ever within reach.

The research and scholarship on the causes and consequences of the mental health crisis facing lawyers are voluminous.¹⁹ This article is not intended to provide a complete recitation of that scholarship and research, but key recent studies and findings are worth highlighting. Of note, a 2016 study from the American Bar Association and the Hazelden Betty Ford Foundation (the ABA/Hazelden Study) showed startling statistics regarding the number of lawyers grappling with substance abuse and mental health issues.²⁰ Problems of alcoholism and substance abuse were particularly prevalent.²¹ Beyond substance abuse issues, 61.1 percent of surveyed attorneys reported suffering from anxiety, 16.1 percent reported experiencing social anxiety, 23 percent reported struggling with stress, and

also Michelle Honeyager, *How Much Do Lawyers Make? Averages By Industry and State*, YAHOO! FIN. (Oct. 29, 2024), <https://finance.yahoo.com/news/much-lawyers-205222271.html> (discussing how various factors, including geography, industry, and “what type of lawyer” one becomes, can impact how much a lawyer earns). See also Aly J. Yale, *Is Law School Worth It? An Honest Look at the Pros and Cons*, BUS. INSIDER (Jul. 18, 2024), <https://www.businessinsider.com/personal-finance/student-loans/is-law-school-worth-it> [<https://perma.cc/8NEU-Z3N8>]; Andrew Hill, *Golden Handcuffs: Deal Lawyers Weigh Up Their Own Faustian Bargains*, FIN. TIMES (Aug. 1, 2021), <https://www.ft.com/content/071c6656-8b3f-4475-9b3d-db0e4918baaf> [<https://perma.cc/9JL5-EKET>].

15. See generally Note, *Alienation in Law School*, 137 HARV. L. REV. 958, 972–75 (2024) [hereinafter *Alienation*] (discussing how law students and lawyers who make decisions for purposes of attaining or seeking prestige can risk foregoing their own goals and commitments by virtue of tethering success to metrics that are not their own or do not reflect their values).

16. See Kathleen P. Browe, *A Critique of the Civility Movement: Why Rambo Will Not Go Away*, 77 MARQ. L. REV. 751, 752–57 (1994) (discussing how the lack of civility and declining standards of professional conduct within the legal profession have a deleterious effect on lawyers, their clients, and the justice system at large).

17. See generally Krause & Chong, *supra* note 1, at 206–211.

18. See Leo Tolstoy, *The Death of Ivan Ilych*, in TOLSTOY’S SHORT FICTION 164 (Michael R. Katz, ed., Louise and Aylmer Maude trans., Norton Critical Ed. 1991) (1886) [hereinafter DII].

19. See generally *infra* notes 1, 8, 20; see also Patrick J. Schiltz, *On Being A Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 874–82 (1999); Cronin, *supra* note 8, at 62–70; Krause & Chong, *supra* note 1, at 206–11.

20. See Katerina P. Lewinbuk, *Kindling the Fire: The Call for Incorporating Mandatory Mentoring Programs for Junior Lawyers and Law Students Nationwide*, 63 ST. LOUIS U. L.J. 211, 215–16 (2019) (citing Patrick R. Krill, Ryan Johnson & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 46 (2016)).

21. See Lewinbuk, *supra* note 20, at 216 (citing Krill, *supra* note 20, at 48 (noting that 21 percent of lawyers reported a “substantial level of alcohol consumption” while 36.4 percent, or more than one third, qualified as “problem drinkers”)).

45.7 percent reported suffering from depression.²² As to depression, the study showed that lawyers “experience depression at a rate 3.6 times that of professionals in other lines of work,” making the legal profession the most highly depressed of all professions.²³ The statistics on depression were perhaps not surprising, given that “[f]or decades, studies have revealed that lawyers are more likely to suffer depression than workers in any other profession, and at a rate several times that of the general population.”²⁴ Lastly, the survey also showed a high level of attorneys reporting thoughts of self-harm and suicidal tendencies.²⁵ Of the approximately 13,000 attorneys surveyed for the ABA/Hazeleden Study, 11.5 percent, or roughly one in nine, reported “having suicidal thoughts during their career, 2.9 [percent] admitted to self-injurious behaviors, and 0.7 [percent] reported at least one suicide attempt.”²⁶ While correlation and causation can be difficult to assess, research suggests the factors contributing to increased rates of depression and struggles with mental health and substance abuse are linked to thoughts of self-harm and suicide.²⁷

Subsequent surveys reflected similar findings on the rather dire state of attorney mental health.²⁸ A 2020 survey of 3,800 attorneys by Law.com’s Mind Over Matters project found that 31.2 percent reported feeling depressed, 64 percent felt anxiety, 10.1 percent felt they had an alcohol problem, and 2.8 percent felt they had a drug problem.²⁹ That same survey showed that some 18 percent of attorneys had contemplated suicide.³⁰ At the time of that survey, that amounted to a rate

22. See Lewinbuk, *supra* note 20, at 216 (citing Krill, *supra* note 20, at 50).

23. See Krause & Chong, *supra* note 1, at 209 (citing G. Andrew Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INT’L J.L. & PSYCHIATRY 233, 241 (1990)).

24. See Krause & Chong, *supra* note 1, at 208 (citing William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079 (1990)).

25. See Krause & Chong, *supra* note 1, at 210 (citing Jerome M. Organ et al., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 136–39 (2016)).

26. See Lewinbuk, *supra* note 20, at 216 (citing Krill et al., *supra* note 20, at 50).

27. See Patrick R. Krill et al., *Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk*, 11 HEALTHCARE 536 (2023) (noting the link between mental health issues and suicide risk); see also Simon Sherry & Noelle Segato, *Why Are Lawyers at Greater Risk of Suicide?*, PSYCH. TODAY (June 26, 2024), <https://www.psychologytoday.com/us/blog/psymon-says/202304/why-are-lawyers-at-greater-risk-of-suicide#:~:text=Lawyers%20with%20higher%20stress%20levels,such%20as%20depression%20and%20anxiety> [https://perma.cc/7FNT-B2R9] (discussing how factors like high stress, depression, and isolation in lawyers lead to thoughts of suicide).

28. See *By the Numbers: The State of Mental Health in the Legal Industry*, LAW.COM (Feb. 19, 2020), <https://www.law.com/2020/02/19/by-the-numbers-the-state-of-mental-health-in-the-legal-industry/?slreturn=20240617175823> [https://perma.cc/Q696-F24S].

29. *Id.*

30. Amanda Robert, *Ethical Dilemmas Emerge When Attorneys Keep Mental Health Struggles Private*, A.B.A. J. (Feb. 28, 2020), <https://www.abajournal.com/news/article/Ethical-dilemmas-emerge-when-attorneys-keep-mental-health-struggles-private> [https://perma.cc/95YJ-D9BQ].

nearly double that by which the general population contemplated suicide.³¹ A 2021 Bloomberg Law survey found that 52 percent of lawyers experienced burn-out on the job.³² When Law.com conducted a 2022 worldwide survey of lawyers, it found that 67 percent experienced anxiety, 35 percent experienced depression, and 44 percent experienced a sense of isolation.³³ A 2023 study published in *Healthcare* found that of some 2,000 attorneys surveyed in California and the District of Columbia, 9 percent of respondents “thought they would be better off dead or thought of hurting themselves at least several times.”³⁴ The study concluded that “attorneys were twice as likely as other working U.S. adults to have suicidal thoughts,” with “high work overcommitment” and feelings of loneliness increasing the odds of suicidal tendencies by 2.2 and 2.8 times, respectively.³⁵ Lawyers reporting high levels of stress were twenty-two times more prone to suicidal thoughts than professionals in low-stress jobs.³⁶ Of those reporting suicidal thoughts, 66 percent believed working in the legal profession contributed to their poor mental health.³⁷ 46 percent of those had contemplated or were contemplating leaving the legal profession due to stress.³⁸ Another report found that 74 percent of legal professionals said their mental health was worse specifically because of their chosen career.³⁹

B. LAW STUDENTS, LEGAL EDUCATION, AND THE WELL-BEING CRISIS

Studies also suggest that the problems of depression, anxiety, and suicidal thoughts are not exclusive to licensed members of the bar but also affect law students.⁴⁰ This conclusion finds support in a second study from 2016, which showed a similar prevalence of substance abuse and mental health issues among law students as among practicing attorneys.⁴¹ That report, an ABA-sponsored Survey of Law Student Well-Being, found that 17 percent of surveyed law students suffered from depression, 37 percent reported feelings of anxiety, 9 percent

31. *Id.*; see also Lizzy McLellan, *Lawyers Reveal True Depth of Mental Health Struggles*, LAW.COM (Feb. 19, 2020), <https://www.law.com/2020/02/19/lawyers-reveal-true-depth-of-the-mental-health-struggles/> [<https://perma.cc/DJ3J-7RTJ>].

32. *Miscellany: Ethics Question of the Month: Lawyer Wellness, By the Numbers*, 86 TEX. B. J. 391 (2023) [hereinafter *Lawyer Wellness*].

33. *Id.*

34. See Karen Sloan, *Stress and Overwork Linked to Lawyers' Suicidal Thoughts, Study Says*, REUTERS (Feb. 14, 2023), <https://www.reuters.com/legal/litigation/stress-overwork-linked-lawyers-suicidal-thoughts-study-says-2023-02-13/> [<https://perma.cc/2QUJ-YPLP>].

35. *Id.*

36. See Jenna Greene, *Stressed, Lonely, and Overworked: What New Study Tells Us About Lawyer Suicide Risk*, REUTERS (Feb. 15, 2023), <https://www.reuters.com/legal/litigation/stressed-lonely-overworked-what-new-study-tells-us-about-lawyer-suicide-risk-2023-02-15/> [<https://archive.ph/ptKCf>].

37. Sloan, *supra* note 34.

38. *Id.*

39. Robert, *supra* note 30.

40. See Krause & Chong, *supra* note 1, at 209–10.

41. See *id.*

reported incidents of self-harm, and 6 percent had contemplated suicide in the prior twelve months.⁴² These 2016 surveys were not the only studies to show that law students were suffering from mental health issues.⁴³ Nor was this a new phenomenon.⁴⁴ Data reflecting high levels of depression, anxiety, substance abuse, and suicidal thoughts in law students date through the 1980s and 1990s.⁴⁵

If the prevalence of depression, anxiety, substance abuse, and suicidal thoughts among law students was not bad enough, to compound the issue, studies suggest that law school itself might be causing the problem. Statistically, in terms of psychological health and rates of depression, most law students enter law school similarly situated to the public at large.⁴⁶ That changes quickly.⁴⁷ Beginning as early as the first semester, the rates of depression in law students depart from that of the general public and steadily increase over the course of three years.⁴⁸ At the end of law school, graduating law students report higher levels of depression, anxiety, substance abuse, and suicidal thoughts than do incoming law students, suggesting that law school and the process of becoming a licensed lawyer could be—and likely are—contributing to law student depression, anxiety, substance abuse, and stress.⁴⁹

These statistics about poor mental health during law school are not hard to imagine considering that much of what legal education focuses on—namely cold, analytical reasoning—can be antithetical to the personalities and desires of many law students who envision the law as an empathic path to notions of “fairness, justice, morality, emotional life, and caring for others.”⁵⁰ Law school, ever

42. *Id.* (citing Organ, *supra* note 25, at 136–39).

43. A 2014 survey of Yale Law School students found that 70 percent struggled with mental health, whereas a 2017 survey of Harvard Law School students showed that two-thirds struggled with mental health. *See id.* at 210–11 (citing Jessie Agatstein et al., *Falling Through the Cracks: A Report on Mental Health at Yale Law School* 14, YALE L. SCH. MENTAL HEALTH ALL. (2014), https://law.yale.edu/sites/default/files/falling_through_the_cracks_120614.pdf [<https://perma.cc/Q8QG-BTSZ>]). Among the Harvard Law School respondents, “25 [percent] reported suffering from depression, 24.4 [percent] reported anxiety, and 20.5 [percent] indicated they were at a heightened risk of suicide.” *Id.* at 211 (citing Amanda H. Chan et al., *Wellness at the Law School: Promises to Keep and Miles to Go Before We Sleep*, HARV. CRIMSON (Mar. 29, 2018), <https://www.thecrimson.com/article/2018/3/29/lee-chan-savitt-wellness-at-law-school/> [<https://perma.cc/GZQ2-PUJD>]).

44. *See* William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079, 1085 tbl.3 (1990).

45. *See Alienation*, *supra* note 15, at 958 n.4 (2024) (citing Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1346–47, 1347 nn. 31–32, 1379 (1997)).

46. *See* Janet Thompson Jackson, *Legal Education Needs a Wellness Reckoning*, BLOOMBERG L. (Apr. 7, 2021), <https://news.bloomberglaw.com/us-law-week/legal-education-needs-a-wellness-reckoning> [<https://perma.cc/6PGK-CH4T>] (“[M]ost law students begin law school with a psychological profile similar to that of the general population, with depression rates of less than 10 [percent].”).

47. *See id.*

48. *Id.* (“According to the Dave Nee Foundation . . . after just one semester, depression rates [in law students] rise [from 10 percent] to 27 [percent]. After two semesters, that rate spikes to 34 [percent] and after three years up to 40 [percent].”).

49. *See Alienation*, *supra* note 15, at 959 n.4.

50. *See* Cronin, *supra* note 8, at 166–68.

adversarial and competitive by its nature, has been found to increase anxiety, hostility, and even paranoia in law students from the first year to the time of graduation.⁵¹ Students' priorities, motivations, and values also shift during law school.⁵² Incoming law students might foster dreams of joining the public sector, working for Legal Aid, and fighting for truth, justice, and the American way.⁵³ But so often the lure, or perhaps even the necessity, of private sector work (and its attendant salaries), forces such dreams to confront reality.⁵⁴ In the course of this tectonic shift in professional focus and drive, law students risk becoming someone, or something, they are not—they can lose that swell of idealism, that something of who they are or what they wanted to be when they decided to pursue a life in the law in the first place.⁵⁵ Their former identities, selves, and dreams can become foreign, and in turn students can feel alienated from others and, more troublingly, from themselves.⁵⁶ This alienation can cause confusion and, ultimately, regret.⁵⁷

C. THE WELL-BEING CRISIS AND PROFESSIONAL REGRET

In light of these issues plaguing a significant percentage of attorneys—a problem that has rightly been described as a “crisis of the profession”⁵⁸—it is perhaps not surprising that many lawyers are unhappy professionally⁵⁹ and ultimately regret their decision to enter the profession.⁶⁰ Both anecdotal stories⁶¹ and more

51. See *Alienation*, *supra* note 15, at 966.

52. See Cronin, *supra* note 8, at 167.

53. See *id.* at 169 (noting that between 40 and 70 percent of incoming law students have intentions to practice in the public sector).

54. See *Alienation*, *supra* note 15, at 966 (“At least one in two incoming law students who want to work in public interest will end up at a private firm when they graduate.”); see also John Bliss, *From Idealists to Hired Guns? An Empirical Analysis of “Public Interest Drift” in Law School*, 51 U.C. DAVIS L. REV. 1973, 1975 & n.1 (2018)).

55. See *Alienation*, *supra* note 15, at 966–68, 972–75 (discussing how students change to adapt to the adversarial nature of law school, which measures success based on factors such as academic success, job placement, and performance relative to peers, all of which may not reflect a student’s motivations for pursuing a legal education).

56. See *id.* at 960–62.

57. See *id.* at 961–62.

58. See Krause & Chong, *supra* note 1, at 206.

59. See Cronin, *supra* note 8, at 164 (“In a 2010 study on career satisfaction, clergymen, architects, scientists, engineers, physicians, detectives, travel agents, pilots, financial planners, repair persons, housekeepers, and butlers all reported higher levels of happiness than the members of the legal profession.”).

60. See Krause & Chong, *supra* note 1, at 210–11.

61. One lawyer’s opinion on the value and worth of a legal career is just that, only one opinion. Nevertheless, and anecdotally speaking, it is not difficult to find lawyers who express—if not wholesale regret with their chosen career, then at least some degree of frustration or uncertainty with the decision to pursue a career in the law. See Erin Fuchs, *I Consider Law School a Waste of My Life and an Extraordinary Waste of Money*, BUS. INSIDER (Dec. 14, 2013), <https://www.businessinsider.in/i-consider-law-school-a-waste-of-my-life-and-an-extraordinary-waste-of-money/articleshow/27375411.cms> [https://perma.cc/6E89-BFRE]; see also Staci Zaretsky, *That Moment When Your Law Firm Makes You Wish You Never Went to Law School*, ABOVE THE LAW (Feb. 7, 2019), <https://abovethelaw.com/2019/02/wish-never-went-law-school/> [https://perma.cc/9T6R-H534]; see also Harper, *supra* note 13, at 27–28. Public forums such as Reddit can also offer the curious

substantiated statistical research⁶² support this conclusion. For instance, a survey of Massachusetts attorneys conducted by Lawyers Concerned for Lawyers and the University of Chicago found that 40 percent of respondents had considered leaving the legal profession in the previous three years due to stress and burn-out.⁶³ Another Gallup poll of law graduates from seven law schools in the south-eastern United States found that of those who graduated after 2000, only 37 percent “strongly agreed” that they would go to law school again if given the chance.⁶⁴ A 2007 ABA national survey found that six in ten attorneys who had been practicing for ten years or more said they would not advise young people to go to law school.⁶⁵ In a 2016 survey from THE LAWYER, nearly 40 percent of senior associates at law firms said they would not, or were not sure if they would, choose to be a lawyer if given the chance to go back and do it again.⁶⁶ Professional dissatisfaction and regret is particularly pronounced in large firms,⁶⁷ but these feelings are by no means limited to “Big Law.”⁶⁸ The high debt burden alone has caused many law school graduates, from all levels of the law school ranking tiers, to question the value of pursuing a career in the law.⁶⁹ As of 2013,

spectator (or law professor) a window into the often-colorful musings of attorneys who explore questions of professional regret. One thread in the r/Lawyertalk community, “Would you go back and do it again?” illustrates the—one might say—*colorful* responses, ranging from user DontMindMe5400’s, “Yes. I think it is one of the most versatile careers allowing many opportunities to do something different if I want to,” to user jedr1981’s more direct, “Fuck no.” See *Would you go back and do it again?*, REDDIT.COM, https://www.reddit.com/r/Lawyertalk/comments/1ejsntd/would_you_go_back_and_do_it_again/ [https://perma.cc/Q7TR-8ZWG] (last visited Aug. 5, 2024).

62. See Krause & Chong, *supra* note 1, at 211.

63. *Lawyer Wellness*, *supra* note 32, at 391.

64. See Casey C. Sullivan, *Pretty Much Everyone Regrets Going to Law School*, FINDLAW (Mar. 21, 2019), <https://www.findlaw.com/legalblogs/greedy-associates/pretty-much-everyone-regrets-going-to-law-school/> [https://perma.cc/4GJS-3PK2].

65. See Harper, *supra* note 13, at 29.

66. See *Four in Ten Senior Associates Regret Choosing a Career in Law*, THE GLOB. LEGAL POST (Sept. 5, 2016), <https://www.globallegalpost.com/news/four-in-ten-senior-associates-regret-choosing-a-career-in-law-63287948> [https://archive.ph/fZO9F].

67. See Dan Roe, *1 in 4 Big Law Associates Plan to Leave Within the Year*, THE AMERICAN LAWYER (Oct. 23, 2024), <https://www.law.com/americanlawyer/2023/10/10/1-in-4-big-law-associates-plan-to-leave-within-the-year/> [https://perma.cc/62KD-GC5M].

68. See Debra Cassens Weiss, *It’s a Quick Goodbye for Many Departing Associates*, NEW NALP FOUNDATION REPORT FINDS, ABA J. (Apr. 11, 2024), <https://www.abajournal.com/web/article/its-a-quick-goodbye-for-many-departing-associates-new-nalp-foundation-report-finds> [https://perma.cc/R7ZC-R72P] (noting that 82 percent of law firm associates who left their firms in 2023 did so within five years of being hired, whereas the rate for associates leaving within four years of being hired reached 72 percent).

69. See Abigail Johnson Hess, *Only 23% of Law School Grads Say Their Education was Worth the Cost*, CNBC (Feb. 21, 2018), <https://www.cnbc.com/2018/02/21/only-23-percent-of-law-school-grads-say-their-education-was-worth-the-cost.html> [https://perma.cc/XZA7-55AR]; see also Zac Auter, *Few MBA, Law Grads Say Their Degree Prepared Them Well*, GALLUP (Feb. 16, 2018), <https://news.gallup.com/poll/227039/few-mba-law-grads-say-degree-prepared.aspx> [https://perma.cc/MF9T-MH54] (citing results of a Gallup-Purdue Index study of more than 4,000 masters of business administration and law school graduates who had received degrees between 2000 and 2015, where only 23 percent of law graduates “strongly agreed” that their education was worth the cost, as compared with 58 percent of medical students who strongly agreed that their education was worth the cost); see also Greg Yang, *Most Law Students Regret Costly Law School Decision*,

survey data showed that high levels of law school debt correlated with ambivalence or outright dissatisfaction in choosing to pursue a legal career.⁷⁰ And while one 2024 survey from Law360 found that 73 percent of surveyed lawyers said they would choose law as a career if they had to do it over again, that still implies that more than a quarter of them would not.⁷¹ All said, for many law students and practicing attorneys, law is—or at least can be—a painful experience. It is also one that lawyers can come to regret.

D. A NEW APPROACH?

If that is the case, what then is the answer or remedy, if one exists, to the pain and regret that afflict so many of today's lawyers? How can we confront the erosional transformation that many students undergo in law school, a transformation that risks rendering graduates strangers from their former, aspirational selves? But even if for a majority of lawyers the practice of law does not take place in “a field of pain and death,” it should be incumbent upon the legal profession to help those for whom it does. Relatedly, it should be incumbent upon our profession to ensure that those aspiring to a life in the law find the experience—and ultimately their career—rewarding and purposeful.⁷²

Scholars and academics have weighed in on how best to accomplish this, offering many and excellent ideas for curricular reform,⁷³ legal professional

Tippingthescales.com (JULY 13, 2020), [HTTPS://TIPPINGTHESCALES.COM/NEWS/MOST-LAW-STUDENTS-REGRET-COSTLY-LAW-SCHOOL-DECISION/](https://tippingthescales.com/news/most-law-students-regret-costly-law-school-decision/) [HTTPS://PERMA.CC/R3E-4TCA] (DISCUSSING A TEST MAX PREP SURVEY OF 1,000 LAW STUDENTS AND FINDING THAT “NEARLY HALF OF LAW STUDENTS SAY IF IT WERE POSSIBLE, THEY WOULD LIKELY NOT HAVE CHOSEN TO GO TO LAW SCHOOL DUE TO THE PRICE.”).

70. See Ronit Dinovitzer et al., *Buyers' Remorse? An Empirical Assessment of the Desirability of a Lawyer Career*, 63 J. LEGAL EDUC. 211, 222 (2013). Among other things, this survey probed lawyer satisfaction with their chosen profession. The results were telling. The study found that in response to the question, “how satisfied are you with your decision to become a lawyer,” respondents “who had the highest level of educational debt remaining (\$100,000) [were] the least enthusiastic with their decision to become a lawyer, with 28 [percent] reporting they are ambivalent or dissatisfied.” See *id.* The authors comment that “this is a relatively small group even among those with high remaining debt, and that the overall trend is that more than three-quarters of respondents, irrespective of debt, express extreme or moderate satisfaction with the decision to become a lawyer.” See *id.* On the contrary, though, one might argue that a negative response from nearly a third of lawyer respondents is not an inconsequential percentage. Assuming the survey's methodologies are correct and its respondents are representative of the or a larger population of lawyers, and looking nationwide, where there are 1,322,649 licensed lawyers as of January 1, 2024 (a figure that only increases every year), that would imply that over 370,000 lawyers in the United States are either ambivalent or dissatisfied with their decision to become a lawyer. See *ABA Profile of the Legal Profession 2023: Demographics*, ABA, <https://www.abalegalprofile.com/demographics.html> [https://perma.cc/S462-2NRS] (last visited November 20, 2024).

71. See Stephan Embry, *In Defense of Law: The Surprising Career Satisfaction Rates Among Lawyers*, TECHLAW CROSSROADS (July 17, 2024), <https://www.techlawcrossroads.com/2024/07/in-defense-of-law-the-surprising-career-satisfaction-rates-among-lawyers/> [https://perma.cc/TN2P-V82M]. The same survey also found that only two-thirds of respondents were “satisfied” or “very satisfied” with their jobs. See *id.*

72. See generally Krause & Chong, *supra* note 1, at 244 (discussing how lawyers and the legal profession should, to borrow a phrase from Lawrence Fox, past chair of the American Bar Association Section of Litigation, “take care of each other,” and in particular young lawyers, as an “investment” in the future and for the enhancement of “lawyers’ mental health and the profession’s wellbeing”).

73. See generally Cronin, *supra* note 8, at 170–72 (calling for reform in legal education, in particular legal

reform,⁷⁴ and personal introspection⁷⁵ that could do much to reverse the plight facing lawyers, or at the least, to advance the discussion on how best to do so. Those are valid and welcome solutions. This article proposes a not dissimilar remedy but arrives there via an alternate means: examining a work of great literature—Tolstoy’s novella, *The Death of Ivan Ilych*—and mining from it lessons on a moral, purpose-driven life that also can be an avenue for how to look at well-being and purpose in the legal profession.

To some it may seem that a fictional narrative is a lesser mechanism by which to undertake such an exercise on such a serious subject. True, one can pursue clinical and pedagogical remedies for these ails,⁷⁶ but timeless literature remains timeless for a reason. Tolstoy’s *The Death of Ivan Ilych* remains relevant precisely because it speaks to human problems that have endured, and will likely continue to endure, for generations. Indeed, it is not hard to read Ivan Ilych into the above statistics about the bleak state of attorneys’ mental health. But just as the story speaks to problems, Tolstoy’s novella also offers answers.

II. *THE DEATH OF IVAN ILYCH* AND THE LAW AND LITERATURE MOVEMENT

Literature has long had much to offer lawyers.⁷⁷ Since its inception at the beginning of the twentieth century, the law and literature movement has given the legal profession a means, among others, of assessing how literary culture has viewed, portrayed, revered, and critiqued lawyers and their profession.⁷⁸ In 1908, John Henry Wigmore, Dean of the Northwestern Law School, published “A List of Legal Novels” in the *Illinois Law Review*, in part, as a means of helping lawyers connect to the larger legal culture in which they lived.⁷⁹ For Wigmore, literature showed how “certain episodes or types of characters in professional life . . . have been taken up into general thought and literature.”⁸⁰ He knew that lawyers, in order to best relate to and connect with the diverse citizenry whom they represented as clients, needed to understand how lawyers were portrayed within their larger culture.⁸¹

writing, as a means of helping law students develop personal identity and foster meaning and purpose in the practice of law).

74. See generally Krause & Chong, *supra* note 1, at 236–44 (discussing how self-determination theory could be employed by lawyers, and other interested stakeholders, to “empower them to reclaim and seek fulfillment of their fundamental needs” as both lawyers and individuals).

75. See generally *Alienation*, *supra* note 15, at 975–79 (discussing how law students can employ introspection and self-reflection, among other things, as a means of ameliorating alienation and its attendant consequences that law students and lawyers can encounter in practice).

76. See generally Krause & Chong, *supra* note 1; Cronin, *supra* note 8.

77. See generally John H. Wigmore, *A List of Legal Novels*, 2 *ILL. L. REV.* 574, 574 (1908).

78. See *id.*

79. See *id.*

80. *Id.* at 575–56.

81. See *id.* at 579–80.

Perhaps not surprisingly, those portrayals are frequently, though by no means exclusively,⁸² negative.⁸³ Regardless of the nuances of the various portrayals of lawyers within literary texts—be they civic-minded or corrupt; chivalrous or self-interested; broken or triumphant; honorable or deceptive—the study of those portrayals offers an entry point for examining larger questions and issues about the profession. Whatever one might say about the utility or practicality of “law and literature” as a movement, a discipline, or a subject of academic study,⁸⁴ it is difficult to deny that literature—and especially legal literature—offers an avenue for exploring many of the questions and issues that law itself seeks to address. And even if literature cannot provide all the answers, it can at least help us by asking the difficult questions.

Within the catalogue of texts that fall within the ambit of “law and literature,” Tolstoy’s *The Death of Ivan Ilych*, published in 1886, offers much in the way of legal and ethical issues that merit analysis and reflection from the modern lawyer. As a part of the “law and literature” canon, it has continued to find renewed relevance.⁸⁵ In 1976, Professor Richard Weisberg undertook to “revise” and “renew”⁸⁶ Wigmore’s “List of Legal Novels” in part to account for changing social and ethical issues in the legal profession that arose in the latter half of the twentieth century that he felt left “legal institutions . . . all but broken off from their humanistic roots.”⁸⁷

82. Literature is replete with examples of ethical or otherwise “good” lawyers. Atticus Finch from Harper Lee’s *TO KILL A MOCKINGBIRD* and Sir Thomas More from Robert Bolt’s play *A MAN FOR ALL SEASONS* are just two of the more obvious and well-known examples of “good” lawyers in literature. See generally HARPER LEE, *TO KILL A MOCKINGBIRD* (1960); ROBERT BOLT, *A MAN FOR ALL SEASONS* (1960).

83. Among works of more classic literature, Mr. Tulkinghorn in Charles Dickens’ *BLEAK HOUSE*, the prosecutor in Albert Camus’s *THE STRANGER*, and Thomas Killian in Tom Wolfe’s *THE BONFIRE OF THE VANITIES* are just a few literary lawyers whose practices and methods might be considered manipulative, prejudicial, and self-serving, respectively. See generally CHARLES DICKENS, *BLEAK HOUSE* (Penguin Classics 2003) (1853); ALBERT CAMUS, *THE STRANGER* (Matthew Ward trans., Alfred A. Knopf 1988) (1942); TOM WOLFE, *THE BONFIRE OF THE VANITIES* (1987). Film, in particular, has been largely unkind to lawyers and the legal profession. See generally Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533, 533–49 (2000) (discussing the generally negative view of lawyers portrayed in movies and exploring potential explanation for same). Generally speaking, though, the negative image of lawyers in the public eye dates back to the seventeenth century. See generally Leonard Gross, *The Public Hates Lawyers: Why Should We Care?*, 29 SETON HALL L. REV. 1405, 1407–20 (1999).

84. See generally RICHARD POSNER, *LAW AND LITERATURE* 7 (3d ed. 2008) (“Another obstacle to the continued flourishing of the law and literature enterprise . . . is a misconception about how the study of law can improve the law—that it can do so not only by providing jurisprudential insights, rhetorical techniques, an understanding of legal regulation of literature, and insights into social practices that law encounters, but also by humanizing lawyers. It cannot do that . . .”); see also Richard A. Posner, *Law and Literature: A Relation Reargued*, 72 VA. L. REV. 1351, 1356 (1986) (“If I want to know about the system of chancery in nineteenth-century England I do not go to *Bleak House*. If I want to learn about fee entails I do not go to *Felix Holt*.”).

85. See generally Leo Tolstoy, *THE DEATH OF IVAN ILYCH AND OTHER STORIES* xiii (David Goldfarb ed., Barnes & Noble Classics 2004) (1886) [hereinafter Goldfarb DII].

86. See Richard H. Weisberg, *Wigmore’s “Legal Novels” Revisited: New Resources for the Expansive Lawyer*, 71 NW. U. L. REV. 17, 17 (1976).

87. See *id.* at 17–18. Weisberg alludes to the Watergate scandal and the involvement of law school graduates Richard Nixon and Spiro Agnew, as well as lawyers John M. Mitchell, John Erlichman, and John Dean, as ethical and legal “eventualit[ies]” that Wigmore, in his time “would probably not have been able to predict.” See *id.*

He included *The Death of Ivan Ilych* among the approximately fifty “new” works that he believed lawyers ought to read.⁸⁸ He was not the only academic to see value in Tolstoy’s work from a law and literature perspective. When Professor Elizabeth Villiers Gemmette published the results of her 1993 survey that assessed the state of law and literature courses being offered in North American law schools, and more specifically the works being assigned within those courses, *The Death of Ivan Ilych* appeared as one of the twenty-five most frequently assigned works.⁸⁹ Scholars have also read and analyzed the novella for its relevance to teaching health law⁹⁰ and, as relevant to this endeavor, its reflections on morality, ethics, and purpose in legal professional life.⁹¹

It is not difficult to see how or why *The Death of Ivan Ilych* fits within the larger law and literature framework. The story is a portrait of lawyer, specifically a judge, who by all measure of convention and society has done everything right in life and garnered personal and professional success. He has a wife, children, and a career that by and large tracks on an upward trajectory. That is until fate befalls him and a seemingly trivial but fatal injury forces him to confront his own mortality and the specter of inevitable death. In the course of confronting his impending death, he grapples with depression,⁹² and his professional life suffers.⁹³ He reassesses and questions his life. Ivan Ilych’s realization that he may have lived his life—professional life *not* excluded—all wrong finds considerable contemporary relevance for members of a profession increasingly at odds with professional regret.

That Tolstoy chose law as his protagonist’s profession does not seem unintentional nor insignificant; indeed, it is not. Tolstoy’s novella has much to say about the propriety of a life lived in the law. One reason the story endures in modern times,⁹⁴ and for lawyers especially, is the universality of Ivan Ilych the character. As an educated, middle-aged member of the middle class, Ivan Ilych resonates with members of a modern legal profession who likely see the man—as well as his struggles, tribulations, and doubts—in their colleagues, their friends, and perhaps even themselves.⁹⁵ Consequently, examining Ivan Ilych’s story, and the resolution both he and Tolstoy arrive at with respect to living a meaningful and

88. See *id.* at 27.

89. See Elizabeth Villiers Gemmette, *Law and Literature, Joining the Class Action*, 29 VAL. U. L. REV. 665, 686 (1995).

90. See generally Jennifer Bard et al., *Three Ways of Looking at A Health Law and Literature Class*, 1 DREXEL L. REV. 512, 518 (2009); see also Stacey A. Tovino, *Incorporating Literature into A Health Law Curriculum*, 9 MICH. ST. U. J. MED. & L. 213, 217–18 (2005).

91. See generally David Luban, *The Shape of a Life: Deborah L. Rhode in Memoriam*, 91 FORDHAM L. REV. 1333, 1342–46 (2023) (discussing Professor Debroah Rhode’s reflections on *The Death of Ivan Ilych* as a tool and guide for lawyers to contemplate the role of morality in their professional lives).

92. DII, *supra* note 18, at 145.

93. *Id.* at 150 (“His colleagues and subordinates would notice with surprise and distress that he, the brilliant and subtle judge, was becoming confused and making mistakes.”).

94. See generally GARY R. JAHN, *THE DEATH OF IVAN ILYCH: AN INTERPRETATION* 7 (1993).

95. See Goldfarb DII, *supra* note 85, at xiii.

ultimately moral life, offers ways of thinking about potential solutions to the problems of suffering and professional regret in today's legal profession and how lawyers might arrive at a purpose-driven, meaningful life within the law. It also serves as a means to re-examine existing ethical guidelines and professional structures to account for—and hopefully prevent—the catalysts that created the crisis that plagued Ivan Ilych before his death.

III. TOLSTOY: A LIFE IN BRIEF

Much has been written about Tolstoy's life, his works, and various philosophies on religion.⁹⁶ The goal here is more finite: to focus on a singular work, *The Death of Ivan Ilych*. But neither *The Death of Ivan Ilych* nor its relevance for modern lawyers can be understood separate and apart from Tolstoy's own history of living and working in nineteenth century Russia, which meaningfully informed the novella and his views on life, morality, and purpose as reflected within it.

Tolstoy's life was, in many ways, as colorful and complex as the characters who populated the stories that brought him international fame and literary prominence.⁹⁷ And just as many of Tolstoy's stories contained autobiographical elements,⁹⁸ more than just a little Ivan Ilych exists in Tolstoy himself. Born Count Leo Nikolayevich Tolstoy to a wealthy, aristocratic family on August 28, 1828, on an estate some 130 miles outside Moscow,⁹⁹ Tolstoy grew up in a world of privilege relatively free from fear of want.¹⁰⁰ He described the first fourteen years of his life as an "innocent, joyful, and poetic period,"¹⁰¹ but he was made to grow up quickly. His mother died when he was two, and his father died when he was nine.¹⁰² Over the next four years he lost his grandmother and an aunt to whom he was close—a series of losses that would inform his awareness of death for the rest of his life.¹⁰³ The familial losses instilled a desire for a loving family, but it was a concept of family that he learned was fleeting and ever susceptible to the grip of death.¹⁰⁴ He learned early that life was "a process of being abandoned."¹⁰⁵ Raised as an Orthodox Christian, religion and spirituality were a focal point for

96. See generally RICHARD F. GUSTAFSON, *LEO TOLSTOY: RESIDENT AND STRANGER* (1986); *THE CAMBRIDGE COMPANION TO TOLSTOY* (Donna Tussing Orwin ed. 2002) [hereinafter *CAMBRIDGE COMPANION TO TOLSTOY*]; *MODERN CRITICAL VIEWS: LEO TOLSTOY* (Harold Bloom ed. 1986); *NEW ESSAYS ON TOLSTOY* (Malcolm Jones ed. 1978); *TOLSTOY: A COLLECTION OF CRITICAL ESSAYS* (Ralph E. Matlaw ed. 1967) [hereinafter *MATLAW CRITICAL ESSAYS*]; R. F. CHRISTIAN, *TOLSTOY: A CRITICAL INTRODUCTION* (1969).

97. For a comprehensive, well-researched biography of Tolstoy, see generally ROSAMUND BARTLETT, *TOLSTOY: A RUSSIAN LIFE* (2010).

98. See *CAMBRIDGE COMPANION TO TOLSTOY*, *supra* note 96, at 49, 54.

99. See *id.* at 1.

100. See *id.* at 50; BARTLETT, *supra* note 97, at 47.

101. See BARTLETT, *supra* note 97, at 55.

102. *CAMBRIDGE COMPANION TO TOLSTOY*, *supra* note 96, at 49.

103. Goldfarb DII, *supra* note 85, at ix; see also A.N. WILSON, *TOLSTOY* 26 (2001); BARTLETT, *supra* note 97, at 66 (discussing the deaths of Tolstoy's grandmother and his aunt).

104. GUSTAFSON, *supra* note 96, at 13.

105. *Id.*

the young Tolstoy even as his adherence and conformity to Orthodox doctrine wavered.¹⁰⁶ From an early age he sought out “general perfection” in the “eyes of other people”—not just physical perfection but moral perfection as well.¹⁰⁷ Because of “an absence of moral guidance in his early teenage years,”¹⁰⁸ he found his “wish to be morally good”¹⁰⁹ impeded. “Ambition, lust for power, self-interest, lechery, pride, anger, revenge, were all respected qualities,” Tolstoy would write late in life.¹¹⁰ “As I yielded to these passions,” he continued, “I became like my elders and I felt that they were pleased with me.”¹¹¹

Education provided Tolstoy with another means for seeking greater meaning in life.¹¹² As a member of the aristocracy, Tolstoy had access to education, including private tutors, that was largely unavailable to the greater Russian populace.¹¹³ At sixteen, he entered Kazan University to study “Oriental languages,” intending to pursue a career as a diplomat.¹¹⁴ But his performance at Kazan was less than impressive, and he failed his first-year exams.¹¹⁵ Constrained by the demands of university tutors and rigid curricula, he opted to invest his time reading subjects and authors that he truly enjoyed¹¹⁶—subjects and authors that would later impact his thinking and writing. He was drawn to the “ethical ideas of pre-Christian Cynics—Greek philosophers who preached, among other things, the virtues of a life without material possessions.”¹¹⁷ During his university days, Tolstoy also discovered his passion for philosophy and specifically the writings of Jean-Jaques Rousseau, the thinker who would arguably have the greatest influence on him and his development of thought.¹¹⁸

106. See LEO TOLSTOY, *A CONFESSION AND OTHER RELIGIOUS WRITINGS* 19–20 (Jane Kentish trans., Penguin Books 1987) (1882) [hereinafter *A CONFESSION*]; Wilson, *supra* note 103 at 35–36 (“Yet in spite of the fact that religion was in his bones and blood, his mind was never really happy with it for long . . . [N]evertheless, while learning the Catechism, [Tolstoy] saw clearly that the whole Catechism was false.”); see also Ernest Simmons, *The Young Tolstoy: Student, Lover, and Country Squire*, *THE ATL. SERIAL*, Oct. 1945 at 103 (referring to Tolstoy’s writings in *A CONFESSION* and how by age sixteen he “still believed in the existence of a God, but what sort of God he could not say. Likewise, he did not deny Christ and His teachings, but the substance of these teachings was not entirely clear to him. In short, while still quite young he refused to accept the Church, but all his reason and senses obliged him to believe in God.”).

107. *A CONFESSION*, *supra* note 106, at 21.

108. BARTLETT, *supra* note 97, at 73.

109. *A CONFESSION*, *supra* note 106, at 22.

110. *Id.*

111. *Id.*

112. See generally BARTLETT, *supra* note 97, at 74–82 (discussing Tolstoy’s time at Kazan University).

113. See *id.*

114. WILSON, *supra* note 103, at 38; BARTLETT, *supra* note 97, at 74.

115. BARTLETT, *supra* note 97, at 75.

116. *Id.*

117. *Id.* at 77.

118. *Id.* at 76; WILSON, *supra* note 103, at 36.

Rousseau's philosophies—in particular his ideas of individual liberty,¹¹⁹ the corrupting influence of society's institutions (especially education systems),¹²⁰ and "rejection of organized religion in favour of belief based on personal experience"¹²¹—would have an indelible influence on Tolstoy's life and work.¹²² In his teens Tolstoy read Rousseau's *Emile, or On Education*, of which he was particularly fond.¹²³ *Emile* was Rousseau's treatise on human nature and human development as told through the fictional tale of the rearing and education of a young boy, Emile.¹²⁴ One of Rousseau's aims with *Emile* was to explore how a "healing education"¹²⁵ can be implemented to form what Rousseau called the "general will," that "collectively held will that seeks the common good and on which all just laws are founded."¹²⁶ *Emile* illustrated Rousseau's belief that certain qualities and virtues, among them pity, were necessary for man to attain that common good.¹²⁷ Much could be said about Rousseau's *Emile* and its educational philosophy. Sufficient for understanding its relationship to and impact on Tolstoy and *The Death of Ivan Ilych*, one can see that in Book IV of *Emile*, at least for Rousseau, the concept of pity, as engendered through suffering, and the development of empathy were paramount to the formation of a person who was both happy and focused on promoting the welfare of others.¹²⁸ For Rousseau this required living a life beyond the strictures of the bourgeois—the lot who, "when dealing with others, think[] only of [themselves]"¹²⁹ and who enjoy a "superficial" happiness based on exploitation of "the poor and unfortunate."¹³⁰ Instead, Rousseau believed man "ought to cut out his own road to happiness."¹³¹ Moreover, as Rousseau explains through Emile's tutor, man must also remember that he is human, vulnerable, and susceptible to suffering, just the same as those whom he sees suffer.¹³² "Teach him to count on neither birth nor health nor riches," Emile learns,¹³³ and "[s]how him all the vicissitudes of fortune."¹³⁴

119. See Isaiah Berlin, *Tolstoy and Enlightenment*, in *MATLAW CRITICAL ESSAYS*, *supra* note 96, at 29.

120. *Id.* at 30.

121. BARTLETT, *supra* note 97, at 76.

122. *Id.* ("It was philosophy which most excited the young Tolstoy during his student years, and it was Jean-Jacques Rousseau (1712–1778) who probably exercised more influence on Tolstoy than any other thinker over the course of his lifetime.").

123. See WILSON, *supra* note 103, at 36.

124. See JEAN-JACQUES ROUSSEAU, *EMILE OR ON EDUCATION* 3 (Allan Bloom trans., Penguin Books 1979) (1762).

125. See generally *id.* at 3–4.

126. See Wing Sze Leung, *Pity and Justice in Rousseau's Emile: Developing a Concern for the Common Good*, 73 *EDUC. THEORY* 74, 74 (2023).

127. See generally *id.* at 74–75.

128. See generally *id.*

129. See ROUSSEAU, *supra* note 124, at 5.

130. See Leung, *supra* note 126, at 77.

131. See ROUSSEAU, *supra* note 124, at 223.

132. See *id.*; see also Leung, *supra* note 126, at 78.

133. See ROUSSEAU, *supra* note 124, at 224.

134. See *id.*

Unless man can see that he, too, can and will suffer, he will remain “indifferent to all suffering but his own.”¹³⁵ Lastly, Rousseau warns that one must remember to love his fellow man, who “is the same in all stations.”¹³⁶

For both Rousseau and Tolstoy, man arrives innocent into the world but finds that societal influences corrupt innate human goodness.¹³⁷ Though man may seek a harmonious life through pursuit of spiritual needs, that harmony wanes as man advances through childhood “under the corrupting influence of education in later life.”¹³⁸ Youth and childhood represent life in a more “natural”¹³⁹ human state. Moreover, by virtue of being under-exposed or unexposed to the “moral decay”¹⁴⁰ wrought by “false education,”¹⁴¹ bourgeoisie society, and decadence,¹⁴² “children, peasants, [and] those not blinded by vanity and pride,”¹⁴³ are “free and independent in a sense in which civilized men”¹⁴⁴ and the institutionally “educated minority”¹⁴⁵ are not. These citizens of life have a more “natural” and “correct attitude”¹⁴⁶ toward moral and spiritual values. Education, and the “self-appointed elites” who promote it, “ruins innocence” and impedes the ability to see truth, the “most precious of all human possessions.”¹⁴⁷ Knowledge, for Tolstoy, was to be grounded in personal experience.¹⁴⁸ Do not teach, but learn.¹⁴⁹

Given Tolstoy’s own experience with formal education, it is not difficult to understand his affinity for *Emile* and Rousseau’s criticisms of educational institutions.¹⁵⁰ Seeking more control in his own education, and after failing his first-year exams at Kazan University, Tolstoy transferred to the Faculty of Law.¹⁵¹ This transition put him within an even more select segment of Russian society, as law was a subject reserved for only the upper echelon of the aristocracy.¹⁵² He found, or thought, law to be more practical than languages.¹⁵³ But although he found

135. See Leung, *supra* note 126, at 78.

136. “Respect your species.” See ROUSSEAU, *supra* note 124, at 226. Rousseau continues: “In a word, teach your pupil to love all men, even those who despise men. Do things in such a way that he puts himself in no class but finds his bearings in all. Speak before him of humankind with tenderness, even with pity, but never with contempt. Man, do not dishonor man!” *Id.*

137. See Berlin, *supra* note 119, at 30.

138. *Id.* at 37.

139. *Id.* at 30.

140. *Id.* at 39

141. *Id.*

142. *Id.* at 30.

143. *Id.* at 30.

144. *Id.* at 37.

145. *Id.* at 39.

146. *Id.* at 37.

147. *Id.* at 30.

148. See CAMBRIDGE COMPANION TO TOLSTOY, *supra* note 96, at 54.

149. See Berlin, *supra* note 119, at 47.

150. See generally BARTLETT, *supra* note 97, at 76.

151. See *id.* at 75.

152. See WILSON, *supra* note 103, at 42.

153. See HENRI TROYAT, TOLSTOY 66–67 (Nancy Amphoux trans., Dell Publishing Co. 1969) (1965) (“I personally find this science more easy and natural to apply to our private lives than any other and I am

some assignments¹⁵⁴ and issues¹⁵⁵ stimulating, the larger program of study proved too restricting to be of greater intellectual or practical value.¹⁵⁶ He was so uninspired by his law courses, in fact, that he repeatedly failed to attend classes to the point of being detained multiple days in the university jail for his truancy.¹⁵⁷ Upon administering an exam, one professor observed that Tolstoy “had no desire to study at all.”¹⁵⁸ But that is not to say he did not study, just that what and who he studied on his own—Alexander Pushkin, Nikolai Gogol, the Gospel of Matthew, Dickens, and, of course, Rousseau,¹⁵⁹ among others¹⁶⁰—gave him more pleasure and satisfaction than did the works and writers administered by the Faculty of Law.¹⁶¹ He fretted over the possibility of performing poorly on his law exams and felt hindered by rigid university curricula.¹⁶² Under the auspices of health reasons, though maybe also because he felt his professors “were incompetent and dealt with trivial issues,”¹⁶³ Tolstoy withdrew from the university without earning his law degree.¹⁶⁴

Tolstoy’s early and university years suggest much about the man who would go on to lead a most colorful life and create some of the most enduring and important works of literature of the nineteenth—or for that matter, any—century.¹⁶⁵ It is also a personal biography that diffuses through the character of Ivan Ilych. But one thing these years suggest is a portrait of a man in search of purpose and deeper meaning, whether that be God, truth, or some version of happiness.¹⁶⁶

consequently very pleased with the change. Now I am going to tell you my plans and the kind of life I want to live. I won’t go out in society at all. I will divide my time equally between music, drawing, languages and my courses at the University. God grant me the determination to carry out my intentions.”).

154. Tolstoy reflected in his diaries that he enjoyed and found rewarding a dissertation he prepared comparing Catherine the Great’s *Instructions to the Commission for the Composition of a Plan for the New Code of Laws* with Montesquieu’s *Spirit of Law*. See WILSON, *supra* note 103, at 43.

155. Records of Tolstoy’s days at Kazan University show he developed an opposition to capital punishment, reluctantly attended classes on the history of civil law, and developed a belief in the “assimilation of enacted law to natural law.” See TROYAT, *supra* note 153, at 68–69.

156. “Strange as it may seem,” Tolstoy wrote in his diary, “my work on the *Directives* and Montesquieu’s *Spirit of the Laws* opened up a new field of intellectual activity to me, whereas the University, with its rules and regulations, not only did not help me to study, but actually prevented me from doing so.” See TROYAT, *supra* note 153, at 69.

157. See BARTLETT, *supra* note 97, at 79.

158. See WILSON, *supra* note 103, at 42.

159. See BARTLETT, *supra* note 97, at 75–76.

160. See generally *id.*

161. See TROYAT, *supra* note 153, at 69 (“He had a sudden revelation that he could not go on taking courses in the Law Department. He had been too happy working by himself to go back to the tedious discipline of the University.”).

162. See generally WILSON, *supra* note 103, at 46–47 (“In the previous year’s examinations, Tolstoy had done disastrously bad. . . . It may well have been that when it came to the point, he did not wish to go through that humiliation again.”); see also BARTLETT, *supra* note 97, at 81 (“[Tolstoy had] a desire to continue his studies independently and . . . felt his university curriculum would actually now hinder them.”).

163. See Berlin, *supra* note 119, at 32

164. See *id.* at 81; TROYAT, *supra* note 153, at 78.

165. See GUSTAFSON, *supra* note 96, at 3.

166. See JAHN, *supra* note 94, at 12.

I would be the unhappiest of men if I could not find a purpose for my life – a purpose both general and useful – useful because my immortal soul when fully mature will pass naturally into a higher existence and one that is appropriate to it. So my whole life will be a constant and active striving to achieve this one purpose. . . .¹⁶⁷

This question of one's purpose, or finding greater meaning in life, as well as grappling with the certainty of death, prompted a crisis for Tolstoy that would endure for the greater part of his life.¹⁶⁸ Tolstoy explored these questions in *A Confession*, a "biography of the soul" of sorts, which he started writing at age fifty-one.¹⁶⁹ Despite being "surrounded on all sides by what [was] considered complete happiness"—Tolstoy was healthy, middle aged, married (though not exactly blissfully), financially stable, and firmly established as a literary icon¹⁷⁰—he could not "find an acceptable meaning in human life":¹⁷¹

I did not even wish to know the truth because I had guessed what it was. The truth was that life was meaningless.

It was as if I had carried on living and walking until I reached a precipice from which I could see clearly that there was nothing ahead of me other than destruction. But it was impossible to stop, and impossible to turn back or close my eyes in order not to see that there was nothing ahead other than deception of life and of happiness, and the reality of suffering and death: of complete annihilation.¹⁷²

Thoughts of suicide flooded his mind.¹⁷³ In the face of certain death, Tolstoy struggled to find an appropriate response to the reality of life's ultimate meaninglessness, be it through studying the great philosophers¹⁷⁴ or mining answers from his own contemporaries in "education and lifestyle."¹⁷⁵ But turning instead to the common people—"the poor, simple uneducated folk"¹⁷⁶—Tolstoy saw an example

167. WILSON, *supra* note 103, at 46.

168. See GUSTAFSON, *supra* note 96, at 3–5.

169. See *A CONFESSION*, *supra* note 106, at 7, 13.

170. See *id.* at 30–31.

171. JAHN, *supra* note 94, at 4.

172. *A CONFESSION*, *supra* note 106, at 30.

173. See *id.* ("The thought of suicide now came to me as naturally as thoughts of improving my life had previously come to me. . . . And it was at this time that I, a fortunate man, removed a rope from my room where I undressed every night alone, lest I hang myself from the beam between the cupboards; and I gave up taking a rifle with me on hunting trips so as not to be tempted to end my life in such an all too easy fashion.").

174. See generally *id.* at 39–44. Tolstoy knew he was not the first to grapple with larger questions about the ultimate meaning of life. Unable to find satisfactory understanding on his own, he sought out answers from some of history's great thinkers: Socrates, Schopenhauer, King Solomon, and Buddha. The provided him little solace: "And thus my perusals in the realms of knowledge not only failed to lead me out of my despair, but simply increased it." See *id.* at 44.

175. See generally *id.* at 45–48. After finding no answers in philosophy, Tolstoy searched for answers among "people whose position in life, as regards education and lifestyle, was similar to [his] own." He found no more sufficient answer from his peers than he did from philosophy: "[a]fter all, our wisdom, however irrefutable it may be, has provided us with no understanding of the meaning of life." *Id.* at 48.

176. *Id.* at 58.

of a people who find meaning in and “could explain every aspect of their lives, including death,” not through rational means, but through the irrational knowledge that is faith.¹⁷⁷ For those “poor, simple uneducated folk,”¹⁷⁸ faith brought meaning to their lives and “protected them from the despair from which [Tolstoy] suffered.”¹⁷⁹ Though they labored and suffered, they were satisfied with their lives in a way that many who occupied Tolstoy’s own circle, those who spent “the whole of life . . . in idleness, amusement and dissatisfaction,” were not.¹⁸⁰ This realization “saved” Tolstoy and allowed him to “see the true life of the simple working people, and realize that this alone is genuine life.”¹⁸¹ He continued: “I realized that if I wanted to understand life and its meaning I had to live a genuine life and not that of a parasite.”¹⁸²

Yet if faith was the answer to Tolstoy’s crises, it was also a faith informed by purpose.¹⁸³ The journal entries¹⁸⁴ Tolstoy made during his university years that reflected his need to find some greater purpose in life echoed throughout his later life and works.¹⁸⁵ Tolstoy came to see faith as emanating from the “consciousness of one’s position in the universe . . . and the actions that follow therefrom.”¹⁸⁶ Only by living outside those “conditions of luxury” that “deprive us of the possibility of understanding life” can one find real meaning and purpose.¹⁸⁷ And again, Tolstoy saw as exemplars of this way of life “the simple working people[,] . . . the Russian people,” who by virtue of their inoculation from the corrupting forces of society were able to save their souls and fulfill man’s purpose in life: “[to] renounce all the comforts of life, work, be humble, suffer and be merciful.”¹⁸⁸

IV. *THE DEATH OF IVAN ILYCH*: BACKGROUND, ANALYSIS, AND CONTEMPORARY RELEVANCE

Far from being superfluous, I contend the biographical information on Tolstoy provides a window for better understanding *The Death of Ivan Ilych* as a story and its larger commentary and philosophy on finding meaning and purpose in life in the face of inevitable suffering and death. It is a story of a judge who, like so many modern lawyers, pursues professional status, prestige, and money, only to

177. *Id.* at 50.

178. *Id.* at 58.

179. JAHN, *supra* note 94, at 5; *see also* A CONFESSION, *supra* note 106, at 58 (“And I started to look more closely at the life and faith of these people, and the further I looked the more convinced I became that theirs was the true faith, that their faith was essential to them, and that it alone provides a sense of the meaning and possibility of life.”).

180. A CONFESSION, *supra* note 106, at 59.

181. *Id.* at 63.

182. *Id.* at 63.

183. *See* GUSTAFSON, *supra* note 96, at 4.

184. *See* WILSON, *supra* note 103, at 46.

185. *See* GUSTAFSON, *supra* note 96, at 5.

186. *Id.* at 4.

187. A CONFESSION, *supra* note 106, at 67.

188. *Id.*

find that such pursuits fail to provide deeper or lasting fulfillment. In the face of great suffering—both physical and spiritual—Ivan Ilych is able to see the “profound misdirection of his life,”¹⁸⁹ and ultimately arrive at a form or version of salvation. As discussed in Section V, I contend this narrative affords the legal profession and its members ideas for both personal and institutional reexamination and reform, with the hope of ameliorating, or at least raising awareness of the issues of, poor mental health, depression, and professional regret that afflicted Ivan Ilych and presently afflict so many contemporary lawyers alike.

A. THE BEGINNING IS THE END

At the outset, *The Death of Ivan Ilych* may be something of a misleading title. While the title eliminates any suspense as to the ultimate earthly fate of Tolstoy’s protagonist, the novella—much like the philosophy Tolstoy espoused in *A CONFESSION*¹⁹⁰—is also a story about realizing the value of and living a genuine, purposeful life in the face of suffering and inevitable death. Tolstoy’s novella is both biography and thanatography.¹⁹¹ Notably, the story’s chronology is inverted. Chapter One is chronologically the last series of events in the story. Chapter Two begins by telling the “most simple and most ordinary” story of Ivan Ilych’s life.¹⁹² This displacement allows Tolstoy to “alienate[] the reader’s sympathies from the very outset by providing a sharply critical portrait of those who survive Ivan Ilych and, by implication, of the sort of life that the decedent had lived.”¹⁹³ This allows the reader to assess Ivan Ilych’s life as seen by his professional contemporaries as well as his family. It also allows the reader to assess those contemporaries and family members through examining their assessment of Ivan Ilych, his suffering, and ultimately his death.

Tolstoy’s novella begins with a seemingly mundane meeting and conversation between members of the “Law Courts” and the public prosecutor.¹⁹⁴ The colleagues debate whether a celebrated case is subject to the court’s “jurisdiction.”¹⁹⁵ This early reference to “jurisdiction”—a question of a matter’s propriety within a specific place—is the first of many references and symbols of delimitation that Tolstoy includes throughout the story.¹⁹⁶ One of the men, Peter Ivanovich, interrupts the discussion to exclaim that their “colleague”—and notably *not* a friend—the magistrate, Ivan Ilych Golovin, has recently died. He offers as proof an obituary, the words “still

189. See Amy Fahey, *Respite Finem: Death and Life in Tolstoy's "The Death of Ivan Ilych,"* CRISIS MAG. (Oct. 29, 2018), <https://crisismagazine.com/opinion/respice-finem-death-and-life-in-tolstoy-the-death-of-ivan-ilych> [https://perma.cc/EG7E-ZKZ5].

190. See JAHN, *supra* note 94, at 18–19 (discussing Professor David Matual’s work connecting DII and *A CONFESSION*).

191. See Fahey, *supra* note 189.

192. See DII, *supra* note 18, at 129.

193. JAHN, *supra* note 94, at 17–18 (citing Edward Wasiolek, Tolstoy’s The Death of Ivan Ilych and Jamesian Fictional Imperatives [hereinafter Wasiolek DII and Jamesian Fictional Imperatives], in *Matlaw Critical Essays*, *supra* note 96, at 153).

194. See DII, *supra* note 18, at 123.

195. See *id.*

196. JAHN, *supra* note 94, at 37.

damp from the press” and “[s]urrounded by a black border.”¹⁹⁷ The obituary’s verbiage is hollow and does little to humanize the deceased.¹⁹⁸ The men knew Ivan Ilych had been ill, but their thoughts are superficial and devoid of any semblance of sorrow or sympathy.¹⁹⁹ Rather, they think only of their professional advancement and opportunity for promotion that Ivan Ilych’s vacancy has created.²⁰⁰ Peter Ivanovich, who lives “on the other side of the river” and “so terribly far away” from Ivan Ilych—another symbol of displacement and delimitation—laments that he will have to travel to pay condolences to Ivan Ilych’s widow.²⁰¹ Indeed, each of Ivan Ilych’s “so-called friends, could not help also thinking that now they would have to fulfil the very tiresome demands of propriety by attending the funeral service and paying a visit of condolence to the widow.”²⁰² But more than that, each of the “so-called friends” take solace in the fact that it is Ivan Ilych—and not them—who has died: “Well, he’s dead but I’m alive,” they muse.²⁰³

When later that night Peter Ivanovich attends Ivan Ilych’s requiem, he does so largely out of obligation to social convention and not out of particular love or respect as Ivan Ilych’s “nearest acquaintance” to whom he was “under obligations.”²⁰⁴ Upon approaching Ivan Ilych’s body—now firmly contained and confined within the “soft cushions” and “pillow” of the coffin—Peter Ivanovich sees on Ivan Ilych a face “more dignified than when he was alive.”²⁰⁵ The expression on the dead man told Peter Ivanovich “that what was necessary had been accomplished, and accomplished rightly. Besides this there was in that expression a reproach and a warning to the living.”²⁰⁶ Discomfort and unease set in, and “regardless of propriety,” Peter Ivanovich leaves the room and finds at the requiem an acquaintance, Schwartz (German for “black”), with whom he hopes to escape for an evening of playing cards, all away from the “depressing influences” of their present surroundings.²⁰⁷ Immediately thereafter, Ivan Ilych’s widow, Praskovya Fedorovna, whisks Peter Ivanovich from the crowd to the drawing room under the guise of talking about her late husband.²⁰⁸ As the two converse, the springs in the pouffe on which Peter Ivanovich sits repel him and keep him

197. DII, *supra* note 18, at 123.

198. *Id.* (“Praskovya Fedorovna Golovina, with profound sorrow, informs relatives and friends of the demise of her beloved husband Ivan Ilych Golovin, Member of the Court of Justice, which occurred on February the 4th of this year 1882. The funeral will take place on Friday at one o’clock in the afternoon.”).

199. *See id.* at 123–24.

200. *See id.* (“So on receiving the news of Ivan Ilych’s death the first thought of each of the gentlemen in that private room was of the changes and promotions it might occasion among themselves or their acquaintances.”).

201. *Id.* at 124.

202. *Id.*

203. *Id.*

204. *Id.*

205. *Id.* at 125.

206. *Id.*

207. *Id.* at 124, 126.

208. *Id.* at 127.

from sitting stably.²⁰⁹ Even the furniture itself, which Ivan Ilych took such pride in arranging, seems to be highlighting Peter Ivanovich's instability and lack of fixture. After dispensing pleasantries and explaining how it was *she* who "suffered" during the torment of Ivan Ilych's final days,²¹⁰ Praskovya Fedorovna arrives at the true motivation for the talk—whether means existed to get more money from the government pension because of her husband's death.²¹¹ One hardly gets the impression these are compassionate or mournful people.

But an exception to the likes of Peter Ivanovich and Praskovya Fedorovna does exist. As he leaves the drawing room, Peter Ivanovich sees the peasant Gerasim, who was the butler's assistant and Ivan Ilych's sick nurse during his illness.²¹² By later helping Peter Ivanovich with his coat, Gerasim is also the only person at the requiem who undertakes a genuine act of service. More than that, of all of guests, only Gerasim seems to understand the true nature of life and death: "It's God's will. We shall all come to it some day," he remarks as Peter Ivanovich attempts small talk.²¹³ Finally free of the requiem, with its "depressing influence[s]" and smells of "incense, the dead body, and carbolic acid," Peter Ivanovich departs in time to meet friends for a game of cards.²¹⁴

B. "MOST SIMPLE AND MOST ORDINARY AND THEREFORE MOST TERRIBLE"

Chapter Two begins the story of Ivan Ilych's life before his titular death. In stark but unambiguous terms, the narrator tells us Ivan Ilych's life "had been most simple and most ordinary and therefore most terrible."²¹⁵ This notion Tolstoy draws at the outset that Ivan Ilych's life was the "most terrible" perhaps prompts the obvious question of "why?" His life, we learn, was in many ways "ordinary"—he is "a kind of Russian everyman"²¹⁶—though from afar his life looks largely like a success story. We learn Ivan Ilych died a member of the Court of Justice at the age of forty-five.²¹⁷ He was the second of three sons, born to a well-to-do father who ascended to become a "superfluous member of various

209. See *id.* at 126 ("When they reached the drawing-room . . . they sat down at the table—she on a sofa and Peter Ivanovich on a low pouffe with bad springs that gave way erratically under his weight."); see also *id.* at 127 ("The widow began detaching her shawl herself, and Peter Ivanovich again sat down, suppressing the rebellious springs of the pouffe under him.").

210. *Id.* ("It was unendurable. I cannot understand how I stood it; you could hear him three rooms away. Oh, what I have suffered!").

211. See *id.* at 128.

212. See *id.* at 125, 129.

213. *Id.* at 129.

214. *Id.*

215. *Id.*

216. See Wasiolek DII and Jamesian Fictional Imperatives, *supra* note 193 at 150.

217. See DII, *supra* note 18, at 129

superfluous institutions.”²¹⁸ As among his siblings, Ivan Ilych was “*le phénix de la famille*.”²¹⁹ Things begin well enough and with promise.

Life then brings Ivan Ilych to the study of law, an event and course of action that would craft his identity for the remainder of his life. Ivan Ilych followed in his brother’s footsteps and studied law, where he “finished the course well.”²²⁰ During law school he was, “as he remained for the rest of his life,” a man “capable, cheerful, good-natured, and sociable.”²²¹ He was also “strict in the fulfillment of what he considered to be his duty. And he considered his duty to be what was so considered by those in authority.”²²² He was drawn to high society, assimilated their ways, and made social connections.²²³ It was, nevertheless, as the narrator reminds us, an “ordinary” life and one by and large unremarkable.²²⁴

But Ivan Ilych’s time at the School of Law also represented a departure from the simpler days of youth and innocence. While the narrator tells us he always stayed “within limits” during his law school days, Ivan Ilych “succumbed to sensuality, to vanity, and finally, in the upper classes, to liberalism.”²²⁵ Though the narrator withholds details, the reader also learns that during school Ivan Ilych “had done things which had formerly seemed to him very horrid and made him feel disgusted with himself.”²²⁶ Nevertheless, he dispelled any concern with these “things” being right or wrong.²²⁷ When Ivan Ilych saw that “such actions were done by people of good position and that they did not regard them as wrong,” he either forgot about them or allowed himself not to be troubled by them.²²⁸ In consequence, “[a]ll the enthusiasms of childhood and youth passed without leaving much trace on him.”²²⁹ One can hardly read the narrator’s observation about Ivan Ilych’s passage out of youth and innocence—and the attendant arrival into a more sensual and “adult” world of vice “within limits”—without questioning whether (or even concluding that) the change was influenced by Ivan Ilych’s time at the School of Law and those there who impressed their influence upon him and whose “authority”²³⁰ he considered it his duty to follow. Upon graduating from the School of Law, Ivan Ilych attached to his pocket watch a medallion inscribed *respice finem*—Latin for “look to the end”—and he embarked on a civil service career garnered through the good will and influence of his father.²³¹

218. *Id.*

219. *Id.* at 130. The French translates to “the phoenix of the family.”

220. *Id.*

221. *Id.*

222. *Id.*

223. *Id.*

224. See JAHN, *supra* note 94, at 42.

225. DII, *supra* note 18, at 130.

226. *Id.*

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. *Id.*

In the remainder of Chapter Two, Tolstoy gives a broad portrayal of Ivan Ilych's early professional life over the next seventeen years. During his first five years as a government lawyer, Ivan Ilych "established his career" marked by "an exactness and incorruptible attitude," though he was never far from vice or temptations of the flesh.²³² He welcomed the attention and envy his position created.²³³ He became the "new man" that "new and reformed judicial institutions" required.²³⁴ After five years, he accepted a post as examining magistrate in a new province, parted ways with friends, and uprooted.²³⁵ As examining magistrate, Ivan Ilych reveled in his newfound power but never abused it.²³⁶ At work he divided official duties from private life and learned to excise "all considerations irrelevant" to the legal aspects of his cases.²³⁷ He enjoyed the higher salary, took up cards, and met a woman—well-connected and from a good family—who fell in love with him.²³⁸ He married her for love but also because "it was considered the right thing to do by the most highly placed of his associates."²³⁹ They welcomed a child but the marriage was wrought with strife and bickering.²⁴⁰ To escape his "irritable and exacting" wife, Ivan Ilych retreated into his official work.²⁴¹

Critic Richard F. Gustafson sees Ivan Ilych's retreat into work in the face of domestic unhappiness as a sign that Ivan Ilych "fails to understand what life is."²⁴² His marriage reveals a problem. Because Ivan Ilych has married, in part, because it "was considered the right thing to do" by society, the reality of life, and marriage as part of it, does not fit the expectation. His answer—to transfer "the center of gravity of his life" into work—only creates a further rift between husband and wife.²⁴³ As Gustafson notes, and as Ivan Ilych fails to understand, "[l]ife understood as a career will inevitably stumble on the facts of life and death."²⁴⁴

More years passed and Ivan Ilych was promoted—the allure, "the possibility of indicting and imprisoning anyone he chose," the new duties and success all made the work "more attractive."²⁴⁵ After seven years in practice he moved his family again for another position in a different province.²⁴⁶ Movement and the

232. See *id.* at 131 ("In the province he had an affair with a lady who made advances to the elegant lawyer, and also a milliner; . . . and after-supper visits to a certain outlying street of dubious reputation.").

233. *Id.*

234. *Id.*

235. *Id.*

236. *Id.* at 132.

237. *Id.*

238. *Id.*

239. *Id.* at 133.

240. See *id.* ("His wife, without any reason—*de gaiteté de cœur* as Ivan Ilych expressed it to himself—began to disturb the pleasure and propriety of their life. She began to be jealous without cause, expected him to devote his whole attention to her; she found fault with everything, and made coarse and ill-mannered scenes.").

241. *Id.* at 134.

242. GUSTAFSON, *supra* note 96, at 156.

243. See DII, *supra* note 18, at 134.

244. GUSTAFSON, *supra* note 96, at 156.

245. See DII, *supra* note 18, at 134.

246. *Id.*

search for “more” became the constant. But looking for more is not *pari passu* with looking forward or toward a more fulfilling or meaningful life. Though his salary was higher, so too was the cost of living.²⁴⁷ Marital disputes flared, and Ivan Ilych again continued his retreat into his “official world,” which “absorbed him” and became “the whole interest of his life.”²⁴⁸ Though he never acted on it, he took particular pleasure, among other things, in “the consciousness of his power,” of “being able to ruin anybody he wished to ruin.”²⁴⁹ Taken as a whole, though, Ivan Ilych considered this life to be on a pleasant and proper path.²⁵⁰

Ivan Ilych’s life trajectory continued this way “for seventeen years after his marriage.”²⁵¹ Tolstoy’s condensing over a third of Ivan Ilych’s life into this single sentence, an epoch devoid of any real color, detail or liveliness regarding either his professional or family life, seems to suggest that Ivan Ilych’s life was indeed the “most simple and most ordinary,”²⁵² or even unmemorable. The year, 1880, was “the hardest year of Ivan Ilych’s life,” even if—or perhaps because—he had attained an enviable level of success.²⁵³ At the beginning of Chapter Three, Ivan Ilych has found professional success, even if more could be had. He is Public Prosecutor, but he holds out for a “more desirable post”—though perhaps more accurately he holds out for a higher paying post.²⁵⁴ His superiors passed him over for a promotion, and he quarreled with colleagues.²⁵⁵ His irritability raged as he felt himself abandoned and disregarded by friends and family, who he believed failed to understand that his bureaucrat’s salary and family quarrels were “injustices done him.”²⁵⁶ He lived beyond his means and took a leave of absence to live in the country with his wife’s family, but without work “not only boredom but intolerable depression” set in.²⁵⁷ The solution, he concluded, lied in finding a posting in another city paying exactly five thousand rubles per year, regardless of the “particular department” or “kind of activity.”²⁵⁸ By chance he does, and “those who had been his enemies were put to shame and now fawned on him.”²⁵⁹

247. *Id.*

248. *Id.* at 135.

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.* at 129; see also Richard Freeborn, *The Long Short Story in Tolstoy's Fiction*, in CAMBRIDGE COMPANION TO TOLSTOY, *supra* note 96, at 131 (“That the legal milieu of his career is not described in any detail and has to be taken on trust merely sets in relief the extent to which Ivan [Ilych’s] death can be seen as an object lesson in the poverty of a life lived without spiritual meaning.”).

253. See DII, *supra* note 18, at 135.

254. *Id.*

255. *Id.*

256. *Id.* at 136.

257. *Id.*

258. *Id.*

259. *Id.* at 137.

Again, it is movement in search of more money, with the attendant status and prestige it entailed.

Then, Ivan Ilych has a seemingly innocuous accident that compounds and eventually culminates in his death. While settling into his new home and making final arrangements for hanging drapes—the most mundane but fitting of circumstances for a man so obsessed with appearance and decorum—he takes a “false step” and falls from his ladder, which knocks his side against a window frame.²⁶⁰ By metaphorically throwing Ivan Ilych from the “ladder of his successful arrangement of life,”²⁶¹ Tolstoy is able to literally and figuratively ground his protagonist. Though he will not realize it for some months, both Ivan Ilych and his life have come crashing down—a fall that will end with his spiritual and physical death.

For a time after his fall, he felt himself in good health, but the physical and emotional comfort proved fleeting.²⁶² Doctors tended to him, but he found they treated him with the same cold, calculating distance and indifference he showed to the accused who came before his court.²⁶³ They diagnosed his illness as “a floating kidney, chronic catarrh, or appendicitis,” but no doctor seemed certain.²⁶⁴ His irritability grew, which annoyed his wife; she “began to wish he would die.”²⁶⁵ His suffering compounded; his depression annoyed his family, and his pain and “gloom” had “poisoned” his life and “was poisoning the lives of others” around him.²⁶⁶ His “friends” teased him about his “low spirits,” which only reminded him of how he had previously acted toward others.²⁶⁷

C. THE END IS THE BEGINNING

The tale Tolstoy has told thus far occupies more than forty-three of Ivan Ilych’s forty-five years of life.²⁶⁸ But by the end of Chapter Four (of the novella’s twelve total chapters) Ivan Ilych has approximately two months to live.²⁶⁹ Generally, the novella’s chapters can be grouped into thirds, with each third focusing on a progressively shorter period of Ivan Ilych’s life—from health, to illness, and finally death. The first third (not including the chronological endpoint that is Chapter One) covers over forty years of Ivan Ilych’s youth and

260. *Id.* at 138.

261. GUSTAFSON, *supra* note 96, at 157.

262. *See* DII, *supra* note 18, at 141 (“They were all in good health. It could not be called ill health if Ivan Ilych sometimes said that he had a queer taste in his mouth and felt some discomfort in his side.”).

263. *See id.* at 142 (“It was all just as it was in the law courts. The doctor put on just the same air towards him as he put on towards an accused person.”); *id.* at 144 (“That month he went to see another celebrity [doctor], who told him almost the same as the first had done, but put his questions rather differently, and the interview with this celebrity only increased Ivan Ilych’s doubts and fears.”).

264. *Id.* at 142, 144.

265. *Id.* at 141.

266. *Id.* at 145–46.

267. *See id.* at 145.

268. *See* JAHN, *supra* note 94, at 29.

269. *See id.* at 53.

professional life. The middle third (Chapters Five through Eight) occupies a period of months where Ivan Ilych processes the reality of his illness and approaching death. The final third occupies the approximately final four weeks of Ivan Ilych's life, where he ultimately succumbs to death but not before attaining new awareness and spiritual salvation.²⁷⁰ Tolstoy intentionally organizes the chapters, generally speaking, in decreasing length.²⁷¹ In terms of total lines and words, the first four chapters are longer, and the preceding chapters are, by and large, shorter.²⁷² Tolstoy's narrative also narrows, as seen through the increased focus on spatial confinement. From his youth to his death, Ivan Ilych's world literally and metaphorically contracts. Whereas in his youth and professional days he occupied a physically and geographically larger world of cities, countryside, and official buildings in cosmopolitan locales, the latter part of his life sees him confined to his drawing room and then, in his final weeks and days, ultimately to his couch. His isolation from others also grows as he nears death.²⁷³

But as discussed below, Ivan Ilych learns more about his life and its greater meaning in his final weeks, days, and even moments than he seems to be able to learn or appreciate over the course of the first forty-plus years of life. That Tolstoy spends more chapters, lines, and words on the final period of Ivan Ilych's life—where his death and salvation occur through spiritual awakening—than he does on the more corporeal and secular biographical components (professional life specifically *included*) of Ivan Ilych's life set out in Chapters Two through Four can hardly be unintentional.²⁷⁴ It seems clear that the death of Ivan Ilych, and *not the life of* Ivan Ilych, holds the greater significance.²⁷⁵

As Ivan Ilych's illness progresses and death nears, his agony metastasizes.²⁷⁶ While alone in bed, he felt as if he and his pain were "being thrust into a narrow, deep black sack" from which they could not escape and for which there was no bottom.²⁷⁷ He is, like his "floating kidney," untethered and lost in an abyss, another entity not within its proper place. In his isolation he wept because of the

270. *See id.* at 29.

271. *See id.*

272. *See id.*

273. *See* DII, *supra* note 18, at 162 ("Lately during that loneliness in which he found himself as he lay facing the back of the sofa, a loneliness in the midst of a populous town, surrounded by numerous acquaintances and relations. . . during that terrible loneliness Ivan Ilych had lived only in memories of the past.").

274. In various instances Tolstoy makes broad, sweeping statements to represent in Ivan Ilych's life both the passage of mundane time or the occurrence of objectively important events that are almost dismissed out of hand. Phrases such as, "[s]o things continued for another seven years," or "[s]o Ivan Ilych lived for seventeen years after his marriage," run parallel with facts, for instance, of Ivan Ilych's children dying ("[B]esides which two of their children died," and "another child had died."). *Id.* at 134–35; *see also* EDWARD WASIOLEK, *TOLSTOY'S MAJOR FICTION* 172 (1978) [hereinafter WASIOLEK *MAJOR FICTION*] (noting how Tolstoy "deliberately mixes matters of consequence and inconsequence" through grammatical constructions and clauses "so as to reduce all the events to a kind of undifferentiated triviality.").

275. *See* JAHN, *supra* note 94, at 17.

276. *See* DII, *supra* note 18, at 160.

277. *Id.*

“cruelty of man, the cruelty of God, and the absence of God.”²⁷⁸ But in a moment of clarity, he conversed with “the voice of his soul,” seeking answers to his suffering and the reasons therefore.

Believing he had done everything in life rightly, he subjects himself to cross-examination.²⁷⁹ The dialogue and interplay are telling, for it forces Ivan Ilych to confront the reality—however much he may try to deny it—that he has lived his life wrongly. He longs for a life free of suffering, but he cannot escape the truth that what he thought was the “right” way to live was in fact a fallacy. In his retrospection, and in a passage echoing Rousseau, Ivan Ilych sees his childhood and pre-educational days as the one period of happiness in his life. He finds that his happiness wanes beginning during his time at the School of Law:

“What do I want? To live and not to suffer,” he answered.

“To live? How?” asked his inner voice.

“Why, to live as I used to—well and pleasantly.”

“As you lived before, well and pleasantly?” the voice repeated.

And in his imagination he began to recall the best moments of his pleasant life. But strange to say none of those best moments of his pleasant life now seemed at all what they had seemed then—none of them except his first recollections of childhood. There, in childhood, there had been something really pleasant with which it would be possible to live, if it could return. But the child who experienced that happiness no longer existed, it was like a recollection of somebody else.

As soon as the period began which had produced the present Ivan Ilych, all that had then seemed joys now melted away before his sight and turned into something trivial and often nasty.

The further he departed from childhood and the nearer he came to the present the more worthless and doubtful were the joys. This began with the School of Law. A little that was really good was still to be found there—there was light-heartedness, friendship, and hope. But in the upper classes there had already been fewer good moments. Then during the first years of his official career, when he was in service of the governor, some pleasant moments occurred again: they were the memories of his love for a woman. Then all became confused and there was still less of what was good; later on again there was even less that was still good, and the further he went the less there was. His marriage, a mere accident, then the disenchantment that followed it, his wife’s bad breath and her sensuality and hypocrisy: then that deadly official life and those preoccupations about money, a year of it, two, ten, twenty, and always the same thing. The longer it lasted the more deadly it became. “It is as if I had

278. “Why has Thou done all this? Why hast Thou brought me here? Why, why dost Thou torment me so terribly?” *Id.* These words Ivan Ilych invokes echo those of Jesus in his final moments on the cross. See *Matthew* 27:46.

279. See DII, *supra* note 18, at 160–61.

been going downhill while I imagined I was going up. And that's really what it was. I was going up in public opinion, but to the same extent life was ebbing away from me. And now it's all over and there's only death.²⁸⁰

This does not seem to be just a subtle critique of education in general, as Tolstoy took aim at in *A Confession*.²⁸¹ Instead, there seems to be a more veiled criticism of the legal profession as both a cause and symptom of a bourgeoisie misalignment. Happiness veers off course at the School of Law, the same time in Ivan Ilych's life when things start to become "most simple and ordinary" and when in earnest he begins conforming his life to fit the requisites of those "in authority."²⁸² He changes in the way that today's law students change over the trajectory of their legal education—idealism and innocence give way to the search for prestige.²⁸³ He is a model for the modern alienated lawyer.²⁸⁴ The further back Ivan Ilych recollects, the more he thinks of childhood, and the more life he sees.²⁸⁵ As Gustafson interprets it, "[o]nce he knows that he is dying, he recollects his life only to regret it."²⁸⁶ As he retreats further into memory, further back through his life, he also arrives at a truth—one he denies in the moment but one that he will ultimately come to accept on his deathbed. And that is that he has lived his life wrongly because he has lived according to others but not for others, nor has he lived for something larger than himself. In concluding that he could not possibly have lived other than but "properly" and rightly, he defends himself against himself in strictly legal terms: "But I'm not guilty! he exclaimed angrily."²⁸⁷

Ivan Ilych's defense that he is not "guilty" of "not having lived as he ought to have done" can be read as a self-justification and rationalization of having adhered to societal expectations, norms, and metrics he believed right and proper but whose worth and value he would come to question. It also suggests the existence of a higher moral law of which he seems to be aware, but of which he also might in fact be guilty of violating. From a positivist perspective, Ivan Ilych has done nothing wrong. But the effect of trying to conform his life—which would include his career—to "what highly placed people considered good" amounts to the sacrifice of a self-determined, meaningful, and purpose-driven life measured by an intrinsic sense of right and wrong.²⁸⁸ As much as he tries to defend the course of his life, he cannot. In the end, he finds "[t]here was nothing to defend."²⁸⁹

280. *Id.* at 161.

281. See generally *A CONFESION*, *supra* note 106, at 58–59.

282. See DII, *supra* note 18, at 130.

283. See *supra* notes 47–49; Alienation, *supra* note 15, at 966; see also Cronin, *supra* note 8, at 167.

284. See generally Alienation, *supra* note 15, at 960–62.

285. See generally JAHN, *supra* note 94, at 69.

286. GUSTAFSON, *supra* note 96, at 320.

287. See DII, *supra* note 18, at 161–62.

288. *Id.* at 164.

289. *Id.*

Ivan Ilych does not *physically* survive his “floating kidney” and vermiform appendix,²⁹⁰ but much suggests he is saved in a deeper, more spiritual way. The ending, for Ivan Ilych, is not devoid of optimism. Near his final moments he realizes that, as to his life, “[y]es, it was all not the right thing,” but also that the “‘right thing’ can still be done.”²⁹¹ Whereas in his sickness he sought pity from others, on his deathbed he felt sorry for and pitied his son and even his wife.²⁹² Through the act of taking pity on others, Ivan Ilych is able to expel the fear of pain and death and become more like the servant Gerasim, the novella’s one truly selfless character.²⁹³

The story contains other symbols and images suggesting an uplifting end, or even ultimate salvation, for Ivan Ilych. Even before he dies, he is described as “*le phénix de la famille*,” the mythical symbol of rebirth and renewal, arising from the ashes to “escape[] the pain and ruin of his dying body.”²⁹⁴ The “deep black sack”²⁹⁵ into which he imagines himself thrust has a uterine, womb-like quality, and he “[falls] through” it into “light.”²⁹⁶ The imagery suggests both gestation and ultimate birth.²⁹⁷ But Tolstoy, ever infused and grounded in Christian theology, includes in the text other more overt references, specifically references and images of Christian salvation, suggesting that Ivan Ilych triumphs in death in a Christ-like fashion. Both Christ and Ivan Ilych are wounded on the side.²⁹⁸ Similar to Christ’s final days, Ivan Ilych suffers for three days before dying.²⁹⁹ Ivan Ilych’s outcry from his couch—“[w]hy, why dost Thou torment me so terribly?”—echoes Christ’s penultimate words spoken on the cross.³⁰⁰ Moments before his death, Ivan Ilych means to to those near him, “forgive me,”³⁰¹ suggesting a plea on their and his own behalf, similar to Christ’s outcry on the cross, “Father, forgive them for they know not what they do.”³⁰² Lastly, immediately before he dies, “someone above” Ivan Ilych remarks, “It is finished,” a direct allusion to Christ’s dying words.³⁰³ And as it is with Christ’s resurrection, the physical resurrection is of lesser import than the spiritual resurrection that ultimately provides final salvation.

290. *Id.* at 142, 48.

291. *Id.* at 166.

292. *Id.* at 166–67.

293. See generally GUSTAFSON, *supra* note 96, at 159.

294. See JAHN, *supra* note 94, at 74.

295. See DII, *supra* note 18, at 160.

296. *Id.* at 166.

297. See generally JAHN, *supra* note 94, at 82.

298. See DII, *supra* note 18, at 138; see *John* 19:34.

299. See DII, *supra* note 18, at 165 (“From that moment the screaming began that continued for three days, and was so terrible that one could not hear it through two closed doors without horror.”); see *Luke* 24:46.

300. See DII, *supra* note 18, at 160; see *Matthew* 27:46.

301. See DII, *supra* note 18, at 166.

302. See JAHN, *supra* note 94, at 74; *Luke* 23:34.

303. See JAHN, *supra* note 94, at 75; see *John* 19:30 (“When Jesus therefore had received the vinegar, he said, It is finished: and he bowed his head, and gave up the ghost.”).

Though Ivan Ilych suffers and eventually dies, he dies having arrived at an awareness—however late in life it may have come—that he has lived wrongly because he has lived for himself and not for others. He has “overlook[ed] the spiritual dimension of his life and the need for faith,”³⁰⁴ a tenet of life Tolstoy would himself arrive at and discuss in *A Confession*.³⁰⁵ Ivan Ilych cannot physiologically save himself, but in the end death “is finished” and is “no more”³⁰⁶—his salvation is spiritual and complete. That salvation, though, does not seem to be Ivan Ilych’s alone. In another sign of hope, Ivan Ilych’s son, there by his father’s bedside, accepts his father’s pity.³⁰⁷ As amongst all of the characters in the novella, his son seems to be the only one truly sad to see Ivan Ilych suffer. The son’s youth and innocence remain, as of yet uncorrupted by the ills of society, educational institutions, or “adulthood.” As he sees his father’s fate unfold before him, we can take away a ray of hope that perhaps he will not fall victim to the same errors and misplaced priorities as did his father.

But the novella’s end also contains a stark warning to the reader and in particular to lawyers. Though the end of the story may signal a new birth or beginning in salvation for Ivan Ilych, one cannot forget that Ivan Ilych’s death is not the *chronological* end of the actual story. Looking back at the end of Chapter One, where the story ends chronologically, the last thing that happens is Peter Ivanovich leaving Ivan Ilych’s requiem to play cards with his friends.³⁰⁸ Ivan Ilych may have learned something in his final days and hours, but the lawyers Peter Ivanovich, Fedor Vasilievich, and Schwartz distinctly have not. They return to their bourgeois world of courts and card games, deliberately none the wiser as to the error of their ways or having lived wrongly. For theirs is not an optimistic end, and little suggests that will change.

V. *THE DEATH OF IVAN ILYCH* AND THE PURPOSE-DRIVEN LIFE: A CALL FOR A RENEWED EMPHASIS ON SERVICE AND PROPOSALS FOR CHANGE

A. THE DEATH OF IVAN ILYCH AND THE MODERN LAWYER

For a story about suffering and, ultimately, about death, *The Death of Ivan Ilych* remains at heart a story about hope and life. Critic Edward Wasiolek notes that Tolstoy’s canon reflects a worldview of ultimate optimism.³⁰⁹ “The bedrock of [Tolstoy’s] optimism,” Wasiolek writes, “lies in his belief that the nature of

304. See JAHN, *supra* note 94, at 14.

305. See generally *A CONFESSION*, *supra* note 106, at 68 (“And I also said to myself: the essence of any faith consists in giving a meaning to life that will not perish with death. Faith must provide answers to the questions of a Tsar dying in the midst of luxury, an old serf worn out by work, an ignorant child, a wise old man, a half-witted old lady, a happy young woman, and a youth racked with passion.”).

306. See DII, *supra* note 18, at 167.

307. *Id.* at 166–67.

308. *Id.* at 129.

309. See Edward Wasiolek, *Introduction*, in *CRITICAL ESSAYS ON TOLSTOY* 11–12 (Edward Wasiolek ed. 1986).

things is essentially meaningful The world, for Tolstoy, is not chaos; man is not a speck of cosmic dust. He has purpose and meaning and faculties capable of seizing that purpose and meaning.”³¹⁰ That rightly applies here. As noted above, much in the text suggests Ivan Ilych’s end is not in vain.³¹¹ Suffering can be a gift when it fosters awareness and prompts course correction.³¹² Ivan Ilych’s death is tragic for many reasons, but perhaps none more so than because he failed to take his own advice—*respice finem*, look to the end. Until his accident, Ivan Ilych could not envision a life of possible pain.³¹³ The conscious avoidance of pain and suffering foreclosed his ability to feel pity or form relationships beyond the formalized and impersonal.³¹⁴ He also lacks grounding. Ever looking for more, ever in pursuit of conformity and prestige and societal acceptance, he fails to formulate an identity that is his own. In the process he loses himself and any semblance of the happy child and person he once knew who was so full of promise.³¹⁵ The life he lived had no greater meaning or purpose, but through suffering and in his death, he is able to become both the redeemed and—as I contend it is for his son—the redeemer.³¹⁶

A tragedy of the story is that he learns this lesson only in the weeks, days, or arguably, the moments leading up to his inevitable death, his adulthood and prior years having been spent in a miasma of misplaced priorities and inwardly—as opposed to outwardly—directed energy. But therein lies the appeal and a moral of the story and one especially apt for lawyers. Ivan Ilych’s refusal to accept the fact of mortality—his ardent rejection of Kieseewetter’s Logic³¹⁷—cannot but resonate for members of a profession who, if not themselves afflicted, or at least impacted by issues of depression, anxiety, poor mental health, or thoughts of self-harm, likely know or knew someone who is or has been so impacted. That awareness allows us to take stock and assess. If Ivan Ilych, an “everyman”³¹⁸ through and through, is, like Caius,³¹⁹ mortal and will face inevitable death, then so too

310. *See id.* at 11.

311. *See supra* Section IV.C, at notes 301–18.

312. *See generally* GUSTAFSON, *supra* note 96, at 158 (“Suffering shows Ivan Ilych who he has been and what he has done: draped in the self-protective arrangement of his life, he has lived only for himself, even though he has not known himself. Suffering untwists the truth, but not completely.”).

313. *See generally* WASIOLEK MAJOR FICTION, *supra* note 274, at 176 (“[I]t is the refusal to accept ‘death’ as part of life that leads to the sterility of Ivan Ilych’s life and the lives of those about him.”).

314. *See generally id.*

315. *See* DII, *supra* note 18, at 161 (“There, in childhood, there had been something really pleasant with which it would be possible to live, if it could return. But the child who had experienced that happiness no longer existed, it was like a recollection of somebody else.”).

316. *See id.* at 159 (“His son had always seemed pathetic to him, and now it was dreadful to see the boy’s frightened look of pity. It seemed to Ivan Ilych that Vasya was the only one besides Gerasim who understood and pitied him.”).

317. *Id.* at 149 (“That Caius—man in the abstract—was mortal, was perfectly correct, but he was not Caius, not an abstract man, but a creature quite separate from all others.”).

318. *See* Wasiolek, *supra* note 216.

319. *See* DII, *supra* note 18, at 150 (“He could not understand it, and tried to drive away this false, incorrect, morbid thought and to replace it by other proper, healthy thoughts. But that thought, and not only the thought but the reality itself, seemed to come and confront him.”).

will we all.³²⁰ The story holds broad appeal because if we are not like Ivan Ilych now, then the possibility exists that we could be in the future. If pain or suffering or even death arrive at our doorstep, will we be content with our answer to Ivan Ilych's question: "What if my whole life has been wrong?"³²¹

No easy answer to this question can exist. Religion, philosophy, science, and social psychology, among much else, have long searched for and offered—if not answers—ways of helping us find our own path to resolution and purpose. This question of finding and living a purposeful life, of how to live—and especially of how to live in the shadow of pain and inevitable death—was for Tolstoy a crisis that plagued him for the better part of his life.³²² And yet by most any measure, Tolstoy's life was purposeful and accomplished.³²³ What might Tolstoy's world, or ours without his literary, civic, theological, and philosophical contributions, look like had he forgone his passions and greater purpose to pursue the career in law he found so unsatisfying? Fortunately, for his own end and benefit—and ours—he never stopped searching.³²⁴ In *A Confession*, Tolstoy found his answer in faith.³²⁵ In *On Life*, a treatise that he wrote after *A Confession* that explored how we can be happy in the face of mortality, Tolstoy espoused the importance of living a spiritual life over a physical life, which lives he saw in conflict within man and humanity.³²⁶ To Tolstoy, the spiritual life, with its emphasis on sacrifice and furthering the well-being of others, was of greater import.³²⁷ And here again we see the throughline from Rousseau and *Emile*, with its lessons on the value of pity as a means of

320. See generally Wasiolek, *supra* note 216, at 150 (discussing how Ivan Ilych is "to be sure vain, trivial, [and] pleasure-loving," but how also "he is not so much different from most of us.").

321. See DII, *supra* note 18, at 164.

322. See *supra* text accompanying note 180; see also BARTLETT, *supra* note 97, at 252.

323. Tolstoy's accomplishments are too many and varied to attempt to sum up in a single footnote. But among many other things, and aside from his myriad literary accomplishments, Tolstoy fought in the Crimean War, championed popular education and established a school for peasant children in Russia, founded a pedagogical journal, worked to establish a new religion based off of Christianity, worked to provide food for peasants during a country-wide famine; and promoted pacifism and non-violent resistance to such a degree that it influenced Gandhi and Martin Luther King, Jr. See generally BARTLETT, *supra* note 97, at 107–16 (fighting in Crimea); 93, 140–41 (education and schooling); 146, 157–58 (founding pedagogical journal, *Yasnaya Polyana*); 113 (establishing new religion); 335–40 (famine relief work); 8 (influence of non-violence philosophy). Near the end of his life, he was the most famous man in Russia, revered for his literary works as much as his non-literary accomplishments. See *id.* at 5, 335–36. Even those unfamiliar with the details of Tolstoy's life or his individual literary works have likely heard of ANNA KARENINA and WAR AND PEACE, largely regarded as two of the greatest novels in world literature.

324. See BARTLETT, *supra* note 97, at 32 ("Tolstoy never stopped trying to make sense of himself in his writing, whether it was through the public medium of his fictional characters or the quasi-private one of his diary entries.").

325. See A CONFESSIO, *supra* note 106, at 50.

326. See generally Richard Freeborn, *The Long Short Story in Tolstoy's Fiction*, in THE CAMBRIDGE COMPANION TO TOLSTOY, *supra* note 96, at 131; see also LEO TOLSTOY, ON LIFE 110–12 (White Crow Books 2009) (1902) [hereinafter TOLSTOY: ON LIFE].

327. See generally Freeborn, *supra* note 326, at 131; see generally TOLSTOY: ON LIFE, *supra* note 326, at 110 ("Love is only really love when it is a sacrifice of self. Only when a man gives to another not only his time and his strength, but wears out his body for the object loved, giving him his life, then alone do we all recognize that this is love, and only in such love we all find happiness – the recompense of love. And it is only because there is such love in men that this world exists.").

producing men and women versed in concepts of respect, equality, and empathy.³²⁸ Much of Tolstoy's other work was also a way to explore answers and solutions to this and other questions.³²⁹

But *The Death of Ivan Ilych* also offers lawyers an avenue for reflection on this persistently modern dilemma. By using literature and the humanities as a focal point for addressing what is, in essence, an issue of legal ethics and legal professional identity formation, this article, I hope, can extrapolate from *The Death of Ivan Ilych* one of the things all great literature aspires to do—engender in the reader new ways of thinking about and experiencing life, its people, and its predicaments. And for the legal reader, literature can help challenge convention and norms. It can offer ideas and ways of thinking about and fostering a purposeful and meaningful life within the law. Here, in particular, by using the character of Gerasim as a model, I contend that the story offers the concept of service for others as a means of fomenting a purpose-driven life within the law.

B. A MODEL FOR THE PURPOSE-DRIVEN LIFE

While definitions vary, psychologists have found the concept of purpose to consist generally of three components: “(1) working on personally meaningful issues (2) by engaging in intentional actions (3) for the benefit of the broader world.”³³⁰ Reading this definition in light of *The Death of Ivan Ilych*, the character Gerasim can be seen as the embodiment and model of a purpose-driven life—and one lawyers would be wise to emulate.

Throughout Ivan Ilych's intolerable suffering, one positive does persist—the presence of the servant Gerasim. A model of the “poor, simple, uneducated folk” and laborers whom Tolstoy came to so revere as possessors of “true faith” uncorrupted by the “idleness, amusement, and dissatisfaction”³³¹ of the upper class, Gerasim represents an ideal of love and service and an alternative to Ivan Ilych's inward-focused, upper-class world. In every instance where we encounter Gerasim, he is engaged in selfless acts of service.³³² From helping Peter Ivanovich at the

328. See ROUSSEAU, *supra* note 124, at 225 (“Man is the same in all stations.”); 226 (“It is by these roads and other similar ones—quite contrary to those commonly taken—that it is fitting to penetrate the heart of a young adolescent in order to arouse the first emotions of nature and to develop his heart and extend it to his fellows.”).

329. While many of his more well-known works explored larger, more existential questions about life, many of Tolstoy's other works also touched in themes similar to those in *The Death of Ivan Ilych*. See, e.g., Leo Tolstoy, RESURRECTION (Penguin Classics 2009); *Master and Man*, in TOLSTOY'S SHORT FICTION (Michael R. Katz ed., Norton Critical Ed. 1991); see also CHRISTIAN, *supra* note 96, at 239.

330. See Cronin, *supra* note 8, at 195 (citing WILLIAM DAMON, THE PATH TO PURPOSE: HELPING OUR CHILDREN FIND THEIR CALLING IN LIFE 7, 106, 113–14 (2008)).

331. A CONFESSION, *supra* note 106, at 58–59.

332. See DII, *supra* note 18, at 129, 152–54, 160.

requiem,³³³ to carrying Ivan Ilych from the commode to the sofa,³³⁴ to helping Ivan Ilych dress,³³⁵ to standing watch at Ivan Ilych's bedside and lifting his legs to alleviate his pain and agony,³³⁶—all without question or complaint³³⁷—Gerasim imbues his life and his world in service. He has purpose, and he directs it outward. Unlike Ivan Ilych, whose biography is a story of movement and dislocation, Gerasim's world is static and fixed. He is able “to see his task in his place.”³³⁸ Unlike Ivan Ilych, who acts out of perceived need for conformity and to align with those “in authority,” Gerasim “does not seek to be alike or liked.”³³⁹ He instead lives for others and does so out of an abundant sense of love, fealty, and pity.

But it is Gerasim's ability to accept the fact of death, and the attendant need to live a meaningful, purpose-driven life, that most sets him apart as a foil to Ivan Ilych and the characters in his orbit. Unlike the others in Ivan Ilych's orbit, Gerasim does not deny or shy away from the fact that Ivan Ilych is dying.³⁴⁰ He accepts the fact of death, saying as much to Peter Ivanovich³⁴¹ and again later to Ivan Ilych,³⁴² reflecting his place and position as a humble servant but also his wish that someday, he too, might be the beneficiary of such selfless acts of service from others.³⁴³ And because he understands and demonstrates to Ivan Ilych that death is the natural consequence of all life, he provides to Ivan Ilych a reprieve from his pain and suffering.³⁴⁴ Gerasim understands the importance of living a life of meaning, love, and service in the limited time we have. It confirms in Ivan Ilych the lesson that true living does not consist in blindly conforming to society or convention, attaining status, gaining approval, or even being loved but rather loving for its own sake and living in service for someone or something other than oneself.³⁴⁵

Though not a lawyer himself, Gerasim offers an example as to how a lawyer can lead a meaningful and purpose-driven life within the law. Not surprisingly, outside of literature and the humanities, proposals exist for how lawyers, as well

333. *See id.* at 129.

334. *See id.* at 152.

335. *See id.*

336. *See id.* at 153, 160.

337. *See id.* at 153 (“After that Ivan Ilych would sometimes call Gerasim and get him to hold his legs on his shoulders, and he liked talking to him. Gerasim did it all easily, willingly, simply, and with good humor that touched Ivan Ilych.”).

338. GUSTAFSON, *supra* note 96, at 159.

339. *Id.*

340. *See* DII, *supra* note 18, at 154 (“He saw that no one felt for him, because no one even wished to grasp his position. Only Gerasim recognized it and pitied him. And so Ivan Ilych felt at ease with him.”).

341. *Id.* at 129 (“It's God's will. We shall all come to it some day.”).

342. *Id.* at 154.

343. *Id.* (“‘We shall all die, so why should I grudge a little trouble?’—expressing the fact that he did not consider his work burdensome, because he was doing it for a dying man and hoped someone would do the same for him when his time came.”).

344. *Id.* at 154; 160.

345. *See generally* GUSTAFSON, *supra* note 96, at 159.

as law school faculty and administrations, can promote purpose with the ultimate aim of encouraging lawyer well-being.³⁴⁶ No single individual remedy or institutional reform will suffice as a means of ameliorating the well-being crisis in the profession, and a comprehensive assessment of the viability of those proposed initiatives and reforms is beyond the scope of this article.³⁴⁷ Still, it remains worth exploring how law schools, practicing lawyers, and the bar can work to instill the concept of service as seen in *The Death of Ivan Ilych* to advance awareness of the importance of purpose and well-being in legal education and the legal profession.

C. THE MODEL RULES OF PROFESSIONAL CONDUCT, THE ABA STANDARDS, AND PROPOSALS FOR REFORM

The *Model Rules of Professional Conduct* and the *ABA Standards and Rules for Procedure for Approval of Law Schools* offer a place to start. The Preamble to the *Model Rules of Professional Conduct* provides that a lawyer has an “interest in remaining an ethical person while earning a satisfactory living.”³⁴⁸ While “satisfactory living” has generally been interpreted to mean monetary income,³⁴⁹ perhaps it is worth revising or expanding on the term and model rule to include an aspirational imperative for lawyers to pursue a “meaningful” or “purposeful” living—however that might be defined. The revised ABA Standard 303(b) is a step in the right direction.³⁵⁰

Revised ABA Standard 303(b) provides that law schools “shall provide substantial opportunities for . . . the development of professional identity.”³⁵¹ To provide greater definition on how law schools can promote this new requirement of “professional identity,” the ABA included within the Standards a new Interpretation 303-5:

Professional identity focuses on what it means to be a lawyer and the special obligations lawyers have to their clients and society. The development of professional identity should involve an intentional exploration of the values, guiding principles, and well-being practices considered foundational to successful legal practice. Because developing a professional identity requires reflection and growth over time, students should have frequent opportunities for such

346. See generally Krause & Chong, *supra* note 1, at 235–344; Isaac Mamaysky, *Finding Happiness in the Law: Lifelong Learning as a Path to Meaning and Purpose*, 63 SANTA CLARA L. REV. 65, 83–85 (2022); Schiltz, *supra* note 19, at 920–50.

347. See generally Krause & Chong, *supra* note 1, at 235–36.

348. MODEL RULES OF PROF'L CONDUCT pmbl. (AM. BAR ASS'N 2018).

349. See Neil Hamilton, *What Constitutes a 'Satisfactory Living' for a Lawyer?*, THE MINN. LAWYER (Apr. 21, 2023), <https://minnlawyer.com/2003/04/21/what-is-a-8216satisfactory-living0638217/> [https://perma.cc/5PVE-56V8].

350. *Standards and Rules of Procedure for Approval of Law Schools 2023–2024 Standard 303(b)(3)*, AM. BAR ASS'N SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2023-2024/23-24-revised-standards-and-rules-since-aug-2023.pdf [https://perma.cc/3SZT-RDH4].

351. *Id.*

development during each year of law school and in a variety of courses and co-curricular and professional development activities.³⁵²

Scholars and academics have explored how to define and best instill professional identity development in law schools and in the profession.³⁵³ Using again *The Death of Ivan Ilych*, and specifically the character of Gerasim within it as a guide, I contend that focusing renewed and targeted emphasis on service to others, including through pro bono work, would do much to promote in prospective and practicing lawyers the development of purpose and professional identity and hopefully, ultimately, quell professional regret.

This initiative would align with and support students' desires to pursue acts of service during law school and beyond. At least initially, prospective and young lawyers are motivated and influenced by opportunities for service.³⁵⁴ Data from the Law School Admissions Council (LSAC) show that the ability to serve others and to promote social justice are the two primary factors compelling prospective and first-year law students into a legal career.³⁵⁵ As of 2022, LSAC data collected from LSAT takers showed that "the desire to be helpful to others, intellectual curiosity, and the expectation of earning a high income" ranked as the top three motivating factors for students to pursue a legal education.³⁵⁶ More recent data suggest the same: students, including those in Gen Z, want to go to law school to pursue service and seek meaningful work.³⁵⁷ And more than that, they are making the decision to do so earlier in life.³⁵⁸ But as noted above, students' motivations shift and evolve during law school, and many who enter with aspirations to

352. *Standards and Rules of Procedure for Approval of Law Schools 2023–2024 Standard Interpretation 303–5*, AM. BAR ASS'N SEC. OF LEGAL EDUC. & ADMISSIONS TO THE BAR, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2023-2024/23-24-revised-standards-and-rules-since-aug-2023.pdf [<https://perma.cc/Q8UT-JZ8C>].

353. See, e.g., Cronin, *supra* note 8, at 192–216 (exploring ideas for how a first-year legal practices course can incorporate changing practices to best help students develop a professional identity in accordance with the requirements of new Standard 303(b)(3)); Emily Grant & Elisabeth Wilder, *I Quit: Lessons for Educators from the Great Resignation*, 84 U. PITT. L. REV. 1, 11–13 (2023) (proposing that law schools should teach and discuss with students the value of quitting jobs as a means of finding a more rewarding and satisfying work life); Harmony Decosimo, *A Taxonomy of Professional Identity Formation*, 67 ST. LOUIS U.L.J. 1, 11–37 (2022) (discussing three approaches to professional identity formation and arguing for further examination and discussion of same); Mary Walsh Fitzpatrick & Rosemary Queenan, *Professional Identity Formation, Leadership and Exploration of Self*, 89 UMKC L. REV. 539, 545–56 (2021) (discussing how leadership skills and competencies can be incorporated into law school curriculum as a means of developing professional identity formation); Krause & Chong, *supra* note 1, at 216–18 (though written before the approval of revised Standard 303(b)(3), proposing to employ Self-Determination Theory as a means of helping law students "thrive and maximize their positive motivation" by developing in law school experiences complimenting competence, autonomy, and relatedness to others).

354. See Kellye Y. Testy & Zachariah J. DeMeola, *Leading the Way: The Power of Professional Identity Formation for Lawyers*, 76 BAYLOR L. REV. 115, 140–41 (2024).

355. See *id.* at 140 (discussing Law School Admissions Council collected from "Post-LSAT Questionnaire and Matriculation Surveys").

356. *Id.*

357. See *id.* at 141.

358. See *id.*

pursue public service nevertheless end up working for private law firms.³⁵⁹ Rest assured, I offer this fact not to denigrate “Big Law” or private sector work—it can provide considerable good to both lawyers and the clients they serve. Instead, I offer it to note the danger this risks perpetuating: if law students pursue a professional course that does not reflect the factors (altruistic or otherwise) that motivated their decision to become lawyers, they can find themselves alienated, lose a facet of their social identity, imperil their well-being,³⁶⁰ and ultimately find themselves grappling with pain and professional regret.³⁶¹ In other words, they may find themselves, months or years down the road, if not like Ivan Ilych in his final days, then inching towards it. This need not be the case.

Luckily, both law students and lawyers have the agency to prevent this from happening. Through ABA Model Rule of Professional Conduct 6.1, the ABA encourages lawyers to “aspire to render at least fifty hours of pro bono” service each year.³⁶² Many law schools now require pro bono work as a prerequisite to graduate, while others strongly encourage it.³⁶³ This offers considerable benefit. Engaging with pro bono work and community-oriented lawyering while in law school could, at the least, help kindle (or rekindle) in law students those desires for service and promotion of social justice that drove so many to law school in the first place.³⁶⁴ For those who did not enter law school intending to pursue public service or to work toward social justice initiatives, requiring pro bono work during law school could expand students’ perspectives and offer them insights into a rewarding facet of the profession they had not previously considered.³⁶⁵ Outside of law school, students who do pursue the law firm and private sector path can inquire with prospective employers about firms’ pro bono programs and weigh those firms’ support, or lack thereof, into their employment decisions.³⁶⁶

359. See *Alienation*, *supra* note 15, at 137; see also Bliss, *supra* note 54, at 2020-23.

360. See *Alienation*, *supra* note 15, at 966-67.

361. See *supra* Section I.C.

362. See MODEL RULES OF PROF’L CONDUCT r. 6.1 (Am. Bar Ass’n 2018). In its comments to the Model Rule, the ABA notes that providing pro bono services “can be one of the most rewarding experiences in the life of a lawyer.” MODEL RULES OF PROF’L CONDUCT r. 6.1 cmt. (Am. Bar Ass’n 2018).

363. See Kelsey Hunt, *The Power of Law Firms and Law Schools Working Together on Pro Bono*, THE PRO BONO INST. (May 28, 2024), <https://www.probonoinst.org/2024/05/28/the-power-of-law-firms-and-law-schools-working-together-on-pro-bono/#:~:text=An%20additional%2070%20percent%20have,student%20engagement%20in%20pro%20bono> [https://perma.cc/J3AC-NKQE] (noting that of the top forty law schools as grouped by geographic region, 12.5 percent had mandatory pro bono requirements for graduation, 70 percent had pro bono “pledges” designed to encourage student participation in pro bono work, 12.5 percent encouraged or promoted law student pro bono work in other ways, showing that in sum, 95 percent of the top 40 law schools either required or encouraged student pro bono work).

364. See Cronin, *supra* note 8, at 168.

365. Stories about the benefits and rewards, both personal and professional, of law firm pro bono work, are not hard to come by. For an interesting take on one Kirkland & Ellis LLP attorney’s path from associate to pro bono counsel, see David Lat, *The Rise of Pro Bono Counsel: An Interview with Jackie Haberfield*, ORIGINAL JURISDICTION PODCAST (Dec. 13, 2023), <https://davidlat.substack.com/p/the-rise-of-pro-bono-counsel-an-interview> [https://perma.cc/GT37-MQTE].

366. See Hunt, *supra* note 363 (noting how, among others, Yale Law School, The University of Chicago

Practicing attorneys can also join local pro bono organizations³⁶⁷ or even sign up with courts³⁶⁸ to add their names to lists or registers of attorneys willing to take on pro bono appointments.

Law firms can also further this endeavor by continuing to promote pro bono services. The ABA notes that as of 2018, more than half of lawyers in the United States performed pro bono services, yet only twenty percent of those lawyers met the ABA aspirational goal of fifty pro bono hours per year as set by Model Rule 6.1.³⁶⁹ For the 2022 calendar year, the Pro Bono Institute found that of the 124 firms participating in the Law Firm Pro Bono Challenge, 63.1 percent of partners participated, while 83.4 percent of associates participated.³⁷⁰ While this represents a commendable effort, the vast majority of lawyers still fall short of the ABA's aspirational pro bono target.³⁷¹ More can still be done, and firms can and should continue to emphasize the importance of pro bono work as a benefit to both lawyers and the communities they serve.³⁷² To incentivize pro bono service, law firms could follow the likes of Skadden, Arps, Slate, Meagher & Flom LLP,³⁷³

Law School, and the University of Virginia School of Law provide guidance to students on how to assess prospective employers' pro bono programs).

367. In Texas, for instance, resources like Pro Bono Texas offer attorneys ways of getting involved in various pro bono matters and services, including with subject-matter specific cases. *See* Pro Bono Opportunity Portal, PRO BONO TEXAS, [https://app.joinpaladin.com/pbtx/\[https://perma.cc/WC3F-FEE2\]](https://app.joinpaladin.com/pbtx/[https://perma.cc/WC3F-FEE2]) (last visited Nov. 18, 2024).

368. Many federal courts maintain registers or panels of local attorneys willing to accept pro bono appointments for litigants who are indigent or otherwise unable retain counsel on their own. Registering with these panels can be a way for attorneys to stay "on call," as one might say, should the need for pro bono counsel arise. *See generally* "Pro Bono Civil Panel Information," U.S. DIST. CT. FOR THE N. DIST. OF TEX. <https://www.txnd.uscourts.gov/pro-bono-civil-panel-information> [https://perma.cc/SSF6-94H8] (last visited Nov. 18, 2024); "The Civil Pro Bono Panel," U.S. DIST. CT. FOR THE D.C., <https://www.dcd.uscourts.gov/sites/dcd/files/probonopamphlet.pdf> [https://perma.cc/69FE-N8W5] (last visited Nov. 18, 2024).

369. *Pro Bono*, 2023 ABA PROFILE OF THE LEGAL PRO., <https://www.americanbar.org/content/dam/aba/administrative/news/2023/potlp-2023.pdf> [https://archive.ph/eqZJz] (last visited Feb. 16, 2025).

370. The Law Firm Pro Bono Challenge asks signatory firms to devote a majority of their pro bono time "to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." The 2023 report also found that participating attorneys devoted 3.47 percent of their total billable hours for the year to pro bono work, at an average of 52.6 hours per attorney. *See 2023 Report on the Law Firm Pro Bono Challenge Initiative*, PRO BONO INST. 1–2, https://www.probonoinst.org/wp-content/uploads/2023_PBI_Challenge-Report_Final.pdf [https://perma.cc/E569-H42Y] (last visited Nov. 16, 2024).

371. *See* Natalia C. Ortiz, Note, *The Justice Gap: Confronting Complicity in the Legal Profession to Better Reimagine Reform*, 34 GEO. J. LEGAL ETHICS 1167, 1168 (2021).

372. *See* David W. Lannetti & Jennifer L. Eaton, *Sparkling A Movement: A Coordinated, Bottom-Up Approach to Increase Voluntary Pro Bono Service and Mend the Justice Gap*, 25 RICH. PUB. INT. L. REV. 1, 28–31 (2022) (discussing how pro bono work can benefit (1) law firms through, among other things, increased marketing and attorney training, (2) bar associations through collegiality and networking among individual attorney members, (3) "the proper administration of justice" through increased representation of low-income members of the community, and (4) law schools through increased training opportunities for future lawyers).

373. *See About: Pro Bono*, SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP, <https://www.skadden.com/about/pro-bono/overview> [https://perma.cc/FCH6-UWUB] (last visited Jan. 28, 2025) (noting that "the firm gives billable hour credit for *pro bono* work").

Kirkland and Ellis,³⁷⁴ and Cooley LLP,³⁷⁵ among many others,³⁷⁶ and count pro bono work toward annual billable hour requirements. In conjunction with that, law firms could also incorporate Model Rule 6.1's aspirational fifty-hour pro bono goal as a mandatory pro bono billable hour requirement under firm guidelines.³⁷⁷ Doing so could incentivize lawyers to take on pro bono matters without fear that it would detract from meeting targets for annual hours or bonus compensation.³⁷⁸

Institutional changes, however aspirational (and therefore difficult to affect), remain worth pursuing. But one cannot forget the human toll and element lying at the center of this quandary—the modern lawyer, so often anxious, depressed, ever searching for purpose. It may seem counterintuitive to propose that already anxious and overtaxed lawyers take on additional work and responsibility through pro bono or other service. Yet as airlines are so apt to remind us before takeoff, you must put your oxygen mask on first before assisting others. And perhaps clichés are clichés for a reason. We cannot help others unless and until we help ourselves. But as regards undertaking additional work and acts of service, studies show that pro bono work can provide lawyers with a “sense of purpose”³⁷⁹ and actually reduce stress.³⁸⁰ It can provide lawyers additional training and experience, including in areas where they might not typically practice, thereby offering exposure to new ideas and new segments of the community.³⁸¹ Moreover, it can help lawyers become better people.³⁸²

374. See *Pro Bono*, KIRKLAND & ELLIS LLP, <https://www.kirkland.com/social-commitment/pro-bono> [<https://perma.cc/N5V8-BB4Q>] (last visited Nov. 16, 2024) (“Kirkland treats pro bono work equivalently with billable client work in performance reviews and for compensation purposes.”).

375. See *Pro Bono*, COOLEY LLP, <https://www.cooley.com/services/practice/pro-bono> [<https://perma.cc/3QKA-C5Q5>] (last visited Nov. 16, 2024) (“All of our lawyers are encouraged to participate in our pro bono practice and pro bono work is given the same weight and credit as other matters.”).

376. See also *Pro Bono*, POLSINELLI, <https://www.polsinelli.com/about-us/pro-bono> [<https://perma.cc/HA65-Z2KA>] (last visited Dec. 16, 2024) (noting that “our lawyers receive billable-hour credit for pro bono efforts”); *Pro Bono*, ROPES & GRAY LLP, <https://www.ropesgray.com/en/about/pro-bono> [<https://perma.cc/BB5Q-KEG7>] (last visited Nov. 16, 2024) (“for the purposes of associate reviews and compensation, the firm gives equal credit for time spent on pro bono matters and on representing the firm’s paying clients.”).

377. See Ortiz, *supra* note 371, at 1176–78 (though not speaking of criteria or guidelines for individual law firms, arguing that the ABA should make ABA Model Rule 6.1 mandatory and “modeled after a cap and trade scheme” that would create a market for pro bono hours).

378. See Susan S. Fortney, *I Don’t Have Time to Be Ethical: Addressing the Effects of Billable Hour Pressure*, 39 IDAHO L. REV. 305, 312–13 (2003) (discussing the 2001–2002 ABA Commission on Billable Hour Report, which expressed concerns that billable hour requirements had negatively impacted pro bono work and the time attorneys had to devote to community service).

379. See Lannetti & Eaton, *supra* note 372, at 28 (2022) (citing Pamela B. Pierson et al., *Stress Hardiness and Lawyers*, 42 J. LEGAL PROF. 1, 46–50 (2017)).

380. See *id.* (citing Stacy M. Schaefer et al., *Purpose in Life Predicts Better Emotional Recovery from Negative Stimuli*, 8 PLOS ONE 11 (Nov. 13, 2023)).

381. See John M.A. DiPippa, *Peter Singer, Drowning Children, and Pro Bono*, 119 W. VA. L. REV. 113, 126 (2016).

382. See *id.* at 121–123 (citing Harry T. Edwards, *A Lawyer’s Duty to Serve the Public Good*, 65 N.Y.U. L. REV. 1148, 1158 (1990)); see also Reed E. Loder, *Tending the Generous Heart: Mandatory Pro Bono and Moral Development*, 14 GEO. J. LEGAL ETHICS 459, 508 (2001) (stating how altruistic behavior builds moral character).

Lastly, more could be done to educate *prospective* students about the realities of depression, anxiety, substance abuse disorders, and poor mental health that so tragically afflict large segments of the legal profession. To a degree, this is already being addressed to current law students through ABA Standard 508.³⁸³ ABA “Standard 508 – Student Support Services” provides that law schools must make available to their students certain information about support services and well-being resources:

A law school shall provide all its students, regardless of enrollment or scheduling option, with:

(a) Basic student services, including maintenance of accurate student records, academic advising and counseling, financial aid and debt counseling, and career counseling to assist students in making sound career choices and obtaining employment; and

(b) Information on law student well-being resources.

If a law school does not provide these student services in (a) directly, it shall demonstrate that its students have reasonable access to such services from the university of which it is a part or from other sources.³⁸⁴

Standard 508 is a noble and necessary initiative. Given the issues law students encounter beginning in 1L year,³⁸⁵ making available “well-being resources” and related information could do much to prevent health or wellness issues from compounding or growing into deleterious or even fatal consequences over the course of a student’s educational career and even beyond.

Still, more could be done. By its terms, Standard 508 requires “law schools” to make information available to “its students.”³⁸⁶ No requirement exists to make information available to prospective students. If we look at legal education as a consumer product,³⁸⁷ requiring that prospective law students receive data or other information about—and let us be honest here—the risks (health and otherwise) associated with going to law school and becoming an attorney, it would allow prospective law students to make a more meaningful and informed decision about whether they want to pursue this specific career and life path. This would likely complement disclosures the ABA Standards already require law schools to make regarding law school tuition and fees, bar passage rates, and employment data, among other things.³⁸⁸ Functionally and logistically, the ABA or the LSAC could

383. See STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS. Standard 508 (AM. BAR ASS’N 2023).

384. *Id.*

385. See Jackson, *supra* notes 46–48.

386. See STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS. Standard 508.

387. See Debra Moss Vollweiler, *Law School As A Consumer Product: Beat ‘Em or Join ‘Em?*, 40 PACE L. REV. 1, 3–7 (2020) (discussing how legal education can be seen as a consumer product).

388. See *Standards and Rules of Procedure for Approval of Law Schools*, *supra* note 383, at § 509(b).

provide this information in conjunction with registration for the LSAT. Such a requirement would put the legal education profession on par with numerous other professions and industries, including the medical, pharmaceutical, and financial industries, which already require disclosure of certain risks, terms, and conditions prior to provision of service or execution of contract. Requiring the ABA or the LSAC to provide prospective law students with critical health and wellness data and information about the profession would empower students to make more informed decisions about their career and, hopefully, would help eliminate future regret over the decision.

VI. RESPICE FINEM

How rapid is our journey on this earth! The first quarter of life has been lived before one knows the use of it. The last quarter is lived when one has ceased to enjoy it. At first we do not know how to live; soon we can no longer live; and in the interval which separates these two useless extremities, three-quarters of the time remaining to us is consumed by sleep, work, pain, constraint, and efforts of all kinds. Life is short, not so much because it lasts a short time as because we have almost none of that short time for savoring it. The moment of death may well be distant from that of birth, but life is always too short when this space is poorly filled.

—Jean-Jacques Rousseau, *EMILE OR ON EDUCATION*, Book IV³⁸⁹

Make no mistake, law can be an immensely rewarding profession. But it can also be a destructive one. For far too many aspiring and practicing lawyers, legal education and the legal profession have exacted a disastrous toll. Though lawyers afflicted by anxiety, depression, poor mental health, thoughts of self-harm, and regret might not be the majority, that is not a license to cast aside the problem as insignificant, of no import, or someone else's—to think or feel, as Ivan Ilych's "colleagues"³⁹⁰ do, "[w]ell, he's dead but I'm alive."³⁹¹ A lawyer's job will always be a difficult and challenging one. But we as lawyers owe it to ourselves and our peers that the experience of learning and practicing law is one spent in health and fulfillment of purpose.

In proposing both institutional and individual remedies, this article seeks to address this crisis head-on. Institutional remedies, such as reforms in legal education, professional regulation, and workplace culture, are essential. But equally important is the individual's journey towards finding meaning and purpose in their work. While I contend service offers a means of addressing much of what ails the profession in terms of regret and misaligned professional purpose, I am not so foolish, nor dogmatic, to suggest that is the single panacea. As Ivan Ilych did, many will have to find purpose on their own—through lived experience,

389. ROUSSEAU, *supra* note 124, at 211.

390. *See* DII, *supra* note 18, at 123.

391. *Id.* at 124.

through joy, through pain, through love. Indeed, that was the path for Tolstoy, too, who explored and continued exploring for meaning and purpose throughout his life.³⁹² Reaching across disciplines, I found one answer in literature and the humanities, in an indelible work from one of the world's most accomplished and enduring writers and thinkers.

Tolstoy's story, I contend, offers a path for lawyers to pursue service as a means of achieving of purpose. Yet as great literature often does, *The Death of Ivan Ilych* also serves as a vehicle for lawyers to ask the bigger questions: What is it that I want out of a life? What do I want out of a career? How will others remember me? How do I want to be remembered? Given the choice, in a world of Peter Ivanoviches, we can all do better to be a Gerasim.

No one wants to look back at their life with regret. Ivan Ilych may have learned the valuable lesson in his final days and even moments, but at least he learned it. And therein lies the hope: for any questioning their purpose, how to find it, or struggling in the ways that so many lawyers do, it is not too late for anyone.

Respite finem—lawyers, look to the end.

392. See generally GUSTAFSON, *supra* note 96, at 5; BARTLETT, *supra* note 97, at 9.