

**PETER A. ALLARD SCHOOL OF LAW
UNIVERSITY OF BRITISH COLUMBIA**

**LAW 481D.002
RESILIENT LAWYERING IN A TIME OF CHANGE: METHODOLOGIES IN LAW AND POLICY
FALL 2021
Tuesdays 9:30-12:30**

Professor: Michelle LeBaron
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Office hours: Tuesday mornings or by appointment

COURSE SYLLABUS

Course Summary: As unprecedented changes occur in the legal profession, law graduates find themselves challenged. Legal practice is changing rapidly in response to trends in technology, globalization and pressure to reduce the cost of legal services. Increasingly limited access to justice impinges on notions of fairness and equality. High stress is exacerbated as the market for legal graduates grows more competitive and business structures shift. In addition to these contextual changes, lawyers' roles are changing as well. They are expected to be expert negotiators and creative problem solvers as well as zealous advocates, roles that require quite different skills and value orientations. Participants in this seminar will explore these trends, reading current books and articles on the future of legal work and listening to scholars and practicing experts. We will also draw on the literatures on resilience and wellbeing to canvass how law graduates can pursue a greater quality of life and personal satisfaction in ways that ripple out to their clients, families and communities.

COURSE EVALUATION

Evaluation is based on:

Paper (23-28 pages) 75%

Class leadership – summarizing reading and engaging class once during the term 10%

Class participation including regular conversations with a journal partner on resilience/balance goals and at least one meeting each month. 15%

A **paper** should be done on a topic related to the course themes. The paper should include the following components:

- Research paper (17-20 pages) in a scholarly style
- Journal summary with goals related to balance/resilience and a reflective account of relevant experiences (6-8 pages)

Resilience goals will be discussed in class. Each student will be invited during our first class meeting to choose a goal related to wellbeing or resilience to focus on during the term. They will also choose a partner (or partners) with whom to exchange regularly about the process of setting resilience goals, monitoring progress, and reflecting on barriers and breakthroughs. Journals are encouraged to record/note progress and set-backs. A

reflective paper of 6-8 pages is due with the final research paper that includes some of the following:

- goal or goals selected, and reason for choice
- process of implementing new practice/habit/activity
- milestones or guideposts to gauge progress
- vehicles for reflection and monitoring progress
- mode of exchange with partner
- interim and end of term results
- reflections on how personal change is best achieved (this will be different for each person)

Note: You are not required to hand in journal entries, only a reflection on the change process itself.

Paper deadline: 26 November by 9:30am. Papers may be emailed to me.

Class participation and leadership: Class members are expected to participate actively in all class activities and dialogues, and to lead discussion one day during the term for no longer than 45 minutes. Please use creative ways to engage the class!

Notes on class process: This class requires and depends on participation from every one. Participating actively means completing readings, preparing questions arising from the readings and engaging with others in discussion. As in the practice of law or other law-related careers, participants have responsibility as members of this learning community to do advance work, show leadership and engage with others in constructive and collaborative ways. Given our unusual online format, flexibility will be important. If you are unable to attend class on a given day, please let me know in advance.

We will engage in a mid-term evaluation to check in on our progress as a learning community. Participants are encouraged to give feedback or make suggestions about the course process at any time.

Netiquette guidelines for communication and participation (in case classes are done virtually):

- Please remember to practice respect and inclusivity, both in large or small group discussions and in chat.
- Please do not post or share (even privately) inappropriate material
- Once our Zoom session starts, please use the chat function for material related to the class only.
- Please login to the session on time. Being on time not only contributes to functionality of our class; it communicates respect to your fellow students and to me, and enhances our learning experiences.
- Please mute your microphone when you are not speaking, and have your camera on by default unless you have an accommodation relating to these norms.

Policies: The course assignment must be completed and submitted electronically by 9:30am on 26 November as noted above. Extensions for the major research paper must be sought in writing from the Examinations Committee of the Faculty of Law. The following policy on late work has been adopted by the faculty:

The rule for deducting marks applies when the student concerned submits an assignment late and does not have permission from the Examinations Committee to submit the assignment at that time. For each or any part of a day that the assignment is late, including weekends and statutory holidays and other days when the law school is closed, the student will lose 5% of the maximum possible value of the assignment for the first day or part of a day that the assignment is late and an additional 2% for each subsequent day or part of a day.

Students are referred to university rules governing [honesty and academic conduct](#):

This course will be graded according to standard Faculty of Law [grading rules and practices](#)

Academic honesty is governed by the policy found [here](#).

CLASS ATTENDANCE AND PARTICIPATION

Regular class attendance and advance reading of materials is expected of all students. The course will be taught through a combination of lectures and discussions that will be meaningful in direct proportion to your degree of preparation and engagement. Absence from more than three classes without excuse will disqualify you from submitting the final assignment.

COURSE MATERIALS REQUIRED READING

The following books are required:

Macfarlane, Julie. *The New Lawyer, Second Edition. How Clients are Transforming the Practice of Law.* Vancouver: UBC Press, 2017.

Susskind, Richard. *Online Courts and the Future of Justice.* Oxford University Press, 2021. [Available in paperback imminently. Now available in hard cover from online booksellers]

Materials other than the two above texts are available online without charge; each course participant will read and summarize assigned articles for the class. Below is a list from which class members may choose a presentation focus. Some of these articles are assigned reading for class. Others are not, but are useful resources for specific aspects of our topic. Articles not listed here may be chosen by class members to support their presentations; these choices should be cleared with me in advance.

ABA National Task Force on Lawyer Well-being. [Creating a Movement to Improve Well-being in the Legal Profession; And the final report on this initiative:](https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportFINAL.pdf)
<https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportFINAL.pdf>. See also these ABA resources on the T-shaped Lawyer:
https://www.americanbar.org/publications/law_practice_magazine/2014/july-august/the-21st-century-t-shaped-lawyer.html; <http://www.slaw.ca/2017/11/03/the-t-shaped-lawyer-successful-skills-and-abilities-of-current-and-future-lawyers/>

Abel, Richard. "What *Does* and *Should* influence the Number of Lawyers? Draft article for a symposium on the topic "Too Many Lawyers," *International Journal of the Legal Profession*, 19, (2-3) 2012, 131-146. Available at [Heinonline](#).

Access to Justice (A2J) www.accesstojusticebc.com. See also the website for last year's week-long events and other resources: <http://www.a2jweekbc.ca/>

Adler, Peter. 2009. "[The End of Mediation. A Ramble on Why the Field Will Fail and Mediators Will Thrive over the Next Two Decades.](#)"

Alarie, Benjamin, Anthony Niblett and Albert H. Yoon. "[How Artificial Intelligence Will Affect the Practice of Law.](#)" *University of Toronto Law Journal*, Volume 68, Issue supplement 1, January 2018, pp. 106-124.

American Bar Association. *The New Normal*. American Bar Association Journal Legal Rebels. Choose three articles from this [site](#).

Black Dog Institute. [Resilience@Law Legal Profession Mental Health Toolkit](#).

British Columbia Family Justice Innovation Lab: www.bcfamilyinnovationlab.ca

Canadian Bar Association: "[Seven Wonders of the World: The Future for Lawyers](#)"

CBA *Legal Futures Initiative* publication:

[Futures: Transforming the Delivery of Legal Services in Canada](#)

See also this 2019 CBA presentation:

<https://www.cbabc.org/BarTalk/Articles/2019/August/Columns/Gillian-Hadfield>

and these resources:

<https://www.cbabc.org/Publications-and-Resources/Lawyer-Wellness/Mental-Psychological-Wellbeing>

Centre for Integrative Law, South Africa. Short film on *Conscious Contracts*. Access on [Youtube](#)

Chemerinsky, Erwin and Carrie Menkel-Meadow. "[Don't Skimp on Legal Training](#)"

Daicoff, Susan Swaim. "[Law as a Healing Profession: The Comprehensive Law Movement](#)." *Pepperdine Dispute Resolution Law Journal*, Fall 2005; NYLS Clinical Research Institute Paper No. 05/06-12. SSRN.

Davis-Laack, Paula. "[What Resilient Lawyers Do Differently](#)". *Forbes*, September 16, 2017.

Diamond, Louise. 1996. "[The Heroic Journey of Social Change](#)."

Dias, David. [Richard and Daniel Susskind on the Future of Law](#).

Furlong, Gary. [on pressures from corporate clients]: [Law is a Buyer's Market: Building a Client-First Law Firm](#) ; Blog - <https://www.law21.ca/blog/>

Garcia, Fernando. "[The T-Shaped Lawyer: Successful Skills and Abilities of Current and Future Lawyers](#)." In *Slaw. Canada's Online Legal Magazine*. 2017

Gruber, Howard E., "Creativity and Conflict Resolution: The Role of Point of View" In M. Deutsch & P. T. Coleman (Eds.), *The Handbook of Conflict Resolution: Theory and Practice* (pp. 345-354). San Francisco, CA, US: Jossey-Bass.
Available on [PsycINFO](#) Also available at [UBC Library](#) to read online.

Human-centred design: <http://www.margarethagan.com/>; <https://www.openlawlab.com/>

Indigenous Law resources: See:

<https://www.uvic.ca/law/about/indigenous/indigenouslawresearchunit/index.php>

<https://reconciliationsyllabus.wordpress.com/> (UVic Law Professor Rebecca Johnson's blog on TRC-inspired materials relevant to law)

See also

- Emily Snyder, Val Napoleon and John Burrows, "[Gender and Violence: Drawing on Indigenous Legal Resources](#)" (2015) 48(2) *UBC Law Review*, 593-654.
- Val Napoleon and Hadley Friedland, "[An Inside Job: Engaging with Indigenous Legal Traditions through Stories](#)" (2016) 61(4), *McGill Law Journal*, 725-754.

Kriesberg, Louis. "[The State of the Art in Conflict Transformation](#)"

Lande, John. "The Law Can be Hazardous to your Health"
<http://indisputably.org/2019/11/the-law-can-be-hazardous-to-your-health/>

Law Society of BC Task Force on Mental Health, Second Interim Report.
<https://www.lawsociety.bc.ca/Website/media/Shared/docs/initiatives/MentalHealthTaskForce-SecondInterimReport2020.pdf>

LexisNexis Leadership Series: [The Future of Law \(2013\)](#).

Lippe, Paul and Jeremy Paul. "[Brain Surgeon Lawyering in Crises Isn't Enough](#)" ABA Legal Rebels.

Mackey, Eva. "[Unsettling Expectations: \(Un\)certainly, Settler States of Feeling, Law, and Decolonization](#)." *Canadian Journal of Law and Society / Revue Canadienne Droit et Société* / Volume 29 / Special Issue 02 / August 2014, pp 235 – 252.

Menkel-Meadow, Carrie. "[Portia in a Different Voice: Speculations on a Woman's Lawyering Process](#)." *Berkeley Journal of Gender, Law and Justice*, 1(1).

Menkel-Meadow, Carrie. Pioneer Series: Value-Based Mediation – [Video](#).

Menkel-Meadow, Carrie. [Megatrends in Law](#). Keystone Conference, Colorado, 2006.

Menkel-Meadow, Carrie. "Mediation 3.0: Merging the Old and the New. *Asian Journal on Mediation*, 2018, 1-20. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3312971

Mitchell, Christopher. "[Beyond Resolution: What does Conflict Transformation Actually Transform?](#)"

Nader, Laura. "[Controlling Processes in the Practice of Law: Hierachy and Pacification in the Movement to Re-Form Dispute Ideology](#)" 9 *Ohio St. J. on Disp. Resol.* 1993.

Online Dispute Resolution. For a historical summary, see
<http://darinthompson.ca/about/the-growth-of-online-dispute-resolution-and-its-use-in-british-columbia/>.

See also episodes 2 and 5 of: <http://darinthompson.ca/podcast/>

Regan, Paulette, "[Decolonizing Dialogues and Historical Conflicts](#)" 2006.

[Report of the American Bar Association Task Force on the Future of Legal Education](#)

Riskin, Leonard L. [“The Contemplative Lawyer: On the Potential Contributions of Mindfulness Mediation to Law Students, Lawyers, and their Clients”](#) 7 Harvard Negotiation Law Review 1 (Spring 2002).

Sheldon, Kennon M. and Lawrence S. Krieger. [“Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-being.”](#) *Behavioral Sciences and the Law* 22:261-286 (2004).

Susskind, Richard. *Tomorrow’s Lawyers: An Introduction to Your Future*, second edition. Oxford University Press, 2017.

Talley, EL. “Is the Future of Law a Driverless Car? Assessing How the Data Analytics Revolution will Transform Legal Practice. *Journal of Institutional and Theoretical Economics* 174(1): 183-205, 2018.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3064926

The Law Society of BC: [Unbundling Legal Services](#).

Websites: Unbundling Law: www.unbundling.ca;
<https://www.courthouselibrary.ca/connect-collaborate/family-law-unbundling-toolkit>;
www.unbundlinglaw.ca

Wright, J. Kim and Peter Block. [“The Integrative Law Movement: An Introduction”](#)
See also J Kim Wright interviewed by MaryLynn Schiavi on *Pro Se Nation*: [“Can Lawyers be Peacemakers?”](#)

RECOMMENDED READING

Harper, Steven J. *The Lawyer Bubble: A Profession in Crisis*. New York: Basic Books, 2013.

Kowalski, Mitchell E. *Avoiding Extinction: Reimagining Legal Service for the 21st Century*. Chicago: American Bar Association, 2012.

Kronman, Anthony. *The Lost Lawyer. Falling Ideals of the Legal Profession*. Cambridge, MA: The Belknap Press of Harvard University, 1993.

Sarra, Janis P. Ed. *Fairness: Interdisciplinary Inquires in Law, Science and the Humanities*. Toronto: Carswell, 2013.

Silver, Marjorie Ann. *The Affective Assistance of Counsel: Practicing Law as a Healing Profession*. Carolina Academic Press, 2006.

Sommerlad, Hilary, Sonia Harris-Short, Steven Vaughan and Richard Young (eds.) *The Futures of Legal Education and the Legal Profession*. London: Hart Publishing, 2015.

Wright, J. Kim. *Lawyers as Peacemakers: Practicing Holistic, Problem-Solving Law*. Chicago: American Bar Association, 2010.

CLASS SCHEDULE

- September 7** **Introduction to course: Legal Practice: The Past, and Why Resilience Matters**
- Reading:** ABA National Task Force on Lawyer Well-being. [Creating a Movement to Improve Well-being in the Legal Profession.](#)
- Black Dog Institute. [Resilience@Law Legal Profession Mental Health Toolkit.](#)
- Davis-Laack, Paula. [“What Resilient Lawyers Do Differently”](#). *Forbes*, September 16, 2017.
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- September 14** **Mental Health and the Law in British Columbia**
- Reading:** Attend Mental Health Forum for Legal Professionals, LSBC and BC Continuing Legal Education. 9:00-12:30 webinar. Registration is free at store.cle.bc.ca
- Please also explore the web resources from the CBA at <https://www.cba.org/Sections/Wellness-Subcommittee>
- Note:** This session will serve as our class time for this date. No in-class meeting will be held.
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- September 21** **Resilience and Legal Education**
- Reading:** Chemerinsky, Erwin and Carrie Menkel-Meadow. [“Don’t Skimp on Legal Training”](#)
- [Report of the American Bar Association Task Force on the Future of Legal Education](#)
- Sheldon, Kennon M. and Lawrence S. Krieger. [“Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-being.”](#) *Behavioral Sciences and the Law* 22:261-286 (2004).
- Guest speaker:** **Anna Kline, Student Wellbeing Counsellor, Allard Law**
- ABA Legal Rebels.
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- October 5** **Future Studies and the Law 2.0**
- Reading:** Alarie, Benjamin, Anthony Niblett and Albert H. Yoon. [“How Artificial Intelligence will affect the Practice of Law.”](#) *University of*

Toronto Law Journal, Volume 68, Issue supplement 1, January 2018, pp. 106-124.

Dias, David. [Richard and Daniel Susskind on the Future of Law](#)

Centre for Integrative Law, South Africa. Short film on *Conscious Contracts*. Access on [Youtube](#)

Guest speaker: **Joshua Lenon, Lawyer in Residence, CLIO**
**Room 335

October 7
Make-up class

[12:30-1:45, room 112]

The Future of Legal Practice in Canada and Beyond

Reading: Canadian Bar Association: [“Seven Wonders of the World: The Future for Lawyers”](#)

CBA *Legal Futures Initiative* publication:
[Futures: Transforming the Delivery of Legal Services in Canada](#)

Abel, Richard. “What *Does* and *Should* influence the Number of Lawyers? For a symposium on the topic “Too Many Lawyers,” *International Journal of the Legal Profession*, 19, (2-3) 2012, 131-146. Available at [Heinonline](#).

LexisNexis Leadership Series: [The Future of Law](#)

Lippe, Paul and Jeremy Paul. [“Brain Surgeon Lawyering in Crises Isn’t Enough”](#)

October 12 **The New Normal**

Reading: ABA Journal. *The New Normal*. American Bar Association Journal
Legal Rebels.
Choose three articles from this [site](#).

Garcia, Fernando. [“The T-Shaped Lawyer: Successful Skills and Abilities of Current and Future Lawyers”](#).

October 19 **Client-centred Change**

Reading: Macfarlane, Julie. *The New Lawyer, Second Edition. How Clients are Transforming the Practice of Law*. Vancouver: UBC Press, 2017.

Please also listen to one episode from this podcast series:
<https://representingyourselfcanada.com/podcast/>
and this blog: <https://btlbooks.com/blog/view/if-you-stay-quiet>

and consider reading this recommended (optional) book (available as e-book): <https://btlbooks.com/book/going-public>

Guest speaker: **Dr. Julie Macfarlane, Emerita Distinguished University Professor, University of Windsor Faculty of Law**
**Room 335

October 26 **Where Might Disputes Go? Online Courts and the Law**

Reading: Susskind, Richard. *Online Courts and the Future of Justice*. Oxford University Press, 2021 (first half)

November 2 **Access to Justice: Doing Law Differently Online Dispute Resolution**

Reading: The Law Society of BC: [Unbundling Legal Services](#)

Online Dispute Resolution:
<http://darinthompson.ca/about/the-growth-of-online-dispute-resolution-and-its-use-in-british-columbia/>. See also episodes 2 and 5 of: <http://darinthompson.ca/podcast/>

Susskind, Richard. *Online Courts and the Future of Justice*. Oxford University Press, 2021 (second half)

November 9 **Conflict Transformation: Rethinking Legal Problem-Solving**

Reading: Adler, Peter. 2009. "[The End of Mediation. A Ramble on Why the Field Will Fail and Mediators Will Thrive over the Next Two Decades.](#)"
<http://www.mediate.com/articles/adlerTheEnd.cfm?nl=209#>

Menkel-Meadow, Carrie. "Mediation 3.0: Merging the Old and the New. *Asian Journal on Mediation*, 2018, 1-20.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3312971

Menkel-Meadow, Carrie. Pioneer Series: Value-Based Mediation – [Video](#).

Mitchell, Christopher. "[Beyond Resolution: What does Conflict Transformation Actually Transform?](#)"

Guest speaker: **Dr. Peter Adler, mediator specialised in multi-party negotiation**
**Room 335

November 16 **Doing Law Differently 2.0: Integrative Law and other Movements**

- Reading:** Daicoff, Susan Swaim. "[Law as a Healing Profession: The Comprehensive Law Movement.](#)" *Pepperdine Dispute Resolution Law Journal*, Fall 2005; NYLS Clinical Research Institute Paper No. 05/06-12. SSRN.
- Wright, J. Kim and Peter Block. "[The Integrative Law Movement: An Introduction](#)"
[See also J Kim Wright interviewed by MaryLynn Schiavi on *Pro Se Nation*: "[Can Lawyers be Peacemakers?](#)"]
- Riskin, Leonard L. "[The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and their Clients](#)" 7 *Harvard Negotiation Law Review* 1 (Spring 2002).
- Guest speakers:** **Ali Wake and Darin Thompson, BC Civil Resolution Tribunal**
**Room 335
- November 23** **Legal Futures: Law, Society and Changing Settler-Indigenous Relations**
- Reading:** Borrows, John. Lecture on Indigenous Law.
<https://www.youtube.com/watch?v=axpw2FRt0ac&t=2s>
- Mackey, Eva. "[Unsettling Expectations: \(Un\)certainty, Settler States of Feeling, Law, and Decolonization.](#)" *Canadian Journal of Law and Society / Revue Canadienne Droit et Société* / Volume 29 /Special Issue 02 / August 2014, pp 235 – 252.
- Guest speaker:** **Lee Schmidt, Associate Director Indigenous Legal Studies, Allard Law**
**In usual classroom, room 112
- Note: November 23 class extended to 1:30pm including** lunch, synthesis, reflections and future predictions in lieu of final class on November 30.