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*A*t every single moment
of one's life one is what one is
going to be no less than what
one has been.

– Oscar Wilde, *De Profundis*





several years ago, I wrote a piece for the *Bar-O-Meter*, the Wichita Bar Association's excellent monthly newsletter, entitled "A Different Kind of View from the Bench."

The column was directed toward practicing lawyers who were experiencing little or no joy in their work, encouraging them to look at other possibilities holding more promise for finding fulfillment. As this issue of *The Washburn*

Lawyer so beautifully establishes, a legal education can expand career possibilities exponentially. And as you will see in the pages that follow, true success frequently follows passionate interest.

To a large extent, this piece is a rework of the *Bar-O-Meter* column. It may be shorter; with each day that passes I know less than I did, but the theme is the same. The world is filled with opportunities for those who are open to them, for those who either find or create a different path.

The profiles which follow are particularly timely. I sense not only a growing discontent, but frustration and despair with the state

of the practice among too many members of the practicing bar. Some see it as an institutional problem which we must address as a profession, but as is the case with so many of our issues, institutional problems affect one person at a time and an institutional answer rarely helps any individual.

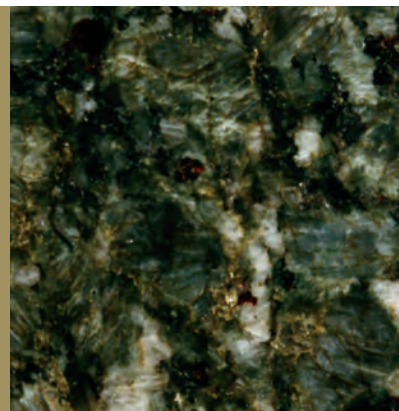
Or as Tom Robbins notes in *Still Life With Woodpecker*, "Equality is not in regarding different things similarly, equality is in regarding different things differently." So be it. And some individual encouragement to our brothers and sisters is appropriate.

A Different Kind of View From the Bench

■ by The Honorable J. Thomas Marten '76
United States District Court



A Different Kind of View From the Bench



While there are several causes for the level of professional dissatisfaction, my personal candidate for the chief cause is that too many lawyers are square pegs trying to fit into round holes. In other words, there are a lot of lawyers who: 1) went to law school because they did not know what they wanted to do with their lives at that particular point; 2) recognized law is an honorable and noble profession carrying a certain prestige (notwithstanding public opinion polls) coupled with the prospect of making a comfortable living; 3) spent three or more years studying, thousands of dollars on tuition and books, and experienced the agony of taking a bar examination; 4) feel that he or she must take a place in the profession as a result of this investment of time, energy and money; and 5) feel that to seek work unrelated to law initially or after finding out he or she is simply miserable in a legal position is worse than a waste of that education — it is failure. These folks feel that they are locked into lifestyles that cannot be downsized without a loss of face, have financial commitments that require a certain level of income only a successful law practice can provide, and adhere to the notion that with just that one bell-ringer, every problem will be solved.

How could anyone buy into that nonsense for a moment? To seek happiness in your work is not only not failure; it is the necessary first step to professional fulfillment. And to find that happiness, wherever it may be, is the absolute pinnacle of success.

Some of us have found a stimulating and satisfying niche within the legal profession. Most judges I visit with feel blessed in their positions. I wish every member of the practicing bar generally could find the same level of contentment in her or his work.

I do not want to overstate the case, but far too many practitioners receive little or no daily nourishment from the practice of law. In fact, they find it depletes their ability to find joy from other sources, placing a serious strain on family relationships and friendships. There certainly are easier, less stressful ways of earning the typical lawyer's living. Yet these good people, these hard-working souls persevere, hoping against hope that something will happen that makes the practice bearable, if not pleasant.

This just does not have to be. Consider how many persons with law degrees have found fulfillment and joy in teaching (and not necessarily at a law school), in business, in politics and public service, in charities, in the ministry, in journalism

(print or broadcast), in the sports world, in entertainment, in school administration, in just about any endeavor one can imagine. One lawyer I met a few years ago in New Mexico actually took a few years off to be an over-the-road trucker. His marriage, which was unraveling, was restored, and so was his interest in the law. He now has a successful small-town practice.

While citing as examples well-known persons who have found great success outside of the profession can be misleading, particularly given the magnitude of that success, it does remind us that there are persons who were willing to take risks to achieve happiness and fulfillment. One of the foremost examples is our fellow Washburn Law alumnus, Bill Kurtis (former news anchor in Chicago, former co-host of “CBS Morning News,” currently making documentaries as well as television pro-



grams like “American Justice” on A&E). Mr. Kurtis had been hired by a law firm in Wichita when he decided to opt for a career in broadcast journalism following the 1966 Topeka tornado.

In the entertainment business, David E. Kelley (co-creator of “L.A.

Law,” and creator of “Chicago Hope,” “The Practice,” and “Ally McBeal”) practiced law in Boston before deciding to write and create for television. Actor Dabney Coleman went to law school. Librettist/lyricist Oscar Hammerstein II attended law school for a period of time, before following his muse into the musical theater.

Phil Graham, who had been a law clerk to Associate Justice Felix Frankfurter at the United States Supreme Court,

went on to publish the *Washington Post*. Howard Cosell was a lawyer. Fred Graham is a lawyer who went on to work as a news correspondent. Scott Turow, John Grisham, Richard North Patterson, Philip Friedman, and Steve Martini are a handful of the lawyers who are now best-selling writers. Numerous lawyers are clerks of courts, probation officers and

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occupy other administrative positions within the system. By any measure, how could any of these folks be considered failures?

How do you feel when you leave the office at the end of most days? Are you tired but happy, feeling that you have done something important for your clients? Or do you feel beaten down and wonder how you will get out of bed tomorrow morning to face another day like this one has been?

No job is right for everyone, and, while the law is a profession, the day-to-day practice is a job. It can have enormous tangible and intangible rewards, but it also has the ability to beat down the brightest, most caring, and creative practitioners who cannot find joy in the client demands, time pressures, billing pressures, and this particular kind of legal environment. What torture could be

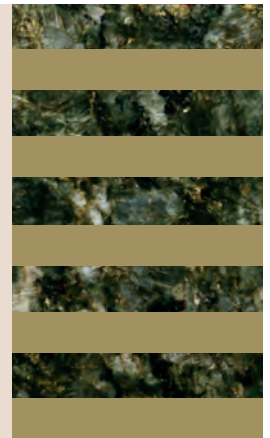
worse than finding no joy in work?

If you practice law, do it because it is a source of joy. Practice law because it feeds your soul. Practice law because you have a need to practice, a burning desire to practice. Practice law because you are driven by the positive goals of our legal system — to provide excellent legal services to clients, to remedy injustice by seeking true justice, to achieve fairness in disputes, to uphold the principles of our Constitution. To practice simply because one does not know what else to do reflects a suppressed imagination at best, and borders on a form of indentured servitude at worst. Or maybe it is the other way around.

It has now been several years since I heard this poem for the first time. It speaks beautifully to a life lived without taking chances:

**I have studied many times
The marble which was chiseled for me —
A boat with a furled sail at rest in a harbor.
In truth it pictures not my destination
But my life.
For love was offered me and I shrank from its disillusionment;
Sorrow knocked at my door, but I was afraid;
Ambition called to me, but I dreaded the chance.
Yet all the while I hungered for meaning in my life.
And now I know that we must lift the sail
And catch the winds of destiny
Wherever they drive the boat.
To put meaning in one's life may end in madness,
But life without meaning is the torture
Of restlessness and vague desire —
It is a boat longing for the sea and yet afraid.**

“George Gray” from *Spoon River Anthology*, by Edgar Lee Masters
(lawyer and law partner of Clarence Darrow)



A Different Kind of View From the Bench

And returning to our old friend Tom Robbins in *Still Life With Woodpecker* again:

How can one person be more real than any other? Well, some people do hide and others seek. Maybe those who are in hiding — escaping encounters, avoiding surprises, protecting their property, ignoring their fantasies, restricting their feelings, sitting out the Pan

pipe hootchy-kootch of experience — maybe those people, people who won't talk to rednecks, or if they're rednecks won't talk to intellectuals, people who're afraid to get their shoes muddy or their noses wet, afraid to eat what they crave, afraid to drink

Mexican water, afraid to bet a long shot to win, afraid to hitchhike, jaywalk, honkey-tonk, cogitate, osculate, levitate, rock it, bop it, sock it, or bark at the moon, maybe such people are simply in authentic, and maybe the jackleg humanist who says differently is due to have his tongue fried on the hot slabs of Liar's Hell. Some folks hide, and some folks seek, and seeking, when it's mindless, neurotic, desperate, or pusillanimous can be a form of hiding. But there are folks who want to know and aren't afraid to look and won't turn tail should they find it — and if they never do, they'll have a good time anyway because nothing, neither the terrible truth nor the absence of it, is going to cheat them out of one honest breath of earth's sweet gas.

It is my great hope that every person can find meaning and joy in his or her work, to be the seeker Tom Robbins speaks of. The persons profiled in this issue certainly are.

Too many lives end prematurely. Some of those lives were happy; some were not. Those that were not might have been but for a lack of courage to seek, staying instead within the safe confines of what was familiar. You are not bound to a life of frustration and discontent. I truly believe it is not the length, but the depth of one's life that is paramount.

To have a life of depth, you must know joy. Seek your joy, or as Joseph Campbell says, "Follow your bliss" wherever it may lie.

A wonderful friend, and the most courageous person I have ever known, Rhonda Wise Holman, died February 4, 2000, at the age of 39. More than ten years ago, as she was battling the cancer that ultimately claimed her life (but never her spirit), Rhonda wrote, "It is easy to take life for granted. The challenge is to create a world one doesn't want to leave."

That is the story of each person you will read about here. And the inspiration each provides.

