Professing Professionals: Christian Pilots on the River of Law

Daniel O. Conkle

Indiana University Maurer School of Law, conkle@indiana.edu

Follow this and additional works at: http://www.repository.law.indiana.edu/facpub

Part of the Legal Ethics and Professional Responsibility Commons, Legal Profession Commons, and the Religion Law Commons

Recommended Citation
http://www.repository.law.indiana.edu/facpub/518
PROFESSING PROFESSIONALS:
CHRISTIAN PILOTS ON THE RIVER OF LAW

DANIEL O. CONKLE

"We are the pilots on the river of law," writes Lee Modjeska, "that is our raison d'être." Modjeska offers an eloquent and powerful characterization of the lawyer's professional role, complete with a telling personal anecdote:

Subject to the limitations established by the riverbank (law), the client's cause must be our cause, and our passion safe journey for the client. Whatever our particular gods decree on the moral rightness or wrongness of the client's cause, the law is our talisman.

... [I]s "moral dialogue ... the essence of the law office conversation". ...? Oh my goodness, not in my thirty years at the bar.

---

* Professor of Law and Nelson Poynter Senior Scholar, Indiana University, Bloomington. This Article grows out of my participation in a seminar on Religion, Morality, and the Professions in America (RMPA). Sponsored by the Lilly Endowment and by Indiana University's Poynter Center for the Study of Ethics and American Institutions, RMPA drew together fifteen scholars from various universities and various academic fields. During the course of the seminar, I presented my research and preliminary drafts on several occasions. I also presented a draft of this Article at the 1996 Annual Meeting of the Association for Practical and Professional Ethics.

I am enormously grateful to the Lilly Endowment and the Poynter Center for sponsoring RMPA and to my fellow participants in the seminar for their advice and support. I also am indebted to the lawyers who participated in the interviews on which this Article relies. Finally, I wish to thank Robert F. Cochran, Jr., Deborah W. Conkle, and Thomas L. Shaffer for their helpful comments.

... Although I would certainly counsel legality, I would not counsel righteousness. I would not advise [clients] to go and sin no more. Nor would my professional retainer encompass such a pastoral role.

... An anecdote illustrates my point. My counsel was recently sought in a major corporate relocation entailing potential displacement of several thousand employees. The shutdown was planned for Christmas Eve (seriously), and because of age and other considerations the majority of the work force would experience substantial difficulty in obtaining reemployment. Certainly timing affected emotions and therefore relocation practicalities, just as potential unemployability affected severance pay negotiations. My observations went further, however, and I briefly lamented the “moral” improprieties involved. My value judgments were greeted with stony disapproval, then disregard—and rightly so. My lapse in professional self-restraint was inappropriate; I exceeded the scope of both my retainer and my skill and rendered suspect the objectivity and therefore quality of my legal counsel. Again, we are pilots, not gods.

Lee Modjeska’s characterization of the lawyer’s role is the predominant viewpoint of the legal profession. According to this school of thought, the lawyer’s role is “legal” and “objective.” A lawyer’s moral values are not only irrelevant, but are in fact potentially harmful to his or her professional undertaking, because they might distract the lawyer from the relevant legal considerations and therefore interfere with his or her dispassionate pursuit of the client’s cause. Like their overcoats and umbrellas, lawyers should shed their moral commitments when they arrive at the office, and leave them in the closet until their workday is complete.

Although this is the dominant understanding of the legal profession, it is not the only understanding. Timothy Ward, for

---

1 Modjeska, supra note 1, at 72-73 (quoting Swygert, supra note 1, at 814).
2 See id. at 72 (stating that “[e]ffective legal representation demands objectivity”).
3 See id. at 73 (asserting that “[i]nvolvelement that obscures or interferes with the lawyer’s specialized function is . . . improper and antithetical to the objectivity essential for effective legal representation”).
4 Modjeska does suggest that lawyers can permissibly rely on their personal values in choosing to align themselves with particular clients or causes, as long as their legal objectivity is not unduly impaired. But he adds that “consensual involvements” of this sort “are poles apart from unsolicited proselytization.” Id.
5 Timothy Ward is the pseudonym of one of the attorneys interviewed for this Article. See infra notes 13-14.
instance, categorically rejects the dominant view. Indeed, Ward hangs his moral commitments not in the closet, but on his office wall, where he proudly displays his “Pledge of a Christian Attorney.” Ward’s understanding of his professional role, as reflected in his pledge, is worlds apart from the understanding of Lee Modjeska:

As a redeemed child of God, who has chosen to serve Him through the practice of law and who desires to integrate that practice with my faith, I hereby pledge, with the help of God:

... To actively strive towards leading others, especially clients and other members of my profession, to a personal faith in Jesus Christ as Lord and Savior;

... To see my work as a theatre for the glory of God—

by seeking excellence in all that I do so that my actions testify my beliefs to others,

by maintaining integrity in my practice as more important than the case, cause, or client and to display courtesy and manners at every opportunity,

by exhibiting courage and undertaking personal risk for the sake of advancing the Gospel without regard to public reception,

by seeking more from my client and myself than the legal system alone can provide either of us;

To be a servant to my client—

by viewing him as worthy of my time because God has also redeemed him,

by ministering to him as part of my legal representation of him,

by seeking a moral discourse with him in which both of us are open to change, risk, and vulnerability,

by working to free him to choose to serve and to choose to do the right thing;

To be an advocate—

who views advocacy as a form of moral witness, conducted in the name of justice, that seeks to reconcile competing or adverse interests in a peaceful and constructive manner,

who is unbiased and forceful on behalf of my client,
who is candid to the court at all times,
who is unapologetic about what I believe while respecting the
dignity of my opponents,
who bases all positions and arguments on principles and not
power.

After study and reflection, Ward composed this pledge while
still in law school; as a practicing lawyer, he now struggles to
honor its provisions. Ward views his professional role as not
merely legal, but also pastoral. As a lawyer, he is not objective,
but morally partisan. He is an advocate not only for his clients,
but also, in effect, for Jesus Christ and the Christian Gospel.

The American legal profession is under continuing and in-
creasing attack—not only from outside, but also from within. A
recent report of the American Bar Association, for example, de-
cries the decline of professionalism among lawyers. The report
catalogues a variety of problems, including not only incompe-
tence, ethical violations, and adversarial excesses, but also a de-
terioration in the traditional counseling role of lawyers, “the loss
of an understanding of the practice of law as a ‘calling,’” and “a
growing sense of dissatisfaction with law practice as being in-
compatible with personal values and goals.” The American legal
profession is in crisis, a crisis that is closely related to lawyers’
professional self-understanding. If this crisis is to be resolved,
lawyers may need to move beyond the professional model that
currently predominates. They may need to embrace—or at least
consider—alternative models of professional life and practice.

Lawyers who reject the idea of legal objectivity in favor of
their “particular gods” exemplify such alternative models. As
Lee Modjeska has argued, these alternative models may frus-

7 See, e.g., Stuart M. Wise, Lawyers Get Bashed Again, N.Y.L.J., Dec. 29, 1995,
at 6 (discussing an ABC News Special, “The Trouble With Lawyers,” which pre-
sented negative aspects of the American legal profession); Carl M. Selinger, The
Public Interest in Preserving the Dignity and Unity of the Legal Profession, 32 WAKE
FOREST L. REV. 861, 867-71 (1997) (discussing the decline of public respect for the
legal profession).
8 AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS
to the Bar, Teaching and Learning Professionalism: Report of the Pro-
fessionalism Committee 2-5 (1996).
9 Id. at 3-4.
10 For two recent and important books addressing this crisis, see MARY ANN
GLENDON, A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION
IS TRANSFORMING AMERICAN SOCIETY (1994); ANTHONY T. KRONMAN, THE LOST
trate certain professional values and goals. At the same time, however, they may permit lawyers to serve their clients in additional or different ways, and they may permit the lawyers themselves to live richer and more integrated lives. As a result, these alternative models at least are worthy of examination.

One particular type of alternative model is that of Christian lawyers. By Christian lawyers, I mean lawyers who not only identify themselves as Christians, but who view their Christianity as relevant or important to their professional self-understanding or professional practice. In fact, of course, there is no single model of Christian lawyers. Just as there are many types of Christianity, there are many types of Christian lawyers, and their religious understandings influence their professional lives in diverse ways.

In this Article, I investigate a particular subgroup of Christian lawyers: those who have publicly linked their religious and professional identities; that is, those who have openly identified themselves as “Christian lawyers.” As the basis for this investigation, I conducted in-depth interviews with ten lawyers, in-

---

11 See Modjeska, supra note 1, at 72-73.

12 In his recent book, Professor Joseph G. Allegretti adapts the typology of H. Richard Niebuhr's CHRIST AND CULTURE (1951) and uses it to examine a variety of approaches that Christian lawyers might employ in balancing their religious and professional obligations. See JOSEPH G. ALLEGRETTI, THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE 7-23 (1996). Building on Niebuhr's final model, "Christ the Transformer of Culture," Allegretti urges Christian lawyers to adopt a lawyering model of "Christ Transforming the Code." See id. at 21-23, 125-27.


So, too, may lawyers of other faiths be influenced by their religious understandings. For a series of interesting personal accounts by lawyers of various religious traditions, both within and outside Christianity and Judaism, see Faith and the Law Symposium, 27 TEX. TECH. L. REV. 911 (1996).

13 I invited ten lawyers to participate, and, somewhat to my surprise, all of them agreed to be interviewed. Most of the interviews were two-and-a-half to three hours in length; the shortest interviews were two hours, and the longest three-and-a-half. Some of the lawyers, including Timothy Ward, also provided me with relevant written material. During the interviews, I asked open-ended questions that were designed to permit the lawyers to describe their religious beliefs and commitments and how they related to their professional lives as practicing lawyers. Each interview developed differently, concentrating on those topics that seemed of most interest to the lawyer and of most potential significance to me.
cluding Timothy Ward,\textsuperscript{14} who have at one time or another identified themselves professionally as Christians—typically, by becoming members of the Christian Legal Society.\textsuperscript{15} Perhaps as a by-product of this selection criterion, the interview group is dominated by lawyers whose religious understandings are relatively conservative. Even so, they represent a range of theological perspectives, and they understand their professional lives and structure their professional practices in diverse ways. I make no claim that these ten lawyers are “representative”—either of Christian lawyers in general or of the subgroup on which I have focused. Rather, I present them for their own sake, as individuals who lead interesting professional lives and who offer important insights into the potential relationship between Christianity and the practice of law.

The lawyers I interviewed work in diverse settings.\textsuperscript{16} Eight are in private practice; of these, four primarily serve business clients, and the other four primarily serve individuals. One is a government lawyer, and another heads a pro bono organization.

\textsuperscript{14} Each of the ten lawyers, including Timothy Ward, is identified by pseudonym. Most of the ten would gladly have been identified by name, at least with respect to most of their comments during the interviews. To help ensure candor, however, I promised each lawyer that he or she would be identified only by pseudonym and that I otherwise would attempt to camouflage his or her identity to the extent that that lawyer deemed it necessary or appropriate.

\textsuperscript{15} Prospective members of the Christian Legal Society are asked to sign the following “Statement of Faith”:

\begin{quote}
  Trusting in Jesus Christ as my Savior, I believe in:
  1. One God, eternally existent in three persons: Father, Son, and Holy Spirit.
  2. God the Father Almighty, Maker of heaven and earth.
  3. The Deity of our Lord, Jesus Christ, God’s only Son, conceived of the Holy Spirit, born of the [V]irgin Mary; His vicarious death for our sins through which we receive eternal life; His bodily resurrection and personal return.
  4. The presence and power of the Holy Spirit in the work of regeneration.
  5. The Bible as the inspired Word of God.
\end{quote}

The nature and purposes of the Christian Legal Society can be further discerned from its periodical, \textit{The Christian Legal Society Quarterly}. This publication frequently includes articles addressing the role of Christianity in the practice of law. See, e.g., Joseph G. Allegretti, \textit{The Lawyer’s Calling: You Can Follow Christ—and Be a Lawyer}, \textit{CHRISTIAN LEGAL SOC’Y Q.}, Winter 1997, at 4.

\textsuperscript{16} One of the ten lawyers now holds elected office, but my discussion will focus on this individual’s prior legal practice. For convenience, and to help ensure anonymity, I will speak of this person’s practice in the present tense. Otherwise, these accounts date from the time of my interviews; I have made no attempt to update my information on the basis of later developments in the lives or practices of the lawyers.
They include relatively junior lawyers as well as lawyers in mid-career. Seven are men; three are women. Two of them are a married couple. Nine of the lawyers currently identify themselves as Christians; one has become agnostic. The nine Christians all are active members of their churches. Their theology ranges from Calvinist to Roman Catholic, but all are orthodox believers who hold relatively traditional understandings of the Christian faith. Some trace their faith to specific conversion experiences; others do not. Many identify themselves as "evangelical" Christians.17

Using the models and insights of this group of lawyers, I will address six questions concerning the interaction of Christianity and the practice of law. First, at a general level, how might Christian lawyers understand or structure their professional life and practice in ways that are distinctively religious?18 Second, how might Christianity affect their day-to-day manner of practice, including the ethics that they emphasize in interpersonal relations? Third, what is the potential role of nonlegal morality, including religious morality, as a basis upon which Christian lawyers might offer moral advice or engage in moral discourse with their clients? Fourth, how might Christian lawyers experience and address moral conflicts in their practice?19 Fifth, to what extent might Christian lawyers understand or use their legal practice as a vehicle for Christian witness or evangelism? Finally, how might their Christian faith affect their ability to cope and find comfort in the midst of professional burdens and anxieties?

As with my selection of lawyers, my discussion is not designed to present a representative picture of Christian lawyers, nor even to present a comprehensive picture of the ten lawyers in the interview group. Instead, my goal is to present models and insights that are interesting or revealing as alternative un-
understandings of professional life and practice. As a result, the discussion that follows is highly selective. Sometimes I present aggregate information that applies to several or many members of the group; sometimes I concentrate on particular lawyers to the exclusion of others.\(^{20}\)

In reality, I am not the sole author of this Article. Rather, its authors include each of the lawyers whose understandings and professional practices I recount.\(^{21}\)

I. CHRISTIAN UNDERSTANDINGS OF PROFESSIONAL LIFE

Even if their legal practice is primarily secular, Christian lawyers may understand their work in religious terms. As stated in his pledge, for example, Timothy Ward sees his labor law practice "as a theatre for the glory of God."\(^{22}\) Gary and Elizabeth Schaffer, a married couple working for separate law firms, identify themselves as "Christians who happen to be lawyers." Like countless other lawyers, their practices involve business- and insurance-related litigation and advocacy. Even so, the Schaffers, citing Scripture,\(^{23}\) explain their work as the exercise of Christian stewardship—the full and proper use of individual talents, understood as gifts from God. Thus, as they strive for professional excellence, the Schaffers are also honoring a religious obligation.

Some Christian lawyers emphasize the importance of divine inspiration and direction in their career decisions. Currently a divorce and domestic relations lawyer, Laura Jackson went to college fully intending to become a journalist. During an orientation session, however, she was "struck with a lightning bolt": Although she had never before considered a legal career, she immediately decided that she wanted to be a lawyer. Jackson has no memory of any particular reasons for her change of heart,

---

\(^{20}\) I am indebted to each of the ten lawyers. Each gave generously of his or her time, and some revealed aspects of their personal lives that were sensitive or even painful to discuss. These are interesting people, and I regret that I cannot present more complete portraits of them in the context of this Article.

\(^{21}\) As I worked with my interview notes and drafted this Article—and even as I later revised it—I truly felt that I was engaged in a collaborative project with the lawyers in the interview group. I often would picture the lawyer whose comments I was then considering; it was almost as if we were still talking, as if we were working across the table from each other.

\(^{22}\) See supra p. 103.

\(^{23}\) "[W]hatever you do, do it all for the glory of God." 1 Corinthians 10:31 (NIV).
and she still finds it “hard to explain” in rational terms. She strongly believes that this career choice—like other personal and professional decisions she has made—“was part of God’s plan for me.” Jackson finds her belief confirmed by the fact that she is “flooded with Christian clients,” many of whom have sought her counsel without knowing she is a Christian, and also by other occurrences that have permitted Jackson to witness her faith through the practice of law. For Jackson, these “uncanny” encounters and situations are simply too much to explain as a matter of coincidence; they, too, are part of God’s plan.

Alan Colbert describes himself as “the prodigal son.” Although “a good Catholic” in his youth, Colbert lost his faith in college, and his decision to become a lawyer was not consciously based on any sense of divine direction. After several years of successful practice in an insurance-defense law firm, however, Colbert suffered a personal tragedy—the death of an infant son—and this caused him to reexamine his life and to begin a “spiritual search for meaning.” Three years later, Colbert resigned from his firm, moved halfway across the country, and began working for a nonprofit organization that deals with the medical problem that had claimed his son’s life. Colbert’s spiritual search culminated during a church service the following year, on Easter Sunday, when he was moved by “an uncontrollable force” to accept Jesus Christ as his Lord and Savior.

Having resigned his nonprofit position in a dispute with his superiors, Colbert currently works primarily as a personal injury lawyer, representing injury victims, many of them Christians, in their claims against insurance companies and others. He believes that God may eventually have other plans for him. But for now, according to Colbert, “The Lord has me where He wants me. He can use a personal injury lawyer like me.” In hindsight, moreover, Colbert is convinced that God worked His will even in earlier phases of Colbert’s life—for example, by preparing him for his current work through the litigation experience of his earlier practice. Colbert cannot fully understand the death of his son, but he believes that God made use even of that tragedy. In the death of his son, Colbert explains, “God took me by the lapels and slapped me,” and it was a slap that ultimately propelled him to his new-found Christian commitment and to a life of Christian service.

As the models of Laura Jackson and Alan Colbert suggest,
Christian lawyers often find themselves serving Christian clients, and the lawyers are likely to regard this representation as an important form of Christian service. Like Jackson and Colbert, Michael Nelson, a criminal defense lawyer, and Margaret Gallagher, a bankruptcy and disability specialist, also serve many Christian clients. Indeed, these four lawyers report that a sizable percentage of their clients are Christians, i.e., Christians whose religious faith is expressly made known to the lawyers during the course of their legal representation.

Although many of these Christian clients did not seek out Christian lawyers, numerous others did, choosing their lawyers in part on the basis of their common faith. The clients sometimes learned about the lawyers through their churches or through Christian organizations, including the Christian Legal Society. Michael Nelson has received referrals from the jail chaplain. Alan Colbert includes a Christian symbol, the Greek acrostic for “fish,” in his yellow-pages advertisement. Colbert notes that Christian clients have provided him with several of his most profitable cases. Just as he works for the Lord, Colbert explains, the Lord also provides for him.

Serving Christian clients is one way in which Christian lawyers may fulfill their faith. Another is by serving the downtrodden. Citing Scripture,\(^\text{2}\) Alan Colbert finds it particularly satisfying to represent “the underdog, the man on the street.” Michael Nelson takes special pleasure in helping criminal defendants, who typically are “hurting and groping for help,” although Nelson is quick to add that compassion is not a uniquely Christian virtue. Representing individuals facing bankruptcy, as well as those with disabilities, Margaret Gallagher views her legal practice as a “tool for ministry.” She feels alienated from certain other Christian lawyers, whom Gallagher describes as more conservative than she. “I don’t fit in their boxes,” she reports, “and my clients fit even less.”

Beyond their representation of particular clients, Christian lawyers may be involved in Christian or charitable organizations. Several years ago, Margaret Gallagher founded a nonprofit organization that serves individuals with disabilities by empowering them to help themselves. Consistent with her em-

\(^{2}\) “Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy.” *Proverbs* 31:8-9 (NIV).
powerment philosophy, Gallagher heavily involves these individuals in leadership roles; indeed, she is the only able-bodied person on the board of directors. Even so, Gallagher continues to direct the organization’s day-to-day activities, a responsibility that sometimes consumes more than half of her working hours.

Like Gallagher, Brian Morrison has always viewed his legal career as a type of ministry. Like Jackson and Colbert, Morrison also feels that his life is governed by divine intentions. When Morrison decided to become a Christian, that meant “giving my entire life to God,” and Morrison continues to follow his best understanding of God’s will for his life. According to Morrison, God reveals His intentions “primarily through His Word, but also through the Holy Spirit and through one’s confrontations with the world.”

It was a combination of the Holy Spirit and an experiential confrontation that led Morrison to pursue a life of service to the urban poor. While working in business as a product engineer, Morrison “had occasion to drive through some of the roughest neighborhoods in central and south Los Angeles.” Witnessing the ravages of poverty, says Morrison, “broke my heart, because of the presence of God’s spirit in my life.” He began working with the poor through various Christian groups, but he ultimately concluded that broader, systemic issues required attention. Morrison decided to become a lawyer precisely to address these broader concerns.

During the summer before he entered law school, Morrison served as a volunteer in John Perkins’ Voice of Calvary Ministries in Jackson, Mississippi. Morrison was strongly influenced by Perkins’ philosophy of the “3 R’s”: Relocation, i.e., one who serves the poor should live in their community; Reconciliation, including especially racial reconciliation; and Redistribution, including not only financial redistribution, but also the transfer of self-help skills. In the summers during law school, Morrison worked for Legal Aid offices in New York City, pursuing litigation on behalf of the poor; during one summer, he also was a live-in counselor at a Christian mission for homeless men. Although he had intended to continue his work in litigation after graduation, Morrison was not able to obtain the “stepping stone” job that he sought. According to Morrison, “I was praying to God that I wanted to serve the Lord in the city, I thought in the form of advocacy and litigation,” but God effectively “closed that door.”
when the job did not come through.

Morrison turned his attention away from litigation, and, while still in law school, he began formulating a plan for a different type of service to the poor. After graduation, his plan became a reality: Morrison founded, and now directs full-time, a nonprofit organization that provides legal assistance to community-based and community-controlled institutions in the inner city. Like Gallagher's organization, Morrison's organization places a heavy emphasis on self-help and self-reliance. As Morrison writes in an organization newsletter, the "goal is to empower poor people to work for their own economic and social betterment." In Christian conversation, Morrison explains that "God's answer to the problem of poverty is work." Morrison defends this belief with a Biblical argument drawn from specific Scriptural passages; he also relies on the Bible's more general message concerning the "dignity and worth" of every person.

Morrison's organization is secular, and its volunteers include nonreligious as well as Christian and Jewish lawyers, but Morrison clearly sees his role as one of Christian service. Even so, he is not yet satisfied that he is doing all that God wants of him. He sees a need for spiritual transformation in the inner city, especially among young people, a transformation that might be a prerequisite to effective self-help on a more material plane. Toward this end, Morrison and his wife, herself a Christian physician who devotes her practice to the poor, may join an explicitly Christian "urban mission." If they decide to participate in this ministry, the Morissorns, both of whom are white, will move from their "fairly rough," mixed-race neighborhood to a predominantly African-American area that is deeper in the inner city.

Other lawyers in the interview group, to varying degrees, also express a commitment to pro bono service, and they typically describe this commitment in religious terms. Alan Colbert, for example, devotes approximately ten percent of his time to nonprofit groups. Among other causes, Colbert is leading an

---


26 Needless to say, there are various non-religious arguments in support of pro bono service; indeed, some have even argued that such service should be mandatory. See, e.g., Mary Coombs, Your Money or Your Life: A Modest Proposal for Mandatory Pro Bono Services, 3 B.U. PUB. INT. L.J. 215 (1993).
effort to establish a maternity home for pregnant girls and women. The goal is to offer unwed mothers an alternative to abortion by providing a range of support services. Other lawyers provide representation to low-income clients on a no-fee or reduced-fee basis.

At the same time, several of the lawyers confess that they wish they could do more, and some feel conflicted in pursuing legal careers that do not focus more heavily on Christian or charitable causes. Philip Witney, for instance, is a successful, large-firm lawyer specializing in municipal finance. As a Christian, he is "very comfortable" with his professional role, which involves a nonadversarial, "team" approach to the resolution of problems. Making use of his personal financial success, Witney contributes generously to charitable causes. He has served his church in various capacities, and he serves on the board of a pro bono legal organization. When he initially decided to go to law school, however, Witney had thought that he might devote his career to specifically Christian pursuits, perhaps by establishing a Christian mediation service. Even now, he sometimes questions the alternative professional path that he has followed. In a similar vein, Timothy Ward sometimes wonders whether God is using him to his full potential, or whether he should shift from his labor-law practice to some type of "full-time ministry."

These understandings of professional life suggest various ways in which Christian lawyers might find meaning in their careers. This is not to suggest, of course, that non-Christian or nonreligious lawyers cannot lead meaningful professional lives. Indeed, the journey of Frank Reinhart, the agnostic lawyer in the interview group, suggests that religion can be disabling and confining. Raised in an "extremely fundamentalist" church of the Anabaptist tradition, Reinhart found that he loved the rationality of the law, but that it severely tested his faith. In a painful decision—"part of being a 'Reinhart' was to belong to this church"—he ultimately broke with his religious past, and he now feels liberated by this decision. Reinhart is "not opposed to believing in God," but he is entirely content with his agnosticism. "I don't know," he reports, "and it's okay that I'm not sure."

Even Reinhart, however, may harbor a trace of envy for religious lawyering. Although he rarely sees religion at work in the legal profession, one of his colleagues is a Christian lawyer, and her religion "shows in a positive way." Reinhart believes
that he and other nonreligious lawyers approach problems from a relatively narrow, legal perspective. His religious colleague, by contrast, views legal problems through the lens of a “broader theory of justice that is part of her theology.”

II. MANNER OF PRACTICE

Christianity may affect lawyers not only in how they generally understand or structure their professional life, but also in their day-to-day manner of practice, including the ethics that they emphasize in interpersonal relations. Perhaps ironically, Frank Reinhart’s manner of practice appears to be religiously influenced as much as or more than that of the other lawyers in the interview group. Despite his current religious stance, Reinhart feels “molded and shaped” by his Christian past. His church was “a judging church” that emphasized the importance of following its rules and standards, which dealt with various matters of dress and personal behavior. The church generally treated people with kindness and decency, but those who violated its requirements were subject to “harsh discipline,” sometimes including formal ostracism.

Like his church, Reinhart “cares about rules,” and he, too, is “a judge.” He generally treats people with kindness and decency, including even his legal adversaries, but he holds his adversaries to the norms of honesty and basic professional competence. If opposing lawyers are “dishonest” or “lazy” (and Reinhart finds that a significant minority are one or the other), they are not merely his adversaries, but also his “enemies.” Like the church with its rule-breakers, Reinhart explains, he “can be merciless” with these offenders.

Others in the interview group also stress the importance of lawyer honesty. More generally, they object to the overzealous pursuit of a client’s cause. This concern has led Philip Witney

---

27 Cf. MODEL CODE OF PROFESSIONAL RESPONSIBILITY Canon 7 (1969) [hereinafter MODEL CODE] (stating that a lawyer should provide zealous representation within the bounds of the law); MODEL RULES OF PROFESSIONAL CONDUCT preamble (1983) [hereinafter MODEL RULES] (“As advocate, a lawyer zealously asserts the client’s position under the rules of the adversary system.”).

With some variations from state to state, the Model Rules have been adopted by a substantial majority of the states; a minority of states still follow rules that are patterned on the Model Code. On the history and current status of the Model Code and the Model Rules, see H. Geoffrey Moulton, Jr., Federalism and Choice of Law in the Regulation of Legal Ethics, 82 MINN. L. REV. 73, 84-90 (1997).
to a practice that entirely avoids litigation; in his view, litigation almost inevitably involves morally problematic "gaming" and "posturing." Witney finds it unsurprising that in his firm, none of the outwardly religious lawyers work in litigation.

For other Christian lawyers, however, litigation is the essence of their practice. This may get them "close to the line," in the words of Michael Nelson, but they may still find it possible to maintain a Christian sense of honesty and integrity. Thus, Nelson makes it clear to his clients that he "will not lie" on their behalf, and they "generally respect" him for this stance. Laura Jackson—unlike some divorce lawyers—will not hide financial assets at the request of a client, nor will she be "overly aggressive" in her litigation tactics, "unless pushed by the other side." Timothy Ward likewise prefers not to be "contentious" about minor procedural or preliminary matters, but he is "not rigidly 'turn the other cheek,'" and he will respond in kind to aggressive moves by his opponent.

Another common theme among Christian lawyers is the importance of "caring"—for clients, colleagues, secretaries, and others. "Every client deserves equal treatment," says Philip Witney, regardless of the profit that might be involved. Lawyers should charge fees that are fair and reasonable; they should promptly return the telephone calls of clients and others; and they should treat their secretaries with decency and respect.

Honesty, decency, and courtesy, of course, are hardly confined to Christian lawyers. But Christian lawyers are likely to understand these matters in religious terms. Alan Colbert, for instance, states that he has "always tried to be a man of my word," even before his (re)conversion to Christianity. For him,

---


29 Jackson's position on this matter certainly is not unique to Christian lawyers. See American Academy of Matrimonial Lawyers, The Bounds of Advocacy: American Academy of Matrimonial Lawyers Standards of Conduct, 9 J. AM. ACAD. MATRIM. LAW 1, 20 (1992) ("An attorney should never encourage a client to hide... assets.").

30 These norms are shared by many lawyers, Christian and non-Christian alike. Indeed, they are supported to some degree by the formal ethical standards of the legal profession. See MODEL RULES, supra note 27, Rule 1.5 (requiring lawyers' fees to be reasonable); MODEL CODE, supra note 27, DR 2-106 (lawyers "shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee"); MODEL RULES, supra note 27, preamble (stating that a lawyer should be competent, prompt, and diligent in all professional functions, including client communications).
however, Christianity “reaffirms” the importance of this ethic.

III. MORAL ADVICE AND MORAL DISCOURSE

Although Lee Modjeska sees no role for nonlegal morality in the practice of law,31 Christian lawyers are apt to disagree. In his “Pledge of a Christian Attorney,”32 Timothy Ward promises to serve his client “by seeking a moral discourse with him in which both of us are open to change, risk, and vulnerability,”33 and “by working to free him to choose to serve and to choose to do the right thing.” Ward is the first to concede that he has honored this commitment to only a limited degree. As a relatively junior lawyer in his firm, much of his work is with more senior lawyers who have primary client responsibility; in these situations, it is difficult for Ward to initiate a moral discussion that his superiors might not sanction. And even with his own clients, moral issues generally are not prominent.

When he does engage in moral discourse with his clients, Ward takes care to couple the discussion of moral issues with relevant legal advice. In his representation of employers, for instance, Ward has sometimes suggested that an employer, for moral reasons, consider leniency for a rule-breaking employee. At the same time, however, he also explains any adverse legal consequences that might accompany that leniency, such as the creation of a precedent that might be used against the employer in future disputes. The employer then makes the final decision.

Sometimes moral and legal considerations point in the same direction. In these situations, Christian lawyers might counsel their clients no differently than Modjeska, but they might be more likely to emphasize the moral element, at least in their own minds. Gary Schaffer, for example, reports that he and his firm generally advise environmental clients to clean up their waste sites without delay. Not only is it “the right thing to do,” but it also reduces the risk of legal liability.34 Philip Witney goes one

31 See Modjeska, supra note 1, at 72-73.
32 See supra note 18, at 21-33.
33 Before drafting his pledge, Ward read the work of various authors, including Thomas L. Shaffer. Shaffer’s influence is conspicuous in Ward’s call for moral discourse and openness to change. See Shaffer, supra note 18, at 18-33. See generally Thomas L. Shaffer & Robert F. Cochran, Jr., Lawyers, Clients, and Moral Responsibility (1994).
34 Federal environmental laws allow both past and present owners of waste sites to be named potentially liable parties and held jointly and severally liable for clean-
step further, stating that in his nonadversarial practice, good le-
gal and business advice almost always go hand in hand with
good moral advice. According to Witney’s basic philosophy, those
who adhere to the law and “lead a moral life” will also “be pro-
ductive.”

Other Christian lawyers have more occasion than Ward to
give moral advice or engage in moral discourse, and, unlike Wit-
ney, they often find that nonlegal morality plays a distinctive
and independent role as they counsel their clients. Depending
on the circumstances, moreover, these discussions of morality
may include explicitly religious components.

In his representation of plaintiffs in personal injury cases,
Alan Colbert finds that “client overreaching” can be a problem,
with clients “looking for—and sometimes being able to obtain—
more money than justice would permit.” Colbert counsels these
clients that a personal injury case is designed to provide appro-
priate compensation, not “to create a retirement fund.” He ad-
vises clients to obtain medical treatment and therapy on the ba-
sis of their physical needs, without regard to the potential
impact on their legal judgment or settlement. Likewise, he
urges clients to return to work as soon as they are physically
able to do so, even when a longer period of unemployment might
enhance their legal prospects. Colbert generally does not invoke
religion in these discussions. For example, he might suggest
that a client go back to work simply because “you’ll feel better.”
In advising Christian clients, however, Colbert sometimes pulls
out the Bible that he keeps behind his desk and refers to rele-
vant Scripture, such as Paul’s admonition that “[i]f a man will
not work, he shall not eat.”

Michael Nelson regards moral counseling as a significant
part of his criminal defense work. This counseling operates
within the framework of two legal rules: the attorney-client

up costs, regardless of whether they exercised control over the initial placement of
contaminants on the sites. See Comprehensive Environmental Response, Compen-

Both the Model Rules and the Model Code permit nonlegal moral counseling.
See MODEL RULES, supra note 27, Rule 2.1 (“In rendering advice, a lawyer may refer
not only to law but to other considerations such as moral, economic, social and po-
litical factors, that may be relevant to the client’s situation.”); MODEL CODE, supra
note 27, EC 7-8 (“In assisting his client to reach a proper decision, it is often desir-
able for a lawyer to point out those factors which may lead to a decision that is
morally just as well as legally permissible.”).

Thessalonians 3:10 (NIV).
privilege, which ensures the confidentiality of a client's communications with his lawyer; and a formal rule of ethics, which forbids a lawyer from offering evidence at trial that the lawyer knows to be false. If a criminal defendant confesses his guilt to his lawyer, even in confidence, the ethical rule requires the lawyer to withdraw from the case if the client thereafter insists on taking the witness stand to falsely deny the crime. A common practice is for criminal lawyers to advise their clients of both the attorney-client privilege and the ethical rule at the very outset of their representation. Although perhaps unseemly, the message the client may receive is this: What you tell me is confidential, but don't tell me you're guilty if you intend to lie about it at trial.

Nelson follows this common practice, but he also tells the client, “When you go to a doctor for help, you don’t tell the doctor only half the story,” and “I want the whole story to help you the most.” In the intimacy of the attorney-client relationship, Nelson often finds himself playing the role of listener, with his client telling him “more than the client has conveyed to anyone in years.” Nelson never offers direct moral counseling until he has gained a client's confidence; “otherwise, you lose the client altogether.” Nelson reports that the typical client initially “wants to get off,” but “later, when reality sets in, the client may be more open to moral persuasion.” At that point, Nelson may advise the client to plead guilty, perhaps to a lesser charge, or he may urge the client to accept treatment—for example, to deal with alcohol abuse—as a condition of probation. Nelson believes that he sometimes knows his clients' best interests “better than they do,” and he is not afraid to push them in that direction.

Depending on the context, of course, advising clients to plead guilty or to accept treatment can be viewed primarily as matters of legal rather than moral counseling; good lawyers will advise

---

38 See Model Rules, supra note 27, Rule 3.3(a)(4) (“A lawyer shall not knowingly . . . offer evidence that the lawyer knows to be false.”); Model Code, supra note 27, DR 7-102(A)(4) (“a lawyer shall not ... [k]nowingly use perjured testimony or false evidence”).
39 In fact, the ethical rule and its operation are rather more complicated, especially when the lawyer does not learn of the client’s intention to commit perjury until the time of trial. In such cases, the court may not permit the lawyer to withdraw, but the ethical rule may work to restrict the lawyer’s advocacy and representation. For the most prevalent statement of the ethical rule, as well as commentary, see Model Rules, supra note 27, Rule 3.3.
clients to avoid the risks of trial when attractive plea bargains are offered. But Nelson's counseling goes further: He wants his clients—assuming they are guilty—to learn their lesson and to avoid repeat offenses. Toward this end, he sometimes "turns the tables" to show clients how their victims must feel in certain situations. Nelson explains how he might use this method in talking to a client who had stolen a checkbook and written checks against the account:

Suppose you had a family and had more bills than you could pay, and you deposited your paycheck in the bank, and then you left your car unlocked and your checkbook was stolen from the car, and then you have checks written by someone else. Imagine the trouble of explaining, imagine getting sued when your own checks bounce, getting called by creditors at work, having no money in your account to buy baseball shoes for your son. How would you feel?

In offering this or other types of moral counsel, Nelson stresses his own fallibility. "You can't be afraid to tell people that you're not perfect," according to Nelson. By stressing his own faults—by telling clients, "You're looking at someone who is not perfect"—Nelson creates an interpersonal bond with his clients, which can help establish trust and a greater openness to moral counsel.

As the checkbook example suggests, Nelson's moral counseling is not necessarily grounded in religious language. With Christian clients, however, Nelson will express his own Christianity, and he will describe his personal imperfections in terms of sin. As Nelson explains, "Sin is present in every human being." He then will discuss moral issues in explicitly religious terms. "As a Christian, you should know better," he might say to a client. And when he thinks it appropriate, Nelson even will join his clients in prayer.

When Nelson does not know whether a client is Christian, he sometimes uses "Christian buzz words," such as Biblical references, to see if the client responds. If the client does not react in a positive way, Nelson drops the religious language. But the basic substance of his moral advice is likely to be the same.

Like Nelson, Laura Jackson sees her practice, in part, as a forum for moral counseling. Although it is the focus of her legal specialty, Jackson "doesn't like divorce." She believes that marriage is a commitment that should not be broken without good reason. Whenever appropriate, Jackson urges clients to consider
reconciliation or marital counseling. Sometimes she suggests a legal separation in lieu of divorce. Jackson typically asks her clients if they go to church; if so, she may suggest that they involve their pastors, or she may refer them to specifically Christian marriage counselors.

Because the New Testament specifically addresses the permissibility of divorce, some Christians see the issue as a matter of narrowly focused Scriptural inquiry. Jackson has considered the issue in these terms, but she believes that her role as a lawyer does not cover this terrain. Thus, although her advice may include a religious element, Jackson will not counsel clients on the Biblical grounds for divorce. In this connection, Jackson recounts a telephone call that she once received from a client's pastor. The pastor demanded to know the "Biblical basis" for the divorce that Jackson was preparing to seek on the client's behalf. "I've been hired as her attorney," Jackson replied. "It's not my job to see if she has a Biblical basis. That's your job."

Jackson realizes that her moral counseling "will have little impact on many clients." And whatever her own moral judgment, she ultimately follows the wishes of her client. Jackson is "not judgmental" if her client decides to seek a divorce that Jackson thinks unwarranted. "If the client decides to go ahead," she says, "it's my job to go ahead. I can't pick and choose."

For reasons that are explained below, Margaret Gallagher has withdrawn from the field of divorce and domestic relations, where she had worked for almost a decade; at present, most of her clients are individuals with disabilities or individuals seeking bankruptcy. Whatever her field, however, Gallagher has always viewed her professional role as not merely legal, but also moral and pastoral. Once an evangelical Protestant, Gallagher later converted to Roman Catholicism, which she believes is "more consistent with my style and my beliefs." Over the years, she has represented not only secular clients, but also religious clients of many faiths, ranging from Jewish to Mormon and from liberal Protestant to "extreme fundamentalist."

---

40 See Matthew 5:31-32; Matthew 19:3-9; Mark 10:2-12; Luke 16:18; 1 Corinthians 7:10-15, 39.
41 Cf. MODEL RULES, supra note 27, Rule 1.2(a) ("A lawyer shall abide by a client's decisions concerning the objectives of representation...."); MODEL CODE, supra note 27, EC 7-8 ("the decision whether to forego legally available objectives or methods because of nonlegal factors is ultimately for the client").
42 See infra text accompanying note 55.
In serving her clients’ moral needs, Gallagher attempts to follow the “outreach style” of Mother Teresa, who “does the Lord’s work for those who come to her.” Like Mother Teresa in her work with Hindus, Gallagher takes her clients as she finds them; “their religious faith doesn’t matter.” When her own religious beliefs differ from her client’s, Gallagher may “try to find pieces to agree on,” but she is willing to “let God deal with the disagreements.” Quoting Scripture, she notes Paul’s declaration, “I have become all things to all men.”

Rather than rely on her own religious understandings, Gallagher attempts to address issues within the religious or moral framework that each client brings to the discussion. “I need to listen to the client’s moral framework,” she explains. “My imposed solution won’t help.” In her former practice, for instance, Gallagher would discuss Biblical grounds for divorce in as much detail as her client might desire. With Catholics, she would deal with the question of annulment, investigating whether the marriage was religiously valid at the time it was formed. If a client was concerned simply with the general morality of divorce, on the other hand, Gallagher would work with the client to resolve the issue on that basis.

In advising her clients, Gallagher often distinguishes between the legal obligations of “contract,” and the religious or moral obligations of “covenant,” and she offers counsel about each. Even when the legal contract of marriage permits a divorce, for example, the religious covenant may not. Likewise, even when a contractual debt is legally discharged in bankruptcy, a covenantal or moral obligation may remain. Some debts may give rise to greater covenantal or moral obligations than others. Thus, clients might decide that they are morally bound to repay certain debts on a selective basis—when financial circumstances permit—even though the law of bankruptcy has extinguished their contractual obligation to do so.

---

43 For a thorough account of Mother Teresa’s life and work, see Kathryn Spink, Mother Teresa: A Complete Authorized Biography (1997).
44 1 Corinthians 9:22 (NIV).
47 The law of bankruptcy does not preclude a debtor from voluntarily repaying
According to Gallagher, some of her Christian clients have been afraid to seek bankruptcy, believing that they would risk eternal damnation by formally renouncing their contractual promises. Based on the distinction between contract and covenant, however, these clients can feel at ease in seeking the protection of bankruptcy. Even as their contractual obligations are legally extinguished, the clients can reaffirm their covenantal commitment to pay these debts whenever they can. For the time being, however, they may desperately need relief from their creditors—sometimes in order “to feed their children”—and Gallagher reminds them that they should “remember the Lord’s priorities.”

IV. MORAL CONFLICTS

At least for lawyers who reject the morally neutral role suggested by Lee Modjeska, moral conflicts frequently go hand in hand with the practice of law. Christian lawyers certainly are no exception. Indeed, the stronger a lawyer’s personal moral convictions, the more likely the conflicts, and the deeper the discomfort they are likely to cause. As a result, committed Christians may be especially affected.

Most of the moral conflicts of lawyers are linked to the adversarial component of legal representation. The problem arises when a lawyer confronts the prospect of representing a client or a cause that the lawyer finds morally objectionable. Faced with this issue, a lawyer can refuse or discontinue the representation, or instead can persevere, somehow resolving the conflict that he or she is experiencing. The lawyer’s choice—representation or withdrawal—is likely to depend not only on the nature and degree of the conflict, but also on the persuasiveness of the case for continued representation.

For Christian lawyers no less than others, the case for continued representation often depends in part on an extremely conventional, role-based argument concerning the function of lawyers. According to this argument, the adversary system may not be perfect, but it is the best system available for resolving disputes. The adversary system requires that lawyers zealously discharge the debts that have been discharged and that therefore are no longer legally enforceable. See 11 U.S.C. § 524(f) (1994).

48 See Modjeska, supra note 1, at 72-73.
represent their clients, and, in performing this role, lawyers can assume that the system as a whole will achieve the proper results—or at least better results, on average, than any imaginable alternative. In accepting this argument, Christian lawyers need not accept Modjeska's morally neutral stance; they may be quite willing to offer nonlegal moral advice to their clients. When clients reject their advice, however, these lawyers are willing to embrace a morally neutral, “system”-based defense of their adversary role.

Many of the lawyers in the interview group rely to some degree on the “system” argument. But most do not find it entirely satisfying, and several offer additional reasons for their representation of potentially objectionable clients or causes. A good example is Laura Jackson. Given her personal views, it is hardly surprising that Jackson is sometimes “conflicted” in her divorce practice. As suggested earlier, however, Jackson is willing to play the lawyer’s role in the adversary system, even in seeking divorces that she does not approve. But Jackson does not rest on the “system” argument alone. She notes that her practice has given her countless opportunities to serve Christian clients and to offer moral advice, sometimes saving marriages. To have these opportunities, Jackson explains, she needs to be a full-service divorce lawyer—the kind of lawyer that people will hire when they think they want a divorce.

This reasoning does not entirely resolve the moral ambiguity in Jackson's professional life. As an advocate and litigator, she thrives on courtroom successes, but she is occasionally ambivalent about her “victories.” In one case, for example, Jackson “was elated” by her probing and exceedingly effective cross-

---

49 See MODEL CODE, supra note 27, Canon 7 (“A Lawyer Should Represent a Client Zealously Within the Bounds of the Law”); see also MODEL RULES, supra note 27, Rule 1.3 cmt. 1 (“A lawyer should act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client’s behalf.”).


51 One lawyer, Gary Schaffer, argues that his Calvinist theology offers some support for the “system” argument. He believes that human beings are selfish by nature, and that the adversary system “takes advantage of this” by permitting each side to pursue its selfish interests in the hope that truth and justice will emerge from the resulting clash.

52 See supra text accompanying note 41.
examination of an adverse witness. Even as she relished her professional success, however, Jackson found herself feeling sorry for the witness and questioning her own elation.

Jackson fully recognizes the moral tensions in her life. "As a lawyer, I have a role," she says, "but I don't change myself into someone else." On balance, she feels that she is doing what she should, and that she is following God's will for her life. "In the end, I follow my gut," she says. "I have an inner sense that God has me where He wants me. I'm doing what He wants me to do."

For reasons somewhat similar to Jackson's, Michael Nelson generally opts for representation, not withdrawal, in his criminal defense practice. The "system" argument supports his decision, especially since prosecutors "usually overcharge," even if his clients are guilty of something, "there is some justice to be served" in making sure that the charges are properly reduced. Like Jackson, however, Nelson also feels that his work offers him an opportunity to help clients in ways that are not strictly confined to legal assistance. He often sees "some goodness" in his clients, whatever their offenses, and he does what he can to bring it out, in part by working to ensure that they do not continue in a life of crime.

Nelson has never refused to represent a criminal defendant because he thought the person or his conduct too reprehensible. He even has represented some repeat offenders. According to Nelson, "you can't be too judgmental." On the other hand, he has declined to represent other repeat offenders—when he thinks, in effect, that his prior representation has failed. "It's not a matter of not wanting to dirty my hands," he explains, "but I don't want their money. I'm not really helping them."

Like the option of representation, the option of withdrawal can be defended, in part, on the basis of a "system" argument: When lawyers' personal moral views prevent them from being zealous advocates, they should withdraw, permitting their clients to employ other attorneys who can properly act as adversar-

---

As Professor Tracey L. Meares has explained, "A prosecutor commonly overcharges in two ways. A prosecutor can charge a defendant with an offense more serious than the prosecutor believes is justified (vertical overcharging), or a prosecutor can charge a defendant with every offense that the prosecutor believes the defendant's conduct meets (horizontal overcharging)." Tracey L. Meares, Rewards for Good Behavior: Influencing Prosecutorial Discretion and Conduct with Financial Incentives, 64 FORDHAM L. REV. 851, 868 (1995) (citing Albert W. Alschuler, The Prosecutor's Role in Plea Bargaining, 36 U. CHI. L. REV. 50, 85-88 (1968)).
ial representatives. In this situation, however, the “system” argument is in no sense morally neutral; it is inevitably linked to the lawyers’ sense of moral conflict, whether or not religiously inspired. In defending their decisions to decline representation in various contexts, the Christian lawyers in the interview group relied in part on the “system” argument for withdrawal, but they relied also, and primarily, on the substance of their moral objections.

Although he generally opts for representation, Michael Nelson has his limits, as does Laura Jackson. Nelson is willing to represent criminal defendants, but he refuses representation for divorce. Jackson, by contrast, will represent clients who are seeking divorce, but she could not advocate in support of abortion rights. As these examples suggest, lawyers experience varying degrees of moral conflict, and at some point—the point will differ for different lawyers—they opt for withdrawal.

For Jackson, abortion is a moral wrong that far transcends the problem of divorce. For Nelson, influenced by his Christian wife, divorce is a moral wrong in which he cannot participate. More precisely, Nelson believes that it would be morally improper for him to profit financially from a divorce practice. “I made a commitment to my wife,” he says, “not to make a living off divorces.”

Like Laura Jackson, Margaret Gallagher has devoted a substantial portion of her legal career to divorce and related matters. Several years ago, however, she joined Nelson in removing herself from this practice. Unlike Nelson, Gallagher does not base her moral objection on a general distaste for divorce. Rather, she found that her responsibilities as a lawyer simply were too much to bear, especially when children were involved.

In seeking custody on behalf of her clients, Gallagher sometimes confronted evidence of child abuse or child neglect, and she could not always be sure that her clients had not caused or contributed to these problems. Conversely, some clients chose not to seek custody even when Gallagher believed that the other spouse

---

64 Both the Model Rules and the Model Code allow for such permissive withdrawal. The Model Rules allow withdrawal, even when it might adversely affect the client’s interests, if the client “insists upon pursuing an objective that the lawyer considers repugnant or imprudent.” MODEL RULES, supra note 27, Rule 1.16(b)(3); see also MODEL CODE, supra note 27, DR 2-110(C).

65 Perhaps not coincidentally, Laura Jackson reports that in her practice, she has rarely been involved in troublesome disputes concerning children.
was an abusive or neglectful parent. Sometimes clients and their children were faced with threats of violence. Sometimes clients confided troublesome information to Gallagher that she wanted to present to the court, only to find herself obstructed by the attorney-client privilege. After untold sleepless nights and "lots of praying," Gallagher ultimately found that she could not continue.

Gallagher still participates in divorce and custody disputes, but only as a mediator and as a nonlegal counselor. In these capacities, she will help couples if she can, typically free of charge. But she no longer will risk becoming "the agent of harm," and she believes that in the domestic arena, she cannot perform the role of lawyer without incurring that risk.

The choice between representation or withdrawal is affected not only by moral considerations, but also by practical considerations related to a lawyer's career and livelihood. In general, of course, these considerations favor representation, as opposed to withdrawal. Alan Colbert and Michael Nelson, for example, are sole practitioners, and, at least when they began their practices, they were quite eager to develop and maintain an adequate client base. Lawyers practicing in firms, or as government employees, may be less dependent on individual clients, but the option of withdrawal could threaten their employment or their prospects for advancement. Recognizing this career incentive in favor of representation, several lawyers in the interview group conceded that in resolving ambiguous situations in favor of representation, their reasons sometimes might amount to "rationalizations."

Although sole practitioners and senior lawyers in organizational settings certainly experience this career incentive, junior lawyers are likely to feel the greatest pressure. For sole practitioners, the option of withdrawal is likely to reduce their income; for junior lawyers, it might cost them their jobs, and, at least in some cases, the careers of their choice. And the risk is considerably greater for them than for lawyers who have attained more security in the firm or organization. In the typical law firm, for example, partners rarely lose their positions, but the situation of associates is far more precarious.

Several lawyers in the interview group are junior lawyers. They do not encounter many moral conflicts, but when they do, they feel the impact of their employment status. Faced with
situations in which they might be inclined to withdraw from the representation of particular clients or causes, they are reluctant to do so, fearing that they might alienate their superiors.

Beyond this career-based reasoning, however, some of the junior lawyers note that they often do not have primary authority for a case, but instead are working with other lawyers who do. At least in these situations, the lawyers may feel less moral conflict precisely because they feel less responsibility. Extending Margaret Gallagher's reasoning, they may be less likely to see themselves as the active or dominant "agent" in whatever moral problems might be presented by the cases on which they work.

V. CHRISTIAN WITNESS AND EVANGELISM

One can well imagine how Lee Modjeska would react to Timothy Ward's promise, as stated in his pledge, "[t]o actively strive towards leading others, especially clients and other members of my profession, to a personal faith in Jesus Christ as Lord and Savior." Modjeska would be mistaken, however, if he envisioned Ward taking clients and colleagues aside and asking, "Are you saved?" Ward certainly is open about his Christianity—the pledge is on his office wall—but his witnessing generally does not involve explicitly religious language. Rather, he attempts to witness by "being a Christian example"—by "standing as a witness"—in all that he says and does, however secular the context might be.

Like Ward, Laura Jackson is committed to a form of "lifestyle evangelism" that extends to her professional life, but she is cautious when it comes to explicit proselytizing. In a similar vein, Alan Colbert would "rather have my walk speak for my faith." In Colbert's ideal scenario, a client would not learn he is a Christian until the end of his representation, at which point the client would say, "I knew there was something different about that man." Colbert strives to follow Christ's injunction, "Let your light shine before men," and he hopes that "people will be drawn to the light rather than the darkness." Other lawyers in the group express similar views.

Despite this emphasis on witnessing by example, Christian

---

56 See supra pp. 103-04.
57 "[L]et your light shine before men, that they may see your good deeds and praise your Father in heaven." Matthew 5:16 (NIV).
lawyers are likely to believe that there also is room for them to share their faith more directly. Without exception, the Christian lawyers in the interview group are willing to talk about their religious beliefs if asked. Many trace this willingness to a religious obligation not to deny their faith. Laura Jackson and Michael Nelson both cite the Biblical example of Peter, noting that they do not want to hear the cock crow.58 “Christ will be our advocate before the Throne,”59 adds Nelson, “but if we do not defend Christ, He will not defend us.”

Also without exception, however, the lawyers in the group reject aggressive evangelism—in part because it would be ineffective, in part because they think it is wrong. Thus, to the extent that they engage in verbal witnessing, it tends to be temperate and restrained. Brian Morrison, for instance, believes that “the greatest gift I can give another person is knowledge of Christ,” but he also believes that he should share this knowledge only in a “nonoffensive” way. Relying on Scripture, Elizabeth Schaffer maintains that “if they ask, you should tell them gently.”60

However gentle, verbal evangelism has a place in the professional lives of some Christian lawyers. Laura Jackson is a good example. Beyond her “lifestyle evangelism,” Jackson sometimes engages in more direct efforts to bring clients, among others, to the Christian faith. For example, in counseling her divorce clients, she typically asks them if they go to church. This is done in part to investigate their support structure, as well as the possibility of marital counseling. When clients indicate that they do not go to church, but express some interest, Jackson feels that she has “an obligation to at least explore it.” In this context and otherwise, she frequently gives away copies of a Christian book that she finds especially powerful.61 Jackson, like Morrison, rejects aggressive evangelism, which she finds to be highly offensive. She never applies pressure, and when people express no interest, “I leave them alone.” But “I plant a seed when I can,” she says.

59 See 1 John 2:1 (NIV) (“we have one who speaks to the Father in our defense—Jesus Christ, the Righteous One”).
60 “Always be prepared to give an answer to everyone who asks you to give the reason for the hope that you have. But do this with gentleness and respect.” 1 Peter 3:15 (NIV).
In his criminal practice, Michael Nelson sometimes prays with Christian clients. With non-Christian clients, he "occasionally" witnesses, but "not very often." Nelson describes one such episode. A non-Christian client, previously convicted of domestic violence, had violated his parole and was likely to have it revoked. The client twice had attempted suicide. According to Nelson, "I was led to witness to him, and I prayed the prayer with him, and I believe he became a Christian." Like Jackson, however, Nelson will not push a religious message on clients who do not respond. "I won't preach to them," he explains.

Some Christian lawyers feel special, role-based limitations on verbal witnessing. Gary and Elizabeth Schaffer, for example, believe that their function at the office is "to work, not witness." They believe that their time belongs to their law firms, and that it would amount to "stealing" for them to witness on the job.

Brian Morrison also has role-based concerns. Acting as a lawyer and as the head of his nonprofit organization, Morrison often assists in the formation of community groups. He makes sure that each group is aware of religious options, such as the possibility of including a chaplain among its officers. If he knows that members of the group are religious, he will even suggest that they might wish to pray for guidance in deciding how to proceed. But Morrison never pushes for a chaplain or for prayer, and he believes that it would be improper for him to lead a group in prayer. Morrison knows that he is drawing a "fine line," but he believes that his role as a lawyer, at least in this setting, does not permit him to proselytize. Likewise, he notes that his is a secular organization, and he believes that it would be an abuse for him to use his position as director to engage in direct religious appeals.

The particular theologies of Christian lawyers may also affect their understanding of the importance of bringing others to the Christian faith. The Schaffers, for instance, believe in predestination. That does not entirely eliminate their responsibility to evangelize, since they believe that human evangelism is a means through which God can work His will. But it does "take the pressure off," since "God will cause it to happen" if He wants it to happen.

For reasons that might also be described as theological, some lawyers in the group have moderated their commitment to evangelism in response to the religious and moral pluralism that
they encounter at work and elsewhere. Philip Witney, for example, is "not as outspoken" about his faith as he once was, a change that he links to his large-firm practice. Although his Christian convictions are stronger than ever, Witney now is more accepting of "high-ground moral approaches" that are not necessarily Christian or religious.

Having engaged in a similar struggle with the issue of pluralism, Michael Nelson stresses what he knows: that Christianity is true for him. Nelson adds that although he engages in evangelism when he thinks it appropriate, he believes that he is religiously responsible only for his own faith, and to some extent his family's; he is not responsible for the faith of others. For Nelson, "the ultimate purpose of faith is not an elitist imposition of values on others, but is following Christian principles in your own life and making it to the end and to the other side."

Given her approach to moral counseling, as discussed previously, it is not surprising that Margaret Gallagher agrees that proselytizing is not a high priority. At one time, she was more strongly committed to verbal evangelism. Now, her mission is to assist her clients—morally as well as legally, but within the framework of their own religious and moral beliefs. According to Gallagher, "We need less preaching and more helping."

VI. COPING AND FINDING COMFORT

The practice of law can be grueling. Lawyers frequently face professional crises and disappointments, and their lives are often filled with stress. Christian lawyers are likely to cope with professional anxiety through their Christian faith, which may offer comfort in the midst of despair. In dealing with day-to-day problems, for instance, lawyers in the interview group often turn to prayer—not only for divine direction, but also as a source of peace.

More generally, Christian lawyers may find comfort in their religious understanding of their professional life. As discussed earlier, Christian lawyers often interpret their work in religious terms, and they frequently feel a sense of divine inspiration or direction. However difficult or stressful their situation, these lawyers are likely to take solace in knowing that their profes-

---

62 See supra text accompanying notes 43-47.
63 See supra Part I.
sional life has religious meaning and significance. Recall the words of Alan Colbert and Laura Jackson. “The Lord has me where He wants me,” says Colbert. “I have an inner sense that God has me where He wants me,” echoes Jackson. “I’m doing what He wants me to do.”

As their ultimate source of comfort, however, Christian lawyers are likely to reach beyond their professional condition altogether. They are likely to tap the spiritual essence of their faith, which typically includes a strong belief in the wisdom and sovereignty of God, as well as the grace of God, which includes the promise of eternal life. Even in the face of professional disappointments and failures, something greater—something transcendent—provides a continuing sense of personal peace and consolation.

Timothy Ward, for instance, relies on his Christian faith in dealing with work-related pressures, including those that arise when he questions his own professional performance. Ward concedes that his trust in God does not eliminate these pressures, but it does allow him to put them “on the shelf at night.” He realizes that “in the grand scheme,” his professional problems and failures are insignificant, and that “all of this will work out in the end.” Michael Nelson expresses a similar sentiment. “It is comforting to know that when I screw up,” he says, “Someone is there to catch me, Someone who knows better than Michael Nelson.”

Laura Jackson likewise has a deep and abiding trust in God. She “falls back on God even more in crisis situations.” Generally an active problem solver, Jackson sometimes confronts a problem that is beyond her control. Perhaps ironically, she says, “I tend to have the most peace” in these situations, when she is obliged to leave matters entirely in God’s hands.

Margaret Gallagher also finds comfort in crisis situations, and she has encountered more than her share. “Things keep going wrong,” she reports. In the past, these setbacks might have tested her faith, but they no longer do. Nor does she blame herself. Instead, she always feels the grace of God. She knows that “the Lord is bigger than all of this,” and that she should not dwell on her problems, but rather should “move on” with her work and her life.

From the moment he became a Christian, Brian Morrison has experienced “freedom, joy, and peace in laying everything on
the Lord's altar." Like that of the others, his professional life is sustained by his Christian faith, which can provide "peace in the midst of crisis." Morrison emphasizes that his Christianity, not his legal career, is the essence of who he is. "My self-identity is grounded in Christ and not in my profession," he says. "I know that I am innately valuable because I was made in God's image." And in the end, there will be eternal life. "From this comes peace," he explains.

CONCLUSION

According to Lee Modjeska, lawyers are "pilots on the river of law."

If so, some of these pilots find themselves guided by the light of Christ. And this light has led these lawyers to understand themselves and to serve their clients in ways that other lawyers do not.

To be sure, Christian lawyers are "not gods." Indeed, those in the interview group readily concede their imperfections. Brian Morrison, for example, emphasizes that his religious values are what he professes, not necessarily what he lives out. Others express similar views. In addition, many observers would find weaknesses that the lawyers themselves do not perceive. Non-Christians would dispute their religious understandings. Christians would dispute their particular Christian theologies; indeed, the lawyers would differ among themselves. Undeniably, these lawyers have numerous faults of various kinds.

Perhaps to a greater extent than most lawyers, however, Christian lawyers are likely to have a well-defined sense of who they are and of what they are doing. Their Christian faith may give special meaning to their professional lives even as it provides a source of ongoing personal sustenance. It may inform their professional practice on matters great and small. It may motivate service to the poor and downtrodden. It may encourage a thicker relationship with clients, one that includes not only legal counsel, but also moral and even religious discourse.

Whether all of the potential attributes of Christian lawyering are desirable is a matter for legitimate debate. It is also worth noting that non-Christian lawyers may perform similar functions in different ways or on the basis of different motiva-

---

84 See Modjeska, supra note 1, at 72.
tions. Non-Christian lawyers may be guided by another religious or moral framework, or they may honor the norm of legal objectivity.

No single model of professional practice is fully adequate, certainly not for every lawyer and every client. As a result, perhaps we should welcome a variety of professional models in the practice of law, and perhaps we should trust clients to choose the lawyers who serve them best. In any event, we should not reject out of hand the model of lawyers who follow the light of their "particular gods"—at least not before we determine who or what those gods might be.

Consider, for example, the "seven practices in law" described in MILNER S. BALL, THE WORD AND THE LAW 7-72 (1993). As David Luban has noted, the lawyers that Ball discusses are "Christian lawyers, in Ball's version of Christianity, notwithstanding the fact that most of them are not Christians." David Luban, Getting the Word, 91 MICH. L. REV. 1247, 1255-56 (1993).

I had looked forward to sharing this Article with Lee Modjeska and soliciting his response, but, tragically, this will not be possible. As I recently learned, Professor Modjeska has died an untimely death, having lost a battle with cancer.

I dedicate this Article to the memory of Professor Modjeska and to the continuing scholarly conversation of which he remains a part.