

# Preface

You must have heard of “emotional intelligence.” It refers to our ability to recognize, understand, and regulate emotions, both our own and those of others. The concept ricocheted around the world starting in the mid-1990s after Daniel Goleman published a book contending emotional intelligence (or EI) is more important than IQ.

Goleman’s claim was quite startling. At the time, the psychological research community had long held the opinion that IQ was the best indicator of success. Our institutions of higher learning used notions of cognitive intelligence to admit, evaluate, and graduate the “best” students. There was, of course, the troubling statistic that in the “real world” people with average IQs outperformed those with the highest IQs 70 percent of the time.<sup>1</sup> But no one really knew why.

Many industries have, over the last twenty-plus years, gone on to embrace emotional intelligence as the attribute that can both predict and achieve superior individual and organizational performance. Emotional intelligence is also key to better physical and mental health, resulting in lower organizational costs from attrition, healthcare, and professional liability. Businesses like Google, Aetna, and Johnson & Johnson have built programs for their entire workforce around enhancing emotional intelligence. Doctors, to whom we lawyers like to compare ourselves, are including EI in medical school admissions and physician training because it promotes both good medical care and physician health.

Probably no other profession relies so heavily on cognitive intelligence as law. Law schools rely on LSATs to find the most logical applicants and then rigorously use the Socratic method in classrooms to ferret out any nonrational tendencies that remain. Law firms and law departments hire the top law school graduates and then enforce cultures of strict rationality. Emotion is what we in the law business have been intent on eliminating. So emotional intelligence may seem like an oxymoron to us. What do lawyers need it for?

While some lawyers flourish in their work, troubling data on law people have been accumulating for years. Lawyers suffer outsized levels of emotional distress—six times the level of depression, for example—as any other professional group, outdoing even those oft-maligned dentists. The extremely high rates of suicide and substance abuse (both still underreported), divorce, and health issues among lawyers testify to a degree of personal dysfunction that is astonishing. As testament to this dysfunction, lawyers have left the practice of law in droves, and those who stay are often deeply dissatisfied. A distressed, unhappy lawyer may well be on the front line advising our clients on critical issues. It should be no surprise that reports of client dissatisfaction have soared in recent years, and that malpractice liability is an increasing concern.

As a legal workplace consultant, I often get a distress call from firms, corporate law departments, or individual lawyers who are facing what seem to them like insurmountable problems. Clients are irate, partners are contemptuous, and associates are resentful. Underperformance threatens their organizations and their personal positions. Client and/or attorney defections may be dangerously reducing revenue and damaging reputations. Dissension among individual lawyers, factions, or practice groups can be severely hampering productivity and conflicts may develop into open war, even threatening a firm's continued existence.

The tool of choice for lawyers dealing with these emotionally charged issues in the workplace is usually avoidance, so these feelings have often been purposely unattended to even as they amp up in intensity. My clients are then taken off-guard by how powerful these unwanted, unruly emotions become and are at a loss as to how to react to them.

With emotions running high, clients call on me to get rid of them. Most often, I am told that compensation is the likely culprit. In my experience, that is rarely the case. But whatever is at issue rides on emotional tides that have become so turbulent as to engulf individuals, groups, departments, and firms.

Few research studies on emotions and EI have focused on how they relate to law students, lawyers, or legal practices: of over one million books and scholarly articles on emotional intelligence outstanding in 2017, only a handful relate to law. So it is challenging for lawyers and their advisors to assess how this relatively new, rapidly expanding science applies to the unique circumstance of practicing law.

Some notable attempts have been made over the years to highlight the role of emotions in law. In 2002, consultant Dr. Larry Richard, a psychologist and lawyer, published an article entitled “Herding Cats: The Lawyer Personality Revealed,” in which he demonstrated that certain psychological attributes, including low emotional intelligence, occur among lawyers more often than among members of other professions.<sup>2</sup> In 2004, Susan Swaim Daicoff, then a Professor of Law at the Florida Coastal School of Law, published *Lawyer, Know Yourself: A Psychological Analysis of Personality Strengths and Weaknesses*, which comprehensively reviewed more than forty years’ worth of empirical studies on lawyers and law students, and was one of the earliest efforts to parse how typical lawyer personalities, including attitudes toward emotions, impact our practices.<sup>3</sup> But little has been done in the industry to follow up on their findings.

I have repeatedly seen how helping lawyers develop emotional intelligence skills produces a more functional and productive law practice. Instead of being surprised and dismayed by powerful emotions hijacking their work, emotionally intelligent lawyers are better able to assess the emotional landscape in a timely manner and make use of emotion to improve their workplaces: individual lawyers become better negotiators, litigators, and judges; practices enjoy more effective leadership and teamwork; personal dynamics with clients and colleagues improve; and increased productivity and client satisfaction raise the bottom line for everyone.

But I have also seen how unintuitive recognizing, understanding, and employing emotions are to many of us. And how daunting the body of research on emotional intelligence can be when it comes to learning how best to use those concepts in the field of law.

While emotional intelligence would have been an advantage to legal practices in times past, it has become critical to survival in the 21st century. Competing providers that have arisen with globalization and technological advances have narrowed the expertise that lawyers provide, which a faltering demand is making clear. One of the few strategies that will make a difference is offering emotionally intelligent professional services—services that promote smart, healthy practitioners who can gain and keep clients.

The good news is that we can raise our emotional intelligence by learning or improving critical skills. And that starts simply with awareness of the importance of emotion in our work. After that awareness has been realized, there are steps to take as an individual lawyer, a practice group, a department, and a firm to fully reap the many benefits of emotional intelligence.

This book is the first comprehensive overview of the burgeoning field of emotional intelligence as it relates to the practice of law. I have made it my business to review the extensive research and widespread uses of emotional intelligence by other industries in order to piece together what that means to us in our daily lives in the law.

First, Chapter 1 reviews what emotional intelligence is: its origins, the industries that find it compelling, its demographics, and its physiology. Then Chapter 2 outlines where we lawyers stand both statistically and reputation-wise when it comes to EI, the traditions behind law's skepticism, a lawyer who made EI history, and in which of the four critical components of emotional intelligence we fall short.

Chapter 3 articulates four advantages that being emotionally intelligent brings to our personal success in practicing law:

1. *Emotionally Intelligent Lawyers Are Smarter*
2. *Emotionally Intelligent Lawyers Are Stronger Practitioners: Negotiators, Case Managers, Litigators, and Judges*

3. *Emotionally Intelligent Lawyers Make More Money*
4. *Emotionally Intelligent Lawyers Are Healthier and Happier*

The advantages of aggregating high EI individuals culminate in Chapter 4, “Four Ways Emotional Intelligence Builds More Successful Law Firms and Law Departments.” Then Chapter 5, “Four Steps to Achieving an Emotionally Intelligent Workplace,” details how to raise your organization’s EI.

In Chapter 6 (“What’s My Emotional Intelligence?”), you can find out your own personal emotional intelligence level and then leverage that up with the advice in Chapter 7, which includes development tactics for each of the EI components.

Law schools, too, have a role in increasing lawyers’ emotional intelligence, as discussed in Chapter 8. Finally, the urgency of developing more emotionally intelligent practices in the 21st century is summarized in Chapter 9, “Now Is the Time to Lawyer with Emotional Intelligence.”

My hope is that you will use this resource and its practical tools to make your practice, and your life, more successful and satisfying.

## **Preface Endnotes**

1. “People with average IQs outperform those with the highest IQs 70 per cent of the time.” Travis Bradberry, “Habits of highly emotionally intelligent people,” *PS News*, June 15, 2016, [http://www.psnews.com.au/vic/508/personal\\_development/habits-of-highly-emotionally-intelligent-people](http://www.psnews.com.au/vic/508/personal_development/habits-of-highly-emotionally-intelligent-people).
2. Larry Richard, “Herding Cats: The Lawyer Personality Revealed,” *Altman Weil Report to Legal Management*, 29(2002): 1–12.
3. Susan Swaim Daicoff, *Lawyer, Know Yourself: A Psychological Analysis of Personality Strengths and Weaknesses* (Washington, DC: American Psychological Association, 2004).