

De Minimis

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GOODBYE KATE

Parting Words From MLS's Outgoing Wellbeing Advisor, Kate van Hooft

Hey so, umm...I'm leaving. It's not you, it's me. I've gone back to study and I needed a job with flexibility, plus a change of scene. I want to say it's not personal but actually it totally is, and always has been...for me at least. I think you are hilarious and awesome and inspiring and beautiful. But I'm still going. I'm sorry.

That said, I know I'm leaving in the middle of semester and this is not the best time (and I know especially because I have an assignment in two weeks I haven't started) (seriously I'm in a bit of a jam here. The irony of asking for an extension is just too enormous)(but it'll totes come to that, give it a few days). So in that vein, here's one last Wellbeing FAQ. Thank you, guys. It's been a pleasure. Good luck.

Kate Van Hooft

Oh shit, you're leaving?

Yup.

Is someone going to be doing wellbeing when you go?

Yes, I am assured that the position will be refilled. There will also be interim measures (TBC) while this is happening, so students can still get advice and assistance as needed. If you need help before the position is formally refilled, you can email law-wellbeing@unimelb.edu.au and someone will respond ASAP.

Are you going to be around at all? Even maybe for coffee?

If you're buying, sure.

What am I going to do with my life?

Good question! I have no idea, but I'm sure it's going to be awesome. I actually get asked that a lot, and I don't have an answer. I mean, I can't, it's your life and you're the expert. All I can say is that the question is good; it will stop you blindly falling from one job to another trying to fumble towards some sort of knowing or understanding about yourself and the world around you. Always ask what you're doing and why. The answer is to question. So good job, you're pretty much already there.

What if I don't get a good job?

First of all, define good. Now think about how you've defined it and think about whether or not you agree with yourself. Think about what makes jobs good; salaries? Good start, but keep going. Status? Well apparently not according to me, I'm studying social work. Something that makes you feel good about yourself? Something that makes you feel like you helped? Something that is inherently rewarding beyond material gain? Yes, better.

So now we have maybe a clearer idea of what a good job looks like for you. If it's still about status and salary that's cool, how about a chat with the Careers office for some strategy advice? If it's more about helping people and growing and leaving the world in a better place than when you found it, well done. You have no further homework. You're welcome to chat with the Careers Office too, but just remember everything from here on in is a

good job, regardless of what it actually is.

Clerkships. That is all.

Ok so my feelings on clerkships are pretty well known. Alls I'll say is this; careful not to make them represent more than they actually do (as in, don't turn an opportunity into the sole reason for your existence, the sum total of your self-worth, the entire point of this taxing and expensive degree, the sole arbiter of whether you deserve to live or to perish). It's really easy to aspire to be the best (and you're probably used to being the best because high achievers and generally smart beans), to hear/see/absorb the message that clerkships = top tier = the best, and then shove every last egg you have into that basket. As much as you can, don't. If you are going to do clerkships, make sure you do them for the right reason; an opportunity, a chance to learn. That's all.

Two things to remember; one: clerkships won't give you the answers. If you don't get one, that doesn't mean you can't get the answers either. The answers to what? The questions, the endless bullshit questions, are still going to be there whether you get a clerkship or not. What am I doing with my life (see above)? Will this degree be worth it? I'm a high achiever and if I don't get to the top then who am I as a person? I don't even know anymore? Also this feels like a lot of rhetorical questions?

And two: Clerkships may not be right for you. That's cool! It doesn't mean you have no value or that you're not competitive (also another rhetorical question; why all the competing?). There are other ways to be a law graduate. There are other (maybe even better) ways to get employed. None of those options are a consolation prize if you didn't get, or didn't even want, a clerkship. If you don't want to do the work in a clerkship, you don't have to. It's cool to have the courage of your own convictions and to opt out. It's totally fine.

Also, consider this; if you don't think you want a clerkship but you feel like you should because it's a good opportunity, remember that you're taking a summer out to do something that probably won't send you in the right direction, and could very well stall you. That's an opportunity lost in that you could be using that summer to further your career in a direction you would prefer to go in straight off

the bat. You don't get many summers so that's a good chance to look at internships or volunteering or even just working to save \$\$ for the next year. Clerkships aren't just an opportunity and that's all, they also come at the expense of something else you could be doing with those weeks/months.

I think I kind of hate this?

Well, yeah. This is stressful. You're learning very challenging material, you're under enormous pressure, everyone else appears to have their shit together and you're totally the only one in the world who feels out of control. Fair enough. Don't beat yourself up for it though, just because you thought it was going to be Suits and Legally Blonde and it's turning out more Teddy from Scrubs.

It'll get better. Or you'll graduate. Either way, something will happen. This is temporary. Don't use it to torture yourself. It'll be worth it, and you'll be OK...even if you can't say what OK is right now.

That said though, have you got a mate you could talk to? Either from the course or not, it doesn't really matter, but this feels like an important conversation you should have with a person not a newspaper. You can also go to Counselling, who are awesome. That's your call, but have a chat with someone. You're not alone, but you won't find that out until you ask someone.

Because here's the thing, something I've noticed. Law school is a bit competitive. Seriously, I know it's hard to believe, but stay with me. That competitiveness means that people don't really admit when they're feeling terrified. Almost everyone walks around terrified (and if they don't, well screw them, they're not our kind of person) but no one says anything. It makes for a very isolating experience.

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A Note From the Editors:

In last week's article 'Another Year, Another Shafting: That's Law, Folks!' it was suggested that there was no way of knowing the precise costings of LSS events. This was done without requesting comment from the MULSS and so was unsubstantiated. *De Minimis* would like to apologise for not ensuring the opportunity for fair comment and will seek to ensure that this is not repeated.

Parting words from Kate continued

You're just going to have to take my word on this one. In 2014 I saw, on average, 600+ students/year in appointments and that's not counting my emails and calls. I didn't even bother counting in 2015. It's a big job because there's a lot of need out there. I'm not complaining, to be honest I felt (and still feel) really honoured that so many of you trusted me with your problems. But regardless, if sheer volume means anything it must mean that you're not alone.

Uni's OK except he/she dumped me. :(

Oh that sucks. I'm sorry. Have a tissue, they're Aloe Vera (that's the good shit).

So you're going to be sad. That's ok, let it happen. I think sometimes we forget that we're allowed to be sad about relationships and get all upset when we don't feel better in a few days time like it's something you can just walk away from. You can let yourself off the hook on that one. Think about people who are mourning a loved one. You're doing the same, except they're alive but the relationship has died. It's OK to mourn it. A death has happened.

That said, think about what you really want from a relationship and ask yourself if you were getting it in that instance. What are your deal breakers? What are your absolutely-will-not-cross-the-line-nosir-I-don't-care-how-pretty-you-are values that you will not forsake holy crap though did you see them in that blue shirt mother of God it's like they're trying to actually kill me now. Some fundamental values might be that you require trust and loyalty. You may require respect. You may require that they don't make you drive out to Keilor to watch their under 19's indoor cricket team lose to Melton in the middle of July on a Thursday, *Ryan*. Either way, now's a good time to think about what you won't compromise. My suggestions; your integrity, your dignity, your self-worth. Ask yourself if these things were protected and valued in this relationship. No? Ok, walk.

Maybe? Yeah ok, you can pine for a bit but then you have to study. Seriously, like an hour or two tops before you can Netflix. There ya go, champ.

I don't know what it is but I don't feel right.

So yeah, this warrants further investigation. If something feels off, it's off. You know you best, you're the expert on the topic of you, so if you're feeling a little funky then yes, there is funk. You can do a couple of things;

- Drop in to the counselling service or make an appointment. They're great, truly. Also free.

- Book in with your local GP or the Uni health service if you prefer. It's not a bad idea to get this seen to from a medical perspective to make sure there's not something more serious happening. If there is it's fine, it's manageable, but it needs to be managed by the right people. A GP can refer you to a psychologist where you can access 10 sessions/year bulk billed. Or you can see a psychiatrist, which is a different system but should be partially covered by Medicare until you hit the Safety Net, at which point it will be almost totally covered. There will be some financial outlay here, but you can chat about this with your GP. Or again, the Counselling service. Really, they're good. Beyondblue and headspace also offer free counselling over the

phone and online, and that can be really great to get you out of a jam. Google both those guys, they do really great work.

- Talk to a mate if you feel you can. Sharing feelings is incredibly good for mental health; in fact a lot of the work that social workers and psychologists do is just getting you to talk, and explore these (healthy, normal) feelings. Don't want to burden your mate? OK let me ask you this. A mate comes up to you and says they're feeling low and need a chat. You have an essay due in a bit and you haven't even begun to look at Anesti's notes yet. Are you going to drop everything and talk to them anyway? Yup. Would you feel burdened? No, you'd want to help. Because you're a good person, and they'd do the same for you.

In the meantime if you're feeling really crap and worried you're going to drop the ball, talk to MLS about it. Email law-wellbeing@uni.melb.edu.au and make an appointment with the poor bastard who has to do my job after I leave. They'll be able to talk to you about study options, of which there are plenty. Please don't be shy, chatting to students was my favourite and what kept me here so long. Plus we can help, and we want to.

Is it going to be OK?

Yes.

Really though?

Yes.

But like-

Yes.

Can we still stay in touch?

I'd really, really like that. I'm on Facey, drop me an email and I'll add you.

Any last thoughts?

Yes, actually, ta for asking. I want you to know that even though you are amazing and incredible, it actually doesn't really matter. Even if you were just a trash person you would still be worth value and respect. You're not a trash person, so it's a moot point (am I saying that right? I never knew if I was saying that right and it stressed me out no end) but in any case. It's so easy to get caught up in that thinking that it's not enough to do something, that you have to do it well. You have to be the best at it. You have to be top bloody tier.

But I call bullshit on that thinking. I am totally guilty of it too, and it shits me no end. We as people are not wholly about how well we can do things, how good those things are in comparison to everyone else, how much we can contribute and the quality of that contribution. Try to resist the thinking that you need to obtain a certain level, that you need to get to a certain spot, before you can accept or value yourself. Try to let the value come first, and the achievements after (as a special bonus, but that's all). You deserve respect and to appreciate your achievements, regardless of how well you did them. You did them. You are doing them. That's enough. In the same way that you are you, and it doesn't matter how good at being you you are. You are you. And that's enough. You are already enough.

Kate van Hooft is the outgoing Teaching and Learning Advisor (Wellbeing). Kate is going back to study, and she will miss you too.

JUDICIAL SASS

Alice Kennedy

Law school did not prepare me for one thing. It wasn't the mounds of reading. It wasn't even my now ingrained caffeine addiction. It was the discovery of the marvelous world of judicial sass.

My first real life encounter with judicial sass was while watching court. At a particular moment in the hearing, the judge's demeanour rapidly shifted from baseline judicial resting face to a look of laser-like intensity.

The look alone stopped the barrister halfway through his sentence. He closed his mouth (wisely) and the judge told him in no uncertain terms the matter had been dealt with and would not be revisited. The barrister withdrew meekly into his suit, and proceedings continued. Classic sass.

So what is judicial sass, exactly? It would be unfair to limit this phenomenon to the barbed exertion of a judge's authority in court.

Judicial sass is a combination of wit, presence and opportunity made possible by the setting of the courtroom. The judge directs proceedings and with that power comes the ability to conduct those proceedings with well-placed humour, if the judge so chooses. Or possibly, a judge may simply want to show they keep up with pop culture as this extract from *Roach*, shows:

KIRBY J: So Paris Hilton [who had just been incarcerated in the USA for violating probation] would now be disqualified, but last week for a short time she would have been entitled to vote?

MR MERKEL: Yes, your Honour, and she would have been entitled if she were in Australia and an Australian citizen to be standing here unburdened by the five-year point at least.

KIRBY J: I just wanted you to know that I follow these things.

Suffice to say there is some untapped comedic talent amongst the judiciary. To that end, I recommend the blog '*Shit Judges Say*,' a tumblr that can keep you up to date on the latest developments in epic judicial burns, supplemented with a number of historical gems.

The beauty of judicial sass is that it is also right there in the judgments. That keeps things interesting when you're wading through a reading and suddenly a judge casts some shade. I thoroughly recommend you check out the judgment in *ERA Group Pty Ltd v Armstrong* where some unethical lawyers get a dressing down from the High Court, or go and witness the Kirby vs McHugh showdown on constitutional interpretation in *Al-Kateb*.

Judicial sass is also an infusion of formality

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What About the Kids? The 60 Minutes Child Abduction Bungle

Ella Burton-Taylor



Any avid fan of *Channel Nine*, or anyone with access to a news website, would have heard of the tragic outcome of a *60 Minutes* stunt in Lebanon early this month. In a mother's desperate attempt to regain custody of her children from their father, she accepted assistance from *60 Minutes*, in exchange for some sick idea of a TV program.

As 'payment' for taking part in said sick TV program, *60 Minutes* arranged professional child abductors to remove this woman's children from their paternal grandmother and a nanny.

And this was all to be recorded by the cameras of the *60 Minutes* 'news' team... The whole debacle put five Australians in Lebanese prison, where they still remain. The *60 Minutes* 'operation' was arranged despite the fact that the mother (Sally Faulkner) had an Australian Family Court ruling, granted on 15 December 2015, which allowed Faulkner to appoint police/agents to get her children back from Lebanon. Her mistake was simply not having it registered in Lebanon.

As of 15 April it has been reported that the

father (Ali El-Amien) and Faulkner were negotiating whether El-Amien would proceed with abduction charges in Lebanon, and what the consequences will be for their two young children.

This case raises a plethora of issues for anyone interested in law, particularly in relation to the role played by *60 Minutes*. Regardless of our opinions surrounding the circumstances leading up to or following on from the abduction, my question is simply this: What about the kids?

As a child, I myself went through the Family Court system in Victoria. It is my first-hand experience of that system that inspired me to study law. In my volunteer work outside the law school I have worked on a number of family law cases. I am also an avid follower of the press and current affairs. Through my exposure to the legal system and the media, what resonates with me most is the ultimate disregard of the interests of the child.

Here are two questions:

1. What were *60 Minutes* and *Channel 9* thinking? From a legal perspective... what a f**k up. They either have the most incompetent team in history, or they just don't care. I think this quote from a former *60 Minutes* employee says it all... "If they didn't take risks they wouldn't have a show".

But can a potential outcome such as this be simply called a 'risk'? No. Ultimately, the management of *Channel 9* has a lot to answer for. I'm no expert on the budget constraints of commercial television networks, but I can safely assume they have BIG ASS budgets to afford top notch legal advice in order to

avoid 'risks' like these EVER happening.

Whatever legal consequences there are for *Channel 9*, they are well and truly deserved. Let's also not forget the all-important Family Court order made late last year that found 100% in Faulkner's favour. Did *Channel 9* even think about the interests of these children? I suggest the answer to that is a big fat NO.

From a moral perspective... need I say more?

2. In 10 years when these two children grow up, how will their mental health be? Presumably not the best. For me, I was lucky enough to receive significant psychotherapy from a young age. Whatever your opinion, the fact is that on Monday, Faulkner (seemingly outflanked by her estranged husband's negotiating power) has been forced to decide between two extremely grim options:

- a) to fight abduction charges in a Lebanese court
- b) to surrender full custody of her children to her estranged husband (despite having an Australian Family Court ruling in her favour).

The kids are the ultimate victims of this tragic event. Whatever option Faulkner chooses, both will be detrimental to the mental health of these two children. Especially if they are not given the appropriate support.

Although I cannot propose any solution to the problems I have raised, I think it is clear that the child welfare system is failing to protect these children.

Ella Burton-Taylor is a second-year JD student

Sarah At the Movies

This week we review *The Hateful Eight*, the eighth film by Quentin Tarantino.

Tom



Tarantino is my favourite director, so of course I booked advance tickets to see *The Hateful Eight* in glorious 70mm Ultra Panavision.

I wish I could say it was everything I had hoped for, but it wasn't. That's not to say it wasn't good - I still saw someone's head explode and fake blood being used in ways I never dreamt of. But there were two major problems. First, though Tarantino's violence could never be considered proportionate to the circumstances, I feel it has always tied in well with the plot. Here, it felt like somewhat of a cop-out to cut through the long running time. The cast originally read the script at a theatre, and *The Hateful Eight* does feel like it would have done well as a play. The tension-building dialogue, written and performed excellently, and the dominant setting of a single room (which at times negated the effect of the widescreen film), made me wonder what it would have been like as a theatre performance.

Second, the plot didn't deliver the final punch the way it should have. Unlike Tom, I felt the third act was anticlimactic. His ending did not satisfy; the film's resolution was over all too quickly, and felt like little payoff after having taken viewers on such a long ride. However, the first two thirds of the film were excellent - Tarantino takes his time to establish each of his characters' personalities, and build the mystery. This was complemented by Ennio Morricone's wonderful score.

Overall, *The Hateful Eight* shows a director refining his skill, in an homage to the spaghetti western. Despite its flaws, I still enjoyed it, and really, there must be some applause given to anyone in Hollywood nowadays who actually creates original work, so it gets a 3.5/5 from me.

Quentin Tarantino relishes slow burn thrills. In every scene he establishes an ensemble of eccentric characters, and with meticulous use of plot devices creates conflicts which often result in a crescendo of staccato-burst violence. His latest film throws Kurt Russell, Samuel L. Jackson, Tim Roth and five others into Minnie's Haberdashery and lets their personalities fester into confrontation, evolving around bounty hunter Kurt Russell and his prisoner, played by Jennifer Jason Leigh.

The original film, presented in 70mm Panavision, has a length of about three hours, including an overture (composed by famous spaghetti western composer Ennio Morricone) and an interlude. The film is shouting "epic" from the get-go, yet this is probably Tarantino's least accomplished work. I agree with Sarah that there is good dialogue, but the use of over-the-top violence which so often complements his films jars with the subtlety which makes the character interactions so ominous. In addition, the buildup is dampened by a flashback scene which would have enhanced the tension of the film if it was removed. *The Hateful Eight* feels more like a play than a film, and sometimes implying.

While Quentin Tarantino often brings out amazing performances from his actors and actresses, I felt Jennifer Jason Leigh's performance is overstated, Samuel L. Jackson is playing Samuel L. Jackson, and Walton Goggins' turn as a hillbilly sheriff is very similar to that of another performance in the underrated TV show, *Justified*.

Still, there is much to like in this film, particularly in the second half. I give it three out of five stars.

Judicial sass continued

with humanity. Often, I think that judicial sass is a sign of a judge having fun with their job – you get a sense of the person sitting under the wig, so to speak. However, judicial sass also shows us that judges are not always the patient, august creatures we imagine them to be as we read their judgments. At times, sass comes across as impatience or frustration. However, given that this frustration may be directed against wasting the court's time or towards unethical conduct by parties or their counsel – I think judges can be reasonably be excused for what superficially passes for getting salty.

But perhaps most importantly, I think we ought to take something from judicial sass other than its inherent comedic value, and keep in mind its practical function. I am told a great deal of judicial sass is directed at other judges: comments are frequently directed “along the line.” Therefore, a full and proper understanding of judicial sass must incorporate its other intended audience – judges themselves.

The humour we perceive is not so much generated at the expense of the parties, rather it is a tool for highlighting a flaw in approaching a legal problem. For example, a judge might reconsider their line of inquiry upon hearing a comment from another judge. Judges may also give each other a pointed, but good humoured nudge towards a more logical path of reasoning. Consequently, judicial sass is helpful to proceedings in that it encourages critical reflection amongst judges. In short, judges keep each other on their toes.

So we might sit in front of our computer screens and chuckle at some of the “Shit Judges Say.” We might even imagine an epic judicial smack down with a booming WWE voiceover. But that really wouldn't be right, even though it is an entertaining way to think of judges.

Judicial sass can lighten the mood, and I think it is often intended to do so. Judicial sass may also give us a sense of the judge as a person beyond their title. However, it is always important to remember that a judge's comments are not so much there to amuse us as to serve the law. Judicial sass is not a mere comedic addition to judicial proceedings; rather, it plays its own valuable, idiosyncratic role in the legal process.

Alice Kennedy is a second-year JD student



It was a dark and stormy night outside Lawtopia, but inside, the automatic sensor lights lit the office like a Nespresso store. Looking out the window, I pondered the contrast between the shifting seasons beyond the walls of the tower and the eternal daytime of Finance within. I sipped my fresh latte for a solitary minute of peace. Then, with a smile, I began to type some notes about the well-bound Draft Contract that I was reviewing – and looked around furtively.

Had anyone noticed my brief moment of absent-mindedness? That for a moment I had taken an unplanned break? I feared deeply that I broken the first rule of Lawtopia – Stay Buzzed, Stay Working.

Suddenly, I heard a merry voice behind me. It was Senior Associate Smiles, whom I knew to be a Chambers-Ranked Lawyer in his field. I scanned his face for any cue that he had observed my flagrant breach of Lawtopia work policy. Nothing obvious, nothing that said “I know your secret”. Just an excited, vigorous smile. Phew.

“Oh, hello, Sir!” I piped up jovially, “What can I do you for?”

“Well,” said Smiles, in a ringing, happy voice “Do you have an hour or two to look over a Very Significant Document, and make some minor changes?”

I looked up fervently, pushing to one side the Draft Contract that I was reviewing. “Of course!”

Smiles kindly said that if I had too much work, I did not need to help. “Isn't it rather late?”

For a brief moment, I thought about saying that I did have too much work, that there was a dinner I could still make if I left right, right now, now. However, I remembered the second rule of Lawtopia – Bee Essential to the Hive.

“Not a problem, Sir! I am only here at 7 pm because I have so many coffee dates with Lawyers Who Like Me between 9-5! I would love some more experience reviewing Very Significant Documents!”

Smiles chuckled – a deep chuckle that made me think he was drunk with the merriment of our conversation. “You busy little bee. I was just like you 20,000 billable hours ago. God the clerkship process was easy back then.”

“I heard you did 20,000 billable hours in your

first five years, Sir,” I piped up, “So much effort really almost entitles you to be a Chambers-Ranked Lawyer!”

“Well, I am a leader in my field,” conceded Smiles smugly. He paused to emphasise that he would not have brought this up on his own and had no idea what to say next, perhaps not wishing to seem too eager to acknowledge his brilliance.

“I think that's something I love about Lawtopia,” I said, “Everyone seems so eager to succeed, and there's so many amazing people. I feel like I would love for a chance to be here, even if I don't quite fit in.”

“Ah, you're so brilliant yourself,” retorted Smiles with a gigantic smile, “When I was your age I had done absolutely nothing worth mentioning, apart from winning a few Dean's Prizes for being top of my class, doing a bit on the Law Review and winning the odd international Jessup Moot. Kids these days are just brilliant.”

At this point in the conversation I felt really dirty, as if I had just performed fellatio on someone who was 20,000 billable hours old. Maybe Ranked Lawyers could set aside their ego and the total belief in the Lawtopian paradise to see blatant flattery. I furtively looked at Smiles to see if he had noticed. I sighed with relief: Smiles looked happy, perhaps feeling pleasure at the opportunity to recount his success with a lowly clerk.

Grinning widely, Smiles then handed me the Very Significant Document, and continued his way busily down the floor towards some kind of secondary hive, where a group of people worked late on some important, secret project.

I rejoiced in the peaceful hum of Lawtopia once again, grateful for this opportunity to demonstrate my etiquette and “commerciality” to Smiles and to read Very Significant Documents. I surreptitiously texted my deserted dinner companions: “Reviewing Very Significant Document. Don't wait dinner.” I felt a bit guilty for ditching them. However, this feeling of guilt went away quite quickly – perhaps due to ethical fading, as Lawtopia taught me to rationalize problems away.

Have a funny clerkship story but still want a grad job? Send it to mlsdeminimis@gmail and we'll publish it anonymously.