

2014 STUDENT TO LAWYER SYMPOSIUM

Preparing the Leaders  
of Tomorrow's Changing Legal Profession

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*presented by*

**THE SUPREME COURT *of* OHIO**  
COMMISSION ON PROFESSIONALISM



# THE SUPREME COURT *of* OHIO

2014 STUDENT TO LAWYER SYMPOSIUM

Presented by  
The Commission on Professionalism



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# The Supreme Court of Ohio

COMMISSION ON PROFESSIONALISM

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE  
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PAUL E. PFEIFER  
TERRENCE O'DONNELL  
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TELEPHONE 614.387.9317  
FACSIMILE 614.387.9529  
[www.supremecourt.ohio.gov](http://www.supremecourt.ohio.gov)

November 14, 2014

Dear Colleagues,

Welcome to the 2014 Student to Lawyer Symposium presented by the Supreme Court of Ohio Commission on Professionalism. As Chairs of the Commission on Professionalism and the Commission's Law School Committee, we thank you for participating in this year's event. The new environment in which the legal profession finds itself requires a level of adaptation never seen before. Navigating this evolving "new normal" will require collaboration between law schools, law students, lawyers, judges and law firms. A new balance must be struck in which law schools do more than just educate, law students learn more than the academic rules of the law and lawyers recognize a heightened responsibility to be mentors and to be examples of the legal professional described in our Court's "Lawyer's Creed." Law firms have a renewed need to keep at the forefront the integrity of our profession while providing quality legal services, promoting civility and professionalism, giving back to their communities and working to help our justice system be accessible to all while at the same time running the "business" that law firms are today. Our judiciary needs to continue to emphasize the importance of professional conduct among practitioners both young and old.

This is not a seminar designed to teach but rather a collaborative gathering which hopefully will facilitate the sharing of experiences and innovative ideas that we can all use to improve our profession, address the profession's new challenges and most importantly prepare our newest lawyers to be a credit to our distinguished profession and provide competent professional service to the public.

Please engage in today's program and share your thoughts, experiences and visions to help us come away with fresh ideas and a renewed energy and passion for the practice of law.

Very truly yours,



Michael L. Robinson  
Chair of Commission on Professionalism



Michael Distelhorst  
Chair of Law School Committee



# Agenda & Speakers





**STUDENT TO LAWYER SYMPOSIUM**  
**NOVEMBER 14, 2014**  
**AGENDA**

10 a.m.	<p><b>WELCOME &amp; INTRODUCTION</b></p> <p>Michael Robinson, Esq.  Chair, Supreme Court of Ohio Commission on Professionalism</p>
10:05 a.m.	<p>What is the “New Normal” for the Legal Profession?</p> <p>Professor Stephen Lazarus, Cleveland-Marshall College of Law</p>
10:30 a.m.	<p><b>PANEL DISCUSSION   JANET GREEN MARBLEY, PANEL LEADER</b>  <b>The “New Normal” in Law Practice</b></p> <p>Chad Burton, Esq., Burton Law LLC and CuroLegal  Emily Collins, Esq., Fair Shake Environmental Legal Services  Robb Hern, United Lex  Professor Bryan Ward, Ohio Northern University Pettit College of Law</p>
11:30 a.m.	<p><b>BREAK</b></p>
11:45 a.m.	<p><b>PANEL DISCUSSION   DOUGLAS DENNIS, PANEL LEADER</b>  <b>New Lawyers Leading the Way to Tomorrow</b></p> <p>Maureen Bickley, Esq., Frost Brown Todd  Samir Dahman, Esq., Dahman Law  Ryan Green, Esq., The Ryan Green Law Firm  Lindsey Silverblatt, Esq., Legal OnRamp</p>
12:45 p.m.	<p><b>LUNCH</b></p>
1:30 p.m.	<p><b>PANEL DISCUSSION   DENISE PLATFOOT LACEY, PANEL LEADER</b>  <b>Creative Programming for Tommorrow’s Profession</b></p> <p>Professor Chris Gulinello, Northern Kentucky University Chase College of Law  Mina Jones Jefferson, Assistant Dean of Professional Development, University of Cincinnati College of Law  Ashley Jones, Cleveland-Marshall College of Law Solo Incubator  Professor Judith Lipton, Case Western Reserve University Law School</p>

STUDENT TO LAWYER SYMPOSIUM  
NOVEMBER 14, 2014  
**AGENDA - CONTINUED**

2:30 p.m.	<p>PROFESSIONALISM TOOLKIT: How Do We Instill Professionalism Values in Lawyers that They May Rely Upon in Their Day-to-Day Jobs?</p> <p>Professor Michael Distelhorst, Capital University Law School</p> <ul style="list-style-type: none"><li>• Commission Materials and Resources<ul style="list-style-type: none"><li>○ A Lawyer's Creed</li><li>○ A Lawyer's Aspirational Ideals</li><li>○ Professionalism Dos &amp; Don'ts</li><li>○ Lawyer to Lawyer Mentoring Program</li></ul></li></ul>
2:45 p.m.	BREAK
2:50 p.m.	<p>Each participating law school will host its own break-out group, consisting of law school deans, professors, judges, bar leaders, experienced practitioners, and new lawyers. Drawing upon the information presented earlier in the day, these groups will meet to brainstorm about how their local legal community can better meet the challenges of preparing law school students and new lawyers for the future practice of law.</p>
3:30 p.m.	ADJOURNMENT



## Speakers

### **MAUREEN BICKLEY**

Maureen Bickley is a managing associate in the product liability and mass tort practice group of Frost Brown Todd LLC. She is a trial lawyer who concentrates her practice on national product liability litigation in diverse industry sectors, ranging from consumer products to construction and agricultural equipment manufacturers. Bickley serves on a team as national fire litigation counsel for a major construction and agricultural equipment manufacturer. In addition to product liability matters, Bickley also represents clients in personal injury and premises liability matters.

Bickley was among the first group of associates to enter the first-year training program at Frost and is a rising leader in the Defense Research Institute's national YL group. In Cincinnati, she attends the Chamber of Commerce leadership program, C-Change.

### **CHAD BURTON**

Chad Burton is a lawyer and the principal of Burton Law ([burton-law.com](http://burton-law.com)). He primarily works with businesses as outside corporate counsel, including start-ups to large, multi-national companies. Burton Law's use of technology, combined with an experienced team of lawyers working under an innovative business model, allows it to provide efficient and sophisticated services to their clients.

Burton is also the CEO/co-founder of Curo Legal ([curolegal.com](http://curolegal.com)), a venture helping lawyers advance their practices with practice management needs, including operations, virtual assistance, business development, bookkeeping and CFO work, among others.

Burton is overly involved in bar association work at all levels. He speaks on practice management and legal technology issues all around the country. Finally, he teaches law practice management as an adjunct professor at the University of Dayton School of Law.

### **EMILY COLLINS**

Emily A. Collins is the executive director and managing attorney at Fair Shake Environmental Legal Services. Hailing from southern Tuscarawas County, Ohio, Collins has spent her legal career in environmental law practice and teaching. She started her practice as a student at the Pace Environmental Litigation Clinic in 2003. After her clinic experience, she became an assistant public interest counsel at the Office of Public Interest Counsel in the Texas Commission on Environmental Quality. In 2008, she took the helm of the University of Pittsburgh School of Law's Environmental Law Clinic as a clinical assistant professor. She became a clinical associate professor in 2013. In the same year, she founded Fair Shake Environmental Legal Services, a nonprofit law firm providing legal assistance to modest means

clients with environmental needs *and* a residency program for young attorneys to incubate the growth of modest means environmental practices in the region of Pennsylvania, Ohio, and West Virginia.

Collins received her B.A. in 2001 from New York University's Gallatin School. She earned her J.D. from Pace University Law School in 2004. She is admitted to practice in Pennsylvania, Texas (inactive), and the U.S. District Court for the Western District of Pennsylvania.

### **SAMIR DAHMAN**

Samir Dahman founded Dahman Law after practicing for years at Ohio's largest law firms. His practice includes commercial litigation, business law, estate planning, and employment. Every year since 2012, Dahman has been a Supreme Lawyer or Rising Star by *Ohio Super Lawyer* magazine. He was also listed as one of the "Top Lawyers" in Columbus by *Columbus CEO Magazine* in 2014.

Dahman is also an adjunct professor at the Ohio State University Moritz College of Law, where he teaches future lawyers concepts in drafting and negotiating complex transaction documents.

During law school, Dahman served as an extern for Magistrate Mark R. Abel of the U.S. District Court for the Southern District of Ohio. Before law school, he was a research and marketing analyst in Taipei, Taiwan.

### **DOUGLAS DENNIS**

Douglas Dennis is a member in the litigation department of Frost Brown Todd LLC, focused on products liability, ERISA litigation and appellate advocacy. He serves on the Ohio Supreme Court Commission on Professionalism, as vice president of the Cincinnati Bar Association and as vice chair of the CBA's Cincinnati Academy of Leadership for Lawyers program. He holds an informal "under the radar" monthly pizza lunch with associates and guest speakers at Frost.

### **MICHAEL DISTELHORST**

Michael Distelhorst is professor of law at Capital University in Columbus, Ohio, where, among other subjects, he teaches professional responsibility in the law school. He also taught business and leadership ethics in the Masters in Business Administration Program of Capital's School of Management and Leadership.

Distelhorst's professional committee service has included prior membership on the American Bar Association's Commission on Lawyer Assistance Programs, the Association of American Law Schools Special Committee/Task Force on Substance Abuse in Law Schools, the Ohio State Bar Association's Committee on Legal Ethics and Professional Conduct, and the Columbus Bar Association's Professional Ethics Committee. He currently serves as a member of the Supreme Court of Ohio's Professionalism Commission.

In addition to his teaching experience, Distelhorst previously engaged in the general practice of law and served as outside counsel, general counsel and/or ethics and compliance counsel to various corporations.

Distelhorst speaks regularly in the subject areas of legal ethics, professionalism, and lawyer substance abuse and impairment. He is a life member of the Fellows of the American Bar Foundation, in addition to being a member of the Ohio State Bar Foundation and the Columbus Bar Foundation.

### **RYAN GREEN**

Ryan Green graduated with a Bachelor's degree from Ohio State in 2005. He received his Florida Professional Teacher's license in 2006 and taught high school English for three years. He then attended Capital University Law School and graduated in February 2012. Upon graduation Green began a solo practice while also working as a discovery attorney for Black Letter Discovery. He was accepted into the Columbus Bar Incubator Program in 2012 and graduated from the program in 2013. Green has a general practice that includes family law, probate and estate planning, and business law.

### **CHRIS GULINELLO**

Chris Gulinello is a professor of law at the Chase College of Law, Northern Kentucky University, where he also serves as the director of the W. Bruce Lunsford Academy for Law, Business + Technology.

Gulinello received his J.D. from the University of Iowa and his LL.M. from the Columbia University School of Law. Before entering academia, he practiced general corporate law and mergers & acquisitions.

Gulinello's research interests include securities regulation, corporate governance, international business, private ordering, comparative law, and the law of Taiwan and the People's Republic of China. He has published several scholarly articles discussing the law of the U.S., Taiwan, and the People's Republic of China. He currently is working on three textbooks: *Business Organizations: Practical Applications*; *A Reader in Chinese Business Law*; and *Primers on Contract Law*.

### **ROBB HERN**

Robb Hern is the director for UnitedLex's Columbus Litigation Services Operations. Hern assists law firms and corporations with their litigation support needs, from risk assessments and collections, to document review, deposition prep and witness kits. As a result, he has helped corporations streamline internal processes and realize cost savings of eight figures. Additionally, Hern leads Ohio's legal residency program, which is a two-year program for recent graduates that provides training on legal technologies and processes that are in-demand by top law firms and corporate legal departments.

Hern graduated from Cleveland-Marshall College of Law in 2011 with a business law concentration and received his Bachelor of Arts in economics from Denison University in 2006.

### **MINA JONES JEFFERSON**

Mina Jones Jefferson, Esq. is the assistant dean for professional development at the University of Cincinnati College of Law and is a frequent speaker on the topic of professionalism and career advising.

Additionally, she has taught ethics and provided the classroom instruction for the legal extern course. Jefferson is a member of the steering committee for the Cincinnati Academy of Leadership for Lawyers (CALL) and formerly served on the Board of Directors for the National Association for Legal Professionals (NALP), and chaired NALP's Law School Employment Outcomes Task Force, which produced the industry's Best Practices Guide. She also served, by appointment, on the Ohio Supreme Court Continuing Legal Education Commission. Jefferson practiced commercial litigation for nine years before returning to the College of Law, where she received her law degree. She also received a degree in public administration from Miami University.

### **ASHLEY L. JONES**

Ashley L. Jones, Esq. is the owner and principal attorney of Ashley Jones Law. Jones is a 2008 graduate of Ohio University and a 2011 graduate of Cleveland-Marshall College of Law. After graduation, she founded Ashley Jones Law and now has offices in Cleveland and Akron. The firm represents individuals in all traffic and criminal offenses from speeding tickets to high-level felonies. Jones also serves as the coordinator for the Solo Practice Incubator at Cleveland-Marshall, where she provides guidance and programming to tenants launching solo practices. She is an active member of the Ohio Association of Criminal Defense Lawyers, Westshore Bar Association, and she leads the Solo/Small Firm practice section of the Cleveland Metropolitan Bar Association.

### **DENISE PLATFOOT LACEY**

Denise Platfoot Lacey is an associate professor of externships at the University of Dayton School of Law. She administers and teaches in the school's Externship Program, which is one course offering in the school's practical experience requirement for its students. She has also developed and taught courses aimed at deepening students' understanding of the rules of professional conduct, moral discourse in legal representation, and a law career as a vocation. She regularly presents continuing legal education courses on ethics and professionalism in Ohio and has spoken at multiple national conferences on law school externships.

Lacey joined the Dayton Law faculty in 2007, after having served for two years as the secretary to the Supreme Court of Ohio Commission on Professionalism. There, she directed all aspects of the Commission's responsibilities and developed policies and activities on its behalf, designed to promote professionalism among Ohio's attorneys and judges.

Prior to that, Lacey was assistant counsel of the Cleveland Bar Association, now the Cleveland Metropolitan Bar Association, where she investigated allegations of professional misconduct by local attorneys and judges and prosecuted disciplinary cases on behalf of the bar association. She is licensed to practice law in Ohio.

### **STEPHEN LAZARUS**

Professor Stephen Lazarus is a past member of the Supreme Court of Ohio Commission on Professionalism and served as chair for the years 2009 and 2010. Lazarus is admitted to state and federal courts in New York, the District of Columbia and Ohio, and has practiced with the Legal Aid Society and

Williamsburg Neighborhood Legal Services in New York, and the Urban Law Institute in District of Columbia. He was attorney/professor at Antioch School of Law in the District of Columbia before joining the faculty at Cleveland-Marshall College of Law in 1973 as one of its first clinical professors.

In addition to supervising students in several clinical programs at Antioch School of Law and at Cleveland-Marshall, Lazarus has taught a broad range of subjects, introducing a rigorous regimen of classroom quizzes into all of them. He originated law school courses in immigration law and in trial evidence. In 2007, he was honored as the first law school recipient of the Cleveland State University Distinguished Faculty Teaching Award.

Lazarus has served as vice president of Housing Advocates, Inc., and chaired that organization's litigation priorities committee. He is a member of the certified grievance committee of the Cleveland Metropolitan Bar Association and served as chair in the year 2011-2012. He speaks on numerous occasions to various court and bar groups, including the Cuyahoga County Bar Association, the Cleveland Bar Association, the Cleveland Employment Lawyers Association, the Cuyahoga County Criminal Defense Lawyers Association, and the Ohio Judicial College. Lazarus is also a consultant and trainer for the Legal Services Corporation Trial Advocacy Skills Training courses and has lectured for several Ohio bar review courses. His teaching areas include civil procedure, constitutional law, ethics and professional responsibility, evidence, fair housing law, immigration and nationality law, introduction to law, property, and torts.

## **JUDITH LIPTON**

Judith Lipton was appointed the associate dean for experiential education at Case Western Reserve University School of Law in January 2014. In that role, she is responsible for the design and implementation of Case's new experiential curriculum, including first and second year litigation and transactional research and writing courses; development of a first-year practice experience; expansion of the externship program; design and implementation of the third-year required semester in practice. She previously served as the co-director of the Milton A. Kramer Law Clinic Center and has supervised student interns representing clients in criminal justice, family law, and health law clinics. She continues to supervise students in a newly created full-time Criminal Justice Clinic that is a pilot for the school's new requirement of a semester in practice.

## **JANET GREEN MARBLEY**

Janet Green Marbley is the administrator for the Supreme Court of Ohio Clients' Security Fund (CSF). Marbley was appointed by the court in March 1995, and her responsibilities include serving as secretary to the CSF Board of Commissioners and managing the fund's office and staff. Prior to her appointment as CSF administrator, Marbley served as deputy chief counsel in the state Attorney General's Office and prior to that, she was associate counsel with The Huntington National Bank. Marbley is a graduate of the University of Cincinnati, where she received a Bachelor of Science degree in criminal justice and corrections in 1976. She is also a graduate of Capital University Law School, where she received her law degree in 1979. Marbley is the former president of the National Client Protection Organization, the former chair of the American Bar Association's Standing Committee on Client Protection, and a member of the board of directors for The Miller-Becker Center for Professional Responsibility at the University of

Akron Law School. She also serves on various boards and committees in the Columbus, Ohio community, including The Ohio Legal Assistance Foundation and the Child Development Council.

### **LINDSEY SILVERBLATT**

Silverblatt graduated from the Ohio State University's Moritz College of Law in 2013 and is now entering her second year of practice. Shortly after sitting for the bar, she accepted a position with Legal OnRamp, an organization working to reinvent the legal landscape by improving quality, increasing efficiency, and reducing the cost of legal work through the integration of technology, processes, and people. Silverblatt currently serves as both Global Compliance Project counsel and production team lead for a regionally located, specialty contract team.

Before relocating to Columbus for law school, Silverblatt lived in Scottsdale, Arizona, where she enjoyed sunny skies and snow-free winters. She attended Arizona State University for her undergraduate degree, where she earned a B.S. in finance and a Certificate in International Business. Prior to attending the Moritz College of Law, Silverblatt worked as an analyst for Wells Fargo Bank, where she underwrote commercial loans and maintained a number of large credit portfolios.

### **BRYAN WARD**

Bryan H. Ward joined the Ohio Northern University Law faculty in 1999 after five years in the general practice of law, with a focus on bankruptcy and commercial litigation in Troy, Ohio and the greater Dayton, Ohio area. He received his JD from the University of North Carolina at Chapel Hill and his Ph.D. in political science from The Ohio State University, where he was a graduate instructor for 11 quarters. Ward teaches in the areas of criminal law and criminal procedure. He writes in the areas of criminal sentencing and criminal procedure. Ward also frequently gives continuing legal education presentations in the areas of legal ethics and professionalism, as well as legal issues affecting churches. He was member of the 2008 Fellows Class of the Ohio State Bar Foundation and also served for two terms on the Ohio Supreme Court Commission on the Certification of Attorneys as Specialists. He currently serves on the Ohio Supreme Court Commission on Professionalism.



# **Introductory Resources**





# the PROFESSIONAL LAWYER

American Bar Association Center for Professional Responsibility • Standing Committee on Professionalism

2012 • Volume 21 • No. 3



## Encouraging Each Student's Personal Responsibility for Core Competencies Including Professionalism

Neil W. Hamilton<sup>\*</sup>, Verna Monson and Jerome M. Organ

### I. Introduction

The market for entry-level positions in law firms is changing as competitive market pressures drive a “new normal” for law firms, and law schools must respond to meet students’ educational needs in this “new normal” market. A high percentage of law firms are rethinking their business models and adopting proactive talent management strategies like competency models to respond to competitive market pressures.<sup>1</sup> One core competency in these models that influences all the other competencies is an internalized commitment to self-development toward both excellence in all competencies and active initiative in exercising all of them. This paper focuses on how legal education can foster each student’s internalized commitment to self-development toward excellence and initiative.

This introduction will explore briefly how market forces are driving change toward a new normal for law firms and how competency models respond to these market forces. It is a reasonable prediction that other legal employers will follow law firms toward the use of competency models. Section II will discuss how law schools must help law students understand and respond to these competency models in order to develop professionally and position themselves to secure employment, law schools should emphasize specifically the need for students and early-career lawyers to take increasing personal responsibility for and show initiative in the development of these core competencies. Section III will both explore what research can tell us about specific curricular engagements designed to encourage students to be more

self-directed in developing these core competencies and discuss possible learning outcomes related to self-directed learning.<sup>2</sup> Section IV will discuss how the culture of traditional legal education may operate to inhibit students from developing a more self-directed approach to developing these core competencies.

### A. Market Forces Driving Change Towards a New Normal

Clients (particularly in-house lawyers as clients with respect to outside counsel) are pressuring lawyers for enhanced value for legal services.<sup>3</sup> Sophisticated clients also often move to unbundle or segment legal work to create more competition for the work.<sup>4</sup> For example, legal outsourcing to India or other countries continues to increase for commodity work like e-discovery, document review, and due diligence work.<sup>5</sup> The internet increasingly provides people with access to more and more information about the law creating both more *pro se* efforts to resolve problems as well as more knowledgeable purchasers of legal services.<sup>6</sup>

The core concepts for lawyers to embrace in this new normal market are responsiveness to the client, and cost-effectiveness for the client, combined with collaboration and teamwork with the client, other lawyers, and staff to achieve the client’s objectives.<sup>7</sup> With these core concepts in mind, many firms are rethinking their business models, with greater emphasis on including these skills and attributes within their competency models.<sup>8</sup>

### B. Competency Models to Increase Efficiency, Cost Effectiveness and Value for the Client

Susan Manch and Terri Mottershead (both consultants on attorney talent management) explain that a competency-based approach is different from standard law firm performance management because the competency model gives a specific definition

**Neil W. Hamilton** is Interim Dean, Holloran Center Director and Professor at University of St. Thomas School of Law in Minneapolis. **Verna Monson** is Research Fellow with the Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law. **Jerome M. Organ** is Professor at University of St. Thomas School of Law.

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## Encouraging Each Student's Personal Responsibility for Core Competencies Including Professionalism

(Continued from page 1)

of performance expectations using behavioral language to describe each needed capacity or skill.<sup>9</sup> They continue:

A competency-based approach to talent development involves identifying the characteristics of a firm's most highly successful lawyers and using those characteristics to anchor a firm's talent management strategy. To briefly summarize, competency frameworks are guided by the philosophy that to most effectively aid associates' development, associates should be given a clear grouping of competencies to master. In a competency model, performance standards are observable behaviors explicitly described and shown as evolving in complexity across three or four or five levels of experience. In a competency-based framework, for example, mentoring programs would be designed to offer different types/levels of support to lawyers in each level of the path to mastery of the core competencies.<sup>10</sup>

Manch presents a sample of what a simple competency framework might look like in a typical firm. We present a more complex competency model with levels of development for specific competencies later in this paper. In Table 1, she identifies four core competencies for the firm listed at the top of the framework and then lists the performance factors for each core competency.<sup>11</sup>

**Table 1**  
**Manch's Sample Competency Framework**

<b>Legal Excellence</b>	<b>Client Orientation</b>	<b>Leadership</b>	<b>Career Commitment</b>
Oral Communication	Adding value	Self awareness	Practice development
Writing	Project management	Relationship building	Drive to learn and improve
Strategic thinking	Service and quality orientation	Performance management	Firm and community citizenship
Technical expertise	Initiative	Team building and inclusion	Ethics and integrity

### C. Competency Models

Bill Henderson (2009),<sup>12</sup> Marjorie Shultz and Sheldon Zedeck (2008),<sup>13</sup> and Roy Stuckey (2007)<sup>14</sup> have each done surveys to identify the most important core competencies of effective lawyering. A synthesis of their three studies yields the following domains of core competencies listed on top in bold of Table 2 with the capacities and skills listed below.

### D. Benefits of a Competency Model

Manch explains that a competency model is useful for both associates and partners. A competency model makes transparent

what it takes to be effective and successful in the firm. Associates get a roadmap of competencies necessary at each stage of their development. The partners, individually, and the firm as a whole clarify what is important for recognition, advancement, and compensation.<sup>15</sup>

Law students need to prepare for this new normal of competency models. These models provide the same benefit for law students as they do for associates. A student can use the roadmap provided by a competency model not only to become an effective lawyer, but also to demonstrate to potential employers that the student understands the core competencies necessary to be a successful lawyer and is implementing a plan to develop them.

## II. Preparing Students for the New Normal: Fostering a Commitment to Self-Development Toward Excellence in all Competencies

This essay focuses on the specific competencies of "commitment to career-long self-development toward excellence in all competencies" and "proactive initiative in exercising all competencies" in Table 2. Law students and early-career lawyers must learn to internalize self-development toward excellence and proactive initiative in developing these capacities and skills.<sup>16</sup> In this new normal, students and early career lawyers must anticipate having several jobs over the course of their careers that may require development of new skills.<sup>17</sup> Law schools must define clear learning outcomes to signal to students the importance of developing these competencies.<sup>18</sup> This education assessment model requires law school faculties to:<sup>19</sup>

1. Identify student educational needs (including the meta-cognitive capacities of self directed learning and self-regulation capacity),<sup>20</sup>
2. Articulate student learning outcomes (educational objectives) that respond to student educational needs;
3. Plan and implement an educational program and curriculum that help students achieve the learning outcomes;
4. Identify instructional methods that integrate formative and summative assessments that are cost-effective, manageable, and meaningful;<sup>21</sup> and
5. Evaluate the effectiveness of the educational program and curriculum.<sup>22</sup>

Student learning outcomes or objectives that respond to the competencies of "commitment to career-long self-development toward excellence in all competencies" and "proactive initiative in exercising all competencies" could include (1) each student should understand all the capacities and skills necessary for effective lawyering (one cannot "own" something without awareness that it is important), and (2) each student should internalize a commitment to career-long self-development and proactive initiative toward excellence in all competencies. We will use "self-directedness" to

capture the internalization of a commitment to career-long self-development and proactive initiative toward excellence in all competencies. Notably, if a student can demonstrate that she understands what is necessary for effective lawyering and has internalized self-directedness, the student will improve his or her employability in the new normal market.<sup>23</sup>

### III. Curriculum and Assessments That Help Students Achieve These Learning Outcomes

This section will analyze the principal elements of an educational program and curriculum that will help each student understand all the necessary core competencies and achieve self-directedness.

#### A. Each Student Should Understand All The Competencies and Skills Necessary for Effective Lawyering

A student cannot own something without awareness that it is important. Law firms implementing competency models begin with an orientation for associates that explains the full model followed by reminders and training as needed at evaluations and transition stages as well as formal training to help lawyers understand the model.<sup>24</sup> Similarly, day one of law school should begin with introducing the lawyer competency model, explaining its importance, and informing students it is each student's personal responsibility to engage in activities inside and outside the classroom that develop self-directedness. A dean or program director should explain that the competency-model approach responds to recent changes in the market within law firms (and ultimately all legal employers) and in client relationships. The explanation should include what competencies and skills the required curriculum will help the student develop, and what competencies and skills the elective curriculum and other experiences inside and outside of law school can help the student develop. The explanation also should describe the different curricular engagements, requirements, and resources

available to help develop and implement a self-directed learning plan. The presentation should make clear that the responsibility for development of these competencies does not reside with faculty or administrators, but with each student. This emphasis should foster the developmental growth of personal responsibility towards self-directedness.

Explaining how law firms are evaluating associates affords law students a clearer understanding of how to prepare to be successful in practice and will help frame the effort as legitimate, timely, and linked to tangible rewards in the future. Second- or third-year law students or alumni can give personal testimonies of the benefits of developing these competencies. Alumni can share how their efforts to self-direct their learning as law students and new associates helped them secure employment and achieve their career goals. The goal is to challenge students' assumptions that it is solely top grades and doctrinal law knowledge and analysis that are important, and encourage them proactively to develop all the competencies that are necessary to achieve the student's career objectives. The presentation should also explain that each competency is developmental through stages from novice to expert over a career.

Law firms using competency models follow up the orientation with appropriate training and reminders at evaluations of associates and transition stages as well. They also use formal mentoring to help lawyers understand the model.<sup>25</sup> The law school curriculum similarly needs to re-engage each student at regular intervals to remind the student of the overall competency model and the developmental stages for each competency. The curriculum should help each student to create a developmental plan regarding the competencies the student wants to achieve.

#### B. Each Student Should Internalize Self-Directedness

In this section, we look at the most effective pedagogies to foster each student's internalization of self-directedness from

**Table 2**  
**Competency Framework: Synthesis of Three Empirical Studies**

Critical Thinking Excellence	Service Orientation with Clients	Working with Others	Communications	Virtues and Dispositions
Core understanding of the law	Responsiveness to client	Effective teamwork	Persuasive speaking and writing	Commitment to career-long self-development toward excellence in all competencies
Legal analysis and reasoning	Client rapport and strong relationships	Effective planning and organization of work	Negotiation	Proactive initiative in exercising all competencies
Pragmatic problem solving	Client commitment	Performance management	Listening	Integrity and honesty
Strategic thinking	Demonstrated value to client	Team building and inclusion	Ethics and integrity	Self-awareness, capacity to recognize strengths and weaknesses and reflection
Creativity and innovation				Resilience and perseverance

three different scholarly literatures: (1) empirical research on effective pedagogies for professional formation generally; (2) research on self-directed learning; and (3) research on competency models.

### *1. Recent Scholarship on Effective Methods to Foster Professional Formation*

A fully-internalized commitment toward career-long self-development including excellence at all the competencies of an effective lawyer should become part of each student's and each lawyer's moral core. In a 2012 article, we did an extensive analysis of empirical studies in medical, dental, legal, management, engineering, and psychology education to determine which pedagogies most effectively foster 1) each student's internalized moral core of responsibility for others and for self and 2) a high standard of excellence at all the competencies for effective lawyering.<sup>26</sup> We saw convergences in the empirical data. Different studies conducted by different researchers using different methods pointed toward some common themes set forth below.

#### **(a) Stage-appropriate Educational Engagements**

Effective pedagogies must take into account that students are at different developmental stages of growth toward an internalized moral core. The pedagogy used must engage each student at his or her current developmental level.<sup>27</sup>

#### **(b) Cognitive Disequilibrium and Optimal Conflict**

Central to pedagogies of professional formation of a law student's moral core is the idea that in order to grow, each person needs to experience cognitive disequilibrium or optimal conflict on issues relating to the person's moral core within a context of psychological safety.<sup>28</sup> Introducing the student to disorienting dilemmas involving the student's moral core is another phrase used in this literature.<sup>29</sup> Essentially, the professor asks the student to deal with a problem that presents an experience of some frustration that challenges the student's assumptions and beliefs and connects deeply to who the student is and what he or she most values.<sup>30</sup>

#### **(c) The Habit of Actively Seeking Feedback, Dialogue on the Tough Calls, and Reflection (FDR)**

Empirical research on effective pedagogies to help each student grow toward an internalized moral core emphasizes the habit of actively seeking feedback from others, dialoguing with others about the tough calls, and reflecting on matters involving the student's moral core. We have called this the habit of FDR.<sup>31</sup>

#### **(d) Structuring Repeated Opportunities for Practicing the Habit of FDR, Especially Through Formative Assessments, Throughout the Curriculum**

Based on twenty-five years of empirical research on effective pedagogies to help students' grow toward an internalized moral core, Muriel Bebeau recommends a curriculum that provides students with multiple assessment and reflective self-assessment opportunities

on professional formation, including feedback from multiple sources.<sup>32</sup> The curriculum should help students become reflective and self-directed over an extended period of time in the context of the overall program and culture of the law school. There is no empirical evidence that a single ethics course focused on doctrinal knowledge and critical analysis of ethics without some reflective exploration of the student's own internalized moral core makes any difference in terms of student development of the moral core. Empirical research suggests that structured opportunities for practicing and rehearsing the habit of FDR with respect to self-directedness and the other core competencies of effective lawyering should occur throughout the curriculum in teacher-facilitated discussions, clinical and practical experiences, coaching and mentoring, modeling, reflective writing, storytelling and narrative, service learning, and small group discussions. Repeated practice of the habit of FDR with respect to self-directedness will help each student internalize this capacity and skill.<sup>33</sup>

### *2. Scholarship on Self-Directed Learning*

A recent article summarizes the literature relating to the most effective principles for fostering self-directed learning.<sup>34</sup> The four principles overlap somewhat with the four pedagogies identified above as being the most effective in fostering each student's internalized moral core.

#### **(a) Match the Level of Self-Directed Learning Required in Educational Activities to Student Readiness.**

Research on the effectiveness of fostering self-directed learning suggests the importance of matching the nature of the self-directed activities to students' readiness to engage in self-directed learning.<sup>35</sup> Thus, much like efforts to foster an ethical professional identity require an engagement with students' at their various stages of moral development, self-directed learning similarly requires "stage-appropriate" engagement.

#### **(b) Progress From Teacher to Student Direction of Learning Over Time**

Consistent with the first principle, research suggests that as students develop a greater capacity for self-directed learning, their professors should engage pedagogical models that give them more and more opportunity to take responsibility for their learning.<sup>36</sup>

#### **(c) Support the Acquisition of Subject-Matter Knowledge and Self-Directed Learning Skills Together**

Because those more expert in knowledge have greater capacity to engage in self-directed learning than those who are novices, research suggests that development of self-directed learning skills should be integrated with the acquisition of domain-specific knowledge.<sup>37</sup> Thus, much like efforts to foster an ethical professional identity require an integration of formation opportunities throughout the curriculum, self-directed learning similarly benefits from a more integrated approach.

#### **(d) Have Students Practice Self-Directed Learning in the**

### Context of Learning Tasks

Because studies of self-directed learners describe many learners as having the goal of applying their knowledge to a specific task, research favors self-directed learning that is centered on tasks that learners are likely to encounter in the future.<sup>38</sup>

Notably, the self-directed learning cycle also requires something similar to the feedback, dialogue, reflection process, in that students should be responding to feedback on their performance on a task or assessment by reflecting on whether their approach to studying and preparing for the task or assessment was well-designed to accomplish their goals or should be modified in some way to foster improvement.<sup>39</sup>

### 3. Scholarship on Competency Models Emphasizes the Same Pedagogies

#### (a) Stage-Appropriate Educational Engagements

Recent scholarship on competency models also emphasizes that each competency has developmental stages and that educational engagements to help a student develop any competency must be stage-appropriate.<sup>40</sup> Performance standards associated with a given competency are “observable behaviors explicitly described and shown as evolving in complexity across three or four or five levels of experience.”<sup>41</sup>

#### (b) Mentoring and Coaching

Competency model scholarship supports mentoring and coaching as effective pedagogies to foster all of the core competencies including self-directedness.<sup>42</sup> Definitions of “mentoring” and “coaching” are not precise and there is substantial overlap. The Carnegie Foundation for the Advancement of Teaching’s studies of education for the professions define mentoring as existing when a “student forms a relationship with a practicing professional and can seek advice from the professional.”<sup>43</sup> The goal is a relationship that helps the student’s broad developmental growth. A coach is generally understood to mean a senior professional who guides a student by questioning the student about issues of importance in the work, helping the student to identify goals, creating a plan to achieve the goals, and providing constructive feedback.<sup>44</sup> In general, a mentor gives advice when asked, and a coach proactively asks questions.<sup>45</sup> While there are professionally-trained career coaches,<sup>46</sup> this essay focuses on mentors who are not career coaches. Many non-professionally trained mentors also coach.<sup>47</sup> As noted above, in mentor/coach relationships, competency-model scholarship emphasizes the importance of stage-appropriate engagements and questions.<sup>48</sup>

#### (c) Identifying Gaps in Development

Competency-model scholarship also suggests that as a student progresses through the levels of achievement toward mastery of a competency, the mentor/coach should help the student identify “development gaps.” “In competency-based systems, mentors should attend the associate’s

annual evaluation review meeting and then work with the associate to develop and execute an Individual Development Plan (IDP) based on the performance and developmental feedback received through the evaluation as well as the associate’s career interests.”<sup>49</sup> In addition, the mentor/coach can present questions that help the student see that he or she is not making progress in self-directedness.<sup>50</sup> This should create cognitive disequilibrium or optimal conflict within the student as discussed above. Even better, the mentor/coach could ask the student first to do a self-assessment and ask stage-appropriate questions about the self-assessment.<sup>51</sup>

#### (d) Repeated Opportunities for Feedback, Dialogue and Reflection

The competency model scholarship also recommends structuring repeated opportunities, through formative assessments, for each student to practice internalizing the habit of actively seeking feedback and dialogue over the tough calls, and reflecting on the choices made and the consequences.<sup>52</sup> This is very consistent with the literature discussed above regarding feedback, dialogue and reflection as necessary components for fostering an ethical professional identity and self-directed learning.

### 4. Summary of Strategies

What does this review of different literatures suggest in terms of common themes that should be implemented in law schools interested in fostering greater self-directedness by their students? The design of effective methods for fostering greater self-directedness among law students and graduates, the consistent message across research domains suggests that instructional efforts be stage-appropriate engagements, increasingly shift from professor-directed to self-directed over time, provide opportunities for feedback, dialogue and reflection and be task-oriented (experiential) to the extent possible.

### 5. Developing a Framework for Describing Learning Outcomes that Reflect the Levels of Competency Regarding Self-Directedness

What might these different performance standards for competency regarding self-directedness look like? This section discusses two examples, one from law firms and one from graduate medical education.

#### (a) Law Firm Framework for “Initiative/Ambition/Drive” and “Character and Commitment”

A 2012 analysis of the associate evaluation forms used by the largest fourteen Minnesota law firms indicates that three of the firms had defined levels of development for the capacities of initiative/ambition/drive and character and commitment, close parallels to the idea of being a self-directed learner.<sup>53</sup> Table 3 describes these differing levels of development.

#### (b) Graduate Medical Education Framework for “Willingness to Seek Help”

We see another more complex example from the American Board of Pediatrics on the competency of the “ability

**Table 3**  
Levels of Development for Initiative/Drive and Character and Commitment

	Initiative, Ambition, and Drive	Character and Commitment
<b>First through Fourth Year Associate</b>	<ul style="list-style-type: none"> <li>• Makes commitments and sacrifices necessary to complete assignments within the required time and to acquire skills to progress in the associate's career</li> <li>• Seeks out work when not busy</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrates ethical integrity, dependability, self-motivation, emotional intelligence, and a strong work ethic</li> <li>• Initiates and maintains strong, respectful relationships in the workplace, seeks feedback, and works effectively as part of a team.</li> <li>• Shows concern for the well-being of the firm.</li> </ul>
<b>Fifth through Seventh Year Associate</b>	<p>In addition:</p> <ul style="list-style-type: none"> <li>• Accepts responsibility for identifying and meeting client needs and objectives</li> </ul>	<p>In addition:</p> <ul style="list-style-type: none"> <li>• Has the confidence of partners not only for his/her knowledge, skills, and capabilities, but for judging accurately when to seek out guidance and oversight from the partner.</li> <li>• Contributes to the community and profession through active involvement in the bar, business and other community organizations</li> <li>• Shows increasing identification with and interest in firm's future, and a willingness to commit to the success of the firm.</li> </ul>
<b>Senior Associate</b>	<p>In addition:</p> <ul style="list-style-type: none"> <li>• Makes sacrifices and commitments necessary to satisfy client demands.</li> <li>• Seeks out opportunities to lead projects and take part in firm/department administrative and marketing activities.</li> </ul>	<p>In addition:</p> <ul style="list-style-type: none"> <li>• Actively participates in community service or pro bono work.</li> <li>• Consistently demonstrates leadership and good judgment.</li> <li>• Invests significantly in the firm by service on committees, participating in lawyer recruiting or mentoring new associates.</li> <li>• Works cooperatively with other firm lawyers and staff and willingly shares information, knowledge and client contacts for the good of the firm.</li> </ul>

to seek help.” This is loosely analogous to the competency of “proactive initiative” in the legal profession. The American Board of Pediatrics (ABP) and the American Council of Graduate Medical Education (ACGME)<sup>54</sup> recently formalized a rubric to assess levels of this competency (called milestones) among resident physicians, displayed in Table 4. This example reflects the product of a working group of expert physicians and subject-matter experts to build a consensus on levels of competencies in order to ensure consistent expectations are set by pediatric physicians across institutions.<sup>55</sup>

These examples provide a solid foundation on which lawyers and law professors could construct learning outcomes that emphasize a developmental model of self-directedness.

#### **IV. Challenges to Implementing Efforts to Foster Greater Self-Directedness Among Law Students**

Competency model scholars note that some lawyers will perceive a competency model initiative as threatening change, and they will resist it.<sup>56</sup> This resistance to change will be problematic for law schools as well. The entrenched legal education

**Table 4**  
ABP / ACGME Milestones, the Capacity to Seek Help

<b>Novice:</b> Lacks insight into limitations, so need for help goes unrecognized.
<b>Advanced Beginner:</b> May recognize limitations, but motivation to seek help is externally prompted; continues to demonstrate concern that limitations will be seen as weakness;
<b>Competent:</b> Recognizes limitations, but occasionally does not engage in appropriate help seeking behaviour due to overriding sense of professional autonomy;
<b>Proficient:</b> Recognizes limitations and appropriately seeks assistance. Personal value of optimizing outcomes in patients supersedes all other impulses in this domain;
<b>Expert:</b> Demonstrates personal drive to continually improve through help seeking behaviors;
<b>Master:</b> Role models and encourages others to develop and demonstrate appropriate help seeking behaviors.



culture is, in many respects, profoundly not self-directed.

Legal education, generally speaking, is much more pedagogical than andragogical. A pedagogical model “assigns to the teacher full responsibility for all decision making about the learning content, method, timing, and evaluation. Learners play a submissive role in the educational dynamics.”<sup>57</sup> By contrast, an andragogical model, more attuned to adult learners, recognizes that students want to understand why it is important to learn something, want more control over or responsibility for their learning process, and are more life centered and experiential in their learning preferences.<sup>58</sup>

At one level, the “signature pedagogy” that the Carnegie Report on Legal Education identified as something law schools do well—teaching students the cognitive and analytical skills that define “thinking like a lawyer”<sup>59</sup>—happens in very pedagogical context -- a social context in which law students have very little control over what they are learning or how they are learning it. First-year students, in particular, are assigned the courses they will take, when they will take them and with whom they will take them. The professors in their courses are trying to teach them both new areas of subject matter knowledge as well as a new way of thinking critically and analyzing situations and facts. Educational literature recognizes that greater emphasis on pedagogy may be necessary when moving students into a new content area with which students have had little experience and are dependent upon the teacher to acquire this new knowledge or skill.<sup>60</sup> But the attitude or perspective of the professor may be particularly instructive here—those embracing a pedagogical model will foster continued dependence while those embracing a more andragogical model will look for opportunities to encourage greater student responsibility for their learning.<sup>61</sup>

In legal education, then, law students get acclimated to being “dependent” learners rather than self-directed learners.<sup>62</sup> Law professors like to be in “control” of the classroom, dictating what gets learned and how it is learned, resulting in a social context in which students feel very little encouragement toward or ability to engage in self-directed learning toward all the competencies beyond those involved in immediate course work. Larry Krieger’s research finds a decline in well-being among law students and notes that the primary factor contributing to the decline in well-being is the lack of autonomy support within legal education’s “social context.”<sup>63</sup> Similarly, Daisy Floyd has observed: “The time demands of law school and the emphasis on analytical reasoning devalue self-awareness and prevent reflection. Yet, these are essential skills for finding meaning and purpose in law practice [and in life].”<sup>64</sup> Roger Cramton, writing over three decades ago, described the “ordinary religion” of the law school classroom as neglecting “humane aspects of personal development and experience, the emotional aspects of the professional relationship, and the development of capacities of imagination, empathy, self-awareness and sensitivity to others,” resulting in an “atomistic” and “competitive” environment that fosters “feelings of isolation, suspicion and hostility ... among students.”<sup>65</sup>

Thus, finding ways to promote a greater emphasis on self-directed learning in students will be challenging in a legal

educational context that tends to foster dependency rather than responsibility for one’s learning.

## V. Conclusion

What we are suggesting, in sum, is that in order to help students achieve learning outcomes like self-directedness, legal education needs to move from an exclusive focus on learning as an activity situated outside the learner—an act in which knowledge is transferred from an expert to a novice—to incorporate learning that is based on developmentally appropriate engagements, creation of situations involving optimal conflict or cognitive disequilibrium, encouragement of the habit of FDR, and multiple formative assessment opportunities. The curriculum and culture should emphasize each student taking ownership of a personal transition to practice plan as early as possible in law school (which should be revisited regularly with input from mentors and coaches and revised regularly). Schools can conduct audits or evaluations of the entire program with respect to the extent that becoming self-directed is reinforced, as well as to analyze policies or practices that work against self-directedness.

The transition for faculty will necessitate some changes in terms of understanding the underlying educational theory or philosophy of teaching. The competency-based movement is seated within an educational philosophy where the instructor is more a facilitator of the students’ growth in professional competencies, rather than a sage pouring knowledge and wisdom into an empty vessel, or a final arbiter of a student’s capacities to become a successful professional. A law school considering a competency-based curriculum should undertake faculty development to help faculty implement teaching methods that are shown to be most empirically effective at fostering competencies like self-directedness.<sup>66</sup>

Legal education can learn a great deal from the extensive use in medical education of rubrics to assess milestones of multiple competencies, and we can envision similar efforts in the legal profession. Realistically, we note that this effort in medical education began in the late 1990s with a national effort by the medical school accrediting bodies. As a first step in legal education, further discussion and consensus building on definitions of lawyer competencies needs to take place. Specialties such as pediatric medicine developed their own unique set of competencies; different specialties in law may also wish to conduct their own stakeholder discussions, along with empirical and theoretical validation.

With self-directed learning, we are asking each student to examine his or her assumptions about the student’s role as a learner in the context of the new normal of law firms and competency models. A student who has internalized a commitment to self-development toward both excellence in all competencies and initiative will have a significant advantage in seeking employment and developing a client base.<sup>67</sup>

A self-directed learning approach will also require that each legal educator also examine his or her assumptions about the role of the educator. Without that reflection and introspection, the competency-based model can be

misconstrued as another assessment effort imposed upon students, and seen by students as a constraint or unneeded burden rather than an opportunity. Emphasizing the importance of reflection to teacher development and also to transparency with students, Lee Shulman, former president of the Carnegie Foundation for the Advancement of Teaching stated:<sup>68</sup>

The teacher is not only a master of procedure but also of content and rationale, and capable of explaining why something is done. The teacher is capable of reflection leading to self-knowledge, the metacognitive awareness that distinguishes draftsman from architect, bookkeeper from auditor. A professional is capable not only of practicing and understanding his or her craft, but of communicating the reasons for professional decisions and actions to others.

The new roles that legal educators will undertake to foster learning toward self-directedness present an opportunity for a law school to gain a competitive advantage against other schools not prepared for these changes. The need for rapid change in legal education to respond to what students need in this new normal employment market is an opportunity for legal educators to step back and take stock of the nature of change. In this sense, by implementing the changes we suggest, legal educators will model for students how each student must respond to the new normal of legal employment. **P**

\* Research assistant Deborah Walker provided invaluable help on the footnotes for this article.

## Endnotes

1. Susan Manch, *Competencies and Competency Models—An Overview*, in *THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS* 77, 85 (Terri Mottershead, ed., 2010) (noting that a July 2009 survey of U.S. law firms reported that in response to market changes almost seventy-five percent of the firms had or were planning to develop a competency-model approach to talent management). In 2012, all fourteen of the largest Minnesota law firms were using competency models to evaluate associates. Neil W. Hamilton, *The Importance of Professional Formation (Professionalism) in Law Firm Competency Models* (draft article on file with the authors).

2. Self-directed learning is an approach to adult education that acknowledges learners' interests, abilities, and goals, often incorporating individual learning plans and emphasizing experiential or constructivist learning. See, e.g., MALCOLM S. KNOWLES ET AL., *THE ADULT LEARNER: THE DEFINITIVE CLASSIC IN ADULT EDUCATION AND HUMAN RESOURCE DEVELOPMENT* 71–72 (6th ed. 2005). Self-directed learning contributes to the individual capacity of self-directedness. Self-directedness is conceptually aligned with lifespan identity formation and development of cognitive, social, and emotional capacities and skills. See, e.g., ROBERT KEGAN, *IN OVER OUR HEADS: THE MENTAL DEMANDS OF MODERN LIFE* (1998).

3. Terri Mottershead, *The Business Case for Talent Management in Law Firms—Are People Really Our Greatest Asset?*, in *THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS* 21,

29–32 (Terri Mottershead, ed., 2010). See also HILDEBRANDT BAKER ROBBINS, 2011 CLIENT ADVISORY 17 (2011) [hereinafter HILDEBRANDT]; James W. Jones, Senior Fellow, Center for the Study of the Legal Profession, Georgetown University Law Center, NALP 2012 Annual Education Conference Plenary Session: Understanding the Current Legal Economy (April 19, 2012).

4. Mottershead, *supra* note 3, at 27.

5. See, e.g., HILDEBRANDT, *supra* note 3, at 6.

6. Mottershead, *supra* note 3, at 24.

7. *Id.* at 25. See also HILDEBRANDT, *supra* note 3, at 6, 17; Neil W. Hamilton & Verna Monson, *The Positive Empirical Relationship of Professionalism to Effectiveness in the Practice of Law*, 24 GEO. J. LEGAL ETHICS 137, 161–162 (2011).

8. E.g., Mottershead, *supra* note 3, at 32–33.

9. Terri Mottershead & Susan Manch, *Introduction: Talent Management in Law Firms—Evolution, Revelation, Revolution or Business as Usual?*, in *THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS* 1, 9 (Terri Mottershead, ed., 2010).

10. *Id.*

11. Manch, *supra* note 1, at 83.

12. William Henderson, Professor, Indiana University Maurer School of Law and Director, Center on the Global Legal Profession, Colloquium Presentation to the University of St. Thomas Law faculty: *The Three Generations of Lawyers: Generalists, Specialists and Project Managers* (Feb. 28, 2011) (synthesizing the survey responses from Indiana law graduates and senior practicing lawyers regarding the qualities they are looking for in associates).

13. Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 LAW & SOC. INQUIRY 620, 629 (2011) (synthesizing the responses from 1,105 law alumni of UC Berkeley and UC Hastings ranging from 2 to 35 years of practice to a survey regarding the qualities they would look for in a lawyer). See also Hamilton & Monson, *supra* note 7, at 163.

14. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* 65–88 (2007) (synthesizing the responses from a survey of clinicians in U.S. law schools).

15. Manch, *supra* note 1, at 79, 86–87.

16. Over the last decade, others have also called for greater emphasis in law school regarding self-directed learning. See, e.g., Michael Hunter Schwartz, *Teaching Law Students to be Self-Regulated Learners*, 2003 MICH. ST. DCL. L. REV. 447 (2003); Anthony Niedwiecki, *Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students through More Effective Formative Assessment Techniques*, 40 CAP. U. L. REV. 149 (2012).

17. A United States Bureau of Labor Statistics study found that workers held an average of 10.8 different jobs from ages 18 to 42. U.S. Bureau of Labor Statistics, 2008 *1979 National Longitudinal Survey of Youth* (NLSY79), [http://www.bls.gov/news.release/archives/nlsyoy\\_06272008.pdf](http://www.bls.gov/news.release/archives/nlsyoy_06272008.pdf) (last viewed on August 4, 2012). Law students can anticipate similar job mobility. See Deborah J. Cantrell et al., *Walking the Path of the Law: How Law Graduates Navigate Career Choices and Tolerate Jobs that Fail to Meet Expectations*, 14 Cardozo J.L. & Gender 267, 282 (2008). Surveys were sent to a random sample of 2808 graduates, equally distributed across three ten-year age cohorts: the 1970s, 1980s, and 1990s, generating 665 responses for a response rate of 24%. *Id.* at 284. Over half of the respondents held three legal

jobs and nearly 20% had at least five jobs. *See also* Ronit Dinovitzer et al., NALP Foundation for Law Career Research and Education & American Bar Foundation, *After the JD II: Second Results from a National Study of Legal Careers* 54-56 (2009) (indicating significant percentage of 2000 graduates changing jobs within seven years of graduating).

18. This approach fits with the late-stage draft proposals of the ABA Standards Review Committee to change the accreditation standards so that legal education adopts the same education assessment model that graduate education in the health professions has adopted. *See generally* Neil W. Hamilton, *Fostering Formation (Professionalism): Lesson from the Carnegie Foundation's Five Studies on Educating Professionals*, CREIGHTON L. REV. (forthcoming 2012), U of St. Thomas Legal Studies Research Paper No. 11-21 (2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1908453](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1908453); Neil W. Hamilton, *Analyzing Common Themes in Legal Scholarship on Professionalism*, U of St. Thomas Legal Studies Research Paper No. 11-24 (2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1917058](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1917058).

19. Neil W. Hamilton, *Assessing Professionalism: Measuring Progress in the Formation of an Ethical Professional Identity*, 5 U. ST. THOMAS L.J. 470, 498 (2008) (noting the need for effective educational pedagogies that include these elements in order for students to effectively internalize a professional identity). *See generally* Neil W. Hamilton, *Foreword to Symposium on the Formation of an Ethical Professional Identity*, 5 U. ST. THOMAS L.J. 361, 363 (2008) (giving an introduction to learning models that foster self-development); Neil W. Hamilton & Verna Monson, *Legal Education's Ethical Challenge: Empirical Research on How Most Effectively to Foster Each Student's Professional Formation (Professionalism)*, 9 U. ST. THOMAS L.J. (forthcoming 2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2004749](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2004749) (this article is summarized in the text at notes 27-33).

For additional scholarship describing similar components for course integrating self-directed learning, see Michael Hunter Schwartz, *supra* note 16 at 383-505, and Roy Stuckey, *supra* note 14, at 7-9.

20. The term "self-regulation" is associated with the ability to manage stress, which involves the ability to become increasingly conscious or mindful of emotion states. Implicit in this concept is the idea of metacognition—or "thinking about thinking." *See also* Karen Strohm Kitchener, *Cognition, Metacognition, and Epistemic Cognition*, 26 HUM. DEV. 222, 222-223 (1983); JACK MEZIROW, *LEARNING AS TRANSFORMATION: CRITICAL PERSPECTIVES ON THEORY IN PROGRESS* (2000).

21. Formative assessment is defined as a form of feedback throughout the course that allows students to gauge their learning in order that they can alter and improve study habits, and summative assessment as evaluating whether students meet the minimum requirements to the pass the course. NELSON MILLER, *TEACHING LAW: A FRAMEWORK FOR INSTRUCTIONAL MASTERY* 15-25, 99-104 (2010). With respect to assessment of soft-skills and values- or virtue-based competencies, formative assessment should be used over summative assessments. For an overview of approaches to educational assessment, see DAVID W. JOHNSON & ROGER T. JOHNSON, *MEANINGFUL ASSESSMENT: A MANAGEABLE AND COOPERATIVE PROCESS* (2002).

22. The Law School Survey of Student Engagement (LSSSE) is useful as an evaluation tool. To access information and reports, see <http://lssse.iub.edu/reports.cfm>. For a discussion of the methodological approaches to evaluation, see MICHAEL QUINN PATTON, *The Paradigms Debate and a Utilitarian Synthesis*, in *UTILIZATION-FOCUSED EVALUATION* 265,

265-99 (3d ed. 1997).

23. The concept of self-directedness is tied closely to adult education. Implicit is the idea that independence of judgment and autonomy are primary goals. However, as the literature on lifespan human development suggests, the stage that many older adolescents and younger adults are most likely navigating is that of Kegan's Stage Two, the Instrumental Mind, or Stage Three, the Socialized Mind. For these students, self-directedness will be seated within a context of observing others, adopting the norms of the "hidden curriculum," or pleasing instructors. For a review of research in law using the Kegan model of lifespan development, see Neil W. Hamilton & Verna Monson, *Ethical Professional (Trans)Formation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 SANTA CLARA L. REV. (forthcoming 2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1804419](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1804419).

24. Sari Fried-Fiori, *Competency-Based Development Programs*, in *THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS* 119, 120-22 (Terri Mottershead, ed., 2010).

25. *Id.*

26. Hamilton & Monson, *supra* note 19.

27. *Id.*

28. Cognitive disequilibrium is a term used by learning theorists and moral psychologists to describe how learners benefit from facing multiple perspectives of significantly challenging problems and how it promotes development of cognitive, social, and emotional capacities and skills. Optimal conflict requires a balance between providing sufficient challenge and sufficient support for learners. For a practical overview of this topic, see ROBERT KEGAN & LISA LASKOW LAHEY, *IMMUNITY TO CHANGE* 54-56 (2009).

29. *See* MEZIROW, *supra* note 20.

30. Hamilton & Monson, *supra* note 19.

31. *Id.*

32. Muriel J. Bebeau, *Promoting Ethical Development and Professionalism: Insights from Educational Research in the Professions*, 5 U. ST. THOMAS L.J. 366, 391 (2008).

33. Hamilton & Monson, *supra* note 19.

34. Gregory M. Francom, *Teach Me How to Learn: Principles for Fostering Students' Self-Directed Learning Skills*, 7 INT'L J. SELF-DIRECTED LEARNING 29 (2010).

35. *Id.* at 33 (citing several studies).

36. *Id.* at 35 (citing several studies). An empirical study of self-directed learning in the health professions education showed gains in academic learning over traditional pedagogies, with additional benefits in improvement of skills and attitudes. *See* Mohammad H. Murad et al., *The Effectiveness of Self-Directed Learning in Health Professions Education: A Systematic Review*, 44 MED. EDUC., no. 11, Nov. 2010, at 1057.

37. Francom, *supra* note 34, at 36 (citing several studies).

38. *Id.*

39. *See e.g.*, Schwartz, *supra* note 16 at 487-490.

40. Fried-Fiori, *supra* note 24, at 134. *See also* Cynthia Pladziewicz, *Coaching and Career Development*, in *THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS* 187, 187-88 (Terri Mottershead, ed., 2010) (describing how coaching, which also focuses on developing a lawyer's competencies, is "customized" to meet the individual lawyer's needs).

41. Manch & Mottershead, *supra* note 9.

42. Fried-Fiori, *supra* note 24, at 134-35; Pladziewicz, *supra* note 40.

43. Hamilton, *Fostering Formation (Professionalism): Lessons from the Carnegie Foundation's Five Studies on Educating Professionals*, CREIGHTON L. REV. (forthcoming 2012), U of St. Thomas Legal Studies Research Paper No. 11–21 (2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1908453](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1908453). Note that empirical studies about the development of professionalism support the importance of mentoring and modeling as useful pedagogies. See e.g., Verna Monson & Neil W. Hamilton, *Entering Law Students' Conceptions of an Ethical Professional Identity and the Role of the Lawyer in Society*, 35 J. LEGAL PROF. 385, 399–400 (2011). See also Verna Monson & Neil Hamilton, *Ethical Professional (Trans)Formation: Early Career Lawyers Make Sense of Professionalism*, 8 U. ST. THOMAS L. J. 129, 150 (2011).

44. Pladziewicz, *supra* note 40, at 188.

45. *Id.*

46. *Id.* at 187.

47. For a discussion on functions of career mentoring, modeling, and professionalism, see Neil W. Hamilton & Lisa Montpetit Brabbit, *Fostering Professionalism Through Mentoring*, 57 J. LEGAL EDUC. 102, 107–09 (2007).

48. Manch & Mottershead, *supra* note 9. See also Fried-Fiori, *supra* note 24, at 134 (noting that the type of mentoring will differ according to the level of the lawyer within the competency system).

49. Fried-Fiori, *supra* note 24, at 137.

50. Susan Manch, *Competency-based Performance Management: Evaluations, Advancement and Compensation*, in THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS 153, 161, 165, 169 (Terri Mottershead, ed., 2010). Constructive feedback is specific, and offers some balance between affirming positive behaviors and offering suggestions for improvement. Constructive feedback is particularly important in professionalism competencies that both are difficult-to-assess (e.g., communication or relationship skills) and require two-way communication describing the observed behavior, and explaining what inferences were made from the observations. Beginning a feedback session or debriefing by asking the student to self-assess the student's own performance is useful in assessing how accurate his or her self-perception is. Constructive feedback will focus on the description of observations, and a suggested interpretation or inference—giving the student a chance to respond. DAVID W. JOHNSON & FRANK P. JOHNSON, JOINING TOGETHER: GROUP THEORY AND GROUP SKILLS 519 (11th ed. 2012).

51. A self-assessment might ask the student the following questions:

1. What is my personal appraisal of my understanding of all of the core competencies of effective lawyering and self-directedness in particular?
2. What is my stage of development toward self-directedness?
3. In what areas of self-directedness do I see a need for further development?
4. What are my specific goals for this year?

Manch, *supra* note 50, at 169.

52. Hamilton & Monson, *supra* note 19.

53. Hamilton, *supra* note 1.

54. Thomas J. Nasca, Accreditation Council for Graduate Medical Education (ACGME), *An Overview of the Medical Education System, and the Role of Accreditation in Graduate Medical Education in the United States of America*, available at [http://www.gmc-uk.org/2009\\_Stakeholder\\_Conference\\_\\_ACGME\\_\\_US\\_regulation\\_for\\_medi-](http://www.gmc-uk.org/2009_Stakeholder_Conference__ACGME__US_regulation_for_medi-)

[cal\\_education\\_T\\_Nasca.pdf\\_30585179.pdf](http://www.gmc-uk.org/2009_Stakeholder_Conference__ACGME__US_regulation_for_medi-cal_education_T_Nasca.pdf_30585179.pdf). For an overview of the competency approach in medical education, see Ronald M. Epstein & Edward M. Hundert, *Defining and Assessing Professional Competence*, 287 J. AM. MED. ASSOC., no. 2, Jan. 2002, at 226.

55. This is one of 50 total competencies representing seven domains of physician competencies. For an overview and commentary on the process used in medicine to gain consensus on defining professionalism competencies, see David Leach, *Commentary, Competencies: From Deconstruction to Reconstruction and Back Again, Lessons Learned*, 98 AM. J. PUB. HEALTH, no. 9, Sept. 2008, at 1562. Leach is the former Executive Director of the ACGME.

56. Heather Bock, *Organizational Development and Change*, in THE ART AND SCIENCE OF STRATEGIC TALENT MANAGEMENT IN LAW FIRMS 281, 289–91 (Terri Mottershead, ed., 2010).

57. KNOWLES ET AL., *supra* note 2.

58. *Id.*

59. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 27–33 (2007).

60. See KNOWLES ET AL., *supra* note 2 at 69–70.

61. *Id.*

62. *Id.* at 65 (discussing the general response of adult learners to imposed educational structures). Law students may have more opportunity for and encouragement to be self-directed in experiential courses such as lawyering skills or simulation courses or clinical courses in which they are “learning by doing,” but as noted in *Educating Lawyers*, legal education tends to overemphasize the “first apprenticeship” focused on the cognitive and analytical while underemphasizing the second apprenticeship (practical skills) and the third apprenticeship (professional identity formation). See SULLIVAN, *supra* note 59, at 145.

63. Kenneth M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test and Extension of Self-Determination Theory*, 33 PERS. & SOC. PSYCHOL. BULL. 883, 884 (2007).

64. Daisy H. Floyd, *Reclaiming Purpose—Our Students' and Our Own*, THE LAW TEACHER (Spr. 2003), available at [http://www.law.fsu.edu/academic\\_programs/humanizing\\_lawschool/images/daisy2.pdf](http://www.law.fsu.edu/academic_programs/humanizing_lawschool/images/daisy2.pdf).

65. Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247, 261–262 (1978). Research on competition and cooperation in education suggests that forced-curve grading heightens negative competition among students, which contributes to an atmosphere of “isolation, suspicion, and hostility among learners.” See, e.g., David W. Johnson & Roger T. Johnson, *An Educational Psychology Success Story: Social Interdependence Theory and Cooperative Learning*, 38 EDUC. RES. 365 (2009).

66. Hamilton & Monson, *supra* note 19.

67. Stephen Covey has emphasized, “The difference between people who exercise initiative and those who don't is literally the difference between night and day. I'm not talking about a 25 to 50 percent difference in effectiveness; I'm talking about a 5,000-plus percent difference, particularly if they are smart, aware, and sensitive to others.” STEPHEN COVEY, THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE 76 (2004).

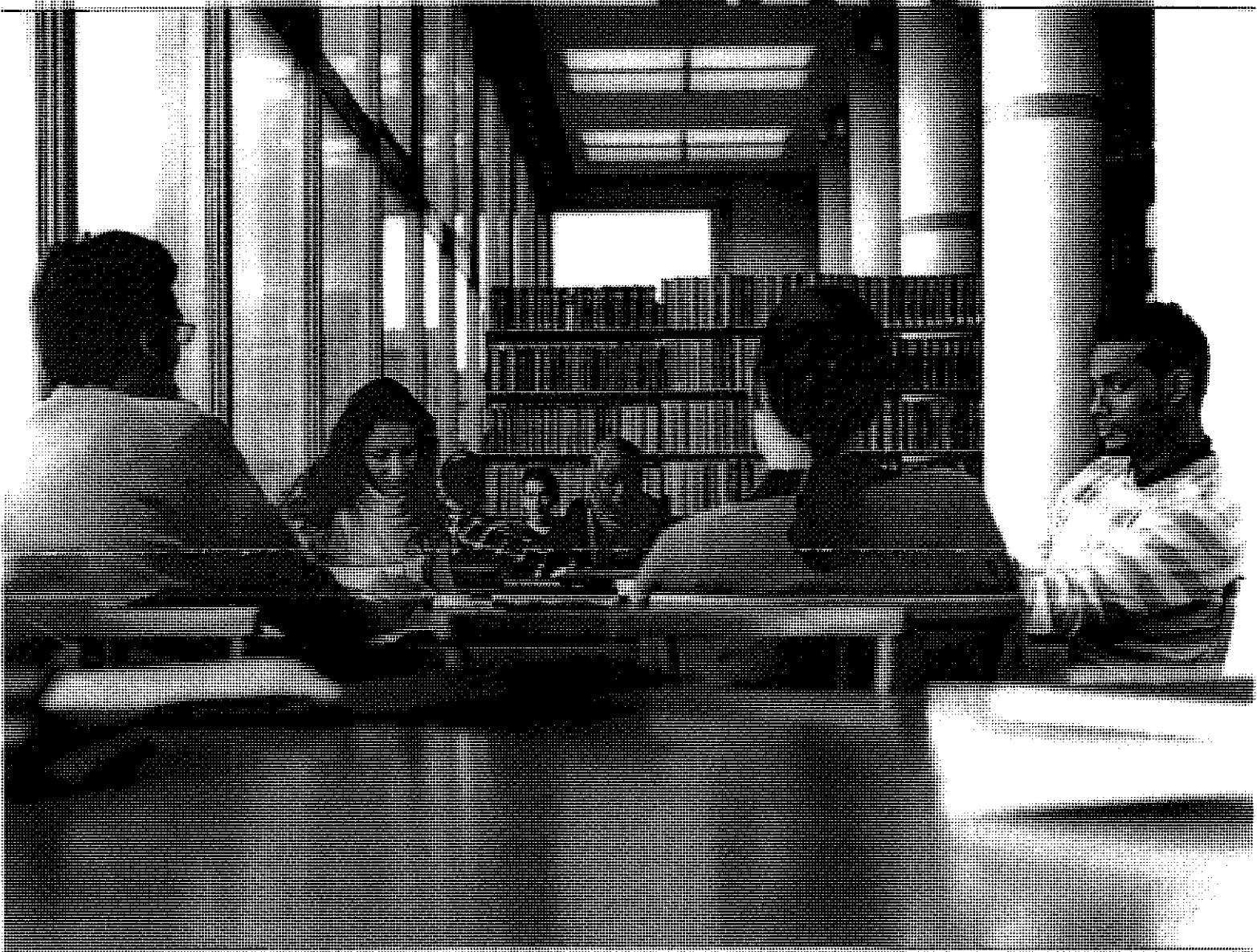
68. Lee S. Shulman, *Those Who Understand: Knowledge Growth in Teaching*, 15 EDUC. RES. 4, 13 (1986), available at <http://www.jstor.org/stable/1175860>.

# Researching

# LAW

SUMMER 2014

VOLUME 3



## **ANALYZING CARNEGIE'S REACH: The Contingent Nature of Innovation**

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# Analyzing Carnegie's The Contingent

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"Analyzing Carnegie's Reach: The Contingent Nature of Innovation" a recent article, published in the *Journal of Legal Education* by ABF Research Professor Stephen Daniels (with Martin Katz and William Sullivan), explores curricular innovation and institutional change in American law schools between 2001 and 2011. Since the economic downturn of 2008–09 and the related contraction of the legal market, lawyers, journalists, legal educators and pundits have written and debated about the state of legal education and the need for change. Given rising levels of student debt, and shrinking job prospects, is law school "worth it"? Are law students well prepared to enter the market? Are the schools too beholden to the ranking system of *US News and World Report*, and other similar outlets? There has been discussion of "failing law schools," even an influential book by that title by Brian Tamanaha, of Washington University School of Law (University of Chicago Press, 2012), but far too little systematically collected and analyzed data on what efforts law schools have or have not made to change the status quo.

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In 2011, Daniels and co-authors conducted a survey-based research study of American law schools, in order to get a more systematic, data-rich and less crisis-driven view of the landscape of legal education. They designed the study in order to learn more about what law schools were doing in terms of curricular change, when they started doing it, and how

deeply committed the schools were to meaningful change. How much curricular change occurred before the economic recession of 2008–09, indicating that change has been ongoing and was not necessarily a reaction to the downturn? Or, did the recession and the pressures it brought on create a "window of opportunity" through which law schools could

push past institutional inertia to enact change? Have law schools explicitly encouraged faculty to experiment with curriculum? These are some of the questions the authors hoped to answer.

Daniels, Katz and Sullivan were most interested in looking at curricular change of the kind recommended in the 2007

# Reach:

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## Nature of Innovation

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Carnegie Foundation for the Advancement of Teaching's report, *Educating Lawyers: Preparation for the Profession* (of which Sullivan was the lead author). This widely-circulated study reported that, while law schools did a good job teaching doctrine, and a fair job teaching skills, they were not very effective in creating professional lawyers; that is, practitioners who possess well-developed ethical and social skills and who understand and embrace professional responsibility. The Carnegie report concluded that law schools' heavy reliance on the case-dialogue method in teaching was largely responsible for this finding. The report recommended that law schools offer an integrated curriculum where legal doctrine and analysis were taught in concert with the practice of lawyering and an exploration of "the identity, values and dispositions consonant with the fundamental purposes of the legal profession." (See sidebar for the connection between ABF research and *Educating Lawyers*.)

Daniels, Katz and Sullivan's interest goes beyond curricular

change, however. Meaningful curricular change will happen only if it is backed up with broader changes on the institutional level, they argue. Thus, they explore curricular change within institutional contexts. Specifically, they focus on whether faculty, who must invest considerable time and effort when redesigning courses

**Are higher ranked schools leading the way? Are different types of schools—private v. public or those with part-time programs or not—more open to innovation?**

or modifying teaching methods, are offered sufficient incentives and rewards for changing. As they state "there must be a significant institutional investment in innovation... We are interested not only in the curricular innovations that may have been initiated, but also in whether there have been concomitant investments in faculty development and changes in incentive structures."

Finally, Daniels et al. also try to explain why the institutions that have changed have done so. Do they share common characteristics? "Are higher ranked schools leading the way? Are different types of schools—private v. public or those with part-time programs or not—more open to innovation? Alternatively, has the external

environment—the marketplace and the recent economic downturn with its impact on the job prospects for new lawyers—encouraged schools to pursue innovation regardless of rank and type of school?" the authors ask. As they state, "a key question... is whether the recent changes in external environment have provided... a window for the kinds of recommendations found in

**All schools that responded to the survey reported starting at least one new curricular initiative during the period under study.**

*Educating Lawyers.* Have external forces undermined—at least to a degree—the inertia on which much of Tamanaha’s critique is built? Has the economic downturn pushed institutions beyond their normal inertia so that they are more open to change? The researchers designed their survey with these questions in mind.

The research team sent the survey to deans of law schools in the spring and summer of 2011. A total of 195 surveys were sent out, and 118 were completed, for a response rate of 60.5 percent. The survey asked about new initiatives made at the institutional level since 2001, focusing specifically on the idea of integration—the linking of doctrine, practice and professionalism in the curriculum—as well as changes in faculty development and faculty incentive structures to bolster and reinforce curricular change. As the authors state, the year 2001 was chosen “as the starting point in order to capture changes that pre-dated both the recent economic downturn and the publication of *Educating Lawyers*.” By choosing

this time frame, the authors hoped to “explore the possible influence of the changing external environment.”

### Curricular Change

All schools that responded to the survey reported starting at least one new curricular initiative during the period under study, a finding “consistent with recent surveys by the American Bar Association and the American Association of Law Schools, which show law schools continually making changes—from big to small—in their curricula,” the authors note. The new curricular initiatives broke down into seven areas: lawyering (96 percent of responders), new clinics (81 percent of responders), 1st year (75 percent of responders), integrative (74 percent of

responders), 2nd year (65 percent of responders), professionalism (64 percent of responders), and 3rd year (60 percent of responders). The researchers found that neither eminence (rank) nor school type (public v. private) could be identified as an explanatory factor for degree of curricular change.

When looking at the timing of curricular change, the researchers found that 55 percent of general curricular reforms started before 2008. Regarding their interest in the specific changes recommended in *Educating Lawyers* they found that “most starts occurred before 2008: professionalism, 54 percent; integrative approaches, 60 percent; and lawyering, 63 percent.” Thus, the authors found that specific curricular changes were “not just a quick response to the economic downturn and its effects on the legal profession.” However, they did find that for each of the seven curricular areas they inquired about “the lowest percentage of starts is in 2002–04... and the highest percentage is in 2008–10.” These findings indicate that “the pace of change accelerated after

**The researchers found that neither eminence (rank) nor school type (public v. private) could be identified as an explanatory factor for degree of curricular change.**



2007, suggesting a potential window of opportunity for innovation” brought on by the economic recession. This pattern of curricular change held up regardless of school tier, or whether the school was public or private. In all cases the external environment appears to have created conditions favorable enough for change to overcome institutional inertia at least to a degree.

### Faculty Development

In the area of faculty development the authors found that 78 percent of schools “reported at least one initiative... since 2001.” The researchers inquired about faculty development initiatives in the following areas: workshops (general), workshops involving integrative approaches to teaching and learning, development of adjunct faculty members, grants (general), and grants related to integrative approaches to teaching and learning. They found that most of the activity was concentrated in general workshops (54 percent), followed by general grants (37%), integrative workshops (36%), development of adjunct faculty (31%), and finally, integrative grants (27%). Thus, the authors note, law schools were more likely to offer workshops, and much less likely to offer grants to faculty. “The drop-off from workshops to the actual investment of money... is substantial, as is the drop-off to both workshops and

The pace of change accelerated after 2007, suggesting a potential “window of opportunity for innovation” brought on by the economic recession.

grants devoted to integrative approaches—a key concern of *Educating Lawyers*,” they state.

As in the area of curricular change, faculty development initiatives did not appear to be strongly related to school tier, or to school type. Again mirroring the pattern revealed in curricular change initiatives, the researchers found evidence of ongoing change since 2001. However, once again, “the largest percentage of starts for each faculty development area occurred in 2008–10.” Thus, the external environment, that is, the “window of opportunity” created by the economic recession, appears to have been a factor accelerating the pace of change in the area of faculty development.

### Faculty Incentives: Evidence of Institutional Commitment to Change

Finally, the authors discuss findings in the key area of faculty incentives. The presence of meaningful faculty incentives for change is evidence of schools “putting their money where their mouth is” the authors

point out. “This is an especially important part of the institutional commitment to innovation because it deals with the kinds of activities that will be valued and rewarded—and, in turn, help shape professors’ careers in a particular direction,” they state.

They found that just over half of respondents reported an initiative related to faculty incentives “with initiatives involving hiring being the most prevalent and those involving tenure the least.” Twenty-four percent of respondents reported a new initiative related to hiring, 23 percent reported an initiative related to merit (raises and bonuses), 20 percent reported a new initiative related to promotion, and 19 percent reported a new initiative related to tenure. These figures also reveal that law schools engaged in much less new activity and innovation in the area of faculty incentives than in the areas of curriculum and faculty development.

This finding is not terribly surprising, according to the

**Law schools engaged in much less new activity and innovation in the area of faculty incentives than in the areas of curriculum and faculty development.**

authors. “Changing the personnel process poses the greatest challenge to the legal academy,” they note, “because it changes what it means to be part of the legal academy.” The most activity occurred in new initiatives related to hiring, and the least activity in new initiatives related to tenure. Thus, it appears

that while schools took some action in hiring individuals who were already thinking in innovative ways about teaching, they did not yet value this trait to the same degree when it came to tenure. Again, this is not surprising. As the authors state, changing the criteria for tenure “may mean a

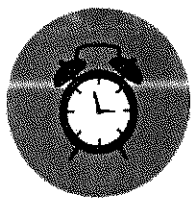
shift away from the kind of scholarly activity that has long helped to define what it means to be a member of the legal academy—the idea of scholarship on law itself, to scholarly activity on something completely different. That something involves how students learn rather than just what they learn, and in addition it involves different ways of thinking about what they learn.”

While fewer schools reported initiatives regarding faculty incentives than did curricular or faculty development initiatives,

the authors found that those schools that did address incentives did so in a more coordinated manner. That is, a significant number of schools reported initiatives in more than one of the four incentive areas measured (hiring, merit, promotion, tenure), indicating coordinated activity on the part of these schools. Hiring and tenure represent the two key ends of the personnel process, and are relatively strongly linked, the authors state. Overall, “the relationships among the four faculty professional initiatives are much stronger than those for the specific initiatives within the other two broad areas” of curriculum and faculty development, the authors note.

### Continuing Questions: the Need for Future Research

As the authors conclude, “in general and in light of the kinds of recommendations found in *Educating Lawyers*, our findings send a mixed message. While there is much activity in the area of curriculum—including the key matters of lawyering, professionalism, and especially integration—there is much less in the important areas of faculty development and incentive structure. Without an institutional commitment in these areas as well, meaningful change is not likely. With this said... for at least a small proportion of respondents, there is evidence of the kind of coordinated





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activity needed across these three broad areas.”

Commenting on the research findings, Daniels states, “it was somewhat surprising that there were a number of schools that had started innovations well before the economic downturn,” especially in light of ongoing popular discussions in the media and elsewhere about law schools’ disinclination to change. The researchers found a number of schools that had engaged in ongoing change in the three important areas of curriculum, faculty development and faculty incentives, and who were doing so in an integrative fashion. While these schools were definitely in the minority, according to Daniels, the research shows that “common assumptions about all law schools just don’t hold up” when presented with evidence from systematic empirical research.

The researchers also found that a significant amount of innovation, though not necessarily coordinated efforts in all three areas, is happening in the “great middle”—the second and third tier schools, where most lawyers in the United States are trained. We tend not to hear as much about these schools, says Daniels, because they are not the most elite and are thus considered less influential. But though they are not in the elite, it does not follow that these programs are not successful,

**Changing the personnel process poses the greatest challenge to the legal academy because it changes what it means to be part of the legal academy.**

according to Daniels. The great middle tends to produce lawyers for regional rather than national markets. To assess the effectiveness of mid-tier schools we need to know more about how employers in regional markets regard their graduates, Daniels notes.

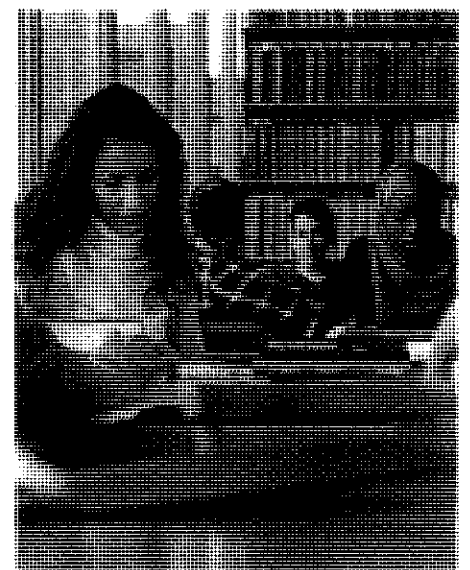
The researchers did not find clear indicators to predict which schools would be innovators. Law schools that innovate in all three of the areas studied don’t seem to have common factors; their willingness to innovate appears to be idiosyncratic. According to Daniels, “each school is a natural experiment in that they’ve done something different—why? What is it about these schools?” As the authors conclude, “targeted research is needed that looks at the process of change within particular schools, especially with regard to coordinated institutional strategies that foster and sustain innovation.” Daniels adds that care must be taken to ensure that the research is truly independent and not tied to any particular program or position in the debates over legal education. “Navigating

the politics of such efforts,” he says, “can be treacherous. It is unlikely that there is a magic bullet to fix the system, and we should refrain from claiming such. We are dealing with a diverse set of schools serving a diverse set of interests.” 📖

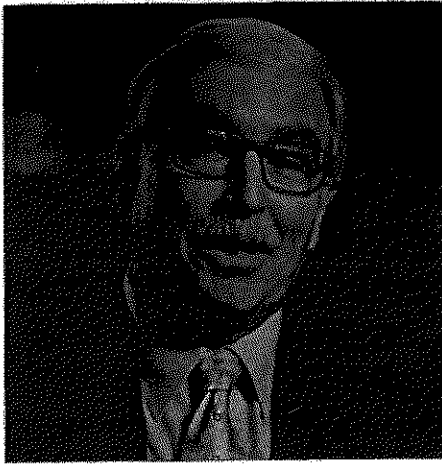
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Daniels, Katz and Sullivan report on their findings in “Analyzing Carnegie’s Reach: The Contingent Nature of Innovation,” 63 *Journal of Legal Education* 585 (2014)

If you are interested in supporting research on legal education or other important ABF initiatives, please contact Lucinda Underwood at 312.988.6573.



## About the Authors



**Stephen Daniels** is a Research Professor at the American Bar Foundation. He researches law and public policy and the American civil justice system. He has published extensively on the delivery of legal services, trial courts, juries, plaintiffs' lawyers, and the politics of civil justice reform. He has testified before congressional and state legislative committees and served as an expert in cases dealing with large jury awards and/or constitutional challenges to civil justice reform. Daniels holds a Ph.D. in political science from the University of Wisconsin-Madison and has served as an adjunct professor in Northwestern University's Department of Political

Science. In 2011–2012, Daniels was a visiting lecturer at the Sturm College of Law, University of Denver, and in 2010–11 he was the Director of Research at the Institute for the Advancement of the American Legal System at the University of Denver.

**Martin J. Katz** is Dean and Professor of Law at the University of Denver, Sturm College of Law. He is a founding board member of Educating Tomorrow's Lawyers, a national consortium of law schools that serve as leaders in the experiential education movement. He also serves as a board member for the Institute for the Advancement of the American Legal System. In 2014 Dean Katz was elected co-Chair of the American Association of Law Schools Section for the Law School Dean. He also serves on the Association's Curriculum Committee. He has published widely in the fields of legal education, constitutional law and employment and labor law. Katz received his B.A. from Harvard College and J.D. from Yale Law School.

**William M. Sullivan** was Founding Director of the Educating Lawyer's Initiative, Institute for the Advancement of the American Legal System at the University of Denver. Sullivan is a former Senior Scholar at the Carnegie Foundation for the Advancement of Teaching, where he co-directed the Preparation for the Professions Program. He was the lead author of the Foundation's influential 2007 report, *Educating Lawyers: Preparation for the Profession*. Prior to working at the Carnegie Foundation, Sullivan was professor of philosophy at LaSalle University. He holds a Ph.D. in philosophy from Fordham University.

# American Bar Foundation research influenced the 2007 Carnegie Foundation Report, *Educating Lawyers: Preparation for the Profession of Law*

*Educating Lawyers* built on authors William Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond and Lee S. Shulman's own first-hand research and the wide-ranging literature on legal education. From that literature, empirical research done at the American Bar Foundation stood out for Sullivan, et al. ABF Research Professor Elizabeth Mertz' book *The Language of Law School: Learning to "Think" Like a Lawyer* (Oxford, 2007) had a particularly strong influence on them. Mertz's research on teaching in first-year classes played a key role in their examination of teaching and legal education's signature pedagogy—the case-dialogue method.

Sullivan, et al. built on Mertz' findings in making their case for integration—for integrating doctrine, skills, and professionalism into law school classes. Especially important were her findings on the lack of experience with or focus on clients in classes and her findings on ethical substance in classes. The authors noted, "Law students... are learning to live conceptually on what Mertz calls a 'legal landscape,' a conceptual space that is defined purely in terms of legal argument. Thus [quoting Mertz], 'People and problems are located in abstract individuals' who are seen as working in an oddly 'acontextual context.'" (p. 54)

Again turning to Mertz, the authors stated that the problem of ethical substance "seems especially salient in the kind of student reactions to the case-dialogue pedagogy that Mertz identified. In order to gain facility in legal reasoning, case-dialogue teaching often forces students to separate their sense of justice and fairness from their understanding of the requirements of legal procedure and doctrine." (p. 57).

*Educating Lawyers* drew from other ABF research as well. For instance, Sullivan, et al. looked to the work of former ABF Director Bryant Garth and former Associate Director Joanne Martin concerning the teaching of skills in law schools. They turned as well to the early findings of the *After the JD* project to explore the views of then-recent law school graduates on their legal education, especially with regard to law school and its role in the transition to practice.

*Educating Lawyers'* critique of legal education and its suggested changes echoed, in many ways, the earlier work of the ABA's 1992 *Report of the Task Force on Law Schools and the Profession: Narrowing the Gap*. That report—widely known as the MacCrate Report after Task Force Chair and former ABA (1987–88) and ABF President (1996–98) Robert MacCrate—appeared numerous times in the authors' discussion, especially in terms of bolstering the argument for more attention to teaching skills and the argument for more attention to professionalism and ethical substance. 🖱



## **Panel 1: The “New Normal” in Law Practice**

Led by: Janet Green Marbley  
Administrator, Clients’ Security Fund  
Supreme Court of Ohio

Chad Burton, Esq.  
Burton Law LLC and CuroLegal

Emily Collins, Esq.  
Fair Shake Environmental Legal Services

Robb Hern  
United Lex

Professor Bryan Ward  
Ohio Northern University  
Pettit College of Law





# Fair Shake Environmental Legal Services

## History & Mission

Fair Shake Environmental Legal Services was incorporated in April 2013 for the purposes of providing education in legal services entrepreneurship, fostering equal access to environmental justice, and supporting community empowerment as follows:

- Promote the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income in the development, implementation, and enforcement of environmental laws, regulations, and policies;
- Provide legal representation to allow equal access to the environmental decision-making process and to foster equal protection under the law for the health, preservation and restoration of natural, scenic, historic, and esthetic values of the environment;
- Educate young attorneys in legal services entrepreneurship and incubate start-up legal services organizations to serve the environmental legal needs of underserved low- and middle-income clients; and
- Empower communities and stimulate economies in the Appalachian Basin region by providing environmental legal services and counseling to allow the underserved to make decisions about practical and innovative solutions to complex environmental challenges across the region.

Fair Shake advances local, community decision-making about community health, environmental protection and cleanup, and development by providing access to justice for individuals and groups that are currently underserved. And we teach our Resident Attorneys to do the same through educational programming in business planning, client development, case management, environmental law, and legal areas in which Residents may diversify their practice.

We provide on-the-job training to attorneys for 2-years to give them a solid foundation to start practices for modest means clients. We also seek to serve the public interest by providing legal services to allow equal access to justice for the health, preservation and restoration of natural, scenic, historic, and esthetic values of the environment. Finally, we seek to empower communities and stimulate economies in the Appalachian Basin region by providing environmental legal services and counseling to the underserved.

## The Access to Justice Epidemic

Most states have adopted a lawyer's creed that is provided to attorneys upon admission to the bar. This creed holds lawyers to the utmost standards of professionalism, including the responsibility to "assure that all persons have access to competent representation regardless of wealth or position in life."<sup>1</sup> The legal profession, including legal education, has failed to provide access to justice despite the values that

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<sup>1</sup> The Texas Lawyer's Creed: A Mandate for Professionalism, *available at* <http://www.texasbar.com/Content/NavigationMenu/ForLawyers/ResourceGuides/EthicsResources/Lawyers-Creed.pdf> (last checked July 28, 2014).

attorneys vow to uphold when admitted to the bar. The Carnegie Report on Best Practices in Legal Education<sup>2</sup> reminds us of the gap in services to low- and middle-income clients as follows:

The legal profession, due in part to the shortcomings of legal education, is failing to meet its obligation to provide access to justice.

According to most estimates, about four-fifths of the civil legal needs of low income individuals, and two- to three-fifths of the needs of middle-income individuals, remain unmet. Less than one percent of the nation's legal expenditures, and fewer than one percent of its lawyers assist the seventh of the population that is poor enough to qualify for aid. Our nation prides itself on a commitment to the rule of law, but prices it out of reach for the vast majority of its citizens.<sup>3</sup>

Many of the nation's biggest law firms – inundated with more business than they can often handle and pressing lawyers to raise their billable hours to pay escalating salaries – have cut back on pro bono work so sharply that they fall far below professional guidelines for representing people who cannot afford to pay. The roughly 50,000 lawyers in the nation's 100 highest-grossing firms spent an average of just eight minutes a day on pro bono cases in 1999 . . . [or] about 36 hours a year, down significantly from 56 hours in 1992 . . .<sup>4</sup>

'The best available research finds that American lawyers average less than half an hour work per week and under half a dollar a day in support of pro bono legal assistance. . . . And only 18 of the nation's 100 most financially successful firms meet the Model Rules' standard of 50 hours per year of pro bono service. The approximately 50,000 lawyers at these firms averaged less than 10 minutes per day on pro bono activities.'<sup>5</sup> 'And seventeen firms were so embarrassed by their pro bono commitment that they refused to share pro bono statistics with The American Lawyer at all, even though they proudly shared their income and revenue figures.'<sup>6</sup>

The failure of our system to provide adequate legal services to poor people is not a new problem, of course, but it remains an important issue for our society to resolve. Perhaps the importance of providing access to justice for those who cannot afford it was best explained by William Rowe in 1917.

Our system is highly legalistic. Based as it is upon individual liberty and freedom of justice, all citizens are constantly forced into contact with the law in

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<sup>2</sup> ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007), at 18-19, *available at* <http://www.cleaweb.org/best-practices> (last checked July 28, 2014).

<sup>3</sup> Deborah Rhode, *Access to Justice: Connecting Practices to Principles*, 17 GEO. J. OF LEGAL ETHICS 369, 371 (2004) [note 56 in original].

<sup>4</sup> Greg Winter, *Legal Firms Cutting Back on Free Services to Poor*, N.Y. TIMES, Aug. 17, 2000, at A1 [note 57 in original].

<sup>5</sup> Deborah Rhode, PRO BONO IN PRINCIPLE AND IN PRACTICE 20 (2005) (citations omitted). *See also*, Lawrence J. Fox, *Should We Mandate Doing Well by Doing Good?*, 33 FORDHAM URB. L.J. 249, 250 (2005) (reporting similar data) [note 58 in original].

<sup>6</sup> Fox, *supra* note 5, at 250 [note 59 in original].

order to advance their liberty by an ascertainment and protection of individual legal rights, in other words, by seeking justice under law. In this process, lawyers are an absolutely essential element, but, for a majority of our people, the expense of the process, especially under the complicated conditions of modern life, is prohibitive. Hence, the righteous complaint that the liberty and rights of the mass of the people are now crushed and lost beneath the weight of the system. The remedy is plain. The public must, where necessary, bear these particular burdens of government. The people at large and their government must take over and organize the work of legal aid societies, not as a charity or social-service enterprise, but as a necessary and long-neglected government function. For those who cannot bear the burden of expense, legal advice and justice must be free. Otherwise, our boast of freedom, our whole system, indeed, becomes a mockery.<sup>7</sup>

Law schools do not even produce lawyers who meet the needs of the middle class. 'The academy has failed to train lawyers who provide legal services to the middle and working classes, which, of course, constitute the overwhelming majority of American society.'<sup>8</sup>

Delivering affordable legal services to the middle class is a challenge that the legal profession has been unable to meet. Advice on topics of daily importance in the lives of individuals, such as landlord/tenant law, child custody disputes, and testamentary dispositions is priced beyond the reach of millions of working Americans. Equal Justice Under the Law is an ideal whose pursuit is becoming increasingly futile. Wealthy individuals and large organizations have the financial means to purchase the legal services they need, while members of the middle class and small business owners are left to struggle in a legal maze from which extrication is almost impossible.<sup>9</sup>

Since 2007, the legal academy has made little progress in meeting the calls for reform of the Carnegie Report and the health of the legal profession appears to have gotten worse.<sup>10</sup> As a proposed solution, Fair Shake seeks to establish a model to address the ever-present problem of access to justice for low- to middle-income clients.

## The Need for Access to Environmental Justice

Fair Shake provides low-fee legal services for modest means clients that are not provided by the private bar, public interest environmental nonprofits, or legal aid organizations.

Public interest environmental lawyers at large national and regional organizations serve a vital function to further progress in bettering our environment for the public good. The model used by public interest

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<sup>7</sup> William V. Rowe, *Legal Clinics and Better Trained Lawyers – A Necessity*, 11 ILL. L. REV. 591, 592 (1917) [note 60 in original].

<sup>8</sup> John B. Attanasio, *Out-of-the-Box Dialogs: Foreward*, 52 J. LEGAL EDUC. 473, 475 (2002) [note 61 in original].

<sup>9</sup> Mary C. Daly, *The Structure of Legal Education and the Legal Profession, Multidisciplinary Practice, Competition, and Globalization*, 52 J. LEGAL EDUC. 480, 484 (2002) [note 62 in original].

<sup>10</sup> Editorial: *Legal Education Reform*, N.Y. TIMES, Nov 25, 2011; Tamar Lewin, *Task Force Backs Changes in Legal Education System*, N.Y. TIMES, Sep 20, 2013; Steven J. Harper, Op-Ed: *Big Law's Troubling Trajectory*, N.Y. TIMES, Jun 24, 2013.

environmental lawyers, however, is a high-impact litigation model that largely fails to empower the people and communities affected to take legal action when faced with impacts to themselves, their community, their property and the surrounding environment. By design, high-impact litigation organizations pass over cases of individual or community need in search of cases with precedential value of national or statewide significance.

The model of services by the private bar is strictly a fee-for-service model whereby individuals, associations or organizations that cannot afford the typical rates of an attorney at a law firm are simply out of luck unless the lawyer is willing to take a case *pro bono*. The business plan of these firms depends on its lawyers hitting benchmarks for billable hours in a year at a given hourly rate. The private bar typically does not use a system of discounted fees based on a client's ability to pay. Instead, private law firms seek clients who are willing to pay its standard hourly rates.

Legal aid organizations very rarely establish practice areas in environmental law. Instead, typical services include domestic and family violence, children's welfare, elder law, disability law, housing law, labor law, and public benefits law.

These models result in large gaps in the provision of environmental legal services for low- and middle-income clients.



### UnitedLex at a Glance

- Founded in 2006
- Headquartered in Overland Park, KS
- 1,800+ professionals in seventeen global offices and three world class data centers
- Experienced leadership team with demonstrated success in serving Fortune Global 500 companies and the world's leading law firms

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- Design for Six Sigma Rigor – DFSS delivery culture drawn from the world's elite BPOs
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- Strong commitment to technology with seven figure technology budget and significantly scalable solutions (current 850+TB hosted)
- Largest global operator of F500 and law firm captive legal groups
- Only legal process services provider to incorporate elite academic professionals in product designs ensuring ethics compliance
- Strong legal and process DNA combined with technology innovation to drive year over year efficiency gains beyond labor arbitrage



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UnitedLex is the preferred choice of the Fortune Global 500 and provides meaningful, long term solutions to companies needing to do more with less in today's challenging environment. Our proven methodology enables us to understand your legal and business needs and design solutions that drive efficiency and effectiveness - with results flowing now. More than just providing consultative expertise, we deliver

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## About UnitedLex

UnitedLex is a global leader in legal and data solutions with a singular mission to improve the performance of leading corporations, law firms and academic institutions. UnitedLex provides unparalleled solutions resulting in risk mitigation, efficiency improvements and cost optimization for its clients in North America, Europe and Asia. Our more than 1,800 attorneys, engineers and consultants focus on the broadly defined areas of litigation, data privacy and cyber security, contracting and intellectual property to drive seven and eight figure benefits to its clients. Founded in 2006, and with more than \$250 million in assets and committed capital, UnitedLex deploys the right blend of service and technology in supporting the world's leading corporations and law firms.

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# The UnitedLex Advantage

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- Contract Repository Implementation & Support
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Complexity is a constant in today's environment. Smart, agile companies must navigate changes in public policy and regulation while sustaining growth and improving operational effectiveness. Improving business performance, turning risk and compliance efforts into opportunities, and creating, enhancing and preserving value are at the core of what we do.

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- Immigration
- Knowledge Center
- Legal Research
- Financial Advisory

# STUDENT TO LAWYER SYMPOSIUM

## notes

*professor*  
**dean** clerk  
practitioner  
judge  
**student**

*professor*

**dean** clerk

practitioner

judge

**student**



professor

dean clerk

practitioner

judge

student

professor

dean clerk

practitioner

judge

student

## **Panel 2: New Lawyers Leading the Way to Tomorrow**

Led by: Douglas Dennis  
Frost Brown Todd

Maureen Bickley, Esq.  
Frost Brown Todd

Samir Dahman, Esq.  
Dahman Law

Ryan Green, Esq.  
The Ryan Green Law Firm

Lindsey Silverblatt, Esq.  
Legal OnRamp



## **Panel 2: New Lawyers Leading the Way to Tomorrow**

This panel will discuss how these new lawyers got to where they are today and what exciting things they are currently doing. As part of that discussion, panelists will touch on the following topics: 1) the hardest thing each of them has had to overcome moving from law school to lawyer to now; 2) the most exciting breakthrough each has had as a lawyer so far; and 3) what problems keep each of them up at night. Then each panelist will look forward and will tell us: 1) what bar associations need to do differently to help next year's (2015) graduating class; and 2) what law schools need to do differently to help the Class of 2025 (ten years from now). Finally, panelists will provide direct advice to everyone who wants to help new lawyers entering the profession.



# First Year Associate Program

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Frost Brown Todd LLC “FBT” has developed an innovative approach to hiring and training our new associates. Our goal is to have the absolute best-trained class of associates in our region, while working to develop lawyers who better understand our clients’ business objectives. Through this, our associates are able to practice law and deliver the highest quality service from the start of their careers. We create exceptional lawyers at an accelerated pace. This is a long term investment in the future of our firm, our lawyers’ and our clients’ futures. In 2014, we will pay market-competitive salaries in each of our cities.

There are five basic components to the FBT First Year Associate Program:

- **Reduced Billable Hour Goal/Addition of Training Goal** (800 hour training requirement and a substantially reduced billable hour commitment -- only 1200 hours). We consider this to be one of the most important components of our new program. Relieving partners of the pressure to make sure all of the time spent by first-year associates is billable to clients allows for more meaningful “live” training and skill development opportunities and more hands-on involvement with clients. Associates “shadow” lawyers to depositions, client meetings, trials, etc., and have more “guest chair time” in the offices of experienced lawyers.
- **Knowledge Coach.** Each associate is assigned a “Knowledge Coach.” The coaches are some of our most productive and successful partners with a track record of superior commitment to training. The coaches spend the year finding hundreds of hours of opportunities for the associate to learn how to practice law by observing the coach and other attorneys in the firm in trial, deposition, on client calls, closing transactions and drafting. The coach ensures that observation opportunities are meaningful and that the associate is given the opportunity to be in a courtroom, on a deal or able to observe a skilled lawyer.
- **Secrets of Success.** We conduct an intensive business skills training program that focuses on the core skills and strategies of successful businesspeople. Research shows that what sets star performers apart (in the business world, legal world and beyond) are the strategic ways top performers do their jobs. This includes work habits which encourage initiative and networking, making for a star performance. We provide specific training including speakers from outside the firm that are able to focus in on these core work strategies that have defined our most successful attorneys. This training will supplement extensive substantive legal skills training that will occur concurrently at the department and practice group level. Additionally, all first-year associates receive focused skills training through our mini-MBA program and National Institute of Trial Advocacy Fact Investigation workshop.
- **Placement Opportunities with Clients and Non-Profit Organizations.** We identify opportunities for our associates to spend several weeks with clients in our markets engaging them in the aspects of their individual business. We also identify opportunities for our associates to aide in non-profit organizations enabling them to understand and get a better grasp on the surrounding community. We want our new associates to see how the client’s legal department operates, but are equally interested in their learning how the client runs the business from which legal issues actually arise.

# First Year Associate Program

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- **Billable time.** Traditional billable tasks continue to provide some of the training and value to the client. First-year associates can assist on projects and learn their craft through research, writing and other meaningful assignments in which clients find valuable.



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## Columbus Bar inc Professional Development Center



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### Mentor

Share your knowledge and experience with new attorneys.

*The current employment market has created an environment of unprecedented significance for new law school graduates. In an attempt to assist new lawyers, the CBA created Columbus Bar inc.*

### Program Overview



The "inc" is short for "incubator" - a program intended to accelerate the successful development of new lawyers in an environment that provides an array of business support resources. **The Columbus Bar Association provides an office facility, office equipment, access to attorney**

**mentors, training on a variety of law practice management issues, and specially designed networking opportunities** to help new lawyers build a successful practice based on sound business principles.

In exchange for the services provided by the Columbus Bar, participants agree to accept at least one pro bono case during their one-year term, creating an additional source for serving the unmet legal needs in central Ohio.

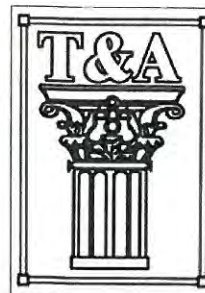
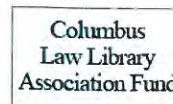
The Columbus Bar Association was the first bar association in the country to develop an incubator program for new lawyers interested in establishing a solo law practice. The program has received praise both locally and nationally.

### Columbus Bar inc Limited

In addition to Columbus Bar inc, the CBA now offers Columbus Bar inc Limited, an abbreviated version of the award-winning incubator program. Columbus Bar inc Limited provides similar support services (mentoring, training, networking opportunities) without the added expense of an office. The program is intended for attorneys 0-5 years in practice who are hanging a shingle for the first time, or looking to redirect their career.

## Sponsors

Thank you to the generous sponsors who make Columbus Bar inc possible:

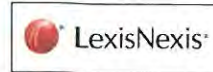


**What are former participants saying?**

“ You learn something new every day about the law, how to run a business and what your strengths are.”

“ The Columbus Bar Association ethics department and mentors are invaluable.”

“ Columbus Bar inc taught me valuable lessons about the practice of law.”



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## ApprenticeRamp Engages Law Schools and Clients

Volume 45 Number 2

By Paul Lippe

### About the Author

Paul Lippe is CEO of OnRamp Systems, the leader in legal department operation platforms to improve quality and efficiency and reduce costs of legal work. Legal OnRamp was first developed at a legal department productivity and collaboration platform for Cisco Systems.

Previously, Paul was general counsel and senior vice president at Synopsys, an electronic design automation company, and CEO of Stanford SKOLAR, a medical digital library and e-learning company sponsored by Stanford Medical School. He also served as a special assistant to Senator Daniel P. Moynihan (D. NY) and was chairman of the Colorado Air Quality Control Commission.

A graduate of Yale College and Harvard Law School, Paul speaks and writes regularly about the "New Normal" in law for the ABA Journal.

## Syllabus

Syllabus is a benefit of membership in the ABA Section of Legal Education and Admissions to the Bar. It is published quarterly. Opinions and positions stated in individual articles are those of the authors and not necessarily those of the American Bar Association or members of the Section.

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Last February, at Barry Currier's invitation, I spoke to the ABA Deans' Workshop, calling for greater engagement between law schools and sophisticated clients (in 2012 Richard Susskind and Bill Henderson gave similar talks to the same group). My perspective was driven in part by having a fair bit of experience with other professional schools – engineering, business, and especially medicine – while having spent most of my career as a Silicon Valley general counsel.

Ongoing changes in the legal market represent a structural change requiring a strategic response - the dip in hiring is neither an

## Section Calendar

### Section Leadership

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Associate Dean and  
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Law School  
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Supreme Court of  
Arizona  
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Esq.  
Billings, Montana

injustice nor an anomaly, but a market response to law's failure to keep pace with modern value and complexity demands.

The good news is that the same trends that challenge law schools also create opportunities in a model we can broadly call "Legal-By-Design." Since *Disengagement* is at the root of the problem, so *Engagement* can power the solution.

Coming out of the February meeting, we launched an initiative with participation from 12 schools – Boston College, Colorado, Denver, Emory, Georgetown, Hastings, McGeorge, Northeastern, Northwestern, Ohio State, USC, and Vanderbilt (for now, the "ApprenticeRamp") – to hire recent grads to work on large scale "contract genome mapping" projects. One of the first projects is a very large scale contract review on behalf of a global bank to support regulatory compliance and improve contract decision-making. We believe this can help develop empirical analysis of more effective approaches to legal practice, better work styles, and improved training, more effectively preparing twenty-first century lawyers.

The fundamental ideas are

- The way to improve legal quality/efficiency/efficacy is with a mix of "People, Process & Technology." There are plenty of ideas we can apply from outside law (and a few from inside law) on how to manage legal work better, especially large-scale, highly complex projects.
- There is a significant amount of "formal" scaled work at large companies that can be performed by junior lawyers in ways that integrate learning and doing and give them insight into process innovation (including collaboration and metrics) and use of technology. This is not LPO Labor Arbitrage; it is *Process Arbitrage* made possible by the technologies of Connectivity to address law's lagging productivity. This model is equally applicable to smaller clients (especially underserved clients) where it is critical to improve access to justice and reduce costs and larger clients where it is needed for cost savings, transparency, and compliance.
- If law schools engage, they will enhance their understanding both of how to deliver legal services better and what drives outcomes and performance, helping get us all unstuck.
- By exposing young lawyers to the reality of sophisticated clients, we can create rich, learn-by-doing design apprenticeships. While much of legal work will always be advocacy, the increasingly greater part is helping clients manage complexity, which requires a very different orientation and skills, and in particular requires greater exposure to real-world problems.

As a complement to our online collaboration system (OnRamp Exchange), we do "rounds" via online web conferencing three times a week to coordinate Rammers, share ideas with customers, and engage outside experts. So far our outside experts have

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Section Home

included Steve Harmon (Cisco), Karl Chapman (Riverview), Christopher Austin (GoodwinProcter), Jeff Carr (FMC Technologies), Richard Moorhead (University College London), Bill Henderson (Indiana Law), Jordan Furlong (Edge), and most of our participating deans. We also had Dr. Kelly Skeff, who ran the rounds program at Stanford Medical School, and we will schedule other folks from different disciplines over the next few months. We have a team from one law school assessing the design of our learn-by-doing model and one from a business school comparing our quality methods to modern approaches like Lean Six Sigma.

Going forward, we'll add more customers and more schools and lots more Rammers, while advancing our current Rammers into roles of increasing responsibility as project leaders, or placing them with customers or their law firms who want to hire Apprentices. We are adding 3Ls in January at several schools. We're optimistic this model can provide a significant part of the *Bridge to Practice* in either the third year or post-graduation, and help law schools engage to make it a *Bridge to 21<sup>st</sup> Century Practice*.

Let me invite two of the participants, Shanique Nikel, a recent grad from Northwestern, and her dean, Daniel Rodriguez, to share their perspectives on this initiative.



**Shanique Nikel:**

There is a mounting demand for change in the delivery of legal services. The effect on the job prospects for new lawyers is game-changing; the traditional career paths are no longer secure. As a new lawyer, I've decided to focus on how I can enhance my value proposition for my clients. To do this, I focus on acquiring practical skills, expanding my knowledge of how technology can be effective in the delivery of legal services, and being a problem solver.

Legal OnRamp provides an innovative solution to the problem of handling large scale and complexity in transactional law. The Legal OnRamp method emphasizes real-time feedback and measuring performance. As a new lawyer, this allows me to effectively measure my skill progression with meaningful metrics. The "see one, do one, teach one" model allows for a flattened hierarchical structure that encourages increased responsibility, subject-matter expertise development, and a collaborative learning environment.

As a Ramper, I have three roles: I analyze contracts by detailing each contract's terms, conditions, rights, and obligations; throughout my analysis, I suggest changes to the methodology and to our technological platform; and I participate in legal rounds, where I meet with fellow Rammers, thought leaders, law school deans, and other innovators to discuss challenges and changes in the legal profession. Joining Legal OnRamp has enriched my skill set and value proposition, and has placed me on a firm path to be a successful twenty-first century lawyer.

**Shanique Nikel is a graduate of the Accelerated JD program at Northwestern University School of Law. She joined Legal OnRamp in August**



**Daniel B. Rodriguez:**

The so-called "new normal" in legal employment is not especially new and is not yet normal. The productivity challenge in legal services provision, particularly in the space created by major technological and global change of the past three (or so) decades, is well known and has been for quite a while. Yet, we have become stuck in our efforts to respond to these changes and we are just beginning the essential project of developing truly original ideas for improving lawyer competence and, moreover, giving young lawyers the tools they need to adapt to this dynamic world.

Programs like OnRamp's are a promising pathway to becoming "unstuck." We at Northwestern are glad to be participating, and especially glad at the success our grads are having. By bringing together innovators like OnRamp with recent grads, law schools, and clients, and drawing upon insights from other modes of professional instruction (including medicine and engineering), we can increase productivity and the value proposition for both companies and underserved clients anxious for targeted, efficient legal help.

Speaking from the vantage point of the training end of the pipeline – that is, as a leader of a law school – I do think that the law schools want and need to be a constructive part of this conversation. A number of law schools, including mine, are hard at work in developing curricular strategies, reconfiguring our skills training program, and embarking upon innovative experiments, to connect imaginative employers to our motivated students. The legal profession is indeed in challenging times; yet, these

challenges are rich with opportunities to reconsider our old ways of doing our work.

**Daniel B. Rodriguez is the dean of the Northwestern University School of Law and president-elect of the Association of American Law Schools.**





# STUDENT TO LAWYER SYMPOSIUM

## notes

*professor*  
**dean** clerk  
practitioner  
judge  
**student**

professor

dean clerk

practitioner

judge

student

professor

dean clerk

practitioner

judge

student

professor

dean clerk

practitioner

judge

student

## **Panel 3: Creative Programming for Tomorrow's Professionals**

Led by: Denise Platfoot Lacey  
University of Dayton School of Law

Professor Chris Gulinello  
Northern Kentucky University  
Chase College of Law

Mina Jones Jefferson  
Assistant Dean of Professional Development  
University of Cincinnati College of Law

Ashley Jones  
Cleveland Marshall College of Law Solo Incubator

Professor Judith Lipton  
Case Western Reserve University Law School



**September 24, 2014**

**NKU Chase College of Law Inaugurates  
W. Bruce Lunsford Academy for Law, Business + Technology**

**HIGHLAND HEIGHTS, Ky.** – The Northern Kentucky University Chase College of Law celebrated the inauguration of the W. Bruce Lunsford Academy for Law, Business + Technology.

Leading voices on the future of the profession and legal education were invited to NKU Chase College of Law to discuss the need for creative thinking in the marketplace, including changes to law school curriculum and programming essential for future lawyers to succeed in the modern profession of law.

- Lisa Radtke Bliss, Georgia State University College of Law
- Benjamin G. Dusing, BGD Law, BGD Outsourcing
- Dean Jon M. Garon, Nova Southeastern University Shepard Broad Law Center
- John Mayer, executive director, CALI
- Interim Dean Chidi Ogene, Florida Coastal School of Law
- The Honorable Shira Scheindlin, U.S. District Court Southern District of New York
- Dean Michael Hunter Schwartz, University of Arkansas at Little Rock, William H. Bowen School of Law
- Sophie Sparrow, University of New Hampshire School of Law
- Dean David N. Yellen, Loyola University Chicago School of Law

Modern law firms are revolutionizing the practice of law. Would-be clients can now utilize home technology to supplement the advice of the practitioner while virtual law firms threaten to tear down the twentieth-century Big Law business model. Such changes in the legal profession cannot be ignored by law schools.

“To the extent that law schools are well-versed with the practicing bar, it is with a twentieth-century practice model, one based on the exclusive control by lawyers over the selling of legal services, uninformed clients, and the billable hour. Each of these pillars of the twentieth century profession is now buckling,” observed Jordan Furlong, principal, Edge International.

The Lunsford Academy curriculum combines quantitative analysis and research, high-level legal analysis, and best business practices to manage the constant change at the heart of modern legal practice. “This program will become an integral part of our curriculum and will provide Chase students with a dynamic environment in which to learn the skills they need to succeed in a technology-driven world,” said NKU Chase Dean Jeffrey A. Standen.

“The program produces ‘Renaissance Lawyers’ for the Information Age. Our Lunsford Scholars will be fluent in the languages of law, business and technology,” explained Director and Professor Christopher Gulinello. “In addition to a solid foundation in the study of the law, they will need to be able to make sense of financial statements, process basic statistical analysis, understand change management best practices to lead their future teams, and be prepared to take advantage of tomorrow’s technological wonders as they seek cost-effective and productive solutions to business problems.”

“We need to expose students to all aspects of technology – both its legal aspects and its legal uses. Schools like Chase that embrace that challenge are leading the charge. Many others seem institutionally incapable of tackling it.” Marc Lauritsen, president, Capstone Practice Systems, co-chair, ABA eLawyering Task Force, former director of clinical programs, Harvard Law School.

**The W. Bruce Lunsford Academy for Law, Business + Technology**  
(<http://lunsfordacademy.nku.edu>)

The W. Bruce Lunsford Academy for Law, Business + Technology is an honors program. The focus of the program is to develop “Renaissance Lawyers” for the Information Age. The honors curriculum is designed to enhance the comprehensive legal education provided by Chase by emphasizing legal technology, quantitative methods, leadership, informatics and other skills critical to the future of the practice of law and business. Through the program’s technology-focused, skills-based curriculum, students will acquire the fundamental skills that will make them more productive for their clients, more attractive to employers, and better prepared to practice law upon graduation. The academy is named for W. Bruce Lunsford, a 1974 Chase graduate, who committed \$1 million to the program.

To learn more about the inauguration, see  
<http://chaselaw.nku.edu/centers/la/inauguration.html>

To view the webinar, visit <http://bit.ly/LunsfordWebinar>.

Since 1893, **NKU Chase College of Law** (<http://chaselaw.nku.edu/>) has educated individuals who make immediate contributions to the legal profession and to their communities. With a collegial, student-centered environment in full-time and part-time programs, NKU Chase provides an intellectually rigorous education in legal theory and professional skills; offers practical training through its curricular offerings, co-curricular programs and specialized centers; and instills the ideals of ethics, leadership and public engagement. In 2013, the ABA recognized NKU Chase as one of the top 13 law schools teaching law practice technology.

**### NKU ###**

*For more information contact Chris Cole at 859-750-0289 (mobile) or [colec@nku.edu](mailto:colec@nku.edu) or Lindsey Jaeger at 859.572.7853 or [jaegerL1@nku.edu](mailto:jaegerL1@nku.edu).*

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Posted on September 24, 2014 in **Media Meeting asdf**

**Inauguration of the W. Bruce Lunsford Academy for Law, Business + Technology**



# A Complete Professional...



## ... is ENGAGED

Engagement is the level to which an individual devotes his or her energy and skills toward both engagement exceeds the passive absorption of knowledge and requires deliberate process and reflection. Fundamentally, engagement is a personal choice derived from commitment, occurring when one takes ownership of his or her work and decisions.

### Engaged students...

- Prepare consistently and thoroughly for classes and meetings, ask thoughtful questions, and plan ahead using weekly calendars and daily schedules.
- Seek opportunities to connect with mentors and colleagues through professional and peer organizations and build professional experiences each year of law school to create a compelling story for potential employers.
- Proactively check relevant resources, including Symplicity, TWEN, and University email.
- Arrive early, meet deadlines, and *willingly* contribute their skills and abilities toward the betterment of the enterprise.
- Honor both mandatory and voluntary time commitments with sincerity, enthusiasm, and professional conduct.

## ... is RESPECTFUL

Respect is acting in a way that demonstrates an awareness of others' rights, beliefs, diversity, and human dignity. Demonstrating respect is a critical part of cultivating and maintaining personal and professional relationships. The College of Law community is committed to modeling the civility required and expected in a professional atmosphere.

### Respectful students...

- Conduct themselves professionally and in a manner that will generate a level of esteem for the law and the profession.
- Actively listen. They consider what others have to say before expressing their viewpoint.
- Treat members of the College of Law community as they would colleagues and supervisors - with courtesy, politeness, and kindness.
- Recognize that a series of small actions over time may erode respect.

# A Complete Professional...

COLLEGE of LAW

## ... is RESPONSIVE

To be responsive is to communicate in a timely and effective manner. In particular, all correspondence should be clear in meaning, appropriate for the audience, and communicated professionally. A responsive student is diligent and reliable in fulfilling obligations as they relate to the various modes of communication utilized at the College, including but not limited to E-mail, Symplicity, TWEN, and Blackboard.

### Responsive students...

- Promptly reply to email messages in an appropriate tone. Emails should include a descriptive subject line and the sender's contact information.
- Use the communication mode most appropriate given the circumstances, noting when a phone call or in-person meeting is more suitable.
- Utilize University of Cincinnati email to communicate with faculty and administration.

## ... is RESILIENT

Resilience is the capacity to endure stress and overcome obstacles. A resilient student has the ability to adapt, balance risk, and persist through adversity. Resilience is found in a variety of behaviors, thoughts, and actions that can be learned and developed throughout law school and one's career.

### Resilient students...

- Build a community with peers, faculty, and administration.
- Manage strong feelings and impulses, particularly following disappointment or personal failure.
- Develop and refine problem-solving and communication skills.
- Seek help and resources when appropriate.
- Take care of their physical and mental health. This includes managing stress in healthy ways and avoiding harmful coping strategies such as substance abuse.

# A Complete Professional...

COLLEGE of LAW

## ... models INTEGRITY

Substance matters. Integrity is consistently displaying strong moral character. Students at the College of Law must act with both personal and professional integrity. The ABA Model Rules of Professional Conduct state that a lawyer must be guided by more than just the Rules of Professional Conduct; attorneys must be guided by personal conscience. To be trusted to handle the affairs of others and give counsel, law students must act with honesty, fairness, and strong moral principles as they work to enhance justice for all people.

### Students with integrity...

- Learn and follow the College of Law Honor Code and the University Student Code of Conduct as well as incorporate the Rules of Professional Conduct into daily interactions.
- Demonstrate consistency between word and deed, and remain steadfast even in the face of negative consequences.
- Consider other points of view, ideas, and criticisms, while critically reflecting on their own actions and ideals.
- Build their reputation by presenting themselves professionally, both in person and online.
- Take responsibility for decisions and actions and credit others when appropriate.



Published on *Cleveland-Marshall College of Law* (<https://www.law.csuohio.edu>)

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## Solo Practice Incubator

Many individuals are motivated to become lawyers to fill a need, solve a problem or represent an underserved population. Those are many of the same qualities that define successful entrepreneurs, so it is no surprise there is a sizable portion of the legal community that combines those paths and embarks on the entrepreneurial venture of starting their own practice.

Law graduates opening solo practices is a growing trend nationwide. According to the National Association for Law Placement, 5% of 2012 grads began their careers in solo practice. Cleveland-Marshall College of Law saw 14.1% of its 2012 graduates embrace their entrepreneurial spirit and open their own practice.

Cleveland-Marshall has taken action to provide support for recent graduates who are interested in pursuing a career in solo practice, with its innovative, new solo practice incubator.

This incubator, the first law school-based incubator in Ohio, and one of approximately 10 throughout the United States, provides low-cost resources, including office space, conference rooms and a reception area, for recent graduates looking to start their career as legal entrepreneurs. Through a partnership with the [Cleveland Metropolitan Bar Association](#) [1], reduced-cost health and liability insurance and vendor discounts will also be available to the practitioners.



Beyond the monetary advantages, occupants will benefit from substantial guidance in the practical management of their firms and the handling of their cases. The school's Solo Practice Advisory Council will host frequent

"We offer students the resources to explore solo practice as a viable, chosen career path early in their law school education, and we are now able to provide them with affordable office space close to the courts and our law library once they graduate."

- Dean Craig M. Boise

presentations and workshops by local lawyers, service providers and others. The incubator will also have a designated coordinator who will be available as a resource for guidance and troubleshooting, and will hold regular workshops to discuss management and related matters.

“When you are on your own in solo practice, you start out doing everything and wearing all the hats,” said Daniel J. Myers ’11, a solo practitioner as founder of Myers Law LLC. “Not only are you developing your lawyering skills, you are learning to run a business just like any other small business. It makes sense to work with other solo practitioners going through a similar experience, and to share the time and costs involved with business resources and overhead. You want as much time as possible available to work on developing your practice.”

While tenants’ success is the primary goal, the incubator is also expected to make positive contributions to Cleveland-Marshall students and the larger community. This incubator is just a part of the school’s rapid move toward practice-oriented, experience-based training. As the incubator develops, ways to integrate current law students into its operations will be explored, including involving students in clinic work and externship programs.

## For More Information

Visit the [Career Planning Solo Incubator page](#) [2].

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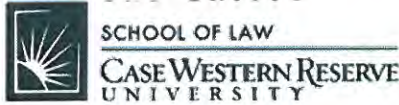
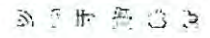
**Source URL:** <https://www.law.csuohio.edu/programs/solopracticeincubator>

**Links:**

[1] <http://clemetrobar.org/>

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# JD CURRICULUM

*The legal world has changed. So have we.*

*Now at Case Western Reserve, you work with clients in your first semester. You practice law full-time during your third year. You build an e-portfolio to share with employers.*

*What else makes our curriculum different?*



## WHAT MAKES OUR CURRICULUM DIFFERENT?

- learn leadership from our [world-renowned business school](#)
- spend a semester abroad studying at one of our 25 partner schools around the world
- pursue one of several concentrations similar to college majors
- work with clients beginning in the first semester
- learn transactional drafting, financial literacy, and statutory and regulatory analysis in your first year
- spend an entire semester working full-time in one of our on-campus clinics or externships in the U.S. or around the world
- take up to eight summer credits at no additional cost, giving you flexible scheduling options
- spend your third year in Europe, completing a foreign LLM in addition to your Case Western Reserve JD, at no additional cost
- hone your writing skills and blend theory and practice
- build your e-portfolio to share with employers and help you land a job

## YEAR-BY-YEAR BREAKDOWN

### YEAR ONE:



You work with clients in your first semester. You also take the basics: Criminal Law, Contract Law, Torts, Property and Civil Procedure.

And you start a four-course sequence that involves legal writing, leadership, experiential learning, advocacy skills and professionalism. Concentrations will be identified in the spring.

The leadership portion of the curriculum comes from renowned faculty at the Weatherhead School of Management, which is located next to the law school. The other areas represent an expansion and enhancement of the school's acclaimed (and often emulated) legal skills program.

#### Courses:

- Criminal Law (3)
- Torts (4)
- Contracts (4)
- Legal Writing, Leadership, Experiential Learning, Advocacy and Professionalism (LLEAP) I (4)
  - 1 unit emotional/social intelligence and professional development
  - 3 units intro to legal analysis and writing skills, litigation focus
- Law, Legislation and Regulation (3)
- Property (4)
- Civil Procedure (4)
- LLEAP II (4)
  - 1 unit litigation skills
  - 3 units transactional skills

Optional Summer Courses

### YEAR TWO:



You build on the first year's core courses and begin classes that cover key bar exam subjects (Business Associations, Constitutional Law, Evidence, Wills and Tax).

You continue the four-course sequence.

And you add electives.

You can follow a specialty concentration in health, international law, intellectual property or one of several other concentrations, such as business organizations or litigation and dispute resolution. Or you can take individual classes to identify the concentration that appeals to you most.

#### Courses:

- Constitutional Law - Fall (4)
- Professional Responsibility - Spring (3)
- LLEAP III (3)
  - 2 units: choice of advanced litigation skills or advanced transactional skills
  - 1 unit: Financial principles for lawyers
- Concentration courses and electives
- e-Portfolios will be developed during the 2L year. These are designed to showcase student skills and writing.
- Students will have an upper-level writing requirement. This may be met through a seminar, journal, lab or other writing option.



- Core Courses (e.g., Evidence, Criminal Procedure, Wills, Federal Courts, Business Associations, etc.) Some of these may be required as part of a concentration, others are strongly recommended bar tested courses.

\*Optional Summer Courses

### YEAR THREE:



It all comes together in the capstone.

It's a semester or even six months of intensive, real-world experience - an externship, an assignment through one of our clinics, even an opportunity that you create - so long as it involves subject knowledge, along with writing and practical skills.

Then it's more core courses and another specialty elective.

The conclusion of the four-course sequence.

And the sure knowledge that you are fully prepared for whatever professional path you pursue.

#### Courses:

- Capstone Experience (8 credits either fall or spring, can also do optional 6 month Capstone which entails both 2L summer + 3L fall for additional 2 credits).
  - Clinic Capstone - On-Campus
  - External Capstone - in the U.S. or abroad.
- Core Courses
- Electives
- LLEAP IV (4)
  - This is designed to work in conjunction with the Capstone. The focus is on further refining skills and writing, as well as developing professionalism. Students who are involved in Capstone experiences outside of Cleveland will participate via distance technology.

## A CURRICULUM UNLIKE ANY OTHER

*Want to know what employers expect in this new legal environment? Ask them. We did.*

*Conversations with more than 70 hiring partners, CEOs and other leaders provided a picture so precise it can be summed up in two words: client ready.*

*Yes, that phrase means graduates need to be able to apply theory to cases. But it also involves understanding how to engage clients, develop business and intuit the unique approach that each situation requires.*

### Our Leadership Courses (LLEAP- I-IV)

It's a carefully crafted model designed to bring out your best.

Yes, you practice the art of professional relationships. But you also study how to develop strategies that enhance options in even the most challenging circumstances.

You reflect on your own strengths and weaknesses - and learn what others see. You also study negotiation, ethics and practice management.

And you improve communication and presentation skills, whether the audiences are colleagues, big clients or opposing counsel.

#### More Writing

The power of your prose puts you above competitors.

Our new curriculum does more than introduce such skills; instead, the emphasis stretches through the third year and roughly doubles requirements at other places.

How else can you master the multiple forms you'll face in practice? How do you break down a complex case in language a lay business client can understand? Or a memo to a foreign tribunal whose jurists are less familiar with tenets of international law?

Effective research and analysis applies in every instance. But you increase impact when you consider the reader - and apply an approach that matches their expectations.

#### Summer Sessions

Clinical experiences happen all year long. So do our academic offerings.

Your dream externship stretches from June to December? You can make it happen.

How? You take a summer session after your first year, and then start work right after your second.

Three self-contained summer blocks - available after both the first and second years - build unprecedented flexibility into your calendar. With advance planning, you can be available for that big opportunity when students from other law schools are not.

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#### A FINAL WORD:

Our law school is on the rise. Our ranking improved four places in *U.S. News and World Report's* 2015 Best Law Schools, and our applications were up 60 percent over the previous year.

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# STUDENT TO LAWYER SYMPOSIUM

## notes

*professor*  
**dean** clerk  
practitioner  
judge  
**student**

professor

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judge

student

# Additional Resources

**“Is the Legal Profession Showing Its Age?”**

**“Checklist: Old Normal v. New Normal”**

**“Top Ten Things Law Professors Can Do This Year  
to Learn About LegalEd Tech”**

**“Getting Divorced: There’s an App for That”**





# IS THE LEGAL PROFESSION SHOWING ITS AGE?

THE GROWING NUMBER OF LAW SCHOOL  
GRADUATES WHO NEVER BECAME LAWYERS.

BILL HENDERSON

OCTOBER 13, 2013

REPRINTED FROM THE LEGAL WHITEBOARD

The figure below suggests that a growing number of students are attending law school but not going on to become lawyers. This conclusion requires some explanation, which I will supply below. Alternative explanations are also welcome, as I'd like to find a plausible narrative that foreshadows a brighter future for the licensed bar.

The underlying data for the figure is culled from various editions of The *Lawyer Statistical Report*, which is periodically compiled by the American Bar Foundation (ABF). The underlying data come from Martindale-Hubbell, which is a comprehensive directory of the licensed bar. As of 2005, the sample was roughly 1 million lawyers who work in law firms,

solo practice, in-house legal departments, government, and the judiciary.

The big surprise here is that the proportion of young lawyers (under age 35) has been declining for several decades. And not by a little, but by a lot. During this period, the median age went from 39 in 1980, to 41 in 1991, to 45 in 2000, to 49 in 2005. See [ABA Market Research Department](#).

I would be tempted to attribute a demographic shift of this magnitude to a computational error. But that is unlikely because the underlying data were being calculated at four different points in time, yet the results come together to produce a single, steady trendline -- a trendline that shows a licensed bar that is steadily aging.

**Figure 1. Shifting Demographics of Licensed Bar**



Another possible factor to consider is whether there are any significant data collection or sampling issues that skew the data in a manner that dramatically undercounts younger lawyers. For example, Martindale-Hubbell is largely irrelevant to today's younger lawyers. So, in solo and small firm practices, where they are making the business decisions, we might expect plummeting subscription rates. But subscribing and requesting the publication of additional biographical information (in the hope of garnering referral business) is not the same thing as being listed. Martindale-Hubbell attempts to track lawyers who did not subscribe to the directory, as the near-universe level of inclusion increases the directory's value.

To illustrate this point, consider that in 2000, the Lawyer Statistical Report (which relies on Martindale-Hubbell data) counted 909,000 lawyers. According to the ABA, the total number of lawyers licensed in the US (compiled from state bar roles) was 1,022,000, and that almost certainly includes some double counting of lawyers licensed in more than one state. While I have no doubt that younger lawyers are becoming harder to hunt down because of cell phones and home-based offices, the gap of missing lawyers is just not big enough to fully account for the sharp drop-off in younger lawyers.

I have shown this figure to various law firms, legal departments, law faculty and bar association audiences. Through this process, I have developed two working theories that are not mutually exclusive:

1. Increased exits from law practice based on gender integration
2. Slowing absorption of law graduates into the licensed bar

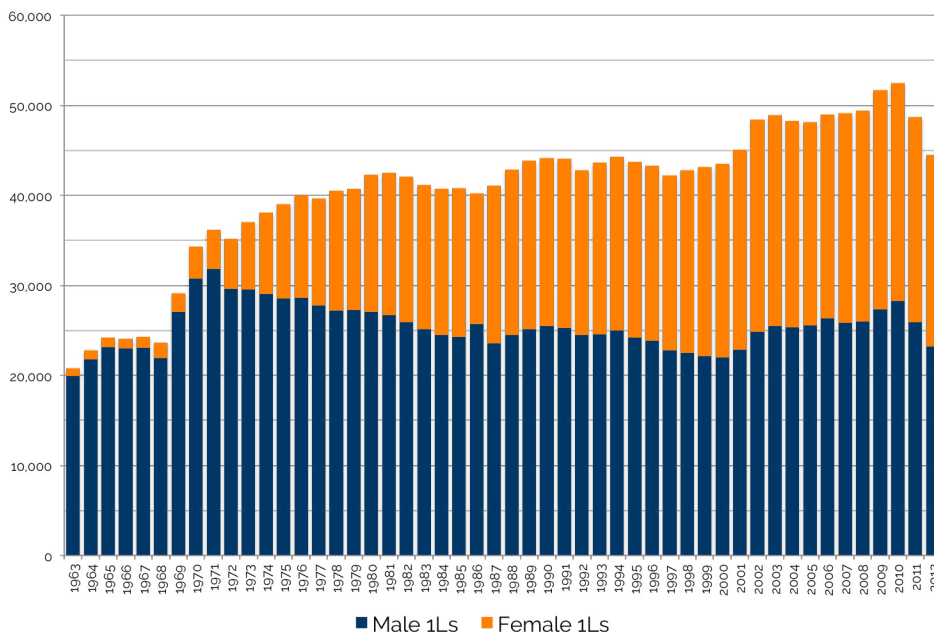
## THEORY 1: GENDER INTEGRATION

One explanation is gender integration. In short, over the last 40 years, more women have entered the legal profession; and as an empirical matter, they are much more likely to exit the workforce in order to focus on childcare. Thus, more gender integration over time would cause a proportional decline in the younger lawyer cohort.

So let's examine the data. According to the Figure 2, which shows number of male and female 1Ls enrolling by year at ABA-accredited law schools, the high water mark for male 1L enrollment occurred over 40 years ago -- in 1971! The high water mark for female enrollment in percentage terms was 2000 (49.4%). In absolute numbers, the high was the class entering in the fall of 2009 (24,305).

Presumably, the higher the percentage of female graduates, the lower the percentage of lawyers under the age of 35. In 1968, a 22 year old female 1L, if she graduated from law school and stayed in the legal profession, would be part of the younger lawyer cohort in 1980. Yet, her 1L cohort included only 1,179 females (7.4% of all 1Ls). By 1993 (12 years before 2005), the number of female 1Ls

**Figure 2. Number of Entering 1L Students at ABA-Accredited Law Schools by Gender**



had increased to 19,059 (nearly 44%). So exits based on childcare factors would likely be increasing.

I can readily accept gender integration as a partial, but not a complete, explanation. Why? Because female exits are likely to be siphoning off a substantial portion of the over 35 cohort, as this group is still having and raising children. It seems implausible that female lawyers are leaving in droves before age 35 (reducing the younger lawyer cohort) yet returning in droves thereafter (swelling the over 35 cohort). Further, according to the bar chart above, the absolute number of law school graduates is increasing during this entire period. Sheer numbers are likely a partial counterbalance to the impact of gender-related exits.

## THEORY 2: SLOWING ABSORPTION OF YOUNGER LAWYERS

It is important to keep in mind the magnitude of the overall slide in younger lawyers -- from 36% in 1980 to 13% in 2005. One would think the trendline would be moving in the exact opposite direction -- that larger graduating classes would be replacing the much smaller number of law school graduates from 40 years earlier who were retiring or passing away. But such a youth movement does not appear to be happening, at least based on data through 2005.

I think the most likely explanation is that the *rate* of absorption of law school

graduates into the licensed bar has been steadily declining over time. This explanation, which would affect men and women equally, is directionally consistent with the percentage of entry-level jobs in private practice, which has been declining since in the late 1980s. See Figure 3.

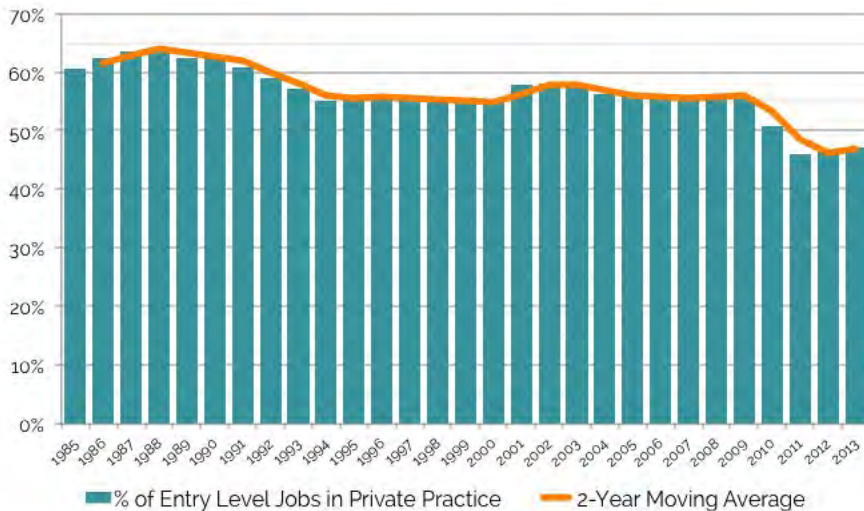
The slower absorption theory is also directionally consistent with the shifting demographics of large law firms, which now have more partners than associates. See Figure 4.

Despite the higher number of partners compared to associates, it is worth noting that large law firms are not becoming more generous in sharing the partnership pie.

Rather, the real sea change is the decline in the number of traditional law firm

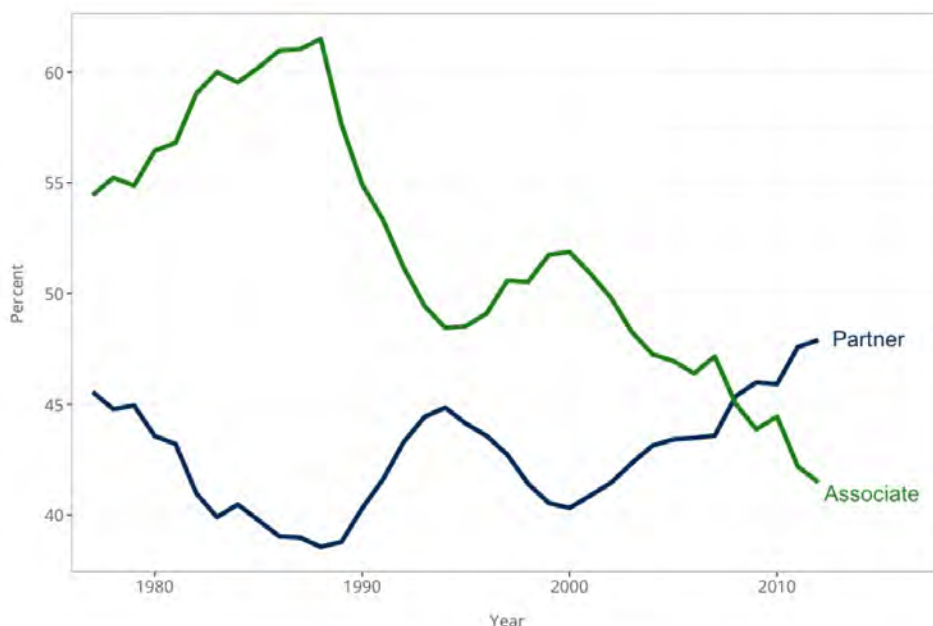
associates, who have been slowly supplanted by staff attorneys, permanent of counsel lawyers, and nonequity partners. Indeed, over 40% are large law firm partners (defined at AmLaw 200 / NLJ 250) are nonequity. Three decades ago, this category of partner was relatively rare. See Henderson, [An Empirical Study of Single-Tier Versus Two-Tier Partnerships in the Am Law 200](#), 84 NC L Rev 1691 (2006). The growth of nonequity partners reflects a new kind of law firm leverage that relies on senior lawyers. The annual ALM/Major Lindsay & Africa study of partner compensation reveals that equity partners make dramatically higher incomes than nonequity partners and that the size of the pay gap is widening over time. See Ross Todd, [A Widening Partner Pay Gap](#), American Lawyer, Sept 29, 2014.

**Figure 3. Percentage of Entry Level Jobs in Private Practice 1985 to 2013**



Source: NALP, charts generated by William Henderson

**Figure 4. Percentage of Partners and Associates in the NLJ 250, 1977-2012**



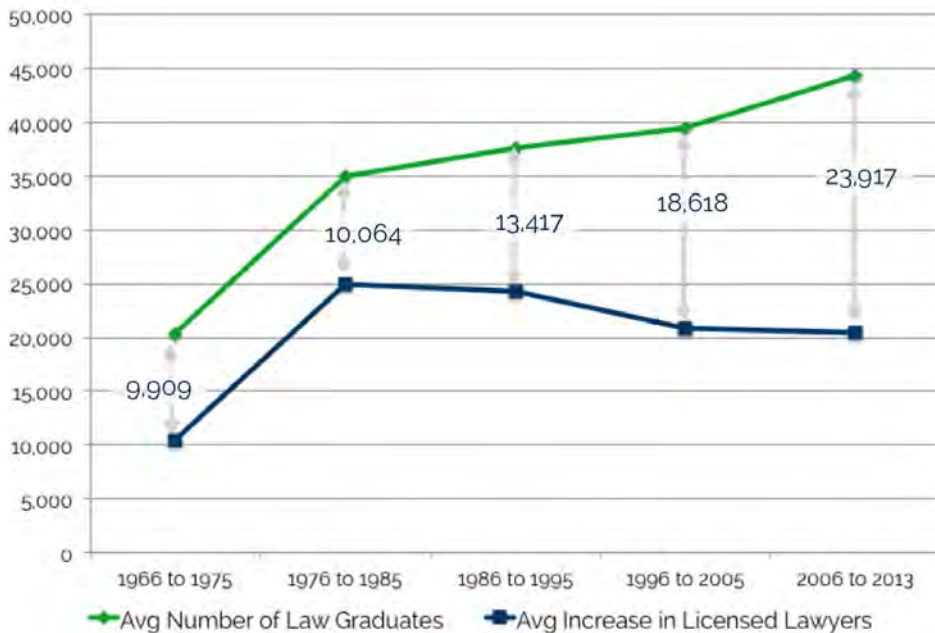
The primary advantage of nonequity partners and other senior lawyers, like permanent counsel, is that training costs fall to near zero. Cf. Elizabeth Olson, *Corporations Drive Drop in Law Firms' Use of Starting Lawyers*, Study Finds, *New York Times*, Oct. 10, 2014 (showing drop over time in use of first year associates because clients are refusing to pay for training costs).

To my mind, however, the most persuasive support for the lower absorption theory is the simple delta between the growth in the licensed bar--which has clearly hit a plateau--and the size of graduating classes from ABA-accredited law schools--which, until recently, had been

steadily increasing. Figure 5 shows these macro-level trendlines.

If younger lawyers were replacing older lawyers and also growing to keep pace with the broader economy, the under 35 young lawyers cohort would be getting bigger or at least remain relatively constant in size. But instead, as the first figure in this essay showed, the younger lawyer cohort has gotten smaller. Arguably, the simplest explanation for these patterns is that it has gotten much harder over time to parlay a JD degree into paid employment as a licensed lawyer. So, faced with a saturated legal market, law school graduates have been pursuing careers outside of law.

**Figure 5. Average Size of Law School Classes versus Average Change in Licensed Bar**



## WHAT DOES THIS MEAN?

The analysis above suggests that the JD Advantage / JD Preferred employment market started to take shape several decades ago, long before these terms were put in place by the ABA and NALP. Yet, we really don't know about these careers. To construct a more useful, informative narrative, we'd have to systematically study the career paths of our alumni. That task is long overdue.

I started teaching at Indiana Law in 2003. Since I first saw the declining trendline for the young lawyer cohort, I have been thinking about the roughly 1,600 students who have taken my Corporations, Securities Regulation, Business Planning,

Project Management, Law Firms as a Business Organization, and Legal Professions classes.

- What percentage are working as licensed lawyers?
- For those doing something different, where are they working?
- Has their legal education opened doors for them?
- Did those doors lead to interesting and remunerative work?

The After the JD Study is based on law school graduates who passed in the bar in the year 2000. The Wave III results provide some clues to how at least one cohort of younger lawyers fared during their first ten years in practice.

- Roughly a quarter of the class of 2000 is no longer practicing law (remember the base sample excluded those who never took or passed the bar).
- The migration out of practice is generally in the direction of private sector business.
- Ten years out, the median pay for full-time work is more than \$100,000 for both men and women. No tears need to be shed here.
- Roughly three-quarters report being satisfied with their decision to attend law school.

These statistics are generally encouraging, but some caution is in order, as the entry-level legal economy was quite different in 2000.

Because of the law school transparency movement, we lack commensurable data between 2000 and 2013. That is an important piece of information right there, as changes in collection and reporting standards were caused by student protests, including several lawsuits surrounding allegedly misleading employment data. Yet, we can cobble together some potentially useful comparisons:

- According to NALP data, 77.3% of the class of 2000 obtained full-time legal positions nine months after graduation. See NALP, [Employment of New Law Graduates Exceeds 90% for Second Year in a Row](#), July 23, 2001.

- According to the ABA, 57% of the class of 2013 obtained full-time bar-passage required jobs. See [ABA 2013 Law Graduate Employment Data](#).

Even if NALP's full-time legal positions in 2000 is a more expansive category than the ABA's full-time bar-passage jobs in 2013, the gap is startling -- over 20 percent! Further, we have additional evidence of a major shift in the job market, as law firm summer associate positions have declined in size by more than 50% since in the early 2000s. See Henderson, *Sea Change in the Legal Market*, NALP Bulletin (Aug 2013). Between 2008 and 2013, there has also been a drop in median starting salaries, from \$72,000 to \$62,500. See NALP, [Employment for the Class of 2013 – Selected Findings](#).

## DEMAND DROPS, BUT SUPPLY MARCHES ON

Cumulatively, the trendlines presented in this essay suggest that we are on the tail end of a multi-decade structural shift in the legal economy. So what comes next?

Law schools were recently taken to task in an editorial by the Young Lawyers Board of Philadelphia Legal Intelligencer. See *If Unchanged, Legal Education will Remain a Business in Decline*, Legal Intelligencer, Sept 25, 2014. According to the young lawyers, "One reason graduates have difficulty obtaining employment is that most of them need to be trained in how



to practice law, and clients are unwilling to pay for training new lawyers. Law schools need to step up and train students on how to practice law.”

I am very sympathetic to the young lawyers, but I think they are missing something essential. A law school that improves the quality of its skills training reduces the training costs to prospective employers. That is a good thing, but it does not change the underlying demand for legal services. And it appears that that demand is eroding on several fronts: (a) wealthy corporations are balking at the price of outside counsel and looking for credible substitutes, (b) ordinary citizens are struggling to afford a lawyer at all, and (c) a new segment of the legal economy is emerging that is financed by nonlawyers and heavily focused on data, process, and technology, which taps into skill sets not traditionally taught in law school. See Henderson, [A Counterpoint to “The most robust legal market that ever existed in this country”](#), Legal Whiteboard, Mar 17, 2014.

## CONCLUSION

My own conclusion is that neither the organized bar nor the legal academy has a firm grip on the changes that are occur-

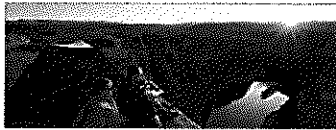
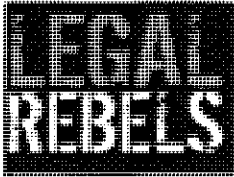
ring in the legal marketplace. This uncertainty and confusion is understandable in light of the magnitude of the shift.

Nonetheless, these market shifts create special urgency for legal educators because we can't teach what we don't understand. The thesis of the Young Lawyers Board is surely right -- if unchanged, legal education will remain a business in decline. Much of legal education today is premised on a 20th century professional archetype--an archetype that is, based on the data, becoming less and less relevant with each passing day. Thus, we are under-serving our students. And frankly, they are figuring that out.

Change is hard for people and organizations they work in. And law professors and law schools are no different. The retooling of legal education will likely be a slow, painful process that will take the better part of a full generation to complete. I am trying to do my part.

Yet, the brunt of the demographic shift falls on the licensed bar, which is getting older and thus weaker with each passing year. This is a problem that belongs to the ABA, the state bars, and the state supreme courts, not the legal academy.





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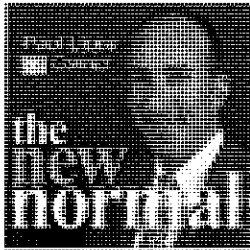
Is Your Firm or Legal Department 'Old Normal' or 'New Normal'? See Our Checklist

The New Normal

# Is Your Firm or Legal Department 'Old Normal' or 'New Normal'? See Our Checklist

Posted Apr 24, 2012 8:30 AM CDT  
By [Paul Lippe](#)

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When we first started this series, there were many lawyers who thought the New Normal was overdue, others who thought it had already happened, and perhaps still a majority who thought law was just in a short-term blip and that we would "return to (the Old) Normal."

Now, several years in, I think there is widespread agreement that things are changing in law, and even general agreement on the contours of that change. One way to understand what's happening in the legal market is to look outside law at other industries. One of our pharmaceutical industry customers just

sent me a great article from [Harvard Business Review](#) on health care reform by HBS professors Robert Kaplan and Michael Porter. Let me share some key quotes:

*"The proper goal for any health care delivery system is to improve the value delivered to patients. Value in health care is measured in terms of the patient outcomes achieved per dollar expended."*

*"Since providers misunderstand their costs, they are unable to link cost to process improvements or outcomes, preventing them from making systemic and sustainable cost reductions. Instead, providers (and payors) turn to simplistic actions ..."*

*"Poor measurement of cost and outcomes also means that effective and efficient providers go unrewarded, while inefficient ones have little incentive to improve."*

Just substitute the legal industry for the medical industry in any of these quotes, and we have a good discussion of the background for the New Normal. (I'll discuss in my next piece why it feels funny for lawyers to speak in such value- and customer-oriented terms as Kaplan does.)

The other reference I really like is a recent [IBM Survey of CEOs](#) (PDF), in which the CEOs said their biggest challenge was the growth of complexity in a global environment. So a task for lawyers is actually to help make things simpler.

Here's my summary of the New Normal. Of course, in the real world, lines are not so bright, and most things in the "New Normal" are not especially new. But I think this is still useful, and any firm or legal department might want to use it as a checklist.

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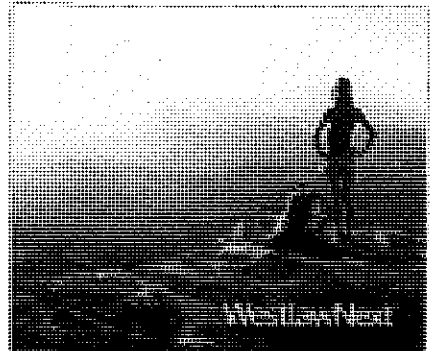
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	Old Normal	New Normal
Information location	File cabinet.	"Cloud."
Most important tool	"My" brain + pen.	Connected brains + Web-based collaboration.
First instinct	Make things more complex.	Make things more simple.
Metaphor	Brain surgeon.	Utility.
Center of gravity	Law firm library.	General counsel's office.
How often is law relevant to clients?	Occasionally.	Systematically.
Geography	National.	Global and online.
Orientation	Every matter is unique—to think otherwise is to devalue, "commoditize" the profession.	Every matter is similar to other matters—start with similarity, and refine with unique elements—"reinventing the wheel" leads to mistakes, excess costs and clients avoiding lawyers.
Approach to negotiation, conflict	Win-lose.	Win-win.
Cost	Expensive.	Reasonable, consistent with other services.
Effort	Maximum—any less is unethical.	Appropriate—focus on outcomes, not inputs.
Most common metric	Hours.	Outcomes assessment.
Organizational norm	Hierarchy.	Distributed authority based on accountability.
Intellectual style	Reasoning.	Inquiry.
Most common phrase	"Avoid risk."	"Achieve opportunity."
Most common billing method	Billable hours.	Billable hours—but with more performance kickers.
No. 1 source of law firm profits	E-discovery work in jumbly investigations.	Success-based bonuses.
Meeting place	Law firm conference room.	Cyberspace.
Law firm strategic objective	Maximize this year's profit per partner.	Maximize cash flow in 3-5 years.
Key young lawyer skill	Legal research.	Project management.
Where work goes if it doesn't go to law firm	Legal department headed by former firm partner.	Legal department headed by executive who worked in firm only briefly, and legal process outsourcer.
Iconic figures	<b>Christopher Langdell, Nick Katzenbach and Thomas Barr</b>	<b>Richard Susskind, Mark Chandler and Fred Bartlit</b>
Second most highly paid person in legal department	Head of litigation.	Head of legal operations.
"Unit of production"	Individual expert.	Team.
Rare and high compliment	"Ethical."	"Operationally excellent."

One thing that would probably be helpful to all of us would be to come up with a name we consistently use for the change. Obviously, we like "New Normal Law", but it could also be "Law 2.0," "Aligned Law," "Utility Law," Collaborative Law," "Silicon Valley Law," "Post-Dewey Law," "Systems Law" or perhaps something better. All of these terms are problematic in some way, but the basic trend is clear, and the shape is widely agreed upon.

As discussed in the previous column "**Dewey or Don't We: Abnormal or New Normal?**" Dewey's troubles arise not from some random mistakes, but from building a firm entirely on Old Normal principles in a New Normal world. Adapting is the sensible thing to do.

*Paul Lippe is the CEO of the Legal OnRamp, a Silicon Valley-based initiative founded in cooperation with Cisco Systems to improve legal quality and efficiency through collaboration, automation and process re-engineering.*

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@johnpmayer

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# Best Practices for Legal Education

## Top Ten Things Law Professors Can Do This Year to Learn About EdTech

Posted on August 28, 2014 by Michele Pistone

Let's face it, the role that technology can play in the practice of law is becoming more evident – with predictive coding, eDiscovery, and companies like LexMachina that use legal analytics to, among other things, predict the outcome of patent litigation. But many in the legal academy still cannot conceive of how technology can change legal education. If you are in that camp or know others who are, let me suggest that we do not dismiss the potential for change in legal education without knowing more about the emerging field of edtech and the forces behind it. Want to learn more? Here are ten things you can do this year that might change your thinking about the role of technology in the future of legal education. The suggestions come from my [article \(http://papers.ssrn.com/so\)](http://papers.ssrn.com/so), which has other suggestions as well.

1. Catch up on some important reading. Read David Thomson, *Law School 2.0: Legal Education for the Digital Age* (2009). Also, read the work of Bill Henderson, including *A Blueprint for Change*, 40 *Pepperdine L. Rev.* 461 (2013) and Andrew P. Morriss & William D. Henderson, *Measuring Outcomes: Post-Graduation Measures of Success in the U.S. News & World Report Law School Rankings*, 83 *Indiana L. J.* 791 (2008). Read David Barnhizer's article, *Redesigning the American Law School*, 2010 *Mich. St. L. Rev.* 249 (2010).

2. Read, too, assessments about how technology has impacted and will continue to impact higher education generally, works such as *Disrupting College: How Disruptive Innovation Can Deliver Quality and Affordability to Postsecondary Education* (<http://www.americanp>), and *The Department of Education's Meta-Analysis and Review of Online Learning Studies* (<https://www2.ed.gov/rschstat/eval/tech/evidence-based-practices/finalreport.pdf>).

3. Learn about the millennial generation who are “born digital” and how their more networked and connected lives affect the way they approach learning. A great book on this topic is by John Palfrey and Urs Gasser of Harvard Law's Beckman Center on Internet and Society, *Born Digital: Understanding the First Generation of Digital Natives* (2008). Think about the implications of the fact that between 2000 and 2002, the largest group of first time internet users were between two and five years old, placing the oldest members of this group in college now – and in law school soon. Begin to understand how the emerging “participatory culture” is changing what one needs to learn to be fully prepared to function in the twenty-first century. You can do this by reading Henry Jenkins, *Confronting the Challenges of Participatory Culture: Media Education for the 21st Century* (MacArthur Foundation) (<http://digitallearning.macfound.org/atf/cf/>).

4. Begin to explore the potential for law schools to employ teaching methods that use technology to a greatly enhanced degree. For example, read about flipping the classroom, a teaching methodology that blends online lectures (which students view at their own pace as homework) with in-class instruction, as it is used in K-12 education, Jonathan Bergmann & Aaron Sams, *Flip Your Classroom: Reach Every Student in Every Class Every Day* (ISTE/ASCD, 2012), or watch these [videos \(http://legaledweb.com/online-learning/\)](http://legaledweb.com/online-learning/) on flipped learning in legal education. By migrating lectures to the web, flipped learning can free face-to-face classtime for active learning, including Socratic dialogues, drafting exercises, simulations and role plays.

5. Investigate innovations in adaptive learning, a technique using computer software first to assess what a student knows and then to adapt the content taught to the knowledge level of the student, thus providing a more personalized learning experience for each individual. Computer-based adaptive learning is already being used by the Kaplan test preparation company for college students planning to take the LSAT and GMAT; by Khan Academy for younger students; and by many companies, such as Knewton, for a wide range of users.

6. Consider the impact that gaming can have on education. Follow the work of Jeannette Eicks (Vermont) and Stephanie Kimbro (Stanford), both of whom are working on projects that involve gaming and law. Read James Gee, *What Video Games Have to Teach Us About Learning and Literacy* (2003); James Gee, *Good Video Games and Good Learning*, at [http://dmlcentral.net/sites/dmlcentral/files/resource\\_files/GoodVideoGamesLearning.pdf](http://dmlcentral.net/sites/dmlcentral/files/resource_files/GoodVideoGamesLearning.pdf) ([http://dmlcentral.net/sites/dmlcentral/files/resource\\_files/GoodVideoGamesLearning.pdf](http://dmlcentral.net/sites/dmlcentral/files/resource_files/GoodVideoGamesLearning.pdf)). Educational games are available for a variety of topics, including civics, see <http://www.icivics.org/> (<http://www.icivics.org/>) (a game-based website started for former Supreme Court Justice, Sandra Day O'Connor); climate change, see [http://www.bbc.co.uk/sn/hottopics/climatechange/climate\\_challenge/](http://www.bbc.co.uk/sn/hottopics/climatechange/climate_challenge/) (<http://www.bbc.co.uk/sn/hottopi>); national conflicts, see <http://www.peacemakergame.com/game.php> (<http://www.peacemakergame.com/game.php>); and even algebra, see <http://www.dragonboxapp.com> (<http://www.dragonboxapp.com>).

7. Monitor the impact that recent decisions by law schools to develop online programs for non-JD degrees has on programs at other schools, such as the decision by graduate tax law programs at, among others, Alabama, Georgetown, NYU, Villanova, and Boston University to offer their programs online. Read *Distance Learning in Legal Education: A Summary of Delivery Models, Regulatory issues and Recommended Practices* ([http://www.law.harvard.edu/programs/plp/pdf/Distance\\_Learning\\_in\\_Legal\\_Ed.pdf](http://www.law.harvard.edu/programs/plp/pdf/Distance_Learning_in_Legal_Ed.pdf)). Attend a meeting of the Distance Learning in Legal Education Working Group, organized by Vermont Law School professors Rebecca Purdom and Oliver Goodenough. The group meets three times a year, once in the fall (which is in a few weeks at William Mitchell School of Law), once during the AALS Annual Meeting, and a third time in the spring.

8. Monitor the effectiveness and reaction of law graduates who take online bar preparation courses such as Themis.

9. Explore some of the new apps being developed for iPads and Androids to teach legal concepts. *Law Stack* (<http://www.lawstack.com/>) is an Apple app for legal research loaded with various federal statutes. *Law School Dojo* (<http://lawschooldojo.com/>), by Stanford Law's Margaret Hagan, is an app with quizzes on legal concepts for a range of subject matters, including contracts, torts, civil procedure and international law.

10. Register for and attend the 2015 AALS Clinical Conference, May 4-7 in beautiful Rancho Mirage, CA. The theme of the conference is the "New Normal." One of the three tracks for the conference is devoted to the future in the "new normal," both for the practice of law and for legal education. As to law practice, we hope to address how professors can understand the rapid and profound technological change that could well remake law practice and how those changes can advance our work for social justice. We want to explore how changes in service delivery and structure of law practices can and should impact our teaching. And we hope to address how professors can better use technological advances and insights from learning sciences in their teaching.

The internet, the driver of all the changes and developments noted above, is a technology and a tool that, for the reach and extent of its often disruptive and its often liberating effects, can be compared only with the printing press. When writing of Gutenberg's invention, Elizabeth Eisenstein, a careful and meticulous historian of immense reputation, wrote (favorably quoting Renaissance scholar Myron Gilmore) in her two-volume magnum opus, *The Printing Press as an Agent of Change*, that "[i]t opened new horizons in education and in the communication of ideas. Its effects were sooner or later felt in every department of human activity." As I explain in my recent [article](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2419451) ([http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2419451](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2419451)), I strongly believe that "[s]o too it is, or sooner or later shall be, with the internet."

Are there things I am missing? Add them in the comments below.

Filed under: [Uncategorized](#)

« [What price is right? Law School Education and Paul Campos Ready to Learn, Beyond the Black Letter of the Law](#) | By: Ray Brescia »

## 10 Responses



**Connie Mayer**, on [August 28, 2014 at 7:54 pm](#) said:

Great suggestions! I still refer to Dave Thompson's book and look forward to reading Michele's article.

[Reply](#)



**Mary Lynch**, on [August 29, 2014 at 4:27 pm](#) said:

WOW. this factoid really made me think:

" Think about the implications of the fact that between 2000 and 2002, the largest group of first time internet users were between two and five years old, placing the oldest members of this group in college now – and in law school soon." Thanks for this great summary Michele.

[Reply](#)



**John Mayer**, on [August 29, 2014 at 4:37 pm](#) said:

Like Spinal Tap, your list should go to 11!





# THE DAILY REPORTER

Published on *The Daily Reporter* (<http://www.thedailyreporteronline.com>)

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## Getting divorced? There's an app for that

[1] [1]

JESSICA SHAMBAUGH | Daily Reporter

Published: 03/24/2014

Interested in getting a divorce? There's an app for that.

For couples heading toward splitsville, various technology companies have started finding ways to ease both the cost and headache of making that final break-up.

A divorce can mean spending hours fighting over who gets the house and who should take the car and haggling over holidays with the children.

For many, those hours are observed by attorneys and can become quite costly.

But now, through the use of apps downloaded onto a smartphone or tablet, a person can calculate the cost of a divorce, divide their debts and assets, and organize the necessary documents on their own time.

National law firm Fox Rothschild LLP launched its New Jersey Divorce app last summer through Apple's iTunes.

"Clients demand mobility in all aspects of their life, so this app is a continuation of our mission to provide clients with the best possible service in the format they most desire," Fox's Family Law Practice Co-chair Eric Solotoff said at the time.

The app, which is free for download, includes a finance tracker that helps users gather the information that will be needed during meetings with their attorneys throughout the divorce process and identifies assets that are sometimes hidden or overlooked.

Users can find information about myriad topics related to divorce, including child custody and support, alimony, equitable distribution and support groups or domestic violence shelters on the app and can have any questions ready when they meet with their counsel.

"As family lawyers, we know going through a divorce is one of the hardest challenges in life. Our app aims to make it a bit easier — to allow users to access crucial meeting notes, information and resources at their fingertips to ease the process," Solotoff said.

Through the use of a blog, Fox is also able to address a great deal of practical information in a longer format while keeping with the trend toward technology.

For those looking to start the divorce process, DivorceApps.com, a Dallas-based company, is marketing a couple apps for iPhones that aim to assist those who “can’t afford the services of a lawyer and need to help themselves,” according to its website.

A “Cost and Prep” app is available for 99 cents in iTunes and helps users plan and track the costs of divorce.

The app’s “Divorce Cost Estimate” helps users understand the costs of a marital split by breaking things down into categories of costs.

Soft costs include things that will impact a user’s personal well-being, such as extra kids’ clothes, while hard dollars include hiring professionals, such as a forensic accountant, and parking at an attorney’s office.

A separate app, called Estate Divider, is available for the same price and helps the parties divide their assets and liabilities while providing information about the resulting tax rates.

APG MA also offers an app, iSplit Divorce, to help users split amicably.

The app shows users a screen that is divided into halves for each spouse. It then provides easy to understand graphics for all of the debts and assets in question.

A picture of a car is labeled with the type and value of the vehicle in question and similar graphics represent a house, various furniture and other valuables.

Users can then drag the icons to a certain side of the screen to assign it to a spouse.

The value of each spouse’s assets is calculated at the bottom of the screen.

A separate area on each half is designated to debts that are then subtracted from the total of the assets to give a final net value.

“Our mission is to help the people of this planet save themselves and each other from cynicism, psychological, financial and material annihilation,” iSplit’s website states.

While none of these apps intend to replace the need for an attorney during the time of divorce, they each aim to increase a spouse’s control of the situation.

Such control can often save time and money while also helping the couple reach a resolution in a more understandable way.

Still, DivorceApps.com notes that their apps are not “the provision of legal or professional services and the services of a competent attorney and/or other professionals should be obtained to ensure that your interests are represented and protected.”

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## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Ryan Aguiar**

Student  
Michael E. Moritz College of Law  
The Ohio State University

**Scott Anderson**

Professor  
Capital University Law School

**Mary Augsburger**

Executive Director  
Ohio State Bar Association  
Columbus

**James Aylward**

Magistrate  
Portage County Juvenile Court  
Ravenna

**Richard Bales**

Dean, Claude W. Pettit College of Law  
Ohio Northern University

**Ivy Banks**

University of Akron School of Law

**Belinda Barnes**

Gallagher Gams Pryor Tallan Littrell LLP  
Columbus

**Susan Becker**

Professor, Cleveland-Marshall School of Law  
Cleveland State University

**Shawn Beem**

Assistant Dean for Professional Development  
Capital University Law School

**Lee Belardo**

Lee E. Belardo, LLC  
Ada

**John Bickers**

Professor, Salmon P. Chase College of Law  
Northern Kentucky University

**Maureen Bickley**

Frost Brown Todd LLC  
Cincinnati

**Rebecca Black**

Melissa Graham-Hurd & Associates, LLC  
Akron

**Charlyn Bohland**

Office of the Ohio Public Defender  
Columbus

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Merisa Bowers**

Merisa K. Bowers Attorney at Law  
Columbus

**Dan Boyer**

Student  
University of Akron School of Law

**Lisa Bradley**

Student  
Claude W. Pettit College of Law  
Ohio Northern University

**Alexis Branham**

Student  
Claude W. Pettit College of Law  
Ohio Northern University

**Daniel Brewer**

Student  
University of Toledo College of Law

**Kenneth Brown**

Ohio State Bar Association  
Columbus

**Matthew Bryant**

Mockensturm, Ltd.  
Toledo

**Chad Burton**

Burton Law LLC  
Dayton

**Bruce Campbell**

Columbus Bar Association  
Columbus

**John Carle, DDS**

Sylvania

**Susan Christoff**

Director, Attorney Services  
Supreme Court of Ohio  
Columbus

**Mary Cibella**

McGinty Hilow & Spellacy Co.,LPA  
Cleveland

**Emily Collins**

Fair Shake Environmental Legal Services  
Akron

**Hon. Richard Collins**

Judge  
Lake County Common Pleas Court  
Painesville

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Thomas Cuni**

Cuni, Ferguson & LeVay Co., L.P.A.  
Cincinnati

**Samir Dahman**

Dahman Law  
Columbus

**Kallen Dearnbarger**

Student  
University of Akron School of Law

**Laura DellAntonio**

Claude W. Pettit College of Law  
Ohio Northern University

**Douglas Dennis**

Frost Brown Todd LLC  
Cincinnati

**Carolyn Dessin**

Professor  
University of Akron School of Law

**Michael Distelhorst**

Professor  
Capital University Law School

**Mathew Doney**

Student  
Michael E. Moritz College of Law  
The Ohio State University

**Colleen Evans**

Ohio State Bar Association  
Columbus

**Johnna Evans**

Student  
Capital University Law School

**Chris Fairman**

Professor & Associate Dean for Faculty  
Michael E. Moritz College of Law  
The Ohio State University

**Arnold Finkbine**

Student  
University of Toledo College of Law

**Hon. Patrick Fischer**

Judge  
First District Court of Appeals  
Cincinnati

**Kevin Foley**

Reminger Co., LPA  
Columbus

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Angela Grate**

Student  
Capital University Law School

**Ryan Green**

The Ryan Green Law Firm LLC  
Columbus

**Charlotte Greene**

Student  
Case Western Reserve University  
School of Law

**Bryan Griffith**

Sanborn Brandon Cuvall & Bobbitt Co. LPA  
Columbus

**Mary Groth**

Co-Interim Director  
Cleveland Metropolitan Bar Association

**Chris Gulinello**

Professor, Salmon P. Chase College of Law  
Northern Kentucky University

**Howard Henry**

OhioMHAS  
Columbus

**Rachel Hensley**

Student  
University of Cincinnati College of Law

**W. Chip Herin III**

Coolidge Wall  
Dayton

**Robb Hern**

United Lex  
Worthington

**Todd Hicks**

Thasher, Dinsmore & Dolan  
Chardon

**Josh Hodges**

Student  
Salmon P. Chase College of Law  
Northern Kentucky University

**Brian Holb**

Student  
Michael E. Moritz College of Law  
The Ohio State University



## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Jonathan Hollingsworth**

J. Hollingsworth & Associates, LLC  
Dayton

**John Holschuh**

Santen & Hughes  
Cincinnati

**Dennis Honabach**

Professor  
Salmon P. Chase College of Law  
Northern Kentucky University

**Hon. Jeffrey Hooper**

Judge  
Muskingum County Common Pleas Court  
Domestic Relations Division  
Zanesville

**Lauren Huizenga**

The Law Offices of Benjamin G. Dusing  
Covington, Kentucky

**David Hunter**

David Hunter, Attorney & Counselor of Law  
Milford

**Rachel Janutis**

Interim Dean  
Capital University Law School

**Mina Jones Jefferson**

Assistant Dean and Director,  
Center for Professional Development  
University of Cincinnati College of Law

**Ashley Jones**

Law Offices of Ashley Jones  
Cleveland

**Linda Jones**

Michael E. Moritz College of Law  
The Ohio State University

**Heather Karns**

Assistant Dean for Law Career Services  
and Alumni Affairs  
University of Toledo College of Law

**Rachel Kasper**

Claude W. Pettit College of Law  
Ohio Northern University

**Lori Keating**

Secretary, Commission on Professionalism  
Supreme Court of Ohio  
Columbus

**Micheline Kidwell**

Wilmerhale  
Dayton

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Michelle Kranz**

Zoll, Kranz & Borgess, LLC  
Toledo

**Elizabeth Krile**

Ohio State Bar Association  
Columbus

**Denise Platfoot Lacey**

Professor  
University of Dayton School of Law

**Stephen Lazarus**

Professor  
Cleveland-Marshall College of Law  
Cleveland State University

**Kyle Lindenbaum**

Student  
Capital University Law School

**Judith Lipton**

Professor & Associate Dean  
for Experiential Education  
Case Western University School of Law

**Janet Green Marbley**

Administrator, Clients' Security Fund  
Supreme Court of Ohio  
Columbus

**Laura McNally Levine**

Professor  
Case Western University School of Law

**Jean McQuillan**

Professor  
Case Western University School of Law

**Martin Mohler**

Shindler Neff Holmes Worline  
& Mohler LLP  
Toledo

**Scott Mote**

Executive Director  
Ohio Lawyers Assistance Program  
Columbus

**Gretchen Koehler Mote**

Ohio Bar Liability Insurance Company  
Columbus

**William Milton Nuzum**

Director, Judicial Services  
Supreme Court of Ohio  
Columbus

**Ann Marie O'Brien**

President  
Akron Bar Association

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Matthew Oyster**

Ohio Casino Control Commission  
Columbus

**Lisa Patterson**

LL Patterson LLC  
Springboro

**Lora Peters**

Supreme Court of Ohio  
Columbus

**Mark Petrucci**

Magistrate  
Franklin County Common Pleas Court  
Columbus

**Stacy Pollock**

Fishel Hass Kim Albrecht LLP  
Columbus

**Sarah Polly**

Associate Dean for Student Services  
Case Western Reserve University  
School of Law

**Ryan Rawlings**

Porter Wright Morris & Arthur LLP  
Cleveland

**Michael Rhinehart**

U.S. District Court of Southern Ohio  
Dayton

**Dalton Roberts**

Student  
Claude W. Pettit College of Law  
Ohio Northern University

**Michael Robinson**

Michael L. Robinson, Attorney at Law  
Akron

**Staci Rucker**

Professor & Associate Dean  
of Student Affairs  
University of Dayton School of Law

**Nancy Sabol**

Professor  
Claude W. Pettit College of Law  
Ohio Northern University

**Erin Sandy**

Student  
Salmon P. Chase College of Law  
Northern Kentucky University

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Larry Scanlon**  
Scanlon & Elliott  
Akron

**Maria Schneider**  
Musillo Unkenholt, LLC  
Cincinnati

**Lori Shaw**  
Professor  
University of Dayton  
School of Law

**Hon. Brendan Sheehan**  
Judge  
Cuyahoga County Court of Common Pleas  
Cleveland

**Lindsey Silverblatt**  
Legal OnRamp  
Columbus

**Michelle Silverthorne**  
Illinois Supreme Court  
Commission on Professionalism  
Chicago, Illinois

**Mike Sivore**  
Student  
University of Dayton School of Law

**Sarah Skow**  
Spengler Nathanson, P.L.L.  
Toledo

**Nicole Smith**  
Law Department, City of Lima  
Lima

**Jill Snitcher-McQuain**  
Executive Director  
Columbus Bar Association

**Heather Sowald**  
Sowald, Sowald, Anderson & Hawley  
Columbus

**Austin Spears**  
Student  
Capital University Law School

**Matt St. Clair**  
Student  
Capital University Law School

**Jeffrey Standen**  
Dean, Salmon P. Chase College of Law  
Northern Kentucky University

## 2014 STUDENT TO LAWYER SYMPOSIUM

# PARTICIPANTS

**Richard Strong**

Professor  
University of Akron School of Law

**Susan Suriano**

Grossman Law Offices  
Columbus

**John Tafaro**

President  
Cincinnati Bar Association

**Michelle Thompson**

Student  
University of Dayton School of Law

**Lance Tibbles**

Professor  
Capital University Law School  
Columbus

**Craig Tuttle**

Leeseberg & Valentine  
Columbus

**Ronald Wadlinger**

Supreme Court of Ohio  
Columbus

**Kaia Waldick**

Student  
Claude W. Pettit College of Law  
Ohio Northern University

**Bryan Ward**

Professor & Associate Dean for Academic Affairs  
Claude W. Pettit College of Law  
Ohio Northern University

**Fran Wellington**

Ohio State Bar Association  
Columbus

**Mindi Wells**

Interim Administrative Director  
Supreme Court of Ohio  
Columbus

**Brad Wenclewicz**

Student  
Case Western Reserve University  
School of Law

**Jeffrey White**

Director, Human Resources  
Supreme Court of Ohio  
Columbus

**Mona Williamowski**

President  
Allen County Bar Association  
Lima

2014 STUDENT TO LAWYER SYMPOSIUM

**PARTICIPANTS**

**Peter Wright**

Student  
University of Cincinnati College of Law

**Kalpana Yalamanchili**

Ohio State Bar Association  
Columbus

**Hon. Stephen Yarbrough**

Judge  
Ohio Sixth District Court of Appeals  
Toledo

**James Zitesman**

James A. Zitesman, Attorney at Law  
Dayton

**Hon. Gene Zmuda**

Judge  
Lucas County Common Pleas Court  
Toledo

*professor*  
**dean**  
clerk  
practitioner  
judge  
**student**

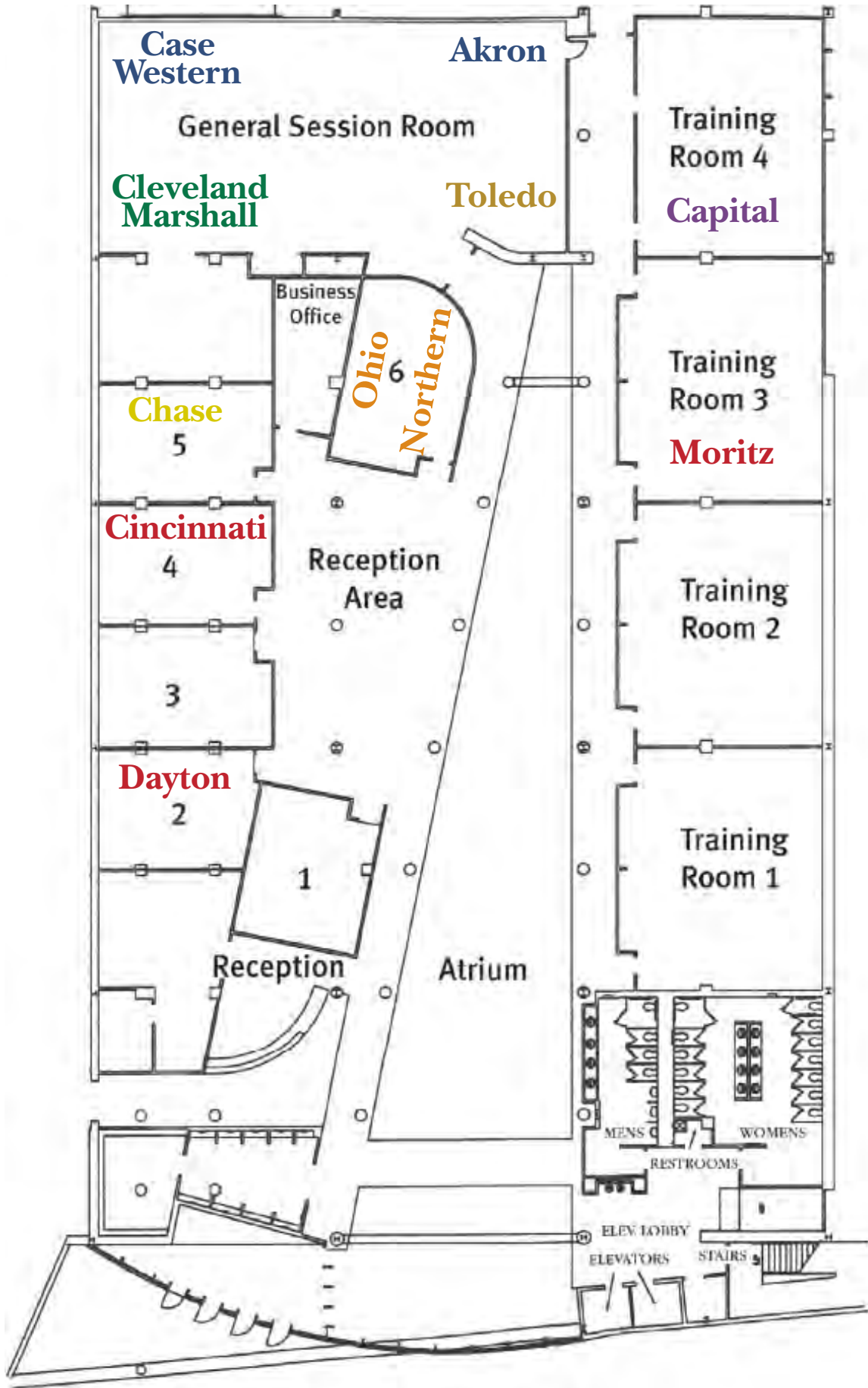
# Conference Map

VIII.

Conference Map













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