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ARGUMENTS

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No Lawyer Left Behind

A back-to-basics approach to legal education would benefit both firms and clients.



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There's no question that legal education has been one of the great educational success stories in American history. It has generated hundreds of thousands of lawyer-citizens who populate every level of our society and who are imbued with the substance and spirit of the rule of law. They tend to be leaders in their communities, in the private sector, at all levels of the public sector, and in various other deployments in which sharp analytical minds, verbal skills, and a sense of the public interest are prized.

Despite these accomplishments, American law schools and their faculties have lately descended to Rodney Dangerfield status. *The New York Times* has launched a multipronged assault. Law students (and their parents) decry the enormous debt overhang that greets them upon graduation. Chief legal officers of major corporations and other consumers of legal services are sharply critical of the

unfinished product—lawyers with no practical skills—that law schools are placing into the stream of commerce.

Many of the criticisms are valid. But I see no one on the “buy side”—law firms and their clients—reverting to core educational principles and connecting proposed reforms to the overarching purpose of American legal education: to graduate individuals who speak the language of law with confidence and who contribute to a world in which people and enterprises alike benefit from the rule of law. Put another way, it is less important that law students, upon graduation, know how to take a deposition than it is that they understand foundational legal concepts and are able to articulate and integrate those concepts clearly and forcefully in spoken and written English.

There are about 116,000 lawyers in Am Law 200 law firms. They increasingly operate across a global economy because their clients do. And they are not the only U.S.

lawyers who do so. Because they and their clients operate in markets in which there may be no rule-of-law tradition, they are missionaries for an objective, predictable, and fair approach to legal process and substance. Their success in this mission is critical to the creation of a world 50 years hence that is hospitable to the values embedded in free, capitalist societies. American law schools prepare lawyers for this mission when they teach their students how to speak the language of law with confidence.

How wonderful it is that this mission harmonizes so nicely with the realities of Main Street. By attending to fundamentals, American law schools can serve the entire market because command of legal fundamentals is as important on Main Street as it is on Wall Street or, for that matter, in the City of London or Hong Kong's Central District.

With that in mind, I envision a systemic reform that would honor the core purpose of the American law school, dramatically cut the legal educational expense for American law students, meet the vocational critiques of consumers of legal services, and take advantage of existing infrastructures and strengths.

Currently, the typical law student enters law school in September of Year One and graduates in May of Year Three. In the intervening 33 months, the student attends law school for 27 months and is on his or her own for six. But I think that for the greater good, we should view the 33 months holistically and as an educational continuum.

Here's my proposal: Law schools should set a goal of graduating their students in December of their third year, after five semesters instead of six, and focus almost exclusively on traditional course offerings for those five semesters. Instead of hiring faculty to teach practical skills, they should certify the experiences that students receive in their summer jobs and outsource (at no expense to the law school or student) the practical side of the curriculum. If students benefit from enough practical exposure and mentoring in one or both of their summers, they would be able to saw off their final semester, or one-sixth of their time in law school. If not, they will have to suffer the expense of a sixth semester by being immersed in practical education at their law schools.

The practical skills training could be outsourced to various sorts of summer work environments, provided that they achieve certification. After my 1L year, I worked at a small firm in Wheeling, West Virginia, called Schrader Miller Stamp & Recht. It would be eligible for certification. After my 2L year, I worked at Jones Day in Cleveland. It would be eligible. Friends worked as clerks within governmental or corporate legal functions. They would be eligible. Others worked at public interest law firms and legal services organizations. They would be eligible.

What's in it for law students? They would receive practical education from practicing lawyers, potentially

enter the job market and earn money at least a half-year earlier, and eliminate the expenses of one-sixth of a legal educational curriculum.

What's in it for law schools? They could focus on their core purpose for five semesters instead of trying to be all things to all people for six. Through the certification process, they would gain pedagogical control over the 33-month educational continuum. And they would mitigate the terrible debt circumstance enveloping many of their young alumni. As a bonus, they might also escape the public relations hell into which they have descended.

What's in it for corporate clients and other consumers of legal services? On the assumption that summer employment experiences will be enhanced through certification, their firms' young lawyers would be arriving with a more relevant and focused set of vocational training experiences. And, since the time of summer associates is substantially written off client bills already and pure training would obviously not be on the clients' tabs, the training would be at the expense of law firms. Clients could then focus their fire where it belongs—at the appropriate price point for young lawyers working on their accounts, not the curricula of American law schools.

Law firms' summer programs would take on real meaning. They could shed some of their mindless Club Med characteristics.

What's in it for law firms? What a pleasure it would be (various bar examiners willing) to start young lawyers early in the calendar year, as this would allow law firms to generate more revenue from starting lawyers in the fiscal year of their arrival. The law firms' summer programs, moreover, would take on real meaning. They could shed some of their mindless Club Med characteristics. In fact, the certification process, which would require a treaty between employers and law schools, is the linchpin to the proposal. If it does not cause law schools to get back to basics and law firms and other employers to step up to the plate with elevated summer experiences, the approach would fail.

Finally, if this proposal is adopted, what's in it for society? In an era in which doing more with less has transitioned from fashion to necessity, legal employers and law schools would be relegated to doing what each does best. The employers would be supplied with a continuous flow of great young minds acculturated in the rule of law and could rush them to the coal face of practical applications with pick in hand. And law schools would cease pretending to be what they were never intended to be—vocational workshops.

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