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TRAINING LAWYER-ENTREPRENEURS

LUZ E. HERRERA[†]

INTRODUCTION

The Great Recession has caused many new attorneys to question their decisions to go to law school.¹ The highly publicized decline in employment opportunities for lawyers has called into question the value of obtaining a law degree.² The tightening of the economy has diminished the availability of entry-level jobs for law graduates across employment sectors.³ Large law firms are laying-off lawyers,⁴ bringing in smaller first year associate classes,⁵ hiring more contract and experienced

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1. The Great Recession began at the end of 2007 but was accelerated in the summer of 2008 when investment banks closed, and transactional corporate work began to dry up. Corporate law firms began layoffs, hiring freezes and explored other ways to lower their overhead, placing more attorneys in the marketplace for legal work. James G. Leipold, *The Changing Legal Employment Market for New Law School Graduates*, THE BAR EXAMINER, Nov. 2010, at 6–10. For the impact of the Great Recession on large law firms, see Bernard A. Burk & David McGowan, *Big But Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 COLUM. BUS. L. REV. 1, 28–40 (2011).

2. See David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 9, 2011, at B1, available at <http://www.nytimes.com/2011/01/09/business/09law.html?pagewanted=print>; see also Bill Hebert, *What is the Value of a Law Degree?*, CALIFORNIA BAR JOURNAL, Feb. 2011, <http://www.calbarjournal.com/February2011/Opinion/FromthePresident.aspx>, and *What is the Value of a Law Degree? Part 2*, CALIFORNIA BAR JOURNAL, Mar. 2011, <http://www.calbarjournal.com/March2011/Opinion/FromthePresident.aspx>.

3. NALP reported that the employment rate of 85.6% was the lowest employment rate since 1994 when rate reported was 84.7%. See NALP, *Class of 2011 Has Lowest Employment Rate Since Class of 1994*, NALP BULLETIN (July 2012), <http://www.nalp.org/0712research>; See also NALP, *Law School Grads Face Worst Job Market Yet Less than Half Find Jobs in Private Practice*, NALP PRESS RELEASE (July 2012), <http://www.nalp.org/uploads/PressReleases/Classof2011ERSSelectedFindingsPressRelease.pdf>.

4. Jonathan D. Glater, *The Lawyer Squeeze: Layoffs and Closings in a Field Thought to Resist Downturns*, N.Y. TIMES, Nov. 12, 2008, at B1. Debra Cassens Weiss, *BigLaw Laid Off More than 12,000 People in 2009, the Worst Year Ever*, ABA JOURNAL (Jan. 4, 2010), http://www.abajournal.com/news/article/biglaw_laid_off_more_than_12000_people_in_2009_the_worst_year_ever; Martha Neil, *Chadbourne Bids Final Farewell to 11 Deferred Members of Class of 2009*, ABA JOURNAL (Mar. 17, 2010), http://www.abajournal.com/news/article/chadbourne_bids_final_good-bye_to_11_deferred_members_of_class_of_2009/.

5. See Karen Sloan, *Its Tough Out There*, THE NATIONAL LAW JOURNAL (Feb. 27, 2012), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202543428380&slreturn=1>; Gerry Shih, *Downturn Dims Prospects Even at Top Law Schools*, N.Y. TIMES, Aug. 26, 2009, at B1; Molly McDonough, *Summer Associate Offers Plummet, Hitting 17-Year Low*, ABA JOURNAL (Mar. 3, 2010), http://www.abajournal.com/news/article/summer_associate_offers_plummet_hitting_17-year_low/; see also Burk & McGowan, *supra* note 1, at 32–34.

lateral attorneys.⁶ Government entities and public interest organizations have suffered furloughs, and hiring freezes,⁷ and are relying more on volunteers than on new employees to get the work done.⁸ To complicate matters, the baby boomer generation of lawyers is retiring later and contributing to a lack of new job opportunities.⁹ As a result, a large number of recent law graduates are unemployed, under-employed, or are working in settings that do not require a bar license.¹⁰ James G. Leipold, executive director of the National Association for Law Placement (NALP), reported that “members of the law school graduating classes of 2009 and 2010 have faced the worst entry-level legal employment market in 50 years and perhaps ever, and the market for the classes of 2011 and those that will follow is likely forever changed.”¹¹ The latest figures released by 198 of the 201 law schools accredited by the American Bar Association (ABA) confirm Leipold’s prediction. Only 55% of law students graduating in 2011 reported having full-time, long-term jobs requiring a law degree, at nine months after graduation.¹² The change in the job market

6. Claire Zillman, *The New Normal*, THE AMERICAN LAWYER, Dec. 2010, at 67. Leigh Jones, *Faced with Data Explosion, Law Firms Tap Temp Attorneys*, THE NATIONAL LAW JOURNAL (Oct. 14, 2005), <http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1128947761813>; Leipold, *supra* note 1, at 10. *But see* NALP, *Lateral Hiring on the Rise after Two Years of Decline*, NALP BULLETIN (April 2011), http://www.nalp.org/april2011_lateral_hiring.

7. Ed O’Keefe, *Justice Department Lawyers Say They’ll Quit If Regional Offices Close*, WASH. POST, OCT. 18, 2011, available at http://www.washingtonpost.com/politics/justice-department-lawyers-say-theyll-quit-if-regional-offices-close/2011/10/18/gIQA0JzNvL_story.html; John Eligon, *District Attorney Cuts Jobs; Law Firms’ Earnings Rise*, N.Y. TIMES, APR. 29, 2011, available at <http://cityroom.blogs.nytimes.com/2011/04/29/district-attorney-cuts-jobs-law-firms-earnings-rise/>; Patrick McDonnell, *L.A. City Attorney’s Office Says Budget Cuts Are ‘Threat to Public Safety’*, L.A. TIMES, JAN. 4, 2011, available at <http://articles.latimes.com/2011/jan/20/local/la-me-0120-city-attorney-20110120>; Jason Ryan, *Attorney General Holder Orders Hiring Freeze; Discusses Tight Justice Department Budget*, ABC NEWS (Jan. 4, 2011), <http://abcnews.go.com/Politics/justice-department-attorney-general-eric-holder-orders-hiring/story?id=12749770&page=1#UAs9YaBDQww>; Alex Williams, *No Longer Their Golden Ticket*, N.Y. TIMES, Jan. 17, 2010, available at <http://www.nytimes.com/2010/01/17/fashion/17lawyer.html?scp=1&sq=no%20longer%20their%20golden%20ticket&st=cse>.

8. Leipold, *supra* note 1, at 7–10.

9. *See* Barbara Rose, *Not Done Yet*, ABA JOURNAL (April 2010) (discussing the reluctance or inability of lawyers to retire); *see also* *Lawyer Retirement Flash Survey*, ALTMAN WEIL, INC. 1, http://www.altmanweil.com/dir_docs/resource/d5bc07ce-97c2-4d82-abbe-c5f89ac5296a_document.pdf (reporting that 61% of attorneys surveyed plan on continuing to work in some capacity after retirement).

10. *See* Debra Cassens Weiss, *New Lawyer Says Waitress Job Pays More than Small Law Firms*, ABA JOURNAL (Aug. 14, 2009, 8:20 AM), http://www.abajournal.com/news/article/new_lawyer_says_waitress_job_pays_more_than_small_la_w_firms/; *see also* Menachem Wecker, *In Tough Job Market, Law Grads Use J.D.s for Nonlegal Work*, U.S. NEWS & WORLD REP. (Sept. 30, 2011), <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2011/09/30/in-tough-job-market-law-grads-use-jds-for-nonlegal-work>; Debra Cassens Weiss, *Nontraditional Careers for Law Grads Include Cartoonists and Service Dog Trainers*, ABA JOURNAL (Oct. 3, 2011), http://www.abajournal.com/news/article/nontraditional_careers_for_law_grads_include_cartoonists_and_services_dog_tr/.

11. Leipold, *supra* note 1, at 6.

12. Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J. (June 25, 2012), available at <http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html>; *see*

masks a long standing but rarely recognized reality. Law jobs, particularly for new attorneys, have never been abundant.

Historically, most attorneys in the United States have created their own jobs by establishing solo and small law firms. The latest ABA market research indicates that about three-fourths of all attorneys work in private practice.¹³ Of those attorneys, almost half identify as solo practitioners and approximately 14% work in small law offices with five or less lawyers.¹⁴ ABA market research found that in 2005, only 16% of attorneys in private practice work in law firms of more than 100 attorneys.¹⁵ In fact, the number of lawyers in private practice working in law firms of more than 50 attorneys has never accounted for even one-fifth of the private bar.¹⁶ Attorney demographics confirm that the majority of lawyers in private practice are self-employed.¹⁷ Regardless of the large number of lawyers in solo practice, few law graduates enter the profession understanding the opportunities and challenges of starting their own law firms.

The reality of self-employment has not been well-received by many new graduates. Fewer opportunities in the job market have spawned blogs, editorials, articles and letters from and about angry and greatly disappointed new lawyers who viewed law school as their ticket to a six-figure salary upon graduation, but instead found poor job prospects and student debt equivalent to a home mortgage.¹⁸ A group of law graduates

also Lincoln Caplan, *An Existential Crisis for Law Schools*, N.Y. TIMES (July 14, 2012), available at <http://www.nytimes.com/2012/07/15/opinion/sunday/an-existential-crisis-for-law-schools.html>.

13. The American Bar Foundation published *The Lawyer Statistical Reports* in 2012, 2004, 1994. The reports respectively report that in 2005 75% of all lawyers worked in private practice. Those figures were 75% in 2000 and 73% in 1991. The corresponding 1985 report also reports that 68% of all lawyers were in private practice in 1980. ABA MKT. RESEARCH DEP'T, LAWYER DEMOGRAPHICS (2012), http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lawyer_demographics_2012_revised.authcheckdam.pdf.

14. *Id.* (showing that in 1980 and 2005 49% of private practitioners identified as working in solo practice). The 2000 report shows 48% and the 1991 report states that 45% of private sector attorneys worked as solo practitioners. *Id.*

15. *Id.* The largest proportion of lawyers working in law firms with more than 100 attorneys was reported in 2005, only three years before massive layoffs. The numbers for 1991 and 2000 were 13% and 14%, respectively. The 1980 data only measured law firms with more than 51 lawyers, so it is unclear how many of them worked in law firms of more than 100 lawyers. *Id.*

16. In the late 1950s, only 38 law firms in the United States had more than fifty lawyers. See Marc S. Galanter, *Why the Big Get Bigger: The Promotion-to-Partner Tournament and the Growth of Large Law Firms*, 76 VA. L. REV. 747, 749 (1990). In 1960, it is estimated that only two percent of attorneys practiced in law firms of over 50 attorneys. In 1980, this number grew to 18%, still less than one-fifth of the total amount of practicing attorneys in the private practice. Marc Galanter, "Old and in the Way": *The Coming Demographic Transformation of the Legal Profession and Its Implications for the Provision of Legal Services*, 1999 WIS. L. REV. 1081, 1092 (1999).

17. The percentage of existing solo practitioners has consistently been greater than that of large law firms. The percentage was 64% in 1960, 52% in 1970, 49% in 1980, 45% in 1991, and finally 48% in 2000. Barbara A. Curran, *American Lawyers in the 1980s: A Profession in Transition*, 20 LAW & SOC'Y REV. 19, 30 (1986).

18. Encarnacion Pyle, *Law Grads: Lots of Debt, Few Jobs*, THE COLUMBUS DISPATCH (Mar. 26, 2012), <http://www.dispatch.com/content/stories/local/2012/03/26/law-grads-lots-of-debt-few-jobs.html>; Segal, *supra* note 2.

initiated lawsuits against their law schools alleging, among other things, misrepresentation and fraud.¹⁹ Although the particular claims of the lawsuits vary, all of them accuse law schools of reporting exaggerated employment statistics in order to lure prospective students into law schools.²⁰ As a result of the public dissatisfaction of recent law graduates and the high cost of legal education,²¹ the number of applications to ABA accredited law schools declined in 2011.²² In December 2012, the Law School Admissions Council reported an additional decline of 22%.²³

19. As of July 20, 2012 the following law schools have been sued over their employment and salary reports: Albany Law School, Brooklyn Law School, California Western School of Law, Chicago-Kent College of Law, Florida Coastal School of Law, DePaul University College of Law, Golden Gate University School of Law, John Marshall Law School, Maurice A. Deane School of Law at Hofstra University, New York Law School, Southwestern Law School, Thomas M. Cooley Law School, Thomas Jefferson School of Law, University of San Francisco Law School, and Widener University School of Law. See Karen Sloan, *Law School Sued Over 'False' Employment Statistics*, THE NATIONAL LAW JOURNAL (May 27, 2011), available at http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202495481202&Law_school_sued_over_false_employment_statistics&slreturn=1&hbxlogin=1; see also Martha Neil, *Honors Grad Working as Doc Reviewer Sues Law School, Says She Was Misled by US News Stats*, ABA JOURNAL (May 27, 2011), http://www.abajournal.com/news/article/honors_grad_working_as_doc_reviewer_sues_law_school_says_she_was_misled_by/; Sophia Pearson, *New York Law School Sued by Students over Claims About Graduates' Success*, BLOOMBERG (August 10, 2011), <http://www.bloomberg.com/news/2011-08-10/new-york-law-school-sued-by-students-over-claims-about-graduates-success.html>; Peter Fulham, *Law Grads Sue Alma Maters for \$450M*, SLATE (August 12, 2011), http://slatest.slate.com/posts/2011/08/12/law_school_lawsuit_thomas_cooley_new_york_law_school_sued_by_stu.html; Martha Neil, *12 More Law Schools Sued Over Reporting of Law Grad Employment and Salary Stats*, ABA JOURNAL (February 1, 2012), http://www.abajournal.com/news/article/12_more_law_schools_sued_in_consumer-fraud_class_action_re_reported_law/; Karen Sloan, *Fresh round of litigation targets 12 law schools over jobs data*, THE NATIONAL LAW JOURNAL (February 1, 2012), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202540950653>; Shannon Raspberry, *High Student Loan Debt, Unemployment Lead to More Lawsuits against Law Schools*, Student Loans Blog (February 14, 2012), <http://studentloansblog.nextstudent.com/2012/02/14/high-student-loan-debt-unemployment-lead-to-more-lawsuits-against-law-schools/>. The lawsuit against New York Law School was dismissed on March 21, 2012. See *Alexandra Gomez-Jimenez v. N.Y. Law Sch.*, 943 N.Y.S.2d 834 (Sup. Ct. 2012). The lawsuit against Thomas Cooley Law School was dismissed on July 20, 2012. See *MacDonald v. Thomas M. Cooley Law Sch.*, No. 1:11-CV-831, 2012 WL 2994107 (W.D. Mich. July 20, 2012).

20. See Jack Crittenden, *Employment Data Under Fire*, THE NATIONAL JURIST, Sep. 2010, at 5 (manipulating of employment data by law schools scrutinized); Segal, *supra* note 2; Kyle P. McEntee & Patrick J. Lynch, *A Way Forward: Transparency at U.S. Law Schools*, 32 PACE L. REV. 1 (2012) (calling for regulation of the collection and presentation of employment data at ABA-approved law schools).

21. The ABA reported that in 2009 the average annual cost of law school tuition and fees was \$35,743 for private schools and \$18,472 for resident students at public law schools. *Section on Legal Education, Statistics from ABA-Approved Law Schools, Law School Tuition 1985–2009*, ABA, http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/law_school_tuition.authcheckdam.pdf (last visited July 22, 2012). These figures represent an increase in tuition of 73% for private schools and 150% for public schools since 1999. See *id.*

22. Although the number of ABA applications reached an all-time high in 2010 at 602,252, this figure dropped 11% to 536,200 in 2011. *LSAC Volume Summary*, LAW SCH. ADMISSION COUNCIL, <http://www.lsac.org/LSACResources/Data/PDFs/LSAC-volume-summary.pdf> (last visited, May 15, 2012). Similarly, the number of individuals sitting for the Law School Admissions Test dropped by almost 26% in a two year period, from 171,514 exams taken in 2009–2010 to 129,958 in 2011–2012. *LSATs Administered*, LAW SCH. ADMISSION COUNCIL, <http://www.lsac.org/LSACResources/Data/lstats-administered.asp> (last visited May 15, 2012). See

The future of the legal profession is uncertain. Some predict that large law firms are unlikely to rebound to pre-recession hiring.²⁴ It is also not anticipated that government, academic, and public interest sectors will represent more than a small fraction of available law jobs.²⁵ The most consistent and largest employment sector for lawyers will continue to be solo practice. If the largest segment of our law students will eventually work for themselves,²⁶ then law schools should provide direction about what it means to be a self-employed lawyer. Like their predecessors, the self-employed lawyer of the twenty-first century must learn how to think like a lawyer and find a niche within the business of law. However, to make a living in an increasingly complex and competitive legal market, self-employed lawyers must also become lawyer-entrepreneurs.²⁷

This Article does not offer a comprehensive understanding of the study of entrepreneurship.²⁸ Nor does it engage the discussion of the tension between professionalism standards and personal gain.²⁹ Instead, this piece focuses on what law schools can do to help the thousands of self-employed lawyers who must embrace entrepreneurial models to survive in a competitive market. Part I of this Article considers how technology and the need for more affordable legal services require the transfor-

also David Segal, *For 2nd Year, A Sharp Drop in Law School Entrance Tests*, N.Y. TIMES, Mar. 20, 2012, at B1.

23. *Three-Year ABA Volume Comparison*, LAW SCH. ADMISSION COUNCIL, <http://www.lsac.org/lsacresources/data/three-year-volume.asp> (last visited December 20, 2012).

24. William D. Henderson & Rachel M. Zahorsky, *Law Job Stagnation May Have Started Before the Recession—And It May Be a Sign of Lasting Change*, ABA JOURNAL (July 1, 2011 4:40 AM), http://www.abajournal.com/magazine/article/paradigm_shift (re-examining some long-standing assumptions about lawyers and the clients they serve within the context of the demands of a rapidly globalizing world); see also Maulik Shah, *The Legal Education Bubble: How Law Schools Should Respond to Changes in the Legal Market*, 23 GEO. J. LEGAL ETHICS 843, 845–52 (2010) (discussing how the legal market was impacted by the Great Recession).

25. Since 1980, no more than 8–9% of all lawyers worked in the government sector. During that period, only 1% of lawyers were employed in education. Legal aid and public defender lawyers were 2% of the profession's population in 1980 but their numbers declined to constitute 1% of the lawyer population as of 1991. See ABA MKT. RESEARCH DEP'T, *supra* note 13.

26. *ABA Serves Solo and Small-Firm Lawyers with New Online Resource Center*, ABA (Jan. 19, 2012), <http://www.abanow.org/2012/01/aba-serves-solo-and-small-firm-lawyers-with-new-online-resource-center/> (reporting that approximately 435,000 attorneys are in solo practice). There were 1,245,205 total attorneys in the U.S. in April 2012. See ABA MKT. RESEARCH DEP'T, *supra* note 13.

27. See David G. Blanchflower & Andrew J. Oswald, *What Makes an Entrepreneur?*, 16 J. LAB. ECON. 27 (“The simplest kind of entrepreneurship is self-employment.”).

28. For an overview of the literature on entrepreneurship, see David E. Pozen, *We Are All Entrepreneurs Now*, 43 WAKE FOREST L. REV. 283, 284–315 (2008) (comparing traditional and new conceptualizations of the entrepreneur in the academic literature).

29. For a discussion on the tension between professionalism and commercialization of legal services, see generally ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993); William Hornsby, *Clashes of Class and Cash: Battles from the 150 Years War to Govern Client Development*, 37 ARIZ. ST. L.J. 255 (2005); David Barnhizer, *Profession Deleted: Using Market and Liability Forces to Regulate the Very Ordinary Business of Law Practice for Profit*, 17 GEO. J. LEGAL ETHICS 203 (2004); Richard A. Posner, *Professionalisms*, 40 ARIZ. L. REV. 1 (1998); Deborah L. Rhode, *The Professionalism Problem*, 39 WM. & MARY L. REV. 283 (1998); see also MAGALI SARFATTI LARSON, *THE RISE OF PROFESSIONALISM: A SOCIOLOGICAL ANALYSIS* 177 (1977) (discussing how lawyers' social structure is at odds with its professional ideals).

mation of solo attorneys into lawyer-entrepreneurs. It explores how technology and client preferences are impacting the practice of law for self-employed lawyers that address personal legal services. Part II summarizes the findings of several empirical studies that help us understand what it means to be a self-employed lawyer. It considers the challenges and opportunities of lawyers as entrepreneurs. Part III posits that Millennial generation lawyers are good candidates to become lawyer-entrepreneurs. It contemplates a future where Millennial lawyer-entrepreneurs, if properly supported, can exploit technology to increase access to justice and achieve their personal goals. Part IV documents a sample of existing and emerging efforts by law schools to train self-employed lawyers. This section focuses specifically on the emergence of networks supporting solo and small firm lawyers, attorney incubator programs and post-graduate residencies. Part V offers recommendations for law schools committed to advancing the training of lawyer-entrepreneurs. The perspective offered here is informed by my experience launching a solo practice in 2002,³⁰ my involvement in a national conversation about the lack of affordable legal services,³¹ as a mentor to lawyers starting their law practices, and is supported by empirical research.

I. LAW IN THE MILLENNIAL AGE

Today's law graduates are entering the profession at a time when technology is drastically changing all aspects of our society, including the business of law. The same technology that permits a U.S. lawyer to service her clients from the comfort of her laptop facilitates the provision of legal services from India to U.S. companies at a fraction of the price.³² In the last decade, thousands of legal jobs, primarily involving document preparation and legal research, have been sent abroad.³³ The long-term impact of outsourcing is yet to be determined, but what is clear is that the

30. Luz E. Herrera, *Reflections of a Community Lawyer*, 3 MOD. AM. 39, 41–43 (2007), available at <http://www.wcl.american.edu/modernamerican/documents/Herrera.pdf>.

31. Luz E. Herrera, *Rethinking Private Attorney Involvement Through a "Low Bono" Lens*, 43 LOY. L.A. L. REV. 1, 6–8 (2009) (arguing for inclusion of Main Street lawyers that charge low bono fees in national efforts to increase access to justice).

32. Carole Silver, *Putting Legal Process Outsourcing in Context: Why Globalization Matters*, 20 NO. 2 PROF. LAW. 26, 26–27 (2010) (referring to Mark Ross of Integreon who says that real estate work costs 1/20th of what it cost 10–20 years ago and is done by paralegals, junior associates, or contract attorneys).

33. See James R. Faulconbridge et al., *Global Law Firms: Globalization and Organizational Spaces of Cross-Border Legal Work*, 28 NW. J. INT'L L. & BUS. 455, 455–59 (2008) ("[U]nderstanding how existing geographies of globalization of law and lawyers, alongside new geographies of professional partnership and legal work, have created opportunities and challenges for global law firms."); Carole Silver et al., *Between Diffusion and Distinctiveness in Globalization: U.S. Law Firms Go Global*, 22 GEO. J. LEGAL ETHICS 1431, 1438–45 (2009) ("The patterns of staffing overseas offices reveal that the firms are substantially invested in the local and also pursue a path of diffusion."); Milton C. Regan, Jr., & Palmer T. Heenan, *Supply Chains and Porous Boundaries: The Disaggregation of Legal Services*, 78 FORDHAM L. REV. 2137, 2166–67 (2010) (discussing whether the trend of law firms producing goods and services by relying on the supply chains that extend beyond the formal boundaries of the organization will continue).

delivery of legal services has drastically changed.³⁴ Technology has facilitated the entry of new players that offer affordable alternatives to routine services that many attorneys in solo practice provide. The use of technology to facilitate the delivery of legal services is making legal information more accessible and driving down profit margins of many lawyers. In addition to the new non-lawyer competitors, self-employed lawyers that provide personal services compete with paralegals and other non-lawyer providers.³⁵

In his thought-provoking book, *The End of Lawyers?*, futurist Richard Susskind argues that information technology and the commoditization of legal services will “fundamentally transform legal services.”³⁶ He explains the entry of new technology-adept non-lawyer competitors have forced lawyers to deliver more services at lower prices.³⁷ Susskind argues that the delivery of legal services will evolve through a spectrum where traditional, one-on-one, personalized services will be only a small portion of the overall legal services delivered.³⁸ He characterizes non-routine, customized work that requires personal interaction with a client as “bespoke” work. Bespoke work is specifically tailored to the particular needs and characteristics of the client. It is the primary mode of legal services delivery championed by lawyers who make their living by customizing their service.³⁹ Susskind argues that consumers prefer a highly “commoditized” service that has been standardized, systematized, packaged, and offered at a fraction of the cost of bespoke work.⁴⁰ A commoditized legal service is described “as an IT-based offering that is undiffer-

34. Henderson & Zahorsky, *supra* note 24.

35. For a discussion of the first wave of competitors that threatened to “delawyer” the legal profession, see Gerry Singen, *Competition in Personal Legal Services*, 2 GEO. J. LEGAL ETHICS 21, 24–40 (1989) (discussing the emergence of legal services providers in the early 1980s); see also *Reality Sinks In*, ABA JOURNAL (August 2012) (reporting that 92 percent of respondents of the 2012 *Law Firms in Transition Survey* said that “price competition will be a permanent fixture of the post-recession legal marketplace”).

36. RICHARD SUSSKIND, *THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES* 27 (2008).

37. *Id.* at 27 (offering examples of attorneys asked to take work for fixed prices and to have much more transparency in their billing). New non-lawyer competitors include companies that offer clients to outsource legal work, entrepreneurial publishers, professional managers and investors who fund non-lawyer companies that facilitate disruptive legal technology such as document assembly and embedded legal knowledge in software programs to replace the need for lawyers in routine legal work.

38. *Id.* at 28–29.

39. *Id.* at 29. Susskind explains that the term bespoke is a word commonly used in the UK to describe a highly customized product. He explains that individuals refer to “bespoke software” they refer to “software that is specifically written for one client”. He further explains by explaining the contrast between a “bespoke suit,” a suit that is tailored to fit one specific individual, and a “off-the-peg suit” designed for many people.

40. *Id.* at 31–32; cf. CARROLL SERON, *MANAGING ENTREPRENEURIAL LEGAL SERVICES: THE TRANSFORMATION OF SMALL-FIRM PRACTICE IN LAWYERS’ IDEALS/LAWYERS’ PRACTICES: TRANSFORMATIONS IN THE AMERICAN LEGAL PROFESSION* 75 (Robert L. Nelson ed., 1991) (discussing empirical research showing that legal services consumers prefer lawyers who are older, work in their own offices and are conveniently located).

entiated in the marketplace” by the consumer and is made available by disruptive legal technologies.⁴¹

Disruptive legal technologies include systems, techniques, or applications that radically change the way an industry operates.⁴² Susskind identifies ten disruptive legal technologies that are already making legal services highly available by becoming accessible to multiple providers whose competition lowers pricing to the consumer.⁴³ Examples of such disruptive legal technologies include automated document assembly, the internet as an electronic legal marketplace, embedded legal knowledge, workflow management, and online legal guidance.⁴⁴ Such innovations allow for competitive pricing for routine legal services and diminish the role of a lawyer as service provider. Susskind concludes that in this new paradigm, the success or failure of lawyers will depend on their willingness to change the way they practice by welcoming new ways of organizing and delivering legal work.⁴⁵ Susskind’s message is not that disruptive legal technology will make law and lawyers less relevant, but that technology has transformed the legal market to be a buyer’s market.⁴⁶

In the United States, legal services consumers are confirming part of Susskind’s hypothesis that they will opt for a less personalized service if the alternative is too costly. The typical legal services consumer in the U.S., makes approximately \$25 per hour,⁴⁷ and is priced out of the services lawyers provide even at low attorney rates of \$125–\$150 an hour.⁴⁸ A study by the World Justice Project found the United States ranked the lowest among 11 developed nations in providing access to justice to its citizens.⁴⁹ The primary model for delivering legal services offers options to a small fraction of those who qualify under specific poverty guide-

41. *Id.* at 32.

42. *Id.* at 99.

43. *Id.* at 31.

44. *Id.* at 99–146. Chapter 4 describes automated document assembly, instant connectivity (blackberries, social media, Skype), the internet as an electronic legal marketplace, e-Learning, online legal guidance, legal open-sourcing, closed legal communities, workflow and project management, and embedded legal knowledge. Chapter 5 describes online dispute resolution. *Id.* at 147–180.

45. *Id.* at 269.

46. *Id.* at 270.

47. The hourly rate for consumers is calculated based on a median annual income of \$50,020 and assumes a forty-hour workweek over fifty weeks. According to new data derived from the monthly Current Population Survey, real median annual household income in January 2012 was \$50,020. Gordon Green & John Coder, *Household Income Trends: January 2012*, SENTIER RESEARCH, LLC, 2 (Mar. 2012), http://www.sentierresearch.com/reports/Sentier_Research_Household_Income_Trends_Report_January_2012_12_03_01.pdf.

48. Richard S. Granat, *eLawyering for a Competitive Advantage—How to Earn Legal Fees While You Sleep*, 2–3 (2008), http://meetings.abanet.org/webupload/commupload/EP024500/relatedresources/eLawyering_for_Competitive_Advantage.pdf.

49. See Mark David Agrast et al, *Rule of Law Index*, THE WORLD JUSTICE PROJECT, 103 (2011), http://worldjusticeproject.org/sites/default/files/wjproli2011_0.pdf; Steven Seidenberg, *Unequal Justice: U.S. Trails High-Income Nations in Serving Civil Legal Needs*, ABA JOURNAL (June 1, 2012 1:50 AM), www.abajournal.com/magazine/article/unequal_justice_u.s._trails_high-income_nations.

lines⁵⁰ and to those who can afford to pay attorney fees at market rates.⁵¹ Legal services consumers generally perceive lawyers as an inefficient use of their money and time.⁵² A 1993 survey revealed that a majority of Americans believe that the phrases “greedy” and “make too much money” properly describe lawyers.⁵³ Individuals with legal problems will opt for resources that are most affordable and convenient even when they understand that the services provided may be sub-optimal compared to what an attorney can provide.⁵⁴ It is estimated that there is a latent legal services market with an annual worth of \$20 billion “that is not currently being served by the legal profession.”⁵⁵ The legal profession’s inability to meet the needs of its citizens is documented by national and state studies.⁵⁶

Venture capitalists have begun to address the need of the average legal services consumers. Investors are showing interest in the legal informatics market that provides lawyer alternatives to consumers.⁵⁷ In

50. The Legal Services Corporation set income eligibility guidelines for free legal services in 2012 at 125% of federal poverty guidelines set forth by the Department of Health and Human Services. See *Income Level for Individuals Eligible for Assistance*, 77 Fed. Reg. 21 (Feb. 1, 2012) (to be codified at 45 CFR Part 1611), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-02-01/html/2012-2098.htm>. For a family of four living in the contiguous United States, annual income at 125% of the federal poverty guidelines is \$28,813. *Id.* Through different sources of funding, some legal aid organizations are able to offer free legal services to individuals at 200% of the poverty guidelines. A family of four under 200% of poverty can make no more than \$46,100 per year in the contiguous U.S. *Id.*

51. What an attorney charges for a service depends on a number of factors which include the difficulty of the legal matter, the location where the services are rendered and the experience of the attorney. There are currently websites that provide legal services consumers with ideas of how much attorneys in a geographic region charge per basic service. See ATTORNEY FEE, <http://www.attorneyfee.com/> (last visited July 31, 2012).

52. Granat, *supra* note 48, at 3. Richard S. Granat, *Online Legal Services and Virtual Lawyering: What Is it, Why Is it Important and What Do You Do Now?*, DIRECT LAW, 4 (Aug. 1, 2011), <http://www.directlaw.com/virtual-lawyering-for-competitive-advantage.pdf>.

53. See PETER D. HART RESEARCH ASSOCIATES, A SURVEY OF ATTITUDES TOWARDS LAWYERS AND THE LEGAL SYSTEM 13 (1993) (finding that Americans rate lawyers as third from the bottom, higher only than stockbrokers and politicians, when rating nine professions); see also *Legal Services Benchmarking Report 11516*, BDRC CONTINENTAL (June 2012), http://www.legalservicesboard.org.uk/what_we_do/Research/Publications/pdf/individual_consumers_use_of_legal_services_lsb_report_17_07_12_ii.pdf (an empirical study that explores how British citizens make decisions about their legal needs).

54. Robert Capps, *The Good Enough Revolution: When Cheap and Simple Is Just Fine*, WIRED (August 24, 2009), http://www.wired.com/gadgets/miscellaneous/magazine/17-09/ff_goodenough?currentPage=4 (discussing how in various industries, including the legal industry, customers will sacrifice quality for an inexpensive and convenient alternative).

55. Granat, *supra* note 48, at 1.

56. LSC reports that only one-fifth of those who require civil legal services in this country receive them. See *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVS. CORP. 18 (2009), http://www.lsc.gov/pdfs/documenting_the_justice_gap_in_america_2009.pdf; Herrera, *supra* note 30, at 5–6; see also Laurel A. Rigertas, *Stratification of the Legal Profession: A Debate in Need of a Public Forum*, 2012 PROF. LAW. 79, 85–87 (2012) (arguing that the U.S. legal profession is not meeting the civil legal needs of the population); Robert R. Kuehn, *Undermining Justice: The Legal Profession’s Role in Restricting Access to Legal Representation*, 2006 UTAH L. REV. 1039, 1040–41 (2006).

57. Legal informatics refers to the application use of technology for the organization, storage, and distribution of legal information.

2011, Nolo Press, the leading publisher of self-help law books and software, was purchased by a new media company for \$21 million.⁵⁸ In the same year, well-regarded venture capitalists invested \$41 million for minority shares of LegalZoom, the leading provider of online legal forms for individuals and small business, and another \$18.5 million in Rocket Lawyer, provider of legal forms and information.⁵⁹ Entities such as LegalZoom, Rocket Lawyer, Nolo Press, and similar entities not licensed to practice law, have already identified the legal market as the next industry ripe for disruption by commoditization.⁶⁰ LegalZoom alone reported more than two million customers and revenue of more than \$100 million in 2011.⁶¹

The market for more affordable alternatives to lawyers will continue to grow unless and until the legal profession offers legal services consumers what they need and want.⁶² Lawyers working in courts and legal aid organizations were amongst the first to integrate technology into their existing structures to meet the demand for their services.⁶³ Every state in the country has an online platform to help self-represented litigants with automated forms and legal information.⁶⁴ Since 2000, the Legal Services

58. Nolo was purchased by Internet Brands, Inc. in 2011. Daniel Fisher, *Entrepreneurs Versus Lawyers*, FORBES (Oct. 24, 2011, 6:00 PM), <http://www.forbes.com/forbes/2011/1024/entrepreneurs-lawyers-suh-legalzoom-automate-daniel-fisher.html>. Internet Brands has a subsidiary company called Experthub which is the lead generator for Nolo Network. See *About Us*, NOLO, <http://www.nolo.com/about.html> (last visited May 14, 2012); see also Richard Granat, *Nolo Is Acquired by Registered Brands as Part of Legal Roll Up* ELAWYERING BLOG (Apr. 30, 2011), <http://www.elawyeringredux.com/2011/04/articles/selfhelp-law/nolo-is-acquired-by-internet-brands-as-part-of-legal-roll-up/>.

59. *Id.*; see also LEGALZOOM, <http://www.legalzoom.com> (last visited May 14, 2012); ROCKET LAWYER, <http://www.rocketlawyer.com> (last visited May 14, 2012).

60. For a discussion of market disruptors, see Ken Docor, *The Newsonomics of Amazon vs. Main Street*, NIEMAN JOURNALISM LAB (July 26, 2012 10:00 AM) (explaining Amazon's disruption of retail business), <http://www.niemanlab.org/2012/07/the-newsonomics-of-amazon-vs-main-street/>; see also REID HOFFMAN & BEN CASNOCHA, *THE START-UP OF YOU* 19–21 (2012) (discussing different companies such as Netflix who disrupted the movie rental industry and replace organizations such as Blockbuster).

61. Pascal-Emmanuel Gobry, *This Profitable, \$100 Million Revenue Startup Doesn't Want to Go Public*, BUS. INSIDER (July 26, 2011), http://articles.businessinsider.com/2011-07-26/tech/29970662_1_ipos-ivp-techcrunch; LEGALZOOM, *supra* note 59; see also Legalzoom.com, Inc., Registration Statement Under the Securities Act of 1933 (Form S-1) (May 10, 2012), available at http://xml.10kwizard.com/filing_raw.php?repo=tenk&ipage=8258454. But see Reynolds Holding & Anthony Currie, *Do-It-Yourself Law Firm IPO Looks a Bit Too Feisty*, SLATE (July 24, 2012) (questioning the valuation of Legalzoom.com considering lawsuits and reporting two years of losses in 2009 and 2010), http://www.slate.com/blogs/breakingviews/2012/07/24/do_it_yourself_law_firm_ipo_looks_a_bit_too_feisty.html.

62. Julie C. Fischer, *Policing the Self-Help Legal Market: Consumer Protection or Protection of the Legal Cartel?*, 34 IND. L. REV. 121 (2000) (claiming that the rise of the self-help movement is motivated by the lack of affordable legal services).

63. Ronald W. Staudt, *Technology for Justice Customers: Bridging the Digital Divide Facing Self-Represented Litigants*, 5 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 71, 73–77 (2005) (describing statewide internet platforms to offer free legal information and facilitate access to justice); see also John T. Broderick, Jr., & Ronald M. George, *A Nation of Do-It-Yourself Lawyers*, N.Y. TIMES, AT A21 (Jan. 2, 2010) (defending limited scope representation as a vehicle to help self-represented litigants).

64. For a list of websites to assist self-represented litigants, see LAWHELP.ORG, <http://www.lawhelp.org/> (last visited July 31, 2012).

Corporation has awarded technology grants to legal services providers to develop programs using technology to increase the delivery of legal services to those who cannot afford it.⁶⁵ These grants have produced technological innovations that help legal aid organizations reach a greater number of legal services consumers.⁶⁶ A LSC grant has funded the creation of "Apps for Justice" clinics at law schools, where law students will partner with legal aid organizations to develop new applications to facilitate legal form automation.⁶⁷ These creations help address the "justice gap" for low-income individuals, but this same technology is also used by new market competitors to drive down the price of legal services.⁶⁸ The demand for affordable legal services makes it more difficult for lawyers who want to stop the proliferation of these new market competitors. Allegations by lawyers that Legalzoom and other new competitors are engaging in unauthorized practice of law have not resulted in the type of injunctive relief that many self-employed attorneys and bar associations seek.⁶⁹

Attorneys in solo practice have an opportunity to leverage technology to provide more cost-effective services to their potential client base. Self-employed attorneys can also provide greater options to the community of legal services consumers who are not finding alternatives they can afford in the attorney marketplace. The last national legal services survey revealed that 75% of low-income respondents contracted with a private lawyer and that 68% of them actually paid a fee for those services.⁷⁰

65. *Technology Initiative Grants*, LEGAL SERVICES CORPORATION, <http://tig.lsc.gov/about-us/background> (last visited July 31, 2012).

66. Over \$40 million in Technology Initiative Grants have been distributed and have been crucial in developing states' legal services websites. For more on the impact of these grants see *TIG's Impact*, Legal Services Corporation, <http://tig.lsc.gov/about-us/tigs-impact> (last visited July 31, 2012).

67. *Apps for Justice Wins Future Ed Contest*, ITT CHICAGO-KENT COLLEGE OF LAW (April 20, 2011), <http://www.kentlaw.iit.edu/news/apps-for-justice-wins-future-ed-contest>; see also Ronald W. Staudt, *All the Wild Possibilities: Technology that Attacks Barriers to Access to Justice*, 42 LOY. L.A. L. REV. 1117 (2009) (describing the prominence of technology that "allows lawyers to build guided Internet interviews for prospective clients and self-represented litigants").

68. The Legal Services Corporation (LSC) defines the Justice Gap as the "difference between the level of legal assistance available and the level that is necessary to meet the needs of low-income Americans". *Documenting the Justice Gap in America*, LEGAL SERVICES CORP. 1 (September 2009), <http://www.lsc.gov/justicegap.pdf>.

69. Legalzoom denies allegations that it engages in the unauthorized practice of law but has paid millions to settle lawsuits against it. See Daniel Fisher, *Non-Lawyers Find It Hard Avoid Breaking Bar's Vague Rules*, FORBES (July 25, 2011, 10:06 AM), <http://www.forbes.com/sites/danielfisher/2011/07/25/non-lawyers-find-it-hard-avoid-breaking-bars-vague-rules> (discussing non-lawyer battles with bar regulators who monitor unauthorized practice of law activities). For LegalZoom's perspective on claims of unauthorized practice of law, see *Perspectives*, LEGALZOOM, <http://www.legalzoom.com/perspectives> (last visited May 14, 2012). See also Holding & Currie, *supra* note 61.

70. *Legal Needs and Civil Justice: A Survey of Americans*, ABA 9-11 (1994), available at <http://www.abanet.org/legalservices/downloads/sclaid/lpegalneedstudy.pdf>; see also Herrera, *supra* note 31, at 37-38 (citing *ABA Legal Needs Study*, ALGODONES ASSOCIATES 7 (1998), http://www.algodonesassociates.com/legal_services/assessing_needs/ABA%20Legal%20Needs.pdf); see also *Access Across America: First Report of the Civil Justice Infrastructure Mapping Project*, AMERICAN BAR FOUNDATION 3 (October 7, 2011) (stating that evidence suggests that low-income

Large corporate law firms do not generally service low- and middle-income clients.⁷¹ The majority of the American population who addresses their legal problems will therefore look to self-employed lawyers or less expensive non-lawyer alternatives to address their legal needs. Solo lawyers are key players in delivering legal services to the majority of the U.S. population. As a result, solo practice is more than a career path of last resort. It is the most enduring segment of the bar that has consistently helped individuals in our society navigate the democratic legal system we live in.

While the commoditization of legal services may spell doomsday for many self-employed attorneys, lawyer-entrepreneurs view disruptive legal technologies as tools to become more competitive and profitable. Lawyer-entrepreneurs understand the opportunities that exist in offering affordable legal services, particularly to populations that are underserved. They learn how to maximize technology to continue to deliver a personalized product at a competitive price to be viable in the post-Great Recession era. Lawyer-entrepreneurs build their expertise and their client base by providing quality legal services and developing a trusted reputation in their community. As a lawyer-entrepreneur's client base and reputation grows, her success will be measured by her ability to incorporate technology to grow her market share of both the latent legal services market and the community of clients who can afford bespoke services.

The eLawyering Task Force of the Law Practice Management Section of the ABA has become the bar's most important link to connecting solo lawyers to the technology they need to become lawyer-entrepreneurs.⁷² Bill Paul, former ABA president responsible for forming the eLawyering Task Force, described eLawyering as "the utilization of the Internet and e-mail networks for the delivery of legal services."⁷³ The eLawyering Task Force is well aware of the impact that the hundreds of legal information websites are having on the solo bar providing personal legal services. They estimate that in an eighteen month period more than 50,000 no-fault divorces were processed by online services, translating into approximately \$100,000,000 in lost revenue to family law attorneys nationwide.⁷⁴ The eLawyering Task Force has done extensive research

people who seek out legal assistance have most of their contacts with private attorneys in fee-based arrangements rather than with legal aid or pro bono attorneys), http://www.americanbarfoundation.org/research/Pursuing_Law_s_Promise.html.

71. See discussion of *Chicago Lawyers* and *Urban Lawyer* studies *infra* Part III.

72. Granat, *supra* note 48, at 1 ("The legal information industry of self-help books/forms has gone on-line. It has the solo and small law firm segment of the legal profession squarely in its sights.").

73. Erin Walsh, *Some Call It eLawyering*, 12 A.B.A. BUS. L. SEC. 3 (2003), <http://apps.americanbar.org/buslaw/blt/2003-01-02/walsh.html>.

74. Granat, *supra* note 48, at 2. Richard Granat estimates the \$100,000,000 figure by calculating the 70,000 online divorces that were filed on legal information websites by \$1,500, which is the average fee an attorney charges for filing an uncontested, no-fault divorce. See also Granat, *supra* note 52.

on consumer preferences, and its members understand that there is little lawyers can do to stop the continued commoditization of legal services.⁷⁵ This new market for legal services offers consumers greater options and therefore forces attorneys to alter their pricing structures and strategies for getting clients. The eLawyering Task Force encourages attorneys to maximize technology to supplement their existing offering of legal services.

To become lawyer-entrepreneurs, solo lawyers need greater instruction on how to maximize the use of technology to reach untapped markets. The impact of technology on the legal profession will be most profoundly felt by the self-employed lawyers providing personal legal services. As technology facilitates a more competitive legal market, which drives down the prices of legal services self-employed, lawyers will have to become well-versed in technology and in communicating their competitive advantage in order to compete with less expensive non-lawyer providers. Lawyer-entrepreneurs must focus on developing law practices that facilitate legal service delivery for their clients to be successful in a market with non-lawyer competitors. New ways of organizing and delivering legal work through disruptive technologies means that lawyer-entrepreneurs have a greater capacity to be responsive to the needs of legal services consumers. Lawyer-entrepreneurs acknowledge that to remain competitive lawyer-entrepreneurs must integrate the latest technology into their law practices to offer affordable, accessible, and quality legal services.

Richard S. Granat, a lawyer-entrepreneur who has co-chaired the eLawyering Task Force since 2001, has embraced the concept of eLawyering and virtual law practices.⁷⁶ A Maryland licensed attorney and formerly an adjunct professor at the University of Maryland, Granat has been a long-time advocate of more options for moderate-income consumers and the role of the solo bar in increasing access to legal services.⁷⁷ Through his virtual law firm, Granat serves self-represented individuals on family law matters by automating forms that clients complete by filling out an online questionnaire that automatically populates court-approved family law forms. This process enables Granat to review a first draft and offer advice to a client at a fixed price similar to those

75. See generally *Legal Services*, YOUgov (2010), <http://sixthsense.yougov.com/general-market-reports/legal-services/legal-services.aspx>.

76. A virtual law practice allows an attorney to deliver legal services through the Internet. The primary element of a virtual law office is an online client portal where attorneys and clients communicate in a confidential platform. Virtual law offices are a complement to a traditional law practice. See Stephanie L. Kimbro, *About the Author*, VIRTUAL LAW PRACTICE, <http://virtuallawpractice.org/about/> (last visited May 14, 2012).

77. Richard S. Granat, *About Richard Granat*, ELAWYERING BLOG, <http://www.elawyeringredux.com/promo/about/> (last visited May 14, 2012).

offered by non-lawyer websites.⁷⁸ Granat admits that such a practice requires a higher volume of clients, but he also relies on technology to generate the additional traffic. He reports spending approximately 15% of his gross revenue on marketing through search engine optimization and pay-per-click advertising.⁷⁹ Granat devotes only 250 hours a year to run his Maryland law firm from his Palm Beach Gardens home.⁸⁰ He reports a net profit of \$45,000 for his part-time practice, which requires no face-to-face interactions.⁸¹

Similarly, Stephanie Kimbro runs a virtual law firm that caters to low- and moderate-income clients who need help with small business transactions and estate planning.⁸² She unbundles legal services work and uses payment plans to reduce the cost of legal services.⁸³ Like Granat, Kimbro works from home or other remote locations and does not have in-person meetings with clients.⁸⁴ She started her virtual law firm “to create a better work/life balance for herself as a mother of two young children.”⁸⁵ She transitioned to a virtual law firm model after starting a more traditional law practice and finding that many of the individuals who sought her services could not afford to subsidize her overhead.⁸⁶ The virtual law firm allowed her to have a more flexible schedule, to attend to her children’s needs, and to reduce the cost of her services that make her accessible to a larger group of potential clients.⁸⁷

Integrating technology into a traditional law practice and creating a virtual law firm platform does not mean that client relations are unimportant to lawyer-entrepreneurs. The ability to quickly respond to client inquiries and to efficiently personalize communications requires that lawyer-entrepreneurs effectively communicate with their clients in a timely manner. Kimbro emphasizes the need for a client-centered approach and insists that good customer service is paramount to a successful practice.⁸⁸ She suggests that the primary goals for attorneys building an online client base are to “(1) build the reputation of your online practice as a secure, efficient, and affordable site to receive legal services, and (2) build your reputation as a responsive lawyer who pays attention to the individual online clients’ needs.”⁸⁹ Since clients’ legal problems

78. Richard S. Granat & Stephanie L. Kimbro, *Serving Clients of Moderate Means with On-Line Legal Services* 6 (April 26, 2011) (unpublished manuscript, on file with author). 3

79. *Id.*

80. *Id.* at 7.

81. *Id.* at 6.

82. *Id.* at 7.

83. *Id.*

84. *Id.*

85. *Id.* at 8.

86. *Id.*

87. *Id.*

88. STEPHANIE KIMBRO, *VIRTUAL LAW PRACTICE: HOW TO DELIVER LEGAL SERVICES ONLINE* 91 (2010).

89. *Id.*

often transcend various areas of law, lawyer-entrepreneurs are recreating the concept of solo and small law firms. Recently, Kimbro joined other lawyer-entrepreneurs at Burton Law and is assembling a group of “remote virtual practitioners in [North Carolina] to provide clients with more holistic care.”⁹⁰ Lawyer-entrepreneurs affiliate with like-minded lawyers who can provide their clients with expertise in various areas of law. These affiliations have many of the benefits of larger traditional law partnerships but can reduce overhead and permit greater autonomy.⁹¹

Lawyer-entrepreneurs view technological innovations as a tool and not a substitute to the “brand promise” an attorney needs to build a thriving law practice. Granat describes a “brand promise” as an attorney’s definition of who she wants to be and how she conveys herself and her services to others.⁹² An online platform can help attorneys with expertise and a stable reputation build a law practice that provides fixed priced services.⁹³ He cautions new attorneys to see a virtual presence as one part of their marketing plan to attract clients.⁹⁴ Launching a virtual presence must come after an attorney defines his identity in the profession by understanding what type of lawyer he wants to be and what client base he will represent.⁹⁵ Other success factors Granat identifies are a lawyer’s ability to maintain a physical office presence that allows for face-to-face client meetings, and developing a solid network of professionals that can serve clients’ needs.⁹⁶

Lawyer-entrepreneurs understand the importance of balancing viability with accessibility. New ways of organizing and delivering legal work through disruptive technologies means that lawyer-entrepreneurs have a greater capacity to be responsive to the needs of legal services consumers. Lawyer-entrepreneurs believe that the privilege of being a lawyer comes with a responsibility to serve the public. Like Granat and Kimbro, lawyer-entrepreneurs see technology as an opportunity to develop products that consumers need and want. The demand for affordable legal services will continue to grow as the most diverse and techno-

90. Email from Stephanie L. Kimbro to Luz Herrera, Assistant Professor of Law, Thomas Jefferson School of Law (August 5, 2012) (on file with author). For a bio on Stephanie Kimbro, see *Stephanie Kimbro*, BURTON LAW, <http://burton-law.com/lawyers/stephanie-kimbrow> (last visited May 14, 2012).

91. See *This Is Burton*, BURTON LAW, <http://www.burton-law.com/this-is-burton/> (last visited May 14, 2012) (“We use the latest technology available not as crutch, but as the driving force to advance client service. We meet with clients personally. However, our lawyers are not contained within a typical brick and mortar setting under one roof. Technology allows our lawyers to practice in a greater geographic footprint while maintaining a work environment as if we are sitting in an office next to one another.”).

92. Richard S. Granat, *Virtual Law Practice: Success Factors 3* (2011), available at <http://info.directlaw.com/blog-1/>.

93. *Id.* at 3

94. *Id.*

95. *Id.*

96. *Id.* at 4.

logically savvy generation in U.S. history plays a more prominent role as both consumers and providers of legal services.⁹⁷

II. UNDERSTANDING THE SOLO BAR

For law schools to develop programs that help train law students to become lawyer-entrepreneurs, law school staff need to understand the common opportunities and challenges of self-employed attorneys. Although, there is not an abundance of scholarship that focuses on the contemporary solo lawyer, some key empirical studies cast light on the formation and daily lives of self-employed lawyers.

The most cited study of solo attorneys is Jerome Carlin's *Lawyers on Their Own*.⁹⁸ Carlin's work is now more than 50 years but it continues to be the most cited authority on solo practitioners.⁹⁹ In his work, Carlin characterizes attorneys in solo practice as a group of unsophisticated and financially unstable attorneys that give more deference to the dollar than to professional standards.¹⁰⁰ He notes that individual practitioners are classified into a lower class of the metropolitan bar, consisting of practices of residual matters and clients.¹⁰¹ The majority of the lawyers Carlin interviewed were first generation lawyers who attended law schools that required only a high school degree or equivalent as a prerequisite to study law.¹⁰² These lawyers were men who primarily grew up in immigrant communities and who saw law school as an opportunity for social mobility.¹⁰³ They decided to attend law school to become professionals and to be well regarded by their families and communities.¹⁰⁴ Most learned to practice law by observing more senior attorneys and working for free or for little pay for one to two years while starting their own

97. See discussion of Millennials *infra*, Part IIIB.

98. JEROME E. CARLIN, *LAWYERS ON THEIR OWN* 17–18 (1962). In his Methodological Note, Carlin explains that of the 93 interviewed only 67 were in fact attorneys in full-time independent practice, 6 were young lawyers just getting started but who had jobs elsewhere, 11 were no longer practicing law and 9 were never in private practice. Although Carlin's first chapter includes the results of all attorneys interviewed, the remaining study focuses on the 67 attorneys in full time law practice. *Id.* at 212–15.

99. But see CARROLL SERON, *THE BUSINESS OF PRACTICING LAW: THE WORK LIVES OF SOLO AND SMALL FIRM ATTORNEYS* (1996) (examining the work lives of solo and small-firm lawyers in New York). See also Leslie C. Levin, *Preliminary Reflections on the Professional Development of Solo and Small Law Firm Practitioners*, 70 *FORDHAM L. REV.* 847 (2001) (examining the social environment in which solo and small firm attorneys receive mentoring, training, and advice from colleagues).

100. CARLIN, *supra* note 98, at 17–18 (1962).

101. *Id.*

102. The concern at this time period was focused more on recruiting as many students as possible rather than looking for quality students. *Id.* at 6.

103. *Id.* at 3.

104. *Id.* at 3–4. One subject explained, "Principally it was a question of going into some pursuit that involved respect, dignity. Among Jewish people professions are very important. And with my parents, they had little or no education, their children should have professions. There was a certain amount of appeal. Professional men were looked up to then. At one time in former years, the almighty dollar was not as important as it is today."

practices.¹⁰⁵ They reported working for other lawyers but ultimately leaving because of disputes over fees or low compensation. Many of these lawyers ventured on their own after learning that they could make more money on their own than as employees. "I was very dissatisfied," explained one lawyer.¹⁰⁶ "I collected in fees the second year I was there over \$600,000 and I got \$25 a week. It was unfair. I quit without having another job."¹⁰⁷

The subjects of Carlin's interviews expressed disappointment that becoming a lawyer did not facilitate the upward social mobility they had imagined.¹⁰⁸ Once they hung up their shingles, most of these lawyers had "little freedom in choice of clients, type of work, or conditions of practice."¹⁰⁹ They generally worked for small business owners and individuals whose legal problems were classified in eight general areas: business-corporate work, real estate, tax, personal injury, divorce, collections, criminal law and probate/estate practice.¹¹⁰ Carlin found that attorneys in solo practice took on legal work that more established attorneys did not want to take and also performed routine legal work that could be performed by non-lawyers.¹¹¹ Much of the work solos took on in the early years of practice required a great investment of time for a small amount of money.¹¹² Lawyers starting their own practices worked in non-legal jobs to make ends meet and reported that "income in the early years barely reach[ed] subsistence level."¹¹³

105. *Id.* at 8.

106. *Id.* at 11.

107. *Id.*

108. *Id.* at 173-85.

109. *Id.* at 206.

110. *Id.* at 41-122.

111. "Lower-level" lawyers performed work for working-class individuals and small businessmen that were essentially the same as a broker, such as referring the client to "upper-level" lawyers. *Id.* at 114-15.

112. *Id.* at 13-14.

113. *Id.* at 14-17. To illustrate a common path and client base when starting a practice, Carlin uses the example of a young lawyer whom he names Ronald who worked as a telephone solicitor for a local window shop the year after completing law school and spent the first 18 months after passing the bar working three different jobs for other small firm lawyers. He began conceptualizing his practice by entering into an informal agreement with friends with the hope that such an agreement would lead to a partnership. When one of the friends decided he did not want to share his success with the others, Ronald opted to enter into a space-for-service arrangement with two other lawyers who paid him for legal work on an hourly basis while Ronald set up his own practice. The interview with Ronald revealed that the bulk of his clients were family members, friends, and individuals within his personal network with personal legal problems. His only corporate client was an insurance company whose owner was an acquaintance of his brother-in-law. When asked about the financial viability of his practice Ronald confesses,

"It's really tough and go. I don't know whether I'll make it. I may have to give up the practice . . . I could make a lot more money doing something else. I was offered \$10,000 at the lumber yard, and I had a \$7,500 offer from the Illinois Commerce Commission."

Despite higher earning potential elsewhere, Ronald explains his decision to continue a career in law because working in a profession is more valued by his family and community.

Carlin found that another common characteristic of the solo bar was the lawyers' propensity to violate the recommended ethical canons of the time.¹¹⁴ Carlin justified the attorneys' inability to follow the recommended ethical practices because competition to secure clients and make a living required these lawyers to solicit potential clients,¹¹⁵ exercise political influence,¹¹⁶ and engage in fee-splitting arrangements with both referral sources and clients.¹¹⁷ Carlin concluded that most lawyers in his study were dissatisfied with their own status within the profession.¹¹⁸ He characterized them as "men of fairly high ambition who haven't made it."¹¹⁹

Two subsequent studies of the various sectors of lawyers in Chicago offered additional insights into the solo and small firm bar. Each reinforced Carlin's portrait of solo lawyers as lawyers who command the lowest status within the legal profession. The first empirical study of a cross-section of all Chicago lawyers in 1975 (*Chicago Lawyers*) found the profession was divided into one of two distinct hemispheres: lawyers who represented corporate interests and lawyers who represented the interests of individuals and small businesses.¹²⁰ The prestige, income, networks, and relationships of lawyers were found to be primarily determined by an attorney's client-base.¹²¹ Attorneys who served corporate clients enjoyed greater prestige and income than attorneys who provided legal services to individuals and small businesses.¹²² *Chicago Lawyers* found that a lawyer's client base was a function of ethno-religious and class background.¹²³ Further, it showed that demographic characteristics reflected the type of law schools lawyers attended.¹²⁴ Lawyers that attended elite law schools were less likely to practice in solo or small firms.¹²⁵

114. The Canons of Ethics in place during the time of Carlin's study were adopted by the ABA in 1908. These canons were considered best practices and not requirements for lawyers. The Model Code of Professional Responsibility adopted by the ABA in 1969 was the first set of ethics regulations that states adopted as requirements. See LISA G. LERMAN & PHILIP G. SCHRAG, *ETHICAL PROBLEMS IN THE PRACTICE OF LAW* 38-39 (2d ed. 2008); see also Leslie Levin, *The Ethical World of Solo and Small Law Firm Practitioners*, 41 HOUS. L. REV. 309, 312 (2004) (describing findings about ethical practices of 41 attorneys in solo and small firms in the New York metropolitan area).

115. CARLIN, *supra* note 98, at 155-57.

116. *Id.* at 157-61.

117. *Id.* at 161-64.

118. *Id.* at 173-85.

119. *Id.* at 200.

120. JOHN P. HEINZ & EDWARD O. LAUMANN, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* 319-320 (1982). The *Chicago Lawyers* study did not focus on solo and small firm lawyer but instead randomly selected 777 lawyers from the full spectrum of lawyers in Chicago.

121. *Id.* at 127-28.

122. *Id.* at 134.

123. *Id.* at 167, 206.

124. *Id.* at 183, tbl.6.1 ("Percentage Distribution of Practitioners from Given Ethnoreligious Backgrounds by Type of Law School Attended (Whites Only)").

125. See Joyce Sterling et al., *The Changing Social Role of Urban Law Schools*, 36 SW. U. L. REV. 389, 398 (2007) (explaining that 63% of graduates from the top 10 elite law schools and 45% of the top graduates from schools ranked 11-32, are working in firms of more than 100 lawyers).

Twenty years later, a similar research team returned to Chicago to conduct interviews of a different set of attorneys which again spanned various practice settings.¹²⁶ The 1995 *Urban Lawyers* study described a more specialized and fragmented bar.¹²⁷ Large law firms with large corporate clients attracted a disproportionate number of graduates from prestigious law schools, but they began to hire from less elite schools to satisfy the demand for corporate work.¹²⁸ Although large law firms began to hire more women and minorities, most were from the most prestigious schools.¹²⁹ Approximately 5% of all local law school graduates were employed by the largest firms in Chicago.¹³⁰ Solo and small firms continued to primarily represent individuals with personal legal services¹³¹ but found increased competition for a fixed amount of work.¹³² Lawyers in solo and small firm practice earned less than their corporate counterparts had in 1975.¹³³ Only 6% of the attorneys surveyed reported hanging out a shingle upon graduating from law school.¹³⁴

Findings of *Chicago Lawyers* and the *Urban Lawyers* studies establish that non-elite law schools are the primary producers of solo practitioners and that this group of attorneys occupies the least prestigious role in the profession. The most recent empirical study of lawyers confirms such findings. The *After the JD Project*, a national longitudinal study of attorneys admitted to practice in the year 2000, found that local law school graduates continue to dominate the small firm and solo practitioner sectors.¹³⁵ Law schools with a greater number of alumni who work in the personal services sphere are deemed less prestigious than those whose graduates work with corporate clients.¹³⁶ However, today's solo practitioners are more sophisticated and diverse than the lawyers inter-

126. JOHN P HEINZ ET AL., *URBAN LAWYERS: THE NEW SOCIAL STRUCTURE OF THE BAR* 6-7(2005).

127. Carroll Seron, *The Status of Legal Professionalism at the Close of the Twentieth Century: Chicago Lawyers and Urban Lawyers*, 32 LAW & SOC. INQUIRY 581, 582 (2007).

128. HEINZ, *supra* note 126, at 175.

129. *Id.* at 57-60.

130. *Id.* at 58 tbl. 3.1; see also Randolph N. Jonakait, *The Two Hemispheres of Legal Education and the Rise and Fall of Local Law Schools*, 51 N.Y.L. SCH. L. REV. 863, 875-76 (2007).

131. HEINZ, *supra* note 126, at 69-70 & tbl.3.2.

132. *Id.* at 162-65.

133. *Id.* at 317 ("Solo practitioners declined from 21 percent to 15 percent of practicing lawyers, but from 19 percent to 10 percent in income share In 1995, the 25 percent of lawyers with the highest incomes received 61 percent of total practice incomes, while the bottom 25 percent received only 6 percent.").

134. *Id.* at 142. In 1975, 13% of respondents reported starting their law practice immediately after law school. NALP reported an increase in the number of graduates who reported working as solo practitioners from 3.3% in 2008 to 5.7% in 2010. James Leipold, *The Legal Job Market for New Graduates Looks a Lot Like it Did 15 Years Ago (Only Worse)*, in NALP'S EMPLOYMENT FOR THE CLASS OF 2010—SELECTED FINDINGS 1 (2011), <http://www.nalp.org/uploads/Classof2010SelectedFindings.pdf>.

135. *After the JD: First Results of a National Study of Legal Careers*, AMERICAN BAR FOUNDATION 25 (2004), <http://www.americanbarfoundation.org/uploads/cms/documents/ajd.pdf>; see also, Jonakait, *supra* note 130, at 864 (stating that solo and small firm attorneys continue to principally render personal legal services and serve small businesses).

136. *Id.* at 864.

viewed by Carlin.¹³⁷ The solo bar includes a large percentage of women and experienced lawyers who choose solo practice because it offers greater flexibility and a better lifestyle than working in larger firms.¹³⁸

The characterization of attorney self-employment as a choice and not a default decision is affirmed in two studies of solo and small firm lawyers in the New York metropolitan area. In 2001, Leslie Levin interviewed forty-one solo and small firm lawyers and found that "the typical solo or small firm practitioner who represents the middle-class client is not the undereducated and disillusioned lawyer who Carlin described forty years ago, but rather someone who often has chosen that form of practice and is generally satisfied with it."¹³⁹ She reports that practice areas of solo and small firm lawyers are more specialized and targeted to meet the legal needs of middle-class clients and that they receive "more mentoring and training than previously reported, usually while working in a law office with other lawyers who can provide substantial opportunities for observation."¹⁴⁰ Levin credits lawyer advice and mentor networks for helping new attorneys receive answers to their questions and finds that new lawyers develop their standards of ethical practices by relying on these communities of practice.¹⁴¹ She acknowledges that technology has contributed to facilitating communication with colleagues, legal research, and law office management.¹⁴² Levin confirms that attorneys in solo and small firm settings are more likely to be disciplined for ethical violations.¹⁴³ She explains that solo and small firm lawyers have fewer resources than their counterparts in larger firms to defend disciplinary actions¹⁴⁴ and attributes bias within the profession as another factor to consider in the disproportionate discipline of solo and small firm lawyers.¹⁴⁵

Perhaps the most illuminating research on understanding attorneys in solo practice as entrepreneurs was conducted in 1989–1990 by Carroll Seron. Seron studied the work lives of 102 lawyers in solo and small firms in the New York metropolitan area who navigated law as a business.¹⁴⁶ For the attorneys Seron interviewed, the decision to "go solo" largely depended on their desire for autonomy and flexibility in their work setting as the impetus for starting their own businesses.¹⁴⁷ Women particularly reported opting out of the big firm practice to have more

137. Sterling et al., *supra* note 125, at 403–404.

138. Levin, *supra* note 99, at 849–850, 853.

139. Levin, *supra* note 99, at 896.

140. *Id.*

141. Levin, *supra* note 99, at 878.

142. Levin, *supra* note 114, at 316.

143. *Id.* at 898.

144. Levin, *supra* note 114, at 314.

145. *Id.*

146. SERON, *supra* note 99 at xi.

147. *Id.* at 12; See also CARLIN, *supra* note 98, at 184–86; CARROLL SERON, SOLO AND SMALL-FIRM PRACTICE, IN *LAWYERS: A CRITICAL READER* 35, 39 (Richard L. Abel ed., 1997).

flexibility in fulfilling their parenting roles.¹⁴⁸ Once an attorney made the decision to be self-employed or to work in a small law firm, the primary business concern was getting clients.¹⁴⁹

Similar to Carlin's cohort, the attorneys interviewed by Seron expressed financial insecurity based on the vulnerability of the market and an uncertain client base.¹⁵⁰ Most of the attorneys identified referrals from former clients as the premier way of getting new clients.¹⁵¹ They also cited referrals from professional colleagues as a secondary but important source of business.¹⁵² Like the lawyers surveyed by Carlin, this group of lawyers saw friends and family as "a big but 'unfortunate' source of business" because they did not pay for their work.¹⁵³ Solo and small firm lawyers do not have an employer that can pool its resources to subsidize much pro bono. As a result, solos' financial well-being largely depends on their referral sources and their clients' ability to pay for legal services.

The attorneys Seron interviewed indicated their methods of creating a viable client base included, writing newspaper, magazine, and journal columns, presenting to groups, having articles written about them, creating brochures, and producing television and radio ads.¹⁵⁴ Their approach to advertising was determined by whether an attorney was more traditional or entrepreneurial in their approach to client development. Traditionalists did not view advertising as a professional activity but preferred relying on personal social networks to develop their client base. Activities they indicated led to paying work focused on involvement in their community through local organizations.¹⁵⁵ These attorneys believed that communication and personal client attention was the key to successful client development.¹⁵⁶ In contrast, entrepreneurs identified thoughtful market niches developed to target and maximize more expensive media advertising to potential clients.¹⁵⁷ These entrepreneurs were motivated to track which brochure, radio spot, or television advertisement yielded the best return on their investment.¹⁵⁸ Most solo and small practitioners iden-

148. CARLIN, *supra* note 98, at 143.

149. SERON, *supra* note 147, at 42.

150. Women married to successful men and single attorneys expressed a greater sense of security than married baby boomer men. *Id.* at 15. What is notable from Seron's study is that women were less likely to belong to business development networks. Seron attributes such gendered difference to "a gendered economy of social capital or a differential access to 'extra' time." *Id.* at 55-56; see also SERON, *supra* note 147, at 36.

151. See SERON, *supra* note 99, at 140; see also SERON, *supra* note 147, at 36.

152. See SERON, *supra* note 99, at 140.

153. *Id.* at 54-55.

154. SERON, *supra* note 147, at 37; SERON, *supra* note 99, at 139.

155. Men were particularly more comfortable than women relying on personal social networks for client development. Seron attributes the difference to a function of time availability, acknowledging that women still bear a great deal of the household and child rearing responsibilities. SERON, *supra* note 99, at 139-40.

156. SERON, *supra* note 147, at 42.

157. *Id.* at 37.

158. SERON, *supra* note 99, at 139.

tified a mix of traditional relationship development and advertisement in the yellow pages or newspapers to get clients.¹⁵⁹

Seron began her inquiry with a pilot study of self-described entrepreneurs who saw themselves as businesspersons first and lawyers second.¹⁶⁰ The pilot study guided the researcher to ask whether attorneys “view their work as a service business or a commercial venture[.]”¹⁶¹ The pilot revealed that lawyers represented individual clients by managerial, entrepreneurial, and professional orientations.¹⁶² She found that attorneys with managerial orientations systematized and standardized services.¹⁶³ Attorneys with a professional orientation placed a premium on the importance of developing a personalized client relationship based on trust and privacy.¹⁶⁴ Entrepreneurs were less risk-adverse and thrived on uncertainty.¹⁶⁵ The entrepreneurial lawyers in Seron’s study were described as having “a crystal-clear sense of what they wanted and eventually got.”¹⁶⁶ These individuals had an expectation of autonomy while in law school. They learned about the business of law and how to organize their practices to be successful.¹⁶⁷ Seron found that her subjects’ decisions about transferring professional training into reputational skills and client development were best understood “by deeply embedded, and paradoxical, patterns of socialization.”¹⁶⁸ She acknowledged that institutional and economic forces play an important role in developing a professional identity but concluded that social values and norms of the individual attorneys also explain how attorneys decide to become self-employed, get business, serve clients, and develop their public service ethos.¹⁶⁹

The attorneys in Seron’s study agreed that law school did not prepare them “to deal with clients, handle a case in local court, or work with other lawyers.”¹⁷⁰ They described learning to practice by working for other solo or small firm practitioners, government, or legal departments of private companies.¹⁷¹ A few described working in non-legal jobs before setting up their law offices.¹⁷² These lawyers reported learning terminology and courtroom navigation in their first jobs, where they developed relationships with attorneys and court officials that later served as resources when researching how to build their own practice.¹⁷³ Another

159. SERON, *supra* note 147, at 137.

160. SERON, *supra* note 99 at 152.

161. *Id.* at 153.

162. *Id.* at 154.

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.* at 10–11.

167. *Id.* at 11.

168. SERON, *supra* note 99, at 139.

169. *Id.*

170. *Id.* at 6.

171. *Id.* at 8.

172. *Id.*

173. *Id.*

group described observing others and learning by trial and error.¹⁷⁴ The minority of lawyers who had mentors claimed an easier transition into practice, although the mentoring experience was not always positive.¹⁷⁵ These attorneys estimated that it took five years for them to become acquainted with the practice of law, and at the end of that self-taught period they learned that they also had to be proficient in running a business.¹⁷⁶ This entrepreneurial component seems more difficult for self-employed lawyers to master than the actual legal work.

Seron confirms that much of the work that comes to solos and small firms is routine in nature.¹⁷⁷ Entrepreneurs see the routine nature as an asset to serving more clients with fewer resources.¹⁷⁸ They standardize their practices to compete with non-lawyers who provide similar assistance at lower rates.¹⁷⁹ Many of these attorneys employ support staff that can tackle a greater volume of legal work and are more readily able to deliver the final product at a lower cost to the consumer.¹⁸⁰ The entrepreneurs in Seron's study maximized the use of emerging technology to increase their profit margin and thus lead innovations in the delivery of legal services.¹⁸¹ While less entrepreneurial attorneys computerized legal forms and documents, only a quarter of the lawyers had computerized billing and calendaring systems in place.¹⁸² Most lawyers indicated they did not use online legal research tools and reported a preference to communicate with support staff through dictation equipment.¹⁸³ All the women in part-time solo practice performed the support tasks themselves.¹⁸⁴ The most successful entrepreneurial practices operated on volume, computerized their systems, and had non-attorneys who sent letters and prepared pleadings with a click of a button.¹⁸⁵

Seron's study also provides insight into how solo and small firm lawyers view the legal profession's creed that lawyers have to pay society back in exchange for their license to practice law.¹⁸⁶ Entrepreneurs believe that advertising and standardizing legal services fulfills their re-

174. SERON, *supra* note 147, at 35.

175. See SERON, *supra* note 99, at 10–11.

176. *Id.* at 10.

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.*

181. SERON, *supra* note 99, at 137.

182. *Id.* at 76.

183. *Id.* at 77.

184. *Id.*

185. *Id.* at 52–55.

186. Comment 6 of the ABA Model Rules of Professional Conduct states, "A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel." MODEL RULES OF PROF'L CONDUCT pmbl. cmt. 6 (2002).

sponsibility for public service because of their ability to reach more consumers in need of legal services and to offer a lower price point.¹⁸⁷ Traditionalists, on the other hand, discuss public service from the perspective of volunteerism and are more in line with traditional notions of pro bono.¹⁸⁸ Both sets of attorneys shared anecdotes of not getting paid for a case, not charging a client, or agreeing to a pro bono request by a bar association, as public service.¹⁸⁹

Seron concludes that the tension between professionalism and the commercialization of law actually produces creative professional paths.¹⁹⁰ She does not claim that one type of solo or small firm lawyer is better than the other. Instead she finds that there are many differences between these groups that lend themselves to a variety of approaches to the practice of law.¹⁹¹ Seron's entrepreneurs "set out to organize firms in the media market of New York,"¹⁹² at a time when lawyer advertising was a well-recognized right but which was still largely contained to the confines of attorneys' social networks.¹⁹³ These attorneys incorporated technology into their law offices¹⁹⁴ and equated volume work with providing greater access to legal services.¹⁹⁵ The majority of attorneys viewed technology as an ancillary part of their practice that should be handled by their support staff.¹⁹⁶ Today, it is rare that attorneys in any practice area would consider not using technology to support their practice. The integration of technology in today's law practice is the characteristic that most differentiates today's self-employed lawyers from the ones previously studied.

As economic pressures and technological advances recreate our brick and mortar concept of law firms to virtual law offices that can operate from smart phones, the range of lawyers in solo practice will continue to evolve rapidly and transcend any area of practice or demographic. Lawyer-entrepreneurs must develop an expertise in law but they also consciously develop business models that integrate technology and use creative marketing techniques to create opportunities in untapped or underserved markets. Lawyer-entrepreneurs include today's law students and lawyers who have not yet learned to create their own opportunities.

187. *Id.*

188. Leslie C. Levin, *Pro Bono Publico in a Parallel Universe: The Meaning of Pro Bono in Solo and Small Law Firms*, 37 HOFSTRA L. REV. 699, 703-04 (2009).

189. *Id.* at 716; see also SERON, *supra* note 99, at 132.

190. SERON, *supra* note 99, at 143.

191. *Id.* (stating that "there is a discontinuity between and among them" and "that there is room for diversity within this professional milieu").

192. *Id.* at 18.

193. *Id.* at 48-66.

194. *Id.* at 102 ("Unlike many of their ore collegially oriented peers, innovators do not describe themselves as 'computer illiterate' or 'dinosaurs.'").

195. SERON, *supra* note 40, at 88.

196. SERON, *supra* note 99, at 77-78.

III. MILLENNIALS AS LAWYER-ENTREPRENEURS

An article in the February 2012 issue of *Fast Company*, a self-described progressive business magazine, states that the current and future of business is “pure chaos.”¹⁹⁷ It argues that the pace of change in our economy and culture is accelerated by the global adoption of technology and those that can adapt to a fast-changing and chaotic future will enjoy the most success.¹⁹⁸ The author advances the idea that individuals, regardless of age, who can “recaliberat[e] careers, business models and assumptions” are members of Generation Flux—the group that will fare well in today’s society.¹⁹⁹ Changing business norms dictate that entrepreneurship is required not only to start up businesses but also to navigate a professional career.²⁰⁰ Attorneys are no exception. Professionalization of attorneys may render lawyers one of the most unprepared groups to join Generation Flux.²⁰¹ However, Seron explains that “institutional and economic forces condition the development” of professional practices.²⁰²

A. Lawyers as Entrepreneurs

If environmental factors can influence the direction of professional paths, then self-employed lawyers can learn to approach their law practices through an entrepreneurial framework. Lawyer-entrepreneurs are not defined by any prevailing demographic profile, but by their ability to adapt to new opportunities.²⁰³ Its membership ranks include young and old, men and women, and individuals of all ethnic backgrounds. Many of these lawyers will not initially see themselves as entrepreneurs, but they will nonetheless be operating their own small business as self-employed lawyers. An entrepreneurial approach to self-employment includes establishing a business with an operational infrastructure that allows the self-employed lawyer to generate a sustainable income.²⁰⁴ Lawyer-

197. Robert Safian, *This Is Generation Flux: Meet the Pioneers of the New (And Chaotic) Frontier of Business*, FAST COMPANY (Jan. 9, 2012), <http://www.fastcompany.com/magazine/162/generation-flux-future-of-business> (“The future of business is pure chaos. Here’s how you can survive—and perhaps even thrive.”).

198. *Id.*

199. *Id.*

200. HOFFMAN & CASNOCHA, *supra* note 60, at 4–6 (“[To] adapt to the challenges of professional life today, we need to rediscover our entrepreneurial instincts and use them to forge new sorts of careers.”). Reid Hoffman is the founder of LinkedIn.

201. LARSON, *supra* note 29, at 168 (1977) (“Because the legal profession mediates the institutionalized resolution of conflict, its expertise and its livelihood directly depend on the stability and legitimacy of a given institutional and legal framework. In the wider sense of the word, the legal mind is therefore inherently conservative.”) For further discussion on how legal education instills conformity, see ERWIN SMIGEL, *THE WALL STREET LAWYER: PROFESSIONAL OR ORGANIZATIONAL MAN?* (1964); Susan Strum & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 521–24 (2007).

202. SERON, *supra* note 99, at 139

203. HOFFMAN & CASNOCHA, *supra* note 60, at 49–79 (discussing the importance of adapting to Plan B or Plan Z when Plan A does not work the way you envision).

204. MICHAEL E. GERBER ET AL., *THE E MYTH ATTORNEY XVII* (2010) (explaining that the entrepreneurial myth is that “most attorneys don’t own a true business—most own a job disguised as a legal practice”).

entrepreneurs, like all lawyers, must learn to think like lawyers and pass all the barriers to entry into the legal profession.²⁰⁵ Additionally, lawyer-entrepreneurs must also have or form the disposition necessary to run a business.²⁰⁶

Many lawyers are not business-savvy but this does not mean they cannot be taught to run viable law practices. Social scientists and economists tell us that lawyers tend to share particular characteristics but are much more ambivalent about what defines an entrepreneur.²⁰⁷ Research concludes that individuals who go to law school exhibit more need for dominance, leadership, and attention than the general population.²⁰⁸ These studies reveal that prospective law students enter the legal profession because they are interested “in the subject matter and a desire for intellectual stimulation” but also for money and prestige considerations.²⁰⁹ Even after knowing the amount of debt that they will incur and the difficult job market that faces them, a significant population will continue to enroll in law school. In discussing her decision to attend law school, third year law student Farahnaz Ghaibi, explains, “I knew that law school was going to be expensive before I attended. But I came to law school because there were personal and professional goals that I wanted to meet.”²¹⁰ Ms. Ghaibi is not alone.

Despite the outcry over employment statistics, a June 2012 survey of 645 prospective law students by Kaplan Test Prep found that a law school’s job placement numbers ranked last in the factors that prospective students considered in their decision about where to apply to law school.²¹¹ We can interpret this lack of priority on job placement on a

205. Barriers to entry include meeting state bar requirements such as exams and a satisfactory assessment of good moral character.

206. *Id.* at xviii (“The key to transforming your practice-and your life—is to grasp the profound difference between going to work *on* your practice (systems thinker) and going to work *in* your practice as an attorney . . . , it’s the difference between going to work *on* your practice as an entrepreneur and going to work in your practice as an attorney.”)

207. Howard H. Stevenson & J. Carlos Jarillo, *A Paradigm of Entrepreneurship: Entrepreneurial Management*, 11 STRATEGIC MANAGEMENT JOURNAL 17, 19–21 (1990) (providing an overview of why entrepreneurs act and stating that “it is extremely difficult to link particular psychological or sociological traits casually to patterns of complex behavior, such as entrepreneurship”).

208. Susan Daicoff, *Lawyer Know Thyself: A Review of the Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1403–04 (1997) (summarizing the research on the literate on lawyer and law student personality traits). Lawyers exhibit similar characteristics to those of law students but are found to be more achievement-oriented, competitive, and aggressive when compared to non-lawyers. *Id.* at 1408–09.

209. *Id.* at 1404.

210. Interview with Farahnaz Ghaibi, Student, TJSJL, in San Diego, California (April 2, 2012) (discussing her decision to attend law school).

211. Only 8 percent of respondents ranked job placement as the most important factor. The cohort surveyed found that 22 percent ranked location as their top consideration, 20 percent identified academic programming as their main factor and 13 percent considered affordability as their top criteria. *Kaplan Test Prep Survey: Despite Uncertain Employment Landscape, Law School Applicants Still Consider School Rankings Far More Important than Job Placement Rates When Deciding Where to Apply*, KAPLAN TEST PREP. (June 19, 2012), <http://press.kaptest.com/press-releases/kaplan-test-prep-survey-despite-an-uncertain-employment-landscape-law-school-applicants->

misunderstanding of employment trends in the legal profession, a desire to be self-employed, or a belief that a law degree will bring more career advancement than they previously enjoy. Regardless of the reasons, most prospective and current law students do not see themselves as entrepreneurs, and most law schools do not encourage such personification of lawyers. Attorneys venture into solo practice for a variety of reasons. Some find it is the best vehicle to be independent, creative, innovative, and entrepreneurial. Others do it for greater flexibility with their time. Still, there is a significant segment that become self-employed by default after not landing a job of their choosing. Whether lawyers end up working for themselves due to few career options or if they deliberately hang up their shingle to fulfill other non-prestige driven goals, what is true of all these attorneys is that to survive in today's changing landscape, they must see themselves not just as lawyers but as entrepreneurs.

ActionCoach, an international consultant firm for small businesses, tells us that the first five phase of entrepreneurial development is to have a *self-employed* mindset.²¹² The yearning for greater responsibility and control over one's life is the primary driver of entrepreneurial success.²¹³ The desire for greater autonomy must be combined with sufficient self-confidence to propel an individual to do the same work they performed as an employee but to do it on their own.²¹⁴ In this first phase of entrepreneurial development an individual must be willing to take risks and abandon a zone of security while at the same time create a system of support that encourages self-development.²¹⁵ The primary pitfall in this first phase is overconfidence that does not welcome the help of others' experiences, feedback, and talent.²¹⁶ A related trap is the tendency for the newly self-employed to want to do everything themselves instead of creating a team that will work on creating an enterprise.²¹⁷ Such an attitude is premised on the owner working for the business and not the business working for its owner. Whether an individual with a self-employed mindset can graduate to additional phases of entrepreneurial development largely depends on her ability to see herself as an enterprise and not as "the most important employee of [her] own self-employed venture."²¹⁸

still-consider-school-rankings-far-more-important-than-job-placement-rates; see also, Karen Sloan, *Survey Suggests Prospective Law Students Still Have Stars in their Eyes*, NAT'L L. J. (June 25, 2012).

212. 12 *Essential Characteristics of an Entrepreneur*, ACTIONCOACH, <http://www.actioncoach.com/downloads/whitepaper-FranchiseRep5.pdf> (last visited May 24, 2012). The additional phases of development for successful entrepreneurs are: to *lead and manage*, to develop the *attitude of owner/leader*, to *generate profits* by leveraging success from related business ventures; and materializing the goal. *Id.*

213. *Id.*

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

ActionCoach, defines an entrepreneur as a “businessperson who not only conceives and organizes ventures but also frequently takes risks in doing so.”²¹⁹ It claims that successful entrepreneurs share the following twelve common traits: confidence, a sense of ownership, good communicators, perpetual students, team players, dedicated, optimistic, grateful, gregarious, system-oriented, lead by example, love learning, and are not afraid of success or failure.²²⁰ Entrepreneurs have a strong sense of self-esteem and belief in their own abilities to meet challenges.²²¹ They take responsibility for finding solutions to problems.²²² Entrepreneurs are effective communicators. They develop a keen ear to hear what others say and learn to communicate to take advantage of available opportunities. Entrepreneurs love learning.²²³ They conduct their own research, they ask questions, and they learn from their errors and failures. Entrepreneurs work in teams and automate processes to replicate consistent results.²²⁴ They commit to meet specific goals and objectives and rise to meet challenges.²²⁵ Entrepreneurs are appreciative of their own and others’ accomplishments. They do not let shortcomings or disappointments create obstacles for future advancement.²²⁶ They exhibit enthusiasm for their projects and can motivate themselves and others.²²⁷ Finally, entrepreneurs allow themselves the opportunity to fail and more importantly, to succeed. Even if the personality traits of lawyers and entrepreneurs are not uniform, we know enough about lawyers who run their own business and successful entrepreneurs to help inform the development of lawyer-entrepreneurs. Creating opportunities for law students to develop the self-employed mindset will benefit the students in any career path they pursue as lawyers.²²⁸

Entrepreneurship flourishes when opportunities close and individuals are forced to be creative and innovative. Technology, globalization, and the increasing competition to deliver legal services have closed traditional opportunities and are forcing new attorneys to be more creative. Lawyers who are unemployed, underemployed, or making a living by taking on contract work are all potential lawyer-entrepreneurs. Lawyers need to be trained to create their opportunities from their very own laptops. Given job prospects in law and the particular characteristics of our

219. *Id.*

220. *Id.*; see also Vivek Wadhwa et al., *The Anatomy of an Entrepreneur: Family Background and Motivation*, THE KAUFFMAN FOUNDATION OF ENTREPRENEURSHIP (July 2009), http://www.kauffman.org/uploadedFiles/ResearchAndPolicy/TheStudyOfEntrepreneurship/Anatomy%20of%20Entre%20071309_FINAL.pdf.

221. *12 Essential Characteristics of an Entrepreneur*, *supra* note 212.

222. *Id.*

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.*

227. *Id.*

228. *Id.*

current generation of law students, the Millennial generation of lawyers may be the best suited group of attorneys to become lawyer-entrepreneurs. This group has the potential to re-envision the legal profession and the delivery of legal services for the average consumer.

B. Millennials as Lawyer-Entrepreneurs

Members of the Millennial generation, born between approximately 1980 and 2000,²²⁹ are well-positioned to become lawyer-entrepreneurs. Millennials are important to defining the future of the legal profession because they are entering the job market just as the “mood of global urgency and public action” is taking center stage.²³⁰ They have been hit hardest in this recession since they are among the “last [to get] hired and the first to lose their jobs.”²³¹ Increasing competition for employment and an uncertain economy mean that fewer job opportunities will force more Millennials to generate their own paychecks.²³² The Millennial generation is not the first to live through difficult economic times but they are entering the profession at a time of transition in the legal profession. The “pure chaos” that many Millennial lawyers are experiencing opens the door to transformative innovation.

229. While there are various definitions of who belongs in the Millennials, most authors agree that Millennials were born between 1980 and 2000. See NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS RISING: THE NEXT GREAT GENERATION* 52 (2000) [hereinafter HOWE & STRAUSS, *MILLENNIALS RISING*] (setting the starting point for Generation Y at 1982); WILLIAM STRAUSS & NEIL HOWE, *GENERATIONS: THE HISTORY OF AMERICA'S FUTURE, 1584 TO 2069*, at 335 (1991) [hereinafter STRAUSS & HOWE, *GENERATIONS*] (setting Generation Y at those born between about 1982 and 2000); Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the “MTV/Google” Generation*, 54 LOY. L. REV. 775, 778 (2008) (setting Generation Y at those born between 1977 and 2003); Stephanie Armour, *Generation Y: They've Arrived at Work with a New Attitude*, USA TODAY MONEY BLOG, (Nov. 6, 2005, 10:35 PM), http://usatoday.com/money/workplace/2005-11-06-gen-y_x.htm (setting Generation Y at those born between about 1977 and 2002).

230. NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS GO TO COLLEGE: STRATEGIES FOR A NEW GENERATION ON CAMPUS* 4 (2nd ed. 2007); MORLEY WINOGRAD & MICHAEL D. HAYS, *MILLENNIAL MAKEOVER: MY SPACE, YOUTUBE, AND THE FUTURE OF AMERICAN POLITICS* 87–108 (2008) (arguing that Millennials will be responsible for the next a political realignment that will result in significant institutional changes).

231. PEW RESEARCH CENTER, *MILLENNIALS: A PORTRAIT OF GENERATION NEXT* 39 (2010), available at <http://pewsocialtrends.org/files/2010/10/millennials-confident-connected-open-to-change.pdf>; see also Ronald Brownstein, *Children of The Great Recession*, THE ATLANTIC (May 5, 2010, 1:43 PM), <http://www.theatlantic.com/special-report/the-next-economy/archive/2010/05/children-of-the-great-recession/56248/> (“Even in this dire climate, some Millennials are finding new ways to weather the storm, displaying the instinct for pragmatic problem-solving that generational theorists consider one of their defining characteristics.”).

232. Brenna Hawley, *Millennials Show a Penchant for Entrepreneurship*, *Kauffman Survey Finds*, K.C. BUS. J. (Nov. 11, 2011, 7:30 AM), <http://www.bizjournals.com/kansascity/news/2011/11/11/millennials-show-a-penchant-for.html> (reporting on a recent survey that found that 54 percent of people ages 18–32 want to start their own business); see also Lani Rosales, *How Millennials are Conditioned to Be Entrepreneurs*, AGBEAT.COM (Mar. 15, 2012) (describing Millennials as the entrepreneur generation).

Neil Howe and William Strauss, who have written a series of books on generations in the United States,²³³ explain that the Millennial generation is the largest generation of Americans ever born.²³⁴ Howe and Strauss explain that Millennials fulfill the social role vacated by the GI Generation²³⁵ and promise to be the next great generation of institution builders who can push society to new heights.²³⁶ They describe Millennials as optimistic, confident, connected, diverse, team-oriented, and high achieving.²³⁷

Millennials' confidence and optimism stems from their belief that they are "special." These traits are attributed to the parenting approach of BabyBoomer and Generation X parents who raised their children with a sense that Millennials are important to society.²³⁸ They were raised with a children-centric culture that gave birth to "helicopter parents" who hovered over their offspring to ensure their children's needs were met.²³⁹ Millennials' constant parental praise instilled in them a high level of optimism—and confidence—in their future success.²⁴⁰ Millennials believe they can accomplish any goal they set for themselves and are used to being rewarded merely for undertaking a task.²⁴¹ This same confidence and optimism is necessary to tackle the problem of the lack of access to legal services to the majority of Americans. While previous generations have been unable to properly address the large and growing issue of an

233. Their books include: NEIL HOWE & BILL STRAUSS, *13TH GEN: ABORT, RETRY, IGNORE, FAIL?* (1993); HOWE & STRAUSS, *MILLENNIALS RISING*, *supra* note 229; WILLIAM STRAUSS & NEIL HOWE, *THE FOURTH TURNING: AN AMERICAN PROPHECY* (1997); STRAUSS & HOWE, *GENERATIONS*, *supra* note 229; WILLIAM STRAUSS & NEIL HOWE, *MILLENNIALS AND THE POP CULTURE: STRATEGIES FOR A NEW GENERATION OF CONSUMERS IN MUSIC, MOVIES, TELEVISION, THE INTERNET, AND VIDEO GAMES* (2006).

234. The Millennial generation accounted for 27.7 percent of the population in the 2010 Census. CATALYST, *GENERATIONS IN THE WORKPLACE IN THE UNITED STATES & CANADA 3* (2011), available at http://www.catalyst.org/file/501/qt_generations_8-16-11.pdf.

235. HOWE & STRAUSS, *supra* note 230, at 22.

236. *Id.* at 23; see also HOWE & STRAUSS, *MILLENNIALS RISING*, *supra* note 229, at 66 tbl.27.

237. HOWE & STRAUSS, *supra* note 230, at 59–60; HOWE & STRAUSS, *MILLENNIALS RISING*, *supra* note 229, at 43–44, 173–88; cf. *12 Essential Characteristics of an Entrepreneur*, *supra* note 212 (describing the twelve characteristics of successful entrepreneurs).

238. HOWE & STRAUSS, *supra* note 230, at 59. Parents of Millennials touted family values, women opted for in vitro children, men wanted to be present at childbirth, and children became America's top priority. *Id.* at 60 ("As Millennials have absorbed the adult message that they dominate America's agenda, they come easily to the belief that *their* problems are the *nation's* problems, *their* future is the *nation's* future, and, by extension, everyone in America will naturally be inclined to help them solve those problems.").

239. Alan Galsky & Joyce Shotick, *Managing Millennial Parents*, THE CHRONICLE OF HIGHER EDUCATION (Jan. 5, 2012), <http://chronicle.com/article/Managing-Millennial-Parents/130146/> (discussing parent who "hover" over their children's education).

240. Jeffrey Zaslow, *The Most-Praised Generation Goes to Work*, WALL ST. J., Apr. 20, 2007, at W, available at <http://online.wsj.com/article/SB117702894815776259.html> (stating that Millennials received so much praise that "employers are dishing out kudos to workers for little more than showing up"); see also Susan Daicoff, *The Future of the Legal Profession*, 37 MONASH U. L. REV. 7, 30 (2011) ("They have been called 'trophy kids' who have a sense of entitlement, as they have experienced school and extracurricular activities where 'no one loses' and everyone gets a 'thanks for participating' trophy"); Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generational Gap*, 15 CLINICAL L. REV. 255, 256 (2009).

241. HOWE & STRAUSS, *supra* note 230, at 111.

inaccessible legal system, characteristics of the Millennial generation imply that they have the audacity to believe they have what it takes to address the problem and develop a better life-work balance. The Millennial demands work schedule flexibility to have more time for family and personal passions.²⁴² Most Millennials are interested in flexible work environments and would rather “bootstrap than to bow down to a corporate master that treats them poorly.”²⁴³ Millennials will look at system-oriented approaches as vehicles to create more family time and less professional pressure.²⁴⁴ By creating their own business, Millennials can see a more equitable return from their work, have a more flexible working environment, and control the direction of their work.²⁴⁵

Millennials share a greater sense of global responsibility than previous generations.²⁴⁶ They were raised to believe that the success of the nation is linked to their own success.²⁴⁷ Millennials embrace the concept of “doing good while doing well,” and will therefore be more prone to create low bono models of legal service delivery through technology that allow them to do more good and allow them to live well.²⁴⁸ When discussing career trajectory a current student stated,

Personally, I would love to be able to graduate and do pro bono or cost-effective legal work. However, when there is \$100K of student loan debt suffocating finances, it’s difficult to think that is a realistic idea.²⁴⁹

While the goal of every generation is to generate favorable profits, Millennials possess the mindset and potential to generate these same types of profits in a way that is also helping others. Millennials seek solutions for the pervasive problems facing the society.²⁵⁰ Millennials have

242. Meg Martin, *Managing the Millennial Associate*, 32 AUG WYO. LAW 58 (2009); see also Ashley Hacker, *Taming the Dragon of Golden Age Standards*, 11 T.M. COOLEY J. PRAC. & CLINICAL L. 275 (2009).

243. Rosales, *supra* note 232, at 6.

244. *Id.* at 6–7; see also, Navi Radjou et al., *Millennials Are the MacGyvers of Business*, HBR BLOG NETWORK (March 13, 2012, 4:02 PM), http://blogs.hbr.org/cs/2012/03/millennials_are_the_macgyvers.html (arguing that Millennials, like the TV character McGyver, are the do-it-yourself generation that can do more with less).

245. Lani Rosales, *How Millennials Are Conditioned to Be Entrepreneurs*, ENTREPRENEURS 10 (2012).

246. WINOGRAD & HAIS, *supra* note 230, at 103–04.

247. *Id.*

248. See generally ALAN DERSHOWITZ, LETTERS TO A YOUNG LAWYER (2001) (discussing the opportunities that young lawyers have to do good and do well). Low bono models of legal services refer to reduced rates for legal service. Although it is unclear where the term originated it begins to appear in the literature that discusses the development of the Law School Consortium Project. Low bono is a play on the concept of “pro bono” ABA Model Rule 6.1(b)(2) encourages the “delivery of legal services at a substantially reduced fee to persons of limited means” as a supplement to pro bono service. MODEL RULES OF PROF’L CONDUCT R. 6.1 (2006).

249. Interview with Molly Fashola, Student, TJSJL, in San Diego, California (Feb. 28, 2012) (discussing her reaction to a 12/17/2011 *N.Y. Times* article by David Segal).

250. Daicoff, *supra* note 240, at 30.

a desire to improve the world and are innovative enough to remake institutions, including legal ones, from the ground up.²⁵¹

Millennials are also effective communicators who have strong social networks facilitated by social media.²⁵² Millennials have been referred to as digital natives because they grew up accessing the world from their laptops and cell phones.²⁵³ They have evolved with the internet and view their smartphones, laptops, and similar devices as extensions of themselves.²⁵⁴ Technology is their second natural language and that facilitates their ability to communicate with each other constantly regardless of geographic constraints.²⁵⁵ Millennials seem better prepared than previous generations to develop effective virtual law office models by using technology to systemize their work and tap into their client market.

Millennials are a diverse lot who represent every economic sector and ethnic group in this country and beyond.²⁵⁶ The latest demographic figures demonstrate that Millennials are a global generation, and in fact, non-white youth are often the “bigger contributors to this generation’s emerging persona than white youths.”²⁵⁷ The 2010 Census reported that 12.4% of the U.S. population was foreign born²⁵⁸ and that almost one-fifth of the population speaks a language other than English in their household.²⁵⁹ Non-white Millennials accounted for 39% of the Millennial population and 11% reported at least one immigrant parent.²⁶⁰ According to the Law School Admissions Council data, Millennials accounted for

251. *Id.*

252. PEW RESEARCH CENTER, *MILLENNIALS WILL BENEFIT AND SUFFER DUE TO THEIR HYPERCONNECTED LIVES* 8–9 (2012), available at http://pewinternet.org/~media/Files/Reports/2012/PIP_Future_of_Internet_2012_Young_brains_PDF.pdf; see also WINOGRAD & HAIS, *supra* note 230, at 167 (“Social networking sites such as MySpace and Facebook make it possible for Millennials to share their lives with many more people than anyone, in any other generation, could have possibly imagined.”).

253. Bohl, *supra* note 229, at 776.

254. PEW RESEARCH CENTER, *supra* note 231, at 8–9.

255. Bohl, *supra* note 229, at 777.

256. See *LSAC Volume Summary—Matriculants By Ethnic and Gender Group*, LAW SCH. ADMISSIONS COUNCIL, <http://www.lsac.org/lisacresources/data/vs-ethnic-gender-matrices.asp> (last visited May 29, 2012) (reporting the following demographics enrolled in law school during in the Fall 2010 cycle: 46% Women; 34% Non-Caucasian of which 7.2% were Black; 7.1% Asian; 6.1% Latino, and 1.7 Puerto Rican).

257. HOWE & STRAUSS, *supra* note 230, at 41.

258. *Native and Foreign-Born Populations by Selected Characteristics: 2010*, UNITED STATES CENSUS BUREAU (2012), available at <http://www.census.gov/compendia/statab/2012/tables/12s0040.pdf>.

259. *Languages Spoken at Home: 2009*, UNITED STATES CENSUS BUREAU (2012), available at <http://www.census.gov/compendia/statab/2012/tables/12s0053.pdf> (reporting that 57 million of the nation’s 286 million residents above the age of five speak a language other than English).

260. PEW RESEARCH CENTER, *MILLENNIALS: A PORTRAIT OF GENERATION NEXT 1*, 10 (2010), available at <http://pewsocialtrends.org/files/2010/10/millennials-confident-connected-open-to-change.pdf>. The Pew Report also compares Millennials to the Silent Generation—people born from 1928 to 1945 whose parents immigrated to the U.S. in the late 1800s. Unlike the Silent Generation that had only 20% of non-Hispanic whites, ethnic and racial minorities make up 39% of the Millennial generation. *Id.* at 9.

82% of 2009 law school applicants.²⁶¹ The Millennial generation will produce the most diverse group of lawyers in U.S. history.²⁶² This diversity of lawyers reflects a complex population that requires lawyers who are attuned to the particular cultural nuances of each segment of society. Millennials who can comfortably navigate the cultural dimensions that surround the client communities they serve will find economic opportunities in traditionally underserved markets.²⁶³ The growing diversity of lawyers allows solo and small firm lawyers to target market niches that reflect their personal interests and histories. Lawyer-entrepreneurs will develop their client base by addressing the legal needs of individuals who share their interests, passions, and life histories. Despite the diversity of interests, backgrounds, and approaches to law, Millennials are less willing to work in silos.

Millennials work effectively in teams. They prefer socializing in groups²⁶⁴ and value the contributions of their cohorts.²⁶⁵ Entrepreneurs similarly understand that a business requires an investment of resources from a larger constituency, so they assemble teams that can accomplish more than any individual.²⁶⁶ Self-employed Millennial lawyers will continue to operate their own businesses, but they will be more likely to assemble law firms that leverage their collective power.²⁶⁷ Millennials are likely to seek innovative, technology-based, sustainable, cooperative ways to practice and adjudicate law but are not likely to enjoy the solitary, isolated aspects of the traditional practice of law.²⁶⁸ When I shared some of my ideas with a current student, a Millennial, he responded,

I think my generation is even more willing to work with others, tear down borders, yet feel confident to go forth (take risks) to make systems more simple and fair. I feel large firms are a hegemonic reaction to overpower adverse clients and maximize profit. I see our genera-

261. Kimberly Dustman & Phil Wandwerk, *Analysis of Law School Applicants by Age Group*, LAW SCHOOL ADMISSIONS COUNCIL (October 2010), <http://lsac.org/LSACResources/Data/PDFs/Analysis-Applicants-by-Age-Group.pdf>.

262. See *LSAC Volume Summary—Matriculants By Ethnic and Gender Group*, LAW SCHOOL ADMISSIONS COUNCIL, <http://www.lsac.org/lsacresources/data/vs-ethnic-gender-metrics.asp> (last visited May 29, 2012) (reporting the following demographics enrolled in law school during in the Fall 2010 cycle: 46% Women; 34% Non-Caucasian of which 7.2% were Black; 7.1% Asian; 1.6% Puerto Rican and 6.1% other Latinos).

263. Since 2000, the Latino community grew by 43% and accounts for the more than half of total growth in the United States. Karen Humes et al., *Overview of Race and Hispanic Origin: 2010 Census Brief 3* (Mar. 2011), <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf>. Lawyers who can navigate segments of this diverse cultural community that demands bilingual services will fare well in the next three or four decades.

264. Daicoff, *supra* note 240, at 20; see also HOWE & STRAUSS, *supra* note 230, at ch. 9.

265. Tom Gimbel, *Managing Millennials*, 26 NO. 6 LEGAL MGMT. 20 (2007) (“They are part of the no-person-left-behind generation, and they’re willing to fight for what is fair.”).

266. 12 *Essential Characteristics of an Entrepreneur*, *supra* note 212; HOWE & STRAUSS, *supra* note 230, at 121; see also Brownstein, *supra* note 231.

267. See Stephanie Kimbro, *supra* note 90; *This Is Burton*, *supra* note 91.

268. *Id.*

tion utilizing technology to level the playing field, pull power away from large firms, make the system more efficient and with confidence, work in a friendly team environment to progress society.²⁶⁹

All Millennials will not become lawyer-entrepreneurs, but those who forge forward to create new models of legal service delivery that will provide consumers with a more affordable product that fits their particular needs.²⁷⁰

Millennial generation law students have much to offer the legal profession. As law schools reevaluate their curriculum and their commitment to producing successful attorneys, they must not ignore the importance of providing prospective lawyer-entrepreneurs with the networks and tools they need to be successful. What lawyer-entrepreneurs need is a law degree that helps them be lawyers. In addition to substantive knowledge of law, law students need to know how to leverage technology to create income streams that will allow them to pay their living expenses and manage their educational debt.²⁷¹ To better prepare our law students we must elicit the assistance of others who are better versed in technology, business, and management. Lawyer-entrepreneurs need to graduate with business plans that target niche markets, use technology to create viable income streams and create work-life balance to lead happy lives.

IV. EXPERIMENTS IN TRAINING LAWYER-ENTREPRENEURS

Programs to train lawyer-entrepreneurs will require collaboration between law schools, bar organizations, and individuals with special skills to help lawyers establish viable business models. Law schools that are already collaborating with the practicing bar and professionals who support lawyer businesses are in a stronger position to develop programs that produce lawyer-entrepreneurs. Targeting skills programs to address the business needs of lawyer-entrepreneurs can benefit all students. Law firm partners, managing attorneys in government agencies, executive directors of nonprofit legal organizations, law school deans, and members of the judiciary are all lawyers that must understand the cost of delivering legal services to be successful leaders in their field. Attorneys who understand that every action to advance or curtail justice has a price tag are more likely to synthesize the various components that limit or

269. Email from Eric Jon Bolt, TJSJ student, to Luz Herrera, Assistant Professor of Law, Thomas Jefferson School of Law (Feb. 24, 2012) (on file with author) (responding to my statement that a diversity of approaches to lawyering is something Millennials welcome).

270. HOWE & STRAUSS, *supra* note 230, at 159 (“[H]igh-achieving Millennials will expect to create products that compete actively with ‘real world’ professional products.”); *see also* PEW RESEARCH CENTER, *MILLENNIALS: A PORTRAIT OF GENERATION NEXT* 1, 13 (2010) (stating that Millennials see “technology use is the single most popular response”).

271. *See* Segal, *supra* note 2 (“[W]hen the numbers are crunched, studies find that most law students need to earn around \$65,000 a year to get the upper hand on their debt.”).

avail our system of justice.²⁷² To understand legal need and how we can address it, lawyers need to understand that consumers of legal services want something more affordable than \$10,000 retainers and hourly rates of \$300. As legal aid and court budgets are cut, law schools can address the growing need for legal services and their alumni by facilitating programs that encourage newly minted lawyers to engage in some pro bono and set fees at rates lower than market for at least a segment of their clients. This section briefly highlights existing and emerging efforts by law schools to advance such models.

A. The Law School Consortium Project

The Law School Consortium Project (LSCP), funded by a grant from the Open Society Institute, was the latest coordinated law school effort to encourage more collaboration between law schools and the bar in an effort to support solo and small firm lawyers.²⁷³ LSCP was formed by City University of New York School of Law, University of Maryland Law School, Northeastern University School of Law, and St. Mary's University School of Law in 1997.²⁷⁴ LSCP was founded on the notion that law schools could help address the needs of low and moderate income individuals by offering training, mentoring, and support to solo and small-firm lawyers to serve their communities.²⁷⁵ LSCP supported law schools' creation of support networks for solo and small-firm alumni to facilitate training and education of new lawyers while advancing an agenda for affordable legal services.²⁷⁶ A group of law schools developed programs and formal networks,²⁷⁷ and in 2009, the LSCP national board "went into a state of rest, having achieved its goal of establishing successful practitioner networks to assist solo and small-firm lawyers serv-

272. There is a handful of emerging for-profit business ventures that seek to partner with law schools to help train their graduates. But since those programs do not focus on increasing access to justice, they have been excluded from discussion in this article. For an example of such an entity, see LAW BUSINESS WORLD, <http://www.lawbusinessworld.com> (last visited July 22, 2012).

273. For a history of the founding and more detailed description of the Law School Consortium Project, see Deborah Howard, *The Law School Consortium Project: Law Schools Supporting Graduates to Increase Access to Justice for Low and Moderate-Income Individuals and Communities*, 29 FORDHAM URB. L.J. 1245, 1245-47 (2002);

274. Kristin Booth Glen, *To Carry It On: A Decade of Deaning After Haywood Burns*, 10 N.Y. CITY L. REV. 7, 19-23 (describing how the Open Society Institute was used at CUNY School of Law).

275. Howard, *supra* note 273, at 1245-46.

276. *Id.* at 1246-47.

277. *Id.* at 1245 n.1. Although St. Mary's University School of Law withdrew from the LSCP in 2000, the following law schools were also members: University of Michigan School of Law, University of New Mexico School of Law, New York Law School, Rutgers University, Syracuse University School of Law, University of Tennessee College of Law, Thomas Cooley School of Law, and Touro Law Center. The University of California Berkeley School of Law, The University of California Davis School of Law, Golden Gate University School of Law, University of the Pacific McGeorge School of Law, University of San Francisco School of Law and Santa Clara University School of Law joined forces to form the Northern California Collaborative. *Law School Consortium Project*, UNIVERSITY OF CALIFORNIA, BERKELEY LAW, <http://www.law.berkeley.edu/1103.htm> (last visited May 31, 2012).

ing low and moderate-income individuals and communities nationwide.”²⁷⁸ Some of these law schools continue their efforts to provide support to their alumni who advance low bono work through solo and small firm practices, but the University of Maryland Francis King Carey School of Law (Maryland School of Law) and City University of New York (CUNY) School of Law and are the two that have already tested two models—the affiliated non-profit support center and the post-graduate incubator program.²⁷⁹

1. Maryland School of Law & Civil Justice, Inc.

Before the LSCP was formed, Maryland School of Law faculty and alumni began developing the concept of Civil Justice, Inc. (Civil Justice)—an independent non-profit organization affiliated with the Maryland School of Law.²⁸⁰ Civil Justice operates a referral service that pairs a network of solo and small firm lawyers committed to increasing access to low- and moderate-income individuals.²⁸¹ Civil Justice offers mentoring and networking opportunities that include informal counseling by law school faculty and co-counseling arrangements with more experienced attorneys.²⁸² It also offers its members assistance in the management of their practices to help them comply with ethical obligations and run more effective law practices.²⁸³ Civil Justice refers prospective clients to the solo and small firm bar who then negotiate their prices with clients.²⁸⁴ Maryland School of Law supports Civil Justice by introducing the skill set required to operate small law firms in their curriculum program via its clinics, law practice management courses, and a professional responsibility course.²⁸⁵ Membership fees, referral fees, and staff attorney fees from fee-shifting cases support Civil Justice.²⁸⁶

In January 2011, Maryland School of Law partnered with Civil Justice to introduce its Solo Practice Incubator for Justice (Maryland’s Incu-

278. *The Law School Consortium Project*, UNIVERSITY OF MARYLAND SCHOOL OF LAW, <http://www.law.umaryland.edu/programs/clinic/initiatives/lscp/> (last visited March 4, 2012).

279. Howard, *supra* note 273, at 1248–49.

280. Professors Michael Millemann and E. Clinton Bamberger worked with five alumni to create the concept of Civil Justice, Inc. *History*, CIVIL JUSTICE, INC., <http://www.civiljusticenetwork.org/About/Historymission.aspx> (last visited May 31, 2012).

281. *Member Benefits*, CIVIL JUSTICE, INC., <http://www.civiljusticenetwork.org/ForAttorneys/Memberbenefits.aspx> (last visited May 31, 2012).

282. *Id.*

283. *Id.*; see also Howard, *supra* note 273, at 1249 (explaining that Civil Justice, Inc. offers its members “mentoring; networking and peer technical assistance; practice management assistance; substantive law training; access to a listserv; legal products and services at a reduced rate; a client referral service; marketing services and opportunities; and mediation training”).

284. *Member Benefits*, *supra* note 281.

285. Michael Millemann, *The Symposium on the Profession and the Academy: Concluding Thoughts*, 70 MD. L. REV. 513, 524 (2011).

286. For a list of past cases, see *Civil Justice Past Cases*, CIVIL JUSTICE, INC., <http://www.civiljusticenetwork.org/About/CivilJusticePastCases.aspx> (last visited June 5, 2012).

bator).²⁸⁷ Participants in Maryland's Incubator work for six months out of Civil Justice's office across the street from Maryland School of Law.²⁸⁸ They receive discounted office space, training on law office management, mentoring from attorneys that belong to the Civil Justice network and the opportunity to work on grant-funded initiatives that generate attorney fees.²⁸⁹ The Career Development Office at Maryland School of Law oversees program management and Civil Justice attorneys provide training and guidance for new attorneys.²⁹⁰ During their time in Maryland's Incubator, attorneys will develop a business plan that outlining case management, billing practices, marketing, and other necessary functions of their law office operations.²⁹¹ Although Maryland's Incubator is still in its initial stages of development, Civil Justice has become an important support structure for Maryland School of Law's alumni in solo and small firm practice.²⁹² Maryland School of Law has also partnered with its alumni to launch JustAdvice.²⁹³ JustAdvice offers legal services consumers access to their alumni and other lawyers who are willing to provide a 30-minute consultation for \$10 at clinics in family law, housing, criminal, employment, expungement, insurance, government benefits, tax and elder law.²⁹⁴ The program addresses legal need but also exposes attorneys to a new group of prospective clients. Law schools are in a strong position to develop these symbiotic relationships to support their students and assist their local communities.

2. CUNY & Community Legal Resource Network

The City University of New York (CUNY) School of Law understands this opportunity well. CUNY School of Law has perhaps the most active and largest alumni support network and incubator for self-employed graduates. The Community Legal Resource Network (CLRN) is based at CUNY School of Law and operates primarily through a listserv that connects more than 300 attorneys who are otherwise isolated in solo and small firms.²⁹⁵ The virtual community allows alumni to support and mentor each other while CUNY staff facilitates continuing legal education, discounts on law office management software and products, and coordinates initiatives such as the Incubator for Justice (CUNY's

287. Law School Solo Practice Incubators and Legal Residency Programs 25, Hanover Research (2012) (unpublished manuscript, on file with the author) [hereinafter Hanover Report].

288. *Id.*

289. Telephone interview with Leigh Maddox, Executive Director of Civil Justice, Inc. (July 14, 2012); *see also* Hanover Report, *supra* note 287, at 25-26.

290. *Id.*

291. *Id.*

292. *History*, *supra* note 280. Approximately 80 attorneys belong to the Civil Justice network. Hanover Report, *supra* note 287, at 26.

293. JUST ADVICE, <http://justadvice.wordpress.com> (last visited Dec. 20, 2012).

294. THE PEOPLE'S LAW LIBRARY: LEGAL SERVICES DIRECTORY, <http://www.peoples-law.org/node/762> (last visited Dec. 20, 2012).

295. *See Community Legal Resource Network (CLRN)*, CUNY SCHOOL OF LAW, <http://www.law.cuny.edu/clinics/JusticeInitiatives/Community.html> (last visited Apr. 13, 2012).

Incubator).²⁹⁶ The program was founded to address the needs of students and the communities they went to law school to represent.

CUNY's Incubator, established in 2007, trains CLRN members in general law office management issues such as "billing, record-keeping, technology, bookkeeping and taxes while, at the same time, facilitating Incubator participants' involvement in larger justice initiatives and in subject-based training in immigration law, labor and employment and other topics that will arise continually as these attorneys build their practices."²⁹⁷ The CUNY Incubator accommodates up to twelve attorneys into solo and small law firms over an eighteen-month period.²⁹⁸ The attorneys independently operate their law firms but CUNY supports these attorneys by facilitating the space at an affordable rate. CUNY alumni pay \$500 in rent for office space in downtown Manhattan, which is shared with an adjunct faculty member and alumna, Laura Gentile, who teaches law office management, is available to answer questions about law office procedures.²⁹⁹ "I will teach them everything from how to analyze and select a malpractice policy, to how to manage their money so they never fall off the edge of doom," explains Gentile.³⁰⁰ Participants in CUNY's Incubator receive training "to fine-tune their skills as both lawyers and micro-entrepreneurs. [Their] training provides participants with the skills to eventually launch solo practices in underserved New York City communities."³⁰¹ CLRN and the CUNY Incubator use their network to provide low-cost legal services to individuals in New York that would not otherwise have access to lawyers.

The CUNY Incubator has become the model program for other law schools seeking to support their self-employed graduates and address the need for more affordable legal services. Fred Rooney, former director of CLRN, is credited with establishing the CUNY Incubator and advising law schools on how to develop similar efforts.³⁰² The CUNY Incubator

296. *Id.*

297. *Id.*

298. Jonathan D. Glater, *Lawyers Learn How to Be Businesslike*, N.Y. TIMES, Jan. 9, 2008, at B6.

299. Richard Zorza, *NewsMaker Interview—Fred Rooney on the CUNY Incubator*, RICHARD ZORZA'S ACCESS TO JUSTICE BLOG (Sept. 11, 2011), <http://accesstojustice.net/2011/09/22/newsmaker-interview-fred-rooney-on-the-cuny-incubator/>; see also Emily Sachar, *CUNY to Train Start-Up Lawyers in Business Basics to Enhance Justice*, CUNY LAW: A COMMUNITY OF JUSTICE 6 (2007), available at <http://www.law.cuny.edu/giving-alumni/cunylaw/archive/07-fall-cunylaw.pdf>.

300. Glater, *supra* note 298, at B6.

301. Zorza, *supra* note 299 (quoting Fred Rooney).

302. Fred Rooney reports that CLRN has provided technical support for the development of incubators at the following schools: California Western School of Law, Charlotte School of Law, Cleveland-Marshall School of Law, Florida International School of Law, Georgia State University School of Law, McGeorge School of Law, Pace Law School, Seattle University School of Law, Thomas Jefferson School of Law, University of California—Irvine School of Law, and University of Maryland School of Law. Email from Fred Rooney, Dir., CLRN at CUNY Law, to Luz Herrera, Assistant Professor of Law, Thomas Jefferson School of Law (March 30, 2012) (on file with author). In June 2012, Fred Rooney left CUNY to develop an incubator program in the Dominican Republi-

relies on various funding sources that subsidize the cost of rent for incubator participants and pays for CUNY personnel that provide support.³⁰³ In addition to the law school, additional funding sources include private foundations, state workforce development funds, and elected officials.³⁰⁴ Elected officials provide CUNY School of Law grants to coordinate their incubator participants into the various boroughs and offer legal services for free to their constituents. Rooney reports that his success in raising money is directly related to funders' interest in contributing to greater access to justice in underserved communities.³⁰⁵ Incubator programs such as CUNY's give law schools the opportunity to offer greater support to their self-employed graduates and to address legal needs in their local communities.

B. Other Incubators

Other law schools have followed CUNY's example. In November 2010, the University of Missouri Kansas City (UMKC), in collaboration with the Missouri Bar Association and the Kansas City Metropolitan Bar Association, announced its own incubator.³⁰⁶ The incubator, with the capacity to accommodate 8 to 10 lawyers, is housed next to the entrepreneurial clinical programs and across from the Kauffman Foundation of Entrepreneurship.³⁰⁷ The UMKC incubator also provides support in law office management and mentoring to start law practices and is part of UMKC's ongoing commitment to encourage entrepreneurship. UMKC's commitment includes the Solo and Small Firm Institute, which has organized classes and a series of workshops focused on business planning, founding and operating a law firm.³⁰⁸ UMKC reports that more than 150 graduates have completed the school's existing Solo and Small Firm Institute curriculum between 2004 and the summer of 2010.³⁰⁹ The Solo and Small Firm Institute curriculum includes courses taught by faculty from the Missouri-Kansas City Henry W. Bloch School of Business and Public Administration.³¹⁰ The curriculum helps prepare graduates to apply for the incubator. To be eligible to participate in the incubator, applicants must submit a business plan that includes the intended practice

can through a Fulbright Fellowship. Interview with Fred Rooney, in San Diego, California (July 24, 2012).

303. Hanover Report, *supra* note 287, at 17 (reporting that the incubator is financed by CUNY, private foundation funds, state fund sand participants' rent contributions).

304. *Id.*

305. Interview with Fred Rooney, in San Diego, California (July 24, 2012).

306. Steve Vockrodt, *UMKC Incubator Preps Lawyers for Small, Solo Practices*, KAN. CITY BUS. J. (Nov. 12, 2010), <http://www.bizjournals.com/kansascity/print-edition/2010/11/12/umkc-incubator-preps-solo-lawyers.html?s=print>.

307. See *Solo and Small Firm Incubator*, UMKC SCHOOL OF LAW, <http://www.law.umkc.edu/Incubator> (last visited Apr. 13, 2012).

308. *UMKC School of Law Launches Solo and Small Firm Incubator*, UNIVERSITY OF MISSOURI-KANSAS CITY (Oct. 29, 2010), <http://www.umkc.edu/news/news-release.asp?id=959>.

309. *Id.* The Solo and Small Firm Institute was launched in 2004. *Id.*

310. *Id.*

areas, a marketing plan, three years of financial projections, and a statement of commitment to offer free or low bono legal services to the local community.³¹¹ The UMKC Incubator is supported by private donors, law firms, and local bar associations.³¹²

Florida International University College of Law (FIU) has similarly developed the LawBridge program which it describes as “a post-graduate program that provides new lawyers an opportunity to enter an apprenticeship with elements akin to both a medical school residency and a business school entrepreneurial incubator.”³¹³ The “LawBridge” program provides program participants with office space in downtown Miami and coaches them in a variety of areas related to law practice management, accounting and risk management.³¹⁴ LawBridge participants meet periodically with bankers, accountants, marketing experts, and other professionals to discuss various aspects of the business side of the legal profession.³¹⁵ The LawBridge program offers lectures and continuing legal education courses, as well as structured networking opportunities with other members of the legal profession.³¹⁶ FIU limits participation in the LawBridge program to alumni who are admitted to the Florida bar within twelve months of graduation.³¹⁷ Applicants must pay a \$50 application fee and submit a resume, a statement of interest, and an executive summary of their business plan.³¹⁸ Once admitted, participants must sign a license agreement with FIU where participants agree to carry professional liability insurance, comply with ethics rules, attend continuing legal education courses, and participate in pro bono services.³¹⁹ While it is not clear that FIU’s program encourages pro bono or low bono work, it has the potential to meet unmet legal needs in Miami.

In the summer of 2012, California Western School of Law (California Western) and Thomas Jefferson School of Law (TJSL) announced the launch of their incubator programs.³²⁰ Both law schools received

311. *Application Process*, UMKC SCHOOL OF LAW, <http://law.umkc.edu/careers-cle/solo-and-small-firm-application-process.asp> (last visited July 2, 2012).

312. *Sponsors*, UMKC SCHOOL OF LAW, <http://law.umkc.edu/careers-cle/solo-and-small-firm-incubator-sponsors.asp> (last visited July 2, 2012).

313. *Law Bridge: A Legal Residency Program*, FLORIDA INTERNATIONAL UNIVERSITY COLLEGE OF LAW, <http://law.fiu.edu/alumni/lawbridge-a-legal-residency-program/> (last visited July 2, 2012).

314. *Id.*

315. *Id.*

316. *Law Bridge FAQs*, FLORIDA INTERNATIONAL UNIVERSITY COLLEGE OF LAW, <http://law.fiu.edu/alumni/lawbridge-a-legal-residency-program/lawbridge-faqs/> (last visited July 2, 2012).

317. *Id.*

318. *Law Bridge Solo Practice Incubator Application for Admission*, FLORIDA INTERNATIONAL UNIVERSITY COLLEGE OF LAW, <http://law.fiu.edu/wp-content/uploads/2012/05/FIU-Law-Bridge-Application-11-08-11.pdf> (last visited July 2, 2012).

319. *Id.*

320. Karen Sloan, *The Next Solo Incubator Will be in San Diego*, NAT’L L. J. (May 15, 2012); Doug Sherwin, *Cal Western Launches Incubator Program for Attorneys*, THE DAILY TRANSCRIPT (July 10, 2012).

technical assistance from Fred Rooney and have developed their programs to meet the legal needs of the local community.³²¹ California Western's affiliated program, Access to Law, asks its attorneys to pledge to provide a minimum of 100 pro bono hours per year.³²² TJSL works with the Family Justice Center to offer its clients legal information and consultations in the areas of immigration, criminal, and landlord tenant law. Both programs collaborate in offering continuing legal education courses to their alumni and are linked to lawyer networks similar to CLRN.³²³ Both programs have individuals who counsel these new lawyers on how to developing low-bono opportunities to help build their client base and address local need. In anticipation of its launch, TJSL worked with MBA students at San Diego State University to develop law office manuals and a business plan guide for its incubator participants.³²⁴ To develop a more robust pipeline into its incubator, TJSL also introduced the Solo Practice Concentration to its curriculum in August 2012.³²⁵ Similar to the UMKC program, TJSL's Solo Practice Concentration attempts to get students ready for solo and small firm law practice before graduation day.

The Columbus Bar Association offers a model for law schools who wish to more directly collaborate with the organized bar and other law schools. In April 2011, in Columbus Ohio, the Columbus Bar Association launched a professional development center called Columbus Bar inc.³²⁶ The "inc" in the program name is short for incubator and intends "to offer new lawyers valuable experience and ongoing education to help build their professional career, develop sound business management skills, and engender high ethical standards."³²⁷ Columbus Bar inc selected a total of eight recent law graduates from Capital University Law School and Moritz College of Law to participate in a one year pilot program to help participants launch solo practices.³²⁸ The incubator is housed in the same building as the Columbus Bar Association and through its attorney network offers participants mentoring on "client intake, billing practices, law office management, marketing, case management, discovery, and other practice-related topics."³²⁹ Incubator participants pay rent for fully-furnished space but the bar association helps subsidize their costs by sending participants referrals from the bar's lawyer referral service. In exchange for the support and mentoring, partici-

321. *Id.*

322. Sherwin, *supra* note 320.

323. *Id.*; see also Sloan, *supra* note 320.

324. Hanover Report, *supra* note 287, at 29–30

325. Steve Semeraro, *Thomas Jefferson School of Law Commits to Solo Practice*, THOMAS JEFFERSON SCHOOL OF LAW (May 21, 2012), <http://www.tjsl.edu/news-media/2012/6505>.

326. *Columbus Bar Announces New Incubator Program*, COLUMBUS BAR ASSOCIATION (Jan. 21, 2011), <http://www.cbalaw.org/articles/news/recent-news/2011/1631>.

327. *Id.*

328. *Id.*

329. *Id.*

pants agree to take on pro bono cases from the Columbus Bar Association's Lawyers for Justice program.³³⁰

As law schools and bar associations look for ways to better support new attorneys starting their own law firms, more collaboration between bar associations, law schools, and even legal aid providers is likely to emerge.³³¹ In addition to programs that help law students prepare for solo and small firm practice, law schools are more seriously exploring the option of establishing non-profit law firms to provide post-graduate residencies that offer new attorneys additional opportunities for skill development.

C. *The Law School Firm*

More law schools are piloting projects that create opportunities for their graduates to learn to practice law by offering low bono work.³³² Like the incubator programs, these new efforts promise to offer legal services consumers reduced cost legal services. Although the idea of establishing nonprofit law firms as a training ground for attorneys is not new,³³³ the idea for such a model has recently gained traction.

In their law review essay, *The Law School Firm*, Professors Bradley T. Borden & Robert J. Rhee propose that law schools establish nonprofit law firms that are separate from but affiliated with law schools. They acknowledge that among other considerations, ethics rules regarding fee sharing and law school accreditation standards would need to be modified for the model to work, but they encourage law schools to begin "a small-scale pilot program to see if the model is feasible".³³⁴ Their thought piece offers a proposal for models that resembles a U.K. model of legal training that envisions two-years of law school curriculum with additional years of apprenticeship training.³³⁵ Another option presented is

330. *Id.*

331. In November 2011, the Boston Bar Association's Task Force on the Future of the Profession recommended the appointment of a committee to explore the development of a pilot incubator program to provide lawyers assistance in setting up their own law firms. *Report of the Boston Bar Association Task Force on the Future of the Profession*, Boston Bar Association 3 (2011), available at <http://www.bostonbar.org/docs/default-document-library/future-of-prof-task-force.pdf>. The Chicago Bar Foundation has also set up a committee to establish a post graduate program that would support the development of practical skills and provide much needed legal pro bono services. State Bar of California President Jon Streeter formed the 21-member Task Force on Admission Regulation Reform to explore adding a practice training requirement for bar admission that has been dubbed by some as a "legal residency" program. See Don J. DeBenedictis, *Bar Mulls Apprentice Mandate*, L.A. DAILY J., Jan. 11, 2012. The task force will not release its recommendations until December 2013. See Don J. DeBenedictis, *Deans Defend Training at Schools*, L.A. DAILY J., June 13, 2012 (discussing caution raised by law school deans to any proposed requirement).

332. Email from Fred Rooney to author, *supra* note 302.

333. Jeanne Charn, *Service and Learning: Reflections on Three Decades of the Lawyering Process at Harvard Law School*, 10 CLINICAL L. REV. 75, 90 (2003) ("Finally, it was our hope that lawyers in law schools and lawyers in practice would collaborate to study and experiment with different allocations of their joint responsibility for preparing lawyers for practice.").

334. *Id.* at 3.

335. *Id.* at 4.

to retain the three year law degree but to offer opportunities at the law firm for third year students.³³⁶ Several law schools have begun to experiment with the ideas of establishing law school law firms.

In November 2011, the University of Utah S.J. Quinney College of Law announced its collaboration with a privately owned law firm to work with their alumni to “expand the availability of legal services and service-learning opportunities.”³³⁷ The private law firm, University Law Group, works with recent graduates who pass the bar to provide legal services in the areas of employment law, family law, bankruptcy, small business formation, contract disputes, small claims, and small trusts and estates, in addition to research assistance.³³⁸ An alumnus and former BigLaw³³⁹ partner, Dennis Gladwell, oversees the pilot program.³⁴⁰ Many University Law Group services are based on flat-rate fee arrangements of \$40-\$50 per hour.³⁴¹ University Law Group occupies temporary space at the law school and pays lawyers an hourly rate based on the type of work and the client’s ability to pay.³⁴² It relies heavily on referrals from attorneys who cannot provide the representation needed by low- to-mid-level income families and individuals.³⁴³ The program’s goals are “to show that by serving low- and moderate-income Americans and small businesses with modest fees, the returns can be sufficient” and to provide students with additional opportunities to learn.³⁴⁴

In the fall of 2011, Pace Law School also announced the creation of a school supported law firm that helps launch new attorneys into their own practices.³⁴⁵ Pace Community Law Practice will employ between five and seven of their law school graduates who will be classified as fellows and will be paid by the law school. Their work will include low bono and fee sliding cases.³⁴⁶ The program is supported by a \$100,000 foundation grant but the law school is raising money to support the pro-

336. *Id.* at 4–5.

337. *Utah Law School Offers “Low Bono” Services with Recent Graduates*, SALT LAKE TRIB., Nov. 18, 2011, <http://www.sltrib.com/sltrib/news/52938370-78/law-services-legal-low.html.csp>; see also Nic Dunn, *Law Group Offers Low Bono Help*, SALT LAKE CHRON., Nov. 22, 2011, <http://www.dailyutahchronicle.com/?p=2559714>.

338. *Utah Law School Offers “Low Bono” Services with Recent Graduates*, *supra* note 337.

339. “BigLaw” is a popular term used by many blogs and in the legal community to describe a law firm with a minimum of 101 attorneys that represent large corporations. *An Introduction to “Biglaw”*, TOP-LAW-SCHOOLS.COM, <http://www.top-law-schools.com/introduction-to-biglaw.html> (last visited Mar. 30, 2012).

340. Email from Dennis Gladwell (July 3, 2012) (on file with author).

341. *Id.*

342. Telephone interview with Dennis Gladwell (July 3, 2012).

343. *College of Law Announces University Law Group to Provide Low Bono Services to Underserved Populations*, UTAH L. TODAY (Nov. 17, 2011), <http://today.law.utah.edu/2011/11/college-of-law-announces-university-law-group-to-provide-low-bono-services-to-underserved-populations/>.

344. Dunn, *supra* note 337.

345. Karen Sloan, *Pace Solo Incubator Will Assist Low-Income Clients*, NAT’L L.J. (Nov. 15, 2011), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202532527024&slreturn=1>.

346. *Id.*

ject.³⁴⁷ The Pace Community Law Practice, although it employs its graduates, promises to introduce important topics, such as assistance with client development, malpractice insurance, and setting up a law practice, through the use of seminars.³⁴⁸ The Pace model is a hybrid incubator and post-graduate residency program that promises to hire the lawyer participants and pay them approximately \$42,000.³⁴⁹ The Pace Community Law Practice is scheduled to open on the law school campus in the fall of 2012.³⁵⁰

The Arizona State University Sandra Day O'Connor College of Law (ASU Law School) also announced plans to create an affiliated nonprofit training law firm.³⁵¹ Dean Douglas Sylvester specified that the current plan includes providing five opportunities for 15 to 30 lawyers who would be supervised by five or six attorneys with experience in practice areas that include bankruptcy, family law, and business organization.³⁵² Plans for financing include private donations, law school funds, and charging clients reduced rate fees.³⁵³ The un-named ASU Law School affiliated law firm indicated that although they are still fine-tuning their program, they anticipate having the law firm operating by 2013.³⁵⁴

These are only some examples of what law schools are doing to respond to the needs of recent graduates and the community. By no means is this overview intended to be inclusive and complete. It merely attempts to offer law schools working on similar efforts basic information to help in the development of such projects. Law schools are just embarking on their journey to train lawyer-entrepreneurs, but what is clear from existing and emerging efforts is that greater instruction on client development and law office management will be key components in supporting the development of self-employed lawyers.³⁵⁵

347. *Id.*

348. *Id.*; see also Tierne Plumb, *Pace Law School Enters the In-House Law School Market*, PRELAW (Nov. 18, 2011), <http://www.nationaljurist.com/content/pace-law-school-enters-house-law-school-market>.

349. Bob Rozycki, *Pace Law to Launch Incubator for Recent Graduates*, Fairfield Co. Bus. J. (Nov. 28, 2011), <http://westfaironline.com/17575/pace-law-to-launch-incubator-for-recent-graduates/>.

350. *Id.*

351. Karen Sloan, *Think of It as a Residency for Lawyers*, NAT'L LAW J. (June 5, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202556661573&Think_of_it_as_a_residency_for_lawyers.

352. *Id.*

353. *Id.*

354. *Id.*

355. In addition to reduced office space, continuing legal education, and group rates for vendor services, post-graduate programs should facilitate relationships with microlenders, accountants, bookkeepers, technology support staff, and business consultants.

V. ADVANCING THE TRAINING OF LAWYER-ENTREPRENEURS

Neither limited job opportunities nor entrepreneurial lawyers are new to the legal profession.³⁵⁶ However, the recognition by law schools that they need to do more to prepare their graduates for the practice of law is something that is beginning to resonate.³⁵⁷ Unlike prior periods of economic recession, economic pressures have converged with changing law school accreditation standards that ask law schools to identify and measure the outcomes of their educational program.³⁵⁸ These factors, coupled with an increasing demand for affordable legal services, create an unprecedented opportunity for local law schools to abandon outdated notions of prestige and to prepare lawyers to do the work legal services consumers need. A more competitive legal market that drives the prices of legal services down will require attorneys to become well-versed in technology and marketing in order to be viable. Law schools that develop substantive curriculum and post-graduate opportunities to support developing entrepreneurial skills and mindsets will become a more valuable legal education product.

As law schools debate about how to integrate skills into the existing law school curriculum,³⁵⁹ law school personnel must confront their own

356. SERON, *supra* note 40, at 64; see also LINCOLN CAPLAN, SKADDEN (1993) (recounting a story of opportunism and innovation that lead to the rise of one of the country's largest law firms).

357. *A Survey of Law School Curricula: 2002-2010*, ABA, SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR (July 24, 2012), http://www.abanow.org/wordpress/wpcontent/files_flutter/1341346391LawSchoolCurriculaSurveyExecSummary.pdf (reporting an increase in skills instruction in law school as a result of ABA Standard 302(a)(4), which requires that students receive "other professional skills" instruction); see also Karen Sloan, *ABA: Law Schools Getting the Message on Practical Skills*, NAT'L L. J. (July 14, 2012), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202561943191&slreturn=20120620190759>.

358. In October 2007, the Section of Legal Education formed a special committee to revise law school accreditation standards to promote measurement of outcomes. CATHERINE L. CARPENTER ET AL., REPORT OF THE OUTCOME MEASURES COMMITTEE (2008), available at <http://apps.americanbar.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf>. The Section on Legal Education, has proposed changes to ABA Accreditation Standard 302, which provides for law schools to identified their desired learning outcomes of their students. Although the outcome standards are not yet adopted, a change in focus from input measures to output is inevitable. See also Steven C. Bennett, *When Will Law School Change?*, 89 NEB. L. REV. 87 (2010) (arguing that the economic downturn may provide the impetus for changing law schools); *ABA President Names Task Force on the Future of Legal Education*, ABANOW (July 31, 2012), <http://www.abanow.org/2012/07/aba-president-names-task-force-on-the-future-of-legal-education/>.

359. See Karen Sloan, *What Is Law School for, Anyway?*, NAT'L L. J. (Jan. 16, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202538352545&What_is_law_school_for_any_way (reporting the discussion on rethinking legal education at the 2012 Association of American Law Schools annual meeting in Washington, DC); Jessica Dopierala, *Bridging the Gap Between Theory and Practice: Why are Students Falling Off the Bridge and What are Law Schools Doing to Catch Them?*, 85 U. DET. MERCY L. REV. 429, 431-440, 2007-2008) (describing the criticisms of the case method and calls for change); Margaret Martin Barry et al., *Clinical Education for the Millenium: The Third Wave*, 7 CLINICAL L. REV. 1, 5-12 (2000) (describing challenges clinicians faced when forging clinical education in law schools). See generally ROBERT MACCRATE ET AL., ABA, SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR, REPORT ON THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992); THE CARNEGIE FOUNDATION FOR THE ADVANCEMENT OF TEACHING, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

assessment of prestige and develop a greater understanding of what most of their graduates must contend with in practice.³⁶⁰ Law schools that are reluctant to acknowledge the need to train lawyer-entrepreneurs may be forced to acknowledge that they primarily produce solo lawyers. Once law school faculty and administrators combat their prejudices and find ways to compensate for their lack of emphasis on the work of attorneys that provide personal legal services,³⁶¹ law schools can begin to develop skills programs that produce lawyer-entrepreneurs.

Professor David Barnhizer points to external forces that will influence how law schools, particularly local law schools, will change in the coming decades.³⁶² He projects that the oversaturation of solo practitioners, a result of the disappearance of other law jobs, will be the factor that has the most significant effect on how law schools operate.³⁶³ Barnhizer predicts that the number of attorneys working in solo and small firms will continue to rise as law schools produce approximately 40,000 new lawyers to an employment market with few jobs.³⁶⁴ He argues that the economic vulnerability of solo and small firm lawyers will be a factor leading to the demise of local law schools.³⁶⁵ Barnhizer cautions that unless law schools "learn to adapt to the changed conditions and still declining demand for lawyers as that job is traditionally conceived, some law schools will shrink dramatically. Others will disappear in the face of hardened and unforgiving competitive conditions."³⁶⁶

Barnhizer is not the only one, nor the first, to make these warnings. Perhaps the leading contemporary critic of legal education has been Richard Matasar, former dean of New York Law School.³⁶⁷ Matasar penned a series of controversial articles aimed at urging academics to provide greater value to law graduates.³⁶⁸ Matasar's faculty webpage

360. Jonakait, *supra* note 130, at 902-03 (arguing that most law school faculty are products of elite law schools and therefore do not possess sufficient understanding of the career paths of their graduates).

361. See Bryant G. Garth and Joanne Martin, *Law Schools and the Construction of Competence*, 43 J. LEGAL EDUC. 469, 499-507 (1993) (discussing conventional interpretations of teaching and practice). Academics tend to view corporate legal work as more intellectually challenging than personal service legal work and in doing so, place a lesser value of prestige on the work done by solo and small firm lawyers. See HEINZ & LAUMANN, *supra* note 120, at 127-28; William Hornsby, *Challenging the Academy to a Dual (Perspective): The Need to Embrace Lawyering for Personal Legal Services*, 70 MD. L. REV. 420, 437 (2011).

362. David Barnhizer, *Redesigning the American Law School*, 2010 MICH. ST. L. REV. 249, 263-264 (2010).

363. *Id.* at 253. Barnhizer points out that although the percentage of attorneys in solo practice has remained consistent between 1980 and 2000, there was a 100% growth in the number of solo practitioners and a 35% increase in the number of lawyers in law firms of two to five attorneys. *Id.* at 283.

364. *Id.* at 266.

365. *Id.* at 288-89.

366. *Id.* at 269.

367. Richard A. Matasar, *Dean Emeritus*, NEW YORK LAW SCHOOL, http://www.nyls.edu/faculty/faculty_profiles/richard_a_mataras (last visited May 15, 2012).

368. See Richard A. Matasar, *A Commercialist Manifesto: Entrepreneurs, Academics and Purity of the Hearth and Soul*, 48 FLA. L. REV. 781 (1996) (arguing that financial considerations and

explains, “[m]ost law schools have no chance to improve. They’re mired in the past, beholden to special interest groups, and incapable of disrupting their own comfort levels.”³⁶⁹ Matasar describes his goals to reform legal education as two-fold: “First, to radically disrupt traditional approaches to legal education by emphasizing the need for professionalism and the need for educational institutions to be flexible; and second, to force the profession of law and the legal academy to think about ways they can work with each other.”³⁷⁰ His writings encourage academics to accept the difficult economic reality that most law graduates face, and call for law schools to be more “businesslike.”³⁷¹

In his 2005 article, *The Rise and Fall of American Legal Education*, Matasar suggests that law schools do not adequately train lawyers to practice law, make a living and “adequately support the debt he or she accumulates while in school”.³⁷² He argues that “expensive schools with modest reputations will be in jeopardy” because their graduates will not be able to earn salaries large enough to pay their student debt.³⁷³ According to Matasar, only the top 10% of the class at most law schools have the opportunity to earn jobs that allow them to pay off the student loans.³⁷⁴ He argues that moderate prestige schools with high price tags will not survive unless they change.³⁷⁵ Matasar’s writings, although startling, provide a call to action for law schools to create greater value for its students.³⁷⁶ Matasar argues that legal education must shift its primary mission from prestige-driven factors that promote law school rankings to actually providing what students need.³⁷⁷ Although recent loan repay-

accountability must drive higher education); Richard A. Matasar, *Does the Current Economic Model of Legal Education Work for Law Schools, Law Firms (or Anyone Else)?*, 82 N.Y. ST. B.A. J. 20 (2010) (responding to the question of whether the current model of legal education is good for lawyers or law firms); Richard A. Matasar, *The Rise and Fall of American Legal Education*, 49 N.Y.L. SCH. L. REV. 465 (2005) (foreshadowing the current critique of the value of a law degree) [hereinafter Matasar, *Rise and Fall*]; Richard A. Matasar, *The Two Professionalisms of Legal Education*, 15 NOTRE DAME J.L. ETHICS & PUB. POL’Y 99 (2001) (describing legal education as a law school business that sells education to students and sells graduates to the legal profession).

369. Richard A. Matasar, *Dean Emeritus*, *supra* note 367 (accessed by searching previous versions of N.Y.L.S. faculty profiles in the Internet Archive index).

370. *Id.*

371. Matasar’s critique is not just against law schools but also in the failures of the profession to be good teachers Richard A. Matasar, *Skills and Values Education: Debate About the Continuum Continues*, 46 N.Y.L.S. Sch. L. Rev. 395, 410 (2002-2003) (criticizing the bar for not rising to the call of the MacCrate Report). Despite his vocal critiques, Matasar was chastised for not bringing about greater reform as dean of New York Law School. David Segal, *Law School Economics: Ka-Ching!*, N.Y. TIMES, July 17, 2011, at BU1.; see also Paul L. Caron, *Class Actions Filed Against Cooley, NYLS Over Fraudulent Placement Data*, TAXPROF BLOG (Aug. 10, 2011), http://taxprof.typepad.com/taxprof_blog/2011/08/class-action-lawsuits.html.

372. Matasar, *Rise and Fall*, *supra* note 368, at 471–72.

373. *Id.* at 496.

374. See Debra Cassens Weiss, “Law Dean Says Schools ‘Exploiting’ Students Who Don’t Succeed,” A.B.A. J. (Jan. 10:27 A.M.), http://www.abajournal.com/news/article/law_dean_says_schools_exploiting_students_who_dont_succeed.

375. Matasar, *Rise and Fall*, *supra* note 367, at 496.

376. *Id.* at 498 (“[T]he task is clear: create real value for your students and the school might climb out of its predicament and rise.”).

377. *Id.* at 112–13.

ment programs make it easier for law graduates to manage debt through income-based repayment programs, self-employed lawyers require more instruction on how to manage a law office.

At a law school symposium discussing the changes in law practice, William Hornsby, staff counsel in the ABA Standing Committee on the Delivery of Legal Services, called upon law schools to reassess their curriculum and offer greater instruction for solo and small firm lawyers.³⁷⁸ Hornsby explains that the lack of preparation of the solo and small firm bar is primarily attributed to the lack of faculty experience with what it means to provide personal legal services.³⁷⁹ He cites to a 2006 survey of law schools that reveals that less than half of law schools that responded taught any law office management courses.³⁸⁰ The schools that include law practice management in their curriculum report that 80% of those classes are taught by adjunct faculty.³⁸¹ Further, the class is offered only to 15 to 50 students per year.³⁸² No school required the course.³⁸³ Hornsby points to this lack of commitment to law practice management in law schools as a strong indicator that law school faculty does not understand or value the work of solo and small firm lawyers who are primarily providing personal legal services.³⁸⁴

Professor Debra Moss Curtis agrees that law office management is critical in the development of skills for future lawyers.³⁸⁵ She points to The Carnegie Foundation for the Advancement of Teaching's report on *Educating Lawyers* and the 1992 *MacCrate Report* as just a couple of the many calls to introduce more law school instruction with skills necessary for lawyers to practice law.³⁸⁶ She argues that providing greater skills instruction requires that law schools integrate law office management courses into the curriculum because lawyers "have an ethical duty to

378. Hornsby, *supra* note 361, at 420.

379. *Id.* at 436.

380. A.B.A. STANDING COMM. ON PROFESSIONALISM, REPORT ON A SURVEY OF LAW SCHOOL PROFESSIONALISM PROGRAMS 38 (2006), available at http://www.abanet.org/cpr/reports/LawSchool_ProfSurvey.pdf.

381. Hornsby, *supra* note 361, at 437.

382. *Id.*

383. *Id.*

384. *Id.*; see also, Levin, *supra* note 114, at 309–11 (reporting that attorneys in solo and small firm practice are most prone to attorney discipline due to the lack of support structure and characteristics of the legal problems they address).

385. See Debra Moss Curtis, *Teaching Law Office Management: Why Law Students Need to Know the Business of Being a Lawyer*, 71 ALB. L. REV. 201, 202 (2008).

386. *Id.* at 205 (referencing WILLIAM M. SULLIVAN, ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 87 (2007)). The MacCrate Report is the name commonly used to refer to a 1992 ABA Task Force on Law Schools and the Profession lead by Robert MacCrate, former ABA President. *Id.* at 208. Also referenced are: ABA, SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992); and ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION (2007).

manage legal work.”³⁸⁷ Professor Curtis offers ideas for content and integration of law office management courses in the curriculum before concluding that “[l]awyers and students alike believe that law office management belongs in the law school curriculum.”³⁸⁸ In a 2010 law review article, Professor Gary A. Munneke argues that managing a law practice is a key element of a lawyer’s competency but such has not been sufficiently embraced by legal education or even the bar.³⁸⁹

In addition to learning to think like lawyers, tomorrow’s law school graduates must also learn how to be lawyers that can adapt to new competitors, fast-changing technology, and a more global client base. To make a living as self-employed lawyers, Millennials must develop strong law office management structures that permit them to compete with larger law firms and non-lawyers that are able to provide greater breadth for a fraction of the cost.³⁹⁰ Law schools cannot guarantee the economic viability of every one of its graduates, but they can provide a framework for its students and graduates to think about creating their own career opportunities. Law students who are training to also be entrepreneurs must fully understand the business of law, the use of technology in effective law practice management, and the ethical considerations that must govern their enterprises.³⁹¹

To be successful, lawyer-entrepreneurs will need the support of their law schools. Most law schools are not currently equipped to graduate “our own garage guys who can transform how we do law.”³⁹² Law schools that undertake the challenge of training lawyer-entrepreneurs should consider taking the following steps:

A. Educate Law School Personnel About Bar Demographics

To understand how to best advise students about their career opportunities, law schools must undertake the study of the career trajectories of their graduates. With that information law schools should develop initiatives to educate their personnel about the career opportunities available to its graduates. Faculty and career services staff, must know enough about the career opportunities and challenges in the most common practice settings for their graduates in order to advise their students about what to expect post-graduation. Each law school will have a unique set of market characteristics to consider depending on its geography, its status in the law school hierarchy, and the specific characteristics of its stu-

387. Curtis, *supra* note 385, at 208.

388. *Id.* at 228.

389. See Gary A. Munneke, *Managing a Law Practice: What You Need to Learn in Law School*, 30 PACE L. REV. 1207 (2010).

390. SUSSKIND, *supra* note 36, at 36–39.

391. THOMAS D. MORGAN, *THE VANISHING AMERICAN LAWYER* 211–212 (2010) (“law schools should recognize that education about non-legal substantive issues”).

392. Gillian K. Hadfield, *Equipping the Garage Guys in Law*, 70 MD. L. REV. 484, 489, 498 (2011) (calling for greater support from law schools to produce more innovative lawyers).

dent body. If a law school has a significant number of its graduates in solo and small firm practice, it should have personnel available to help students and alumni plan for self-employment.

B. Educate Students About the Work Lives of Self-Employed Lawyers

The predominance of attorney self-employment is not just a by-product of the recession. It is and has always been the largest sector of the bar. Advancing a legal education program that acknowledges the needs of future small-firm lawyers would communicate to prospective law students that they are buying a law degree that helps them be more self-sufficient. Law schools should communicate to their students that periods of unemployment, taking on contract work, working in temporary legal jobs, performing work that does not require a law degree, and even starting their own offices is part of the career trajectory for most lawyers.³⁹³ If local law schools developed programs to train lawyer-entrepreneurs and advertise their commitment to help them develop viable law practices, then students may at least have a more realistic sense of a typical career path for self-employed lawyers.³⁹⁴ Law schools that transform their curriculum into an educational program that prepares future lawyer-entrepreneurs may not immediately fare well in the current scheme of *U.S. News* rankings but will distinguish themselves as student-centric leaders of the local law school pack.

C. Integrate Delivery of Legal Services Courses in the Curriculum

Law schools should develop programs that explore how legal services are delivered. Law school graduates must understand what it takes to be a lawyer. Discussion of office management, consumer legal needs, legal informatics, and the business of law should be taught by full-time faculty and integrated into the third year curriculum.³⁹⁵ These courses help students understand how legal services are delivered, the cost of

393. Such an approach is consistent with one of Barnhizer's proposed solutions to create a different and more flexible educational world where students could opt to attend a law school that helps them prepare to meet specific goals. Barnhizer, *supra* at 362, at 306 ("There is no reason each law school should be all things to all students. Various ways exist in which American law schools could be "unbundled" and create a different and more flexible educational world.").

394. Jerome M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L. J. 225, 271-273 (2011) (discussing how law schools can help students establish realistic expectations about their law practice and their professional identity).

395. See generally Peter Toll Hoffman, *Law Schools and the Changing Face of Practice*, 56 N.Y.L. SCH. L. REV. 203 (2012); Gary A. Munneke, *Managing a Law Practice: What You Need to Learn in Law School*, 30 PACE L. REV. 1207 (2010); R. Lisle Baker, *Enhancing Professional Competence and Legal Excellence Through Teaching Law Practice Management*, 40 J. LEGAL EDUC. 375 (1990). See also G.M. Filisko, *Getting the Business*, ABAJOURNAL (Aug. 1, 2010 12:04 AM CDT), www.abajournal.com/magazine/article/getting_the_business/; John Palfrey, *The Law School Curriculum: What is Technology's Role*, NAT'L L. J. (Nov. 13, 2006) (advocating instruction on the importance of technology in law); David C. Cummings, *A Law School Course in Law Practice Management*, 45 WASH. ST. BAR NEWS 37 (1991).

providing such services and their role in the larger profession. Such curriculum can encourage students to develop plans to assess their unique contributions that will help them build networks, identify a client base, and fulfill their professional obligation to justice. Law schools that do not currently have personnel to offer such curriculum can look to other disciplines within the larger university, or work with the practicing bar to integrate some post-graduate education into existing law school programs.³⁹⁶

D. Develop Opportunities for Low Bono Legal Services

Students need opportunities for practical skills development where they can apply what they learn in their classes. Many law school clinical programs serve an important function by providing legal services to individuals that are not otherwise available to the indigent population.³⁹⁷ There is also a growing population of near poor that can benefit from post-graduate programs that provide low bono legal services.³⁹⁸ In addition to the examples of incubator and post-graduate programs provided in Part IV, law schools seeking to support lawyer-entrepreneur training should also experiment with fee-generating clinical programs.³⁹⁹ Fee-generating clinical programs better simulate the practice settings of lawyer-entrepreneurs by incorporating client development and fee agreements into the clinical experience.⁴⁰⁰ To minimize costs of new clinical programs while increasing options for students, recent graduates, and legal services consumers, law schools should experiment with offering unbundled legal services through collaborations with legal aid organizations and bar associations.⁴⁰¹ These collaborations expose law students to the needs of legal services consumers and the typical client base and is-

396. In an effort to support students starting their own law firms after graduation, Chapman University School of Law offers free subscription to Solo Practice University. Susan McRae, *Law Schools Are Branching Out*, L.A. DAILY J., May 29, 2012, at 1; see also *About Us*, SOLO PRACTICE UNIVERSITY, <http://solopracticeuniversity.com/about/> (last visited July 2, 2012).

397. See *id.*

398. *Id.*; see also Jason DeParle et al., *Older Suburban and Struggling, 'Near Poor' Startle the Census*, N.Y. TIMES, Nov. 19, 2011, at A1 (reporting 2010 Census figures that report one-third of all Americans are poor or near poor), available at <http://www.nytimes.com/2011/11/19/us/census-measures-those-not-quite-in-poverty-but-struggling.html?pagewanted=all>.

399. Gary Laser, *Significant Curricular Developments: The MacCrate Report and Beyond*, 1 CLINICAL L. REV. 425 (1994); Charn, *supra* note 333, at 100–101. But see Martin Guggenheim, *Fee-Generating Clinics: Can We Bear the Costs?*, 1 CLINICAL L. REV. 677 (1995); see also Lisa G. Lerman, *Fee-for-Service Clinical Teaching: Slipping Toward Commercialism*, 1 CLINICAL L. REV. 685, 709–710 (1995) (warning law schools to carefully consider the possible pedagogical compromises that a fee generating clinical program model may create if such programs are seen as fundraisers).

400. Richard A. Matasar, *A Commercial Manifesto: Entrepreneurs, Academics, and Purity of the Heart and Soul*, 48 FLA. L. REV. 781, 792 (1996).

401. For example, in 2009 Maryland School of Law launched JustAdvice, a program that works pairs students with private lawyers to provide legal consultation and advice for a nominal fee of \$10. Carol Sorgen, *Attorneys, Law Student's Offer 'Just' Advice*, THE BEACON (Dec. 23, 2010), <http://www.thebeaconnewspapers.com/select-stories/careers-volunteers/attorneys-law-students-offer-'just'-advice>; see also *About*, JUSTADVICE, <http://justadvice.wordpress.com/about/> (last visited July 2, 2012).

sues that lawyer-entrepreneurs handle. At the same time, these programs provide additional options for individuals, nonprofits, and small businesses that do not otherwise qualify for free legal services and cannot find a affordable alternative in the market.

E. Keep Costs of Legal Education Down

Law schools cannot properly train lawyer-entrepreneurs without grappling with the impact that the high cost of legal education has on their livelihood. In addition to advising students about how to live frugally to minimize debt burdens, law school personnel must assess how their current expenditures contribute to the rising cost of tuition. Such self-assessment will not be easy or welcomed, but it is necessary and preferable to external prescriptions for change.⁴⁰²

CONCLUSION

I graduated from an elite law school at a time when its graduates had the opportunity to choose which six-figure salary they wanted. Neither its career services personnel nor its public interest advising program encouraged or mentored law students to open their own law firms. My law school offered no law office management courses. Classroom discussions did not acknowledge the role of self-employed lawyers. Although my clinical program taught me good client management, basic office management skills, and incorporated a community lawyer as an instructor, there was little focus on the role of solos in the delivery of legal services. I started my own law practice without much context or the necessary knowledge or skills to develop a viable model.

Without a plan or much mentoring, I eventually built a law practice that allowed me to pay my school loans, cover my living expenses, and meet my professional goals. Having my own practice allowed me to serve the client community that I wanted to serve. The experience offered me consistent lessons in humility and courage. I forged relationships with mentors, attended as many continuing legal education programs as I could afford, and developed a client base through trial and error. Practicing on my own was intellectually and emotionally challenging. It was also frightening and isolating. It does not have to be that way.

Law schools in the twenty-first century have the opportunity and responsibility to equip their graduates with the tools they need to be successful lawyers and entrepreneurs. Law schools can serve an important role not only in educating the emerging lawyer-entrepreneur but also in promoting greater access to justice. The millions of Americans who do not have access to lawyers and the thousands of attorneys who struggle

402. For proposals on how to reducing the cost of legal education, see Brian Tamanaha, Op-Ed, *How to Make Law School Affordable*, N.Y. TIMES, May 31, 2012, at A27, available at <http://www.nytimes.com/2012/06/01/opinion/how-to-make-law-school-affordable.html>.

to establish viable law practices need alternatives to the current disjointed training model in the legal profession.

