

EXPERIMENT ON

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**Millions of Americans Can't
Afford a Lawyer**

***The D.C. Affordable Law Firm
Plans to Change That***

By Anne Cassidy



Experiment on K Street

The apartment was almost uninhabitable. A sewage backup that had caused one tenant to vacate the building was making life miserable for the family that lived upstairs. Water had flooded a common stairwell and a foul odor wafted through the air. The noxious aroma was so pervasive in the family's second bathroom that it had to be closed off completely. For nearly two months the landlord did no maintenance or repair work to remedy the problem.

But this family was lucky. They found a legal services lawyer who helped them learn about their rights under the District of Columbia's housing law and wrote a letter demanding immediate action from the landlord. Within 24 hours, the situation was under control.

Most people aren't so fortunate. According to a report prepared by the D.C. Access to Justice Commission, approximately 100,000 people in the District lack access to legal representation in civil matters. Approximately 97 percent of defendants in landlord-tenant court represent themselves, and more than 98 percent of plaintiffs in both child support and domestic violence cases have no lawyer. Nationwide, the numbers are much the same. Millions of Americans cannot pay for legal services when they need them.

"Just walk into any court in any major city in this country, and what you'll see — particularly in high-volume courts like landlord-tenant court — is that almost no one has a lawyer," says Professor Peter Edelman, who has devoted his career to poverty and access-to-justice issues. "It's a quiet crisis," he says, not only for clients who are eligible for free services but can't find them but also for the "millions more who don't qualify for free services but can't afford a lawyer. It's a huge problem."

But it's a huge problem with a tantalizing new solution. The D.C. Affordable Law Firm, which opened September 1, is a unique partnership between Georgetown Law and two major law firms, DLA Piper and Arent Fox. The new firm consists of six freshly minted Georgetown J.D.s who will receive an LL.M. in advocacy at the end of their 15-month fellowship. Georgetown is paying fellowship stipends to the firm, Arent Fox is donating office space, the DLA Piper Foundation is providing a \$50,000 grant and all three organizations are offering supervision and training.

The firm serves people whose incomes fall between 200 and 400 percent above the poverty line, which translates to between \$23,500 to \$47,000 for an individual and \$48,500 to \$97,000 for a family of four. Clients pay a fraction of what they would at most D.C. firms, where hourly rates average between \$200 and \$300.

The D.C. Affordable Law Firm is a bold and original approach to what has come to be known as "low bono" legal services. Before the firm even opened, it was attracting media attention. *The American Lawyer* calls it a "novel effort to address the civil legal needs of lower-income people." It's a departure from the most common method of providing counsel to those of modest means — an "incubator" practice sponsored by a law school or local bar association.

"To our knowledge this is the first time in the country that there's been this kind of a partnership between a law school and major law firms," Edelman says. "There are many incubators around the country that simultaneously serve people who can't pay the full freight of the market prices and young lawyers who are interested in being solo practitioners ... but there isn't any place that combines what we have combined."

The Story

The idea of low bono representation has long been important to Edelman. "Peter came to me early in my deanship and said this is something that we should be doing," says Dean William M. Treanor. The idea crystallized when Edelman was at a party with Judith Sandalow, a former Prettyman Fellow in Georgetown's Juvenile Justice Clinic and the executive director of the Children's Law Center. "You know, you ought to sponsor a law firm for people who can't get free services but can't afford to pay a lawyer," Edelman recounts Sandalow



MELISSA RYAN DORN

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— Professor Peter Edelman

as saying. As it turned out, Treanor was also at that gathering, so Edelman pulled him into the conversation, too. Treanor asked Edelman to look into the idea further, and Edelman did, soliciting the help of attorney Mark Herzog, with whom he had worked at the D.C. Bar.

Edelman is the chair of the D.C. Access to Justice Commission and a national expert on the justice gap. But even Edelman came to realize that Georgetown Law couldn’t do it alone, that the school would need one or more partners.

Enter Marc Fleischaker, former chairman of Arent Fox. Fleischaker had worked with Edelman on legal aid and other pro bono activities, and he was much in favor of the low bono firm idea. So were others in Arent Fox, and the firm pledged crucial early support. “One of the main things we could provide that would ease the budget of the new law firm would be to give it space,” says Fleischaker. And the 1,200 square-foot office right off the main lobby of Arent Fox’s new K Street building is now the headquarters of the new firm.

The project got another boost when Treanor offered to create six fellowships through a fund for graduates who work at public interest firms and government jobs. The new firm would have six attorneys who would also be earning an LL.M. in advocacy from Georgetown. It would be “a great way for our graduates, already so well prepared for practice, to prepare even better, to take it to the next level,” Treanor says. “They’re getting incredible experience in negotiation, incredible experience in court, the kind of experience nobody can match.”

When Sheldon Krantz joined Georgetown Law’s Center for the Study of the Legal Profession in August of 2014, the project was not quite ready for prime time. Krantz, too, had thought long and deeply about the legal community’s responsibility to those in need. The former dean of the University of San Diego Law School and a retired partner at DLA Piper, Krantz co-teaches (with Adjunct Professor Lisa Dewey) a Law Center practicum on civil access to justice. Treanor asked Krantz if he would work on the new law firm, too. “I learned very quickly that the project would be more likely to succeed if we had another law firm,” says Krantz, and he knew just the one — DLA Piper.

It was after these pillars were in place that Treanor asked Professor and Vice Dean Jane Aiken to shepherd the project through its final, crucial stages — drafting memos of understanding and bylaws and smoothing DCALF’s way through Georgetown University’s legal counsel’s office.

Aiken admits that she was skeptical when she first heard about the project a couple of years earlier. As the associate dean of clinical education and director of the Community Justice Project at the Law Center, she was quite aware of the need for low-cost representation — but she wasn’t sure if this partnership could be pulled off. By the time she became involved, however, she realized that not only was it possible but it was going to happen.



Experiment on K Street



SAM KARP

“We’re going to look at ways to involve non-lawyers because a lot of the problems people have go beyond law. They go into areas like business. They go into social needs that could be fulfilled by social workers ... so we want to work with other professions as well.” — **Adjunct Professor Sheldon Krantz, Managing Partner, DCALF**

“This is a huge thing. It’s the biggest thing I’ve ever been involved in,” Aiken says. “We know there are so many people in this country who need lawyers ... and we have lawyers who need jobs,” she continues. “We just need an economic model that will make it possible for [lawyers] to provide these kinds of services. ... And I think we have found it.”

The Model

The economic model involves three entities sharing startup costs through direct outlays and donated office space and training. Georgetown is sharing its clinical expertise, and “we have a lot of pro bono support from both Arent Fox and DLA Piper lawyers providing training, supervision and mentoring,” says Krantz. Part of that pro bono support is Krantz himself, who is serving without salary as DCALF’s first managing partner. (Next year a member of Arent Fox will take the top spot.)

DCALF charges only what a client can pay, based on a sliding scale and at a fixed rather than an hourly rate. Because DCALF is a nonprofit and has tax-exempt status, fellows can opt for both the Law Center’s Loan Repayment Assistance Program (which provides assistance with monthly low payments in the form of interest-free loans from Georgetown) as well as federal loan forgiveness (which limits repayment on

federally guaranteed loans to 7 to 10 percent of a borrower’s annual income and forgives the balance after 10 years for those in government or nonprofit work).

The new nonprofit firm has also obtained 501(c)(3) status so that it can accept tax-deductible charitable contributions, apply for grants and make use of interns and donations. More to the point, Aiken says, it clarifies DCALF’s commitment.

“When you make a decision to be a charitable nonprofit you make certain principled commitments about who you’re serving and why you’re serving them.”

DCALF was carefully planned with stability in mind. Partners have signed on for three years, guaranteeing a significant outlay of time and services to get the firm up and running. And although the six fellows are earning a small salary they are receiving world-class training and a master of laws degree. “When Georgetown Law made the commitment to make an LL.M. fellowship program out of this, I thought, this is going to make this program unique,” Fleischaker says. “It’s going to attract the best students and give us a credibility we wouldn’t have otherwise. For me, it was an aha moment.” And indeed, graduating students were quick to recognize a good deal. Although the application request went out relatively late in the school year, competition was stiff and the six fellows faced a selective screening process to nab the positions.



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For the first few months DCALF fellows are receiving intensive instruction in advocacy and practice area skills so they'll be ready to represent clients once bar results are available in November. There will be the nuts and bolts of business training as well, so that the fellows can run their own firms some day if they so desire. “They're going to get more training than virtually any law firm would provide,” Krantz says. (For more on the fellows, see page 31.)

Clients will come from referrals — the kind legal aid organizations must turn away because the organizations don't have adequate resources or because client incomes are over the poverty line. Judith Sandalow says that the Children's Law Center “sees people every day we can't serve” and is planning to refer them to DCALF. But the new firm's principals are confident that once the word is out, the work will flow in. Just to be sure, they plan to speak in church basements and community centers, spreading the news that there's a place for people of moderate means to find legal help.

As for practice areas, these were still being fine-tuned as of press time, but housing, family law, elder law, immigration and consumer matters will likely be represented — issues that touch on some of the deepest and most important aspects of human life: where you live, who you live with, the safety and security of your workplace.

“If you're making \$50,000 or \$60,000 a year and you go into the hospital ... that creates more bankruptcies in this country right now than anything,” Fleischaker says. “It's an example of the kind of people who are going to be able to use a law firm like this.”

DCALF also plans to serve small businesses and nonprofits that serve distressed communities. “We want to encourage entrepreneurship that addresses critical needs in these communities. We want to encourage the growth of nonprofits in this city — and legal issues [incorporation and liability insurance, for example] are important for them,” says Fleischaker. “Our goal is to go beyond simply representing individuals and to represent all entrepreneurs and nonprofits that want to grow.”

The Need

A couple of years ago Sheldon Krantz wrote a book called *The Legal Profession: What is Wrong and How to Fix It* (LexisNexis, 2013). “One of the things I pointed out in the book is that there has been an assumption for a long time that the legal profession has had a history of providing service to the underclass or the disadvantaged of society.” In fact, Krantz says, Alexis de Toqueville in his visit to America in 1831 quickly learned that “the legal profession is part of the aristocracy in this country and has really aligned itself with business interests. And although there was a movement during the 1960s and 1970s to encourage lawyers to get more involved with matters other than representing businesses, the movement has not largely been successful. We are ... trying to develop new ground here ... to focus on a portion of the population that the legal profession has ignored almost since its inception.”

There's been a steep price to pay for this orientation. As



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— Marc Fleischaker, former chairman, Arent Fox

detailed in the District of Columbia’s Access to Justice Commission’s 2008 report, “The consequences of unaddressed civil legal problems can be devastating and spill over into other aspects of life.” A person who loses disability benefits may wind up homeless; a woman stuck in an abusive relationship puts both herself and her children at risk. The fact is, clients who lack civil representation simply don’t fare as well as those who do. Fifty-one percent of tenants without lawyers in eviction cases lose their homes, while only 21 percent of tenants with lawyers do.

Everyone involved with DCALF — and many others, too — believe that low bono is an idea whose time has come. “Conversations are flourishing across the country,” says Katie Dilks, assistant director of the Office of Public Interest and Community Service at Georgetown Law. “There are state bars that are starting low bono sections and modest-means referral panels cropping up in state and local bars across the country.”

Before DCALF there were several established methods of delivering legal services to people of modest means, Dilks explains. One is the incubator model, in which schools support recent graduates who are looking to launch their own solo practices. The young lawyers incorporate, pay their malpractice insurance and are very much their own entities, but they have access to a support network to help them get started. The other, a residency model, is to operate a low bono

clinic directly from a law school, providing training and direct supervision. “This looks more like a postgraduate clinic than anything else,” Dilks explains. A third option is the referral panel, often staffed by law students, which puts clients in touch with attorneys who can help them.

Dilks has been part of “Looking Into Low Bono,” a year-long conversation series sponsored by the Washington Council of Lawyers. The series examined incubators, referral panels, technology and models of support. The Council is also considering an “incubator without walls” pilot program that would engage young lawyers with more experienced attorneys within practice areas and build a modest-means referral system, starting with family law. In addition, a consortium is in the works to provide resources and information for lawyers embarking upon low bono work.

“I definitely think that low bono’s time has come,” Krantz says, though he thinks it should be augmented with other changes, such as altering practice rules so that law students can be more actively involved with legal service providers, breaking down barriers to non-lawyers working on related issues or even the so-called “Civil Gideon,” a movement to require lawyers in civil justice cases where basic human needs are at stake.



Tabitha King (L'15)



Chris Griesedieck (L'15)

Experiment on K Street **The Fellows**

3L Tabitha King (L'15) was just finishing up at Georgetown's Center for Applied Legal Studies (CALs) Clinic when a job posting for the DCALF fellowship showed up in her inbox. The fellowship was so precisely what she hoped to do after graduation that "it was like somebody had read my mind," she says.

When she worked at CALs, she and her clinic partner represented a client who was seeking asylum in the United States. King submitted documents, contacted family members, researched the client's native country and — more importantly — worked closely with him for months.

Because our client was detained we had to do interviews with him with a video telephone conference system or drive three hours to the detention center," King explains. Working with her client, giving him that "comforting, direct interaction" had shown King just how much she liked working one-on-one. That and the opportunity to earn an LL.M. in advocacy were the main reasons why she applied for DCALF — and why she's thrilled to be in its inaugural fellowship class.

Though King focused more on human rights and migration issues during law school, she is familiar with many low bono issues and is adamant about their pervasiveness and importance. "I don't know if it would be called the elephant in the room but it's something that is right before your face that you never really think about," she says, describing the plight of people just a paycheck or two from real distress. Helping those with low incomes "is instrumental to the long-term goals of anyone who's focused on social justice issues," she says.

Jessica Berger (L'15) came to Georgetown to do poverty law. She interned at various legal aid organizations throughout her time in law school, including Community Legal Services of Philadelphia and the Legal Aid Society of D.C., and has volunteered to help food stamp recipients, domestic violence survivors, whoever needs assistance. Through the Community Justice Project, a clinic led by Vice Dean Jane Aiken, Berger and her team represented a new nonprofit for formerly incarcerated women re-entering the community.

Berger is acutely aware of the needs of those below the poverty line and emphasizes that those needs have most cer-

tainly not been filled. But that doesn't mean we should ignore the needs of the low bono world. "In the last few years, there has been more attention to this other population that is also lacking access to justice, and perhaps a different model would serve them. ... A whole new way to provide legal representation and increase access to justice is incredibly exciting and important," says Berger, who thinks that DCALF's model can — and should — be replicated.

"This country has been in crisis for a long time for low-income folks and those with limited resources, ..." she says. "So I think that knowing your population and understanding that it's related to the overall goal of achieving access to justice for all people is really important to keep in mind."

When Chris Griesedieck (L'15) saw the e-mail soliciting applications for the DCALF fellowship program, he says he "got pretty excited pretty quickly." It's a topic he had been thinking and writing about as an undergraduate and a law student.

Like all the DCALF fellows, Griesedieck accumulated plenty of clinical experience at Georgetown. He focused on consumer protection and civil rights enforcement during an externship with the Department of Transportation's Office of General Counsel, and he tackled disability justice issues during an internship with Lawyers for the Public Interest, a nonprofit firm in New York. He also worked with the nonprofit Advocates for Justice in Education with the Community Justice Project.

More to the point, Griesedieck wrote an undergraduate thesis on the history of access-to-justice issues in Boston from the 1960s to the 1980s, a period during which the city opened its first wholly state-funded criminal defense system. There was a strong movement to improve access to the civil legal system then, too, he says.

"A lot of very innovative methods were used at the time, including things that really looked like [DCALF]." Short of "completely overturning a whole lot of things in American society that would completely eradicate poverty," Griesedieck thinks DCALF has the best chance of helping the vast un-lawyered middle as anything else he's heard of. And it's an amazing opportunity for a young lawyer, he says. "To me, this is sort of like a dream start."



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The Questions

Why the current interest in low bono? It's hard to ignore the reordered priorities of law firms and law schools in the wake of the recession. "When law firms started to lay people off and there was a crisis in the law school world about how people are going to get jobs, there was some broader discussion in the community about ... how we make sure that folks coming out of law school are employed," says Sandalow, explaining the climate that made it more likely the low bono law firm idea she came up with would flourish. "Georgetown has always through their clinical program been a leader in serving low-income people so it seemed a natural fit to me."

But DCALF must prove that it is financially feasible. "People seek to become lawyers with the expectation that they will have some level of financial success," Dilks says, "and figuring out how to make these practices financially sustainable for the long haul, particularly with student debt as it now stands, is a huge burden."

Nonprofit status and loan-forgiveness programs help, but Krantz is well aware that of all the questions the firm needs to answer, first and foremost is whether it can generate revenue. "We're going to be looking at a number of different models of how to represent people. We're going to look at ways to involve non-lawyers because a lot of the problems people have go beyond law, they go into areas like business, they go into social needs that could be fulfilled by social workers ... so we want to work with other professions as well."

Krantz has also been collaborating with Professor Tanina Rostain, using DCALF as a laboratory to study the economics of small-firm practice supported by sophisticated technological tools. "Legal technologies are making practice more efficient, and creating good self-help tools is part of access to justice," says Rostain, who teaches the experiential class Technology, Innovation and Legal Practice. "I've been working with Sheldon to help him figure out what tools will be useful." Rostain and Krantz are investigating what types of cases, fee arrangements, digital technologies and referral networks can yield a sustainable delivery model.

Another question — even a concern — is to make sure that DCALF's low bono work doesn't detract from what's already being done by nonprofits and solo practitioners. "We don't think this is going to be a problem," Fleischaker says. "We've seen this need go unanswered for so long." Adds Benjamin Boyd, co-managing partner of DLA Piper's Washington, D.C., office and a DCALF board member, "In our complex

legal system, a lawyer's assistance can make an enormous difference, but a substantial percentage of the population neither qualifies for free representation nor can afford a lawyer. This gap in access to justice is wide and DCALF will work to fill that void."

Low bono is a response to legal services priced above the reach of many. Will there be a time when firms like DCALF are no longer necessary because the cost of services is more in line with what most people can pay? "I'm sorry to say I don't think the need for this is going to go away," Edelman says. "In a way it goes along with the inequality in our country."

The Future

Which makes this experiment on K Street all the more crucial. "We're proud of the support this organization is providing, we're proud of the work it's doing, but we're just as proud of an initiative that we think will be a model and will transform legal practice in this country," says Treanor.

It's no coincidence that Treanor and others talk about DCALF as if it's serving the nation and not just the District. Though the firm's first and most important goal is to help the moderate-income residents of D.C., it's hoping to become a national model. "We want to be able to show — and we're going to have social scientists' research from the very beginning to demonstrate — that the kind of model we've created should be replicated throughout the country," Krantz says.

Although the District is known for its thriving pro bono community — which other parts of the country may find harder to duplicate — what DCALF is after is no less than creating another culture, another set of expectations.

"If we're successful and other firms like ours are successful we're going to create a group of lawyers who will know how to make a good living, a successful living, charging \$100 an hour rather than \$800 an hour ... representing people at mid-level incomes rather than just corporations or wealthy individuals," says Fleischaker. "There's a huge market out there ... [and] we're willing to talk to and share information with anyone who's interested in moving into this space."

It's a space that's bursting with innovation, energy — and need. It's a space that desperately needs to be filled. And it's a space into which DCALF is bravely venturing.

To view a video of DCALF, visit video.law.georgetown.edu.



Talos Law Staff



Niloufar Khonsari (L'09)

Experiment on K Street **The Trailblazers**

Some Georgetown Law alumni have found their own unique paths into a low bono practice. Daniel Hornal (L'11) started Talos Law with the goal of "staying sustainable and growing a practice while providing the services that D.C. really needs."

Talos takes on tenants' rights, consumer and civil rights cases. Much of it is contingency, fee-shifting work. Clients pay full price, a small fee or nothing at all.

"We have a sliding scale for everybody, depending on income level and needs," says Hornal, who's seemingly a one-man alumni hiring machine. On his staff are Kelsey Phipps (L'11), Dan Snow (L'12), Seung-Ho Jung (L'13) and Andrew Schweitzer (L'16) — and this does not include summer interns brought on board through grants from Equal Justice Works.

Niloufar Khonsari (L'09) decided to open her own immigration practice after the Bay Area nonprofit where she had been working closed its doors. She did an informal survey of senior immigration practitioners and grassroots advocacy groups, and learned that there was a huge need for deportation defense attorneys. No one was hiring but one organization offered her a desk.

With her overhead at least temporarily guaranteed, Khonsari started her own nonprofit low bono firm, Pangea Legal Services. Pangea was "earth's original continent, when it was one connected land mass, and it symbolizes the unity and the oneness of the people we represent." Khonsari had gained invaluable deportation defense experience through her work with the CALS Clinic. "I kept going back to my CALS materials because of their quality and depth in addressing all issues."

Khonsari charges her clients small fees of \$100 to \$500 a month. It was difficult at first to ask for anything at all, she says. "But now I realize the importance and the value of asking for fees." Many clients are able to afford low fees, she says, and the income enabled her to grow her practice, which means she can help that many more people in the low-to-moderate-income scale.

In two years Pangea grew from one full-time and one part-time employee to five full-time employees, one of them Georgetown Law alumna Bianca Santos (L'10). In 2014 Pangea represented 290 clients, and won all 30 of its asylum cases. "That was pretty fulfilling," Khonsari says. In addition to direct representation, Pangea also does community education and policy advocacy work. Because Pangea is incorporated as a nonprofit, it has been able to apply for and receive foundation grants. And Khonsari can take advantage of Georgetown's Loan Repayment Assistance Program and the federal loan forgiveness program, which are, she says, "like a second salary." Khonsari has heard about DCALF. "It's such an empowering experience, empowering both for the new advocates and for the community that will have services without being on a wait list. ... I'm really excited about it."

The staff of Talos Law includes (first row) Jordan Liew (L'16), Melissa Doura (L'17); (second row) Daniel Hornal (L'11), Daniel Snow (L'12), Evan D'Aversa, Kelsey Phipps (L'11); (third row) Andrew Schweitzer (L'16), Seung-Ho Jung (L'13), Emmanuel Tedder, Samantha Godwin (L'12). Not Pictured: Ephraim "Eph" Unell (L'13).

Stop Thinking and Start Doing: Three-Year Accelerator-to-Practice Program as a Market-Based Solution for Legal Education

Jeffrey J. Pokorak
Ilene Seidman
Gerald M. Slater*

I really wanted to do a clinic for several reasons. Probably the biggest influential factor is this nightmare I have that I'll show up at my first job out of law school and some partner who for years has been fiendishly waiting for the very moment that he has an underling will hurriedly say "OK, do X, Y and Z" and that I won't know what he's talking about and will have to respond, "Are you sure you don't have a fact pattern about some faulty carpeting and a disclaimer of warranty mixed with some sort of regulatory takings 'cause that's all I really learned how to do in law school."

And of course he'll laugh for a long time, pause and say "You're fired."

—Student Journal (2010)

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I. INTRODUCTION

Law school applications are the lowest they've been in thirty years. Law school enrollment is down significantly from last year, and analysts see the trend continuing for the 2014–2015 academic year.¹ The lack of current job opportunities and the potential for massive student loan payments has scared away prospective students from entering the legal profession.² Commentators continue to suggest that obtaining a legal education might no longer be worth the investment.³ This Essay disagrees. Too many people suffer unnecessary harms due to a lack of affordable legal services. Continued progress in achieving necessary access to legal assistance relies on a constant influx of new, talented, and energetic lawyers.⁴ Providing the best training possible to each new generation of lawyers is essential for the continued development of individual liberties and the equitable treatment of all in our society.

Many thinkers throughout legal academia are responding to these concerns by carefully considering what steps will actually help students, institutions, and the overall system of justice. Too many respond to current concerns about legal education with what we believe is the primary fallacy of legal educators today: namely, that the mission of law schools is to prepare students to think like lawyers. This Essay argues that the central function of law school is to prepare students to be lawyers, and to do what lawyers do. Although these two aims might seem similar, they are actually representative of the wide gulf between two distinct concepts: that of

1. Catherine Ho, *Law School Applications Continue To Slide*, WASH. POST, June 2, 2013, available at http://articles.washingtonpost.com/2013-06-02/business/39697850_1_american-bar-association-accredited-law-school-legal-job-market.

2. *Id.*

3. *E.g.*, David Segal, *Is Law School a Losing Game?*, N.Y. TIMES, Jan. 8, 2011, available at <http://www.nytimes.com/2011/01/09/business/09law.html?pagewanted=all>.

4. *See, e.g.*, Equal Justice Works, *New Report Suggests Ways to Fix Legal Education*, U.S. NEWS & WORLD REP. (Apr. 24, 2013), <http://www.usnews.com/education/blogs/student-loan-ranger/2013/04/24/new-report-suggests-ways-to-fix-legal-education> (citing the lack of affordable legal services for the underprivileged as integral to legal education reform). *See also* Deanell Reece Tacha, *No Law Student Left Behind*, 24 STAN. L. & POL'Y REV. 353, 372–73 (2013). “When we find these new models for connecting new lawyers with the pressing legal needs of so many Americans, we will have risen to the high calling of our profession.” *Id.* at 373.

law school as a liberal arts education in law and that of law school as a professional education for lawyers. These goals are not mutually exclusive, but the former concept has dominated legal study development.⁵ Decisions regarding curriculum, faculty appointments, standards for promotion and tenure, and pay incentives have solidified legal academia's preference for the theoretical over the experiential approach to learning.⁶

This preference for treating law school education as merely an endeavor in teaching students to think like lawyers is the root cause of the current dysfunction in legal education, which has come into stark focus as a result of the current recession and severe dip in entry-level legal hiring.⁷ The legal academy's move away from instruction on the practice of law, combined with serious disruptions in the legal marketplace and the chronic lack of funding for provision of legal services for middle-income people and the indigent population, has produced both a "practice gap" and a "justice gap." The practice gap

5. *E.g.*, Genevieve Blake Tung, *Academic Law Libraries and the Crisis in Legal Education*, 105 LAW LIBR. J. 275, 284 n.62 (2013) (citing *Abolish the Third Year of Law School?*, LEGALAFFAIRS.ORG, http://www.legalaffairs.org/webexclusive/debateclub_2yr0905.msp (last visited Sept. 17, 2013) (debating the reform and/or abolition of the third year of law school). In the debate, Daniel Solove, Associate Professor of Law at the George Washington University School of Law, proffered:

When we train lawyers, we're training people who will be shaping our society, and I think it is imperative that their legal education be a robust extension of a liberal arts education, not simply a trade school education. That's because I believe that law is more than a trade; it is more than simply representing clients; it is more than just another kind of business.

Id. Contra Deanell Reece Tacha, *supra* note 4, at 364. Deanell Reece Tacha, Dean and Professor of Law at Pepperdine University School of Law, notes the opposite perspective: "[L]egal education is not liberal arts education. It is, after all, education for a particular profession. The question . . . is how much specialization can we afford to offer after we provide robust offerings in the basic skills and information of a legal education . . . in . . . the first-year curriculum." *Id.*

6. *E.g.*, Deanell Reece Tacha, *supra* note 4, at 374–77 (concluding various points about the crisis in modern legal education). "Opportunities to learn all of the skills that make lawyers effective—counseling, advising, negotiating, drafting, problem-solving, advocating, and seeking effective and reasonable remedies—are at the heart of the call for experiential learning. In order to provide these opportunities for students, the entire profession must step up to help." *Id.* at 376.

7. *Id.* (arguing that the legal world must "reconnect the disconnect within the legal profession"). "In various ways . . . we have created our own problems. Curricula have failed to take into account the profound changes in the legal market." *Id.*

is the distance between the skills and knowledge students need to competently practice law and the abilities they actually possess at graduation. The justice gap is the vast chasm between the legal needs of people and the availability of competent (and compensated) lawyers to represent them. A third gap—the “market gap”—exists between the legal academy and the legal profession, and has widened considerably in modern times. This market gap is where law schools currently exist: outside of and independent from the economics of the profession, with law professors who are not, as a rule, engaged in the practice of law. These gaps, we argue, have resulted in the separation of legal education from legal practice, from the realities of the justice system, and from the business demands and economic reality of modern law practice.

One lauded response to the crisis in legal education has been the development of law school incubator programs designed to offer students a post-graduate experience in the actual practice of law under the supervision of law school employees.⁸ In our view, this development is both flawed and ironic. Recent graduates are already deeply in debt after three years of legal education, and incubator programs potentially add another year of delay before actual practice.⁹ At the same time, the creation of incubators acknowledges the failure of law schools to meet their implied promise as educators to train students to be capable lawyers upon graduation, during the period they are paying law schools to do so. *Educating Lawyers: Preparation for the Profession of Law*, the influential study produced by the Carnegie Foundation for the Advancement of Teaching (the “Carnegie Report”) on legal education, presented legal educators

8. See generally *Incubator for Justice*, CUNY SCH. L., <http://www.law.cuny.edu/clrn/incubator.html> (last visited Sept. 16, 2013) (describing the Incubator for Justice program at CUNY—the United States’ first law school incubator program). “[The Incubator for Justice program’s] main goal is to produce successful, public service oriented solo or small firm practitioners and/or non-profit organizations that will leave the program after 18 months with a financially viable, community-based, legal practice or non-profit organization.” *Id.*

9. See, e.g., *Solo and Small Practice Incubator*, CHI-KENT C. L., <http://www.kentlaw.iit.edu/alumni/solo-and-small-practice-incubator> (last visited Sept. 16, 2013) (outlining the one-year Solo & Small Practice Incubator program for IIT Chicago-Kent graduates); *The Center for Solo Practitioners*, THOMAS JEFFERSON SCH. L., <http://www.tjssl.edu/tjssl-alumni/incubator-program> (last visited Sept. 16, 2013) (describing the twelve- to eighteen-month incubator program at the Thomas Jefferson School of Law).

with the opportunity to rethink what it means to “think like a lawyer.”¹⁰ The purpose of this Essay is to move that conversation forward.

We intend to introduce a new model of legal education that accelerates a student’s progression from novice to able practitioner within the three years the student attends law school. To do so, we propose expanding the traditional law school curriculum to include required instruction in twenty-first century business competencies beginning in the first year, as well as imbedding a for-profit law practice model within the law school as part of an expanded experiential program. Initially, the program would be comprised of twenty students who apply directly. The purpose of the program would be to prepare these students to join or start sustainable small practices serving average-income individuals and families. We expect and intend that this model would expand to other practice areas and settings. For example, we envision an accelerator to corporate practice that would include successive training at large multi-practice firms and their client corporations, and another for legal technology that would include successive training at a wide range of emerging legal providers utilizing technology to streamline the delivery of legal services. We believe the accelerator model will ultimately serve as a basis for the redesign of modern legal education.

II. THE PROBLEM

A. *The Evolution of the Market Gap*

Legal education in the United States began as an extension of practice. Lawyers in the colonies were educated much as they were in Britain at the time—by “reading the law.”¹¹ This entailed the painstaking study of texts and treatises, such as Coke¹² and

10. WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUC. LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 5 (2007), available at www.fyerson.ca/law/EducatingLawyersSummary.pdf [hereinafter CARNEGIE REPORT].

11. See A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 1961–63 (2012) (describing the legal education practices of pre-Revolutionary lawyers in America).

12. E.g., SIR EDWARD COKE, *THE FIRST PART OF THE INSTITUTES OF THE LAWES OF ENGLAND* (Garland Publishing 1979) (1628) (a reprint of the first of Coke’s four-part series of

Blackstone,¹³ under the watchful eye of a practicing attorney. This type of legal apprenticeship was a classic guild relationship—the master (lawyer) supervised and taught the apprentice (intern) while the latter worked in the master’s law practice as a clerk or copyist for the practicing attorney.¹⁴ The apprentice also learned local legal rules, customs, personalities, and politics, while bound to the lawyer/master.¹⁵ The successful apprentice was subsequently sponsored by his master for introduction into the guild (the bar).¹⁶ Although oral testing was required for admission from place to place, the sanction of the apprentice by the sponsoring attorney was primarily the most important factor for gaining admission to the bar, because the endorsement implied knowledge, skills, and good character.¹⁷ The quality of a newly-admitted lawyer’s skill and moral character reflected on his sponsor, as well as the members of the bar and the judiciary that allowed his induction. This implicated all the parties involved in a relationship that self-policed good behavior and

legal treatises).

13. E.g., WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND (Univ. of Chicago Press 1979) (a reprint of part one of Blackstone’s treatise on the common law).

14. Mark L. Jones, *Fundamental Dimension of Law and Legal Education: An Historical Framework—A History of U.S. Legal Education Phase I: From the Founding of the Republic Until the 1860s*, 39 J. MARSHALL L. REV. 1041, 1180 (2006). “The experienced attorney received cheap labor in exchange for the use of his library, but provided the apprentice with very little in the way of actual legal training . . . Many apprentices spent their time tediously copying documents for their masters, not studying legal tenets.” Robert MacCrate et al., *Legal Education and Professional Development—An Educational Continuum*, 1992 A.B.A. SEC. LEGAL EDUC. ADMISSIONS B. 104, available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2013_legal_education_and_professional_development_mac_crate_report%29.authcheckdam.pdf [hereinafter MACCRATE REPORT].

15. Spencer, *supra* note 11, at 1963–64 (citing Roscoe Pound, *The Law School and the Professional Tradition*, 24 MICH. L. REV. 156, 160 (1925)). “By daily contact [the apprentice] absorbed from [the lawyers] certain traditions, certain ideals of the things that are done and are not done by good lawyers, and a certain feeling as to what was incumbent on him as a member of the profession. We cannot transmit these things with like efficacy by any system of formal instruction.” Pound, *supra*, at 160.

16. See Michael L. Rustad & Thomas H. Koenig, *A Hard Day’s Night: Hierarchy, History & Happiness in Legal Education*, 58 SYRACUSE L. REV. 261, 268 (2008) (explaining “many of America’s greatest lawyers trained as apprentices under the sponsorship of established . . . lawyers”).

17. See ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S 3 (1983) (noting the uniform prominence of apprenticeships by 1783); MACCRATE REPORT, *supra* note 14, at 103 (indicating by late colonial times, apprenticeships were essentially mandatory in urban areas).

ethical conduct. Thus, the apprenticeship functioned as a place to learn the law, learn the practice of law, and develop a communal sense of professional autonomy. The apprentice system was also necessary to the marketplace, providing both a cost-easing system which increased access to the services of attorneys and a continuing source of aspirants trained and acculturated in the profession.¹⁸

As the amount and complexity of law specific to the newly independent nation and states increased in the post-revolutionary period, some colleges added faculty members and chairs in the study of law.¹⁹ However, these positions largely existed not to train lawyers but as an aspect of a broad liberal arts education for gentlemen.²⁰ At the same time, legal lecturers began to offer to both practicing and aspiring lawyers in larger communities various knowledge-based legal learning programs for pay.²¹

The first law school formulated for the specific purpose of legal education in the new nation was the Litchfield Law School in Connecticut.²² Founded in 1784, the school was established as a remedy to the unequal ratio of men seeking apprenticeships in the law to the number of practicing lawyers in the post-revolutionary period.²³ Its founder, Tapping Reeve, started training those interested

18. See Mark C. Suchman, *Working Without a Net: The Sociology of Legal Ethics in Corporate Litigation*, 67 *FORDHAM L. REV.* 837, 870 n.55 (1998) (citing multiple benefits of apprenticeships during the “good old days”).

19. ALBERT J. HARNO, *LEGAL EDUC. IN THE U.S.: A REPORT PREPARED FOR THE SURVEY OF THE LEGAL PROFESSION 19–28* (2004).

20. *Id.* at 27. “The significance of these courses was that they were conceived to lay a broad foundation for the further education of prospective lawyers, and as such they were conceived to be an integral part of a program of legal education.” *Id.* (citation omitted).

21. See STEVENS, *supra* note 17, at 3–4 (describing the transition from formalized apprenticeship to private law schools). “[Law schools] were generally outgrowths of the law offices of practitioners who had shown themselves to be particularly skilled, or popular, as teachers.” *Id.* See also *infra* notes 22–28 (detailing the Litchfield Law School).

22. Ronald J. Scalise, Jr., *Legal Education in the 21st Century: Looking Backwards to the Future*, 60-AUG *FED. LAW.* 38, 38 (2013).

23. See Andrew M. Siegel, “*To Learn and Make Respectable Hereafter*”: *The Litchfield Law School in Cultural Context*, 73 *N.Y.U. L. REV.* 1978, 1979 (1998) (describing the origins of Litchfield Law School). “The Litchfield Law School grew out of the colonial tradition of reading law in the offices of a private practitioner, [here] Judge Reeve. Rapidly, however, Reeve’s teaching responsibilities overwhelmed his private practice. By the early nineteenth century, he was educating as many as fifty students at a time.” *Id.*; see also *id.* at 1981 (outlining in brief the political and social circumstances surrounding Litchfield’s establishment).

in the law under the traditional apprenticeship method.²⁴ As the number of individuals seeking an internship in his practice increased, Reeve constructed a building where he could conduct formal exercises in reading the law with those clerking for his practice.²⁵ His program of study was soon organized into a series of lectures that took just over a year to complete.²⁶ This formalized study was not removed from but complementary to the practice component, as no degree was offered.²⁷ Rather, a letter of attendance and completion was issued that could be used to attest to the aspiring attorney having read the law.²⁸

In many ways, Tapping Reeve put legal educators on the path to the current crisis. Litchfield inadvertently created divisions that haunt legal education today: the separation of the study of doctrinal law from the professional and vocational aspect of education, the development of general undergraduate education apart from legal study, and the division of the educator of legal principles from the educator of legal practice and professional norms.²⁹

Universities recognized the value and student-revenue potential of creating separate legal institutions and jumped into the game, offering degrees in law in the mid-nineteenth century. However, the law school professional education model was only one avenue for an aspiring lawyer to read the law and gain the requisite knowledge base. The bar still required apprenticeship for admission, to ensure the also necessary professional acculturation.³⁰ The growth of automated publishing in the country streamlined the course of study from a lecture-based knowledge transfer system to a text-reading and recitation course. This later evolved into the modern case book

24. Thomas Rogers Hunter, *Litchfield on the Savannah: William Tracy and the Deep South's First Law School*, 19 J. S. LEGAL HIST. 177, 178 (2011).

25. *Id.* at 178–79.

26. Scalise, Jr., *supra* note 22, at 38.

27. Hunter, *supra* note 24, at 181.

28. *Id.*

29. Siegel, *supra* note 23, at 2022–23.

30. See FREDERICK JAMES ALLEN, *THE LAW AS A VOCATION* 25–26 (Harvard Univ. Press 1919) (highlighting legal practice theory). There is an interesting moment in legal practice history inspired by the Jacksonian Democracy Movement in the mid-nineteenth century. In some areas, the idea took hold that advocates/lawyers should comprise a profession of justice whose practitioners came from the common people rather than the elite and educated.

method of teaching, where treatises were substituted with cases as the primary source of knowledge content.³¹

During the same period, the examination of law school candidates moved from the oversight of local judges to statewide examination boards of bar examiners to increase standardization.³² At the close of the nineteenth century, statewide written exams began to replace bar examiner oral questioning.³³ Massachusetts, perhaps supporting the business model of Harvard Law School, created the first written bar exam in 1885.³⁴ Many states soon followed, preferring the standardization of institutional knowledge over local knowledge.³⁵ Though this further separated knowledge from practice, apprenticeship was still required, with co-practice or clerking remaining a critical aspect of legal practice preparation. Whether working before, during, or after law school, few graduates entered the legal profession without identifiable practice experiences.³⁶

The period between the start of the twentieth century and World War II can be thought of as “the age of the bar exam.” In 1878, seven years before Massachusetts’ introduction of a written standard bar exam, “seventy five lawyers from twenty states and the District of Columbia met in Saratoga Springs, New York, to establish the American Bar Association” (ABA).³⁷ The ABA’s stated purpose was “to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold

31. Steve Sheppard, *Casebooks, Commentaries, and Curmudgeons: An Introductory History of Law in the Lecture Hall*, 82 IOWA L. REV. 547, 592–93 (1997).

32. Daniel R. Hansen, Note, *Do We Need the Bar Examination?: A Critical Evaluation of the Justifications for the Bar Examination and Proposed Alternatives*, 45 CASE W. RES. L. REV. 1191, 1197–1202 (1995). See also Susan K. Boyd, *The A.B.A.’s First Section: Assuring a Qualified Bar*, 1993 SEC. LEGAL EDUC. ADMISSIONS B. 38 (citing the first statewide bar examination committee in 1890 in New Hampshire).

33. Hansen, *supra* note 32, at 1200. “The ancestor to the modern written bar examination developed between 1870 and 1890 and gained substantial ground and acceptance in the 1890s. By the 1920s, there was a written bar examination in most states.” *Id.* (citations omitted).

34. Robert M. Jarvis, *An Anecdotal History of the Bar Exam*, 9 GEO. J. LEGAL ETHICS 359, 374 (1996).

35. *Id.* (identifying New York, Idaho, and Nevada as states experimenting with written examinations shortly after Massachusetts).

36. Hansen, *supra* note 32, at 1198 (citation omitted) (noting that when the nineteenth century began, most attorneys still entered practice via apprenticeships).

37. *History of the American Bar Association*, A.B.A., http://www.americanbar.org/utility/about_the_aba/history.html (last visited July 1, 2013).

the honor of the profession of the law, and encourage cordial intercourse among members of the American Bar.”³⁸ Although that initial mission did not include the regulation of legal education, the ABA quickly established itself as an authority in the area.

In 1893, the ABA formed its first section: Legal Education and Admissions to the Bar (“First Section”).³⁹ The First Section was created through collaboration between law schools and prominent members of the bar.⁴⁰ The goal of the First Section was to ensure the quality and continuity of legal instruction as fitting for the practice of law.⁴¹ In 1900, the First Section acted as the impetus for the creation of the American Association of Law Schools (AALS).⁴² Until 1912, the two organizations were so intertwined that their national meetings were held together.⁴³ The initial work of the AALS consisted of examining the law school curriculum and the required credentials of law teachers to ensure graduates were fit to practice.⁴⁴ Meanwhile, the First Section focused its efforts on the implementation of statewide standardized written bar exams, and then worked to ensure the quality and content of those gatekeeping tests.⁴⁵ This continuing effort resulted in the creation of a committee to consider the best

38. *A.B.A. Timeline*, A.B.A., http://www.americanbar.org/utility/about_the_aba/timeline.html (slide the date bar to the left and select “FIRSTS: American Bar Association Forms”) (last visited July 2, 2013) (quoting A.B.A. Const. of 1878, art. I).

39. Boyd, *supra* note 32, at 11. “The door of admission to the bar must swing on reluctant hinges.” *Id.* (internal quotation marks omitted).

40. See *What is the AALS?*, ASS’N AM. L. SCHS., <http://www.aals.org/about.php> (last visited Sept. 17, 2013) (citing the thirty-two law school charter members that encompassed 50 percent of the United States’ then-law students).

41. James P. White, *History of the Administration of the American Law School Administration Process*, 51 J. LEGAL EDUC. 438, 439 (2001).

42. THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES: COMMENTARIES AND PRIMARY SOURCES 1170 (Steve Sheppard ed., 2007). The AALS was established with the specific goal of improvement of American legal education, particularly in law schools. Boyd, *supra* note 32, at 15.

43. See Boyd, *supra* note 32, at 15 (noting it was not until “years later” that the AALS and ABA met separately).

44. See THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES, *supra* note 42, at 1170 (identifying substantive law and teaching developments as central components of the AALS’ early annual meetings).

45. White, *supra* note 41, at 440. In 1921, the First Section (the Section of Legal Education and Admissions to the Bar) adopted resolutions that were integral to the approval process and remain so to this day. *Id.*

practices of bar exam administration for bar examiners.⁴⁶ In 1931, the National Conference of Bar Examiners was established.⁴⁷

A valid knowledge- and skills-based competency exam as a prerequisite to bar admission is not to be considered an unalloyed evil. Indeed, such an exam is a reasonable baseline for judging applicant competencies. However, the righteous efforts to rationalize and standardize entry qualifications through statewide written bar examinations seem to be the critical surgical “snip,” severing legal education from legal practice. At the point that the written exam became the norm rather than the exception, legal education became a necessity to pass a test rather than a holistic introduction to the knowledge, skills, and norms of the profession.

In the post-World War II period, the relationship between legal practice and the institutions of legal education had steadily deteriorated.⁴⁸ The era began with the deep involvement of legal scholars in the Allied-led prosecution at the Nuremberg trials,⁴⁹ the creation of human rights standards at the United Nations,⁵⁰ and statutory unification efforts.⁵¹ In this last category, one can include the scholar-led achievements of the Uniform Commercial Code, the

46. Boyd, *supra* note 32, at 37.

47. *Id.* “The NCBE was founded, according to its first statement of policy, to increase the efficiency of the state boards of admission to the bar. The Conference also was to cooperate with other branches of the bar in dealing with the problems of legal education.” *Id.*

48. See Robert MacCrate, *Keynote Address—The 21st Century Lawyer: Is there a Gap to be Narrowed?*, 69 WASH. L. REV. 517, 519–21 (1994) (discussing legal education at a glance before, during, and post-World War II). See generally STEVENS, *supra* note 17, at 205–31 (discussing the legal education movement after 1945).

49. For example, Harvard Law School graduate Drexel A. Sprecher was one of several American lawyers to present cases for the prosecution at the Nuremberg trials. Douglas Martin, *Drexel A. Sprecher, 92, U.S. Prosecutor at Nuremberg, Dies*, N.Y. TIMES, May 8, 2006, available at http://www.nytimes.com/2006/05/08/us/08sprecher.html?_r=0. In addition to prosecuting attorneys, the United States, along with the other three Allied member countries, provided one judge and one alternate judge to sit on the International Military Tribunal. *The Nuremberg Trials: People & Events*, PBS.ORG, http://www.pbs.org/wgbh/amex/nuremberg/peopleevents/p_judges.html (last visited Sept. 17, 2013).

50. See generally, e.g., THE HUMAN RIGHTS REVOLUTION: AN INTERNATIONAL HISTORY (Akira Iriye et al. eds., 2012).

51. See, e.g., Robert Braucher, *The Legislative History of the Uniform Commercial Code*, 58 COLUM. L. REV. 798 (1958) (detailing the history of the UCC project); Paul H. Robinson & Markus D. Dubber, *The American Model Penal Code: A Brief Overview*, 10 NEW CRIM. L. REV. 319 (2007) (presenting the history and influence of the Model Penal Code).

Model Penal Code,⁵² and the vast majority of the legal underpinnings of the post-war administrative state.⁵³ During this time, courts routinely cited law faculty publications as relevant sources when deciding important cases.⁵⁴

The decline of law school/law practice interdependence has brought legal education to this present moment of seeming irrelevance: courts rarely turn to scholarship for guidance, recriminations from the profession abound regarding the lack of basic skills and capabilities of law school graduates, and law schools are questioning their own importance to the profession.⁵⁵ An additional paradoxical effort in legal education has further widened the divide between the academy and the practice. Elite institutions have purposefully identified themselves as existing outside the profession by increasingly employing non-practitioners and J.D./PhDs, solidifying the non-practice-based aspect of legal education. At the same time, non-elite schools have doubled down on their bar preparation curriculum. Both of these undertakings have led to the same result: many law schools have eliminated the practice of law from their collective missions.⁵⁶ Apprenticeship and learning the norms of practice are considered by most “think like a lawyer” institutions to be the responsibility of the post-graduate practice community. At the same time, the practice community has lost its ability to fulfill that function and sees law school as little more than a very expensive right-of-passage to the actual practice of law.⁵⁷

52. See generally Markus Dirk Dubber, *Penal Panopticon: The Idea Of A Modern Model Penal Code*, 4 BUFF. CRIM. L. REV. 53 (2000).

53. See generally Allen R. Kamp, *Downtown Code: A History of the Uniform Commercial Code 1949–1954*, 49 BUFF. L. REV. 359 (2001).

54. Laurence H. Tribe, *Death By A Thousand Cuts: Constitutional Wrongs Without Remedies After Wilkie v. Robbins*, 2007 CATO SUP. CT. REV. 23, (2006–2007).

55. David Hricik & Victoria S. Salzman, *Why There Should Be Fewer Articles Like This One: Law Professors Should Write More for Decision-Makers and Less for Themselves*, 38 SUFFOLK U. L. REV. 761, 778 (2005) (noting an “already apparent” “trend” that law review articles are viewed as “not merely unhelpful but useless to the bench and bar”) (internal quotation marks omitted).

56. Peter Toll Hoffman, *Law Schools and the Changing Face Of Practice*, 56 N.Y.L. SCH. L. REV. 203, 205 (2012) (explaining that “law schools continue to be a ‘step behind’ in preparing students for the practice of law”).

57. Mimi E. Tsankov & Jessica L. Grimes, *A New Take On The Top Ten Rules For Court And Professional Life*, 89 DENV. U. L. REV. 369, 379 (2012).

Although important gains have been made since the 1980s in the addition of and increasing institutional welcome for teachers of skills and legal practice—including those teaching clinics, externships, legal writing, transactional skills, lawyering skills, and simulation courses—at most institutions, these offerings are still considered noble electives rather than a central aspect of legal learning. Work experience programs continue to exist mostly apart from doctrinal-pedagogical instruction.⁵⁸ Although extremely valuable to legal preparation, these experiential courses too often stand apart from any overall coherent course of study.

Additionally, as unique opportunities not fully integrated into legal education, many experiential courses, and clinics in particular, have taken on the characteristics of dominant doctrinal course offerings in two particular ways. First, by design and by theory, they are not adequately linked to the current legal marketplace.⁵⁹ Clinics purposefully do not compete with the for-profit bar.⁶⁰ Second, clinics, generally under-resourced in the academy, often are available in rare or rationed opportunities, and prove inadequate to fulfill the necessary apprenticeship function for new lawyers.⁶¹ Therefore, like popular doctrinal electives, clinics at most schools are not considered a core aspect of the curriculum.⁶² In short, even with increased experiential offerings, law schools can still only prepare students to think, not to do, therefore perpetuating the gap between graduates' abilities and market demands.

As such, the law graduates of our institutions are primarily prepared only to engage in a necessary apprenticeship of legal practice. Although these apprenticeships have been a critical aspect

58. Gregory Germain, *From Classroom To Courtroom: A Doctrinal Teacher Supervises Pro Bono Bankruptcy Cases*, 62 J. LEGAL EDUC. 612, 619 (2013).

59. Charles E. Rounds, *Are In-House Law School Clinics Useful? No*, NAT'L ASS'N SCHOLARS (June 20, 2011), http://www.nas.org/articles/Are_In-House_Law_School_Clinics_Useful_No.

60. Susan R. Jones, *Promoting Social and Economic Justice through Interdisciplinary Work In Transactional Law*, 14 WASH. U. J.L. & POL'Y 249, 258 (2004).

61. See Peter A. Joy, *The Cost of Clinical Education*, 32 B.C. J.L. & SOC. JUST. 309, 309–10 (2012).

62. We do not want to minimize the effect that clinical education integration has had on the academy. As more clinical professors proved to be excellent teachers, scholars, and effective faculty actors for the institution, the communal judgment of the value of clinical faculty member's individual efforts has led to an increased belief in the worth of the pedagogy.

of preparation for practice since the beginning of the nation, over the last decade, the availability of adequate post-graduate apprenticeship opportunities has been disrupted by the collapse of the partner-associate paradigm, the financial crisis, state and federal agency budget cuts, new technologies, new law practice models including outsourcing, and client demands to reduce costs.⁶³ The marketplace can no longer support the apprenticeship function so necessary to the bar.

B. *The Practice Gap*

The *MacCrate Report* on legal education and professional development,⁶⁴ the *Carnegie Report*, and the *Best Practices for Legal Education* project⁶⁵ have all contributed greatly to understanding the successes and failures of the legal education enterprise. These publications have spurred a period of self-reflection, occasional self-flagellation, and many desperately needed changes in legal education.⁶⁶ Among its many important findings, the *Carnegie Report* notes that the “dramatic results” of the first year of legal education in teaching new skills of legal analysis is not matched by strong coherent elements in the upper level curricula.⁶⁷ The *Report* faults the legal academy for failing to require an integrated approach to the entire law school curriculum.⁶⁸ It also pointedly finds fault with a style of education that “prolongs and reinforces the habits of thinking like a student rather than an apprentice practitioner,” as well

63. William D. Henderson & Rachel M. Zahorsky, *Paradigm Shift*, A.B.A. J. (July 2011), available at http://abajournal.com/magazine/article/paradigm_shift/ (noting that the financial crisis that began in late 2007 was “a game-changer, prompting drastic measures as firms laid off thousands of associates, de-equitized partners, and slashed budgets and new hires,” but asserting that law firm employment was in trouble before the recession hit).

64. MACCRATE REPORT, *supra* note 14. In its introductory comments, the *MacCrate Report* suggested there was no “gap” between law schools and the profession. *Id.* at 8. However, the entire *Report* is an exploration of the skills and values which ought to be taught to law students but are not. We agree with the content of the *Report* rather than its committee’s interpretation.

65. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* (2007).

66. Bryant G. Garth, *From MacCrate To Carnegie: Very Different Movements For Curricular Reform*, 17 LEGAL WRITING INST. 261 (2011).

67. CARNEGIE REPORT, *supra* note 10, at 4.

68. Richard W. Bourne, *The Coming Crash In Legal Education: How We Got Here, and Where We Go Now*, 45 CREIGHTON L. REV. 651, 662 n.37 (2012).

as the failure of law schools to contextualize legal analysis within the social and cultural context in which the justice system operates.⁶⁹ As Jordan Furlong, one of a few thinkers forcing the profession to face the new era, has said, law school teaches students to think like lawyers but fails to indoctrinate them to think like clients.⁷⁰

Many if not all law schools have responded in large and small degrees with curricular reforms, expansion of experiential opportunities, and, in some cases, major re-formulations of distinct parts of the law school experience.⁷¹ Technological innovation and globalization continue to restructure the legal services industry. The acceleration of this restructuring by the recent economic downturn necessitates the creation of entirely new curricular models to prepare students for practice.⁷² Some law schools have wisely responded by creating individual courses on business planning and marketing, law firm technology, and management, while also increasing experiential and clinical opportunities beyond the traditional law school clinical program areas of indigent representation in litigation matters.⁷³ Despite these changes, the law school experience is still largely a truncated three-part affair consisting of first-year doctrinal courses, a second year of bar-related and elective courses with some skills components built in, and a third year that focuses on controlled and uncontrolled experiences with clients.

Even with opportunities for specialized tracks, few institutions have created a three-year curriculum specifically designed to train attorneys to fill the practice gap. To date, there exists no law school curricular program that provides a true apprenticeship option that begins with entry into law school, allows a student to follow a unified

69. *Id.* at 6.

70. Interview with Jordan Furlong, lawyer, speaker, and consultant based in Ottawa, Canada, (Apr. 18, 2013) (notes on file with author). Mr. Furlong is a partner with the global consulting firm Edge International and a senior consultant with legal web development company Stem Legal Web Enterprises.

71. Russell L. Weaver & David F. Partlett, *Teaching Remedies As A Capstone Course*, 57 ST. LOUIS U. L.J. 609, 609 (2013).

72. Cynthia Baker & Robert Lancaster, *Under Pressure: Rethinking Externships in a Bleak Economy*, 17 CLINICAL L. REV. 71, 91 (2010) (noting that the economic downturn led to changes in “pedagogy and structure” of law school externship programs).

73. Neil J. Dilloff, *The Changing Cultures and Economics of Large Law Firm Practice and Their Impact On Legal Education*, 70 MD. L. REV. 341, 357 (2011).

course of study and work throughout the three years (including summers) of law school, and enables the student to be a reasonably effective practitioner upon graduation.⁷⁴

Over 70 percent of lawyers in private practice in the United States are in firms of twenty or fewer attorneys.⁷⁵ Nearly half of all lawyers in the United States are solo practitioners.⁷⁶ Although most law schools send a majority of their students into small and solo practices, much of traditional law school education is designed to train first-year associates in corporate firms, with minor curricular deference paid to public interest and government practice. Many of these attorneys have chosen solo and small firm practice intentionally, however current economic conditions are adding to the growing ranks of unintentional entrepreneurs. These young law-entrepreneurs certainly need client-based lawyering experience during law school. They also need courses in business planning, marketing, client generation and retention, technology-based practice systems and software development, billing and attorney's fees practice, doctrinal and clinical offerings that align with fee-generating and fee-shifting statutes, and courses on the host of ethical issues that attach to solo or small firm practice.⁷⁷

The *Carnegie Report* makes specific recommendations, consistent with the approach we will describe below, for creating an integrated model of legal education.⁷⁸ Among these recommendations are the suggestions that law schools offer an integrated three-part curriculum of doctrine and analysis; that law schools introduce students to the many facets of practice under the rubric of lawyering; and that law schools provide a way for students to explore professional identity

74. Alizabeth Newman, *Bridging The Justice Gap: Building Community By Responding To Individual Need*, 17 CLINICAL L. REV. 615, 618 (2011) (explaining that "law schools' standard, predominantly myopic, preparation for legal practice becomes too many lawyers' proverbial hammer in Maslow's schema").

75. *ABA Serves Solo and Small-Firm Lawyers With New Online Resource Center*, A.B.A., <http://www.abanow.org/2012/01/aba-serves-solo-and-small-firm-lawyers-with-new-online-resource-center/> (last visited July 1, 2013).

76. *Id.* "It is estimated that the United States has about 435,000 solo law practitioners (comprising about 48 percent of private-practice lawyers)." *Id.*

77. See generally Gary A. Munneke, *Managing A Law Practice: What You Need To Learn In Law School*, 30 PACE L. REV. 1207 (2010); Jay Pinkert, *Digital Immigrants, Digital Natives, and Emerging Opportunities In Legal Technology*, 74 TEX. B.J. 564, 564 (2011).

78. CARNEGIE REPORT, *supra* note 10, at 8–10.

and the values consistent with the fundamental purpose of the profession and access to justice. Law schools should join professionalism and legal analysis from the beginning of students' legal educations; and law schools should make far better use of the second and third years of law school in marrying theory and practice.

C. *The Justice Gap*

Low- and moderate-income individuals cannot afford to obtain the legal services needed to confront the legal problems of everyday life. These problems might include maintaining a home in times of financial crisis; family disruption and death; unsafe or unlawful leased home environments; unfair, unhealthy, and discriminatory work environments; and unlawful consumer practices, to name just a few.⁷⁹ Government-supported legal services organizations are woefully underfunded to meet the legal needs of the growing numbers of poor in this country.⁸⁰ In addition, the current legal services market forces legal educators to recognize that those in the “justice gap” (earning too much for legal aid but unable to purchase legal services in the market place) are in the same situation as the poor when it comes to securing attorneys to help them meet legal needs.⁸¹ The public justice system is increasingly becoming the province of low- and moderate-income *pro se* litigants—whose numbers are creating long waits, huge dockets, and general chaos in the courts. At the same time, high-income litigants are purchasing the services of retired judges and high-fee attorney mediators to resolve their disputes outside of the public justice arena, which has led to less interest in increasing tax revenues for the overburdened public courts.⁸²

79. William E. Hornsby, Jr., *Gaming The System: Approaching 100% Access To Legal Services Through Online Games*, 88 CHI.-KENT L. REV. 917, 923 (2013).

80. Artika R. Tyner, *Planting People, Growing Justice: The Three Pillars of New Social Justice Lawyering*, 10 HASTINGS RACE & POVERTY L.J. 219, 220 (2013) (noting “eighty percent of the civil legal needs of poor people are not being met because of ‘chronically and grossly’ underfunded legal services and pro bono programs”).

81. Stephen Ellmann, *Clinical Theory Workshop—What We Are Learning*, 56 N.Y.L. SCH. L. REV. 171, 181 (2011/2012).

82. Zachary Parkins, *Electronic Discovery: Why The Appointment Of Special Masters In All Large Electronic Discovery Disputes Is Vital To The Progress Of American Civil Justice*, 5

Traditionally, the funding of legal services for those without economic access to the justice system has fallen to government agencies or charitable organizations funded by the government and private donations.⁸³ The gross underrepresentation of parties in civil matters has led to the development of both mandatory and voluntary pro bono programs within the legal profession and law schools.⁸⁴ The intent of law school pro bono programs is to instill in future members of the profession a career-long sense of moral responsibility to provide some services to low-income clients and non-profit organizations that we hope they will carry into practice.⁸⁵ Another important movement is the civil Gideon movement, which seeks to extend the concept of court appointed attorneys to certain civil matters as necessary to fundamental ideas of justice and fairness.⁸⁶ Laudable as both these programs are, they separate students from the idea that they can earn a living as a marketplace option practicing on behalf of moderate-income clients in the justice gap.

This impression is incorrect. Innovative law practices are demonstrating that lawyers can earn a living representing low- and moderate-income clients in the legal problems of everyday life through representation in fee-shifting cases, in cases where government fees are available, contingency fee matters, in the use of flat fees, and with the aid of new technologies.⁸⁷ Fee-shifting provisions might also support the development of niche practices in myriad specialties such as environmental law and corporate accountability litigation.⁸⁸

AM J. MEDIATION 97, 98 (2011) (noting “there are parties in many litigation matters who are often subject to power-based resolution, meaning that more wealthy litigants often control the entire process, dictating the court through usage of monetary funds”).

83. Issachar Rosen-Zvi, *Just Fee Shifting*, 37 FLA. ST. U. L. REV. 717, 721 (2010).

84. Cynthia F. Adcock, *Beyond Externships and Clinics: Integrating Access to Justice Education into the Curriculum*, 62 J. LEGAL EDUC. 566, 575 (2013); Robert Granfield, *Institutionalizing Public Service in Law School: Results on the Impact of Mandatory Pro Bono Programs*, 54 BUFF. L. REV. 1355, 1356 (2007).

85. Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1082 (2009).

86. Hope Metcalf & Judith Resnik, *Gideon at Guantánamo: Democratic and Despotism Detention*, 122 YALE L.J. 2504, 2513 (2013).

87. 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, 729 (2009).

88. Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 132–33 (2004).

The three gaps discussed above—the market gap, the practice gap, and the justice gap—define the current crisis in legal education, while also revealing a practical solution.

III. SOLUTION: ACCELERATOR-TO-PRACTICE PROGRAM

Suffolk University Law School, as a community of legal educators, has as its goal the creation of a three-year intentional and specific course of study that enables students to effectively and successfully practice law upon graduation. At the same time, we intend to produce lawyers capable of meeting the needs of average-income individuals and families, while adopting practice technology that will become increasingly available to lawyers in the twenty-first century. This is a legal education model that responds to market demands by preparing students to be lawyers in three years. In contrast to law school incubator programs developed to place recent graduates in temporary training-through-practice programs, as well as experiential programs that outsource practical instruction, Suffolk Law proposes to *insource* legal work to train students, and will create a self-sustaining law practice within the law school as part of the expanded three-year curriculum.

Students will be admitted directly into an accelerator program that includes specialized professional development and law practice management instruction with three successive practical training experiences (“Accelerator-to-Practice Program”). Initially, a cohort of twenty students will apply and be admitted to a program designed to prepare them to join or start small private practices servicing average-income individuals and families. Thereafter, we intend to expand the model to include preparation for large firm and corporate practices and legal technology and other law-related businesses, while serving as the basis for school-wide curricular innovations. We believe this market-based reorientation of the law school curriculum is the answer to the current challenge of moving legal education from crisis to solution. It will enable law school graduates to find or create gainful employment, servicing the unmet market for affordable legal services and meeting the demands of evolving modern practice.

The Accelerator-to-Practice Program has four essential components that respond to and integrate the law school in the legal

market: (1) a professional development and skills curriculum that expands the breadth of required instruction to enable students to master a wider range of competencies; (2) robust training in law practice technology and innovation; (3) experiential training through supervised internships and clinical insourcing of legal work each year, helping students to build practical skills and to become socialized within the profession, while gaining an understanding of how law relates to society and access to justice; and (4) career development and practice supports to assist graduates as they enter the legal services market as new providers. Each component is integrated into a full-time, three-year program that includes two summers and a significant portion of their final year immersed in supervised practical training.

A. Expanded Professional Development & Skills Curriculum

Law school graduates are mostly unprepared for modern practice.⁸⁹ This is due, in part, to the lack of required instruction in key competencies required of lawyers.⁹⁰ This includes required instruction in the business of law and law practice economics, legal technologies, project management, organizational behavior, business communication, professional identity and networks, and client-centered customer service. Employers require job applicants to possess these competencies, and graduates cannot successfully enter the legal services market as new providers without them. The lack of instruction in these areas results in the paradox of law students and graduates arriving at work required to possess the skills and knowledge they seek to acquire when they get there.

The Accelerator-to-Practice Program will include instruction in these subjects through a first-year required client-centered professional development course and practice seminars, and a menu of required and elective upper-level courses. The required first-year professional development course will be a modular, hybrid course,

89. John McKay, *Un-Apologizing For Context and Experience In Legal Education*, 45 CREIGHTON L. REV. 853, 853 (2012).

90. Ryan Patrick Alford, *How Do You Trim The Seamless Web? Considering The Unintended Consequences Of Pedagogical Alterations*, 77 U. CIN. L. REV. 1273, 1283 (2009).

providing on-line and live instruction in six modules: *critical perspectives on law*, providing students a critical framework in which to assess the delivery of legal services in America; *twenty-first century practice*, including fundamentals of attorney ethics, the rise of the administrative state, and growth of legal technologies and e-lawyering; *client service*, including thinking like a client, listening and interviewing skills, emotional and cultural competence, and law practice economics; *client-facing project management*, including process mapping, use of project management tools and methods, and analysis of cost data; *professional communication*, including business writing, oral presentation skills, personal branding, and development of professional networks; *organizational behavior*, including group dynamics and collaboration in diverse multi-party environments; and *methods of client-based problem solving*. It will be delivered by experts in each competency from law school faculty, staff, and law firm, technology, and business school partners.

Upper-level required classes, equivalent to a minimum of twenty-five course credits, include but are not limited to: *Lawyering in the Age of Smart Machines*, in which students build a software application for concrete exposure to aspects of legal knowledge engineering; *Hit the Ground Running*, in which students create a business, marketing, and technology plan for a small or solo practice; *Becoming a Twenty-First Century Lawyer*, in which students will learn lawyer pricing to the market, crafting an on-line presence, building a low cost and/or virtual practice, and the tenets of high quality client service; *Law Practice Technology*, in which students will use existing legal technology in simulated client exercises; *Law of Attorney's Fees and Costs*, in which students will learn practice in areas of representation in fee-shifting cases, and the practice and ethical issues involved in fee-shifting and fee-generating cases; *Legal Problems of Every Day Life*, in which students will explore how the legal needs of average-income people both differ from and are similar to the needs of the poor, and the role of the small and solo firm bar in expanding access to justice; *Project Management for Lawyers*, in which students will learn how process improvement and project management tools and methods apply to the legal profession, to increase predictability and produce a high probability of successful outcomes; *Non-Profit Corporations*; *Administrative Law*; and a

number of more traditional skills courses, such as *Trial Advocacy* and *Representing Clients in Alternative Dispute Resolution*. The delivery of this expanded curriculum will be timed to allow students to integrate that instruction in their development as practitioners as they proceed through a series of supervised practical experiences.

B. Technological Training and Innovation

The ABA recently amended Comment [8] to Rule 1.1 (Competence) of the Model Rules of Professional Conduct to emphasize that “[t]o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.”⁹¹ Competent lawyers now need to possess a sound understanding of law practice technology.⁹² This development also holds the promise of making legal services more affordable and accessible. For example, the Legal Services Corporation has sponsored technology initiative grants specifically for this purpose,⁹³ and it recently held a summit to explore how technology can expand access to justice.⁹⁴

At Suffolk Law, the Accelerator-to-Practice Program will embrace the use of new technologies in legal representation and teach our students not only how to use current technologies but how to be a life-long learner and innovator in the area of legal technology use. We will accomplish this in part through coursework and in part through partnerships with other innovators, educators, and legal scholars, both in and outside the law school.

For example, the corporate counsel at Kia Motors recently developed a technology audit to ensure that outside counsel are

91. MODEL RULES OF PROF'L CONDUCT R. 1.1 cmt. 8 (2012).

92. Steven C. Bennett, *Teaching Technology Skills To Lawyers*, NAT'L L.J. (Jan. 20, 2006), available at <http://www.law.com/jsp/article.jsp?id=1137665109054> (noting that “law students and attorneys who take the time to stay on top of legal technology have the best chances for success in the brave new world to come”).

93. *Technology Initiative Grants*, LEGAL SERV. CORP., <http://tig.lsc.gov/> (last visited Sept. 23, 2013).

94. *Tech Summit Spurs Ideas for Expanding Access to Justice*, LEGAL SERV. CORP., <http://www.lsc.gov/media/news-items/2012/tech-summit-spurs-ideas-expanding-access-justice> (last visited Sept. 23, 2013).

performing technology-related legal tasks efficiently and effectively.⁹⁵ The goal of the audit is to ensure that lawyers are not wasting time (and a client's money) on tasks that can be performed more efficiently through the use of readily available technological tools. Kia Motors, through counsel, has teamed up with Suffolk Law's new Institute for Law Practice Technology and Innovation to ensure that our graduates not only meet but exceed this new practice standard.⁹⁶ In addition to working on that project, Accelerator students also will have access to a range of new courses, described above, that are specifically designed to help students learn how to deliver legal services more efficiently and (thus) more affordably. In sum, Accelerator graduates will be able to employ, create, and take full advantage of available law practice technology so that they can enjoy successful careers in the twenty-first century legal marketplace.

C. Experiential Training through Supervised Internships & Clinical Insourcing of Legal Work

Recognition that the market requires law graduates to arrive at work with practice-based skills is evidenced by the growth of experiential programs and opportunities at most law schools.⁹⁷ However, the common lack of a pedagogically sound integration of experiential and classroom instruction based on market requirements deprives students of the practical knowledge and skills they need to be able to actually do what lawyers do upon graduation. Post-graduate incubator programs are an attempt to address this deficiency; but the collapse of the apprenticeship model in the market and the requirements of modern practice suggest the best practice is imbedding a sustainable law practice within the law school.

95. D. Casey Flaherty, *Kia Motors Tests Outside Counsel Tech Skills*, L. TECH. NEWS (Jan. 24, 2013), http://www.law.com/jsp/lawtechnologynews/PubArticleLTN.jsp?id=1202585496232&Kia_Motors_Tests_Corporate_Counsel_Tech_Skills.

96. *Law School to Promote Lawyers' Technological Competence through Online Audit Tool*, SUFFOLK U. NEWS (July 19, 2013), <http://www.suffolk.edu/news/19391.php#Ujngkn-nJ8E>.

97. Michele Mekel, *Putting Theory Into Practice: Thoughts from the Trenches on Developing a Doctrinally Integrated Semester-In-Practice Program in Health Law and Policy*, 9 IND. HEALTH L. REV. 503, 506 (2012).

Suffolk Law will create a non-profit entity to provide legal services to average-income individuals and families, while teaching students how to engage in the skilled, ethical, reflective, and sustainable practice of law (the “Accelerator”).⁹⁸ The Accelerator will insource legal work through referrals and partnerships with local law firms and agencies in order to train students for practice. Unlike law school clinics, the Accelerator will be a fee-for-services practice, replicating successful business models focused on alternate fee structures and cases providing for recovery of attorneys’ fees and costs. Case selection and practice-based decision modeling will be a focus of the program, which will review case outcomes and client satisfaction through a rigorous mixed methodology metric. This will afford participating students an opportunity to learn reflective techniques that assess both the value to clients and the organization’s bottom line. Student learning will include other critical practice-management tools in accounting and billing, marketing, external controls (financial auditing and effectiveness assessments), and other business competencies. Therefore, through the Accelerator, students will learn a replicable model for building a sustainable and profitable practice.

The Accelerator-to-Practice Program will provide students with a cumulative series of grounding course work and practical work experiences each year, including capstone employment in Suffolk’s Accelerator, to prepare students to be competent practitioners upon graduation. In addition to experiential instruction (simulation- or internship-based activities) in required courses, students will: complete an externship or residency at a solo or small private practice in the summer between their first and second year of law school, with a required pedagogical component similar to an externship seminar designed to contextualize the student experience; be employed in the Law School’s Accelerator or in a solo or small practice engaged in succession planning in the summer between their second and third

98. In this Essay, “Accelerator” refers to the third-year capstone in-house law firm where students will participate, as student lawyers, in a sustainable, non-profit fee-shifting and contingency fee practice. The Accelerator will represent clients of low- to modest-incomes who would not otherwise have access to legal representation. The “Accelerator-to-Practice” is the name of the entire three-year program (which culminates in third-year practice in the Accelerator) for law students enrolled in our proposed curriculum.

year; and practice in the Accelerator through enrollment in a credit-bearing clinical course throughout their third year. The completion of expanded curricular requirements, combined with successive practical experiences, will prepare students to do what lawyers actually do, satisfying the modern market demand for practice- and client-ready graduates.

D. Career Development & Practice Supports

The Accelerator-to-Practice Program will be supported by legal and career development professionals who will assist students in developing professional skills through individual counseling, development of alumni mentors and networks, and recruitment of solo and small practice practitioners qualified to supervise interns and interested in hiring graduates as part of firm succession planning.

A key function of the Accelerator-to-Practice Program is that it increases a graduate's ability to provide value to existing practices. Students enrolled in the program will be matched with established solo or small firm practitioners who are beginning their succession planning. Many attorneys who have worked hard to develop a solo or small practice desire that their practice survive them, so recruiting a successor makes good business sense.⁹⁹ Recruiting a successor permits attorneys to maximize the value of their practice by increasing the probability of realizing long-term payouts and providing continuing revenue streams through origination fees and optional billable work. Engaging a successor also protects attorneys and their clients in case an attorney is temporarily or permanently unable to work.

The Accelerator-to-Practice Program will provide established solo and small practice attorneys with a pool of specially trained students interested in joining solo and small firms. Participating practitioners will interview all program students in order to assess and improve self-marketing tools. Additionally, these participating practitioners will offer internship and post-graduate employment opportunities. Both the hiring practitioners and program alums will be provided

99. Arthur G. Greene & William E. Howell, *Succession Planning: Solos and First Generation Law Firms*, 27 ME. B.J. 18, 18 (2012).

with free access to continuing legal education courses. Additionally, this networked group will be offered expert assistance in assessing and improving their law-practice business models, improving their technology support systems, and creating a succession plan.

All graduates also benefit from school-sponsored practice supports. These will include: consultative services, trainings and access to a web-based portal for peer consultation, and referral that includes practice guides and document libraries.

CONCLUSION

For too many decades, law schools distanced themselves from the practice of law and operated in a world separate from the legal marketplace. Law school education mainly focused on legal doctrine and theory, while undervaluing acquisition of the skills and professional values necessary to sustain successful practices. The willingness of the bar to compensate for this gap by offering a post-graduate apprenticeship is largely over. Clients are no longer willing or able to pay large sums for the work of untrained junior attorneys. Furthermore, the justice system has become increasingly inaccessible to low- and moderate-income people. While statistics show that fewer jobs exist for new lawyers, the need for affordable legal services is growing exponentially. There is great dissonance between the jobs law schools expect students to perform upon graduation, the actual availability of these jobs, and the real needs of real people for competent law school graduates to represent them. Law students should have the training and experience they need to practice successfully and profitably when—and not after—they graduate from law school. Through its Accelerator-to-Practice Program, Suffolk hopes to diminish this dissonance and demonstrate a method and a mode to meet that goal.



GEORGETOWN LAW

2016 Affordable Legal Services Fellowship (15 months)

Georgetown Law Center and the DC Affordable Law Firm (DCALF) are now accepting applications for the **2016 Affordable Legal Services Fellowship**. The firm will hire six Georgetown fellows from the class of 2016 for a 15-month commitment, who are managed on a pro bono basis by Sheldon Krantz, a retired DLA Piper litigation partner and Adjunct Georgetown Law Professor. Arent Fox and DLA Piper lawyers provide the fellows with extensive pro bono training, mentoring and supervision. Fellows will receive full tuition for an LL.M in Advocacy, and under the guidance of faculty director Rachel Camp spend three months in intensive training between September and December. They will take a broad complement of classes covering interviewing, counseling, negotiation, litigation skills, family law, immigration law, landlord tenant law, small business law, and law firm management and practice. Fellows graduating from the program will gain a broad range of lawyering skills, an appreciation of the importance of access to justice, and the professional competence to represent a client population in great need across the country.

The newly created nonprofit law firm, established by Arent Fox and DLA Piper in conjunction with Georgetown Law, opened its doors in December of 2015. The firm offers affordable legal services to DC residents who do not qualify for free legal services but cannot afford the rates lawyers normally charge. It handles matters including housing, family law, immigration, and transactional work for small businesses and nonprofits serving the District's distressed communities. DCALF seeks to develop an innovative, financially sustainable, and replicable model to address the Access to Justice gap, and we seek fellows committed to furthering that goal.

Fellow Duties: Fellows serve as staff attorneys for DCALF, providing affordable legal services to DC residents in a breadth of practice areas, including housing, family law, immigration, and small business/non-profit transactional. Fellows will begin the training program on a full-time basis in August and begin taking cases under appropriate supervision after admission to the bar.

Qualifications: The fellowship is open to graduates of the class of 2016. Experience with low- and moderate-income clients is strongly preferred, as is clinical experience. The term of the fellowship is 15 months, beginning August 2016 and ending November 2017. Fellows must take the DC bar exam in July, and financial support and flexibility will be provided if they wish to take another state exam in February.

Salary: In addition to full tuition in the LL.M program, each fellow will receive a minimum salary of **\$40,000** plus benefits (including health insurance and a flexible benefits package). The nonprofit firm is currently seeking additional funds and hopes to supplement the salary.

Application: Applicants must submit a resume, cover letter, writing sample, and list of references through the "Spring 2016 Partner Fellowship Program" in Symplicity.

Application deadline: February 12, 2016 at 5:00pm. Interviews will be conducted shortly thereafter and a decision will be made by mid-March.

Questions: Contact Katie Dilks at skd9@law.georgetown.edu in OPICS.

LAUNCHING THE LOS ANGELES INCUBATOR CONSORTIUM

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I. INTRODUCTION

In August 2013, then-American Bar Association (ABA) President-elect James R. Silkenat announced the formation of the Legal Access Job Corps Task Force.¹ The goal of the Legal Access Job Corps Task Force was to address unmet legal needs and the underemployment of new lawyers.² This particular initiative hoped to match recent law graduates with employment opportunities to address the legal needs of disadvantaged communities.³ The announcement of the effort came on the eve of federal funding cuts to the Legal Services Corporation and federal court programs.⁴ It also coincided with ongoing conversations at the ABA about reform in legal education.⁵

The conversation about reform in legal education was driven by an unprecedented increase in the number of new law school graduates coupled with diminishing employment opportunities in the legal sector. Between 2008 and 2009, approximately 60,000 jobs disappeared in the legal sector.⁶ At the same time, law schools graduated approximately 44,000 graduates annually between

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¹ James Poders, *Incoming ABA President James Silkenat Puts a Job Corps for New Lawyers at the Top of His Agenda*, A.B.A. J. (Aug. 1, 2013, 6:30 AM), http://www.abajournal.com/magazine/article/incoming_aba_president_james_silkenat_puts_a_job_corps_for_new_lawyers_at_t/.

² See James Silkenat, *Legal Access Job Corps Will Place Law Grads in Areas with Unmet Legal Needs*, A.B.A. J. (Oct. 1, 2013, 10:00 AM), http://www.abajournal.com/magazine/article/legal_access_job_corps_will_place_law_grads_in_areas_with_unmet_legal_needs/.

³ *Id.*

⁴ See *Funding Cuts Expected to Result in Nearly 750 Fewer Staff Positions at LSC-funded Programs*, LEGAL SERVICES CORP. (Aug. 15, 2012), <http://www.lsc.gov/media/press-releases/funding-cuts-expected-result-nearly-750-fewer-staff-positions-lsc-funded>.

⁵ The ABA Task Force on the Future of Legal Education was created in 2012 to explore legal education economics, lawyer licensing, and the role of law schools in improving the delivery of legal services. Mark Hansen, *ABA Task Force to Study Future of Legal Education*, A.B.A. J. (Aug. 9, 2012, 9:17 PM), http://www.abajournal.com/news/article/aba_task_force_to_study_future_of_legal_education/; see also *ABA Legal Education Task Force Calls for Innovation to Reduce Cost and Improve Value of Law Degrees*, A.B.A. (Jan. 24, 2014), http://www.americanbar.org/news/aba_news/aba-newsarchives/2014/01/aba_legal_education.html (The ABA Task Force on the Future of Legal Education issued its report in January 2014).

⁶ *Occupational Employment and Wages, May 2008 – 23-1011 Lawyers*, BUREAU LAB. STAT., <http://www.bls.gov/oes/2008/may/oes231011.htm>, (last modified May 4, 2009); *Occupational Employment and Wages, May 2009 – 23-1011 Lawyers*, BUREAU LAB. STAT., <http://www.bls.gov/oes/2009/may/oes231011.htm> (last modified May 14, 2010).

2006 and 2011.⁷ These market pressures forced law schools to think more about their post-graduate career development role. Some law schools developed, or grew, the number of post-graduate fellowships that provided their graduates small stipends to work at various public interest organizations, courts and government agencies for approximately three months to a year, to bridge the time between graduation and securing a full-time permanent job.⁸ On a parallel track, law schools have also developed post-graduate law firm incubator programs that offer structured mentoring and continuing legal education programming to new lawyers who start their own law offices.⁹

Attorney incubator programs acknowledge that lawyers who start their own law firms often lack the skills and support systems necessary to successfully launch a law firm. As a result, law firm incubator programs subsidize law firm start-up costs and provide lawyer participants with continuing legal education programs that equip them to build sustainable law practices.¹⁰ Most of the law firm incubator programs cater to recent law school graduates who are interested in establishing law firms that serve modest-income clients.¹¹ They are designed to meet the mentoring and training needs of the “New Solos”¹² and the

⁷ *Class of 2006 Selected Findings*, NAT'L ASS'N LAW PLACEMENT 3, http://www.nalp.org/uploads/768_classof06selectedfindings.pdf (last visited Mar. 14, 2015); *Class of 2007 National Summary Report*, NAT'L ASS'N LAW PLACEMENT 1, http://www.nalp.org/uploads/1229_natlsummary07revised.pdf (last visited Mar. 14, 2015); *Class of 2008 National Summary Report*, NAT'L ASS'N LAW PLACEMENT 1, <http://www.nalp.org/uploads/natlsummary2008.pdf> (last visited Mar. 14, 2015); *Class of 2009 National Summary Report*, NAT'L ASS'N LAW PLACEMENT, <http://www.nalp.org/uploads/NatlSummaryChartClassof09.pdf> (last visited Mar. 14, 2015); *Class of 2010 National Summary Report*, NAT'L ASS'N LAW PLACEMENT, <http://www.nalp.org/uploads/NationalSummaryChartforSchools2010.pdf> (last visited Mar. 14, 2015); *Class of 2011 National Summary Report*, NAT'L ASS'N LAW PLACEMENT, http://www.nalp.org/uploads/NatlSummChart_Classof2011.pdf (last visited Mar. 14, 2015). Those numbers jumped to more than 46,000 per year in 2012 and 2013. *Class of 2012 National Summary Report*, NAT'L ASS'N LAW PLACEMENT, <http://www.nalp.org/uploads/NationalSummaryChart2012.pdf> (last visited Mar. 14, 2015); *Class of 2013 National Summary Report*, NAT'L ASS'N LAW PLACEMENT, <http://www.nalp.org/uploads/NatlSummaryChartClassof2013.pdf> (last visited Mar. 14, 2015).

⁸ *Bridge-to-Practice Program Survey Findings*, NAT'L ASS'N LAW PLACEMENT 1, <http://www.nalp.org/uploads/BridgetoPracticeProgramsReport2012.pdf> (last visited Mar. 14, 2015) (reporting that 55% of the eighty-four law schools that responded had a bridge to practice program).

⁹ See G.M. Filisko, *Law Firm Incubators Help Both Grads and Needy Clients*, *Fred Rooney Says*, A.B.A.J. (Sept. 18, 2013, 1:30 PM), http://www.abajournal.com/legalrebels/article/2013_legal_rebel_profile_fred_rooney; and Delece Smith-Barrow, *Consider Law Schools With In-House Firms, Incubators*, U.S. NEWS (June 17, 2013, 9:00 AM), <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2013/06/17/consider-law-schools-with-in-house-firms-incubators>.

¹⁰ See *Solo Incubators and Training Firms*, BRANCHING LEGAL, <http://www.branchinglegal.com/solo-incubators-and-training-firms/> (last updated Feb. 23, 2015).

¹¹ See Filisko, *supra* note 9.

¹² Incubator program participants are referred to as “incubates” but a number of programs refer to their participants as “New Solos” a term coined by Lily McCoy, Director of the Center for Solo Practitioners at Thomas Jefferson School of Law. Although attorney incubator programs also incubate small law firms and nonprofits, we use the New Solo terminology here to describe participants in these programs.

community of prospective clients who need an option between free and hourly market rates. Meeting community legal needs, while integral to many clinical legal education programs, has not been central to the mission of most law schools. In contrast, many of the law firm incubator programs have partnerships with legal services providers and others who advocate for increased access to legal services.¹³ Engagement of legal services providers in these models are key to ensuring a continuing pipeline of lawyers who can provide additional free and reduced fee services to clients. These programs offer an important link to engaging a larger number of lawyers in the delivery of legal services to modest-means and moderate-income clients.

This Article offers a snapshot of the initial two-month development process of a new law firm incubator program—the Los Angeles Incubator Consortium (LAIC). LAIC is a collaborative project of Pepperdine University School of Law, Southwestern Law School, and UCLA School of Law that was launched in collaboration with the Los Angeles Law Library and various local legal aid providers through seed funding from the California Commission on Access to Justice.¹⁴ Part II discusses the leadership role of California's Commission on Access to Justice in promoting incubators as models to increase the availability of affordable legal services for the modest-means population. It describes its efforts in convening regional gatherings to educate the bar about the need to explore new approaches to collaboration. Part III discusses the need for local collaboration to support New Solos to develop sustainable businesses. By describing their roles and relationships to the New Solos we attempt to further explain the need for greater collaboration to pilot models that advance delivery of legal services to modest-income clients. Part IV delves into the mechanics of launching an attorney incubator program in a collaborative form. It offers recommendations for how to identify participants, program directors, and mentors to launch the initial training program. The Article concludes by discussing the need for greater evaluation of these programs to determine best practices for New Solo training in delivery of legal services to modest-income clients. By writing about our experience as this program is launched, we hope to offer a blueprint that encourages more collaborative models that benefit New Solos and the client population that desperately needs lawyer alternatives between free and market rate.

¹³ See Karen Sloan, *California Incubator Grants Put Young Lawyers to Work*, NAT'L L. J. (Jan. 13, 2015), <http://www.nationallawjournal.com/id=1202715075192/California-Incubator-Grants-Put-Young-Lawyers-to-Work?slreturn=20150221111842>.

¹⁴ See Lauri Gavel, *UCLA Law to Help Prep New Attorneys to Serve Clients of Modest Means*, U.C.L.A. (Jan. 13, 2015), <http://newsroom.ucla.edu/dept/faculty/ucla-law-to-help-prep-new-attorneys-to-serve-clients-of-modest-means>.

II. INSTITUTIONAL LEADERSHIP TO ADVANCE A MODEST-MEANS AGENDA

The California Commission on Access to Justice (“California Commission”) was formed in 1997 to make the civil justice system more accessible to California.¹⁵ According to the latest U.S. Census Bureau figures, California’s poverty rate exceeds 16.2% of its population.¹⁶ However, a recent Supplemental Poverty Measure that incorporates California’s high cost of living and the effect of safety net programs such as food stamps suggests that California’s poverty rate approximates one quarter of its population.¹⁷ According to one study there are approximately 800 legal aid attorneys in California, with a ratio of legal aid attorneys to low-income persons of 1 to 8,373.¹⁸ The California Commission has been an important player in advancing a number of initiatives that promote greater legal service delivery to low and modest-income individuals.

In 2013, the California Commission announced the creation of the Modest Means Incubator Task Force “to guide the growing incubator movement toward a conscious goal of training a generation of lawyers committed to serving the needs of ordinary people who otherwise have nowhere to go for legal help.”¹⁹ Similar to the ABA Legal Job Corps Task Force, the goal of the California Task Force was to bridge the problems presented by underserved legal needs and the under-employment of new lawyers in California.²⁰ The Modest Means Incubator

¹⁵ The California Commission is comprised of twenty-six members that includes judges, lawyers, professors, business, labor, faith, academic, business, labor, and community leaders. *See California State Bar, Center on Access to Justice*, ST. B. CAL., <http://cc.calbar.ca.gov/CommitteesCommissions/Special/AccessToJustice.aspx> (last visited Mar. 14, 2015). Its goal is to help low-income individuals by increasing resources, expanding both pro bono and language assistance, and improving the availability of both self-help assistance and limited scope representation. *Id.* The California Commission on Access to Justice is staffed by the Center on Access to Justice (Center)—the action arm of Office of Legal Services of the State Bar of California (OLS). The principal goals of OLS are to expand, support and improve the delivery of legal services to low and moderate income Californians. *Id.*

¹⁶ SARAH BOHN ET AL., THE CALIFORNIA POVERTY MEASURE: A NEW LOOK AT THE SOCIAL SAFETY NET 9 (2013), available at http://www.facc.org/wp-content/uploads/2014/11/ca_poverty_measure_ppic.pdf (16.2%). *But see, State & County QuickFacts - California*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/06000.html> (last visited Mar. 14, 2015) (15.9%); KATHLEEN SHORT, THE SUPPLEMENTAL POVERTY MEASURE: 2013 9 (2014), available at http://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-251.pdf?e=gd&utm_medium=email&utm_source=govdelivery (16%).

¹⁷ SHORT, *supra* note 16, at 9 (23.4% poverty rate).

¹⁸ Workshop at L.A. Law Library Pro Bono Week: Interested in Volunteering? Training for Lawyers on Popular Pro Bono Topics (Oct. 25, 2014), available at http://probonoweek.lalawlibrary.org/pdfs/Volunteering_10_25_1000.pdf.

¹⁹ State Bar of California, California Access to Justice Commission, Overview: Modest Means/Incubator Task Force, October 24, 2013 (Document on file with the State Bar of California).

²⁰ CAL. COMM’N ON ACCESS TO JUSTICE, OVERVIEW: MODEST MEANS/INCUBATOR TASK FORCE (2013), available at http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_job_corps_ca_task_force.authcheckdam.pdf.

Project of the California Commission focused on building capacity and providing seed money to support attorney incubator program development.²¹ This effort was the result of several months of fact gathering and study by key members of the California Commission.²²

The California Commission built support for attorney incubator programs by taking responsibility to educate legal aid advocates, law schools, law libraries, and bar associations about the benefits of incubator programs. They convened three regional conferences in different parts of the state to promote the idea that the infrastructure could be developed to support new lawyers to competently represent low and moderate-income clients at affordable rates.²³ These regional meetings contextualized these law firm incubator programs as part of a national movement intended to connect practical training for new lawyers with providing excellent and affordable legal assistance to low and moderate income clients on a range of topics including family and housing law, labor code violations, consumer debt, and more. Attendees to the meetings learned about successful incubator models that train new attorneys to address the modest-means justice gap, and they met and collaborated with key stakeholders and learned about a new grant opportunity. These conferences included presentations by law school professors, incubator program directors, representatives of lawyer referral programs, court representatives, legal aid attorneys, judges, bar association representatives, and new lawyers who could personally speak to the benefits of such programs.²⁴ Each offered examples of how training and support of New Solos lead to the development of viable law practices that provided legal services to individuals that were not being served by pro bono programs.²⁵ After the presentations, the regional meetings offered opportunities for presenters to

²¹ *Id.*

²² The Commission and its working group studied many models across the country. As part of its fact finding, three members, Justice Ronald B. Robie, Judge Steven K. Austin, and Judge Mark A. Juhas attended the ABA Equal Justice Conference in 2012. They attended several sessions including the three sessions dedicated to incubators. Additionally members visited existing incubator programs across the state. They, along with bar staff program developer Theresa Mesa, examined the different models to determine whether access to justice was a goal of the projects. California Supreme Justice Goodwin Liu, chair of the Modest Means Incubator Committee, also conducted fact-finding interviews and conference calls in 2013 to determine how to proceed. Interview with Judge Mark A. Juhas, in L.A. Cal. (May 1, 2014).

²³ The regional conferences took place in the California cities of San Francisco on April 24, 2014, Los Angeles on June 10, 2014, and Clovis on September 5, 2014. Event announcements and agendas are on file with the State Bar of California.

²⁴ Key program participants included Fred P. Rooney, who developed the first attorney incubator at the City University New York (CUNY) School of Law in 2007; Robert Siebel, former clinical faculty member at CUNY School of Law and director of the first incubator in California, the Access to Law Initiative at California Western School of Law; and Lilys McCoy, Director of the Center for Solo Practitioners at Thomas Jefferson School of Law. Attendee Rosters are on file at the State Bar of California.

²⁵ At least one of this Article's authors attended each of the sessions organized by the California Commission.

interact with other meeting participants who were encouraged to meet in regional groups to discuss future collaboration on these projects. These interactions and exchanges were critical in addressing long-standing concerns about involving the private bar in delivery mechanisms for low and modest-income individuals.²⁶

In October 2014, the California Commission released a publication, *Incubator Guide*.²⁷ *Incubator Guide* explained incubator programs and provided examples of different types of post-graduate bridge programs that helped new lawyers and improved the availability of free and affordable legal services.²⁸ In the *Incubator Guide*, the California Commission makes an important case about why incubators should be supported.²⁹ It focuses on the necessity of formalizing law practice management education and the benefit of introducing new attorneys to the possibility of making a living by charging fair rates to low and moderate-income individuals.³⁰ In the final sentence of its support statement, the California Commission acknowledges, “[i]ncubators can be good environments to introduce or expand the use of technology, alternative fee arrangements, and newer models of practice that will benefit the efficient delivery of legal service to a larger client base.”³¹

Release of the *Incubator Guide* was accompanied by an announcement that the California Commission would accept applications for seed funding for organizations seeking to start new or expand existing incubator programs. The seed funding was compiled by contributions of various grantors including the Ford Foundation, the Public Welfare Foundation, and the California Bar Foundation.³² The request for proposals encouraged legal services programs, bar associations, law schools, lawyer referral services, and non-profit organizations that will provide legal services to people of low and moderate-means individuals to apply. They explained that they expected to contribute approximately three to five one-time, non-renewable grants of ranging from \$20,000 to \$50,000.³³ These grant amounts, although small, provide incentives for organizations to think about developing these programs and work in collaboration to maximize existing resources. In addition, the State Bar committed to provide one year of

²⁶ See Luz E. Herrera, *Rethinking Private Attorney Involvement Through a “Low Bono” Lens*, 43 LOY. L.A. L. REV. 1, 21-30 (2009) (discussing the limitation of private attorney involvement in delivering legal services to the poor to primarily be pro bono).

²⁷ CAL. COMM’N ON ACCESS TO JUSTICE, INCUBATOR GUIDE (2014), available at <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20Incubator%20Guide.pdf>.

²⁸ See *id.*

²⁹ See *id.*

³⁰ *Id.* at 3.

³¹ *Id.*

³² *Id.* at 2. See also Richard Zorza, *The Expanding Role of ATJ Commissions – Florida and California*, ACCESS TO JUST. (Jan. 13, 2015), <http://accesstojustice.net/2015/01/13/the-expanding-role-of-atj-commissions-florida-and-california/>.

³³ See *Request for Proposals – State Bar of California Modest Means/Incubator Project*, ST. B. CAL., <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Incubator%20RFP%20Guide.pdf> (last visited Mar. 20, 2015).

technical support to grantees as they created, implemented and evaluated their programs.³⁴

The applications for funding required that applicants demonstrate ability to scale and sustain the incubator program and to monitor and assure quality of legal services delivered through training and mentorship of participating lawyers.³⁵ The specific grant guidelines explained that proposed projects would be evaluated based on geographic diversity, issue focus, the number of clients to be served and number of new lawyers to be trained.³⁶ Strong collaboration, innovative partnerships, and evaluation plans were also critical factors in determining which of the applications to be selected.³⁷ In January 2015, the California Commission announced its decision to fund four projects, out of two dozen applicants, to receive grants totaling \$180,000.³⁸ Each of the following programs received \$45,000 as seed funding to develop a program that reached various areas in California³⁹:

- **The Bay Area Regional Incubator Project** will serve residents in five counties in the San Francisco Bay area.⁴⁰ The Bay Area Regional Incubator Project is a collaboration between the “Volunteer Legal Services Corporation, the Alameda County Bar Association and the following law schools: UC Hastings, Santa Clara University, University of San Francisco, UC Berkeley, and Golden Gate University. Other partnering entities include the Contra Costa Bar Association, Bar Association of San Francisco, the Alameda County Law Library and legal services providers.”⁴¹
- **The Los Angeles Incubator Consortium** will serve residents of Los Angeles County—the largest county in the United States.⁴² The Los Angeles Incubator Consortium is a consortium of three law schools (Pepperdine University School of Law, Southwestern Law School and UCLA School of Law), the Los Angeles County Law Library and five legal aid organizations (Bet Tzedek Legal Services, Community Legal Services, Legal

³⁴ *Id.*

³⁵ *Id.* at 2.

³⁶ *Id.*

³⁷ *Id.* at 2-3.

³⁸ Press Release, State Bar of Cal., Commission Announces Grants to Expand Access to Legal Services (Jan. 30, 2015), available at <http://www.calbar.ca.gov/AboutUs/News/ThisYearsNewsReleases/201501.aspx>.

³⁹ *Id.*

⁴⁰ *See id.*

⁴¹ *Id.*

⁴² Emily Albert Reyes, *L.A. County Population Pushes Past 10 Million, Highest in Nation*, L.A. TIMES, (Mar. 27, 2014), <http://articles.latimes.com/2014/mar/27/local/la-me-ln-la-county-population-10-million-20140327>.

Aid Foundation of Los Angeles, Neighborhood Legal Services of Los Angeles and Public Counsel).⁴³

- **The Northern California Lawyer Access (NCLA) Academy Project** will serve ten rural counties in Northern California. The NCLA Academy Project represents “a collaboration among a lawyer referral service, local attorneys, county courts, bar associations and other . . . nonprofits” involved with providing legal services.⁴⁴
- **The Orange County Incubator Consortium** will serve Orange County—the third most populous county in the state of California.⁴⁵ The consortium includes four law schools: Chapman University School of Law, UC Irvine School of Law, Western State College of Law, and Whittier Law School. It is led by the Legal Aid Society of Orange County.⁴⁶

The impact of these incubator programs is far from being determinative, but California Commission members, participants, and observers are positive about its success. California Supreme Court Justice Goodwin Liu, the Chairman of the Access Commission’s Grant Review Committee, praised the program, as “a wonderful first step in nurturing the next generation of lawyers providing legal services for everyday people with modest means,” and also stating, “[t]he unmet legal needs in our communities are well-documented, and this could serve as a model for incubator projects throughout California and nationwide.”⁴⁷

California is in fact exercising leadership in supporting incubators as a tool to advance a modest-means agenda. Legal services advocate and blogger, Richard Zorza, commended the California Commission for its leadership in being the first to fund incubator projects that train lawyers to create sustainable law practices that provide affordable legal services.⁴⁸ He advocates that “all Commissions should be exploring such competitive and guideline-driven grant-making, even i[f] it means going out and raising the money to do so. . . . For Commissions to become real leaders, they have to get beyond the idea that they just help raise money that then gets distributed on formula. Such a system is one

⁴³ State Bar of Cal., *supra* note 38.

⁴⁴ *Id.*

⁴⁵ *California Counties by Population*, CAL. DEMOGRAPHICS, http://www.california-demographics.com/counties_by_population (last visited Mar. 20, 2015). The second largest county in California is San Diego County with a population of approximately 3.2 million people. *Id.* San Diego County is home to the first two incubators in California: Access to Law Initiative at California Western School of Law and the Center for Solo Practitioners at Thomas Jefferson School of Law.

⁴⁶ State Bar of Cal., *supra* note 38.

⁴⁷ *Id.*

⁴⁸ Zorza, *supra* note 32.

of the ways we discourage leadership through our institutional structures.”⁴⁹ Ultimately systemic support and small pockets of seed funding on a local, statewide, and national level can continue the development of attorney incubator programs that train new lawyers to establish their business by addressing unmet needs in their communities. A consistent supply of these lawyers requires an ongoing commitment from law schools, legal aid organizations, bar associations, law libraries, and courts to support an infrastructure that supplements legal education with post-graduate programs incubator programs that promote delivery of affordable services to modest-income clients.

III. LOCAL COLLABORATION: THE LOS ANGELES INCUBATOR CONSORTIUM

State Bar leadership, or equivalent institutional leadership, ultimately requires local support and collaboration. The Los Angeles Incubator Consortium (LAIC) was developed by a diverse group of partners with two objectives in mind: to increase pro bono and affordable legal services for individuals in Los Angeles County who do not qualify for legal aid but cannot afford market rates; and to help new attorneys launch and develop viable law practices that serve modest-means clients. In order to highlight the challenges and opportunities that local collaborations may face, we describe our efforts to build the first collaborative incubator in Los Angeles County to support New Solos and increase modest-means representation.

A. The Core Group

While it takes a village to build a successful program, a handful of key individuals can drive and inspire local collaborations that create individual benefit for all parties and positively impacts the community. The Los Angeles Incubator Consortium (LAIC) began forming at the first regional meeting in San Francisco sponsored by the California Commission. The meetings included time in the afternoon to break into groups by geographical regions and brainstorm on program ideas. This exercise was designed to encourage collaboration but it was difficult to agree on a vision for the program when individuals were not used to working together.

After the first regional meeting, representatives from law schools and legal aid organizations from around the state had the opportunity to travel to San Diego to tour and learn about two established attorney incubator programs.⁵⁰

⁴⁹ *Id.*

⁵⁰ Lily McCoy of Thomas Jefferson's Center for Solo Practitioners and Bob Seibel of California Western's Access to Law Initiative (ALI) hosted a meeting and offered a tour of the San Diego incubator programs in May of 2014.

There, key stakeholders learned more about these programs and their partners.⁵¹ The visit inspired greater confidence that creating a program in Los Angeles was possible. Several weeks after that trip, a faculty member from one of the local law schools reached out to other law school and legal services practitioners who brainstormed together in San Francisco to see who was still interested in planning the “Los Angeles Incubator Consortium.” The group expanded and included a few others who were invited to join the conversation. A few weeks later, another law school announced a separate meeting for law school deans to meet with incubator program advisor, Fred Rooney, to help ensure law school administration support and understanding of the incubator program model. In order to have law school participation in creating a new incubator program, the administration needs to understand how the program fits within the law school’s mission. These law school specific conversations are critical to engage law school support.⁵²

By the time the second regional meeting was held in Los Angeles, there was a core group of individuals who had a good understanding of how an incubator program could serve their interests. The need for such a program in Los Angeles was reinforced by a local family law judge who eloquently spoke about the need for more attorneys to represent individuals in his courtroom.⁵³ At this same meeting, a local legal aid organization explained that it planned to submit a funding proposal to the Legal Services Corporation’s LSC Pro Bono Innovation Fund to underwrite a part-time project director to support their incubator program. Many of the law schools wrote letters of support with the hope to get some funding that would help to start a program in Los Angeles for their graduates. While the funding proposal was not selected, the exercise advanced the conversation by clarifying for the law schools and the legal aid organizations how they could mutually benefit from collaborating on this project. What followed the first two state bar sponsored regional meetings, was greater dialogue between organizations that did not commonly work together beyond small pro bono projects and opportunities for law students.

The two regional meetings and informal brainstorming sessions revealed a collaborative vision that was advanced by representatives from Southwestern Law School and Bet Tzedek Legal Services. By July 2014, the Los Angeles Law Library and representatives from other legal services organizations agreed to collaborate on a proposal for funding. A follow up meeting in August 2014

⁵¹ Representatives of Legal Aid Society of Orange County, Pepperdine School of Law and Southwestern Law Schools were involved in conversation about creating the Los Angeles Incubator Consortium and were part of this trip.

⁵² Ultimately, the law school that called the meeting received a gift to start its own incubator program and did not join the collaboration for purposes of applying for the State Bar grant.

⁵³ See *2nd Regional Meeting: Modest Means Incubator Projects in Los Angeles*, EVENTBRITE, <http://www.eventbrite.com/e/2nd-regional-meeting-modest-means-incubator-projects-in-los-angeles-registration-11481763263> (last visited Mar. 20, 2015).

confirmed that interest, flushed out more points about how the groups would collaborate. Before the California Commission announced its grant guidelines, there were already ideas floated about how to collaborate, how to design the program model, and how to delegate. By this time, the conversation included a greater number of potential stakeholders than those originally involved.

Reaching consensus on the need for greater legal services for low and modest-income clients was the easiest part of the effort. Los Angeles County has one of the highest number of people in poverty in the nation.⁵⁴ More than 1.47 million people (15% of the county's population) live on an income of \$22,000 for a family of four.⁵⁵ Nearly four in ten people live on less than \$5,400 a year or about \$11,000 for a family of four.⁵⁶ In addition to those in poverty who qualify for free legal services, there are many individuals who are just above the poverty line and need options that are more affordable than \$300 or more per hour. Given the county's high cost of living, the household median income guideline is lower than the household income guidelines used for families to qualify as low income used by the California's Department of Housing and Community Development.⁵⁷ Finally, legal aid partners report turning away a substantial number of those who qualify for their services but cannot be served due to program capacity or consumer eligibility.

The greatest hurdle to overcome in collaborating was a lack of understanding of the needs of the New Solos. Legal aid organizations in Los Angeles County primarily work with the private bar in the context of a pro bono that is subsidized by a large law firm or an individual's wealth. Law schools primarily concentrate their career services assistance on third-year law students who are looking for employment upon graduation, not on assisting lawyers to establish sustainable law offices serving modest-means clients. Many judges view attorneys as tools to efficiently administer justice without much thought given to the economics of the attorney's law practice. Law libraries primarily view lawyers as consumers so in many ways, they were the most prepared to participate in an incubator collaboration. As the deadline to submit the funding proposal was nearing, it became necessary to clarify roles and contributions to the project. Ultimately, it was the law schools and one legal aid organization that contributed the most resources to develop and sustain the project. As a result, the law schools and that legal aid organization took the lead in crafting the proposal that was ultimately submitted. The others continue their engagement as collaborators.

⁵⁴ Palash Ghosh, *Fool's Gold: California Has The Highest Poverty Rate In The United States*, INT'L BUS. TIMES (Jan. 28, 2014), <http://www.ibtimes.com/fools-gold-california-has-highest-poverty-rate-united-states-1548707>.

⁵⁵ *L.A. County Facing Growing Poverty, Erosion of Middle Class, United Way report says*, L.A. TIMES (Feb. 9, 2010, 9:57 AM), <http://latimesblogs.latimes.com/lanow/2010/02/los-angeles-county-poverty-middle-class-united-way.html>.

⁵⁶ *Id.*

⁵⁷ See Letter from Lisa Bates, Deputy Dir., Div. of Hous. Policy Dev., to interested parties (Feb. 28, 2014), available at <http://www.hcd.ca.gov/hpd/hrc/rep/state/inc2k14.pdf>.

B. The Roles

Simultaneous to the consortium planning meetings, each collaborator had to navigate its own institutional politics to identify the benefits and challenges of joining LAIC. Each had to discover what role it could play given its institutional constraints and philosophical positions. Here we streamline some of the main consideration that arose when determining which role each collaborator could and should play.

1. Law Schools

Most of the existing incubator programs in the United States are affiliated with law schools.⁵⁸ Law schools have experience in training new lawyers and can draw on the strengths of their clinical programs, their alumni, their faculty, and other resources to help new lawyers learn how to develop a sustainable law practice. Law schools generally recognize the need to expand opportunities to graduates, however, they struggle to divorce themselves from popular notions of professionalism. There is great bias to create short-term job placement opportunities rather than provide longer-term support for graduates to develop their own law practices. Even when law schools highlight alumni in solo or small firm law practice, the emphasis is not on those who are Main Street lawyers. Law firm incubators that serve modest-income populations are not at the top of the prestige food chain for law schools. However, they have become popular because they represent the fact that about half of all attorneys in private practice are solo practitioners.⁵⁹

Another obstacle that often arises when developing these programs, is that there is uncertainty about whether incubators should be developed within career services offices, alumni relations departments, or within the experiential learning program. Each school will make a decision based on interest of its personnel's interest, institutional resources, or a decanal mandate. In our collaboration, we have a representative from career services from one school, a clinical professor from another, and an experiential and public service program administrator from the third. There is not one way to develop this program but the more buy-in the institution can garner, the better.

Overall, law schools have taken the lead in developing these programs because they have the greatest interest in the development of New Solos. There are also law school faculty and staff who believe that law schools have a role to

⁵⁸ See *Incubator/Residency Programs Directory*, A.B.A., http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory.html (last visited Mar. 20, 2015).

⁵⁹ *Lawyer Demographics*, A.B.A., http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2014.authcheckdam.pdf (last visited Mar. 20, 2015) (showing that in 2005, 49% of all private practice attorneys identified as solo and an addition 14% worked in offices with two to five lawyers).

play in helping to address unaddressed legal needs. The primary benefits of having multiple law schools as the lead partners are that law schools have in-kind resources that can facilitate things like program marketing, outreach to prospective program participants, mentors, and continuing legal education providers. In addition, vendors of legal services products are more likely to negotiate bulk pricing for groups of law schools. Law schools can seamlessly design incubator program materials with a better understanding of what curriculum was provided to participants during law school on substantive law, courtroom procedure, and professional responsibility.

In building the consortium all law schools in Los Angeles County were included in the outreach, however only three elected to continue to participate to draft the application. Pepperdine University School of Law, Southwestern Law School, and UCLA School of Law each contribute financially and through in-kind support from our accounting, career services, clinical program, alumni and development offices, and communications departments in addition to our faculties. Together we have a greater impact on our graduates and our community. Without this mutual support and pooling of resources, we would not be participating in an incubator program today.

2. Legal Aid Providers

Through LAIC, the law schools are collaborating with five legal aid organizations: Bet Tzedek Legal Services, Legal Aid Foundation of Los Angeles, and Legal Aid Society of Orange County doing business in Southeast Los Angeles County as Community Legal Services, Neighborhood Legal Services of Los Angeles, and Public Counsel.⁶⁰ These legal services providers are integral in helping LAIC assess the greatest community needs and providing training for our New Solos to do pro bono work. Legal services providers offer incubator programs a deep understanding of the legal needs in the community. The legal aid organizations that are part of the consortium have large pro bono programs, ongoing MLCE trainings, substantial support for their attorney volunteers, and together they serve a wide range of clients and multiple areas of practice. Two of our legal aid organizations, Bet Tzedek Legal Services and Legal Aid Society of Orange County, are renting office space to the New Solos.

Another important feature of our collaboration is that our New Solos have the opportunity to participate in the lawyer referral and information service (LRIS) operated by the Legal Aid Society of Orange County (LASOC). LASOC has an active LRIS in Orange County but its program has never taken off in Los Angeles County. LASOC's collaboration with LAIC will allow LASOC to grow the reach of its LRIS and to develop a modest-means referral panel that incorporates New Solos. In addition to referring potential clients to New Solos who meet the panel requirements, LASOC has agreed to contribute a percentage

⁶⁰ State Bar of Cal., *supra* note 38.

of the LRIS fee to pay costs associated with operating LAIC. In addition to providing benefit to LASOC, the New Solos, and LAIC, the LRIS offers consortium members a resource to offer the hundreds of low or moderate income clients they turn away each week because they are not income-qualified, not eligible, or are otherwise conflicted out of their representation. LASOC's LRIS is approved to operate in five southern California counties so its reach and that of the New Solos can extend to neighboring counties of Los Angeles.

The primary benefit for legal aid organizations in their collaboration with attorney incubator programs is that they are able to increase their capacity to reach their eligible client population. However, when presented with the opportunity to obtain more hours from volunteer attorneys, many legal aid organizations often express concern about their capacity to train and answer questions that arise for volunteers in the course of representing a legal aid client pro bono. Through a non-restricted grant secured by LASOC, LAIC is able to work with a legal aid attorney as the program's Community Service Director to help identify opportunities for the New Solos to complete 200 hours of pro bono through existing activities of the consortium partners. The Community Service Director will be responsible to work with other legal aid partners to coordinate training and find mentors that facilitate the engagement of our New Solos in pro bono work. Such an arrangement ensures that the New Solos get the training they need to provide competent representation without adding an additional burden to the operations of our legal aid partners.

By integrating more New Solos into pro bono opportunities that legal aid organizations offer, LAIC has the potential to change the culture of pro bono in Los Angeles County. Much of the pro bono work in Los Angeles is organized through large law firms and legal aid organizations with pro bono coordinators. Like LAIC's Community Relations Director, the pro bono coordinators facilitate training and pro bono activities for its volunteer lawyers who do not generally practice in the areas of law for which they volunteer. Some of these lawyers become long-term volunteers and often donors to these legal aid organizations.

On the contrary, many legal aid organizations in Los Angeles view New Solos and Main Street lawyers as burdensome volunteers because without a third party coordinator, they demand too much time from legal aid lawyers. The problem with that position is that often these New Solos and Main Street lawyers are precisely the lawyers who practice in the same areas as legal aid organizations and can take clients who legal aid organizations cannot assist. Clients lose out through the existing paradigm because not only are they not referred to the lawyers that can help them, but the lawyers that they end up hiring do not have the benefit of participating in the excellent training programs that legal aid lawyers office.

3. The Los Angeles County Law Library

The Los Angeles County Law Library is a vibrant community education center in Los Angeles County and a leader in providing public access

to legal information into the hands of lawyers, clients, and lay advocates. In addition to acting as the curator and cultivator of a superior collection of legal resources comprised of nearly one million volume equivalents—including one of the nation’s largest foreign and international law collections—the library serves as a gateway to legal information and as a navigator facilitating access to the legal system for those who do not have or cannot afford legal representation.⁶¹ The library staff serves more than fifty thousand patrons annually.⁶² As a member of the consortium, the law library offers New Solos existing continuing legal education programs, temporary workspace near the Central Courthouse, and experienced librarians who can help with legal research. Some of the services provided are available to New Solos at a subsidized rate through the Los Angeles County Law Library’s agreement with LAIC. By engaging these New Solos early on in their practice, the Los Angeles County Law Library hopes to become the go to place for these lawyers after they graduate from our incubator program and are better situated to pay full rates on their own. The participation of the Los Angeles County Law Library is extremely valuable and facilitates the development of any subsequent program that LAIC may develop with New Solos after their twelve-month period of incubation.

All LAIC collaborators have an important role to play in the development of New Solos and the delivery of legal services to low and moderate-income individuals. Consortium members need to keep in mind the other’s institutional goals in order to make such collaboration work to address the communities’ legal needs. As the program unfolds, there will undoubtedly be points of disagreement and tension. However, the LAIC pilot phase allows each entity to stretch itself in innovative ways to ultimately create a broader network of competent providers that address the needs of low and moderate-income clients who currently do not have access to lawyers or legal services. By working together with these various providers, the LA Incubator Consortium can leverage respective strengths to develop a program that is responsive to the large and sprawling community our New Solos seek to serve. All partners are committed to work together during this pilot and to continue to build it into a successful program that will expand beyond the first year and reach new areas of the county.

IV. LAUNCHING THE NEW SOLOS

The project undertaken by LAIC is ambitious. We selected eleven New Solos, hired our Attorney Development Director, and launched the program in

⁶¹ *About Us*, L.A. L. LIBR., <http://www.lalawlibrary.org/index.php/about-us.html> (last modified Oct. 20, 2013).

⁶² *About Us and Our Friends*, FRIENDS OF THE L.A. LIBR., <http://www.friendsoflacll.org/la-law-libraryphotos.php> (last visited Mar. 21, 2015).

less than two months.⁶³ Once the State Bar notified us of our seed grant, we quickly had to shift our attention from institutional concerns to the needs of New Solos and their prospective clients. We describe here that bimodal framework.

A. Addressing the Needs of New Solos

The law school members in LAIC led the process that identified our new solos. Our law schools have at least one course that focuses on solo practice or law practice management, but none of the schools have a curriculum or a culture that reflects the anticipation that our law graduates will establish their own law practice. In December 2014, we began to informally gauge recent alumni interest in the program, but gave ourselves only a two-week window to solicit applications to participate in the incubator program. Our goal was to create a program that our alumni needed and we resisted any temptation to convince anyone to apply or join the program.

We received a modest number of applications, and while we could have considered accommodating all who applied, we were most interested in narrowing down the pool of lawyers who would best fit the program. A panel of law school representatives interviewed each applicant. This process allowed the applicants to ask questions about the program and facilitated LAIC's understanding of the motivations and circumstances that informed our graduates' decisions to establish their own law practices and serve modest-income clients. Once selected, applicants were given a week's time to make a decision. Each law school was available to counsel their graduates in order to help them make a decision that was right for them. At the end of the process, three of our graduates declined our offers and cited financial considerations or other job opportunities as the reason for their decision.

LAIC's first class of New Solos includes two graduates of Pepperdine University School of Law, five from Southwestern Law School and three from UCLA School of Law. Each expressed interest in developing law practices in a variety of practice areas that ranged from representing small businesses to sex workers. Their backgrounds and language fluencies reflect the multi-cultural landscape of Los Angeles. This group of New Solos has attorneys that speak Armenian, Cantonese, Farsi, French, Hebrew, Hindi, Mandarin, Spanish, Taiwanese, and Urdu. The diversity of the group excites us and reinforces the notion that our program resonates with individuals who are interested in working with underserved communities. As we began to think about structuring a program for them, our goals for their development fell into six areas: establishing their professional identity, imbedding best practices for ethical law practice

⁶³ Our quick start-up phase was facilitated by the fact that the Community Relations Director and a member of the Advisory Council had experience launching these programs. Bill Tanner is the Community Relations Director who also established the Lawyer Entrepreneur Assistance Program for the Legal Aid Society of Orange County. Luz Herrera from UCLA School of Law helped develop the Center for Solo Practitioners at Thomas Jefferson School of Law in San Diego.

management, managing financial stress, finding the right mentors, and learning the law. We discuss each consideration here.

1. Establishing Professional Identity

A New Solo's professional identity is grounded in personal experiences that reveal how he or she uniquely contributes to the legal profession. Lawyers who can clearly articulate who they are and what they contribute will inspire greater confidence in their abilities and find greater personal fulfillment in their professional journey.

The vetting process to select New Solos for the program required them to submit a personal statement explaining why they want to start their own law practice and participate in the incubator program. This exercise is basic, but it allows New Solos to articulate what motivates their decision to start a law practice that serves low-income clients. The interview process gave us the opportunity to delve deeper into their values, their concerns, and passions. Those who do not clearly articulate a commitment to serving modest-income clients may not fit well into the program. New Solos with high likelihood of success are those who possess and describe an entrepreneurial spirit and self-confidence. Those New Solos must also have a strong desire to practice law in a way that advances clients' interests.

Those admitted into the program were asked to share more about their backgrounds. By probing for more personal information, we begin to strip their professional mask and make the experience personal. When these introductions were done online just before the program started, we found that many New Solos shared pictures of their loved ones. On the first day of boot camp, they were again asked to share their backgrounds, their goals, and their concerns, not just by speaking, but by engaging in acting exercises. These exercises allowed them to express their identity in more creative and context specific ways. New Solos were asked to work on their professional biographies during their first week in the program.

A personal narrative about the New Solo and his or her contribution to the law serves as the basis for any marketing plan. The lawyer's personal narrative must offer the prospective client enough information about the New Solo's professional identity and personal values to permit that prospective client to make an informed decision about whether that New Solo is the right lawyer for their particular legal issue. Ultimately, New Solos who can convey a personal commitment to the client's legal issues and an understanding of that client's financial constraints will fare better in securing clients.

2. Managing Financial Stress

While LAIC does not represent financial success, it makes great efforts to offer New Solos guidance on how to make ends meet and manage financial stress. Most New Solos worry about their student debt burdens, cost of living

expenses, and their business expenses. Before they join the program we explain that they encounter several months without sufficient cash flow to pay all of their expenses. New Solos who do not have a financial cushion or a support system to get them through those first difficult months may experience high levels of anxiety that inhibit their ability to succeed as a solo serving modest-income clients.

We tackle the reality of financial stress by openly discussing it. LAIC explores how various student loan repayment programs facilitate the burden in the short-term, works with New Solos to create personal budgets, and presents them with options to keep business overhead low. LAIC also brings in speakers to discuss forms of alternative fee structures that New Solos can employ when developing their business plans and establishing their financial projections. We introduce them to opportunities to serve on modest-means lawyer referral panels and introduce them to attorneys who have contract work they can do while they build their client base. While LAIC provides many resources to generate revenue and minimize financial stress, we explain that to be able to develop a sustainable law practice that serves modest-income clients, the New Solo's motivation needs to be more than financial.

Attorneys who represent modest-means clients are generally attorneys who live modestly. Building a sustainable law practice by serving modest-income clients is hard work but it allows New Solos to make ends meet. Some attorneys will develop business models that allow them to make a good living and affords them the same luxuries as their counterparts in the corporate sector. However, unless they develop and execute strong business plans, most solo and small firm lawyers develop modest-means law practices that produce inconsistent income streams. To endure the highs and lows they may face, particularly in the first five years, New Solos must have a long-term commitment to serve modest-income clients.

3. Imbedding Ethical Practices

New Solos must embrace best practices for ethically managing their law practices. LAIC requires that New Solos sign up for malpractice insurance and establish a client trust account within the first two weeks of the program. They work on developing engagement letters, establishing case management systems, and learning about how to assess their law office environments to ensure their clients' confidentiality. Malpractice providers, state bar representatives that oversee attorney disciplinary actions, and case management vendors are all eager to provide trainings and software demonstrations for New Solos. By exposing New Solos to best practices in law practice management and ethical compliance, LAIC attempts to cement the notion that competent and quality legal representation demands attention to potential ethical violations. We hope that such philosophy ultimately benefits the client communities these New Solos will serve.

4. Finding Appropriate Mentors

Assistance in identifying the right mentors is one of the greatest contributions we can make to New Solos. LAIC thinks about finding mentors to help New Solos answer questions about legal issues and process, as well as questions relating to running their law practices as businesses. While LAIC helps identify mentors for each New Solo, we also developed the program to allow for two part-time program directors who serve as mentors that compliment each others' strengths.

LAIC is fortunate to have two talented directors working with our project this year. The *Community Relations Director* is charged with building community relationships and finding mentors to guide New Solos on pro bono work. He is instrumental in working with our partner organizations and courts to identify opportunities for New Solos to learn and provide assistance to the community. Since incubator programs have dual goals of serving more clients and better preparing attorneys, it is important to have a director that knows how to leverage the best training and mentors available to take on pro bono work. The constant client traffic at legal aid organizations allows legal aid attorneys to become experts in many of the areas where modest-means clients need assistance. While these lawyers are generally too busy to serve as mentors for any individual New Solo, the *Community Relations Director* can work with the legal aid organizations to develop special training and access individual legal aid lawyers. LAIC believes this approach will better address the needs of both the pro bono providers and the new solos.

The *Attorney Development Director* is primarily tasked with counseling New Solos on practical aspects of opening their own practice. She is someone who understands the difficulties in starting a new venture in a competitive legal field and will work with each new solo to help develop business plans, which include market niches informed by community need and New Solo interest. The *Attorney Development Director* is primarily responsible to plan and execute the boot camp and subsequent trainings.

5. Learning the Law

The fifth need that New Solos have is to learn to applicable law. As a condition of participating in the consortium, members agree to provide training in different areas of law for new lawyers required to complete pro bono hours. Based on the interests in practice areas expressed by New Solos, LAIC has identified areas of the law that have pro bono programs to support their interests while also giving them skills, experience, and potential clients to build their practices in their first year. In addition, the *Attorney Development Director* is tasked with finding additional opportunities for New Solos to learn common areas of practice such as family law, bankruptcy, estate planning, criminal defense, as well as practical law office procedure. To advance New Solos'

learning environment, LAIC also contracted with vendors that offer practice guides, sample documents and other legal research tools.

B. Clients' Needs

To be a client centered lawyer, a New Solo needs to understand that law is about clients, not about lawyers. A lawyer's value to a client will be judged by how much that lawyer understands the client's need and concerns. A New Solo's marketing plan should communicate a clear message about who he or she is and how they fit in the profession. Website bios, elevator pitches, and personal interactions must uniformly convey that the lawyer understands what is most important to the client. While there are many factors that clients care about, we focus on preparing New Solos to address three: competence, honesty, and affordability.

1. Competence

LAIC's focus on capacity building of New Solos is based on the belief that clients want and deserve competent attorney representation. Continuing legal education sessions, one-on-one mentoring sessions, and supervised hands-on experience at legal aid organizations are all tools used to increase the competence of New Solos. In addition to coaching New Solos to learn the law, LAIC offers guidance on new standards for competence in the age of cloud technologies where third parties have access to or control a great deal of confidential client information. Finally, our New Solos receive cultural competence training to prepare to work with the diverse client population of Los Angeles County.

2. Honesty

Clients with legal problems need attorneys who are honest. Whether or not clients pay for a lawyer's services, they expect to receive an honest assessment of their legal problem when they visit with a lawyer. New Solos are coached to manage client expectations when counseling clients. They are also trained on how to manage their trust accounts and establish protocols to properly manage law office finances.

3. Affordability

Clients who make \$10-\$15 per hour, need more affordable legal services than \$10,000 retainers or \$300 hourly rates.

LAIC requires that New Solos commit to devoting 200 pro bono hours to work on cases from legal aid member providers. Individuals helped through the legal services organizations pro bono projects will be subject to the various

income requirements of the legal services organizations. In addition to providing free work, New Solos will also become part of a modest-means panel of an existing lawyer referral services (LRIS) once they are trained. Participation in such a program requires that New Solos agree to give an initial consultation to callers without charging a fee. In exchange for such referrals, attorneys on the panel will agree to a flat fee structure including: \$500 fees for attorneys to handle unlawful detainers, and \$600 to represent someone in a family law order to show cause. The details are still being worked on.

In addition to these formal mechanisms built into the program, LAIC's training of New Solos includes showing attorneys how to develop a fee schedule for limited scope services. Ultimately, the new solos and the client will decide the appropriate fee arrangement based on the type and complexity of case, the new solo's competency, and the client's ability to pay. However, LAIC will encourage participants to develop alternative fee models that acknowledge the need for more transparency in pricing through flat fee and unbundled legal services.

V. CONCLUSION

The Los Angeles Incubator Consortium established ambitious outcome measurements to measure our success. Some of the outcomes, such as the number of pro bono hours devoted and clients served, will be easy to calculate. Other outcomes, including continued commitment to serve modest-means clients, may take years to fully capture. To help us document those difficult to access program characteristics, we obtained commitments from a couple of social scientists to assist in the evaluation process. Participation in LAIC requires that New Solos agree to participate in an evaluation of the development of their law practices and their professional identity. In addition to reporting on the number of pro bono hours offered and the number of modest-income clients they served, New Solos are expected to participate in surveys, focus groups, and exit interviews during their time in the program.

We plan to use the evaluation results to modify the model as we expand in the future. Plans for expansion include branching out to other underserved areas of Los Angeles County, particularly the South Bay, the San Fernando Valley and Antelope Valley. In addition to our own efforts, our state bar grant includes the opportunity to work with an evaluator supported by the State Bar to facilitate data gathering, technical assistance, and dissemination of lessons learned, and best practices. Ultimately, these systems for outcome measurements will give us more information to help us determine whether supporting New Solo to advance modest-income delivery is worth the investment.



LOS ANGELES INCUBATOR CONSORTIUM

Who We Are: 2015 Incubator Participants

Law Offices of Bartley Babcock

Bartley Babcock zealously defends people who are charged with misdemeanors and felonies in the state superior courts of Southern California. He is a fearless advocate who is not afraid to take a case to trial in order to get the best possible result for his clients. Mr. Babcock's passion for defending the constitutional rights of the accused stems from his desire to be the voice for the voiceless. Mr. Babcock is a graduate of the University of Southern California and Southwestern Law School. He can be reached at (310) 699-9650 or bartley.babcock@gmail.com.



Crockett Law

Christopher Crockett represents employees in discrimination, harassment and retaliation cases. He has tried over 50 cases in areas ranging from employment to product liability to elder abuse and he is equally comfortable negotiating a settlement. Mr. Crockett grew up in a large family, and was encouraged to act on opportunities to help others with greater needs. That public service ethos underlies his volunteer legal work with the homeless population in Los Angeles. Mr. Crockett is a graduate of the University of California, Los Angeles and Pepperdine University School of Law. Christopher Crockett can be reached at (714) 702-5284 or chris@crockett-law.com.



DBY Law

Dan Yakobian represents employees in employment-related litigation and wage and hour disputes. He is well versed in civil litigation and is gifted in his ability to help clients feel listened to and supported. Mr. Yakobian is a graduate of the University of California, Los Angeles and Southwestern Law School. He is fluent in Hebrew and Farsi. Dan Yakobian can be reached at (213) 316-8844 or www.bigdlaw.com.



Harp Law

Hadi A. Harp represents start-up companies, entrepreneurs and inventors on a variety of matters including entity formation, employment policies, real estate and intellectual property strategies. Mr. Harp's understanding of transactional legal needs is grounded in his experiences assisting the creation of affordable housing in Los Angeles. He is a graduate of the University of Michigan and UCLA School of Law. Hadi Harp is fluent in Arabic and can be reached at (424) 341-4277 or hadi@lawharp.com.



Law Offices of Vivek Mittal

Vivek Mittal represents clients with federal litigation and immigration law claims. Mr. Mittal has won numerous motions in immigration court, the Board of Immigration Appeals, and the U.S. Court of Appeals for the Ninth Circuit. As a fellow at the National Immigration Law Center, he litigated high-impact cases regarding anti-immigration laws across the country, most notably against Arizona's SB 1070 and Alabama's HB 56. Mr. Mittal is a graduate of Rice University and UCLA School of Law. He teaches as an Adjunct Professor at UC Irvine School of Law. He is fluent in Hindi and Urdu. Vivek Mittal can be reached at (213) 444-0685 or vivek@vivekmittal.com.



Law Offices of Tania Ochoa

Tania Ochoa strives to provide quality legal representation to under-served communities in the areas of Family Law and Estate Planning. Her passion for justice and her commitment to her clients are the driving forces behind her practice. Ms. Ochoa is a strong advocate for those who often do not have a voice and who otherwise would not have access to quality legal representation. As a native from East Los Angeles, Ms. Ochoa graduated from the University of California, Irvine, and earned her law degree at Southwestern Law School. She is fluent in Spanish. Tania Ochoa can be reached at (626) 823-8265 or tochoalaw@gmail.com.



Law Office of Luiza Patrikyan

Luiza Patrikyan represents clients in family law, landlord-tenant and a variety of other civil litigation claims. At age 2, she immigrated to the United States with her parents from Armenia. Her experience assisting her parents and other immigrants navigate a variety of legal and cultural issues led her to law school and to establish her law office. She is a graduate of California State University, Northridge and Southwestern Law School. Luiza Patrikyan is fluent in Armenian and can be reached at (818) 334-9333 or www.patrikyanlaw.com.



Law Offices of Liza Zakour

Liza Zakour helps clients navigate their legal problems in the areas of immigration and government benefits. Her personal and professional experiences have exposed her to the complex legal issues that victims of crime and individuals struggling to achieve legal immigrant status face. Ms. Zakour is a graduate of University of California, Los Angeles and Southwestern Law School. She is fluent in Arabic. Liza Zakour can be reached at (818) 934-0363 or liza@litzakour.com, or at her website, www.litzakour.com..



V. Soma Law

Vanessa Soma is passionate about representing clients who are combating misogyny, cissexism, heterosexism, and racism. She represents clients in a variety of legal issues where family law, immigration and domestic violence intersect. Ms. Soma has worked with a range of public interest organizations representing victims of domestic violence, human trafficking, sexual assault, persecution, and torture. She is a native of California and received her college, law and master's degree from the University of California, Los Angeles. Vanessa Soma can be reached at (818) 210-5045 or vsomalaw.com.



Need Legal Assistance?

LALC participants are located in Norwalk and the mid-Wilshire area of Los Angeles. These dedicated attorneys are available to provide a comprehensive range of legal services. For your convenience, they have provided their contact information. They, and other attorneys, are also participants of the Modest Means Panel of the Legal Aid Society of Orange County Lawyer Referral Service or "LRS." The LRS is a nonprofit service that allows members of the public to find a qualified attorney. Attorneys on the LRS Panel are screened for qualifications, carry malpractice insurance and are in good standing with the State Bar of California. These attorneys provide a free initial consultation (up to 30 minutes) by phone or appointment to evaluate the individual's specific legal needs. There is no cost to access information through the LRS and there is no fee to get a referral to an attorney. If you are interested in finding a qualified attorney to help you at a moderate cost, please contact the Lawyer Referral Service (LRS) at (888) LRS-4ALL. You can find additional lawyer referral services at www.socallawyerreferral.com.

If you need a lawyer and cannot afford one, you may qualify for free legal services from legal aid. Legal aid agencies are non-profit organizations that provide free legal services to people below a certain income level. To find a legal aid organization in your area, please visit LawHelpCa.org. The California Judicial Branch also has legal information and a form at <http://www.courts.ca.gov/selfhelp.htm>.

What is LAiC?

Pepperdine University School of Law, Southwestern Law School and UCLA School of Law are all law schools operating in Los Angeles County, the most populous county in the United States. In January 2015, these law schools initiated an attorney incubator program that supports graduates in establishing community-based law practices that serve modest means individuals in the county. The Los Angeles Incubator Consortium, or "LAIc," is a collaboration among the three law schools, local legal aid organizations, and the Los Angeles County Law Library. Each new solo practitioner, or "new solo," in the twelve-month incubator program has committed to providing at least 200 hours of pro bono service to clients of local legal aid organizations, including Bet Tzedek, Community Legal Services, Legal Aid Foundation of Los Angeles, Neighborhood Legal Services of Los Angeles and Public Counsel. In exchange, these organizations offer legal training, mentorship and professional development opportunities to support the new solos. This partnership ensures that the new solos are building relationships with legal service providers in the area and staying connected to the populations that most require their help. In addition, the law schools and the Los Angeles County Law Library coordinate a variety of trainings on effective law practice management, and the new solos also receive mentorship from a group of attorneys and retired judges who provide feedback on case strategy.

Together, the new solos, law schools, the Los Angeles County Law Library, and local legal aid organizations that comprise LAiC are building an effective legal service delivery model that serves modest-means individuals and communities that may not always qualify for pro bono legal services. In the future, our consortium plans to expand this program to reach other underserved areas of Los Angeles County. The county's geographic area and vast need for legal services necessitates a broad and collaborative effort like the one we have undertaken. We hope that you will support LAiC's new solos and program. In doing so, you will help us promote greater access to legal services for all.



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LAIc

Los Angeles Incubator Consortium

PEPPERDINE UNIVERSITY SCHOOL OF LAW • SOUTHWESTERN LAW SCHOOL • UCLA SCHOOL OF LAW



November 19, 2015



Los Angeles Incubator Consortium

MEMBERS OF THE CONSORTIUM

- Law Schools
 - UCLA School of Law
 - Pepperdine University School of Law
 - Southwestern Law School
- Legal Aid Organizations
 - Bet Tzedek
 - Legal Aid Foundation of Los Angeles (LAFLA)
 - Legal Aid Society of Orange County dba Community Legal Services
 - Neighborhood Legal Services of Los Angeles (NLS-LA)
 - Public Counsel
- Los Angeles Law Library

GRANT FROM THE CALIFORNIA STATE BAR

In 2015, the State Bar awarded our Consortium a grant to launch a pilot program to train 12-15 new solo practitioners and help close the justice gap in California's legal system. The program is successful, and are now seeking participants for Year 2.

Panelists on the call

- UCLA School of Law
 - Dean Luz Herrera
- Pepperdine University School of Law
 - Miriam Benor
- Southwestern Law School
 - Prof. Laura Dym Cohen
- Los Angeles Incubator Consortium
 - Maria Hall, Director
 - Dan Yakobian, Participant

Overview of Webinar

- **Incubator Program Information**
 - Program Goals
 - Program Benefits
 - Program Eligibility
 - Program Expectations and Requirements
 - Lawyer Referral Service
- **Los Angeles Incubator Consortium**
 - Members of the Consortium
 - Grant from California State Bar
- **Application Guidelines and Materials**

Program Goals

- Increase pro bono and affordable legal services for individuals in Los Angeles County who do not qualify for legal aid but cannot afford market rates.
- Help new attorneys launch and develop viable law practices serving modest means clients.

Program Benefits

- **SOLO PRACTICE MANAGEMENT TRAINING**
12-month program with trainings specifically geared toward solo practitioners including client communication, effective case management, legal ethics and business plan development.
- **SUBSIDIZED OFFICE SPACE**
Participants will be situated in two rent-subsidized office spaces—in mid-city Los Angeles and in southeastern Los Angeles.
- **COLLABORATION**
Participants will come together for trainings, case reviews, and mentorship to brainstorm, collaborate and work together to build their practices.
- **SUBSTANTIVE LAW TRAINING and PRO BONO REQUIREMENT**
Participants are required to perform 200 hours of pro bono for the legal aid organizations that are members of the Consortium. In exchange these organizations will offer substantive law trainings in areas of their practice and give participants the chance to build their future potential client base through pro bono service.

Additional Benefits

Free Access to Resources You Need to Build a Law Firm

Legal databases, reference materials and secondary sources
 Law practice management software (billing, time tracking, integrated case mgmt.)
 Continuing Legal Education programs and webinars

Free Ongoing Training, Guidance and Support to Keep Your Firm Moving Forward

“Starting Your Law Firm” boot camp
 Interactive group workshops on business, marketing, and legal skills taught by legal experts and practicing lawyers
 Individual and group reviews and discussions about cases
 Weekly one-on-one meetings with program director and/or other mentors

Opportunities to Build Your Network and Referral Base

Introduction to potential mentors in a variety of legal fields
 Free “Lawyer Referral Service” membership
 Training and pro bono opportunities with Bet Tzedek, LA Law Library, Legal Aid Foundation of Los Angeles, Neighborhood Legal Services, Public Counsel, and Community Legal Services

Collaborative, shared workspace

Below-market office rent, including printer and wifi
 Interview and Conference Rooms

Program Expectations and Requirements

- The Consortium and its member entities are not your employer.
- You are responsible for generating clients and income while you are participating in the program.
- You and your clients will decide the appropriate fee arrangement based on type and complexity of case, attorney’s competency and the client’s ability to pay.
- You agree to perform 200 hours of pro bono work through legal aid organizations that are members of the Consortium.
- You agree to attend and participate in mandatory trainings and workshops that are part of the Program.

Lawyer Referral Service

- The program will help attorneys develop a fee schedule for limited scope services by working with Legal Aid Services of Orange County (LASOC) to and their existing lawyer referral service that is expanding in Los Angeles County. After appropriate training, participants will be added to this panel and for the first year on the LRS, LASOC will waive fees for referral service for participants.
 - Participants must agree to give an initial consultation to callers without fee.
 - Program will work with participants on a pricing structure when they are retained.
- Participants will be eligible to participate in BHBA Modest Means Panel at a reduced rate, so long as they have a mentor willing to assist.
- Program will assist with participating in additional LRS in Los Angeles County.

Program Eligibility

- Must be **member in good standing** of the California State Bar.
- Must carry **malpractice insurance** at all times of at least \$100K/\$300K and to pay for any tail coverage if the policy is a claims-reported policy.
- Must provide **200 hours of pro bono** work (including training to prepare for related pro bono work) during participation in program.
- Abide by and remain **compliant with rules** governing the program, including paying a monthly fee for office space and participating in the evaluation of the program.

Program Application

DUE: DECEMBER 7 by midnight

REQUIRED DOCUMENTS

1. Personal Statement
 - a. Why should you be selected to participate in the program?
 - b. Why do you want to be a solo or small-firm practitioner?
 - c. Why are you interested in serving low-and moderate-income members of the community and why are you interested in doing so as a solo practitioner?
2. Brief Business Development Plan
3. Current resume
4. List of references and contact information

Program Schedule

- Applications are due December 7, 2015
- Interviews will take place in December
- Selected participants will be notified in December and January
- Year 2 for LAIC will begin February 1, 2016 with a Boot Camp
- Office space will be available beginning March 1, 2016 and the lease agreements will be for 11 months
- There will be ongoing trainings, workshops and meetings throughout the program year
- The program ends January 31, 2017

Let's hear from a current LAIC participant:

- Attorney Dan B. Yakobian is the principal attorney and the founder of DBY Law. Dan founded the firm so that he can actively participate in helping clients solve their legal problems quickly and without stress. DBY Law believes that understanding the client's unique situation, educating the client every step of the way, and maintaining constant communication are essential to a successful representation.

Questions?

Application Contacts

For additional questions and to submit your application, please contact the representative of your law school:

- UCLA School of Law
 - Dean Luz Herrera at experiential@law.ucla.edu
- Pepperdine University School of Law
 - Miriam Benor at miriam.benor@pepperdine.edu
- Southwestern Law School
 - Prof. Laura Dym Cohen at lcohen@swlaw.edu