


Teaching Business Law in the New Economy; Strategies for Success

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Teaching Business Law in the New Economy: Strategies for Success

[T]ransactional lawyers are needed, en masse, to aid in an epic reinvention of our economic system [because t]he world's economic and ecological meltdowns demand that we now redesign our livelihoods, our enterprises, our communities, our organizations, our food system, our housing, and much more.¹

I. INTRODUCTION

THE TERM “BUSINESS LAW” IS INCLUSIVE of a number of practice areas and courses including corporate law, commercial law, banking law, bankruptcy, securities regulation, and tax law, to name a few. The field encompasses a range of transactional subjects both domestically and abroad.² Business law concepts converge upon a wide array of civil issues ranging from aviation law to zoning. As a result, business law is at the center of several diverse fields of practice. This centrality warrants adequate attention to business law concepts.³

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* Associate Professor of Law, Thurgood Marshall School of Law, Texas Southern University. Thanks to Lisa Fairfax for the invitation to present a version of this paper at the 2012 SEALS Annual Conference as part of the Business Law in the New Economy panel. I also thank my co-panelists who provided the inspiration for this writing. I appreciate the staff of the *Journal of Business & Technology Law* for the careful editorial review of this essay. As always, I am grateful for the continued support of my family and colleagues.

1. JANELLE ORSI, PRACTICING LAW IN THE SHARING ECONOMY: HELPING PEOPLE BUILD COOPERATIVES, SOCIAL ENTERPRISE, AND LOCAL SUSTAINABLE ECONOMIES 1 (2012). This new sharing economy facilitates community ownership, localized production, sharing, cooperation, small scale enterprise, and the regeneration of economic and natural abundance, making the exploding numbers of social enterprises, cooperatives, urban farms, cohousing communities, time banks, local currencies, and the vast array of unique organizations arising from the sharing economy possible and legal. *See generally id.*

2. *See* Franklin A. Gevurtz et al., *Report Regarding the Pacific McGeorge Workshop on Globalizing the Law School Curriculum*, 19 PAC. MCGEORGE GLOBAL BUS. & DEV. L.J. 267, 279–318 (2006).

3. *See* Afra Afsharipour, *Incorporating “Business” in Business Law Classes*, 8 U.C. DAVIS BUS. L.J. 1, 3–4 (2007–2008). *See generally* Gregory C. Shaffer, *How Business Shapes Law: A Socio-Legal Framework*, 42 CONN. L. REV. 147 (2009) (examining how business law permeates both the public and private sectors).

TEACHING BUSINESS LAW

The changing landscape of the business law arena requires that scholars and practitioners address today's evolving economic trends.⁴ Comprehensive reform and sweeping regulation have radically transformed the business law field. Accordingly, the law school transactional curriculum should be updated to respond to the emerging new economy⁵ that graduates and practitioners now face during the global financial crisis.⁶ This essay provides the groundwork for building an academic foundation to adapt to a harsh financial environment in the wake of the recent Great Recession.⁷

Course design techniques and practical skills development are discussed to provide a mechanism for undergraduate and graduate business professors to integrate the new economy framework into their classrooms. An assessment of the current state of affairs in higher education curricular reform is undertaken to promote understanding across faculty and administrative lines. The results of such movement are addressed with particular emphasis on transactional and transnational legal coursework in a corporate context. This essay promotes teaching innovation in business as a novel way to meet the demands of the new economy that thrives on efficiency.⁸ The business of law and the economy of law schools are analyzed as justification for the relevant curricular changes that should ensue to better serve the academy and legal profession.

4. See Roberta Romano, *After the Revolution in Corporate Law* (ECGI Law, Working Paper No. 50/2005), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=824050. See generally Adam Winkler, *Corporate Law or the Law of Business? Stakeholders and Corporate Governance at the End of History*, 67 L. & CONTEMP. PROBS. 109 (2004) (detailing the changing landscape of corporate governance from the late nineteenth century onward).

5. See Umair Haque, *The New Economics of Business (Or, the Case for Going Great-to-Good)*, HARV. BUS. REV. (Feb. 9, 2010, 3:17 PM), http://blogs.hbr.org/haque/2010/02/its_like_a_neon_sign.html ("Hypercompetition — and hypercollaboration — is accelerating. The people formerly known as consumers are now your peers. Regulators have a keener eye and a longer arm. Stakeholders went from being hippie pacifists to shark-toothed activists. In this world, mere innovation and 'strategy' are commodities."); *Building Businesses in the New Economy*, HARV. BUS. SCH., <http://www.exed.hbs.edu/assets/interviews/Pages/building-businesses.aspx> (last visited Jan. 19, 2013).

6. See generally Eli Wald, *Foreword: The Great Recession and the Legal Profession*, 78 FORDHAM L. REV. 2051 (2010) (discussing the possible long-term consequences of the recent economic downturn).

7. See generally *Recession*, N.Y. TIMES, http://topics.nytimes.com/top/reference/timestopics/subjects/r/recession_and_depression/index.html (last visited Jan. 19, 2013) (reporting the findings of the National Bureau of Economic Research that the recent recession began domestically on December 1, 2007 and ended in June 2009).

8. See Gillian K. Hadfield, *Legal Infrastructure and the New Economy*, 8 ISJLP 1, 8 (2012) ("Fast-paced, global, niche-driven, and increasingly network- rather than firm-based, the economy today is poorly served by legal markets and institutions developed to meet the demands generated by an economy based on standardized mass-market manufacturing, predominantly domestic markets, and production organized within, rather than across, firm boundaries.").

II. THE NEW ECONOMY

The Great Recession brought a wave of new federal legislation and regulation as the country struggled to stabilize a volatile economy.⁹ As a result, drastic changes ensued in the financial industry.¹⁰ The products and services offered by the financial sector are now subject to increased supervision and oversight.¹¹ Two additional federal agencies, the Financial Stability Oversight Council (FSOC) and the Consumer Financial Protection Bureau (CFPB), were created under the sweeping Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)¹² to address the issues of the financial crisis.¹³ Upheaval in the financial markets and the adverse effect of the global financial meltdown resulted in the establishment of a new economy — one that depends on accountability and transparency in the corporate business context.¹⁴ Accordingly, transactional law is undergoing a transformation to facilitate compliance with the recently implemented rules and regulations that challenge the concept of “too big to fail”¹⁵ in our evolving economy.

An overview of the ensuing credit crunch as it relates to housing and even employment are provided to give context to the governmental response to the recent financial crisis spurred by the bursting of the housing bubble inflated in part

9. See generally David B. Grusky et al., *The Consequences of the Great Recession*, in THE GREAT RECESSION 3, 3–5 (David B. Grusky et al. eds., 2011) [hereinafter GREAT RECESSION] (explaining that the Great Recession generally spanned from 2007 to 2009, lasting approximately 18 months as one of the longest recessions in United States history, although we continue to experience a sluggish economy); see also Marilyn Geewax, *Did the Great Recession Bring Back the 1930s?*, NPR (July 11, 2012), <http://www.npr.org/2012/07/11/155991507/did-the-great-recession-bring-back-the-1930s> (comparing the Great Recession to the Great Depression).

10. Grusky et al., *supra* note 9, at 4–5 (summarizing the “multipronged government response elicited by both the initial crisis and the recession it engendered”).

11. Policy-makers have proposed an even larger set of reforms. See generally U.S. DEP’T OF TREASURY, FINANCIAL REGULATORY REFORM: A NEW FOUNDATION: REBUILDING FINANCIAL SUPERVISION AND REGULATION (2009), available at http://www.treasury.gov/initiatives/Documents/FinalReport_web.pdf (detailing a recommended plan for reform).

12. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111–203, 124 Stat. 1376 (2010) (codified in a variety of sections within the United States Code).

13. 12 U.S.C. § 5321 (Supp. V 2011) (establishing the Financial Stability Oversight Council); *id.* § 5491 (Supp. V 2011) (establishing the Consumer Financial Protection Bureau).

14. See generally Dirk Ulrich Gilbert et al., *Accountability in a Global Economy: The Emergence of International Accountability Standards*, 21 BUS. ETHICS Q. 23 (2011); Christine Kaufmann & Rolf H. Weber, *The Role of Transparency in Financial Regulation*, 13 J. INT’L ECON. L. 779 (2010).

15. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376, 1376 (2010) (noting that one purpose of the Act is “to end ‘too big to fail’”); see also ANDREW GARY H. STERN & RON J. FELDMAN, TOO BIG TO FAIL: THE HAZARDS OF BANK BAILOUTS (2004) (analyzing the potential systemic risks of the failure of large financial institutions); ROSS SORKIN, TOO BIG TO FAIL: THE INSIDE STORY OF HOW WALL STREET AND WASHINGTON FOUGHT TO SAVE THE FINANCIAL SYSTEM—AND THEMSELVES 542–43 (2009) (providing a detailed account of how the recession roiled the financial industry); David J. Lynch, *Big Banks: Now Even Too Bigger to Fail*, BLOOMBERG BUSINESSWEEK, Apr. 19, 2012, <http://www.businessweek.com/articles/2012-04-19/big-banks-now-even-too-bigger-to-fail> (“Five banks—JPMorgan Chase (JPM), Bank of America (BAC), Citigroup (C), Wells Fargo (WFC), and Goldman Sachs (GS)—held more than \$8.5 trillion in assets at the end of 2011, equal to 56 percent of the U.S. economy, according to the Federal Reserve.”).

by mortgage backed securities.¹⁶ Accordingly, asset backed securities are now subject to regulation.¹⁷ Current issues with wealth depletion and asset management direct attention to the social costs of the recession as unemployment rose, housing prices crashed, and retirement holdings dissipated.¹⁸ Innovative investment vehicles and strategies have morphed in response to the Great Recession.¹⁹ The middle-class has contracted and small businesses are in a state of flux.²⁰ Consumer spending waivers as consumption fluctuates and incomes compress in a perilous market.²¹ The financial indicators relied upon prior to the recession including credit ratings,²² and

16. See PEW RESEARCH CTR., HOW THE GREAT RECESSION HAS CHANGED LIFE IN AMERICA (2010), available at <http://www.pewsocialtrends.org/files/2010/11/759-recession.pdf>; see also Brian Perry, *An In-Depth Look at the Credit Crisis*, INVESTOPEDIA, 1, 12–15 (2010), <http://i.investopedia.com/inv/pdf/tutorials/credit-crisis.pdf> (arguing that the housing bubble was a major cause of the credit crunch).

17. Dodd-Frank Wall Street Reform and Consumer Protection Act §§ 621, 941–945, 124 Stat. at 1631–32, 1890–98 (codified in scattered sections of 15 U.S.C.); 17 C.F.R. pts. 229, 232, 240, 249 (2012).

18. See, e.g., U.S. BUREAU OF LABOR STATS., SPOTLIGHT ON STATISTICS: THE RECESSION OF 2007–2009 2 (2012), http://www.bls.gov/spotlight/2012/recession/pdf/recession_bls_spotlight.pdf (detailing the rise in unemployment between Dec. 2007 and Oct. 2009).

19. See Dodd-Frank Wall Street Reform and Consumer Protection Act, tit. 7, 124 Stat. at 1641–1802 (regulating over-the-counter swaps markets); Michael Greenberger, *Overwhelming a Financial Regulatory Black Hole with Legislative Sunlight: Dodd-Frank's Attack on Systemic Economic Destabilization Caused by an Unregulated Multi-Trillion Dollar Derivatives Market*, 6 J. BUS. & TECH. L. 127, 155–66 (2011) (detailing Dodd-Frank regulations); Press Release, TD Ameritrade Holding Corp., TD Ameritrade Survey: Americans Start 2011 With Lower Risk Appetite (Jan. 31, 2011), available at <http://www.amtd.com/newsroom/releasedetail.cfm?releaseid=546401> (finding that Americans' investment strategies have changed in the wake of the Great Recession).

20. See U.S. CONG. JOINT ECON. COMM., INCOME INEQUALITY AND THE GREAT RECESSION (2010), http://www.jec.senate.gov/public/index.cfm?a=Files.Serve&File_id=91975589-257c-403b-8093-8f3b584a088c; see also Grusky et al., *supra* note 9, at 13 (noting losses among the middle class, “whose wealth tends to consist mostly of housing and retirement accounts”); Edward N. Wolff et al., *How Much Wealth Was Destroyed in the Great Recession?*, in GREAT RECESSION, *supra* note 9, at 127, 132, 135 (discussing how changes in the housing sector will hurt the middle class); Lane Kenworthy & Lindsay A. Owens, *The Surprisingly Weak Effect of Recessions on Public Opinion*, in GREAT RECESSION, *supra* note 9, at 196, 209 (“In short, these two most recent recessions have hit middle-class America fairly hard.”); Aysegul Sahin et al., *Why Small Businesses Were Hit Harder by the Recent Recession*, CURRENT ISSUES ECON. & FIN., Apr. 2011, at 1; Tim Devaney, *Big Worries Linger for Many Small Businesses*, WASH. TIMES, Jan. 9, 2013, at A1; PEW RESEARCH CTR., THE LOST DECADE OF THE MIDDLE CLASS (2012), available at <http://www.pewsocialtrends.org/files/2012/08/pew-social-trends-lost-decade-of-the-middle-class.pdf>; Michael Snyder, *22 Statistics that Prove the Middle Class is Being Systematically Wiped Out of Existence in America*, BUS. INSIDER (Jul. 15, 2010, 12:21 PM), <http://www.businessinsider.com/22-statistics-that-prove-the-middle-class-is-being-systematically-wiped-out-of-existence-in-america-2010-7?op=1>.

21. U.S. BUREAU OF LABOR STATS., *supra* note 18, at 15; *Table 2.3.1. Percent Change from Preceding Period in Real Personal Consumption Expenditures by Major Type of Product*, U.S. DEP'T. COMMERCE, BUREAU ECON. ANALYSIS, <http://www.bea.gov/iTable/iTable.cfm?reqid=9&step=3&isuri=1&903=61#reqid=9&step=3&isuri=1&903=61> (last revised on Feb. 28, 2013).

22. See Credit Rating Agency Reform Act of 2006, Pub. L. 109–291, 120 Stat. 1327 (2006) (codified in scattered sections of 12 and 15 U.S.C.) (reforming the credit rating agency industry); Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, § 939, 124 Stat. 1376, 1885–87 (removing statutory references to credit ratings in the Federal Deposit Insurance Act and reforming credit ratings in other ways); Credit Rating Standardization Study, 75 Fed. Reg. 80,868 (Dec. 23, 2010) (seeking comment on a range of possible regulatory changes to credit ratings); Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations, 72 Fed. Reg. 33,564 (June 26, 2007) (codified at 17 C.F.R. §§ 240.17, 249b.300) (adopting rules to implement the Credit Rating Agency Reform Act of 2006).

even the gross domestic product, may no longer be credible indices of economic sustainability and growth.²³ A general lack of investor confidence may stifle innovation in the financial markets²⁴ and constrict controversial investments such as hedge funds.²⁵

A. Business Law Today

Emerging business models must now take into account new rules and regulations that continue to unfold under the contentious Dodd-Frank Act,²⁶ including the Volcker Rule, which addresses private equity and proprietary trading.²⁷ The Dodd-Frank Act sheds light on previously unregulated entities including nonbanks such as payday lenders, mortgage brokers, title loan originators, and credit bureaus.²⁸ The

23. Jon Gertner, *The Rise and Fall of the G.D.P.*, N.Y. TIMES, May 16, 2010, at MM60.

24. See generally Gillian K. Hadfield, *Legal Barriers to Innovation: The Growing Economic Cost of Professional Control over Corporate Legal Markets*, 60 STAN. L. REV. 1689 (2008); Houman B. Shadab, *The Law and Economics of Hedge Funds: Financial Innovation and Investor Protection*, 6 BERKELEY BUS. L.J. 240 (2009).

25. See generally EDWARD H. DEFRANCE & MICHAEL J. KELLY, HEDGE FUNDS: A LOOK BACK AND A LOOK AHEAD (2009), available at <http://www.rwbaird.com/bolimages/Media/PDF/Whitepapers/hedge-funds-a-look-back-a-look-ahead.pdf>; Judy Gross, *In Controversial Self-Regulatory Organization Proposed Bill, Hedge Funds Are to be Exempt*, FORBES.COM, July 5, 2012, <http://www.forbes.com/sites/judygross/2012/06/05/in-controversial-self-regulatory-organization-proposed-bill-hedge-funds-are-to-be-exempt/>; Sam Jones, *Resurgence of Controversial Hedge Fund Strategy*, FIN. TIMES, Aug. 16, 2010, <http://www.ft.com/cms/s/0/7d1fd24-a966-11df-a6f2-00144feabdc0.html#axzz2IT4Pxcw9>; Emily Thornton, *More Heat on Hedge Funds*, BLOOMBERG BUSINESSWEEK, Feb. 5, 2006, <http://www.businessweek.com/stories/2006-02-05/more-heat-on-hedge-funds>.

26. See Dina ElBoghdady, *Taking Aim at Dodd-Frank*, WASH. POST, Oct. 6, 2012, at A14; *News Now: Eight States Seek to Join Lawsuit Challenging Key Provisions of Dodd-Frank*, CREDIT UNION NAT'L ASS'N (Feb. 15, 2013), <http://www.cuna.org/Stay-Informed/News-Now/CU-System/Eight-States-Seek-To-Join-Lawsuit-Challenging-Key-Provisions-Of-Dodd-Frank/>; Joseph Santo, *Dodd-Frank Implementation Faces Strong Congressional Opposition*, REG BLOG (Mar. 30, 2011, 3:05 PM), <https://www.law.upenn.edu/blogs/regblog/2011/03/dodd-frank-implementation-faces-strong-congressional-opposition.html>.

27. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, § 619, 124 Stat. 1376, 1620 (2010) (proposed by and named after former Chairman of the Federal Reserve, Paul A. Volcker, scheduled to become effective 15 months after the enactment of the Dodd-Frank Act on July 21, 2010); *id.* tit. 4. See generally *Overview*, SIFMA, <http://www.sifma.org/issues/regulatory-reform/volcker-rule/overview/> (last visited Feb. 19, 2013) (“The final Volcker Rule included in the *Dodd-Frank Act* prohibits banks from proprietary trading and restricted investment in hedge funds and private equity by commercial banks and their affiliates. Further, the *Act* directed the Federal Reserve to impose enhanced prudential requirements on systemically identified non-bank institutions engaged in such activities. Congress did exempt certain permitted activities of banks, their affiliates, and non-bank institutions identified as systemically important, such as market making, hedging, securitization, and risk management. The Rule also capped bank ownership in hedge funds and private equity funds at three percent. Institutions have a seven year timeframe to become compliant with the final regulations.”).

28. See, e.g., Press Release, Consumer Fin. Prot. Bureau, Consumer Financial Protection Bureau Proposes Procedural Rule on Supervising Nonbanks that Pose Risks to Consumers (May 24, 2012), available at <http://www.consumerfinance.gov/pressreleases/consumer-financial-protection-bureau-proposes-procedural-rule-on-supervising-nonbanks-that-pose-risks-to-consumers/>. Under the Dodd-Frank Act, the CFPB has authority to supervise any nonbank that it has reasonable cause to determine is posing a risk to consumers based on complaints or other information it receives. This is in addition to overseeing nonbanks, regardless of

Dodd-Frank Act also tightens the reign on executive compensation, corporate governance, credit default swaps, over the counter trades, investor protection, and securities regulation, along with addressing payment, clearance, and settlement activities.²⁹ Capital requirements for financial institutions has increased to stem systemic risk, and orderly liquidation plans or “living wills” are now required of large financial institutions in an effort to end the concept of “too big to fail,” pursuant to the Dodd-Frank Act.³⁰

Compliance with these additional regulatory standards requires professionals to stay up to date with the latest congressional action taken and executive orders issued to avoid the consequences of non-compliance.³¹ Legal counsel must now consider a vast spectrum of issues when advising clients on business matters, including an increased emphasis on ethical concerns, consumer rights, disclosure laws, and record-keeping requirements.³² Further, the transactional lawyer must be well-versed in current events, as political views and public sentiment affect the roll-out and enforcement of recently enacted legislation that broadly applies to financial entities and transactions.³³

size, in certain specific markets of: mortgage companies (originators, brokers, and servicers including loan modification or foreclosure relief services); payday lenders; and private education lenders. *Id.*

29. See Dodd-Frank Wall Street Reform and Consumer Protection Act § 951 (regulating executive compensation); *id.* tit. 8 (regulating clearance and settlement); 17 C.F.R. pts. 229, 240, 249, 275, 279 (2012) (regulating securities and investment advisors in various ways); *Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act*, SEC, <http://www.sec.gov/spotlight/dodd-frank.shtml> (last visited Jan. 19, 2013) (discussing regulatory changes under the Dodd-Frank Act).

30. Joseph Karl Grant, *Planning for the Death of a Systemically Important Financial Institution Under Title I § 165(d) of the Dodd-Frank Act: The Practical Implications of Resolution Plans or Living Wills in Planning a Bank's Funeral*, 6 VA. L. & BUS. REV. 467, 473 (2011); Brooke Masters, *Banks to Hold More Capital Under Basel III*, FIN. TIMES, July 25, 2012, <http://www.ft.com/cms/s/0/93c7415a-d672-11e1-ba60-00144feabdc0.html#axzz29VRvsfx>; see also Emiliou Avgouleas et al., *Living Wills as a Catalyst for Action* (Duisenberg Sch. of Fin., Pol'y Paper No. 4, Feb. 2010), available at <http://fic.wharton.upenn.edu/fic/papers/10/10-09.pdf> (discussing the value of financial “living wills”); see Donna Borak, *Bernanke: We Will Do What It Takes to End ‘Too Big to Fail’*, AMERICAN BANKER (Mar. 20, 2013, 5:07 PM), http://www.americanbanker.com/issues/178_55/bernanke-we-will-do-what-it-takes-to-end-too-big-to-fail-1057723-1.html (comments stemming from a meeting of the Federal Open Market Committee). *But see* Mike Konczal, *Does Dodd-Frank Really End ‘Too Big to Fail’?*, WASH. POST (Mar. 2, 2013, 12:04 PM), <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/03/02/does-dodd-frank-really-end-too-big-to-fail/>.

31. See, e.g., *Corporate Governance: Consequences of Noncompliance with Laws and Regulations*, FED. RES. ST. LOUIS, http://www.stlouisfed.org/col/director/Materials/call_CG_consequences.htm (last visited Feb. 4, 2013); Joseph De Simone et al., *The Dodd-Frank Act's Impact on Securities Litigation and Enforcement: Expansion of SEC Enforcement Power*, MAYER BROWN (Oct. 2010), http://www.mayerbrown.com/public_docs/doddfrank5907.pdf.

32. See generally BAKER BOTTS LLP, DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT: THE GENERAL COUNSEL'S QUICK REFERENCE GUIDE (2010), available at http://www.bakerbotts.com/file_upload/documents/Dodd-FrankAct-TheGeneralCounselsQuickReferenceGuide.pdf; *CLE Webinar: Dodd-Frank Act Compliance Surprises*, AM. BAR ASS'N: BUS. L. SEC. (Feb. 24, 2011), <http://apps.americanbar.org/abastore/index.cfm?pid=CET11DFSAUD§ion=main&fm=Product.AddToCart>.

33. See generally John C. Coffee, Jr., *The Political Economy of Dodd-Frank: Why Financial Reform Tends to be Frustrated and Systemic Risk Perpetuated*, 97 CORNELL L. REV. 1019 (2012); Eric Dash, *Feasting on Paperwork*, N.Y. TIMES, Sept. 9, 2011, at B1; Dina ElBoghdady, *Taking Aim at Dodd-Frank*, WASH. POST, Oct. 6, 2012, at

Legislation such as the Credit CARD Act,³⁴ Check 21 Act,³⁵ and revisions or amendments to the Uniform Commercial Code³⁶ and Bankruptcy Code³⁷ serve as a basis for curricular reform in how business law courses are taught and administered. Class discussion in regards to banking and finance may now include consideration of the Troubled Assets Relief Program (TARP),³⁸ as well as the American Recovery and Reinvestment Act,³⁹ when analyzing the federal government bailout of the financial system and the stimulus package that resulted from the recent economic downturn.⁴⁰ The collective response to the present financial crisis prompts the study of law and economics concepts, as monetary and economic policy affect everything from interest rates to job creation.⁴¹ The restructuring of financial markets and institutions serves as a foundation for reform of the business law curriculum.⁴² Even international business and finance courses are subject to

A14; Catherine Dunn, *Obama's Win Puts Dodd-Frank Reforms on Firmer Footing*, *Corporate Counsel*, NAT'L L.J. (Nov. 8, 2012), http://www.law.com/corporatecounsel/PubArticleCC.jsp?id=1202577625932&Obamas_Win_Puts_DoddFrank_Reforms_on_Firmer_Footing&slreturn=20130019190416.

34. Pub. L. 111–24, 123 Stat. 1734 (2009) (codified in scattered sections of 15 U.S.C.).

35. 12 U.S.C. § 5001–5018 (2006).

36. See David Frisch, *The Recent Amendments to UCC Article 9: Problems and Solutions*, 45 U. RICH. L. REV. 1009, 1010 (2011) (detailing changes to the Uniform Commercial Code).

37. See Henry Condell & Eric G. Waxman III, *Bankruptcy Code Amendments Take on New Meaning in Light of the Financial Crisis*, in BANKRUPTCY AND RESTRUCTURING CHAPTER 11 STRATEGIES 2009: TOP LAWYERS ON TRENDS AND KEY STRATEGIES FOR THE UPCOMING YEAR *2–4 (2009), available at 2009 WL 531547 (detailing recent changes to bankruptcy law).

38. 12 U.S.C. ch. 52, subch. I (Supp. III 2009), amended by Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, §§ 1302–03, 124 Stat. 1386, 2133 (2010).

39. Pub. L. 111–5, 123 Stat. 115 (2009) (codified in scattered sections of 7, 15, 16, 19 and 42 U.S.C.), amended by Dodd-Frank Wall Street Reform and Consumer Protection Act §§ 1306, 1613.

40. See generally Matthew Ericson et al., *Tracking the \$700 Billion Bailout*, N.Y. TIMES, http://www.nytimes.com/packages/html/national/200904_CREDITCRISIS/recipients.html (last visited Feb. 19, 2013) (“The government has provided money to hundreds of banks and a handful of insurers and automakers as part of the \$700 billion Troubled Asset Relief Program.”); *Economic Stimulus — Jobs Bills*, N.Y. TIMES, http://topics.nytimes.com/top/reference/timestopics/subjects/u/united_states_economy/economic_stimulus/ (last visited Feb. 19, 2013); *The Recovery Act*, RECOVERY.GOV, http://www.recovery.gov/About/Pages/The_Act.aspx (last visited Feb. 19, 2013).

41. See generally Sherman G. Finesilver, *The Tension Between Practical and Theoretical Legal Education: A Judge's View of the Gap*, 1977 BYU L. REV. 1061 (1977) (discussing the benefits of an interdisciplinary approach to legal education); Jill Gross & Ronald Filante, *Developing and Law/Business Collaboration Through Pace's Securities Arbitration Clinic*, 11 FORDHAM J. CORP. & FIN. L. 57 (2005); Wladimir Kraus, *The Financial Crisis: A Crisis, Too, For Law and Economics?*, 23 CRITICAL REV. 147 (2011); Michael D. Murray, *The Great Recession and the Rhetorical Canons of Law and Economics*, 58 LOY. L. REV. 615 (2012); William M. Landes & Richard A. Posner, *The Influence of Economics on Law: A Quantitative Study*, 36 J. LAW & ECON. 385 (1993); Richard A. Posner, *The Economic Approach to Law*, 53 TEX. L. REV. 757 (1975).

42. See generally AM. BAR ASS'N, A SURVEY OF LAW SCHOOL CURRICULA: 2002–2010 (Catherine L. Carpenter ed., 2012), available at http://www.abanow.org/wordpress/wp-content/files_flutter/1341346391LawSchoolCurriculaSurveyExecSummary.pdf; REFORMING LEGAL EDUCATION: LAW SCHOOLS AT THE CROSSROADS, INFORMATION AGE PUBLISHING (David M. Moss & Debra Moss Curtis eds., 2012); Elaine McArdle, *A Curriculum of New Realities*, HARV. L. BULL., Winter 2008, available at http://www.law.harvard.edu/news/bulletin/2008/winter/feature_1.php; Judith Romero, *Stanford Law School Advances New Model for Legal*

adjustment as a result of the inter-related nature of the global economic crisis.⁴³ Such dynamic topics may be of particular concern to a broader law school demographic that is increasingly comprised of students who are interested in business education.⁴⁴ This demographic includes the international student pursuing a master of laws program in the financial sector, the student enrolled in a joint JD/MBA program with the university's business school, and the student who is pursuing a concentrated area of study in business law through a certificate program or otherwise.⁴⁵

B. Modernizing Business Law Courses

With the emergence of increasing bank fees and the disappearance of failed financial institutions, consideration of the fringe banking market⁴⁶ for the

Education, SLS NEWS (Feb. 13, 2012), available at <http://blogs.law.stanford.edu/newsfeed/2012/02/13/stanford-law-school-advances-new-model-for-legal-education/>; Vanderbilt Law School's Curricular Reform Initiative (unpublished manuscript), available at <http://law.gsu.edu/FutureOfLegalEducationConference/Papers/Rubin.pdf> (presented by Edward Rubin at Georgia State University College of Law, International Conference on the Future of Legal Education).

43. See, e.g., INT'L MONETARY FUND, IMF COUNTRY REP. NO. 12/229, JAPAN: OVERSIGHT AND SUPERVISION OF FINANCIAL MARKET INFRASTRUCTURES (FMIs)—TECHNICAL NOTE (2012), available at <http://www.imf.org/external/pubs/ft/scr/2012/cr12229.pdf> (discussing Japan's response to the global financial crisis); Kevin Yao, *China Economy Sound, Slowdown Desirable Says Central Bank*, REUTERS, Sept. 27, 2012, available at <http://www.reuters.com/article/2012/09/27/us-china-economy-policy-idUSBRE88Q0AX20120927> (noting that the Central Bank of China will be taking measures to cushion against global risks); *China's Economy: Slow Boats*, ECONOMIST (Sept. 1, 2012), <http://www.economist.com/node/21561887> (noting that Chinese policymakers rallied together to fight the global financial crisis); see also BASEL COMM. ON BANK SUPERVISION, BANK FOR INT'L SETTLEMENTS, PRINCIPLES FOR THE SUPERVISION OF FINANCIAL CONGLOMERATES 1 (2012), available at <http://www.bis.org/publ/joint27.pdf> (noting that the economic crisis illustrated the role financial conglomerates have on stabilizing the global economy); Daniel Bradlow, *The Changing International Business Context and the Challenge it Poses for the Education of International Business Lawyers*, in INTERNATIONAL ASSOCIATION OF LAW SCHOOLS CONFERENCE: THE LAW OF INTERNATIONAL BUSINESS TRANSACTIONS: A GLOBAL PERSPECTIVE CONFERENCE PAPERS 359 (2008), available at <http://www.ialsnet.org/meetings/business/MasterBookletHamburg2.pdf>; Claudio Morana & Fabio C. Bagliano, *The Great Recession: US Dynamics and Spillovers to the World Economy*, 36 J. BANKING & FIN. 1 (2012). See generally Regulation No. 1092/2010, 2010 O.J. (L 331) 1–10 (EU) (establishing the European Systemic Risk Board in response to the financial crisis).

44. See, e.g., *Business Leadership Program*, UNIV. CHI., <http://www.law.uchicago.edu/students/handbook/academicmatters/blp> (last visited Feb. 19, 2013). See generally Martha Minow, *Why Do Law School Graduates Become Leaders?*, HARV. L. BULL., Fall 2012, available at <http://www.law.harvard.edu/news/bulletin/2012/fall/dean.php>; *Breaking Down the Barriers of Business and Law, in Innovative Law Schools*, FINANCIAL TIMES, Nov. 19, 2012, at 3, available at www.ft.com/intl/cms/d644f5de-2fa7-11e2-8e4b-00144feabdc0.pdf.

45. See, e.g., Romano, *supra* note 4 (discussing a joint J.D.-Ph.D. program in finance at Yale Law School); Joni Hersch & W. Kip Viscusi, *Law and Economics as a Pillar of Legal Education* (Vanderbilt Law and Economics Research Paper No. 11–35, 2011), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907760; V. Wish, *The LL.M. in Finance and Banking Law*, LLM GUIDE (June 1, 2009), <http://www.llm-guide.com/article/416/the-llm-in-finance-and-banking-law>. See generally Robert J. Rhee, *Specialization in Law and Business: A Proposal for a J.D./M.B.L.'s Curriculum*, CHAPMAN L. REV. (forthcoming 2013).

46. See generally JOHN P. CASKEY, FRINGE BANKING: CHECK-CASHING OUTLETS, PAWNSHOPS AND THE POOR (1994); Jim Hawkins, *Regulating on the Fringe: Reexamining the Link Between Fringe Banking and Financial Distress*, 86 IND. L.J. 1361, 1362 (2011) (“When academics and policy makers consider regulating the fringe

unbanked⁴⁷ and underbanked⁴⁸ is critical as the wealth gap in this country widens.⁴⁹ The Dodd-Frank Act, in part, addresses predatory lending, financial literacy, and access to banks for low-income individuals.⁵⁰ Such concepts may be adapted for study in a variety of subjects. Courses in economic justice, banking, and even poverty law could be offered and explored during these changing economic times.⁵¹ Tax law courses may be revised to discuss the tax cuts and credits that were established or sustained through the recession.⁵² Courses regarding insurance law may also be adjusted considering the governmental response to the American International Group, Inc. (AIG) bailout.⁵³ Discussion of federal and state subsidies

economy—payday lenders, pawnshops, rent-to-own stores, and the like—we might expect them to turn to financial distress to justify regulation. Concerns about financial distress are particularly salient in the fringe economy because consumers of fringe credit are, by very definition, on the financial fringe. They are either poor or lack good credit, and they are unable or unwilling to use mainstream banking services.” (citations omitted)); Ebonya Washington, *The Impact of Banking and Fringe Banking Regulation on the Number of Unbanked Americans*, 41 J. HUM. RESOURCES 106 (2006).

47. See *id.* at 4 (2012), available at http://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf (“Unbanked households are those that lack any kind of deposit account at an insured depository institution.”).

48. See *id.* at 4 (“Underbanked households hold a bank account, but also rely on alternative financial services (AFS) providers.” (citation omitted)).

49. See *id.* at 4 (“More than one in four households (28.3 percent) are either unbanked or underbanked, conducting some or all of their financial transactions outside of the mainstream banking system.”); see also James M. Perez, *Blacklisted: The Unwarranted Divestment of Access to Bank Accounts*, 80 N.Y.U. L. REV. 1586, 1595–96 (2005). See generally CASKEY, *supra* note 46.

50. Dodd-Frank Wall Street Reform and Consumer Protection Act §§ 1204, 1402–03, 1441–43 (expanding access to mainstream financial institutions, prohibiting the use of predatory lending practices, and establishing the Office of Housing Counseling).

51. See, e.g., *Racial, Economic, and Social Justice*, COLUMBIA L. SCH., http://www.law.columbia.edu/courses/browse?global.c_id=3030 (last visited Feb. 19, 2013) (providing a catalogue of lectures, courses, clinics, and externships in economic justice); *Economic Justice Research Guide*, GEO. L. LIBR., http://www.law.georgetown.edu/library/research/guides/econ_justice.cfm (last visited Feb. 19, 2013); *Poverty Law Research Guide*, GEO. L. LIBR., <http://www.law.georgetown.edu/library/research/guides/poverty.cfm> (last visited Feb. 19, 2013). See generally *Defining Economic Justice and Social Justice*, CTR. ECON. & SOC. JUSTICE <http://www.cesj.org/thirdway/economicjustice-defined.htm> (last visited Feb. 19, 2013).

52. See Robertson Williams et al., *Toppling Off the Fiscal Cliff: Whose Taxes Rise and How Much?*, URBAN INST. & BROOKINGS TAX POL’Y CTR. (Oct. 1, 2012), <http://www.taxpolicycenter.org/UploadedPDF/412666-toppling-off-the-fiscal-cliff.pdf> (“The fiscal cliff threatens an unprecedented tax increase at year end. Taxes would rise by more than \$500 billion in 2013—an average of almost \$3,500 per household—as almost every tax cut enacted since 2001 would expire.”); *Taxes*, WHITE HOUSE, <http://www.whitehouse.gov/issues/taxes> (last visited Jan. 19, 2013) (outlining the President’s call for tax reform). See generally Naftali Bendavid, *Charities Fight to Keep Deductions for Donors*, WALL ST. J., Nov. 30, 2012, at A4; *Protect the Charitable Giving Incentive*, NAT’L COUNCIL OF NONPROFITS, <http://www.councilofnonprofits.org/public-policy/federal/preserving-the-charitable-giving-incentive> (last visited Jan. 19, 2013) (posting the various proposals to change the federal tax charitable deduction).

53. See Karl S. Okamoto, *After the Bailout: Regulating Systemic Moral Hazard*, 57 UCLA L. REV. 183 (2009); William K. Sjostrom, Jr., *The AIG Bailout*, 66 WASH. & LEE L. REV. 943 (2009); *Could AIG Happen Again?*, N.Y. TIMES, Dec. 24, 2012, at A20 (outlining the reform initiatives contemplated in light of the AIG bailout); *American International Group Inc.*, N.Y. TIMES, http://topics.nytimes.com/top/news/business/companies/american_international_group/index.html (last visited Jan. 19, 2013) (“American International Group was the largest insurance company in the United States before it suddenly collapsed in September 2008 under the

as a result of the economic downturn could be infused into administrative law courses.⁵⁴ Advanced bankruptcy courses may include information on the Orderly Liquidation Authority mandated by Title II of the Dodd-Frank Act.⁵⁵

Emphasis on the public policy reasons behind the legislative and administrative changes to the business law sector may serve as a basis for further reform. For instance, students may be directed to supplemental resources in gaining insight on the socio-economic and moral hazard issues related to the Occupy Wall Street and Bank Transfer Day movements.⁵⁶ The practical application of how proposed rules and regulations impact consumers and corporate entities serve to better prepare our students for an evolving world economy.

The tension between practice and theory continues as law schools seek to prepare students for the workforce.⁵⁷ Challenges, including the contraction of the

weight of bad bets it made insuring mortgage-backed securities. The company was bailed out by the Federal Reserve Bank of New York, but even after an initial infusion of \$85 billion, losses continued to grow. The later rescue packages brought the total to \$182 billion, making it the biggest federal bailout in United States history.”).

54. See generally Paul D. Carrington, *Law and Economics in the Creation of Federal Administrative Law: Thomas Cooley, Elder to the Republic*, 83 IOWA L. REV. 363 (1998); Sabino Cassese, *New Paths for Administrative Law: A Manifesto*, 10 INT’L J. CONST. L. 603 (2012); Cary Coglianese, *Empirical Analysis and Administrative Law*, 2002 U. ILL. L. REV. 1111, 1112–13 (2002) (“Recent regulatory reform proposals reveal how much administrative law is centrally concerned with promoting more legitimate and effective governance.”); Richard B. Stewart, *The Global Regulatory Challenge to U.S. Administrative Law*, 37 INT’L L. & POL. 695, 699 (2005) (“Underlying the emergence of global administrative law is the vast increase in transnational regulation, which addresses the consequences of global interdependency in fields such as security, trade, investment, development assistance, environmental protection, banking and other forms of financial regulation . . .”).

55. See generally Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, tit. II, 124 Stat. 1376, 1442–1520 (2010).

56. See generally Mitch Lipka, *Personal Finance: Bank Transfer Day Saw 600,000 Switch*, REUTERS, Jan. 27, 2012, available at <http://www.reuters.com/article/2012/01/27/us-bank-transfer-idUSTRE80Q1TU20120127> (grassroots campaign led on Facebook for consumers to transfer accounts on November 5, 2011 from banks to credit unions as a result of monthly fees instituted by Bank of America for debit card use); Jim Rubenstein, *Bank Transfer Day Continues Facebook Runup*, CREDIT UNION TIMES (Oct. 17, 2011), <http://www.cutimes.com/2011/10/17/bank-transfer-day-continues-facebook-runup>; Martha C. White, *Bank Transfer Day, The Day After*, TIME (Nov. 7, 2011), <http://business.time.com/2011/11/07/bank-transfer-day-the-day-after/>; *About*, NYC GEN. ASSEMBLY, <http://www.nycga.net/about/> (last visited Jan. 19, 2013) (highlighting the Occupy Wall Street movement protesting the actions of the financial sector that resulted, in part, in the economic downturn); OCCUPY WALL STREET, *Learn*, <http://occupywallstreet.net/learn> (last visited Jan. 19, 2013); OCCUPY WALL STREET, *About*, <http://occupywallst.org/about/> (last visited Jan. 19, 2013).

57. See Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992); Larry E. Ribstein, *Practicing Theory: Legal Education for the Twenty-First Century*, 96 IOWA L. REV. 1649 (2011); Alfred S. Konefsky & Barry Sullivan, *There’s More to the Law than Practice-Ready*, CHRON. HIGHER EDUC., Oct. 28, 2011, at A30 (“Law faculties must come together, talk seriously about how lawyers should be trained for the world ahead, and take action. The choice cannot be between skills training and a broader education; it must be both.”); David Segal, *What They Don’t Teach Law Students: Lawyering*, N.Y. TIMES, Nov. 20, 2011, at A1 (citing the introduction of the case method to promote legal reasoning in contrast to legal training by former Harvard Law School Dean Christopher Langdell in 1870). See generally EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

legal market, place pressure upon law schools to produce practice-ready graduates.⁵⁸ Law firms are increasingly less likely to formally train entry-level associates through an apprenticeship experience during the first years of practice.⁵⁹ Instead, recent law school graduates are now expected to perform at a profitable level from the start of their careers.⁶⁰ Such expectation places greater responsibility upon the academy to engage students in a number of clinical experiences to gain competency and successfully resolve the issues likely to be encountered by prospective clients.⁶¹

Law schools across the United States are prompted to enhance the marketability and employment prospects of their graduates, especially for positions at large corporate law firms.⁶² Career placement is an area that is currently reviewed with greater scrutiny as law schools compete for U.S. News and World Report rankings.⁶³

58. See, e.g., J. Bryan Boyd, *Campbell Law School: Creating Practice-Ready Lawyers in Transactional Law*, N. C. BAR ASS'N NEWSLETTER, June 28 2011, available at <http://businesslaw.ncbar.org/newsletters/nbjune2011/campbell> (outlining a curriculum to enhance the opportunities of graduates in business law to assist clients from “boardrooms to courtrooms” in requiring two semesters of the Uniform Commercial Code along with an elective in either Business Planning, Contract Planning, or Estate Planning); see Segal, *supra* note 57 (“The nature of legal work itself is evolving, and the days when corporations buy billable hours, instead of results, are numbered. To succeed in this environment, graduates will need entrepreneurial skills, management ability and some expertise in landing clients.”).

59. See Bernard A. Burk & David McGowan, *Big but Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 COLUM. BUS. L. REV. 1, 112–13 (2011) (describing the legal apprenticeship model as a thing of the past).

60. See generally David Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CALIF. L. REV. 493, 527, 532, 538 (1996) (noting that firms have incentive to deemphasize training so long as untrained associates can remain profitable); THOMAS S. CLAY & ERIC A. SEEGER, *LAW FIRMS IN TRANSITION 2012: AN ALTMAN WEIL FLASH SURVEY* iii (2012), available at http://www.altmanweil.com/dir_docs/resource/1667e5c8-b99e-4557-93ac-73174118ea29_document.pdf (“We expect to see firms investing in business-savvy lawyers and non-lawyer professionals to drive the needed changes in structure, staffing, systems and processes.”); Desiree Moore, *New Lawyer Training Programs Often Fall Short*, NAT'L L.J. (Aug. 11, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202510918074&New_lawyer_training_programs_often_fall_short_&slreturn=20130226101643.

61. See ROY STUCKEY ET AL., CLINICAL LEGAL EDUCATION ASS'N, *BEST PRACTICES FOR LEGAL EDUCATION* (2007), available at http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf; Anthony J. Luppino, *Minding More Than Our Own Business: Educating Entrepreneurial Lawyers Through Law School-Business School Collaborations*, 30 W. NEW ENG. L. REV. 151, 160–62 (2007). See generally Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C. J. L. & SOC. JUST. 247 (2012).

62. See Victor Fleischer, *The Shift Toward Law School Specialization*, N.Y. TIMES, Oct. 25, 2012, <http://dealbook.nytimes.com/2012/10/25/the-shift-toward-law-school-specialization/> (reporting on third-year curricular reform at New York University School of Law to include such areas of specialization as tax law and corporate law citing the demand from law firms and the legal market for law school graduates to be practice-ready). See generally BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012); Jennifer Smith, *The Coveted Summer Job*, WALL ST. J., Sept. 10, 2012, at B4.

63. See Karen Sloan, *Major Shakeups in the Middle Ranks of 'U.S. News' Law School List*, NAT'L L.J. (Mar. 12, 2013), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202591734021&Major_shakeups_in_the_middle_ranks_of_US_News_law_school_list (“In the past, *U.S. News* counted graduates in any type of job equally. This year, the magazine gave greater weight to graduates in permanent, full-time jobs that require bar passage or in which a J.D. is an advantage The change was possible because the American Bar Association last year began requiring law schools to report far more detailed graduate employment information.”); Steven J. Harper, *Pop Goes the Law*, CHRON. HIGHER EDUC., Mar. 15, 2013, at B6 (“Law-school deans are supposed to be the

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Aggrieved former students are now seeking legal recourse in holding law schools accountable for justifying their reported employment statistics, particularly in regards to high-paying private practice placements.⁶⁴ Enhancing the business law curriculum may provide students with a competitive edge in the job market, and thereby quell discontentment. In the meantime, legal employers and graduates continue to seek a more balanced approach to legal education in considering the economic outlook of the profession.⁶⁵

III. THE LAW SCHOOL ECONOMY

Student expectations and the law school dynamic may be incompatible with the accreditation and membership standards articulated by the American Bar Association and the Association of American Law Schools.⁶⁶ The transition to

profession's gatekeepers, but far too many have ceded independent judgment in an effort to satisfy the mindless criteria underlying law-school rankings, especially U.S. News & World Report's annual list." See generally Andrew P. Morriss & William D. Henderson, *Measuring Outcomes: Post-Graduation Measures of Success in the U.S. News & World Report Law School Rankings*, 83 IND. L.J. 791 (2008); Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229 (2006); Rebecca Baird-Remba, *Why the New US News Law School Rankings Are Still Deeply Flawed*, BUS. INSIDER (Mar. 12, 2013, 12:29 PM), <http://www.businessinsider.com/flaws-in-new-us-news-law-school-rankings-2013-3> (noting that the U.S. News and World Report conducted further analysis in its ranking of law schools as it concerns employment); Karen Sloan, *Council Bends on Auditing Law Schools' Reports About Student Test Scores*, NAT'L L.J. (Oct. 11, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202518517858&Council_bends_on_auditing_law_schools_reports_about_student_test_scores_.

64. See Ben Wolfgang, *Unemployed Lawyers Sue Schools Over Promise of Jobs*, WASH. TIMES, June 17, 2012, <http://www.washingtontimes.com/news/2012/jun/17/unemployed-lawyers-sue-schools-over-promises-of-jobs/>; Sylvia Wood, *Law Schools Face Lawsuits Over Job-Placement Claims*, NBCNEWS.COM (Feb. 2, 2012, 3:31 PM), http://usnews.nbcnews.com/_news/2012/02/02/10302339-law-schools-face-lawsuits-over-job-placement-claims?lite; Katherine Mangan, *Unemployment Among Recent Law Graduates Is as Bad as It's Ever Been*, CHRON. HIGHER EDUC. (June 7, 2012), <http://chronicle.com/article/Unemployment-Among-Recent-Law/132189/> (citing National Association for Law Placement statistics that placement rates for 2011 law school graduates is the lowest since 1994 while also noting the decline in private practice employment). See generally Christopher J. Gearon, *Law School Grads Find Temp Legal Jobs in Tough Market*, U.S. NEWS & WORLD REP. (Mar. 12, 2013), <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2013/03/12/law-school-grads-find-temp-legal-jobs-in-tough-market> ("Harnessing technology and cheaper domestic and foreign lawyers, LPOs [legal process outsourcing firms] have become a rising force as law firm clients and corporations have begun demanding a break from pricey billable hours."); *id.* (reporting that only ten percent of employed 2011 law school graduates secured a position with a large private law firm).

65. See generally CTR. STUDY LEGAL PROFESSION & PEER MONITOR, 2013 REPORT ON THE STATE OF THE LEGAL MARKET (2013), available at <http://www.law.georgetown.edu/continuing-legal-education/executive-education/upload/2013-report.pdf>; Elizabeth Lesly Stevens, *Will Law School Students Have Jobs After they Graduate?*, WASH. POST (Oct. 31, 2012), http://articles.washingtonpost.com/2012-10-31/lifestyle/35498320_1_law-schools-law-jobs-legal-career-professionals.

66. See generally AM. BAR ASS'N, REPORT OF THE OUTCOME MEASURES COMMITTEE (2008), available at <http://apps.americanbar.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf>; Adrian Dunbar, *Law Students Need a Practical Education*, DAILY TEXAN, Mar. 4, 2010, available at <http://admin.collegepublisher.com/preview/2.3382/2.4493/1.2180980#.UPwKFSeYuSo>; Harper Gwatney, *Toeing the Ethical Line: Are For-Profit Law Schools Lowering Standards and Increasing Student Debt?*, CAMPBELL L. OBSERVER (Sept. 18, 2012), <http://campbelllawobserver.com/2012/09/toeing-the-ethical-line-are-for-profit>.

modernize the traditional standards of the ivory tower may shift the emphasis from faculty scholarship and tenure to student assessment and practitioner development.⁶⁷ Consequently, lifetime academics may eventually represent a smaller percentage of the law school faculty than full-time practitioners who are now relegated, for the most part, to teaching seminar and elective courses as adjuncts.⁶⁸ The idea that practitioner instructors who are immersed in the day-to-day operations of specialized areas of the law may more precisely prepare students for

law-schools-lowering-standards-and-increasing-student-debt/ (opining that the American Bar Association's lax standards have allowed for-profit schools to dilute an already-saturated educational system, "doing a disservice to their students and to the legal profession."); Karen Sloan, *Law School Accreditation Proposal Would Boost Job Placement Transparency*, NAT'L L.J. (Mar. 21, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202487041873&Law_school_accreditation_proposal_would_boost_job_placement_transparency&slret urn=20130020095933; *Statement by New England Deans Concerning the Proposed Revision of the ABA Standards Regarding Outcome Assessment*, AM. BAR ASS'N, http://www.americanbar.org/content/dam/aba/migrated/2011_build/legal_education/committees/standards_review_documents/commnet_outcome_assessment_new_england_deans_statement.doc (last visited Jan. 19, 2013).

67. See, e.g., GREGORY S. MUNRO, INST. FOR LAW SCH. TEACHING, OUTCOME ASSESSMENT FOR LAW SCHOOLS 67–80 (2000), available at <http://lawteaching.org/publications/books/outcomesassessment/munro-gregory-outcomesassessment2000.pdf> (arguing that student-based outcome analysis is the most effective means of assessing law schools); Eric J. Gouvin, *Teaching Business Lawyering in Law Schools: A Candid Assessment of the Challenges and Some Suggestions for Moving Ahead*, 78 UMKC L. REV. 429 (2009); Michael Hunter Schwartz, *Teaching Law By Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347 (2001); Katherine Mangan, *Law Schools Resist Proposal to Assess Them Based on What Students Learn*, CHRON. HIGHER EDUC. (Jan. 10, 2010), <http://chronicle.com/article/Law-Schools-Resist-Proposal-to/63494/>. See generally Kyle P. McEntee et al., *The Crisis in Legal Education: Dabbling in Disaster Planning*, 46 U. MICH. J.L. REFORM 225, 232–38 (2012) (discussing the "Modular Law School" and the role of adjunct faculty); A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 2024 (2012) (discussing the importance of "the development of certain practical skills").

68. See Gouvin, *supra* note 67, at 437–38 (discussing the "second-class" status of clinical law professors to traditional lecturers in some settings); Segal, *supra* note 57 (explaining that practitioners are more likely to teach clinics); G.M. Filisko, *Ask Us Anything: Lawyers Answer Your Toughest Questions*, STUDENT LAW., May 2012, at 16 (responding that transactional business courses are important and useful for the practice of law); Samantha Stainburn, *Strategy Faculty*, N.Y. TIMES, Jan. 3, 2010, at ED6 (noting that adjuncts and other part-time faculty are now more common than tenured faculty); Katherine Mangan, *As They Ponder Reforms, Law Deans Find Schools 'Remarkably Resistant to Change'*, CHRON. HIGHER EDUC. (Feb. 27, 2011), <http://chronicle.com/article/As-They-Ponder-Reforms-Law/126536/> (suggesting that hiring practitioners to teach law school courses would reduce costs and inefficiencies); McEntee, *supra* note 67, at 228 ("Law schools are businesses with millions in annual revenue and expenses. Creating or modifying a legal education model of this size thus requires considering a wide array of issues."). But see Larry Catá Backer, *Internationalizing the American Law School Curriculum (in Light of the Principles in the Carnegie Foundation's Educating Lawyers)*, in THE INTERNATIONALIZATION OF LAW AND LEGAL EDUCATION (IUS GENTIUM: COMPARATIVE PERSPECTIVES ON LAW AND JUSTICE) 49, 64–65 (J. Klabbers & M. Sellers eds., 2008) ("A principal effect of the move to a university norm set has been to denigrate the practice experience of applicants for teaching positions. In many cases, too much experience is deemed to poison the candidate for an academic career. The idea, seems to be that people too long in practice have too deeply imbued the values and norms of the bar and will not be able to successfully transition to the norm structure of the university, which requires a focus on doctrine and writing."); Steven M. Davidoff, *The Economics of Law School*, N.Y. TIMES, Sept. 25, 2012, at F8 (stating a difference in quality when moving from academics to practitioners in legal education).

the real world of practice is an area of contested debate.⁶⁹ This debate prompts the legal academy to take action in shaping the law school experience to balance theory and practice to enhance student learning outcomes while improving faculty development to stimulate educational reform.⁷⁰

The reconceptualization of legal education from theory to practice is not a new concept. A highly-regarded study conducted by the Carnegie Foundation for the Advancement of Teaching recommends that law schools improve the traditional Socratic Method model of legal analysis to a more comprehensive approach that seeks to develop practical skills.⁷¹ A number of law schools are moving to improve the dissemination of legal education by adopting innovative approaches to student learning and engagement.⁷² Other law schools are providing students with the option to exchange the traditional third-year curriculum for externships and study abroad programs that emphasize practical skills.⁷³ Bar examiners are also

69. See Segal, *supra* note 57 (describing the debate perspectives); see also Mangan, *supra* note 65. See generally Spencer, *supra* note 67, at 2048–54 (2012) (explaining that law schools traditionally hire full-time academics, but that those law schools wanting to make their curriculum more practice-oriented need to seriously consider hiring more practitioners).

70. See Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 61–62 (1992) (making the case for changes in how law schools prepare students for the legal profession); Carole Silver et al., *Unpacking the Apprenticeship of Professional Identity and Purpose: Insights from the Law School Survey of Student Engagement*, 17 LEGAL WRITING: J. LEGAL WRITING INST. 373, 375 (2011) (“While law schools do an excellent job of teaching students legal analysis and have made strides in teaching the skills necessary for practice, they have not developed well-focused efforts towards teaching the elements comprising professional identity and purpose.”); Spencer, *supra* note 67, at 2043–44 (2012) (explaining that proper assessment must be focused on measuring performance against clear learning objectives).

71. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 56–57 (2007) (calling for law schools to provide more attention to practical skills and ethics); see also AM. BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT: AN EDUCATIONAL CONTINUUM (1992) (a task force study led by Robert MacCrate, otherwise known as the “MacCrate Report”).

72. See, e.g., Peter Lattman, *N.Y.U. Law Plans Overhaul of Students’ Third Year*, N.Y. TIMES, Oct. 17, 2012, at B1; *About LSSSE*, L. SCH. SURV. STUDENT ENGAGEMENT, <http://lssse.iub.edu/about.cfm> (last visited Jan. 19, 2013); *Resources*, EDUCATING TOMORROW’S LAWS., <http://educatingtomorrowlawyers.du.edu/resources/> (last visited Jan. 19, 2013); see DAVID A. SANTACROCE & ROBERT R. KUEHN, CTR. FOR THE STUDY OF LEGAL EDUC., THE 2010-11 SURVEY OF APPLIED LEGAL EDUCATION 9 (2012), available at <http://www.csale.org/files/CSALE.Report.on.2010-11.Survey.5.16.12.Revised.pdf> (study finding that a mere 3.2% of law schools require students to enroll in a live-client clinic before graduating, and only 2.6% of law schools require students to enroll in a field placement program before graduating); John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 WM. MITCHELL L. REV. 303 (2007).

73. See, e.g., *Third Year Capstone Projects*, DUKE L. <http://law.duke.edu/curriculum/independent/capstone/>; see Lyman Johnson et al., Washington and Lee University School of Law: *Reforming the Third Year of Law School*, in REFORMING LEGAL EDUCATION: LAW SCHOOLS AT THE CROSSROADS 11 (David M. Moss & Debra Moss Curtis eds., 2012) (describing the curricular innovations at Washington and Lee University School of Law that expanded clinical and capstone courses); Chris Mondics, *Some Advocate a Two-Year Law Degree*, PHILADELPHIA INQUIRER, Mar. 3, 2013 (reporting on the need for more business skills in preparing students for legal practice); Alexandra Tilsley, *Law Schools Get a New Look*, INSIDE HIGHER ED (Oct. 18, 2012, 3:00 AM), <http://www.insidehighered.com/news/2012/10/18/nyu-announces-changes-its-law-school-curriculum> (citing “an increased focus on business and financial education”). See generally Samuel Estreicher, *The Roosevelt-Cardozo Way: The Case for Bar Eligibility After Two Years of Law School*, 15 N.Y.U. J. LEGIS. & PUB. POL’Y 599

administering more in-depth testing of practice-ready skills by adopting the Multistate Performance Test (MPT) and increasing the number of business law essay questions on bar exams.⁷⁴ Law schools are poised to change the course of legal education in light of the changing needs of our new economy.⁷⁵ With the proliferation of accredited and unaccredited law schools, coupled with the exportation of legal work overseas, law schools are facing economic pressure to rework the traditional model of legal education.⁷⁶ Law schools that are proactive in addressing the concerns of the new economy are positioned to retain a viable stake in the legal education market.⁷⁷

Law schools may provide added value to the law degree by embedding more electives and programs geared towards business law specialization in the course catalog.⁷⁸ Supplemental business law school courses that developed as a result of the financial crisis cover topics such as the regulation of speculators, hedge funds and private equity, and banking law reform.⁷⁹ These courses include relevant material

(2012); Daniel B. Rodriguez & Samuel Estreicher, *Make Law Schools Earn a Third Year*, N.Y. TIMES, Jan. 18, 2013, at A27 (reporting on the proposal to permit second year law students to take the New York Bar Exam for earlier entry into the legal profession).

74. See, e.g., N.Y. STATE BD. OF LAW EXAMINERS, CONTENT OUTLINE FOR THE NEW YORK BAR EXAMINATION (2010), available at [http://www.nybarexam.org/Docs/CONTENT%20OUTLINE%20\(revised%20May%202010\).pdf](http://www.nybarexam.org/Docs/CONTENT%20OUTLINE%20(revised%20May%202010).pdf) (indicating that business law and the MPT make up a significant portion of the New York Bar); Appendix A: *Texas Bar Examination Topics*, TEX. BD. L. EXAMINERS, <http://www.ble.state.tx.us/Rules/NewRules/appendixA.htm> (last visited Nov. 12, 2012) (indicating that business law and the MPT make up a significant portion of the Texas Bar); cf. *Bar Exam Subjects*, UNIV. MD. FRANCIS KING CAREY SCH. L., <http://www.law.umaryland.edu/academics/advising/barexam/> (last visited Nov. 12, 2012) (indicating that business law and the MPT make up a significant portion of the Maryland Bar).

75. See Karen Sloan, *Reality's Knocking as Law Schools Provide More Practical Training*, NAT'L L.J. (Sept. 11, 2009), <http://www.lawjobs.com/newsandviews/LawArticle.jsp?id=1202433723740>. See generally TAMANAHA, *supra* note 62; Mark Yates, *The Carnegie Effect: Elevating Practical Training Over Liberal Education in Curricular Reform*, 17 LEGAL WRITING: J. LEGAL WRITING INST. 233 (2011). But see generally Gary Shaw, *A Heretical View of Teaching: A Contrarian Looks at Teaching, the Carnegie Report, and Best Practices*, 28 TOURO L. REV. 1239 (2012) (suggesting that the problem with the traditional Socratic Method is more an issue of inadequate teaching as opposed to an inherent flaw in the legal education system).

76. Cf. Jeff Manning, *Law School Revenues Soar as they Take in Millions from Tuition and Fees, as Supply Exceeds Demand*, OREGONIAN (Portland), Aug. 4, 2012, available at 2012 WLNR 16542675. See generally Steven J. Harper, *Law Schools as Profit Centers*, AM L. DAILY (Sept. 7, 2012), http://www.americanlawyer.com/PubArticleALD.jsp?id=1202570519533&Law_Schools_as_Profit_Centers&slreturn=20130021135202 (noting the declining projection for attorney employment prospects by the Bureau of Labor Statistics in recent years); Katherine Mangan, *Unaccredited Law School Sparks Debate with Lawsuit Against Bar Association*, CHRON. HIGHER EDUC. (Jan. 2, 2012), <http://chronicle.com/article/Unaccredited-Law-School-Sparks/130189/>; Brian Burnsed, *Online Law Schools Have Yet to Pass the Bar*, U.S. NEWS & WORLD REP., Mar. 23, 2011 (updated June 20, 2012), <http://www.usnews.com/education/online-education/articles/2011/03/23/online-law-schools-have-yet-to-pass-the-bar>; Lloyd Armstrong, *A New Game in Town: Competitive Higher Education*, 4 INFO. COMM. & SOC'Y 479 (2001).

77. See Lincoln Caplan, *An Existential Crisis for Law Schools*, N.Y. TIMES, July 15, 2012, at SR10.

78. See ORSI, *supra* note 1, at 30–35.

79. See, e.g., *Economic Justice, Identities and Markets*, ALBANY L. SCH., <http://www.albanylaw.edu/academics/Pages/Course-Listing.aspx?course=Economic%20Justice,%20Identities%20and%20Markets> (last visited Nov. 12, 2012); *Futures, Options and Derivatives*, UNIV. MD. FRANCIS KING CAREY SCH. L.,

that is suited toward the business legal practitioner of today. Including instruction on topics such as venture capital and investment strategies may prove useful for joint law and business degree students.

Traditional law school courses such as Professional Responsibility, Corporate Law, Securities Regulation, and Commercial Law should also be enhanced to include specialized material on the enhanced regulation of financial products and services.⁸⁰ Areas such as securitization and credit default swaps are now mainstream concepts that could comprise part of the law school curriculum.⁸¹ There is a movement by leading law schools to reduce the number of required courses to permit students to cultivate their own learning paths geared towards individual areas of interest.⁸² For instance, such interests may include the rapidly developing

http://www.law.umaryland.edu/academics/program/curriculum/catalog/course_details.html?courseum=564K (last visited Nov. 12, 2012); *Law 622 - Hedge Fund and Private Equity Funds*, UCLA SCH. L. CURRICULUM GUIDE, <http://curriculum.law.ucla.edu/Guide/Course/279> (last visited Nov. 12, 2012).

80. See generally Corp. Exec. Bd., *Corporate Legal: Get Ready for Five Changes*, BLOOMBERG BUSINESSWEEK, Sept. 15, 2011, <http://www.businessweek.com/management/cacebfiveforces0920-five-forces-that-will-change-legal-departments-09152011.html> (“By 2015, a number of legal and economic developments will change how companies assess and manage legal risks. For years, these developments have been slowly (and sometimes invisibly) gaining momentum, but the weak economy has caused them to accelerate. Now, general counsel have a choice: Sit back and watch change unfold or act now on changes already underway.”); Ivan Tchotourian, *Embrace the Coming Changes in Corporate Governance: Lessons from Developments in Corporate Law – A Comparative View* (Working Paper for International Conference on Corporate Governance, Nov. 2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2154036; Press Release, Uniform Law Commission, Twenty-Six States Have Enacted the 2010 Amendments to Article 9 of the UCC (May 22, 2012), available at <http://www.uniformlaws.org/NewsDetail.aspx?title=UCC%20Article%209%20Amendments%20Enacted%20in%2026%20States> (“The 2010 Amendments are designed to go into effect simultaneously on July 1, 2013. More states are expected to enact the amendments this year, while the remaining states are expected to enact the amendments in 2013.”); *Aug. 2012 Amendments to ABA Model Rules of Professional Conduct*, AM. BAR ASS’N, http://www.americanbar.org/content/dam/aba/administrative/ethics_2020/20120808_house_action_compilation_redline_105a-f.authcheckdam.pdf (last visited Jan. 19, 2013); *The Laws that Govern the Securities Industry*, SEC, <http://www.sec.gov/about/laws.shtml> (last visited Jan. 19, 2013) (citing the recently enacted Dodd-Frank Act of 2010 and Jumpstart Our Business Startups (JOBS) Act of 2012).

81. See, e.g., *Academics: Area of Focus: Business*, N.Y.U. SCH. L., <http://www.law.nyu.edu/academics/areasoffocus/business/curriculum/index.htm> (last visited Jan. 19, 2013) (referencing new courses that are team-oriented in the law and business area to include professional responsibility and “deals” courses such as Financial Instruments and the Capital Markets and International Economic Transactions); *Course Descriptions: Securitization*, FORDHAM UNIV. SCH. L., <http://law.fordham.edu/registrar/16192.htm> (last visited Jan. 19, 2013); *Courses: Modern Capital Markets and the Financial Crisis*, STAN. L. SCH., <http://www.law.stanford.edu/courses/modern-capital-markets-and-the-financial-crisis> (last visited Jan. 19, 2013); *Curriculum Guide: Courses: Taxation of Debt Instruments & Securitization Transactions I*, GEO. UNIV. L. CTR., http://apps.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=1152 (last visited Jan. 19, 2013).

82. See DAVID I. C. THOMSON, *LAW SCHOOL 2.0* 19 (2009) (“In response to all this criticism a number of schools have implemented or announced various significant curricular changes. Washington & Lee School of Law eliminated its third year of classes, replacing it with an entirely clinical year. Harvard Law School changed its 1L curriculum significantly to pay more attention to the rise of the administrative state in legal practice. Indiana University Law School announced that all 1L students would be taking a new course in ‘the economics and values of the profession.’”) *But see* Charles E. Rounds, Jr., *State Common Law Aspects of the Global Unwindings of the Madoff Ponzi Scheme and the Sub-Prime Mortgage Securitization Debacle: Buttressing the Thesis*

areas of electronic commerce and mobile banking.⁸³ As trustees of the future of legal education, the academy should strive to align teaching with technology in ensuring access to the most advanced resources for cutting-edge business practice areas.⁸⁴

In the pursuit of business competency in the legal education context, several conflicts may arise between student needs and teacher satisfaction, course requirements and credit hours, class size and course configuration, along with the use of electronic versus hard copy resources.⁸⁵ With the proliferation of new technology, various assessment tools such as clickers may be utilized to more frequently ascertain student learning outcomes in the law school classroom.⁸⁶ The law school curriculum should also carefully balance the array of courses offered in the transactional law versus litigation categories in addressing the needs of students and faculty.⁸⁷ The traditional over-emphasis on litigation in the law school curriculum may give way to a more well-rounded, business model approach to

that *Globalizing the American Law School Curriculum at the Expense of Instruction in Core Common Law Doctrine Will Only Further Provincialize It*, 27 WIS. INT'L L.J. 1, 2 (2009–2010).

83. See generally Michael G. Rhodes & Charles A. Schwab, *Mobile Commerce: A Moving Target For Legal Compliance*, in UNDERSTANDING DEVELOPMENTS IN CYBERSPACE LAW: LEADING LAWYERS ON ANALYZING RECENT TRENDS, CASE LAWS, AND LEGAL STRATEGIES AFFECTING THE INTERNET LANDSCAPE (2012) (discussing emerging legal trends in mobile commerce); Rolf H. Weber & Aline Darbellay, *Legal Issues in Mobile Banking*, 11 J. BANKING REG. 129, 129–145 (2010) (highlighting the legal issues involved in the expanding mobile banking market).

84. See, e.g., Paul L. Caron, *Teaching with Technology in the 21st Century Law School Classroom*, in THE FUTURE OF LAW LIBRARIES 10, 17 (Thomson-West 2006) (“In my own classes, I often draw from material recently posted on *TaxProf Blog* to illustrate the relevance and currency of the material we have been studying. This helps tax law to come alive for the students, who realize that our studies have real-life implications for people today.”). See generally THOMSON, *supra* note 82, at 20 (noting that the curricular changes at law schools for the most part do not “leverage technology”); Barbara L. Bernier & F. Dennis Green, *Law School Reset-Pedagogy, Andragogy & Second Life*, in EDUCATING THE DIGITAL LAWYER 11-2 (Oliver Goodenough & Marc Lauritsen eds., 2012) (“Therefore reforming legal education is pivotal to afford American law students the opportunity to be creative and collaborative in their work as ultimate legal knowledge managers.”).

85. See, e.g., MARNE EINARSON, CORNELL UNIV. OFFICE OF INSTITUTIONAL RESEARCH AND PLANNING, 2010 FACULTY WORK LIFE SURVEY: SATISFACTION WITH WORK LIFE (2011), available at <http://dpb.cornell.edu/documents/1000466.pdf>; PACE UNIV. FACULTY SATISFACTION SURVEY COMM., FACULTY SATISFACTION SURVEY SPRING INITIAL 2012 REPORT (2012), available at <http://community.seidenberg.pace.edu/wfc/?q=content/faculty-satisfaction-survey-spring-2012-initial-report>. See generally Gerald F. Hess, *Improving Teaching and Learning in Law School: Faculty Development Research, Principles, and Programs*, 12 WIDENER L. REV. 443 (2006); *User's Guide to Our Law School Rankings*, PRINCETON REV., <http://www.princetonreview.com/users-guide-law-rankings.aspx> (last visited Jan. 19, 2013) (assessment conducted on classroom and professor experience from the student perspective including “the balance of theory and practical skills in the curricula”).

86. Classroom response systems or audience response systems are systems which use devices, commonly referred to as “clickers,” to poll attendees in real time. These devices can be used to quiz or otherwise engage students. See Paul L. Caron & Rafael Gely, *Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning*, 54 J. LEGAL EDUC. 551 (2004). See generally Winnie Hu, *Students Click, and a Quiz Becomes a Game*, N.Y. TIMES, Jan. 28, 2008, at B1; Kathleen Brown, *Dang You Tricked Me into Learning: Chaos, Current Events, Clickers and Competition in the Legal Research Classroom* (May 7, 2010), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1602102.

87. See generally Gouvin, *supra* note 67 (arguing that current law school curricula overemphasize litigation).

include considerations such as mediation and arbitration as part of alternative dispute resolution.⁸⁸ Likewise, litigation-based courses may be enhanced to include transactional aspects of law such as contract drafting and negotiation.⁸⁹ The integration of business law techniques within the broader law school curriculum may equip students with a variety of tools to resolve complex legal issues.⁹⁰ Adding an international dimension to the law school curriculum may also serve to globalize legal education in preparing students for the practice of law without borders.⁹¹

Doctrinal courses may be redesigned to include practical skills training by assigning student exercises with an emphasis on the collaborative production of attorney work product.⁹² Interactive activities that promote student understanding of theoretical business concepts may engage students, making them more accountable for their own learning.⁹³ Students in my transactional courses work in law firm groups where students report to me and to one another for class

88. See John Lande & Jean R. Sternlight, *The Potential Contribution of ADR to an Integrated Curriculum: Preparing Law Students for Real World Lawyering*, 25 OHIO ST. J. ON DISP. RESOL. 247, 249 (2010) (“[I]t is critically important to show students how ADR [alternative dispute resolution] fits with other aspects of lawyering, and to correct the misconception of many lawyers, clients, and even some law professors who believe that they can or should choose between ADR and litigation on an either/or basis.”); Carrie Menkel-Meadow, *To Solve Problems, Not Make Them: Integrating ADR in the Law School Curriculum*, 46 SMU L. REV. 1995, 1995 (1993) (“[I]ntegrating alternative dispute resolution into the law school curriculum at many different levels is one way of expanding the conception of lawyer as a helping professional and an important way to permit the expression of the more altruistic, as well as instrumentally useful, aspects of being a lawyer.” (citation omitted)). See generally Gina Passarella, *For 2013, Firms Focused on Revenue Growth, Corporate Clients on Value*, LEGAL INTELLIGENCER (Oct. 25, 2012), <http://www.law.com/jsp/pa/PubArticlePA.jsp?id=1350836180395&thepage=3>.

89. Lande & Sternlight, *supra* note 85, at 262 (describing the roles of lawyers to include the “negotiator” and “transactional problem solver”). See generally *Survey: Litigation Bounces Back While Regulation Investigations Hit High*, DETROIT LEGAL NEWS (Feb. 28, 2013), <http://www.legalnews.com/detroit/1373274/>.

90. See generally Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 516 (2007) (“The [law school] curriculum over-emphasizes adjudication and discounts many of the important global, transactional, and facilitative dimensions of legal practice.”).

91. See generally Backer, *supra* note 68; *Week One: Law in a Global Context*, GEO. UNIV. L. CTR., <http://www.aals.org/documents/curriculum/documents/GeorgetownWeekOne.pdf> (last visited Jan. 19, 2013).

92. See, e.g., Elizabeth A. Reilly, *Deposing the “Tyranny of Extroverts”: Collaborative Learning in the Traditional Classroom Format*, 50 J. LEGAL EDUC. 593 (2000); see Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 94–98 (2002) (describing the benefits of collaboration in legal education); Angela Mae Kupenda, *Risking Collaborative Learning in Core Course*, L. TEACHER, Spring 2002, at 6. See generally Clifford S. Zimmerman, “Thinking Beyond My Own Interpretation:” *Reflections on Collaborative and Cooperative Learning Theory in the Law School Curriculum*, 31 ARIZ. ST. L.J. 957 (1999).

93. See generally Ruthann Robson, *The Zen of Grading*, 36 AKRON L. REV. 303, 315 (2003) (“Certainly, each student bears responsibility for his or her learning, but as the teacher I have created the context for that learning.”); Cassandra L. Hill, *The Elephant in the Law School Assessment Room: The Role of Student Responsibility and Motivating Our Students to Learn*, 56 HOWARD. L.J. (forthcoming 2013); Robin A. Boyle, *Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student*, 81 U. DET. MERCY L. REV. 1 (2003).

assignments.⁹⁴ Each member of the in-class law firm is accountable for his or her own work product, and students must report their activity in terms of billable hours, generating detailed billing statements for submission to the senior partner (i.e., professor) for credit.⁹⁵ This practice begins to expose students to the economics of a law practice as a way to explore efficiency and value in marketing legal services.⁹⁶

IV. BEST TEACHING PRACTICES IN BUSINESS LAW

Peer mentoring techniques may be utilized in the law school classroom as a method to facilitate the informal exchange of ideas.⁹⁷ Students engaged in peer mentoring are able to share best practices in a low-risk environment as they work through legal controversies individually and in small groups.⁹⁸ In addition, business law practice simulations expose students to on-the-job training necessary to “hit the ground running” when they enter their summer associate or internship positions in pursuit

94. Cf. Bradley T. Borden & Robert J. Rhee, *The Law School Firm*, 63 S.C. L. REV. 1 (2011) (describing the process of third year law student on-the-job training as in-house law school firms form a partnership between legal practitioners and the academy). See generally Sturm & Guinier, *supra* note 87, at 518 (“Law schools are also making efforts to improve the quality of the classroom experience by . . . encouraging faculty to experiment with more interactive, problem-oriented pedagogy.” (citation omitted)).

95. See generally Sophie M. Sparrow, *Can They Work Well on a Team? Assessing Students’ Collaborative Skills*, 38 WM. MITCHELL L. REV. 1162, 1165 (2012) (finding that “Team-Based Learning” is a powerful tool to implement towards student learning, even for doctrinal courses with large enrollments).

96. See generally Hannah Hayes, *Recession Places Law School Reform in the Eye of the Storm*, PERSPECTIVES, Spring 2010, at 8, 9 (describing curricular changes at law schools to include the billing perspective of law).

97. See, e.g., Alex Vorro, *Columbia Law Takes an Innovative Approach to Mentoring*, INSIDE COUNS. (Apr. 2012), <http://www.insidecounsel.com/2012/03/27/columbia-law-takes-an-innovative-approach-to-mento> (explaining the importance of mentoring programs in legal education and the profession of law); Meera E. Deo & Kimberly A. Griffin, *The Social Capital Benefits of Peer-Mentoring Relationships in Law School*, 38 OHIO N.U. L. REV. 305 (2011); Peter JM MacFarlane & Gordon Joughin, *An Integrated Approach to Teaching and Learning Law: The Use of Student Peer Mentor Groups to Improve the Quality of Student Learning in Contracts*, 5 LEGAL EDUC. REV. 153 (1994). See generally Lori D. Patton & Shaun R. Harper, *Mentoring Relationships Among African American Women in Graduate and Professional Schools*, NEW DIRECTIONS STUDENT SERVS., Winter 2003, at 67, 67 (“Mentoring is particularly important on the graduate level, because emerging scholars and practitioners who intend to excel in their respective professions have the opportunity to make connections and learn how to successfully maneuver within their areas of specialization.”).

98. See generally Lynn C. Herndon, *Help You, Help Me: Why Students Need Peer Teaching*, 78 UMKC L. REV. 809 (2010); Cassandra L. Hill, *Peer Editing: A Comprehensive Pedagogical Approach to Maximize Assessment Opportunities, Integrate Collaborative Learning, and Achieve Desired Outcomes*, 11 NEV. L.J. 667, 672 (2011) (“By participating in peer-review exercises, students gain invaluable insight into cooperative or collaborative learning strategies, which is both a welcome departure from the anxiety-producing and demanding law school experience and essential for practicing law.” (citations omitted)); Verna Monson & Michelle Tichy, *Turning Legal Classrooms Upside Down: The Pragmatic and Moral Power of Cooperation to Foster Ethical Professional Identity in Legal Education* 5 (Working Paper Series, 2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2021455 (“[T]oday’s legal and business problems are . . . complex, involving professionals from multiple functional areas and disciplines, and thus requiring team-based solutions.”).

of a legal career.⁹⁹ The law firm exercises that I design for my business law courses build analytical skills and leadership ability through teamwork and role playing.¹⁰⁰ Students engage in advocacy and policy development through a variety of activities including reflection papers, current event reports, student presentations, field trips, and even the creation of computer applications.¹⁰¹ The interactive nature of the business law courses that I develop promotes student interests as they become personally invested in these courses, even if they decide not to pursue a career in the business sector.¹⁰²

The relevant simulations and role playing exercises that I conduct in areas of study such as bank failure and system risk are based on real controversies involving recent news stories to focus on the present economic problems that we are

99. See Fleischer, *supra* note 62 (“Law graduates are expected to arrive knowing more than just how to ‘think like a lawyer.’ The tricky part for law schools is trying to figure out what, exactly, they need to know.”). See generally AM. BAR ASS’N, *supra* note 42 (listing bar exam subjects); Susannah Moran & Joe Palazzolo, *Odd Electives Spur Doubts—Optional Law Classes Often Delve Into Quirky Territory, but Deans Defend Them*, WALL ST. J., Dec. 17, 2012, at B5 (“Amid weak demand for legal services and an oversupply of lawyers, law schools are emphasizing courses and clinics designed to give their graduates a chance to do hands-on lawyering before they enter the job market.”); News Release, N.Y. State Bar Ass’n, New York State Bar Resolution Calls for “Practice Ready Lawyers,” https://www.nysba.org/AM/PrinterTemplate.cfm?Section=News_Center&ContentID=53626&template=/CM/ContentDisplay.cfm (last visited Jan. 19, 2013) (advocating for the evolution of legal education to include more skills and practical experience in a resolution approved by the American Bar Association); *Transactional Law Education Conference Emphasizes Practice-Ready Lawyers*, EMORY UNIV. SCH. L. (Nov. 16, 2012, 12:15 PM), <http://www.law.emory.edu/about-emory-law/news-article/article/transactional-law-education-conference-emphasizes-practice-ready-lawyers.html> (reviewing the conference entitled, “Preparing the Transactional Lawyer: From Doctrine to Practice” sponsored by Emory Law’s Center for Transactional Law and Practice).

100. See, e.g., *General Practice Program*, VT. L. SCH., http://www.vermontlaw.edu/academics/general_practice_program.htm (last visited Jan. 19, 2013) (describing a certificate program that supplements the traditional law school curriculum with students working in simulated law firms). See generally Karen Sloan, *What If Law Schools Opened Their Own Law Firms?*, NAT’L L.J. (Aug. 17, 2011), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202511523234&What_if_law_schools_opened_their_own_law_firms_.

101. See, e.g., *Academics*, TULANE U. L. SCH., <http://www.law.tulane.edu/tlsAcademicPrograms/index.aspx?id=1738> (last visited Jan. 19, 2013); *Capstone Courses*, UNIV. MINN. L. SCH., <http://www.law.umn.edu/current/capstone-courses.html> (last visited Jan. 19, 2013); *Office of Clinical and Experiential Learning (OCEL)*, N.Y. L. SCH., http://www.nyls.edu/academics/jd_programs/office_of_clinical_and_experiential_learning/simulations (last visited Jan. 19, 2013); *Simulations*, PACE L. SCH., <http://www.law.pace.edu/simulations> (last visited Jan. 19, 2013); *Simulation Courses*, CATHOLIC UNIV. AM., <http://clinics.law.edu/legalsimulation.cfm> (last visited Jan. 19, 2013). See generally Jennifer L. Rosato, *All I Ever Needed to Know About Teaching Law School I Learned Teaching Kindergarten: Introducing Gaming Techniques into the Law School Classroom*, 45 J. LEGAL EDUC. 568, 573 (“[A] variety of teaching methods assures all students the opportunity to learn.”); Paul Maharg, *Simulation Squared*, BEST PRACTICES LEGAL EDUC. (Mar. 18, 2011), <http://bestpracticeslegaled.albanylawblogs.org/2011/03/18/simulation-squared-2/> (describing the SIMPLE [SIMULATED Professional Learning Environment] program at the University of New Hampshire Law School); Karen Sloan, *Simulation-Based Courses Help Law Schools Bridge the Globe*, NAT’L L.J. (Oct. 4, 2011), http://www.law.com/jsp/lawtechnologynews/PubArticleLTN.jsp?id=1202517666809&SimulationBased_Courses_Help_Law_Schools_Bridge_the_Globe_.

102. See generally Rosato, *supra* note 98 (discussing the importance of fostering motivation in teaching law students).

experiencing in today's society.¹⁰³ Thereby, students are able to establish a blueprint for success in exploring various solutions to vexing business, banking, and finance problems that may constitute legal cases of first impression for further exploration in writing student notes and comments for scholarly publication.¹⁰⁴ Students in my business law courses follow simulated cases based on actual lawsuits from start to finish to gain experience on how the legal system operates throughout the duration of the course.¹⁰⁵ This practice promotes continuity and understanding to permit students to grasp complex legal concepts by reworking the case method in legal education.¹⁰⁶ Students emerge from these courses more confident in their abilities, and articulate a greater understanding of business law once they explore for themselves how the legal process works.¹⁰⁷

Regular feedback is also an integral part of the process in preparing students to face the challenges of a new economy.¹⁰⁸ I use peer review exercises in my business

103. See, e.g., *UConn Raises Bar for Future Law Grads*, HARTFORD BUSINESS.COM (Nov. 29, 2012), <http://www.hartfordbusiness.com/apps/pbcs.dll/article?AID=/20121129/NEWS01/121129805/0/print> (describing the "practice-based learning" requirement starting with the fall 2013 incoming class at the University of Connecticut Law School). See generally Brian Martin, *Law Students Learn In-House Counsel Responsibilities with Role-Playing*, INSIDE COUNS. (July 1, 2011), <http://www.insidecounsel.com/2011/07/01/law-students-learn-in-house-counsel-responsibiliti>; Spencer, *supra* note 67, at 2060–62 (discussing the reform that law schools should undertake to prepare students to become practitioners).

104. See generally Katherine Mangan, *Law Schools Get Advice on Helping Students Cope with a Tight Job Market*, CHRON. HIGHER EDUC. (Jan. 7, 2010), <http://chronicle.com/article/Law-Schools-Get-Advice-on/63475/> ("Students who work in teams and are actively engaged in the course are more likely to succeed both in law school and the job market. . . ."); Leora Harpaz, *Guide to Writing a Student Law Review Note*, W. NEW ENG. COLL. L., <http://www.wneclaw.com/lawreview/lawrevtopicselction.html> (last visited Feb. 19, 2013); Lexis Advance, *Researching for Law Review or Journal*, LEXISNEXIS (2012), www.lexisnexis.com/documents/pdf/20120730122236_large.PDF.

105. See generally Paul Maharg, *Simulation: A Pedagogy Emerging from the Shadows*, in EDUCATING THE DIGITAL LAWYER §9, §9.5–.8 (Oliver Goodenough & Marc Lauritsen ed., 2012).

106. See generally Todd D. Rakoff & Martha Minow, *A Case for Another Case Method*, 60 VAND. L. REV. 597, 597 (2007) ("After three years in law school, students usually leave not only with knowledge of specific legal materials, but also with the sharp analytical skills and ability to work in existing legal institutions that people expect from lawyers. But our society is full of new problems demanding new solutions. . . . Much of the action is moving to graduates trained in other disciplines and professions, such as economics, political science, and business. In our view, the stodginess of American legal education is partly to blame."); Sally Kane, *Education Innovation*, STUDENT LAW., Sept. 2008, at 19.

107. See, e.g., *Experiential Learning at the Strum College of Law*, UNIV. DENVER STRUM C. L., <http://www.law.du.edu/index.php/academics/experiential-learning> (last visited Jan. 19, 2013); *Experiential Learning Lab*, N.Y.U. SCH. L., <http://www.law.nyu.edu/experientiallearninglab/index.htm> (last visited Jan. 19, 2013). See generally NALP, 2010 SURVEY OF LAW SCHOOL EXPERIENTIAL LEARNING OPPORTUNITIES AND BENEFITS 6 (2011), available at <http://www.nalp.org/uploads/2010ExperientialLearningStudy.pdf> ("Much debate has ensued during the last few years regarding the effectiveness of law school in preparing new lawyers for the practice of law and the advantages of experiential learning opportunities offered during law school. The data from this study suggest that some, if not all, of these 'hands-on' or simulated learning opportunities, whether required or optional, are indeed instrumental in preparing new associates for the demands of the practice of law.").

108. Cf. Sparrow, *supra* note 92, at 1171–72 (discussing the importance of feedback in promoting student collaborative skills). See generally Spencer, *supra* note 67, at 2040 ("[L]aw school courses should have multiple

law courses, to an extent, to promote proofreading and editing skills as students assist each other in polishing their written submissions for non-graded assignments.¹⁰⁹ Participation points are allotted in these courses for activities that promote constructive critique and the sharing of best practices among students from different employment and academic backgrounds.¹¹⁰ Drills are performed to keep students thinking on their feet and outside of the box to promote innovation in the classroom and build transferable skills for legal employment.¹¹¹ Teamwork assignments within practice groups also provide students with the opportunity to network within a business context.¹¹² An environment of trust is cultivated so that students feel comfortable in suggesting new ways to solve reoccurring legal problems.¹¹³ In building a relationship of trust, students develop the confidence to be leaders in their chosen field.¹¹⁴ Despite the ranges of ability among the student body, peer-to-peer review has proven to be a useful tool in course management.¹¹⁵

When introducing new concepts, I found it helpful to provide the business foundation behind these concepts, such as basic principles of economics.¹¹⁶ Accordingly, my assignments focus on a variety of business concepts with an emphasis on finance, accounting, management, and marketing.¹¹⁷ Students come to

assessment exercises along the way—graded or ungraded—that permit the instructor to determine students' learning levels and give feedback that will permit the student to adapt and improve.”)

109. See, e.g., Elizabeth L. Inglehart et al., *From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom*, 9 LEGAL WRITING: J. LEGAL WRITING INST. 185 (2003). See generally Hill, *supra* note 95 (advocating peer editing among law students, especially in legal writing courses).

110. See generally Sparrow, *supra* note 92, at 1171–72.

111. See, e.g., Donald H. Zeigler et al., *Curriculum Design and Bar Passage: New York Law School's Experience*, 59 J. LEGAL EDUC. 393 (2010). See generally Sparrow, *supra* note 92, at 1169–71 (describing multiple exercises in collaboration to use in succession); J. Stephen Poor, *Re-Engineering the Business of Law*, N.Y. TIMES (May 7, 2012, 4:21 PM), <http://dealbook.nytimes.com/2012/05/07/re-engineering-the-business-of-law/>.

112. See, e.g., Chato Hazelbaker, *Leading in the New Landscape: Three Keys for Employment Success*, ST. THOMAS LAW. (Feb. 15, 2013), <http://www.stthomas.edu/news/2013/02/15/leading-in-the-new-landscape-three-keys-for-employment-success/>. See generally Spencer, *supra* note 67, at 2025–26 (“Finally, students must have more opportunities to collaborate in team settings and to work on solving problems that blend legal and other issues in a single setting.” (citation omitted)).

113. See generally Patton & Harper, *supra* note 94, at 68 (“Mentoring is a cornerstone in the success of graduate education and depends highly on student-faculty relationships propelled by trust, integrity, opportunity, and understanding.”).

114. See generally Martha Minow, *Why Do Law School Graduates Become Leaders?*, HARV. L. BULL., Fall 2012, available at <http://www.law.harvard.edu/news/bulletin/2012/fall/dean.php>.

115. See generally Hill, *supra* note 95; Sparrow, *supra* note 92 (discussing collaboration in the context of practical legal education).

116. See Tilsley, *supra* note 70 (reporting on a law school's implementation of a first year required course in financial literacy); Fleischer, *supra* note 62. See generally Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum*, 56 N.Y.L. SCH. L. REV. 561, 577, 583 (2011/12) (Millennials, those born in the 1980s and 1990s who make up the majority of entering law school classes, have a general affinity towards big business).

117. See, e.g., *Law and Business*, HARV. L. SCH., <http://www.law.harvard.edu/academics/degrees/jd/pos/law-and-bus/index.html> (last visited Jan. 19, 2013) (“Lawyers practicing in business-related areas – corporate

law school with varying degrees of financial literacy, thereby obstructing their study of business law and limiting their potential employment prospects.¹¹⁸ Prerequisite transactional law courses may adequately address this concern, but there may still be gaps in student comprehension of complex business functions.¹¹⁹ Even students with a business background may encounter challenges in navigating investment tools and exploring entrepreneurial endeavors in the study and practice of business law.¹²⁰ As teachers, we serve as coaches in explaining and clarifying business concepts to help students expand their career options, improve upon their overall course performance, and eventually pass the bar exam.¹²¹ We can better prepare students for careers in business law by effectively integrating doctrinal courses with business practical skills.¹²²

law, real estate, tax, business litigation, many areas of government regulation, and aspects of nonprofit representation – need to acquire skills in three areas: basic analytics (accounting, finance, economics), an appreciation of transactions, and relevant fields of law.”).

118. *Id.* See generally Victor Fleischer, *Deals: Bringing Corporate Transactions into the Law School Classroom*, 2002 COLUM. BUS. L. REV. 475 (2002); Luppino, *supra* note 55, at 152 (“Some of the key characteristics [business lawyers] share, in addition to thorough knowledge of the letter and theory of the law in their practice areas, as well as the highest ethical standards, are: familiarity with business concepts and related jargon that allow them to ask important questions about the business deal; appreciation of the businessperson’s perspectives; and an exceptional ability to explain complex laws in terms understandable to nonlawyers.”); Fleischer, *supra* note 62 (noting that lawyers who practice in areas such as mergers and acquisitions, securities, bankruptcy, tax, and financial regulation may have an advantage in the legal market); Patrick G. Lee, *Managing & Careers -- Theory & Practice: Law Schools Get Practical --- With the Tight Job Market, Course Emphasis Shifts From Textbooks to Skill Sets*, WALL ST. J., July 11, 2011, at B5.

119. See, e.g., *Law and Business*, *supra* note 117. See generally Catherine Ho, *Georgetown Law to Offer Business Courses*, WASH. POST, Apr. 23, 2012, at A14; Emma Schwartz, *Getting Business School Skills While in Law School*, U.S. NEWS & WORLD REPORT (Mar. 26, 2008), <http://www.usnews.com/education/articles/2008/03/26/getting-business-school-skills-while-in-law-school>.

120. See generally Luppino, *supra* note 55 (discussing the integration of practical entrepreneurial skill development into a traditional law school course).

121. See generally Barbara Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 GONZ. L. REV. 89 (2002–2003); Judith Welch Wegner, *The Carnegie Foundation’s Educating Lawyers: Four Questions for Bar Examiners*, BAR EXAMINER, June 2011, at 11, available at http://law.ubalt.edu/academics/pdfs/Carnegie%20Report%20article_final.pdf; Fleischer, *supra* note 62 (noting that law school graduates may be compelled to compete for jobs in the financial sector due to a decline in law firm hiring).

122. See, e.g., *Law School Launches New Law and Business Program*, UVA LAWYER, Fall 2002, available at <http://www.law.virginia.edu/html/alumni/uvalawyer/f02/business.htm> (“Responding to the growing demand for business-savvy lawyers in corporate America, the Law School this fall launched the Virginia Program in Law and Business, a wide-ranging curricular innovation that will educate students in the fundamentals of business analysis.”); see Harriet N. Katz, *Evaluating the Skills Curriculum: Challenges and Opportunities for Law Schools*, 59 MERCER L. REV. 909, 924 (2008); Emma Schwartz, *These Law Schools Mean Business*, U.S. NEWS & WORLD REP., Apr. 7, 2008, at 54.

A. Bar Exam Preparation in the Business Law Area

State licensure to practice law often involves a mastery of business law and business ethics.¹²³ Law school graduates must attain a level of business competency in order to practice law.¹²⁴ Overall, stakeholders are placing greater emphasis on bar passage.¹²⁵ Law schools are increasingly gearing courses towards bar passage.¹²⁶ The issue of bar passage is a pressing one that deserves consideration in preparing our students for the future.¹²⁷ I am able to blend bar passage techniques into my course syllabi by articulating specific student learning outcomes that are directly aligned to the subjects tested.¹²⁸

Bar-tested areas are highlighted throughout my business law courses, and students are made aware of any state distinctions to the model codes and common law that we study in preparation for the bar exam.¹²⁹ I categorize my business law courses to provide a general overview of the subject at issue while providing an in-depth view of the expectations for exam performance. I administer practice tests modeled after released bar exam questions, disseminate grading checklists

123. See, e.g., *Bar Exam Subjects*, *supra* note 74; N.Y. STATE BD. OF LAW EXAMINERS, *supra* note 74; *Bar Topics and NYU School of Law Courses*, N.Y.U. SCH. L., http://www.law.nyu.edu/recordsandregistration/barexams/noticetoforeigntrainedllmstudents/ECM_DLX_011160 (last visited Jan. 19, 2013); *Subjects Tested on the California Bar Examination*, UNIV. S. CAL. GOULD SCH. L. <http://weblaw.usc.edu/why/academics/bar/subjectsTested.cfm> (last visited Jan. 19, 2013); *Texas Bar Examination Subjects: Appendix A*, TEX. BD. L. EXAMINERS, <http://www.ble.state.tx.us/Rules/NewRules/appendixA.htm> (last visited Jan. 19, 2013).

124. See generally Richard Cabrera, *Essay: Working to Improve: A Plan of Action for Improving the Bar Exam Pass Rate*, 27 WM. MITCHELL L. REV. 1169 (2000); Douglas K. Rush & Hisako Matsuo, *Does Law School Curriculum Affect Bar Passage? An Empirical Analysis of Factors Related to Bar Examination Passage During the Years 2001 through 2006 at a Midwestern Law School*, 57 J. LEGAL EDUC. 224 (2007); Gary S. Rosin, *Unpacking the Bar: Of Cut Scores and Competence*, 32 J. LEGAL PROF. 67 (2008).

125. See generally Lorenzo A. Trujillo, *The Relationship Between Law School and the Bar Exam: A Look at Assessment and Student Success*, 78 U. COLO. L. REV. 69 (2007).

126. See generally Linda Jellum & Emmeline Paulette Reeves, *Cool Data on a Hot Issue: Empirical Evidence That a Law School Bar Support Program Enhances Bar Performance*, 5 NEV. L.J. 646, 647 (2005) (noting that law schools have become increasingly concerned about the bar passage rates of their graduates); Richard A. White, *AALS Survey of Law Schools on Programs and Courses Designed to Enhance Bar Examination Performance*, 52 J. LEGAL EDUC. 453 (2002).

127. See Backer, *supra* note 68, at 59 (“The bar examination may be external to the law school as an academic institution, but it is hardly external to the law school in its role as part of the community of the bar. The bar examination, in that sense, is no more external to the law school, than an examination in any course offered within the institutional framework of the university.”); Denise Riebe, *A Bar Review for Law Schools: Getting Students on Board to Pass Their Bar Exams*, 45 BRANDEIS L.J. 269 (2007).

128. See generally Joan Howarth, *Teaching in the Shadow of the Bar*, 31 U.S.F. L. REV. 927, 928–29 (1997); Zeigler et al., *supra* note 111, at 396–97.

129. See, e.g., N.C. BAR ASS'N, *DRAFTING A BAR EXAM ESSAY ANSWER 3* (2009), <http://younglawyers.ncbar.org/media/300925/09draftingexamanswer.pdf> (“While these 12 subjects are tested, they are in some cases larger umbrellas of smaller, more discrete topics that cannot be ignored: for example, Contracts includes Sales; Secured Transactions includes Article 9 of the UCC, mortgages, suretyship, and liens; and Business Associations or Torts may include concepts of Agency.”).

containing a rubric to reflect bar exam scoring, and distribute model answers to provide students with hands-on practice in exam essay writing.¹³⁰

The same test-taking techniques that are used for my course midterms and final exams are transferable skills that may be utilized for successful completion of the bar exam.¹³¹ The legal writing skills that students learned during their first year in law school are also re-examined in my courses as students refine the IRAC and CRAC methodology, with an emphasis on business analysis.¹³² Further, strategies for success in law school and in practice are discussed to enhance student performance and employment prospects, including time management and deductive reasoning.¹³³

Issue spotting, rule explanation, and legal analysis serve as the core of an enhanced teaching methodology to instill in students the need for precision and conciseness in practicing business law.¹³⁴ Attention to detail, including proofreading, formatting, and organization are built into my business law courses to help students polish their research and writing skills for the transactional practice of law.¹³⁵ These requisite skills for competency in business law may also be used to sharpen student performance in other courses.¹³⁶ For instance, I instruct students on how to develop more effective study tools, including flow charts and diagrams, to

130. See, e.g., *Selected Answers*, TEX. BD. L. EXAMINERS, http://www.ble.state.tx.us/exam_info/selected_answers/main_selected_answers.htm (last visited Jan. 19, 2013). See generally Sophie M. Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics—Explicit Grading Criteria*, 2004 MICH. ST. L. REV. 1 (2004).

131. See, e.g., *Selected Answers*, *supra* note 130; Zeigler et al., *supra* note 111. See generally Jason Beaulieu, “Worthless” Law School Graduates?, DAILY REC. (Apr. 14, 2010), <http://thedailyrecord.com/generationjd/2010/04/14/worthless-law-school-graduates/>.

132. See generally Soma R. Kedia, *Redirecting the Scope of First-Year Writing Courses: Toward a New Paradigm of Teaching Legal Writing*, 87 U. DET. MERCY L. REV. 147, 150 (2009) (explaining the IRAC method as a way to organize student writing by articulating the issue, rule, analysis, and conclusion); Denise Riebe, *Readers’ Expectations, Discourse Communities, and Effective Bar Exam Answers*, 41 GONZ. L. REV. 481, 490–91 (2005) (explaining the CRAC method of writing organization by conclusion, rule, application, and again conclusion); Debra R. Cohen, *Competent Legal Writing—A Lawyer’s Professional Responsibility*, 67 U. CIN. L. REV. 491 (1999).

133. See generally Christine Bartholomew, *Time: An Empirical Analysis of Law Student Time Management Deficiencies*, 81 U. CIN. L. REV. (forthcoming 2013), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2136575 (“Starting time management training early helps law students to survive and thrive both in school and after graduation.”); Anita Schnee, *Logical Reasoning “Obviously”*, 3 LEGAL WRITING: J. LEGAL WRITING INST. 105 (1997).

134. See generally Don Rainey, *The Making of a CEO: Issue Spotting*, INC., Apr. 18, 2012, <http://www.inc.com/don-rainey/the-making-of-a-ceo-issue-spotting.html> (“In law school, students spend a lot of time on ‘issue spotting.’ This exercise helps them pull out the critical issues in a conflict. In business, this ability is equally important.”).

135. See, e.g., *Advanced Legal Writing: Business Drafting (Law 520 Sec 1)*, UNIV. CAL. IRVINE SCH. L., <http://apps.law.uci.edu/CourseCatalog/Detail.aspx?id=337> (last visited Jan. 19, 2013); *Advanced Legal Writing: Business Transactions*, STANFORD L. SCH., <http://www.law.stanford.edu/courses/advanced-legal-writing-business-transactions> (last visited Jan. 19, 2013); *Business Law Practicum*, LOY. L. SCH. L.A., <http://www.lls.edu/academics/clinicexperientiallearning/businesslawpracticum/> (last visited Jan. 19, 2013). See generally Robert B. Bennett & William Templeton, *Writing to Learn Business Law*, 13 J. LEGAL STUD. EDUC. 265 (1995).

136. See generally *Preparing for Law School*, AM. BAR ASS’N, http://www.americanbar.org/groups/legal_education/resources/pre_law.html (last visited Jan. 19, 2013).

dissect complex legal issues and concepts.¹³⁷ Such tools address the needs of visual learners while also addressing the needs of those who learn while doing.¹³⁸ Auditory learners gain a solid business law perspective during lectures, workshops, and roundtable discussions, as I vary the method of instruction to reach a diverse group of students.¹³⁹

Writing exercises that serve as exam preparation tools may also be developed into writing samples or even commentary that may be submitted as editorials, responses to calls for papers, and replies to notices for public commentary.¹⁴⁰ Subsequently, students are encouraged to use course assignments and materials to develop independent research projects and law review notes on business law topics.¹⁴¹ Students may also benefit from using course materials to engage in the heightened public policy debate on business law concerns such as the future of financial regulation.¹⁴² Students are presented with a number of opportunities to

137. See, e.g., Deborah Jones Merritt, *Pedagogy, Progress, and Portfolios*, 25 OHIO ST. J. ON DISP. RESOL. 7 (2010). See generally Benjamin V. Madison III, *The Elephant in Law School Classrooms: Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students*, 85 U. DET. MERCY L. REV. 293 (2008).

138. See generally Boyle, *supra* note 93; Hess, *supra* note 92, at 100–101; Madison, *supra* note 137.

139. See generally Boyle, *supra* note 93; Gerald F. Hess, *Listening to Our Students: Obstructing and Enhancing Learning in Law School*, 31 U.S.F. L. REV. 941 (1997); Madison, *supra* note 137.

140. See, e.g., *Notice and Comment*, CONSUMER FINANCIAL PROTECTION BUREAU, <http://www.consumerfinance.gov/notice-and-comment/> (last visited Jan. 19, 2013) (listing Federal Register notices for public comment). See generally Karla M. Johnstone et al., *Effects of Repeated Practice and Contextual-Writing Experiences on College Students' Writing Skills*, 94 J. EDUC. PSYCHOL. 305 (2002); Carol McCrehan Parker, *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It*, 76 NEB. L. REV. 561 (1997); Anita L. Morse, *Research, Writing, and Advocacy in the Law School Curriculum*, 75 L. LIBR. J. 232 (1982); Louis N. Schulze, Jr., *Transactional Law in the Required Legal Writing Curriculum: An Empirical Study of the Forgotten Future Business Lawyer*, 55 CLEV. ST. L. REV. 59 (2007).

141. See generally Andrew Yaphe, *Taking Note of Notes: Student Legal Scholarship in Theory and Practice*, 62 J. LEGAL EDUC. 259, 283 (2012) (“Given the number of law students who pursue corporate law for a career, the relative paucity of [student law review] notes in that area is perhaps surprising.”); *Id.* at 283–284 (noting that the areas of business and administrative law are underrepresented in student law review notes, and explaining that this may be due to the fact that students’ selection of topics “are not strongly influenced by considerations of the work they intend to do in their legal careers”); COLUMBIA L. REV., 2012 – 2013 PUBLISHABLE NOTES MANUAL 11–12 (2013), available at <http://www.columbia-lawreview.org/wp-content/uploads/2012/07/2012-2013-Publishable-Notes-Manual.pdf> (explaining that law school seminar papers may also serve as student notes for publication).

142. See generally EUGENE VOLOKH, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW*, 13–14 (2010) (discussing how students can use cases from class to identify a possible thesis); Matthew T. Bodie, *Law Students and Legal Scholarship*, 1 J.L. 223, 225 (2012) (“Part of legal instruction must include an ability to parse and utilize legal scholarship.”); Paul Brest, *The Responsibility of Law Schools: Educating Lawyers as Counselors and Problem Solvers*, 58 L. & CONTEMP. PROBS. 5, 16 (1995) (advocating for a complementary skill-based curriculum to the traditional case study model, which would “broaden and deepen a student’s knowledge of substantive law and policy”); Andrew Crockett, *Why Is Financial Stability a Goal of Public Policy?*, *ECON. REV.*, 1997, at 5; Ross Levine, *The Governance of Financial Regulation: Reform Lessons from the Recent Crisis*, *INT’L. REV. FIN.*, Mar. 2011, at 39, 40 (“Assessing financial regulations requires coordinated teams of well-informed financial economists, lawyers, accountants, regulators, and individuals with private sector experience.”); *FIN. POL’Y FORUM & DERIVATIVES STUDY CTR.* (Feb. 19, 2013), <http://www.financialpolicy.org/>.

engage in class discussions on the new economy to enhance course development.¹⁴³ With the explosion of social media and other technological advances, students now have an accessible platform to advocate for business law reform as an extension of the educational experience.¹⁴⁴

V. THE FUTURE OF LEGAL EDUCATION IN THE TRANSACTIONAL CONTEXT

Law professors may be compelled to update their teaching methods and implement innovative educational techniques to appeal to the “new school” of student enrollment.¹⁴⁵ The millennial student body may demand changes as to how legal education is administered to expand opportunities for distance learning.¹⁴⁶ Law

143. See generally Karen Sloan, *Law Students Benefit by Connections with Professors, Fellow Students*, NAT'L L.J. (Jan. 14, 2013), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202584415825&Law_students_benefit_by_connections_with_professors_fellow_students_.

144. See generally Elizabeth Fajans & Mary R. Falk, *Comments Worth Making: Supervising Scholarly Writing in Law School*, 46 J. LEGAL EDUC. 342 (1996) (noting the potential effect of technology on scholarly legal writing); Charles Harmon Oates, *Law Practice Technology: A Law School Course?* (Regent University Working Paper Series, 2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2159371; John G. Browning, *Facing Up to Facebook in the Classroom*, SYLLABUS, Spring 2012, available at http://www.americanbar.org/publications/syllabus_home/volume_43_2011-2012/spring_2012/facing_up_to_facebookintheclassroom.html.

145. See generally Gerald F. Hess, *Value of Variety: An Organizing Principle to Enhance Teaching and Learning*, 3 ELON L. REV. 65 (2011); Deborah Maranville et al., *Re-vision Quest: A Law School Guide to Designing Experiential Courses Involving Real Lawyering*, 56 N.Y.L. SCH. L. REV. 517 (2011/12); Debra Cassens Weiss, *New Initiative Promotes Legal Ed Innovation and 'Practice-Ready Lawyers'*, ABA J. (Aug. 29, 2011, 4:30 AM), http://www.abajournal.com/news/article/new_initiative_promotes_innovation_in_legal_education/ (citing the Educating Tomorrow's Lawyers initiative sponsored by the Institute for the Advancement of the American Legal System at Denver University).

146. See, e.g., Paul N. Friga et al., *Changes in Graduate Management Education and New Business School Strategies for the 21st Century*, 2 ACAD. MGMT. LEARNING & EDUC. 233 (2003). See generally Maryam Alavi et al., *Using IT to Reengineer Business Education: An Exploratory Investigation of Collaborative Telelearning*, 19 MIS Q. 293, 293 (“Although our corporations, industries, and economy have made a transition into the information age, our educational system has been left behind in the industrial age.”); Steven K. Berenson, *Educating Millennial Law Students for Public Obligation*, 1 CHARLOTTE L. REV. 51 (2008); Joan Catherine Bohl, *Generations X and Y in Law School: Practical Strategies for Teaching the “MTV/Google” Generation*, 54 LOY. L. REV. 775 (2008); *Which MBA?: Distance-Learning Special: Introduction*, ECONOMIST (Feb. 24, 2010), <http://www.economist.com/node/15573278> (“Distance-learning business education is a resounding success story.”); Rebecca Purdom & Larry Farmer, *Assessing Distance Learning Methods and Success in the Law School Setting*, DOTANK, <http://dotank.nyls.edu/futureed/2011proposals/08adlm.pdf> (last visited Feb. 19, 2013); WORKING GROUP FOR DISTANCE LEARNING IN LEGAL EDUCATION, DISTANCE LEARNING IN LEGAL EDUCATION: A SUMMARY OF DELIVERY MODELS, REGULATORY ISSUES, AND RECOMMENDED PRACTICES, WORKING GROUP FOR DISTANCE LEARNING IN LEGAL EDUCATION (Rebecca Purdom ed., 2013), available at http://www.law.harvard.edu/programs/plp/pdf/Distance_Learning_in_Legal_Ed.pdf; Brian Burnsed, *Online Law Schools Have Yet to Pass the Bar*, U.S. NEWS & WORLD REP. (June 20, 2012), <http://www.usnews.com/education/online-education/articles/2011/03/23/online-law-schools-have-yet-to-pass-the-bar>; AM. BAR ASS'N, 2012–2013 ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 25 (2012), available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/

schools may also be prompted to engage in enhanced teaching development in the move towards an assessment-based model of acquiring practical skills in today's legal education environment.¹⁴⁷

We are now in a position to effectuate positive change for the future of legal education.¹⁴⁸ It is up to the legal academy, in part through its faculty members, to embrace sound pedagogical changes to keep pace with the realities of the new legal education economy.¹⁴⁹ Law schools, both public and private, are subject to inquiries regarding educational effectiveness and financial stability.¹⁵⁰ Accordingly, for-profit and non-profit ABA-accredited law schools are increasingly based on financial models of sustainability to ensure instruction in an efficient manner that promotes the legal employment of students.¹⁵¹ Consequently, the legal academy may serve its interests by satisfying student needs and faculty requests for a quality law school experience through business innovation.¹⁵² Using the for-profit corporate sector as a

Standards/2012_2013_aba_standards_and_rules.authcheckdam.pdf (setting forth Standard 306 for distance education).

147. See generally Janet Fisher, *Putting Students at the Center of Legal Education: How and Emphasis on Outcome Measures in the ABA Standards for Approval of Law Schools Might Transform the Educational Experience of Law Students*, 35 S. ILL. U. L.J. 225 (2011); Hess, *supra* note 92, at 105–10 (discussing the importance of continuous feedback in legal education); R. Michael Cassidy, *Beyond Practical Skills: Nine Steps for Improving Legal Education Now*, 53 B.C. L. REV. 1515 (2012); Karen Sloan, *ABA: Law Schools Getting the Message on Practical Skills*, NAT'L L.J. (July 5, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202561943191&ABA_Law_schools_getting_the_message_on_practical_skills.; Amy Yarbrough, *Task Force Explores Need for Practical Skills Training*, CAL. BAR J. (June 2012), <http://www.calbarjournal.com/June2012/TopHeadlines/TH1.aspx>.

148. See generally Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experimental Learning*, 51 J. LEGAL EDUC. 51 (2001); TAMANAHA, *supra* note 62.

149. See generally William R. Trail & William D. Underwood, *The Decline of Professional Legal Training and a Proposal for Its Revitalization in Professional Law Schools*, 48 BAYLOR L. REV. 201 (1996); Brian Tamanaha, *Wake Up, Fellow Law Professors, to the Casualties of Our Enterprise*, BALKINIZATION (June 13, 2010), <http://balkin.blogspot.com/2010/06/wake-up-fellow-law-professors-to.html>.

150. See generally Nancy B. Rapoport, *Eating Our Cake and Having It, Too: Why Real Change is so Difficult in Law Schools*, 81 IND. L.J. 359 (2006); AM. BAR ASS'N, 2012–2013 ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 9–28 (2012), available at http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2012_2013_aba_standards_and_rules.authcheckdam.pdf (setting forth standards regarding organization and administration and the program of legal education).

151. See generally John H. Garvey, *The Business of Running a Law School*, 33 U. TOL. L. REV. 37 (2001); Jordan Weissmann, *How the Job Market for Law School Grads Crumbled (and How It Could Come Back to Life)*, ATLANTIC (Feb. 5, 2013, 9:30 AM) <http://www.theatlantic.com/business/archive/2013/02/how-the-job-market-for-law-school-grads-crumbled-and-how-it-could-come-back-to-life/272852/>; Kyle P. McEntee & Derek Michael Topaz, *Winter 2013 Transparency Index Report*, LAW SCHOOL TRANSPARENCY (Mar. 4, 2013), <http://www.lawschooltransparency.com/2013/03/law-school-transparency-releases-annual-index-of-law-school-disclosure/>.

152. See, e.g., Charlotte S. Alexander, *Learning to Be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465 (2011) (analyzing the Fundamentals of Law Practice course at Georgia State University College of Law that includes field placements with attorneys in a number of practice areas including business and transactional law); *Law Without Walls*, UNIV. MIAMI SCH. L., <http://www.law.miami.edu/academics/law-without-walls.php> (last visited Jan. 19, 2013) (LawWithoutWalls is a part-virtual, educational collaboration created by Michele DeStefano and Michael Bossone at the University of Miami School of Law);

model, even law schools can operate as sustainable businesses.¹⁵³ Business law theories may be used to develop a social enterprise model to support law schools in meeting the financial and educational needs of students in the new economy.¹⁵⁴

VI. CONCLUSION

With law school applications down, partly due to the Great Recession and the unrelenting media scrutiny as to the economic benefit of attending law school, the cost-benefit analysis of pursuing a legal degree must be examined to address mounting student loan debt.¹⁵⁵ Lower salaries and the narrowing occupational outlook for lawyers are the harsh economic circumstances now encountered by the legal community.¹⁵⁶ The financial and legal concerns of corporate entities and large law firms in the new economy may not fully appear on a profit and loss statement.¹⁵⁷

Molly McDonough, *Drexel Law Prof to Use \$500K Grant to Expand LawMeets, an Online Lawyering Skills Platform*, ABA J. (Aug. 14, 2012, 7:44 AM), http://www.abajournal.com/news/article/drexel_law_prof_to_use_500k_grant_to_expand_lawmeets_an_online_lawyering/. See generally Susan Beck, *Innovation Agenda (Part Three): What's Wrong with Law School?*, AMLAW DAILY (Dec. 31, 2008, 5:00 AM), <http://amlawdaily.typepad.com/amlawdaily/2008/12/innovation-agenda-part-three-whats-wrong-with-law-school.html>; Renee Newman Knake, *Why Law Students Should Be Thinking About Entrepreneurship and Innovation in Legal Services*, Bloomberg Law (2012), <http://about.bloomberglaw.com/practitioner-contributions/innovation/>.

153. See Tamar Frankel, *What Makes a Great Law School?* 14 (Boston Univ. Sch. of Law Working Paper No. 01-13, 2001), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=288435 ("There is a rich literature in the corporate area that explores the strategy of successful corporations both in terms of choice of their business and in terms of their relationship with their employees. Law schools that desire to be great and innovate may learn much from this literature."). See generally SHEILA SLAUGHTER & GARY RHOADES, *ACADEMIC CAPITALISM AND THE NEW ECONOMY: MARKETS, STATE, AND HIGHER EDUCATION* 1-2 (2004) ("Student consumers choose (frequently private) colleges and universities that they calculate are likely to bring a return on educational investment and increasingly choose majors linked to the new economy, such as business . . ."); David Segal, *Law School Economics: Ka-Ching!*, N.Y. TIMES, July 17, 2011, at BU1.

154. See generally Deborah L. Cohen, *Growing Justice: Law Schools Hop on the Incubator Trend*, ABA J., Oct. 2012, at 30 (describing a movement by law schools to provide graduates with an opportunity to work in-house within law firms that focus on pro-bono community services while training lawyers to enter the profession as solo practitioners); see also Ethan Bronner, *To Place Graduates, Law Schools Are Opening Firms*, N.Y. TIMES, Mar. 8, 2013, at A14; Latonia Haney Keith, *Above and Beyond: Justice Through Entrepreneurship*, CHI. LAW. (Mar. 1, 2013), <http://chicagolawyer magazine.com/Articles/2013/03/01/Above-Beyond-Latonia-Haney-Keith.aspx>.

155. See Ethan Bronner, *Law Schools' Applications Fall as Costs Rise and Jobs Are Cut*, N.Y. TIMES, Jan. 31, 2013, at A1; Karen Sloan, *Avoiding Law School in Drones*, NAT'L L.J. (Jan. 28, 2013), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202585810784&Avoiding_law_school_in_drones_. See generally Spencer, *supra* note 67, at 1951-53 ("The value of a law degree is being questioned given the deterioration of the traditional legal job market and the substantial and growing size of the student loan debt of recent graduates." (citations omitted)); Lawrence E. Mitchell, *Law School Is Worth the Money*, N.Y. TIMES, Nov. 29, 2012, at A31; Don LeDuc, *Enough About the Ills and Evils of Legal Education*, T.M. COOLEY L. SCH. (Aug. 15, 2012), http://www.cooley.edu/commentary/enough_about_the_ills_and_evils_of_legal_education.html.

156. See Davidoff, *supra* note 68; Ameet Sachdev, *Joblessness, Debt Mount for Recent Law School Grads*, CHI. TRIB., June 22, 2012, at C1.

157. See generally Neil J. Dillof, *The Changing Cultures and Economics of Large Law Firm Practice and Their Impact on Legal Education*, 70 MD. L. REV. 341 (2011); Darrell M. West, *The Purpose of the Corporation in*

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Therefore, law students and recent law graduates who are directly faced with the challenges of the new economy should become well-versed in business law concepts to remain marketable for employment.¹⁵⁸

Classroom innovation and curricular reform are important components to the law school economics discussion.¹⁵⁹ Accordingly, I look forward to the continued collaboration of the administration, faculty, alumni, and the general public in reworking the antiquated paradigm of the traditional law school curriculum, especially in the development of business law courses.¹⁶⁰ Such educational reform is necessary in the new economy to create sustainable opportunities for the next generation of lawyers.¹⁶¹

Faculties may place more emphasis on the law and economics of legal education to benefit students and graduates pursuant to the recent economic crisis.¹⁶² The time is now for law schools to evolve as ethical and transparent enterprises.¹⁶³ Accordingly, law schools should embrace technology and innovation to maximize

Business and Law School Curricula, BROOKINGS (July 19, 2011), http://www.brookings.edu/~media/research/files/papers/2011/7/19%20corporation%20west/0719_corporation_wes.

158. See, e.g., Jonathan D. Glater, *As Mergers and Other Work Dry Up, Bankruptcy Becomes Lawyers' Oasis*, N.Y. TIMES, Jan. 24, 2009, at B4; see Passarella, *supra* note 88. See generally Robert W. Denney, *What's Hot and What's Not in the Legal Profession*, A.B.A. SEC. L. PRAC. MGMT., Jan./Feb. 2012, at 10 (listing banking and financial services as legal practice areas that are in high demand); Eli Wald, *Smart Growth: The Large Law Firm in the Twenty-First Century*, 80 FORDHAM L. REV. 2867, 2869 (2012) (explaining that law firms are increasingly becoming "specialized one-stop shop[s] for entity clients and with a focus on business law transactional work"); Shawn O'Connor, *Grad School: Still Worth the Money?*, FORBES (Apr. 5, 2012, 3:32 PM), <http://www.forbes.com/sites/shawnoconnor/2012/04/05/grad-school-still-worth-the-money/>.

159. See Fleischer, *supra* note 118, at 478 ("Indeed, a majority of law students graduate without having once analyzed a prospectus, negotiated a term sheet, drafted a complex agreement, or, for that matter, even once having read a commercial contract from beginning to end. This may help explain why so many junior associates feel battered and bruised after they begin working at an actual law firm."); Gary A. Munneke, *Managing a Law Practice: What You Need to Learn in Law School*, 30 PACE L. REV. 1207 (2010). See generally Spencer, *supra* note 67, at 2015–20 (discussing the current state of legal education).

160. See generally Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, the Public, and the Legal Profession*, 44 CAL. W. L. REV. 219 (2007).

161. See generally Alexander, *supra* note 152, at 466–69; Alice M. Noble-Allgire, *Desegregating the Law School Curriculum: How to Integrate More of the Skills and Values Identified by the MacCrate Report Into a Doctrinal Course*, 3 NEV. L.J. 32 (2002).

162. See generally TAMANAHAN, *supra* note 62, at 11–19; Hannah Hayes, *Recession Places Law School Reform in the Eye of the Storm*, PERSPECTIVES, Spring 2010; Catherine Ho, *Officials Press ABA on Law School Debt*, WASH. POST, July 25, 2011, at A14; David Lat, *Bring Back Apprenticeships*, N.Y. TIMES (Feb. 2, 2012, 11:55 AM), <http://www.nytimes.com/roomfordebate/2011/07/21/the-case-against-law-school/bring-back-apprenticeships-in-legal-education> ("Given its power to award or revoke accreditation, which can make or break a law school, the American Bar Association is one of the few institutions with the power to initiate systemic change. But the association historically has shown little interest in changing the way that law schools do business."); David Yellen, *Advancing Transparency in Law School Employment Data: The ABA's New Standard 509*, BAR EXAMINER, Dec. 2012, at 6.

163. See generally Kyle P. McEntee & Patrick J. Lynch, *A Way Forward: Transparency at American Law Schools*, 32 PACE L. REV. 1 (2012).

efficiency and accountability in a fiscally-sound manner.¹⁶⁴ Law schools have the resources to bring this goal into fruition by embracing the nuances of business law teaching in the twenty-first century.¹⁶⁵

164. See generally Debra Cassens Weiss, *Will Law School Transparency Lead to New Rankings Industry? And Will Legal Ed Retool?*, ABA J. (Mar. 26, 2012, 5:10 AM), http://www.abajournal.com/news/article/will_law_school_transparency_lead_to_new_rankings_industry_and_will_legal_e/ (“[L]aw practice is changing, driven by new technology that increases lawyer productivity. [William] Henderson [law professor and director of the Center on the Global Legal Profession] foresees the emergence of a new business model for legal education that emphasizes communication, collaboration and problem solving.”); William D. Henderson & Rachel M. Zahorsky, *Paradigm Shift*, ABA J., July 2011, at 40; Harper Gwatney, *Toeing the Ethical Line: Are For-Profit Law Schools Lowering Standards and Increasing Student Debt?*, CAMPBELL L. OBSERVER (Sept. 18, 2012), <http://campbelllawobserver.com/2012/09/toeing-the-ethical-line-are-for-profit-law-schools-lowering-standards-and-increasing-student-debt/>; Christopher Polchin, *Raising the “Bar” on Law School Data Reporting: Solutions to the Transparency Problem*, 117 PENN ST. L. REV. 201 (2012).

165. See generally Alexander, *supra* note 152, at 466; Henderson & Zahorsky, *supra* note 164; Sturm & Guinier, *supra* note 87, at 515 (“Many reformers agree that the prevailing law school model developed in the nineteenth century does not adequately prepare students to become effective twenty-first century lawyers.” (citation omitted)); Steven J. Harper, *Law Schools as Profit Centers*, AM L. DAILY (Sept. 7, 2012), http://www.americanlawyer.com/PubArticleALD.jsp?id=1202570519533&Law_Schools_as_Profit_Centers&slreturn=20130021135202.