

# The Symposium on the Profession and the Academy: Concluding Thoughts

Michael Millemann

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mlr>



Part of the [Legal Education Commons](#), and the [Legal Profession Commons](#)

---

### Recommended Citation

Michael Millemann, *The Symposium on the Profession and the Academy: Concluding Thoughts*, 70 Md. L. Rev. 513 (2011)

Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol70/iss2/15>

This Conference is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact [smccarty@law.umaryland.edu](mailto:smccarty@law.umaryland.edu).

## THE SYMPOSIUM ON THE PROFESSION AND THE ACADEMY: CONCLUDING THOUGHTS

MICHAEL MILLEMANN\*

In recent years, there have been profound changes at every level of law practice. Legal educators should know about and respond to these changes. In April 2010, the Leadership, Ethics and Democracy Initiative, with the strong support of the Fetzer Institute, brought together law professors and national scholars, prominent lawyers, bar leaders, and students for the Symposium on the Profession and the Academy: Addressing Major Changes in Law Practice. The goals of the Symposium were to identify the most significant changes caused by the recent economic recession and to explore their impact on the legal profession and legal education.<sup>1</sup> The Symposium discussion is reflected in the preceding essays.

### I. THE CHANGES AND THE CHALLENGES

The Symposium participants identified an array of changes across many levels of practice. The essays pointed out common challenges among and explored the effects of the economic recession on differing law firms.

#### A. *BigLaw*

In *On Legal Education and Reform: One View Formed from Diverse Perspectives*, Professor Robert Rhee provided an interdisciplinary analysis of the impact of the recent economic recession. Specifically, he described the views of Chester Paul Beach, Associate General Counsel of United Technologies Corporation (“UTC”). According to Beach,

---

Copyright © 2011 by Michael Millemann.

\* Jacob A. France Professor of Public Interest Law and Director, Leadership, Ethics and Democracy Initiative, which sponsored the Symposium.

1. There are many people who made this Symposium a great success. Michael Kelly, former Dean of University of Maryland School of Law, was the driving force and the essential partner in making this Symposium a reality. Maura DeMouy and Lydia Nussbaum offered good ideas and provided lots of support. Dean Phoebe Haddon’s support and validation were essential, as well. The Fetzer Institute’s insight helped us understand why the topics in these essays are vital in helping lawyers to develop personally satisfying and successful practices. Finally, we deeply appreciate the willingness of the *Maryland Law Review* to publish this collection of essays and acknowledge the extraordinary editorial support provided by Maggie Grace, Heather Williams, Nancy Bonifant, and the other members of the Law Review.

UTC views legal services as “a commodity,” is “passionate about killing the hourly rate,” no longer “allow[s] first- and second-year associates to work on projects without special permission,” and expects “cost-efficiency and results” with “year-over-year price reduction.”<sup>2</sup> Rhee explained that “[t]hese comments are striking because they go to the heart of the current business model of large law firms and to the sustainability of a highly leveraged organizational structure.”<sup>3</sup> He argued that “large law firms may be moving from stable relationships based on long-term relational commitment to a short-term spot market for legal talent and engagements.”<sup>4</sup>

Neil Dilloff, a partner at DLA Piper, agreed. In *The Changing Cultures and Economics of Large Law Firm Practice and Their Impact on Legal Education*, Dilloff described a professional culture in radical transition. The new order, he explained, “has resulted in ‘beauty contests’ among law firms in which price and quality are significant considerations.”<sup>5</sup> The new order has also led to the “erosion of the billable hour”<sup>6</sup> and the use of discounts, fixed fees, contingency fees, and other hybrid fees to obtain and hold clients.<sup>7</sup> In this new order, Dilloff asserted that “efficiency will separate mere worker bees from future partners,” and “firms will covet the associate who can come up with the correct answer in a timely and cost-effective manner.”<sup>8</sup> In this era of partner “free agency,” rainmaking partners will take clients and associates with them as they move from firm to firm, chasing the highest offer.<sup>9</sup> The big firm expectations of the 1970s will disappear, Dilloff claimed, and institutional loyalty will decline.<sup>10</sup> This new order represents a hyper-competitive era that rewards lawyers for what they can do today, not for what they did yesterday.

The gatekeeper of BigLaw legal work is now in-house corporate counsel—legal departments in the corporation that are tasked with maximizing profits. In *Three Generations of U.S. Lawyers: Generalists, Specialists, Project Managers*, Professor William Henderson described the in-house corporate lawyers as lawyers who are “effectively senior cor-

---

2. Robert J. Rhee, *On Legal Education and Reform: One View Formed from Diverse Perspectives*, 70 MD. L. REV. 310, 321 (2011) (internal quotation marks omitted).

3. *Id.*

4. *Id.* at 325.

5. Neil J. Dilloff, *The Changing Cultures and Economics of Large Law Firm Practice and Their Impact on Legal Education*, 70 MD. L. REV. 341, 352 (2011).

6. *Id.* at 353.

7. *Id.* at 352–54.

8. *Id.* at 352.

9. *Id.* at 349.

10. *See id.* at 348–50.

porate managers whose goal is to optimize the benefit of a fixed legal budget.”<sup>11</sup> As Henderson detailed, corporate lawyers are unbundling legal work, bidding the work out to “legal process outsourcing” companies, demanding that firms offer fixed or hybrid fees, and setting other limits on contracts (for example, no billable work by associates).<sup>12</sup> At the same time, through in-house counsel, corporations are taking the work product of outside lawyers, combining it with the work product of in-house lawyers, and contracting with “high tech lawyers” to create in-house “knowledge management platform[s].”<sup>13</sup> These platforms store information, facilitate “information sharing” within the corporation, and empower in-house lawyers gradually to decrease the need to contract for outside legal work.<sup>14</sup>

In *The Value of “Thinking Like a Lawyer,”* Professor Michelle Harner described and evaluated the thoughts of two contemporary legal services pioneers, Larry Ribstein and Richard Susskind.<sup>15</sup> In her essay, Harner explored Ribstein’s arguments that law firms should develop “[l]egal knowledge” that can be “packaged and sold as standardized products,”<sup>16</sup> as well as “novel approaches to client problems, exceptional standard forms that would better suit client needs than those currently in existence, and processes for anticipating and mitigating potential legal problems before they develop.”<sup>17</sup> Similarly, she explored Susskind’s questioning of the future of “bespoke legal service”<sup>18</sup>—that is, “traditional, hand-crafted, one-to-one consultative professional service”—compared to “systematized[] and packaged legal products.”<sup>19</sup> Harner urged scholars and practitioners to consider the potential effects of this transformation on the legal profession.

### B. *Solo Practitioners, Small Firms, and Midsize Firms*

Our Symposium did not focus solely on BigLaw. Participants described and analyzed recent changes in forms of practice in solo, small, and midsize firms as well. Because of the recent changes to

---

11. William D. Henderson, *Three Generations of U.S. Lawyers: Generalists, Specialists, Project Managers*, 70 MD. L. REV. 373, 381 (2011).

12. *Id.* at 382–85.

13. *Id.* at 382.

14. *Id.* at 382–83.

15. Michelle M. Harner, *The Value of “Thinking Like a Lawyer,”* 70 MD. L. REV. 390, 392 (2011).

16. Larry E. Ribstein, *The Death of Big Law*, 2010 WIS. L. REV. 749, 778.

17. Harner, *supra* note 15, at 403 (citing Ribstein, *supra* note 16, at 782–83).

18. *Id.*

19. *Id.* (quoting RICHARD SUSSKIND, *THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES* 29 (2008)) (internal quotation marks omitted).

BigLaw, more lawyers will likely be joining other forms of practice, whether fresh from law school or from leaving BigLaw firms. Thus, exploring these varied realms of legal practice was important.

In *Challenging the Academy to a Dual (Perspective): The Need to Embrace Lawyering for Personal Legal Services*, William Hornsby described challenges and opportunities for solo and small firm lawyers.<sup>20</sup> The challenges and opportunities coalesced in his message: Understand and tap all of the advantages of technology; if you do not, your lawyer, and worse, your nonlawyer competitors will.<sup>21</sup> In Hornsby's opinion, technology positively levels the playing field. Home-office lawyers, virtual law firms, and online associations of solo and small firm practitioners, able to replicate the advantages of actual BigLaw firms, will be competitive—not only in small markets but also in national and international markets.<sup>22</sup> Technology, Hornsby argued, helps solo and small firms in two ways. First, it helps lawyers obtain clients through group advertisements,<sup>23</sup> lawyer ratings<sup>24</sup> (an inevitable part of the future), individual advertising (through, for example, social network and media websites),<sup>25</sup> and self-promotion. Second, technology is an essential part of the *delivery* of legal services, for example, by direct online provision of advice, document preparation, dispute resolution, and self-help support.<sup>26</sup> Hornsby asserted that solo and small firms should take advantage of these technological advances.

In *Learning to be Lawyers: Professional Identity and the Law School Curriculum*, Charlotte Alexander endorsed the Carnegie Report,<sup>27</sup> which criticizes legal education for focusing on doctrine and analytical skills at the expense of professional responsibility, practice skills, and professional identity.<sup>28</sup> Alexander explained why the Carnegie Report is timely: “Many new law school graduates who might otherwise have

---

20. William Hornsby, *Challenging the Academy to a Dual (Perspective): The Need to Embrace Lawyering for Personal Legal Services*, 70 MD. L. REV. 420 (2011).

21. *See id.* at 427 (“Lawyers . . . have never seen as much competition—not just with each other but with an array of information service providers in the private and public sectors.”).

22. *Id.* at 427–33.

23. *See id.* at 428–29 (explaining the advantages of lawyer advertising for small partnerships and solo practitioners).

24. *See id.* at 428 (exploring rating websites, such as Yelp and LawyerRatingz).

25. *See id.* at 429 (discussing lawyer participation in Web 2.0 communications, such as Facebook and LinkedIn).

26. *Id.* at 432.

27. WILLIAM M. SULLIVAN ET AL., THE CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

28. Charlotte S. Alexander, *Learning to be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465, 465 (2011).

found jobs in BigLaw now enter solo or small firm practice.”<sup>29</sup> Law schools, she argued, must do more to prepare their graduates to enter, and in some cases, establish these practices.<sup>30</sup> In my opinion, this remains true for students who will be hired by large law firms as well.

Professor Gillian Hadfield agreed. In *Equipping the Garage Guys in Law*, Hadfield proposed a new law school methodology that would support “garage guys” in law—akin to the creative, go-it-on-your-own entrepreneurs who “challenge orthodoxy and invent the new world in law.”<sup>31</sup> She argued that home-based law practices can create new forms of national and international practices, especially if law schools reinforce the creativity and entrepreneurial courage of the lawyers.<sup>32</sup>

There is good news for small and midsize firms, according to Ward B. Coe III. In *Profound “Nonchanges” in Small and Midsize Firms*, Coe, a partner in a Baltimore-based midsize firm,<sup>33</sup> described how small and midsize firms have benefitted from the economic recession.<sup>34</sup> Drawing on his own informal research, Coe argued, these firms offer efficient and economical legal services to former BigLaw clients (who are looking for lower fees) and to clients whose legal problems arose out of the recession.<sup>35</sup> These firms also “offer law students salaries at or near the top of the market, a better work-life balance, and a richer legal experience.”<sup>36</sup> As Coe explained, many midsize law firms remain specialized “‘boutiques’ that offer ‘sophisticated legal expertise’ as ‘cost-effective alternatives’ to large, expensive firms.”<sup>37</sup> In light of these “nonchanges,” Coe concluded that law

---

29. *Id.* at 466.

30. *Id.* at 483 (“If law schools teach only how to think like lawyers, and not how to be lawyers, then the legal academy is surely failing its students . . .”).

31. Gillian K. Hadfield, *Equipping the Garage Guys in Law*, 70 MD. L. REV. 484, 487 (2011).

32. *See id.* at 498 (“I hope we are not so far from graduating our own garage guys who can transform how we do law in the way that Apple and Google have transformed how we find information, connect with one another, and learn.”).

33. In my opinion, based on over forty years of practice and teaching, and substantial experience with many national law firms, one of the very best midsize law firms is Maryland’s Gallagher Evelius & Jones LLP. Through Rick Berndt’s stewardship and the extraordinary legal work and collegiality of many partners and associates, Gallagher has achieved what many firms aspire to, but few accomplish: the integration of community, public interest, and economic success.

34. Ward B. Coe III, *Profound “Nonchanges” in Small and Midsize Firms*, 70 MD. L. REV. 364, 365 (2011).

35. *Id.* at 367 (“Turning to less expensive small and midsize firms allows large companies to obtain legal services from experienced partners rather than young associates, while saving up to \$250 per hour in legal fees.”).

36. *Id.* at 364.

37. *Id.* at 366.

schools need to teach students about the growing practice opportunities in small and midsize firms.<sup>38</sup> Other Symposium participants similarly focused on ways in which law schools can better prepare their students for real world practice.

### C. Common Problems

Professor Clark Cunningham described the betwixt and between status of professional legal education in the United States: Law schools inadequately prepare their graduates while law firms fail to provide training to associates, in part because of clients' refusal to pay for it.<sup>39</sup> In *Should American Law Schools Continue to Graduate Lawyers Whom Clients Consider Worthless?*, Cunningham critically compared U.S. legal education to international models that rely heavily on simulation and apprenticeships. Moving toward a European model, Cunningham suggested, might be one way of addressing the problems in professional legal education. In fact, he described a comprehensive reform model,<sup>40</sup> similar to the one I suggest below.

In *A Gaping Hole in Legal Education*, former University of Maryland School of Law Dean Michael Kelly identified three related phenomena that have substantially changed the legal profession.<sup>41</sup> First, the growth of large practice organizations, exemplified by the "precipitous growth and geographical diversification of large and gigantic corporate law firms," led to major professional "consolidation."<sup>42</sup> Second, the profession is increasingly stratified, divided into "two hemispheres [of] those who represent large businesses or entities, and those who represent individuals and small businesses."<sup>43</sup> This stratification, Kelly asserted, produced "a great divide in prestige as well as compensation."<sup>44</sup> Finally, increased competition for clients motivated firms to make major investments in marketing and self-promotion.<sup>45</sup> These developments, Kelly argued, impose new management responsibilities on the leaders of *all* practice organizations: Leaders must un-

---

38. *Id.* at 372.

39. See Clark D. Cunningham, *Should American Law Schools Continue to Graduate Lawyers Whom Clients Consider Worthless?*, 70 MD. L. REV. 499, 499 (2011).

40. *Id.* at 504–12.

41. Michael Kelly, *A Gaping Hole in American Legal Education*, 70 MD. L. REV. 440, 444 (2011).

42. *Id.* at 440 (footnote omitted).

43. *Id.* at 442 (citing JOHN P. HEINZ & EDWARD O. LAUMANN, CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR 319 (1982)).

44. *Id.*

45. *Id.* at 443–44.

derstand their organizations.<sup>46</sup> A “gaping hole” in legal education, Kelly contended, is the absence of courses about “organizational dynamics”<sup>47</sup> and “the business of law.”<sup>48</sup> This is a serious problem, he claimed, since “lawyers, both by virtue of their law school training and by nature, tend to be ‘organizationally challenged.’”<sup>49</sup> Indeed, the need for more practical professional courses in law school curricula was a common theme among most Symposium participants.

The need to master technology was also a common theme among the Symposium participants. Professor Harner, describing Susskind’s critique of the legal profession, summarized the many uses and challenges of what Susskind terms “disruptive legal technologies.”<sup>50</sup> These technologies include “automated document assembly,” “relentless connectivity,” “electronic legal marketplace,” “e-learning,” “online legal guidance,” “legal open-sourcing,” “closed legal communities,” “workflow and project management,” “embedded legal knowledge,” and “online dispute resolution.”<sup>51</sup> These technologies represent challenges and opportunities to which lawyers at all levels of the profession must respond. Harner cautioned, however, that while mastering technology is essential, “using it as a substitute for trained legal judgment is problematic and ill-advised.”<sup>52</sup> As the preceding suggest, the Symposium generated an interesting dialogue about recent changes to the legal profession.

## II. PROPOSALS

The Symposium produced a rich array of proposals that respond to recent changes in the legal profession and to structural problems in legal education. These structural problems do not stem from the use of the Socratic method, but rather, from the obsession with and gross overuse of it. I begin by agreeing with Professor William Reynolds, who praised the Socratic method, and I accept its important continuing role in legal education. I also add my own proposals for reform.

---

46. *See id.* at 444 (“The three elements share one crucial component: they are driven, indeed generated, by organizations strategizing how best to protect and to prepare for their futures by exploiting and expanding their positions in the legal marketplace.”).

47. *Id.* at 447.

48. *Id.* at 448.

49. *Id.* at 447.

50. SUSSKIND, *supra* note 19, at 99.

51. Harner, *supra* note 15, at 408 (quoting SUSSKIND, *supra* note 19, at 99–145, 217–24) (internal quotation marks omitted).

52. *Id.* at 405.

In *Back to the Future in Law Schools*, Reynolds offered three warnings to reformers.<sup>53</sup> First, he argued that we should preserve what educators do well.<sup>54</sup> Law students need to understand “basic legal concepts that are used in every area of the law.”<sup>55</sup> These common concepts knit together the standard first-year curriculum.<sup>56</sup> The Socratic method is a good way of teaching this curriculum and, more importantly, its basic principles.<sup>57</sup> In my opinion, using the Socratic method along with cross-course teaching (for example, a Con-Torts class) would be a good way to reveal these commonalities. Second, Reynolds contended we should not dilute private law at the expense of public law.<sup>58</sup> In recent years there has been a “shift to a law school focus dominated by public law concerns . . . accompanied by a corresponding decline in the importance accorded private law.”<sup>59</sup> Speaking from my experience as a civil rights and public interest lawyer, I agree. If, for example, you want to build and sustain a consumer protection practice, you must first understand business associations, corporate governance, bankruptcy, and tax law—all areas of law that drive business practices. Third, Reynolds reasoned that reformers cannot accommodate all of their proposed reforms “within a three year curriculum.”<sup>60</sup> I, however, disagree. Contrary to what Reynolds may think, the following proposals *can* be integrated into or added modestly to the three year law school curriculum.

#### A. Diversify Teaching Methods

The following Symposium proposals can be integrated in all law school courses, including first-year courses: (1) the addition of problem solving simulations;<sup>61</sup> (2) the transformation of simulations into collaborative exercises;<sup>62</sup> (3) the inclusion of transactional problems

---

53. William L. Reynolds, *Back to the Future in Law Schools*, 70 MD. L. REV. 451, 451–53 (2011).

54. *Id.* at 453–54.

55. *Id.* at 453.

56. *Id.* at 454–57.

57. *Id.* at 459.

58. *Id.* at 463 (“We must be careful . . . to include a balance of professors who understand private law and who are enthusiastic about teaching and writing about it.”).

59. *Id.* at 460.

60. *Id.* at 452.

61. *E.g.*, Rhee, *supra* note 2, at 337 (“[S]tudents can benefit from the case method, which is different from case analysis.”).

62. *See, e.g.*, Alexander, *supra* note 28, at 479 (“Law schools might offer a program of layered, practical, experiential instruction that complements the substantive instruction offered by traditional classroom courses.”).

R

R

to diversify the traditional litigation focus of the curriculum;<sup>63</sup> and (4) where possible, the addition of interdisciplinary students and decision making to problems.<sup>64</sup> These proposals for diversified teaching methods, along with the Socratic method, can be used throughout a student's three years in law school and, perhaps most importantly, during the first year.

Hadfield's first-year contracts course, which placed law and business students as collaborative partners in problem solving exercises, is just one model.<sup>65</sup> Contracts teachers who use the traditional Socratic method could add this model to diversify what and how they teach. Traditional professors might even consider co-teaching with a practicing lawyer or clinical faculty member. Although law school culture prizes autonomy and tradition, law school deans might entice professors to employ this problem solving model by offering the same incentives to faculty members who develop creative and diversified methods of instruction as they offer faculty members who engage in writing legal scholarship. While such scholarship is undoubtedly important, students have a deep interest in seeing their tuition dollars used to improve their education and, in turn, their future job prospects.

#### B. Create Curricular Tracks

Law schools should create curricular tracks—particularly a solo and small firm practice track—that make use of sequenced and diversified teaching, with the goal of graduating practice-ready lawyers. Cunningham described one such model—the Daniel Webster Scholar Program developed by Franklin Pierce Law School.<sup>66</sup> With the support and leadership of the New Hampshire Supreme Court, Cunningham explained, the school offers an “integrated and quite comprehensive two year program” that equips its students for practice.<sup>67</sup> Students learn through simulations, actual client work, upper-level required courses, and reflective writings.<sup>68</sup> Those who successfully complete the Webster program are admitted to practice without

---

63. *E.g.*, Rhee, *supra* note 2, at 328 (“The study of cases sharpens legal analytical skills, which are the prerequisite for transactional work. But, the singular focus on litigation is misleading to the neophyte and can lead to deficiencies in perspective and skills.” (footnote omitted)).

R

64. *E.g.*, Hadfield, *supra* note 31, at 484 (“I ran an extracurricular case study session in which J.D. and M.B.A. students worked together to find a solution for a real company facing a very real business challenge.”).

R

65. *Id.* at 484–86.

66. Cunningham, *supra* note 39, at 506–12.

R

67. *Id.* at 509.

68. *Id.* at 508–11.

taking the bar examination.<sup>69</sup> Tracks like this, which employ alternative teaching methods, better prepare students for real practice.

Many law schools will understand immediately the importance of preparing their students for solo and small firm practice. Those that do not, however, should study carefully the instable and dynamic processes at work in BigLaw today. These dynamics are creating, and likely will create for some time, new small and midsize firm practitioners.<sup>70</sup> In preparing students for an uncertain professional career, we should provide the training and flexibility they can use for a professional lifetime.

*C. Add Practice Models, Business Ethics, and Professional Responsibility Components to the Required Curriculum*

Several symposium panelists emphasized the need to introduce students to the business-related aspects of practice, including the ethical issues that arise from making a living in the legal profession.<sup>71</sup> If we are to equip our graduates to act professionally, we must introduce them to the powerful economic forces they will face in private practice. This introduction can be achieved through case studies, such as interdisciplinary case studies, and by including good lawyer models in these courses. The participation of practicing lawyers in such courses would be particularly helpful.

*D. Add New Upper-Level Courses and New Clinical Laboratories*

Several panelists urged law schools to offer students courses on the structure and management of organizations, organizational leadership, and the business of law, in what might be conceived of as “sociology of practice” courses.<sup>72</sup> I agree with Kelly that the absence of such courses creates a “gaping hole” in legal education.<sup>73</sup> As Henderson pointed out, such courses should also address the growing management responsibilities of corporate in-house counsel, including

69. *Id.* at 508.

70. See Alexander, *supra* note 28, at 466 (“Many new law school graduates who might otherwise have found jobs in BigLaw now enter solo or small firm practice.”).

71. See, e.g., Dilloff, *supra* note 5, at 350 (“[L]aw schools can and must play a role in teaching legal ethics and professional responsibility.”); Kelly, *supra* note 41, at 449 (“One other advantage of studying organizations, particularly law practice organizations, in law school is that it shows the limitations of our concept of legal ethics.”).

72. E.g., Kelly, *supra* note 41, at 448 (“A good argument could also be made about the need for law students to learn about organizations other than professional services organizations like law practices.”); Rhee, *supra* note 2, at 328–29 (“[L]aw students should learn to appreciate organizational dynamics.”).

73. Kelly, *supra* note 41, at 446.

R

R

R

R

R

R

legal services “contracting.”<sup>74</sup> Other panelists emphasized the importance of technology in contemporary practice.<sup>75</sup> In light of the increasing importance of technology, law schools should give students focused opportunities to learn about and how to use modern technology to deliver services to clients. Such courses could include classroom, simulation, and clinical components.

Finally, the development of clinical laboratories—clinics that develop and rigorously evaluate experimental delivery systems and engage students in all parts of the enterprise<sup>76</sup>—is a good way to respond to the modern-day needs of clients and lawyers. One good candidate for such an experiment is unbundled legal services. During the Symposium, I was struck by the parallel descriptions of this kind of limited representation offered by both large and small law firms. Hornsby described unbundled representation as a growing part of the practices of solo and small firms.<sup>77</sup> Henderson described it as the growing responsibility of corporate counsel; lawyers in outsourcing companies now make good livings developing and implementing unbundled models.<sup>78</sup> The full-service model of representation, in which a lawyer provides all the legal services he thinks the client needs, is no longer the dominant practice model—if it ever was. To best prepare them for the realities of law practice, law schools must realistically teach students how to work on individual components of legal representation, often in partnership with clients and other professionals. Accordingly, law schools must let go of the full-service illusion that still dominates legal education.

#### *E. Explore Postgraduate Training and Coordination*

If, as Cunningham argued, there is a shortfall in professional education—a gap between what law schools do not do and law firms no

---

74. Henderson, *supra* note 11, at 381–88.

75. Harner, *supra* note 15, at 416–17; Hornsby, *supra* note 20, at 427.

76. One example in which I was involved was the development and evaluation of an assisted pro se delivery model, which is now in operation in most of Maryland’s twenty-four jurisdictions. See generally Michael Millemann et al., *Limited-Service Representation and Access to Justice: An Experiment*, 11 AM. J. FAM. LAW 1 (1997); Michael Millemann et al., *Rethinking the Full-Service Legal Representational Model: A Maryland Experiment*, 30 CLEARINGHOUSE REV. 1178 (1997). In three years, over thirty students supervised by three lawyers provided limited legal assistance—diagnostic interviews, limited advice, assistance in preparing check-the-box pleadings, and follow-up “coaching”—to several thousand otherwise unrepresented people. An independent social science evaluation assessed this project and provided a basis for building other similar projects.

77. See Hornsby, *supra* note 20, at 433 (“Similarly, personal legal service lawyers have begun unbundling their services or providing a limited scope of representation.”).

78. Henderson, *supra* note 11, at 382.

longer do<sup>79</sup>—who should fill it? Several law schools, including University of Maryland School of Law, are developing postgraduate practice-support models for their graduates.<sup>80</sup> Civil Justice, Inc. is a nonprofit organization affiliated with University of Maryland School of Law that provides solo and small firm lawyers with technical assistance, cross-referrals, access to specialized knowledge (the online version of the down-the-hall consultations in large firms), and co-counseling relationships, with a special emphasis on consumer law.<sup>81</sup> University of Maryland School of Law, through a law practice management course, a professional responsibility course, and its clinics, incorporates elements of these small firm practices, and the skill set of the lawyers who manage them, into the school's J.D. program. This developing partnership seems to be working well for all involved.

### III. CONCLUSION

Lawyers today face formidable challenges. The Symposium identified a number of them. Law schools need to respond to these challenges to better prepare students for personally fulfilling and economically successful practices. The proposals suggested by the Symposium participants are realistically achievable, and many are being implemented in law schools today. The proposals build incrementally on what law schools have done, are now doing, or are beginning to do; they preserve the Socratic method as an important teaching tool while adding a number of new pedagogical tools. The proposals do not depend upon the conclusion that lawyers today are facing new and enhanced challenges that are fundamentally different in nature from those lawyers have faced in the past; instead, the proposals aim to enhance legal education in ways that make good sense and will provide students with the necessary tools for the profound changes they will face in their careers.

---

79. Cunningham, *supra* note 39, at 500–03.

80. *E.g.*, Alexander, *supra* note 28, at 482 (“At least two law schools, City University of New York School of Law (“CUNY”) and University of Maryland School of Law, presently offer a support system—either sponsored directly by the law school, in CUNY’s case, or associated more loosely with the law school, in University of Maryland’s case—for graduates who have entered solo or small firm practice.”).

81. *UMD Affiliations*, CIV. JUST., <http://www.civiljusticenetwork.org/pages/umd.html> (last visited Jan. 30, 2011).