
LAWYERS OF THE FUTURE: IS LEGAL EDUCATION DOING ITS PART?

*Kimberly Stamatelos**

TABLE OF CONTENTS

I. How Should Law Schools Respond?.....	106
A. Law School Must Teach Lawyers How To Be Integrative Problem Solvers	106
1. Conscious Contracting.....	108
2. Collaborative Law	109
3. Restorative Justice.....	110
B. Lawyers Should Be Grounded in Emotional Quotient and Character Quotient in Addition to Intelligence Quotient.	111
C. Law Students Must Fully Understand Money: How It Works and How to Manage Money in a Healthy Way.....	115
D. Law Schools Should Require a Minimum Knowledge of Technology for Graduating Law Students	116
E. Innovation Should Be Embraced by the Law School in the Form of Courses or an In-House “Incubator.”	119
F. Law Schools Must Teach Lawyer Self-Care and Methods of Handling Lawyer Stress	123
II. Conclusion.....	124

When I entered law school in 1978, I was scared. Like many of my classmates, I had watched the movie *The Paper Chase*¹ and expected our professors to be similar to Professor Kingsfield, setting out to make us lawyers through intimidation, humiliation, and rigor. Although the experience was not as daunting as the classroom depicted in the movie, it had a similar flavor.

In the classroom we were grilled with questions in the Socratic method. One single exam indelibly marked our competency in a subject matter. Coursework was heavily laden with themes of litigation. While some study groups sprang up, most of us kept to ourselves looking for outlines in the student underground, sometimes relying on the outline to fill in the gaps of things we did not understand but were too fearful to inquire about to our professor.

* Attorney and Mediator at Stamatelos & Tollakson and author of *The Compassionate Lawyer*.

1. THE PAPER CHASE (Twentieth Century Fox 1973).

Somehow most of us made it through law school. After graduation, my classmates who wanted to practice law found jobs easily. Lawyers were esteemed members of society. We collected retainers from clients and worked ourselves to the bone as billing machines, often leading those clients to the courthouse for their day of justice.

Now, almost 40 years later, the classroom has not changed all that much. The problem is that the world has changed dramatically. Lawyer jobs are scarcer. In 2015 one in four law school graduates did not have “any type of job, even a non-professional job, after law school.”²

Even the number of cases that go to trial has consistently declined. In the 1930s around 20 percent of civil cases went to trial, but in recent years fewer than 2 percent of federal cases and roughly 1 percent of state cases saw a verdict.³ This means that most cases settle through negotiation, alternative dispute resolution, dismissal, or summary judgment.⁴ Even in criminal cases, about 95 percent of convictions result from pleas.⁵ However, law school coursework in litigation—or aggressive means of conflict resolution—typically outweighs coursework in the methods that are about solving problems for clients in “the real world.”⁶

Clients have also changed dramatically. Until recently, the lawyer was the “go to” person to navigate the court system, and the law school educated lawyers to advocate based on both parties having legal counsel.⁷ Today, because many legal services are cost-prohibitive for potential litigants, clients often choose to represent themselves.⁸ When I was in law school, we called those individuals “pro se litigants.” They are now sometimes referred to as self-represented

2. ALLI GERKMAN & LOGAN CORNETT, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 1 (2016), <http://iaals.du.edu/sites/default/files/reports/foundationsforpracticewholelawyercharacterquotient.pdf>.

3. John H. Langbein, *The Disappearance of Civil Trial in the United States*, 122 YALE L.J. 522, 524 (2012) (citations omitted).

4. *See id.* at 526 (noting the rise of cases resolved in the pretrial process).

5. Jocelyn Simonson, *The Criminal Court Audience in a Post-Trial World*, 127 HARV. L. REV. 2173, 2175 n.3 (2014).

6. *See* William S. Blatt, *Teaching Emotional Intelligence to Law Students: Three Keys to Mastery*, 15 NEV. L.J. 464, 464–65 (2015) (noting law school introduces the adversary system but does not teach emotional intelligence).

7. *See* COMM’N ON THE FUTURE OF LEGAL SERVS., ABA, REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 8–9 (2016) [hereinafter ABA REPORT], http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf.

8. *Id.* at 14.

litigants (SRLs), and as of 2015, statistics show that 75 percent of civil cases will involve at least one SRL.⁹

In response to this shift, the Self-Represented Litigant Network was formed in 2001 by judges, court and community leaders, and laypersons to “identif[y], support[] and evaluate[] innovative services and strategies to create a user-friendly legal system for self-represented litigants.”¹⁰ Yet few law schools have any coursework in dealing with SRLs or understanding the practicalities of ethical boundaries when an SRL on the other side wants to cooperate with the lawyer representing the opposing client. While lawyers have a potential income source in providing unbundled services¹¹ to otherwise SRLs, few law schools have coursework on providing unbundled services where lawyers may be brought in for an “event” and not for the duration of the case.¹² Can lawyers skillfully navigate cases when a client who has handled their own case up to a point shows up on their doorstep and says, “I have a hearing next Thursday. Can you represent me just for that?”

Another significant change in the law school landscape is the profile of the person entering law school. Today’s law students have grown up with technology. They may have been as likely to teethe on a soft iPhone cover as a baby chew toy. They, along with the clients they will serve in the future, want to access technology as much as possible in their problem-solving endeavors.¹³ Not only are clients of this generation likely to find their lawyer from online profiles, they will be looking for forms and resources for do-it-yourself remedies.¹⁴ They may want to work with their lawyer remotely or strictly through online videoconferencing. Many law schools have inadequate coursework teaching

9. *SRLN Brief: How Many SRLs? (SRLN 2015)*, SELF-REPRESENTED LITIG. NETWORK (2015), <http://www.srln.org/node/548/>.

10. *About*, SELF-REPRESENTED LITIG. NETWORK, <http://www.srln.org/node/21/about-srln> (last visited Jan. 13, 2017).

11. Stephanie L. Kimbro, *Law a la Carte: The Case for Unbundling Legal Services*, GP SOLO, Sept./Oct. 2012, at 30, 32, http://www.americanbar.org/publications/gpsolo/2012/september_october/law_a_la_carte_case_unbundling_legal_services.html (“Unbundling is a method of legal service delivery in which the lawyer breaks down the tasks associated with a client’s legal matter and provides representation only pertaining to a clearly defined portion of the client’s legal needs. The client accepts responsibility for doing the footwork for the remainder of the legal matter until reaching the desired resolution.”).

12. See, e.g., Rochelle Klempner, *Unbundled Legal Services in New York State Litigated Matters: A Proposal to Test the Efficacy Through Law School Clinics*, 30 N.Y.U. REV. L. & SOC. CHANGE 653, 670 (2006) (discussing the need to integrate unbundled services into New York law school clinical curriculum).

13. See ABA REPORT, *supra* note 7, at 30–31.

14. *Id.*

technology or expanding lawyering through technology. Few even have established curriculum in how to provide legal services online.¹⁵ Some professors themselves have poor technology acumen, even in something as basic as delivery of classroom information.

Even the lawyers' "old reliable"—the billable hour—appears to be on the firing line. In 2015, ALM Legal Intelligence studied "alternative fee arrangements" (AFAs).¹⁶ These include fixed or flat fees, contingent fees, fixed fees plus caps, fee collars (hourly with caps), and others.¹⁷ Results found that 22 percent of fees charged were AFAs, compared with comprising only 5 percent AFAs seven years prior, with an even higher percentage if client-imposed billing caps were included.¹⁸ It is logical to think that by the time today's law students begin their legal careers, the billable hour will be even less prevalent. Creative fee structures will be the norm, requiring a more vigilant exploration of income and cost of running a legal practice. Are law schools even aware of this shift?

Lawyers do not seem to be faring well in the midst of all these changes. In my generation, we were expected to be work horses and heard true stories of noble lawyers who literally died at their desks. In 2004, author and law professor Susan Swaim Daicoff warned of a "tripartite crisis" in the legal profession consisting of: (1) a lack of professionalism, including incivility, borderline unethical behavior, and general poor conduct of lawyers and judges; (2) low public opinion of lawyers by the public; and (3) distress and unhappiness among lawyers.¹⁹

Fast forward to 2016 and the American Bar Association (ABA) and the Hazelden Betty Ford Foundation published a landmark study revealing that the problem was even bleaker than Daicoff had warned.²⁰ The statistics showed that

15. Richard Granat & Marc Lauritsen, *Teaching the Technology of Practice: The 10 Top Schools*, ABA (July/Aug. 2014), <http://www.americanbar.org/publications/lawpracticemagazine/2014/july-august/teaching-the-technology-of-practice-the-10-topschools.html>.

16. ALM LEGAL INTELLIGENCE, *ALTERNATIVE FEE ARRANGEMENTS AT LEGAL DEPARTMENTS AND LAW FIRMS* (2015) (available for purchase at <http://www.almlegalintelligence.com/ALISurveyDetail.aspx?id=VSLYO4Oih00=&type=fEFgIaD+grg=>).

17. Mark A. Robertson, *Marketing Alternative Fee Arrangements*, ABA (Sept./Oct. 2011), http://www.americanbar.org/publications/lawpracticemagazine/2011/septemberoctober/alternative_fee_arrangements.html.

18. Leigh McMullan Abramson, *Is the Billable Hour Obsolete?*, ATLANTIC (Oct. 15, 2015), <http://www.theatlantic.com/business/archive/2015/10/billable-hours/410611/>.

19. SUSAN SWAIM DAICOFF, *LAWYER, KNOW THYSELF: A PSYCHOLOGICAL ANALYSIS OF PERSONALITY STRENGTHS AND WEAKNESSES* 3–15 (2004).

20. Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. *passim* (2016), PDF copy available for download at <http://journals.lww.com/journaladdictionmedicine/toc/2016>

“21 percent of licensed, employed attorneys qualify as problem drinkers, 28 percent struggle with some level of depression and 19 percent demonstrate symptoms of anxiety. The study found that younger attorneys in the first 10 years of practice exhibit the highest incidence of these problems.”²¹ Yet very few law schools are mentioning this sad information, much less doing anything to assist lawyers-to-be in handling the demands of the profession in a healthy way.

Law students graduating from law school are coming into this changing legal environment, poised for the term of their practice where they may be most vulnerable to substance abuse and mental health challenges, possibly having difficulty finding a job, and on top of it all, they have substantial student debt. Statistics gathered in 2012 by the ABA Section of Legal Education and Admissions to the Bar showed that, on average, students at public law schools borrowed \$84,600 and at private law schools borrowed \$122,158.²² Beginning one’s career with substantial debt can create a problem when you do not have a job. New lawyers may have to take non-legal jobs or hang a shingle and eat what they can kill to survive. If they take on family obligations, house-buying, and beginning a family, the debt can escalate. Yet the law school rarely equips these predominately younger law students with money management skills.

The ABA has taken these issues seriously. Earlier this year, the ABA released the Report On the Future of Legal Services in the United States (ABA Report).²³ After a two-year examination, the ABA reported various reasons why there is still a void of access to legal services for many Americans and also scrutinized the strengths and weaknesses of the profession.²⁴ The report included “recommendations for ensuring that the next generation of legal services more effectively meets the public’s needs.”²⁵ The findings of the report resulted in 12 specific recommendations that could be studied by law schools in the development of their curriculum and support of students.²⁶ Many of the recommendations highlighted innovation, and yet the report also noted that the

/02000.

21. ABA, *Hazelden Betty Ford Foundation Release First National Study on Attorney Substance Use, Mental Health Concerns*, HAZELDEN BETTY FORD FOUND. (Feb. 3, 2016), <https://www.hazelden.org/web/public/attorneysubstanceabusesurvey.page>.

22. YOUNG LAWYERS DIV., ABA, REPORT 2 (2014), http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/march2014councilmeeting/2014_march_young_lawyers_division_report.aucthcheckdam.pdf (citation omitted).

23. ABA REPORT, *supra* note 7.

24. *Id.* at 4–6.

25. Judy Perry Martinez & Andrew Perlman, *Foreword to ABA REPORT*, *supra* note 7, at 1, 1.

26. ABA REPORT, *supra* note 7, at 6–7.

legal profession is resistant to change, which hinders innovation.²⁷ As a legal innovator throughout much of my career, I have found this to be true. I remember touting mediation to colleagues in the mid-1980s and being told by most that I was crazy and should focus my attention on the “real” practice of law.

It is not just the changing times and clients that cause us to reflect on how we are educating lawyers, it is the idea that practicing lawyers who hire new law school graduates are forlorn at the quality of the student that comes out of law school. In 2014, the Institute for the Advancement of the American Legal System (IAALS) launched a project called Foundations for Practice (FFP) “designed to (1) Identify the foundations entry-level lawyers need to launch successful careers in the legal profession; (2) Develop measureable models of legal education that support those foundations; and (3) Align market needs with hiring practices to incentivize positive improvements in legal education”.²⁸ The project issued a report (IAALS report) culminating the results of surveys from more than 24,000 practicing lawyers in all 50 states asking them what lawyers need when they begin their legal careers.²⁹ While law schools pride themselves in developing skilled legal technicians, the IAALS report concluded that integrity, trustworthiness, conscientiousness, common sense, listening attentively, speaking and writing, and arriving on time were far more important than mere legal skills.³⁰ They coined the term “the whole lawyer” to depict the competencies, characteristics, and qualities that are needed, in addition to legal skills, in the practice of law.³¹

I. HOW SHOULD LAW SCHOOLS RESPOND?

Law schools must examine whether they are providing a quality legal education before deploying lawyers into a changing legal market and law practice. What areas should law schools consider when reviewing the coursework and support they give law students?

A. Law School Must Teach Lawyers How To Be Integrative Problem Solvers

Examining most law school curriculum, one typically sees coursework weighted heavily on the courtroom and traditional remedies in serving clients.

27. *See id.*

28. GERKMAN & CORNETT, *supra* note 2; *Project Objectives*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., <http://iaals.du.edu/foundations/about-project/project-objectives> (last visited Jan. 13, 2017).

29. GERKMAN & CORNETT, *supra* note 2, at 5.

30. *Id.* at 3.

31. *Id.* at 5.

Law schools often have few courses teaching students how to negotiate, mediate, weigh risks of alternatives to negotiated agreement, help clients assess the costs and benefits of whether to settle or continue with a law suit, and understand the emotions and psychological factors involved in settling cases.³² Clients continue to look for a wide variety of methods for achieving justice and the idea of “let’s sue them” no longer works—leaving lawyers who recommend that option in every case as nothing more than one trick ponies and forcing the client to look elsewhere for help, often outside the legal profession. While precedent is the hallmark of the law in legal books, clients want broader methods of resolving conflict that include acknowledgment of changing social values.

In response to these client demands, there is a movement among some lawyers towards “integrative law.”³³ According to J. Kim Wright, a leader in integrative law:

Integrative lawyers are leaders in an integral worldview which honors the wisdom and best parts of all previous worldviews, while embracing emergent new ideas. Integrative lawyers bring this consciousness into the law and are partners with our colleagues in other disciplines. We are open to exploring and drawing upon many disciplines and wisdom traditions, such as, philosophy, science, metaphysics, psychology and spirituality.

Integrative lawyers default to collaborative approaches to problems, but are not afraid to take stands. We see that collaboration and cooperation are more workable than divisiveness and polarization. We understand that full self-expression can lead to conflict, and that, when approached consciously, can be prevented or resolved in ways that are productive and preserve the relationships between all stakeholders. We don’t have to agree on every issue to be kind to each other and grant dignity to life.³⁴

Integrative lawyers often look to avoid harm and seek methods of resolving conflict that focus on restoring relationship or healing rifts.³⁵ One has to ask

32. See A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 2018 (2012) (“Law school does not routinely provide training in many of the practice skill areas—such as drafting, counseling, planning, client development, and client management—needed to be a successful practitioner.”).

33. Hollee Schwartz Temple, *Is the Integrative Law Movement the Next ‘Huge Wave’ for the Legal Profession?*, ABA J. (Aug. 1, 2013), <http://www.abajournal.com/magazine/article/integrativelawputspassionintotheprofession>.

34. Kim Wright, *Integrative Law: Evolution of the Legal System*, ABA L. PRAC. TODAY (Jan. 14, 2016), <http://www.lawpracticetoday.org/article/integrative-law-evolution-of-the-legal-system/>.

35. See *id.*

whether this type of approach is ever discussed in law school, and if it is, does its delivery imply a weakness in the lawyer? Can “real” lawyers be healers of conflict?

A similar area of law developing within the holistic approach to lawyering is “therapeutic jurisprudence” (TJ), a type of law in which “you begin thinking of the law less in terms of rules and more about various legal arrangements and therapeutic outcomes, [and] you become less wedded to thinking of the law as a purely domestic discipline,” according to TJ founder David Wexler.³⁶ Schools such as William and Mary Law School are responding by offering a three-credit course on TJ through its criminal law curriculum, described as a course in which:

Students will focus on the idea that lawyering has much to do with problem-solving and having as many tools as possible to accomplish your work will lead to better client and lawyer satisfaction. The class will look at practical solutions, interdisciplinary opportunities and other ideas to improve the practice of law and help clients solve very real problems.³⁷

Examples of the methods used by integrative lawyers are discussed in the following Parts.

1. *Conscious Contracting*.³⁸

Lawyers are used to drafting contracts with litanies of protections and exchanging them back and forth until both parties are satisfied [resulting in an often voluminous document full of legalese]. Conscious contracting, on the other hand, begins with thorough discussion with both parties as the parties come to an agreement on their shared vision, mission, and values, as well as their promises and even their future fears. Then, [after the thorough discussion is facilitated,] the contract is drafted to provide conflict mechanisms that revolve around the agreement. The parties constantly review the elements of the contract, especially if conflict arises or there is a change in circumstances. The contract can always be altered.

Linda Alvarez, a California lawyer who is proactive in the [integrative law] movement, explains that “Rather than using their contract as a weapons cache stockpiled in case of dispute, the parties can write a document that

36. David B. Wexler, *Two Decades of Therapeutic Jurisprudence*, 24 *TOURO L. REV.* 17, 18 (2008).

37. *Therapeutic Jurisprudence*, WM. & MARY L. SCH., <http://law.wm.edu/academics/programs/jd/electives/courses/bypracticearea/criminallaw/350-01/index.php> (last visited Jan. 13, 2017).

38. KIMBERLY J. STAMATELOS, *THE COMPASSIONATE LAWYER* 208–10 (2014).

serves as a guide and support to their own, intentional system and structure within, and with the support of the greater, conventional frame and framework.”

....

Lawyers involved in the conscious contracting process report satisfied clients in transactional, family, and business association matters. By [facilitating] a discussion and developing a relationship before contracting, the lawyer acts as a preventative conflict manager, helping resolve issues before they create high conflict.³⁹

Are lawyers being taught how to lead such detailed discussions and draft customized documents for these parties, or are they more positioned to select from stockpiled legal templates from a form book and avoid such in-depth analysis of values and goals?

2. Collaborative Law⁴⁰

Collaborative law is a practice in which parties agree not to go to court, by signing a participation agreement providing they will voluntarily disclose all relevant information and negotiate in good faith.⁴¹ Most importantly, the parties agree in the contract that they will terminate the services of their collaborative lawyers if negotiations break down and a contested court process is necessary.⁴² The parties often engage neutral third-party financial or mental health professionals to advise the parties jointly, instead of as an expert selected for only one side.⁴³

Lawyers who work on collaborative cases often meet with the parties in four-way meetings to discuss issues.⁴⁴ During those meetings, lawyers make a

39. STAMATELOS, *supra* note 38, at 209; Linda Alvarez, *Context and Culture*, DISCOVERING AGREEMENT, <http://www.discoveringagreement.com/for-lawyers/> (last visited Jan. 13, 2017) (emphasis omitted).

40. *Id.* at 210–12 (explaining the process of collaborative law).

41. *See What Is Collaborative Practice?*, INT’L ACAD. COLLABORATIVE PROFESSIONALS, <https://www.collaborativepractice.com/public/about/about-collaborative-practice/what-is-collaborative-practice.aspx> (last visited Jan. 13, 2017).

42. *Id.*

43. *See id.*

44. *See Collaborative Practice and Mediation*, INT’L ACAD. COLLABORATIVE PROFESSIONALS, [https://www.collaborativepractice.com/public/about/about-collaborative-practice/questions-and-answers-\(faqs\)/collaborative-practice-and-mediation.aspx](https://www.collaborativepractice.com/public/about/about-collaborative-practice/questions-and-answers-(faqs)/collaborative-practice-and-mediation.aspx) (last visited Jan. 13, 2017) (noting that both lawyers are present during the negotiation process).

paradigm shift from aggressive advocate to peacemaker.⁴⁵ While their allegiance is first and foremost to their client, they will act respectfully toward, and may even directly talk to, the other party.⁴⁶ A powerful statement an advocate can make to the adverse party in a collaborative case is, “You will never see me in a court of law against you,” referring to the disqualification clause.⁴⁷ The collaborative law process offers the best of collaboration by using neutral professionals from other disciplines, innovating with creative outcomes, and emphasizing character and emotional intelligence.⁴⁸ It is a home run in incorporating lawyering pursuant to many of the recommendations and findings of both the ABA Report (for example, Recommendation 7) and the IAALS study.⁴⁹

3. Restorative Justice.

For those who have committed crimes, the punishment is often incarceration. There are those who argue this process simply “throws away” the perpetrator and leaves closure undone for the victims.⁵⁰ Those in restorative justice understand that crimes affect the perpetrator, the victim, the community, and society as a whole.⁵¹ While restorative justice is not a specific process, it is a total approach to criminal justice.⁵²

One of the most powerful tools of the restorative justice process is the talking circle. In such a circle, the victim and offenders are present, and there may also be members of the community even if they were not directly impacted by the crime.⁵³ A talking piece is passed around the circle and only the person

45. *See id.*

46. *See* Nat’l Conference of Comm’rs on Unif. State Laws, *Uniform Collaborative Law Rules and Uniform Collaborative Law Act*, 48 FAM. L.Q. 55, 62, 64 (2014).

47. *See id.* at 62.

48. *See id.* at 62–63, 80 (citations omitted).

49. *See* ABA REPORT, *supra* note 7, at 49–50; GERKMAN & CORNETT, *supra* note 2, *passim*.

50. Paul McCold, Overview of Mediation, Conferencing and Circles 1 (Apr. 10–17, 2000) (unpublished paper presented to the Tenth United Nations Congress on Crime Prevention and the Treatment of Offenders) (PDF available at <http://restorativejustice.org/10fulltext/mccold.pdf>) (noting that other programs only focus on the needs of offenders to understand the harmful consequences of their behavior and make reparations), *as expanded in* Paul McCold, *Primary Restorative Justice Practices*, in RESTORATIVE JUSTICE FOR JUVENILES 41 (Allison Morris & Gabrielle Maxwell eds., 2001).

51. *Id.*

52. *See id.* at 7.

53. *Id.* at 6.

holding the talking piece may speak.⁵⁴ The theme of the circle may be healing, including listening intently to the impact on the victim.⁵⁵ Or, it may be a sentencing circle designed to get input on how a judge should be advised for punishment for the offender.⁵⁶ Circles are led by facilitators. Would lawyers know how to guide such a process?

In looking at courses in integrative law at most law schools, one is likely to find a mediation course and perhaps a negotiation course.⁵⁷ However, very few have any courses devoted to other integrative law courses. There are a few: Harvard Law School has recently begun a three-credit course in Collaborative Law.⁵⁸ Students in the restorative justice clinical program at Berkley Law School attend roundtables at San Quentin Prison.⁵⁹ These are led and facilitated by the males incarcerated there as a way of exploring alternatives to the traditional criminal justice model.⁶⁰ Surely law schools could have a survey course in integrative law as a minimum first step.

For law schools that may not have the faculty or resources to offer integrative law courses, there are other ways to introduce the students to the process. Guest speakers who are working in integrative law could give presentations. At Drake University Law School, we formed a Compassionate Lawyer Society and had guests come into our group to discuss their work and projects, then debriefed in a talking circle while passing the talking piece. At some meetings we sat in a circle and explored the idea of being problem solvers and healers of conflict as a way to get the students thinking beyond the traditional lawyer paradigm.

B. Lawyers Should Be Grounded in Emotional Quotient and Character Quotient in Addition to Intelligence Quotient.

The IAALS study resulted in an unexpected finding: the qualities needed to prepare new lawyers were well beyond traditional “legal skills”—in fact these accounted for only 27 percent of the skills respondents felt were necessary in

54. *Id.*

55. *Id.* at 5–6.

56. *Id.* at 6.

57. *See, e.g., Course Descriptions M-N*, DRAKE L. SCH., <http://www.drake.edu/law/students/academics/courses/m-n/> (last visited Jan. 13, 2017).

58. *Course Catalog: Legal Profession: Collaborative Law*, HARV. L. SCH., <http://hls.harvard.edu/academics/curriculum/catalog/default.aspx?o=70301> (last visited Jan. 13, 2017).

59. *Community Restorative Justice*, BERKELEYLAW, <https://www.law.berkeley.edu/experiential/pro-bono-program/slps/current-slps-projects/boalt-restorative-justice-committee/> (last visited Jan. 13, 2017).

60. *Id.*

new lawyers.⁶¹ Yet 45 percent of the qualities respondents felt were necessary fell into the category of “professional competencies” and 28 percent were from the category of “characteristics.”⁶²

Those qualities categorized as necessary in the short term included “professional competencies” such as: “keeping information confidential”; “arriving on time for meetings, appointments, and hearings”; “treating others with courtesy and respect”; “listening attentively and respectfully”; and “promptly responding to inquiries and requests”.⁶³ “Characteristics” included: “honoring commitments”; “integrity and trustworthiness”; “diligence”; “having a strong work ethic and putting forth best effort”; and “attention to detail”.⁶⁴

The IAALS study referred to these skills as character quotient (CQ) and found it, along with emotional intelligence (EQ), to be just as important as the traditional measurement of intelligence quotient (IQ).⁶⁵ Alli Gerkman, director of the IAALS Educating Tomorrow’s Lawyer’s Initiative summed it up this way: “Just as the medical profession realized that ‘bedside manner’ matters in a doctor, IAALS[’s] research reveals that being a ‘whole lawyer’ means possessing a high character quotient in addition to having skills and intellect.”⁶⁶

“Emotional intelligence is your ability to recognize and understand emotions in yourself and others, and your ability to use this awareness to manage your behavior and relationships.”⁶⁷ It may seem like something that is “unteachable,” yet University of Miami Law School has had a course called “Emotional Intelligence: Life Skills for Lawyers” since 2009.⁶⁸

[Even medical schools have begun to add curriculum expanding] physician empathy at the ‘story catching’ phase of the patient’s treatment. Dr. Rita Charon, a professor at Columbia University Medical School, launched the narrative medicine movement in 2001. The program at Columbia requires that all second year medical students take a semester in

61. GERKMAN & CORNETT, *supra* note 2, at 22.

62. *Id.*

63. *Id.* at 26.

64. *Id.*

65. *Id.* at 5; Tony Flesor, *IAALS Identifies Skills that Make a Whole Lawyer*, LAW WEEK COLO. (Aug. 1, 2016), http://iaals.du.edu/sites/default/files/documents/publications/080116lwciaalsidentifiesskillsthatmakeawhole_lawyer.pdf. For a wonderful video by Gerkman on the IAALS findings, see Alli Gerkman, *Collaboration Will Be Key to Change in Legal education and the Profession*, YOUTUBE (Aug. 31, 2015), <https://youtu.be/eohva6-QHh0>.

66. Flesor, *supra* note 65 (citation omitted).

67. TRAVIS BRADBERRY & JEAN GREAVES, *EMOTIONAL INTELLIGENCE 2.0*, at 17 (2009).

68. Blatt, *supra* note 6, at 465.

narrative medicine where they learn to listen, empathetically, to their patients' stories. Charon believes that doctors require narrative competence which she describes as "the competence that human beings use to absorb, interpret, and respond to stories."

Charon's students keep two charts on their patients—one is for the quantitative information and medical terminology and another as a narrative about the patient, as well as the medical student's own emotions. The results show those who used the two chart method had better relationships with patients, better interviewing skills, and better technical skills than the students who did not use the dual charting method.

Don't lawyers, as healers of human conflict, owe it to our "patients" to develop a similar "treatment plan?"⁶⁹

Yet very few law schools mention, much less teach, these critical skills.

In addition to legal skills, the IAALS report addressed EQ as well as CQ.⁷⁰ One's CQ is based on the person's values and moral qualities.⁷¹ Abraham Lincoln said, "Character is like a tree and reputation like its shadow. The shadow is what we think of, the tree is the real thing."⁷² Bar associations have begun to focus on CQ by developing standards for professionalism.⁷³ Yet, are character issues being taught and respected in law school? The IAALS study showed that one of the most important qualities needed was to arrive on time for meetings, appointments, and hearings.⁷⁴ Other CQ qualities seen as essential for lawyers are honoring commitments, keeping information confidential, setting goals, having a strong work ethic, and putting forth best effort.⁷⁵

One exercise I have done in my classroom has been to sit in a talking circle with the students and ask them each to fill out two index cards. Each index card should set forth a value or character trait that the student possesses. Then, we pass the talking piece two times. In each round, the student must explain the virtue or trait they selected and how that virtue or trait informs their practice of law. Finally, they place the index cards into the center of the circle for all to see.

The exercise is quite compelling and the students are often surprised at the

69. STAMATELOS, *supra* note 38, at 114–115 (citations omitted).

70. GERKMAN & CORNETT, *supra* note 2, at 5.

71. Flesor, *supra* note 65.

72. ELIZABETH FROST-KNAPPMAN & DAVID S. SHRAGER WITH THE ASSISTANCE OF SCARLET RILEY, *THE QUOTABLE LAWYER* 43 (rev. ed. 1998) (citation omitted).

73. *See generally* MODEL RULES OF PROF'L CONDUCT (AM. BAR ASS'N 2016).

74. GERKMAN & CORNETT, *supra* note 2, at 15.

75. *Id.* at 13, 15.

dialogue that ensues when we pass the talking piece. It helps them to see that they are not alone in coming to the law with higher aspirations than just “to get a good paying job.” I have the students take their cards home with them and use them to help write a personal mission statement for themselves as a lawyer for the next class. We have a great discussion on how students can lose sight of these goals moving forward into the profession and I challenge them to put this mission statement in front of themselves each day.

The importance of these qualities is crucial for those entering the traditional legal environment. But coupled with the changing face of the practice of law in the future, they are also critical for other roles that lawyers might fill. The broadest category for lawyers to fill in non-traditional roles includes leadership of all kinds.⁷⁶ Whether it be as leaders in government, business, or a neighborhood home owners association, everywhere a lawyer goes he or she wears the label of “lawyer”—whether they are in the law practice or not.⁷⁷ The qualities unearthed by the IAALS study parallel the literature on leadership.⁷⁸ As a student of leadership for the past few years, I have read much of the literature and found that these qualities permeate the field, and they all include areas of emotional intelligence and character (sometimes categorized as ethics).

One law school that has incorporated leadership and the “whole lawyer” philosophy is Regent University Law School. They have formed the Center for Ethical Formation and Legal Education Reform⁷⁹ that includes a heavy emphasis on mentoring, providing both faculty and practicing-lawyer mentors.⁸⁰ In fact, formal mentoring programs are showing up more and more in law schools, including at Stanford, where the Levin Center for Public Service and Public Interest Law provides students with faculty mentors who meet with them one-on-one and at brown bag lunches and also provides 1L students with 2L and 3L student mentors.⁸¹ Members of the legal profession are also mentors through the program.⁸² Many bar associations, including Iowa’s, have begun voluntary mentoring programs for young lawyers,⁸³ but why shouldn’t this process start in

76. See DEBORAH L. RHODE, *LAWYERS AS LEADERS passim* (2013).

77. *Id.* at 1.

78. Compare GERKMAN & CORNETT, *supra* note 2, with RHODE, *supra* note 76.

79. CEFLER, <http://www.cefler.org/> (last visited Jan. 13, 2017).

80. *About Us*, CEFLER, <http://www.cefler.org/about/> (last visited Nov. 18, 2016).

81. *Public Interest Mentoring Program*, STAN. L. SCH., <https://law.stanford.edu/levin-center/mentoring-program/#slsnav-overview> (last visited Jan. 13, 2017).

82. *Id.*

83. *Mentoring Program*, IOWA ST. BAR ASS’N, <http://www.iowabar.org/?page=ISBAMentorProgram> (last visited Jan. 13, 2017); see also *Mentoring*, N.C. BAR ASS’N, <http://www.ncbar.org/members/practice-management/mentoring/> (last visited Jan. 13, 2017).

law school?

C. Law Students Must Fully Understand Money: How It Works and How to Manage Money in a Healthy Way

Educating about money for the sake of helping law students deal with the horrendous amounts debt they take on is an important priority. However, I have noticed in the past 30-plus years of legal practice that debt, money, and its management (or mismanagement) also permeates all of the legal issues facing my clients. Whether it is in family law, bankruptcy, small businesses, contracts, structured settlements, or insurance liens, virtually every legal matter has a monetary component attached to it. Dealing with money management in general is an important topic. But, unless students take a course covering negotiable instruments in law school, they are not exposed to education about money issues. And, even in that course, are they really getting a *practical* understanding of money? I have found over the years that the law clerks I have hired, and even those just out of law school, cannot read and follow an income tax return even if they took a federal tax course in law school.

What if money management was a required course in law school (even in an intensive workshop format), and each student met with a certified financial planner or other financial advisor as part of their curriculum? Those people could be on staff (even if as an adjunct) and be precluded from taking the student as an investment client for a period of time so they are not there for their own motives.

Such a course might help empower students to have budgets, a healthy understanding of money, earning and spending goals, a five-year plan for their financial lives, a sensitivity to credit card spending and borrowing and their personal credit scores, and a strategy for loan repayment. Launching into the law practice, they will be more conversant in money issues than 99 percent of the general public, as they should be to serve as problem solvers for their clients and leaders in society in general.

As the legal job market has its ups and downs, more and more law students may have to set up shop as a solo practitioner. A course like the one described above hits all the aspects of money management: structuring fees in a way that allows for client satisfaction and profitability for the lawyer, managing money and overhead while simultaneously paying off student debt, and having enough money acumen to be able to give sound legal advice in a wide array of subject matter areas.

D. *Law Schools Should Require a Minimum Knowledge of Technology for Graduating Law Students*

Recommendation 3 of the ABA report is: “All members of the legal profession should keep abreast of relevant technologies.”⁸⁴ And, the ABA Model Rules of Professional Conduct also include keeping abreast of changes in the practice including technology benefits and risks as a critical piece of attorney competence.⁸⁵ The IAALS report also found that 58 percent of the survey respondents believed that “the ability to learn and use relevant technologies effectively [is] necessary right out of law school.”⁸⁶ What are law schools doing to encourage law students to learn critical technology skills?

One thing that law schools can do is to make technology a part of every student’s world. Why not include an iPad as part of tuition? Allow students to interact with their iPads, and include apps that are made to assist the student with navigating assignments, student groups, and other law school information.

I have found that basic organizational skills are often lacking in even the most intellectually solid law students. Productivity and organizational apps are great for managing assignments, deadlines, and workflow. Berkeley Law gives a list to students of helpful apps for law students and lawyers.⁸⁷ Even calendar management can be done on the iPad so that every student can track deadlines and appointments, one of the most critical skills of a lawyer.

At least one law firm uses iPads to replace demand letters in their practice. According to a partner at Fennemore Craig in Arizona, the firm creates videos and then sends 5–10 iPads containing the demand videos to the opposing counsel’s office with noise reduction headphones.⁸⁸ Other lawyers use iPads at depositions, during mediations, and in trial.⁸⁹ Teaching the students (many of whom are now millennials and have grown up with technology) how to use an iPad for their legal work will help them stay abreast of all the tools they can use to represent clients.

In my own practice, which is national in scope for mediation, I use videoconferencing such as Skype, Zoom, and FaceTime to conduct mediations.

84. ABA REPORT, *supra* note 7, at 43.

85. MODEL RULES OF PROF’L CONDUCT r. 1.1 cmt. 8 (AM. BAR ASS’N 2016).

86. GERKMAN & CORNETT, *supra* note 2, at 18.

87. *MobileApps*, BERKELEYLAW, <https://www.law.berkeley.edu/library/dynamic/apps.php?which=legaled> (last visited Jan. 13, 2017).

88. Nicole Black, *Today’s Tech: How Biglaw Litigators Use iPads to Make Their Case*, ABOVE L. (Nov. 12, 2015), <http://abovethelaw.com/2015/11/todays-tech-how-biglaw-litigators-use-ipads-to-make-their-case/>.

89. *Id.*

Unaware of any courses on these tools, I found myself figuring it out by trial and error. In one mediation, I had counsel in one conference room with his client on Skype and I would meet with the two of them during the private caucus. The lawyer was unfamiliar with the technology before our mediation but he was enthused at how much easier it was for him to communicate with his client in general and also during the mediation. I gave a workshop to mid-to-late career lawyers on using technology in mediation and they all rolled their eyes. I was later told by the mediation administrator that I am still the only one on the court's panel who steps up to do Skype mediations.

I also offer videoconferencing for clients during initial consults. I do a lot of divorce work and I know for some clients going to a lawyer's office for a consultation can be quite intimidating. By using videoconferencing clients can ask questions in their own private space, while seeing me "up close and personal" like they would in an in-person consultation. While only a few clients have taken me up on this approach so far, I anticipate it will grow in use not only for initial consultations but for meetings throughout the case when my client and I want to talk after-hours from the comfort of our respective homes.

With the move towards the "paperless office," law schools must be educating students on cloud computing. There are privacy considerations and other ethical aspects of cloud computing that must be learned before a lawyer sets up or participates in file sharing. Talking and teaching about it is one thing, but is the law school using it? Can students collaborate on clinical matters or shared document drafting in the cloud? Do they know how to set up safeguards? Some firms now use virtual assistants as a cost-savings mechanism. What must the young lawyer know about this opportunity for support?

Technology is not just for making lawyers more efficient, it deals with one of the most critical things brought out by the ABA Report: providing delivery of legal services to those who currently do not have it.⁹⁰ As a result, welcome "eLawyering," which is loosely defined as "doing legal work—not just marketing—over the [Internet]" in a way that makes "lawyering" a verb.⁹¹ ELawyering can include online legal advice,⁹² online dispute settlement,⁹³ online

90. See ABA REPORT, *supra* note 7.

91. Law Practice Division: *eLawyering Task Force*, ABA, <http://apps.americanbar.org/dch/committee.cfm?com=ep024500> (last modified Jan. 13, 2015).

92. See *id.*

93. See Erin Walsh, *Some Call It eLawyering: Is It a Brave New World or Ethical Quagmire?*, BUS. L. TODAY, Jan./Feb. 2003, at 51 (discussing organizations offering online dispute resolution).

forms,⁹⁴ online appointment scheduling with an attorney (either in person or through videoconferencing),⁹⁵ online document preparation,⁹⁶ online calculators,⁹⁷ and full legal service.⁹⁸

Law offices that use eLawyering may even operate through a virtual office instead of brick-and-mortar office space.⁹⁹ This saves costs for lawyers and provides a convenience to clients.¹⁰⁰ Young lawyers beginning practice with large amounts of student debt are able to save money on overhead. Older lawyers that want to downshift can practice law from a vacation spot and their clients may not even know they are not in the office.¹⁰¹ Even things like faxes, copiers, and answering machines can be virtual. Setting up Internet-based online client portals can provide a way for clients to have 24/7 access to their client files and documents.¹⁰²

The ABA has a task force on eLawyering,¹⁰³ and they have developed best practice guidelines for lawyers engaged in this type of practice.¹⁰⁴ However the standards are largely designed for guidance on development of websites that

94. See *Law Practice Division: eLawyering Task Force*, *supra* note 91 (discussing use of online forms for both client intake and legal document forms).

95. See *Scheduling Software for Lawyers and Law Firms*, SETMORE, <https://www.setmore.com/who-uses-setmore/scheduling-software-lawyers-law-firms> (last visited Jan. 13, 2017).

96. See *California Divorce Document Preparation*, DIVORCE HELPLINE, <https://divorcehelp.com/document-preparation/> (last visited Jan 13, 2017).

97. See Richard S. Granat, *eLawyering: Providing More Efficient Legal Services with Today's Technology*, N.Y. ST. B. ASS'N J., Sept. 2008, at 20, 26, http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/downloads/newyorkstatebarjournal/elawyering.authcheckdam.pdf.

98. See *id.* at 93–96.

99. Richard S. Granat & Stephanie Kimbro, *The Future of Virtual Law Practice*, in STANDING COMM. ON PROFESSIONALISM, ABA, THE RELEVANT LAWYER—REIMAGINING THE FUTURE OF THE LEGAL PROFESSION 83, 83 (Paul A. Haskins ed., 2015), *as reprinted in* [http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_TRL_CH_7_Granat_and_Kimbrow_w_ABA_rights_reserved.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_TRL_CH_7_Granat_and_Kimbrow_ABA_rights_reserved.authcheckdam.pdf).

100. Junie D. Bell, *No BoardRoom, Suits or Heels: This Virtual Law Practice Thrives in the Cloud*, STAN. LAW. (Nov. 8, 2016), <https://law.stanford.edu/stanford-lawyer/articles/noboardroom-suits-or-heels-this-virtual-law-practice-thrives-in-the-cloud/> (discussing low overhead and low cost and convenience to clients).

101. *Id.* (discussing flexibility to take vacation).

102. See Niki Black, *Web-Based Client Portals: An Introduction*, ATTORNEYATWORK (Aug. 8, 2014), <https://attorneyatwork.com/web-based-client-portals-introduction/>.

103. *Law Practice Division: eLawyering Task Force*, *supra* note 91.

104. *Best Practice Guidelines for Legal Information Web Site Providers*, ABA L. PRAC. DIV. (Feb. 10, 2003), http://www.americanbar.org/groups/law_practice/committees/elawyerimg-best-practices.html.

provide legal information.¹⁰⁵ Additional guidance needs to be developed for lawyers and law firms that are providing legal information virtually, including staying in compliance with the appropriate rules of professional responsibility.

Some law schools are getting on board with technology, and a list of the top legal practice technology schools has been established.¹⁰⁶ The criteria to make the list provide insight into the first steps for law schools that are serious about teaching students about technology:¹⁰⁷

1. A full-time faculty member dedicated to teaching and coordinating a program in law practice technology. . . .
2. At least two credit courses in th[e] subject matter [of technology and lawyering].
3. Non-credit courses taught by adjunct instructors don't qualify.
4. Law schools sponsoring incubator programs are interesting, but these programs involve lawyers who have already graduated, not law students.¹⁰⁸

Law schools would do well to question whether they even have any strategic plan to implement more technology-based coursework and instructors in the near future. At a minimum, all professors should be well-versed in the basics of technology and how it is being used in the subject matter areas they teach.

E. Innovation Should Be Embraced by the Law School in the Form of Courses or an In-House "Incubator."

The ABA Report recommends: "The ABA and other bar associations should make the examination of the future of legal services part of their ongoing strategic long-range planning."¹⁰⁹ Yet lawyers are not trained or encouraged to explore their creativity or skills in innovation.¹¹⁰ In law school, students are

105. *See id.*

106. Richard Granat, *13 Top Law Schools Teaching Law Practice Technology*, ELAWYERING BLOG (May 6, 2013), <http://www.elawyeringredux.com/2013/05/articles/competition/13-top-law-schools-teaching-law-practice-technology/>.

107. *Id.*

108. For an example of one of the schools on the list, see Chicago Kent Law School's Center for Justice and Technology. *Center for Access to Justice & Technology*, CHI.-KENT COLL. L., <https://www.kentlaw.iit.edu/institutes-centers/center-for-access-to-justice-and-technology> (last visited Jan. 13, 2017).

109. ABA REPORT, *supra* note 7, at 57.

110. *See* Marni Becker-Avin, *Developing Lawyers' "Soft Skills"—A Challenge for the*

focused on precedent; they are taught to see how one can avoid risk and they are instructed to follow rules (of civil procedure, of the system, etc.).¹¹¹ There is no reward for questioning the status quo and thinking outside the box. How can our profession be innovative if we do not know how to let go and dream? And what reward is there for being innovative if you still have to meet your billable hour quota and meet all the other demands of the firm?

Recommendation 6 of the ABA Report provides: “The ABA should establish a Center for Innovation,” further suggesting the development of “innovation fellowships to provide fellows in residence with the opportunity to work with a range of other professionals, such as technologists, entrepreneurs, and design professionals to create delivery models that enhance the justice system.”¹¹² Doesn’t it make sense to have such fellowships in law school? Could there even be a legal innovation club or fraternity, or a clinical innovation class? Working with these other professionals would also meet Recommendation 7 of the ABA Report for collaboration with other disciplines in innovating the delivery of legal services.¹¹³ Great innovators collaborate, brainstorm, buck the system, and are unconventional.¹¹⁴ These are traits that are not synonymous with lawyers and the tradition of legal education.

Law schools that are embracing innovation are doing it in various ways. Harvard Law School has the Library Innovation Lab that employs lawyers, developers, and fellows that work to find ways for professors and students to benefit from its efforts.¹¹⁵ One of the projects listed on its website is “making all U.S. case law freely accessible online.”¹¹⁶ Stanford Law School has formed the Juelsgaard Intellectual Property and Innovation Clinic where “students seek to shape intellectual property law and regulatory policies to best serve their underlying goals of promoting innovation, creativity and generativity.”¹¹⁷ In

New Era in Legal Services, LAW PRACTICE TODAY (May 2014), <http://www.americanbar.org/content/newsletter/publications/lawpracticetodayhome/lpt-archives/2014/may14/developing-lawyers-soft-skills-a-challenge-for-the-new-era-in-legal-services.html>.

111. See Spencer, *supra* note 32, at 2022–24; Becker-Avin, *supra* note 110.

112. ABA REPORT, *supra* note 7, at 48.

113. See *id.* at 49.

114. See Rebecca O. Bagley, *The 10 Traits of Great Innovators*, FORBES (Jan. 15, 2014), <http://www.forbes.com/sites/rebeccabagley/2014/01/15/the-10-traits-of-great-innovators/#4dcbab2fed50>.

115. LIBR. INNOVATION LAB, <http://librarylab.law.harvard.edu/> (last visited Jan. 13, 2017).

116. *Project: Caselaw Access Project*, LIBR. INNOVATION LAB, <http://lil.law.harvard.edu/projects/caselaw-access-project> (last visited Jan. 13, 2017).

117. *Juelsgaard Intellectual Property and Innovation Clinic*, STAN. L. SCH., <https://law.stanford.edu/juelsgaard-intellectual-property-and-innovation-clinic/> (last visited

2015, Vanderbilt Law School “launched its Program on Law and Innovation . . . to train the next generation of lawyers to succeed in tomorrow’s legal environment by anticipating the opportunities created by the changes in law and legal practice.”¹¹⁸ A glance at the curriculum for Vanderbilt’s program shows core courses such as “Law as a Business” and “Legal Project Management” as well as related course listings characterized as technology orientation, access to legal services, and lawyering skills.¹¹⁹ The lawyering skills courses include classes that give a strong foundation in non-litigation topics such as “Legal Interviewing and Counseling,” “Negotiation,” “Mediation,” “Non-Litigation Strategies for Change in Public and Social Policy,” and “Establishment and Management of Nonprofit Corporations.”¹²⁰

Some law schools have begun to develop programs that generate fees through clinical efforts. For example, Chicago-Kent College of Law has a fee-generating clinic that pays professors based on the fees they generate (with a “cap” setting the upper limit on clinic-generated salaries as “no higher than that earned by highly-paid traditional faculty of equivalent experience”; however, a bonus structure is in place).¹²¹ The professors in this clinic have all the same responsibility of other faculty, but they do not engage in traditional scholarship, leaving them to innovate and work more creatively.¹²² The cost to the law school is nominal because the clinic pays for itself.¹²³ It also opens up the students to a wider array of cases than traditional poverty clinics. (And the fee-generating clinic is not meant to be in lieu of such poverty clinics.)¹²⁴

Fee-generating clinics offer several benefits to the participating law students.¹²⁵ One is that they teach the students the practicalities of finances in a law firm.¹²⁶ Billing hours in a poverty law clinic allows the freedom to bill

Jan. 13, 2017).

118. *Program on Law & Innovation*, VAND. L. SCH., <http://law.vanderbilt.edu/academics/academic-programs/law-and-innovation/index.php> (last visited Jan. 13, 2017).

119. *Law & Innovation Curriculum*, VAND. L. SCH., <https://law.vanderbilt.edu/academics/academic-programs/law-and-innovation/curriculum.php> (last visited Jan. 13, 2017).

120. *Id.*

121. *About the Fee-Generating Model in Clinical Legal Education*, CHI.-KENT COLL. L., <https://www.kentlaw.iit.edu/seeking-legal-help/fees/fee-generating-model> (last visited Jan. 13, 2017) [hereinafter *Fee-Generating Model*].

122. *See id.*

123. Harold J. Krent & Gary S. Laser, *Meeting the Experiential Challenge: A Fee-Generating Law Clinic*, 46 U. TOL. L. REV. 351, 359 (2015).

124. *See Fee-Generating Model*, *supra* note 121.

125. Krent & Laser, *supra* note 123, at 356–59.

126. *Id.* at 356–58.

randomly and extravagantly but, in a fee clinic, what is the practicality of billing as it relates to using retainers and collectability of excess fees? How can you manage a set amount of money? How do you determine how much, if any, in fees to give away?

Marketing also comes into play.¹²⁷ How do you get cases? How do you build relationships for referrals? In my experience in training young lawyers they often do not have the networking skills they need to build relationships. For-profit clinics may also teach students how to create a website or use social media for business marketing.¹²⁸ Keep in mind, their professors are experienced practicing attorneys who have faced these issues. Finally, attracting high-quality practitioners is another benefit of this model.¹²⁹

The ABA Report presented an innovative idea set forth in Recommendation 4. That recommendation is: “Individuals should have regular legal checkups, and the ABA should create guidelines for lawyers, bar associations, and others who develop and administer such checkups.”¹³⁰

In addition to content innovation, law schools would be well served to look at delivery of coursework. Offering short one- or two-week courses on subjects such as client counseling, emotional intelligence, innovation, and other topics is a good way for a law school to start expanding their coursework without diving in head first and gutting the curriculum.

For example, I have taught the mediation course at Drake University Law School for several years, while also teaching mediation in the public sector. In the mediation world, a 40-hour course is often the benchmark for serving as a mediator, and the course is typically taught in a week straight. Yet, law school curriculum often does not correlate with those requirements and is taught throughout the semester, prohibiting students from being able to build any momentum from week to week. I have allowed a few scholarships to my law clerks into the 40-hour training that I do for practicing attorneys and they have enjoyed not only the content but the interface in both practice and discussion with the seasoned attorneys. They come out of the training excited and eligible to be added to court mediator rosters in some states. By simply exploring condensed class formats for students we could train them more effectively, allow their skills to transition to the “real world,” and possibly provide a way for them to have a marketable skill on graduation.

127. *Id.* at 357–58.

128. *See id.*

129. *Id.* at 358.

130. ABA REPORT, *supra* note 7, at 43.

One of the most innovative endeavors from a law school has to be the Law Without Walls program at Miami School of Law. It includes the best of collaborating, partnering with other disciplines, innovating, and technology.¹³¹ From the website:

We team 95+ students from 30 law and business schools around the world with mentors (academic, entrepreneur, and lawyer mentors). Over four months, student/mentor teams must identify a problem in legal education or practice and create a Project of Worth—a prototype and business plan for a legal start-up that solves the identified problem. This Project of Worth could include a business plan for a new startup or designs for new methods of arbitration enforcement. However, the Project of Worth is much more than a paper, presentation, or idea—it is a real solution to a real problem facing the legal marketplace.¹³²

Much of the work on the project is done virtually.¹³³

F. Law Schools Must Teach Lawyer Self-Care and Methods of Handling Lawyer Stress

After practicing law for 35 years, I have been on the front lines and seen lawyers burn out, plateau into lethargy or depression, or leave the practice altogether. We seem to take defeats personally, berating ourselves even when we lose on the merits. We don't handle our stress well at all, resulting in the staggering statistics of impaired lawyers previously mentioned.

The emotional intelligence we need to navigate our clients' problems can also come in handy in the management of our own lives. For example, increasing lawyer resiliency (defined as the ability to be durable and bounce back in the face of adversity, criticism, rejection, and setbacks), could have staggering effects on lawyer well-being. Lawyer Strong, LLC is a company formed by principals holding at least a JD degree with extensive experience in training professionals (not just lawyers) in how to become more resilient.¹³⁴ They found that lawyers had the following outcomes after resilience training: (1) they stayed inspired and found meaning in their work as attorneys; (2) they became aware of problem thinking (including catastrophizing) and learned to change their way of thinking when under stress; (3) they increased their connection with others when under stress; and (4) they maintained high-quality relationships and were more givers

131. See LAWWITHOUTWALLS, <http://lawwithoutwalls.org/> (last visited Jan. 13, 2017).

132. *Id.*

133. *See id.*

134. *What We Do*, LAW. STRONG LLC, <http://lawyer-strong.com/what-we-do/> (last visited Jan. 13, 2017).

than takers.¹³⁵ Where are these types of trainers in legal education, even for a workshop outside the regular curriculum?

Another popular method of enhancing lawyer well-being has been in the field of lawyer mindfulness and meditation. Several law schools have developed courses in mindfulness or similar courses, including the City University of New York (CUNY) School of Law¹³⁶ and University of Connecticut (UConn) School of Law's "Contemplative Lawyering" courses.¹³⁷ Professor Victor Goode at CUNY Law School was gracious enough to share his course syllabus, which references class goals including: "to help students make the connection between their own ideals, their profession and their sense of wanting their work to be connected to something that resonates with their inner being."¹³⁸

Lawyers Jeena Cho and Karen Gifford both found solace in the practice of meditation. In their book *The Anxious Lawyer*, lawyers are provided with an eight-week guide to start a meditation practice.¹³⁹ The book provides a how-to for setting up a meditation practice and also gives "off-the-cushion" exercises for reinforcing mindfulness.¹⁴⁰ Can you imagine a spot in the law school where stressed out students can sit in solitude between classes, without interruption, to rest their minds, meditate, pray, or simply sit in stillness?

II. CONCLUSION

In 2013, President Barack Obama [said in a speech] at Binghamton University in New York [that] he believed law school should be two years long, rather than three. He elaborated that law students should use their final two semesters to gain work experience by clerking in a firm[, even] at a reduced rate. His comments were directed at methods of keeping costs down for students getting out of law school.¹⁴¹

135. Paula Davis-Laack et al., *Four Things Resilient Lawyers Do Differently*, ABA L. PRAC. TODAY (June 14, 2016), <http://www.lawpracticetoday.org/article/four-things-resilient/>.

136. *Innovative Practices*, CUNY SCH. L., <http://www.law.cuny.edu/academics/innovative-practices/contemplative-lawyering.html> (last visited Jan. 13, 2017).

137. *LAW7769 - Contemplative Lawyering*, UCONN SCH. L., <https://www.law.uconn.edu/academics/courses/law7769/contemplative-lawyering> (last visited Jan. 13, 2017).

138. Maria Arias & Victor Goode, CUNY Sch. of Law, *Love in Action with Wisdom: Contemplative Practices and the Law 2* (Fall 2014) (unpublished syllabus) (on file with author).

139. JEENA CHO & KAREN GIFFORD, *THE ANXIOUS LAWYER: AN 8-WEEK GUIDE TO A JOYFUL AND SATISFYING LAW PRACTICE THROUGH MINDFULNESS AND MEDITATION passim* (2016).

140. *Id.* at 17–71.

141. STAMATELOS, *supra* note 38, at 201 (citations omitted); see Peter Lattman, *Obama*

The double message was that law school is not providing relevant work-life experience in the third year.

It is not hard to see why President Obama and others would recommend reduction of time in law school if things stay at the status quo. However, looking into the future and recognizing that some law schools have already started to forge the new frontier makes it risky for the average law school to stay competitive if they do not change from the status quo. Knowing that law schools turn out lawyers who are not adequately equipped to begin the practice of law sends an alarm to a profession that is already becoming less relevant in a changing marketplace.

Traditionally, we have measured a law student by class rank based on purely academic accomplishment. Legal employers will regale with stories of students who had academic excellence but who were ill equipped to practice law without additional tutelage in such things as time management, organization, and handling the pressures of the job.¹⁴² It is time to change legal education to make it more relevant, holistic, innovative, collaborative, technological, multi-disciplinary, and affordable. That is a tall order for anyone, but hey, we can do it. After all, we are lawyers.

Says Law School Should Be Two, Not Three, Years, N.Y. TIMES (Aug. 23, 2013), <http://dealbook.nytimes.com/2013/08/23/obama-says-law-school-should-be-two-years-not-three/>.

142. See Spencer, *supra* note 32.