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Renee Newman Knake

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Ohio Northern University Law Review

Symposium Articles

Cultivating Learners Who Will Invent the Future of Law Practice: Some Thoughts on Educating Entrepreneurial and Innovative Lawyers

RENEE NEWMAN KNAKE*

“In a time of drastic change it is the learners who inherit the future. The learned usually find themselves beautifully equipped to live in a world that no longer exists.” Eric Hoffer¹

“The best way to predict the future is to invent it.” Alan Kay²

The convergence of technological advances, global competition, and financial pressures facing the legal profession in the twenty-first century demands that we equip our students to be entrepreneurial and innovative in their pursuit of a rewarding and meaningful career in the law. Legal education prides itself in producing members of a learned profession. We face, however, a “time of drastic change,” as Eric Hoffer might say, where the “learned usually find themselves beautifully equipped to live in a world

* Associate Professor of Law and Co-Director, Kelley Institute of Ethics & the Legal Profession, Michigan State University College of Law. I am grateful to the Ohio Northern University Law Review and Professor Liam O’Melinn for inviting me to join the rich conversation about the future of legal education among Dean Larry Kramer, Dean Gregory Mark, Dean Trish White, Professor Robert Reis, and Professor Jerry Organ on the occasion of the 35th Annual Ohio Northern University Law Review Symposium, Perspectives and Distinctions on the Future of Legal Education. Thanks also to Cassi Baumgardner and Holly Shannon for excellent research assistance.

1. ERIC HOFFER, REFLECTIONS ON THE HUMAN CONDITION 232 (1973).

2. DAN SAFFER, DESIGNING FOR INTERACTION: CREATING SMART APPLICATIONS AND CLEVER DEVICES 220 (2007).

that no longer exists.”³ His observation calls us to cultivate “learners” who will *invent the future of law practice*, to borrow from Alan Kay’s observation that “to predict the future” we must “invent it.”⁴ In other words, we need to educate entrepreneurial and innovative lawyers.⁵ This essay, drawn from my remarks delivered at the Ohio Northern University Law Review’s Symposium, Perspectives and Distinctions on the Future of Legal Education, shares insights on why offering law students opportunities to engage in entrepreneurship and innovation is important.

What does it mean to educate an entrepreneurial and innovative lawyer?

The value in educating an entrepreneurial and innovative lawyer is, in some ways, tied to the economic realities of a disrupted legal market,⁶ a massive tuition-based debt bubble,⁷ and disgruntled graduates unable to

3. HOFFER, *supra* note 1, at 22. Eric Hoffer was a self-educated migrant worker turned writer who examined social movements and individual fulfillment, most notably in his work *The True Believer*, and was awarded the Presidential Medal of Freedom shortly before his death in 1983. See THE ERIC HOFFER PROJECT, <http://www.hofferproject.org/> (last visited June 19, 2012).

4. Alan Kay is an American computer scientist best known for his ideas of personal computing and the laptop. He developed these ideas into modern workstations, which became the forerunners to the Macintosh. See Scott Gasch, *Alan Kay*, <http://ei.cs.vt.edu/~history/GASCH.KAY.HTML> (last visited June 19, 2012).

5. I use the term entrepreneurial lawyer in the spirit of broad innovation and improvement, not limited to solely to individuals who start new businesses. See, e.g., REID HOFFMAN & BEN CASNOCHA, *THE START-UP OF YOU 3-4* (2012) (discussing entrepreneurship both in terms of founding new businesses and in personal development).

6. Richard Susskind famously predicted the disruption of law markets in his book, RICHARD SUSSKIND, *THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES* 1-11 (2008), where he focuses primarily on changes in the United Kingdom. Thomas D. Morgan also extensively documents disruption of the profession with a focus on the United States market in his book, THOMAS D. MORGAN, *THE VANISHING AMERICAN LAWYER* 1-3 (2010).

7. On the debt bubble in legal education financing, see Matt Leichter, *Law School Debt Bubble: Aggregate Law School Grad Debt Grew \$475 Million Between 2008 and 2010*, THE AM L. DAILY (Nov. 22, 2011, 4:38 PM), <http://amlawdaily.typepad.com/amlawdaily/2011/11/law-school-debt-bubble.html>; Matt Leichter, *Law School Debt Bubble, Part II: Data Show Feds Will Lend \$54.3 Billion to U.S. Law Schools by 2020*, THE AM L. DAILY (Dec. 5, 2011, 7:16 PM), <http://amlawdaily.typepad.com/amlawdaily/2011/12/law-school-debt-bubble-part-ii-education-department-to-lend-543-billion-to-americas-law-schools-by-2.html>; William D. Henderson & Rachel M. Zahorsky, *The Law School Bubble: How Long Will It Last If Grads Can't Pay Bills?*, A.B.A. J. (Jan. 1, 2012), http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_grads_cant_pay_bills/. Legal education is not alone in this crisis. As I wrapped up writing this essay on a Sunday morning in May 2012, for example, I turned to my *New York Times* and found an article on the front page about graduates of Ohio Northern University, prominently featured as some of the nation’s most debt-burdened. See Andrew Martin & Andrew Lehren, *A Generation Hobbled by College Debt*, N.Y. TIMES, May 13, 2012, at A1.

secure jobs.⁸ Legal education cannot afford to ignore this culmination of forces.⁹ Indeed, this is precisely why—contrary to what recently ran on the front page of the *New York Times*¹⁰—law schools actively pursued reform over the past decade and continue to do so. The *New York Times* author’s critique, that law schools do not teach lawyering, was not only misguided, but failed to hone in on the actual problem. Law schools now widely focus on lawyering skills by incorporating clinical activities, mock simulations, and other efforts designed to provide practical, hands-on experience¹¹ as well as to encourage collaboration with others.¹²

8. On disgruntled law graduates, see Scott Jaschik, *Suing Over Jobs*, INSIDE HIGHER ED (Aug. 11, 2011, 3:00 AM), http://www.insidehighered.com/news/2011/08/11/suits_challenge_veracity_of_job_placement_rates_at_3_law_schools; *20 More Law Schools Targeted for Lawsuits Over Placement Rates*, INSIDE HIGHER ED (Mar. 15, 2102, 3:00 AM), <http://www.insidehighered.com/quicktakes/2012/03/15/20-more-law-schools-targeted-lawsuits-over-placement-rates>. Would-be law applicants seem to be disgruntled too—or at least disillusioned. See David Segal, *For 2nd Year, a Sharp Drop in Law School Entrance Tests*, N.Y. TIMES, Mar. 19, 2012, at B1.

9. A comprehensive discussion of the pressures on traditional law practice and their impact for legal education is beyond the scope of this essay, and has been taken up in greater detail elsewhere by scholars including, Larry E. Ribstein, *Practicing Theory: Legal Education for the Twenty-First Century*, 96 IOWA L. REV. 1649, 1659, 1663 (2011) (citing a number of pressures on legal education and the legal services market, including “the growing cadre of exceptionally well-informed, in-house counsel,” “nonlawyer consultants, accountants, and economic and business consultants such as Accenture, which provide law-related services such as expert testimony, risk-analysis, and electronic discovery,” “outsourcing of legal services to India and other low-wage areas reduced work that once provided jobs and training for young lawyers,” and “markets for legal information sold as products.”).

10. See, e.g., David Segal, *What They Don’t Teach Law Students: Lawyering*, N.Y. TIMES, Nov. 20, 2011, at A1.

11. See, e.g., Karen Sloan, *Reality’s knocking; The recession is forcing schools to bow to reality*, NAT’L L.J. (Sept. 7, 2009) (citing examples of economy-driven reform at law schools such as Duke, University of California Irvine, and “Washington and Lee University School of Law [which] has thrown out its traditional third-year curriculum and replaced it with a series of legal simulations meant to prepare students to practice law in the real world.”); Charlotte S. Alexander, *Learning to be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465, 467 (2011) (discussing the “Fundamentals of Law Practice at Georgia State University College of Law,” a course that “combine[s] instruction in lawyering skills, law practice management, and ethical decision-making, while also giving students a structured framework within which to reflect on their own developing identities as lawyers.”); *New York Law School Launches New Legal Practice Course*, N.Y. L. SCH. (Oct. 19, 2011), http://www.nyls.edu/news_and_events/legal_practice_program (announcing a new “first-year skills program, Legal Practice, which features a redesigned curriculum that provides students with a comprehensive introduction to lawyering skills at the beginning of their law school careers.”). The 2012 Association of American Law Schools Annual Meeting featured the *Workshop on Changes in Law Practice: Implications for Legal Education*, organized by Susan Carle, Carol Needham, Carla Pratt, Mitt Regan, and myself, where dozens of scholars presented innovative ways of responding to economic realities and other pressures through curriculum reform. See Program: 2012 Annual Meeting, THE ASS’N OF AM. L. SCHS., https://memberaccess.aals.org/eweb/DynamicPage.aspx?Site=AALS&WebKey=1350716a-7a12-4aad-9740-c98d014e272e&RegPath=&REg_evt_key=d4a06b1f-994e-4ffe-b5ea-548f57898594 (last visited June 19, 2012). For additional examples of significant responses by the legal academy to economic realities facing our students, see Renee Newman Knake, *Welcome to the LEF Symposium on Legal Education’s Response to the Economic Realities Facing the Profession*, LEGAL ETHICS FORUM (Feb. 3, 2012, 11:38 AM), <http://www.legalethicsforum.com/blog/2012/02/the-lef-symposium-on-legal-educations-response-to-the-economic-realities-facing-the-profession.html>.

The real issue is that law students also need to be *engaged in the enterprise of inventing how law will be practiced in the future*. Notably absent from most law schools is a culture of entrepreneurialism and innovation, let alone significant curriculum or resources devoted to this pursuit.¹³

Instilling entrepreneurialism and innovation holds additional significance beyond simply responding to the current pressures faced by the profession. Admittedly, lawyers have always been entrepreneurial in some ways (particularly those setting out to hang their own shingles), so one might question why it is necessary, at this particular point in time, for legal education to take up the endeavor of cultivating an innovative atmosphere. Even if economic pressures were not at play, in my mind it is essential that legal education embrace a culture and curriculum of entrepreneurialism and innovation for at least three reasons.¹⁴ First, an enormous need exists for legal services, a demand that has gone largely ignored by the legal profession.¹⁵ Second, law schools are filled with creative, bright individuals who, given the right atmosphere, will be inventors of new models for legal services delivery in addition to practitioners of law. Third, developing the qualities of an entrepreneur and innovator can benefit any lawyer in her own career development, whether or not she decides to become an inventor or to open a new business.

How might we educate entrepreneurial and innovative lawyers?

Some law schools are beginning to acknowledge the need for this sort of culture and curriculum in legal education. For example, Stanford Law

12. See, e.g., Gillian Hadfield, *Equipping the Garage Guys in Law*, 70 MD. L. REV. 484, 484-85 (2011) (describing a joint session she holds “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.”); Judith Romero, *Stanford Law School Advances New Model for Legal Education*, STAN. L. SCH. NEWS (Feb. 13, 2012), <http://blogs.law.stanford.edu/newsfeed/2012/02/13/stanford-law-school-advances-new-model-for-legal-education/> (announcing that Stanford Law School is “successfully transforming its traditional law degree into a multi-dimensional JD, which combines the study of other disciplines with team-oriented, problem-solving techniques together with expanded clinical training that enables students to represent clients and litigate cases while in law school.”).

13. Exceptions to this observation are law laboratories like Harvard University Berkman Center’s Law Lab and Stanford University’s CodeX–Center for Legal Informatics, discussed in greater detail below. See LAW LAB, <http://lawlab.org> (last visited June 19, 2012); CODEX, <http://codex.stanford.edu> (last visited June 19, 2012).

14. I elaborate on my conclusion that legal education must embrace a culture and curriculum of entrepreneurialism and innovation in a separate article, Renee Newman Knake, *Democratizing Legal Education*, 45 CONN. L. REV. (forthcoming 2013).

15. See Renee Newman Knake, *Democratizing the Delivery of Legal Services*, 73 OHIO S. L. J. 1, 2 (2012), http://moritzlaw.osu.edu/students/groups/oslj/files/2012/05/73.1.Knake_.pdf.

School is a partner in a multidisciplinary laboratory called CodeX, which brings together “organizations from industry, government, and academia”¹⁶ in order “to explore ways in which information technology can be used to enhance the quality and efficiency of our legal system while decreasing its cost.”¹⁷ Scholars at the University of Miami Law School founded LawWithoutWalls, “a part-virtual, collaborative academic model . . . that brings together students, faculty, practitioners, business professionals, and entrepreneurs from around the country and the world to innovate legal education and practice.”¹⁸ Harvard’s Berkman Center Law Lab “is a multidisciplinary research initiative and collaborative network of University, nonprofit and industry partners. Its mission is to investigate and harness the varied forces—evolutionary, social, psychological, neurological and economic—that shape the role of law and social norms as they enable cooperation, governance and entrepreneurial innovation.”¹⁹ A new course offered at Georgetown Law Center, *Technology, Innovation, and Law Practice: An Experiential Seminar*, “exposes students to the varied uses of computer technologies in the practice of law,” where teams of students partner “with a legal tech expert to develop a platform, application or system that increases access to justice and/or improves the effectiveness of legal representation.”²⁰ The class “culminates in a design competition, The Georgetown Iron Tech Lawyer Contest, which is judged by outside experts in the field.”²¹

At my home institution, Michigan State University College of Law, together with my colleague Professor Daniel Martin Katz, we offer *Entrepreneurial Lawyering*, a course designed to help students understand the economic pressures, technological changes, and globalization facing the legal profession in the twenty-first century, and to assist students in successfully navigating their legal career given these challenges. The course explores the concept of a virtual law practice as well as the use of technology and cloud-computing in building a law practice; free and low-

16. Overview, CODEX, <http://codex.stanford.edu/overview.html> (last visited May 11, 2012).

17. *Id.*

18. *About*, LAWSWITHOUTWALLS, <http://www.lawwithoutwalls.org/about> (last visited June 19, 2012). I have had the privilege of participating in LawWithoutWalls—founded by Michele DeStefano and Michael Bossone—as an academic mentor since 2011, where I advised students on so-called “Projects of Worth” that resulted in proposals for a curriculum on emotional intelligence training and a mobile phone app for women lawyers to facilitate networking.

19. *The Law Lab*, THE BERKMAN CENTER FOR INTERNET & SOC’Y AT HARV. U., <http://cyber.law.harvard.edu/research/lawlab#> (last visited June 19, 2012).

20. *Courses*, GEORGETOWN LAW, http://www.law.georgetown.edu/curriculum/tab_courses.cfm?Status=Course&Detail=2090 (last visited June 19, 2012) (course description: *Technology, Innovation, and Law Practice: An Experiential Seminar*, taught by Tanina Rostain and Roger Skalbeck).

21. *Id.*

cost resources and tools are shared to assist the entrepreneur-minded student in leveraging leading-edge technology to defray start-up costs associated with launching a practice and to control overhead. Ethics, licensing, and malpractice issues related to virtual and multijurisdictional/global law practice are discussed. The course is meant to be particularly useful for students contemplating solo practice, consulting, or engaging in an entrepreneurial venture, as well as those considering non-traditional uses for their law degree. Other topics covered in the course include client development and networking, case studies of innovative legal services delivery mechanisms and alternative business structures, and work/life balance including the study of emotional intelligence and mindful lawyering practices. Students hear from guest lecturers on topics such as technology for lawyers, digital law practice, the retail of legal services, and deregulation of the legal profession. There is an optional excursion to the American Bar Association Annual TechShow in Chicago. As part of the final grade, students create an electronic resume and present a six-minute Ignite/PechaKucha-style presentation,²² which is recorded and becomes part of the electronic resume.

Professor Katz and I also recently launched ReInvent Law,²³ a Law Laboratory Devoted to Technology, Innovation, and Entrepreneurship in Legal Services. Our mission is to cultivate a creative community through partnerships with other university departments, academic institutions, industry, nonprofit organizations, government, and our students. The primary purpose of ReInvent Law is to provide a new element of education to our students through research and experimentation on endeavors designed (1) to solve problems faced by the legal profession including access to justice concerns and (2) to create new vehicles for the delivery of legal services. Through ReInvent Law, collaborators from the fields of law, technology, engineering, design, retailing, computer science, and beyond will come together in this shared space to engage in conversation and to

22. See PECHAKUCHA, <http://www.pecha-kucha.org/> (last visited June 19, 2012) (“PechaKucha Night was devised in Tokyo in February 2003 as an event for young designers to meet, network, and show their work in public Drawing its name from the Japanese term for the sound of ‘chit chat’, [sic] it rests on a presentation format that is based on a simple idea: 20 images x 20 seconds. It’s a format that makes presentations concise, and keeps things moving at a rapid pace.”); LEXTHINK, <http://www.pointonlaw.com/> (last visited June 19, 2012) (“6 Minutes: Recorded as ‘.1’ on a time sheet, it is the smallest increment of time lawyers capture. It is also the ideal amount of time to share one big idea about the future of law practice.”). For an example, see Renee Knake, *Knake on Technology & Untapped Markets in Law*, London, UK June 2012, YOUTUBE (Aug. 8, 2012), <http://www.youtube.com/watch?v=-wKxhugg63U>.

23. See REINVENT LAW, <http://www.ReInventLaw.com> (last visited June 19, 2012) (Daniel Martin Katz and I co-founded ReInvent Law in Spring 2012 as “a law laboratory devoted to technology, innovation & entrepreneurship” at Michigan State University).

actively construct innovative solutions. In creating ReInvent Law, we aim to provide an environment where ideas can be generated, tested, and brought to market—a sort of research and development department for future law practice. Most important, however, is that ReInvent Law will harness collaborative energies and expertise for inventing ground-breaking solutions to problems faced in twenty-first century law practice while simultaneously encouraging and equipping students to embrace innovative approaches in the practice of law.

One example of ReInvent Law's work is the creation of our 21st Century Law Practice Summer Program, “a first of its kind, intensive study of technology, innovation, regulation, entrepreneurship and the international legal marketplace.”²⁴ The program is held in London, England, a location selected mindful of the recent deregulation in the wake of the United Kingdom's Legal Services Act of 2007 and the corresponding outgrowth of alternative legal services delivery models. Students are immersed in the study of these new models. As we explain on our website, the program has three primary educational objectives:

- (1) Provide students a comprehensive understanding of the market for legal services as it transitions to a global legal supply chain in the wake of deregulation, economic pressures, and technological innovation.
- (2) Prepare students to become practice-ready entrepreneurial lawyers who can leverage information technology in order to operate more efficiently and thereby attract (and retain) clients.
- (3) Inspire students to think broadly about future delivery of legal representation and access to justice by exposing them to the innovative legal service delivery models and platforms of the present (and not-too-distant future).²⁵

The program covers subjects essential to cultivating a learner who will invent the future of law practice, topics that often are neglected by law schools including technology, legal informatics, marketing, case studies of new legal business structures, math/statistics, virtual law practice, and digital lawyering. We also encourage personal reflection on how each

24. *Program Description*, 21ST CENTURY LAW PRACTICE, <http://www.21stcenturylawpractice.com/London-Summer-Program/description.html> (last visited June 19, 2012) (I co-founded the 21st Century Law Practice Summer Program with Daniel Martin Katz in fall 2011).

25. *Id.*

student might shape law practice in the future to reach those who currently cannot access a lawyer and to do so in a way that allows for positive work/life balance. Our partners include industry innovators, government entities, regulators, nonprofit organizations, and international academics, with the program culminating in a capstone “un”conference of presentations, ReInvent Law London.²⁶ By creating this new space for students to interact with these cross-institution and cross-sector partners—all of us connecting to consider alternative ways of delivering legal services—the program embodies the very kind of innovative spirit we hope to infuse in participants.²⁷

Conclusion

Educating an entrepreneurial and innovative lawyer should be a priority for every law school. I am grateful to the Ohio Northern University Law Review for inviting me to share my reflections on this important topic. This essay is not meant to exhaustively review all potential avenues for instilling entrepreneurship and innovation in law students but I hope it might, at least in some small way, inspire others to consider incorporating these elements into traditional legal education.

26. See REINVENT LAW LONDON, www.lawtechcamplondon.com (last visited June 19, 2012).

27. For more information on the capstone event, see Neil Rose, *The next big thing*, LEGAL FUTURES (July 3, 2012), <http://www.legalfutures.co.uk/blog/the-next-big-thing> (“In 17 years as a legal journalist, I have attended a lot of conferences. An awful lot of conferences . . . I cannot remember the last time there was such palpable excitement in the air at an event.”); Bill Henderson, *What is the “Ignite” Format of Presentation?*, THE LEGAL WHITEBOARD (June 29, 2012), <http://lawprofessors.typepad.com/legalwhiteboard/2012/06/what-is-the-ignite-format-ofpresentation.html> (“a program chock full of substance on the application of technology to the law.”); Joanna Goodman, *Unconference! Beat poetry and quantitative analysis - we are all futurists now!*, LEGAL IT PROFESSIONALS (July 5, 2012), <http://www.legalitprofessionals.com/Joanna-Goodman/unconference-beat-poetry-and-quantitative-analysis-we-are-all-futurists-now> (this was “genuinely different from other legal technology events. It was different from the ones that pop up every year. It was different from the biggest and most profitable ones. It was different from the ones that claim to predict the future. It was the UK’s first legal ‘Unconference’ and everyone is talking about it.”).