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Legal Education in the United States: Moving Toward More Practical Experience

BY HON. SANDRA R. KLEIN*

More than twenty-five years ago, I had the good fortune to be a Loyola Law School (“Loyola”) student and a member of the Loyola Law School International and Comparative Law Journal (“ILJ”). One of the highlights of my law school career was having my comment published in the ILJ: *Legal Education in the United States and England, A Comparative Analysis*, 13 LOY. L.A. INT’L & COMP. L. J. 601 (1991) [hereinafter *Legal Education*].

Many things have changed since then. The ILJ changed its name to the International and Comparative Law Review.¹ I graduated from Loyola, clerked for two amazing jurists, the Honorable Arthur L. Alarcón, United States Court of Appeals for the Ninth Circuit, and the Honorable Lourdes G. Baird, United States District Court for the Central District of California, worked as a litigation associate at O’Melveny & Myers LLP and, for more than thirteen years, worked for the United States Department of Justice. For the past eight years, I have had the honor to serve as a United States Bankruptcy Judge in the Central District of California.

Other things, however, have thankfully remained the same. Professor Laurie Levenson, who was my mentor throughout law school, continues to be my mentor (as she is for so many others). She and I are co-leaders of a Girl Scout Troop for girls experiencing homelessness and it never ceases to amaze me how wonderful she is with the girls. I am as proud as I was the day that I graduated from Loyola to be an alumna. And, Loyola’s focus on social justice, with its emphasis on

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1. In August of 1999, the name was changed to the Loyola of Los Angeles International and Comparative Law Review. *About the Review*, LOY. L. SCH. L.A., INT’L & COMP. L. REV., <https://digitalcommons.lmu.edu/ilr/about.html> (last visited Dec. 26, 2018).

giving back to those less fortunate, continues to be a model for law schools across the country.²

INTRODUCTION

In *Legal Education*, I compared and contrasted the educational requirements to become a lawyer in the United States and a solicitor or barrister in England.³ This topic was of interest to me when I began my studies at Loyola because I was fascinated by how people learn, what the most effective teaching method might be, and how to present complex material in a comprehensible manner. My interest in the education process most likely stemmed from taking a non-traditional path to law school. After receiving an undergraduate degree in music education, I worked for seven years as a corporate trainer for AT&T and other companies, both large and small, before enrolling at Loyola. I found law school extremely challenging not only because I had been out of academia for a number of years but also because the focus of my undergraduate studies was performance-based. So, I was interested in analyzing and understanding the most effective teaching methods to learn the intricacies of the law.

Legal Education concluded with suggestions for improving legal education in the United States and England by each country adopting some of the favorable attributes of the other.⁴ My primary recommendation was that United States law school graduates should be required to have some form of practical experience.⁵ This would allow students in the United States, like students in England, to learn some of the vocational aspects of lawyering before graduation.⁶

2. Loyola was the first ABA-accredited school in California to have a mandatory pro bono graduation requirement, *Public Interest and Pro Bono Services*, LOY. L. SCH. L.A., <https://www.lls.edu/academics/experientiallearning/publicinterestprobonoservices/> (last visited Dec. 26, 2018), and the Alumni Association Board of Governors' Attorneys for Others program feeds the homeless every month at the St. Francis Center in downtown Los Angeles, *Volunteer and Help Feed the Homeless*, LOY. L. SCH. L.A.: EVENTS, https://events.lls.edu/event/volunteer_and_help_feed_the_homeless#.XFTw4c9KjfZ. (last visited Dec. 26, 2018).

3. Sandra R. Klein, Comment, *Legal Education in the United States and England: A Comparative Analysis*, 13 LOY. L.A. INT'L & COMP. L. J. 601, 602 (1991).

4. *Id.*

5. *Id.* at 633.

6. *Id.* at 634.

A. Real Life Experience Before Graduating from Law School

My recommendation that students in the United States be required to gain real life experience before graduating from law school was not only based on my research, but also on my education, background, and belief that the best way to learn is by doing. To obtain my undergraduate degree, I spent the last semester of my senior year in college as a student teacher ‘shadowing’ a teacher with extensive experience and teaching classes on my own, under her supervision. Having the opportunities to observe my advisor handle difficult situations and learn the skills necessary to succeed in the classroom were invaluable lessons for me.

While researching and drafting *Legal Education*, I was surprised that law students in England are required to complete apprenticeships, either with solicitors, if students aspire to do transactional work, or with barristers, if students are interested in becoming litigators.⁷ And, most countries require their law school graduates to “complete a period of supervised practice with a lawyer or judge” before being able to practice law.⁸ But, there was no similar requirement that law students in the United States receive any type of vocational training before graduating and beginning their legal practice.⁹

My suggestion that law students graduate with some real-life experience was certainly not novel. More than one hundred years ago, there was a movement to include experiential learning opportunities in law school curricula because legal education was “lagging behind medicine, architecture, engineering, and other disciplines in providing such clinical experiences to students.”¹⁰ Over the years, scholars have recognized that “people in general learn by doing, and law students in particular learn legal artistry by doing legal work.”¹¹

7. *Id.* at 607-08.

8. Roy T. Stuckey, *Preparing Students to Practice Law: A Global Problem in Need of Global Solutions*, 43 S. TEX. L. REV. 649, 659 (2002).

9. *Id.*

10. Jon C. Durbin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1463 (1998); Margaret Martin Barry, *Reflections on Identifying and Mapping Learning Competencies and Outcomes: What Do We Want Law Students to Learn*, 62 N.Y.L. SCH. L. REV. 133, 137 (2017) (quoting William V. Rowe, *Legal Clinics and Better Trained Lawyers—A Necessity*, 11 ILL. L. REV. 591, 606 (1917)).

11. Daniel J. Givelber, Brook K. Baker, John McDevitt & Robyn Miliano, *Learning Through Work: An Empirical Study of Legal Internship*, 45 J. LEGAL EDUC. 1, 3 (1995).

B. Brief History of Legal Education in the United States

In colonial and pre-Revolutionary War America, there were no law schools and the most common way to become a lawyer was to serve as an apprentice “reading [the] law” in an attorney’s office.¹² Many of our renowned forefathers, Thomas Jefferson, Daniel Webster, John Adams, and John Quincy Adams, served as apprentices.¹³ Apprenticeships, however, were far from perfect. Apprentices might spend time “tediously copying documents,” rather than studying the law, and may have received inadequate training from inept teachers.¹⁴ After the Civil War, groups of lawyers—who were concerned by the lack of criteria required to practice law and the low esteem in which they were held—“launched a movement to raise standards and to promote a sense of profession.”¹⁵ Starting in the 1870s, the American legal profession as we know it today began to take shape through organized bar associations: “first in a few major cities, then in a handful of states, and in 1878 nationally with the establishment of the American Bar Association” (“ABA”).¹⁶ In 1923, the ABA established an accreditation process for law schools to improve the quality of legal education.¹⁷ Although each state’s licensing board determines the requirements to practice law in that state, most states require graduation from an ABA-accredited law school.¹⁸

At approximately the same time, Christopher Columbus Langdell became dean of Harvard Law School which—along with other law schools—was seeking to move into the mainstream of university

12. SEC. OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, AM. BAR ASS’N, TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, A.B.A., LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT – AN EDUCATIONAL CONTINUUM 103 (1992) [hereinafter TASK FORCE ON LAW SCHOOLS]; John J. Costonis, *The MacCrate Report: Of Loaves, Fishes, and the Future of American Legal Education*, 43 J. LEGAL EDUC. 157, 161 (1993) [hereinafter *Future of Legal Education*].

13. TASK FORCE ON LAW SCHOOLS, *supra* note 12, at 103.

14. *Id.* at 104 (noting that Thomas Jefferson criticized apprenticeships as an inadequate method of training because an experienced lawyer might receive cheap labor in exchange for use of his library, but provide very little actual training to the novice, and there was no guarantee that a practicing lawyer was an “adequate teacher”).

15. *Id.* at 105.

16. *Id.* at 105-06.

17. Karen Tokarz, Antoinette Sedillo Lopez, Peggy Maisel & Robert Seibel, *Legal Education at a Crossroads: Innovation, Integration, and Pluralism Required!*, 43 WASH. U. J. L. & POL’Y 11, 21 (2013) (citing TASK FORCE ON LAW SCHOOLS, *supra* note 12, at 260).

18. *Frequently Asked Questions*, AM. BAR ASS’N (Nov. 6, 2018), https://www.americanbar.org/groups/legal_education/resources/frequently_asked_questions/.

education.¹⁹ Langdell introduced the “case method” of study, and promoted legal education as a “science,” with case analysis as the “laboratory in which legal doctrines and principles could be explored and developed out of the opinions of appellate courts.”²⁰ Langdell believed that legal education should “occur in the law school, not in the law office, . . . [and] should be preceded by four years of college, and should fill an additional three years.”²¹

The foundation of Langdell’s mode of instruction was the Socratic Method, an “inquisitive” form of teaching, which involves three elements: (1) an analysis of appellate cases; (2) a “Socratic inquisitive dialogue to teach course concepts”; and (3) a “large lecture hall format.”²² The Socratic Method “virtually eliminated the apprentice method of training lawyers.”²³ The expectation was that law school graduates’ initial legal employment would begin building their professional development and competence, similar to an M.D.’s internship/residency, “[b]ut the controls, discipline, and evenness of quality of training in the post-degree period [were] immeasurably stronger for M.D.s.”²⁴

Shortly after *Legal Education* was published, an ABA Task Force issued a comprehensive study of the legal profession, called the ‘MacCrate Report,’ which acknowledged that law schools in the United States did not turn all law students into “full-fledged lawyers licensed to handle legal matters.”²⁵ The MacCrate Report identified ten professional skills and four professional values essential for an attorney

19. TASK FORCE ON LAW SCHOOLS, *supra* note 12, at 106.

20. *Id.*

21. Future of Legal Education, *supra* note 12, at 160.

22. James R. Abrams, *Reframing the Socratic Method*, 64 J. LEGAL EDUC. 562 (2015).

23. James H. Backman & Corey S. Clements, *Significant but Unheralded Growth of Large Externship Programs*, 28 BYU J. PUB. L. 145, 155-56 (2013).

24. Future of Legal Education, *supra* note 12, at 189.

25. TASK FORCE ON LAW SCHOOLS, *supra* note 12, at 4.

to represent clients competently and ethically.²⁶ It also emphasized the importance of experiential and clinical education during law school.²⁷

Approximately ten years ago, the drumbeat for change in legal education became louder, with the publication of the Carnegie Report, which recognized that law schools traditionally “give only casual attention to teaching students how to use legal thinking in the complexity of actual law practice”²⁸ and that there was an “urgent need to bridge the gap between analytical and practical knowledge.”²⁹ As one academic stated, the chasm “between learning how to think like a lawyer and being capable of acting like a lawyer, both clinically and morally is, if anything, greater than it has ever been before.”³⁰

1. ABA Revisions to Law School Accreditation Requirements

In August 2014, the ABA Section on Legal Education and Admission to the Bar responded to the cacophony of calls for reform and amended the requirements for law school accreditation.³¹ Beginning with the 2017-18 academic year, all law students graduating from ABA-accredited schools are required to take at least six credits of experiential coursework.³² To meet this requirement, students can

26. *Id.* at 138-221. According to the MacCrate Report, competent, ethical lawyers must be able to accomplish the following tasks successfully: (1) problem solving; (2) legal analysis and reasoning; (3) legal research; (4) factual investigation; (5) communication; (6) counseling; (7) negotiation; (8) litigation and alternative-dispute resolution procedures; (9) organization and management of legal work; and (10) recognizing and resolving ethical dilemmas. *Id.* at 138-140. The MacCrate Report also identified the following critical professional values for competent, ethical lawyers: (1) providing competent representation; (2) striving to promote justice, fairness and morality; (3) striving to improve the profession; and (4) continuing professional self-development. *Id.* at 140-41.

27. *Id.* at 234-35, 260, 328.

28. WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW SUMMARY 6 (2007), http://archive.carnegiefoundation.org/pdfs/elibrary/elibrary_pdf_632.pdf.

29. *Id.* at 8.

30. Alliance for Experiential Learning in Law, *Experience the Future: Papers from the Second National Symposium on Experiential Education in Law*, 7 ELON L. REV. 1, 2 (2015) (quoting Lee S. Shulman, former president of the Carnegie Foundation).

31. Roy Stuckey, *The American Bar Association's New Mandates for Teaching Professional Skills and Values: Impact, Human Resources, New Roles for Clinical Teachers, and Virtual Worlds*, 51 WAKE FOREST L. REV. 259 (2016).

32. The ABA “Curriculum” standard provides that:

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

(3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation court, a law clinic, or a field placement.

participate in a clinic, externship, or skills course,³³ which will afford them an opportunity to work “on real cases, meet[] real clients, observ[e] real hearings and trials, and participat[e] in other forms of legal practice”³⁴

2. Certain States’ Responses

While acknowledging that the six-credit requirement is a step in the right direction, some have argued that it is not enough.³⁵ It appears that several states’ bar admissions authorities, including California, agree. In 2013—before the ABA changed the accreditation requirements—the State Bar of California recommended that new applicants for admission to the Bar must:

- (a) [T]ake[] at least fifteen units of practice-based experiential courses designed to develop law practice competencies and (b) in lieu of some or all of the 15 units of practice-based, experiential course work, . . .

To satisfy this requirement, a course must be primarily experiential in nature and must:

- (i) integrate doctrine, theory, skills and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
 - (ii) develop the concepts underlying the professional skills being taught;
 - (iii) provide multiple opportunities for performance; and
 - (iv) provide opportunities for self-evaluation.
- (b) A law school shall provide substantial opportunities to students for:
- (1) law clinics or field placement(s); and
 - (2) student participation in pro bono legal services, including law-related public service activities.

STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCH. 2017–2018 Standard 303 (AM. BAR ASS’N 2017) [hereinafter *A.B.A. Standard 303*].

The ABA “Learning Outcomes” standard provides that:

A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCH. 2017–2018 Standard 302 (AM. BAR ASS’N 2017) [hereinafter *A.B.A. Standard 302*].

33. *A.B.A. Standard 303*, *supra* note 32.

34. Backman & Clements, *supra* note 23, at 158.

35. Stuckey, *supra* note 31, at 260–64.

may opt to participate in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school.³⁶

This practice-based experiential learning requirement was recommended because of the “perceived gap between law school education and the preparation to practice law.”³⁷ Although the fifteen-unit recommendation has yet to be implemented, effective January 1, 2018, ABA-accredited law schools in California: (1) must require students enrolled in their Juris Doctor degree programs to complete satisfactorily “a minimum of six semester units (or their equivalent) of course work designed to teach practice-based skills and competency training. Such competency training must teach and develop those skills needed by a licensed attorney to practice law in an ethical and competent way;”³⁸ and (2) “provide the opportunity for students in the J.D. degree program to complete a minimum of fifteen (15) units of practice-based skills and competency training.”³⁹

In New York, every applicant to the Bar must “demonstrate that the applicant possesses the skills and values necessary to provide effective, ethical and responsible legal services.”⁴⁰ There are five ways to accomplish this, one of which is the successful completion of “15 credit hours . . . of practice-based experiential coursework designed to foster the development of professional competencies.”⁴¹

Two other states have issued reports calling for reform of law school curricula to ensure that students graduate with essential skills. An Illinois State Bar Association special committee report suggested transforming “the second and third years of law school to help students transition to practice through apprenticeships in practice settings [and]

36. JON B. STREETER ET AL., STATE BAR OF CAL., TASK FORCE ON ADMISSIONS REGULATION REFORM: PHASE I FINAL REPORT 3 (2013).

37. *Id.*

38. ACCREDITED LAW SCHOOLS RULES r. 4.160(F) (COMM. OF BAR EXAM’R, STATE BAR OF CAL., amended 2018), https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div2-Acc-Law-Sch.pdf.

39. GUIDELINES FOR ACCREDITED LAW SCHOOLS RULES, GUIDELINE 6.9(A)(1) (COMM. BAR EXAM’R, STATE BAR OF CAL., 2009), <https://www.calbar.ca.gov/Portals/0/documents/admissions/AccreditedLawSchoolGuidelines.pdf>.

40. RULES OF THE COURT OF APPEALS FOR THE ADMISSION OF ATTORNEYS AND COUNSELORS AT LAW § 520.18(a) (CT. APP. STATE OF N.Y. 2018), <http://www.nycourts.gov/capps/520rules10.htm#B16> [hereinafter N.Y. CT. APP. RULES § 520.18(a)].

41. N.Y. CT. APP. RULES § 520.18(a)(2).

practical courses.”⁴² Similarly, in 2009, the Ohio State Bar Association established a task force which issued a Report and Recommendations suggesting that: (1) law schools and the Bar “work together to offer more practical training opportunities to Ohio law students”;⁴³ and 2) the Ohio Supreme Court adopt a rule requiring that applicants to the Ohio Bar complete a clinic or externship in law school or a “practice experience” that includes an organized Bar association program involving law school faculty and the bar.⁴⁴ And, for more than a century, applicants to the Delaware Bar have been required to clerk full-time, before being admitted to the Bar.⁴⁵ The clerkship, which currently must be for at least five months, can be in a law office, a judge’s chambers, or a public office,⁴⁶ and must provide students with exposure to numerous areas of the law.

Since *Legal Education* was published, many law schools have heeded the call for change by offering diverse arrays of externships and areas of concentration or specialization,⁴⁷ which are meant to “help

42. Peter A. Joy, *Law Schools and the Legal Profession: A Way Forward*, 47 AKRON L. REV. 177 (2014) (quoting ILL. STATE BAR ASS’N, SPECIAL COMMITTEE ON THE IMPACT OF LAW SCHOOL DEBT ON THE DELIVERY OF LEGAL SERVICES, FINAL REPORT & RECOMMENDATIONS (Mar. 8, 2013)).

43. OHIO STATE BAR ASS’N, REPORT OF THE TASK FORCE ON LEGAL EDUCATION REFORM 4 (Dec. 1, 2009), <https://www.ohiobar.org/member-tools-benefits/practice-resources/practice-library-search/practice-library/report-of-the-task-force-on-legal-education-reform/>.

44. *Id.*

45. DEL. SUP. CT. R. 52(a)(8) (2012); Hon. Randy J. Holland, *The Delaware Clerkship Requirement: A Long-Standing Tradition*, 78 BAR EXAMINER 28 (2009).

46. DEL. SUP. CT. R. 52(a)(8). At a minimum, a law clerk must: (1) attend a civil trial, criminal trial, as well as other trials and hearings in various courts; (2) participate in preparing papers relating to a mock or actual motion, and relating to perfecting an actual or mock appeal and attend a hearing on a motion; (3) review the record of a case that was tried and appealed; (4) attend a Sheriff’s sale; (5) attend an interview with a client, witness or litigant; (6) prepare papers to initiate a lawsuit, including a complaint praecipe and instruction to Sheriff; (7) prepare memoranda of law; (8) attend a deposition; (9) prepare a draft will and/or trust or review three recently probated wills; (10) participate in the administration of an estate or review records of two closed estates; (11) attend a real estate closing; (12) participate in incorporating a new company or review a certification of incorporation; (13) complete a title search; and (14) attend a hearing of an administrative agency. Hon. Randy J. Holland, *The Delaware Clerkship Requirement*, 78 BAR EXAMINER 28, 31-33 (2009).

47. Law schools in the greater-Los Angeles area offer a variety of practical experience options. Loyola Law School offers concentrations in the following areas to “help students develop the specialized skills and knowledge applicable to their chosen field of law:” (1) Civil Litigation and Advocacy; (2) Corporate Law; (3) Criminal Justice; (4) Cybersecurity and Data Privacy Law; (5) Entertainment and Media Law; (6) Immigration Advocacy; (7) Intellectual Property Law; (8) International and Comparative Law; (9) Law and Entrepreneurship; (10) Public Interest Law; and (11) Tax Law. *Concentration Programs*, LOY. L. SCH. L.A., <https://www.lls.edu/media/loyolalawschool/academics/concentrations/Concentrations-Flyer.pdf>

students develop the specialized skills and knowledge applicable to their chosen field of law.”⁴⁸ As part of a concentration or specialization, students typically gain real life experience by “participating in at least one experiential opportunity, such as a clinic, externship, practicum or simulation course in their field.”⁴⁹

3. Employer’s Perspective

As an employer who hires externs, law students who receive credit for working in my chambers, and judicial law clerks, law school graduates who are paid employees working in my chambers for a year or two, I applaud the ABA’s and state bars’ efforts to improve the practice of law by ensuring that all law students are able to ‘hit the ground running’ after graduation. One of the biggest challenges confronting law students and law school graduates is that they might not understand how to practice law, how to analyze evidence, and how to represent clients competently.

It is one thing for a student to study and understand the Federal Rules of Evidence (“FRE”) to be able to pass an evidence examination. It is a completely different thing for a law student or recent law school

(last visited Feb. 1, 2019). Similarly, Pepperdine Law School offers concentrations in: (1) Business and Tax; (2) Criminal Law; (3) Dispute Resolution; (4) Entertainment and Sports; (5) International Law; (6) Public Interest; and (7) Real Estate. *Areas of Interest*, PEPP. L., <https://law.pepperdine.edu/degrees-programs/areas-of-interest/> (last visited Dec. 26, 2018). Concentrations offered by Southwestern Law School include: (1) Civil Litigation and Advocacy; (2) Criminal Law and Advocacy; (3) Entertainment and Media Law; (4) Public Interest Law; and (5) Technology Law and Entrepreneurship. *Concentrations & Customizations*, SW. L., <https://www.swlaw.edu/curriculum/concentrations-and-customizations> (last visited Dec. 26, 2018). UCLA School of Law offers specialization opportunities in: (1) Business Law and Policy; (2) Critical Race Studies; (3) Public Interest Law and Policy; (4) Environmental Law; (5) International and Comparative Law; (6) Law and Philosophy; and (7) Media, Entertainment and Technology Law and Policy. *Degrees & Specializations for the Juris Doctor*, UCLA L., <https://law.ucla.edu/academics/degrees-and-specializations/> (last visited Dec. 26, 2018). USC Gould School of Law offers: (1) Alternative Dispute Resolution; (2) Business Law; (3) Media, Entertainment and Technology Law; and (4) Public Interest Law. *Areas of Concentration*, USC GOULD SCH. L., <https://gould.usc.edu/academics/concentrations/> (last visited Dec. 26, 2018).

48. LOY. L. SCH. L.A., CONCENTRATION PROGRAMS (2018), <https://www.lls.edu/media/loyolalawschool/academics/concentrations/Concentrations-Flyer.pdf>.

49. See *JD Concentrations & Courses of Study*, LOY. L. SCH. L.A., <https://www.lls.edu/academics/concentrationsspecializations/jdconcentrationcoursesofstudy/> (last visited Dec. 26, 2018); see also *Areas of Interest*, PEPP. L., <https://law.pepperdine.edu/degrees-programs/areas-of-interest/> (last visited Dec. 26, 2018); *Concentrations and Customizations*, SW. L. SCH., <https://www.swlaw.edu/curriculum/concentrations-and-customizations> (last visited Dec. 26, 2018); *Degrees & Specializations for the Juris Doctor*, UCLA L., <https://law.ucla.edu/academics/degrees-and-specializations/> (last visited Dec. 26, 2018); *Areas of Concentration*, USC GOULD SCH. L., <https://gould.usc.edu/academics/concentrations/> (last visited Dec. 26, 2018).

graduate to be able to apply the Rule Against Hearsay⁵⁰ and the Exceptions to the Rule Against Hearsay.⁵¹ Law students are not typically taught how to ‘dig into’ evidence to determine on which date a deed was recorded, whether a mortgage was executed by a particular individual, or whether and when an entity acquired a secured interest in real property. To be able to represent clients competently, law students must have experience performing the tasks that they will do every day: analyzing evidence, drafting declarations and motions, and appearing in court, even if just as an observer.

I am cognizant of the fact that increasing the experiential unit requirement, as recommended in 2013 by the California State Bar, would undoubtedly impose a huge financial and logistical burden on the Bar. I am hopeful, however, that this recommendation—or some other recommendation—will be implemented to provide law students with the practical skills necessary to begin practicing law immediately upon graduation.

Although law schools are tasked with teaching students the law and preparing them for the bar examination and practice, I believe that the bench and the bar have an obligation to guide and mentor law students and newly minted lawyers. In addition to adjudicating cases, I believe that one of my most important jobs is to guide, teach, and mentor the law students and recent law school graduates who work with me. After almost every hearing, my externs, law clerks, and I discuss what arguments were or were not persuasive, which litigation tactics worked and which ones were not effective, and whether there were any ethical dilemmas that arose during the hearings. I hope that, by analyzing what they have read in briefs and seen and heard in the courtroom, my externs and law clerks will learn how to write and argue persuasively and be able to practice law effectively and ethically. I urge other judges and lawyers to do the same: mentor law students and new lawyers, act as a sounding board when they have concerns, and provide guidance and support when needed. Having judges and lawyers mentor

50. FRE 802 provides that “[h]earsay is not admissible unless” a federal statute, the FREs, or other rules prescribed by the Supreme Court provide otherwise. FED. R. EVID. 802.

51. FRE 803 contains twenty-three exceptions to the Rule Against Hearsay, and FRE 807 contains an additional, residual exception, all of which apply regardless of whether the declarant is available. FED. R. EVID. 803, 807; FRE 804 states another six exceptions, which can be utilized only if the declarant is unavailable. FED. R. EVID. 804.

the next generation of lawyers will help ensure that the law continues to be an “honorable profession.”⁵²

II. CONCLUSION

Law schools have made considerable progress transitioning to a more practical model of legal education. With the ABA’s requirement that all students graduating from ABA-accredited law schools have six units of experiential education, the legal profession is moving in the right direction so that new lawyers will not have to learn how to be a lawyer at the expense of their first clients or employers. The six-unit experiential requirement will also result in the law being more in line with other “[p]rofessions such as medicine, veterinary medicine, nursing, dentistry, social work, and pharmacy,”⁵³ which typically require one-quarter to one-half of a student’s pre-licensing education to be supervised professional practice.⁵⁴

52. Alfred C. Aman Jr., *Law is Still a Noble Profession*, HERALD TIMES (Jan. 24, 1994), <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1019&context=aman>.

53. Tokarz, et al., *supra* note 17, at 22 (citing Katherine R. Kruse, *Legal Education and Professional Skills: Myths and Misconceptions about Theory and Practice*, 45 MCGEORGE L. REV. 1, 2 (2013)).

54. *Id.*